

<p>DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO  Denver District Court  1437 Bannock St.  Denver, CO 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><b>Plaintiff:</b> CHRIS MYKLEBUST, SECURITIES COMMISSIONER FOR THE STATE OF COLORADO</p> <p>v.</p> <p><b>Defendants:</b> GARY DRAGUL, GDA REAL ESTATE SERVICES, LLC, AND GDA REAL ESTATE MANAGEMENT, LLC</p>	
<p>Attorneys for Receiver:  Patrick D. Vellone, #15284  Michael T. Gilbert, #15009  Rachel A. Sternlieb, #51404  ALLEN VELLONE WOLF HELFRICH &amp; FACTOR P.C.  1600 Stout St., Suite 1100  Denver, Colorado 80202  Phone Number: (303) 534-4499  pvellone@allen-vellone.com  mgilbert@allen-vellone.com  rsternlieb@allen-vellone.com</p>	<p>Case Number:  2018CV33011</p> <p>Division/Courtroom: 424</p>
<p style="text-align: center;"><b>RECEIVER’S MOTION TO EXTEND CLAIMS BAR DATE, TO APPROVE NOTICE OF EXTENDED CLAIMS DEADLINE, AND TO CLARIFY ONGOING NOTICE PROCEDURE</b></p>	

Harvey Sender, the duly-appointed receiver (“Receiver”) for Gary Dragul (“Dragul”), GDA Real Estate Services, LLC, GDA Real Estate Management, LLC, and related entities (collectively, “Dragul and the GDA Entities”), asks the Court to extend the claims bar date in this case for 45 days to **March 18, 2019**. The Receiver also asks the Court to approve notice of the extended bar date by postcard. Finally, the Receiver asks the Court to clarify notice for ongoing matters in the Estate.

## I. Extension of claims bar date

1. On August 15, 2018, Gerald Rome, Securities Commissioner for the State of Colorado (the “Commissioner”), filed his Complaint for Injunctive and Other Relief against Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC (collectively, “Dragul and the DGA Entities”).

2. On August 30, 2018, the Court entered its Order Appointing Receiver (“Receivership Order”) which appointed Harvey Sender of Sender & Smiley LLC as receiver for Dragul and the GDA Entities, and for their respective properties and assets as well as their interests and management rights in related affiliated and subsidiary businesses (the “Receivership Estate” or the “Estate”). Receivership Order at p. 2, ¶ 5.

3. Under paragraph 13(u) of the Receivership Order, the Receiver is authorized to establish a procedure for asserting claims against the Estate or Receivership Property, for resolving any disputes concerning those claims, and for the distribution of proceeds of the Estate.

4. On November 13, 2018, the Court entered an Order granting the Receiver’s Motion to Establish Claims Procedure and Claim Bar Date and set the claims bar date as February 1, 2019.

5. Dragul and the GDA Entities recently identified more than 700 additional potential creditors of whom the Receiver had not been previously made aware. These potential claimants were not provided notice of the claims bar date by the Receiver.

6. Pursuant to the Court’s November 13<sup>th</sup> Order, unknown claimants who did receive notice of the claims bar date within sufficient time to file a claim by February 1, 2019, were allowed an additional 45 days to submit a claim. Due to the number of potential, recently disclosed claimants, the Receiver believes the most efficient and equitable remedy is to provide notice to all these potential claimants and to extend the claims bar date an additional 45 days.

7. The Receiver therefore asks the Court to enter an order extending the claims bar date to **March 18, 2019**. This will allow the Receiver to provide notice to

the newly identified potential claimants and allow them adequate time to submit claims.

8. Administration of this Estate is nascent, and the requested extension will not harm creditors or delay resolution of the Estate.

## **II. Request to approve notice of extended bar date**

9. Upon appointment, the Receiver compiled a list of all currently known investors and creditors that may have potential claims against the Estate.

10. To date, the Receiver has provided notice to the greatest extent practicable of certain filings either via electronic mail or U.S. mail to those potential claimants and to other interested persons whose addresses the Receiver is aware of. And the Receiver has maintained in the Estate's files the such service list used for filings in this case.

