

DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street, Room 431 Denver, Colorado 80202 (720) 865-8301	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case Number: 2018 CV 33011 Division: 424</p>
<p>Plaintiff:</p> <p>GERALD ROME, Securities Commissioner for the State of Colorado</p> <p>v.</p> <p>Defendants:</p> <p>GARY DRAGUL, ET AL.</p>	
<p><i>Attorneys for MLMT 2005-LC1 Yale Retail, LLC</i> Patrick H. Pugh, #36774 Ballard Spahr LLP 1225 17th Street, Suite 2300 Denver, CO 80202 Phone: 303-292-2400 Facsimile: 303-296-3956 pughp@ballardspahr.com</p>	
<p>NOTICE AND RESERVATION OF RIGHTS IN RESPONSE TO RECEIVER’S NOTICE OF EMPLOYMENT OF MARCUS & MILLICHAP</p>	

MLMT 2005-LC1 YALE RETAIL, LLC (“Secured Lender”), through its undersigned counsel of record, respectfully submits this Notice and Reservation of Rights in Response to Receiver’s Notice of Employment of Marcus & Millichap. Secured Lender objects to the Dragul Receiver marketing for sale, purporting to sell, or attempting to exert any control over the Property (as defined below), which is not part of the Receivership Estate, and which is the subject of Secured Lender’s Motion for Relief from Stipulated Order Appointing Receiver.

1. On August 30, 2018, this Court appointed Harvey Sender (the “Dragul Receiver”) to serve as receiver for certain assets of Gary J. Dragul, GDA Real Estate Services, and GDA Real Estate Management.

2. Mr. Dragul, and by extension, the Dragul Receiver, holds only a 25% equity interest in a company known as YM Retail 07 A, LLC (“YM Retail”).

3. YM Retail is a single asset entity serving as the record owner of two parcels of real property located at Yale and Monaco in Denver known as 6460 East Yale Avenue, Units E & G, Denver, Colorado (the “Property”).

1. The Property is presently under the control and oversight of a different division of the Denver County District Court through a receiver appointed in October 2013. *See* MLMT 2005-LC1 Yale Retail, LLC v. YM Retail 07 A, LLC, Case No. 2013 CV 34476, Denver County District Court.

4. The Property and its rents are subject to a first priority Deed of Trust and an Assignment of Leases and Rents held by the Secured Lender to secure a \$4.4 million commercial loan. YM Retail defaulted on its loan and the Secured Lender successfully sought the appointment of a receiver.

5. Although the Property is not part of the Receivership Estate under the express terms of the Stipulated Order Appointing Receiver, out of an abundance of caution, on October 24, 2018, Secured Lender filed a Motion for Relief from Stipulated Order Appointing Receiver. Secured Lender seeks an order that the Property is not part of the Receivership Estate, or, in the alternative, an order granting relief from the order appointing the Dragul Receiver.

6. On November 15, 2018, the Dragul Receiver filed a Notice of Employment of Marcus & Millichap to market and sell certain properties. The Property was included in the list of properties to be marketed and sold.

7. For the reasons stated in its Motion for Relief from Stipulated Order, the Property is not part of the Receivership Estate, and the Dragul Receiver has no right or authority to market or sell the Property. Moreover, the Property is already subject to the jurisdiction of another division of the Denver County District Court.

8. Secured Lender submits this response without waiver of any rights, remedies or claims which Secured Lender may otherwise have under its loan documents, at law, or in equity, all of which rights, remedies and claims are hereby expressly reserved.

Respectfully submitted this 21st day of November 2018.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 21, 2018, true and correct copy of the foregoing NOTICE AND RESERVATION OF RIGHTS IN RESPONSE TO RECEIVER'S NOTICE OF EMPLOYMENT OF MARCUS & MILLICHAP was served via email and U.S. Mail, first class postage prepaid upon the following:

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/s/ Lisa Ray _____
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