

<p>DISTRICT COURT, COUNTY OF ARAPAHOE, COLORADO</p> <p>7325 S. Potomac Street Centennial, CO 80112</p>	<p>DATE FILED: March 1, 2019 12:11 PM FILING ID: 74697383BB119 CASE NUMBER: 2019CR610</p>
<p>PEOPLE OF THE STATE OF COLORADO, Plaintiff,</p> <p>v.</p> <p>GARY JULE DRAGUL, DOB 05/07/1962, Defendant.</p>	<p>▲ COURT USE ONLY ▲</p>
<p>PHILIP J. WEISER, Attorney General DANIEL A. PIETRAGALLO, 41794 * Senior Assistant Attorney General MICHAEL J. BELLIPANNI #24421 * Senior Assistant Attorney General 1300 Broadway, 9th Floor Denver, CO 80203 (720) 508-6698; (720) 508-6699 *Counsel of Record</p>	<p>Case No.: 19CR610</p> <p>Div.: 407</p>
<p align="center">COLORADO STATE GRAND JURY INDICTMENT</p>	

- COUNT ONE: SECURITIES FRAUD, §§ 11-51-501(1)(c) and 11-51-603(1), C.R.S.
(Class 3 Felony) {50053} {as to Plainfield}
- COUNT TWO: SECURITIES FRAUD, §§ 11-51-501(1)(b) and 11-51-603(1), C.R.S.
(Class 3 Felony) {50052} {as to Scott Rockefeller}
- COUNT THREE: SECURITIES FRAUD, §§ 11-51-501(1)(b) and 11-51-603(1), C.R.S.
(Class 3 Felony) {50052} {as to Philip Vineyard}
- COUNT FOUR: SECURITIES FRAUD, §§ 11-51-501(1)(b) and 11-51-603(1), C.R.S.
(Class 3 Felony) {50052} {as to William Detterer}
- COUNT FIVE: SECURITIES FRAUD, §§ 11-51-501(1)(c) and 11-51-603(1), C.R.S.
(Class 3 Felony) {50053} {as to Plaza Mall of Georgia North}

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p>	
<p>PEOPLE OF THE STATE OF COLORADO,</p> <p>Plaintiff,</p> <p>v.</p> <p>GARY JULE DRAGUL, DOB: 05/07/1962</p> <p>Defendant.</p>	
<p>PHILIP J. WEISER, Attorney General DANIEL A. PIETRAGALLO #41794 * Senior Assistant Attorney General MICHAEL J. BELLIPANNI #24421 * Senior Assistant Attorney General 1300 Broadway, 9th Floor Denver, CO 80203 (720) 508-6000 * Counsel Of Record</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case No.: 2018CR001</p> <p>Ct. Rm. 259</p>
<p>COLORADO STATE GRAND JURY INDICTMENT</p>	

Of the 2018-2019 term of the City and County of Denver Court in the year 2019, the 2018-2019 Colorado State Grand Jurors, chosen, selected and sworn in the name and by the authority of the People of the State of Colorado, upon their oaths, present the following:

ESSENTIAL FACTS

Gary Jule Dragul (hereafter DRAGUL) is the president of and registered agent for GDA Real Estate Services, LLC, a Colorado company located in Arapahoe County, Colorado. At all times relevant herein, DRAGUL managed GDA Real Estate Services, LLC (hereafter referred to as GDA). GDA's primary business is to take investor money and derive profit from organizing and establishing limited liability companies (LLC's) that purchase and manage commercial shopping centers and other commercial real estate ventures. DRAGUL and GDA would offer investors membership interests in these LLC's, with the expectation that the investors would profit from the future stream of income, as well as the potential future appreciation of the property. Many of these investment opportunities resulted in significant losses to the investors.

Despite being considered securities, which required registration with the Securities Exchange Commission and the Colorado Division of Securities, DRAGUL failed to register any of the LLC's and was never licensed to sell securities.

As part of the investigation by the Colorado Division of Securities, DRAGUL and GDA provided copies of business records, including but not limited to: general ledgers, balance sheets, income statements, offering documents, purchase agreements, emails, and copies of promissory notes. Based on a review of the GDA general ledger and other GDA business documents, it appears that GDA accrued millions of dollars in unsecured debt related to promissory notes in 2008 and 2013. Despite carrying substantial amounts of unsecured debt and struggling to meet operating costs, DRAGUL and GDA failed to disclose this material fact when soliciting subsequent investments.