11. For many of the 700+ recently identified additional potential claimants the Receiver is without e-mail addresses. The expense and time cost for copying and mailing all pleadings and notices to these persons would be exorbitant.

12. The Receiver asks the Court to approve providing notice to these additional potential claimants by mailing them a postcard in the form attached as **Exhibit A**. The postcard will inform potential claimants of the existence of the Receivership case, provide notice of the extended claims bar date, and refer potential claimants to the Receivership's website, which contains information regarding how to file claims, and on which all pleadings in the case are posted.

## **III. Request to approve ongoing notice procedure**

13. Finally, the Receiver seeks clarification from the Court with respect to providing notice of ongoing matters and filings in the case.

14. The Receiver has provided notice to the greatest extent practicable to interested persons on material matters and to persons that may be affected by particular filings. The Receiver does not believe it is necessary to serve all filings in the case on every potential claimant. For many of these potentially interested persons, the Receiver lacks an email address and service by mail will be prohibitively expensive and time-consuming. The administrative time needed to prepare mailings

and the costs of photocopying and postage would be significant for an Estate that is scarce on resources. For many potential recipients, receiving pleadings is confusing and leads to them calling the Estate's counsel and seeking clarification, which results in additional legal fees with little concomitant benefit to the Estate.

15. To conserve Estate resources, and in the interest of efficiency and economy in administering the Estate, the Receiver proposes that notice of future filings concerning material matters be limited to: (1) case parties; (2) persons who have entered appearances in the case; (3) other interested parties/investors for whom the Receiver already has email addresses and whom the Receiver has been serving electronically; and (4) any other persons who specifically request notice and who provide the Receiver with email addresses.

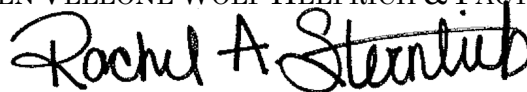
16. Importantly, all pleadings in this case that are not sealed or subject to a protective order are available on the Receiver's website, <http://dragulreceivership.com>. The Receiver believes that using the Estate's limited resources to send these pleadings to hundreds of potentially uninterested persons is unnecessary and unlikely to provide any benefit to the Estate or its creditors.

17. Any proposed plan of distribution will be served on all creditors who file claims against the Estate.

WHEREFORE, the Receiver asks the Court to enter an Order: (1) extending the claims bar date by 45 days, or until and including March 18, 2019 (2) authorizing the Receiver to provide notice to the additional recently identified potential claimants by postcard; and (3) approving the Receiver's proposed process for serving future filings in the case

Dated: January 30, 2019.

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.



By: s/ Rachel A. Sternlieb

Patrick D. Vellone, #15284

Michael T. Gilbert, #15009

Rachel A. Sternlieb, #51404

ATTORNEYS FOR THE RECEIVER

**CERTIFICATE OF SERVICE**

The undersigned certifies that on January 30, 2019, a true and correct copy of **Receiver's Motion to Extend Claims Bar Date, to Approve Notice of Extended Claims Deadline, and to Clarify Ongoing Notice Procedure** was filed and served via the Colorado Courts E-Filing system to the following:

Robert W. Finke  
Sueanna P. Johnson  
Matthew J. Bouillon Mascareñas  
Ralph L. Carr Judicial Building  
1300 Broadway, 8th Floor  
Denver, Colorado 80203  
robert.finke@coag.gov  
sueanna.johnson@coag.gov  
matthew.bouillon@coag.gov

Jeffery A. Springer, Esq.  
Springer and Steinberg P.C.  
1600 Broadway, Suite 1200  
Denver, Colorado 80202  
jspringer@springersteinberg.com

***Counsel for Defendants, Gary Dragul,  
GDA Real Estate Services, LLC and  
GDA Real Estate Management, LLC***

***Counsel for Plaintiff, Gerald Rome,  
Securities Commissioner***

s/ Terri M. Novoa   
Allen Vellone Wolf Helfrich & Factor P.C.