On or about June 16, 2016, in response to an administrative subpoena issued by the Colorado Division of Securities as part of their investigation, DRAGUL and GDA began producing documents related to GDA's business operations, including Plainfield 09A, LLC. It was on or after June 16, 2016 that the State became aware that DRAGUL was engaging in a course of business which acted as a fraud upon investors.

The LLC's established by DRAGUL and GDA constitute joint ventures, which are considered "securities" pursuant to § 11-51-201 (17) C.R.S. Accordingly, such investments are subject to the provisions of the Colorado Securities Act.

In soliciting the investment contracts, DRAGUL made material, untrue statements and omissions of material facts, including but not limited to the following:

- DRAGUL and GDA failed to disclose that they would sell/assign over 100% of the total membership interests in Plainfield 09A, LLC and the Plainfield Commons Shopping Center.
- DRAGUL and GDA failed to disclose the actual risk associated with investments.
- DRAGUL and GDA failed to disclose the actual financial condition and substantial debt of GDA.

- DRAGUL and GDA failed to disclose that investor funds would be deposited into DRAGUL's personal bank account or other unrelated GDA investment accounts.
- DRAGUL and GDA failed to disclose that investor funds would be comingled with other investment accounts.
- DRAGUL and GDA failed to disclose that they would engage in a course of business which diluted the value of membership interests.

The criminal charges alleged herein involve two specific LLC offerings, both commercial shopping center joint ventures.

Between 2009 and 2014, DRAGUL and GDA solicited and received investment funds in Plainfield 09A, LLC and the Plainfield Commons Shopping Center (hereafter PLAINFIELD), which is located at 2663 E. Main Street, Plainfield, Indiana 46168. DRAGUL and GDA engaged in a course of business that operated as a fraud upon investors, by failing to disclose that they would sell over 194% of the membership interest in PLAINFIELD.

Between 2008 and 2016, DRAGUL and GDA solicited and received investor funds related to Plaza Mall North 08A Junior, LLC; a commercial shopping center located at 3410 & 3420 Buford Drive, Buford, GA 30519, and commonly known as Plaza Mall of Georgia North (hereafter PGN). DRAGUL and GDA engaged in a course of business that operated as a fraud upon investors, by failing to disclose the sale of the underlying PGN property to investors and failing to repay investor principal or appreciation, despite selling the property for a profit of \$6 million. DRAGUL and GDA also failed to disclose that they would pay themselves and business associates substantial commissions related to the sale of PGN.

In order to solicit investments in Plainfield and PGN, DRAGUL used an unregistered promoter from North Carolina named Marlin Hershey to recruit investors. He represented that DRAGUL and GDA were very successful and that DRAGUL was worth millions of dollars. Hershey was paid a commission for finding investors for GDA joint ventures. Hershey recruited a number of investors from Pennsylvania, North Carolina, Florida, and Texas. DRAGUL and GDA failed to repay many out-of-state investors that were recruited by Marlin Hershey.

Additionally, DRAGUL and GDA engaged in a course of business that involved comingling funds from numerous LLC accounts in order to make payments related to GDA's operating costs. Specifically, a review of the general ledger, balance sheets, bank account statements, and emails indicates that DRAGUL was transferring money from various LLC's and listing the debt as notes payable to those entities in the GDA general ledger. This appears to be a regular business practice.

DRAGUL also misappropriated investor funds for personal use by diverting substantial amounts of money to personal accounts.

DRAGUL and GDA continued the acts, practices and course of business designed to defraud investors through, and during 2017-2018. After obtaining investor funds, DRAGUL and GDA continued to solicit, accept, and hold investor funds, knowing that they could not generate the promised returns. DRAGUL used investor funds to pay personal expenses and continued to make material misstatements and omissions to the investors after their initial investments. DRAGUL thereby induced investors to maintain their investments with him, and to make subsequent investments. These resulting business practices operated as a fraud or deceit upon GDA's investors.

COUNT ONE

(Securities Fraud – F3)

C.R.S. §§ 11-51-501(1)(c) and 11-51-603(1) {as to Plainfield}

On or about and between March 9, 2009 and January 1, 2014, with a date of discovery on or after June 16, 2016, in and triable in the State of Colorado, GARY JULE DRAGUL, in connection with the offer or sale of any security, directly or indirectly, unlawfully, feloniously, and willfully engaged in any course of business which operated or would have operated as fraud or deceit upon investors, including Reba Buckwalter, MSHR, Inc., Scott Rockefeller, Jeffrey Tennis, Raymond Nutt, Calvin Ewell, David Hoe, Lori Hoe, Craig Naylor, David and Darcea Haar, HBT Partners, Benzmiller Family Trust (Kenneth Benzmiller), Eric Aafedt, Craig Evans, Laura Evans, James and Barbara McMahon, Consolidated GC of Texas (Naresh Daswani), Dennis Anderson, Steven Miller, Bret Chapman, Gideon and Rhonda Lapp, MSHR, Inc., Eugene Risser, Gerald Deardorff, Philip Vineyard, Sarah Vineyard Irrevocable Trust, John Heffley, William Detterer, Thomas McCaffrey, Martin Rosenbaum, and additional persons both known and unknown to the Grand Jury, contrary to the form of the statutes in such case made and provided, C.R.S. §§ 11-51-501(1)(c) and 11-51-603(1), and against the peace and dignity of the People of the State of Colorado.

The Essential Facts and all other facts in support of the charges alleged herein are incorporated by reference. Additional facts in support of the offenses as set forth in Count One are as follows:

1. On or about and between March 1, 2009 and January 1, 2014, DRAGUL and GDA solicited and received investor funds related to Plainfield 09A, LLC and the Plainfield Commons Shopping Center (PLAINFIELD), located at 2663 E. Main Street, Plainfield, Indiana 46168.
2. In connection with the fraudulent sale of these securities, DRAGUL and GDA conducted business in Colorado.

3. In total, DRAGUL and GDA solicited and received approximately thirty separate investments in PLAINFIELD, totaling over \$2.5 million. That amount includes new cash investments of over \$1.5 million.
4. Each investment was evidenced by a Membership Purchase Agreement, which established that the investor was buying a membership interest in the LLC and a corresponding “beneficial interest in and to the Property”. In most cases, the percentage of membership interest and interest in the property were identical.
5. GDA provided investors a short “executive summary”, which indicated that the property would be purchased for \$5,057,000.00.
6. In fact, GDA purchased PLAINFIELD on July 10, 2009, for \$4,653,167.25, approximately \$400,000 less than previously disclosed to investors in the executive summary.
7. By November 2012, DRAGUL and GDA had already sold or assigned 99.24% of the membership interests in PLAINFIELD (and interest in and to the Property) to approximately twenty investors.
8. DRAGUL and GDA would go on to sell/assign additional membership interests in PLAINFIELD to approximately ten other investors. In so doing, DRAGUL and GDA failed to disclose that they had already sold membership interests in PLAINFIELD totaling over 100%.
9. In soliciting these investments, DRAGUL and GDA made material, untrue statements and omissions of material facts, including but not limited to the following:
 - DRAGUL and GDA failed to disclose that they would sell/assign over 100% of the total membership interests in PLAINFIELD.
 - DRAGUL and GDA failed to disclose the actual risk associated with investments.
 - DRAGUL and GDA failed to disclose the actual financial condition and substantial debt of GDA.
 - DRAGUL and GDA failed to disclose that investor funds would be deposited into DRAGUL’s personal bank account or other unrelated GDA investment accounts.
 - DRAGUL and GDA failed to disclose that investor funds would be comingled with other investment accounts.
 - DRAGUL and GDA failed to disclose that they would engage in a course of business which diluted the value of each membership interest.

10. The investments DRAGUL and GDA solicited directly or indirectly, in connection with this count, on or about and between March 9, 2009 and January 1, 2014, include one or more of the following:

- a) Reba Buckwalter, a resident of Lancaster, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about March 9, 2009, in exchange for a 3.766% interest in and to the property.
- b) MSHR, Inc., a company based in Huntersville, North Carolina, invested approximately twenty thousand dollars (\$20,000.00) in Plainfield 09A, LLC on or about April 3, 2009, in exchange for a 1.507% interest in and to the property.
- c) Scott Rockefeller, a resident of Huntersville, North Carolina, invested approximately thirty thousand dollars (\$30,000.00) in Plainfield 09A, LLC on or about April 3, 2009, in exchange for a 2.26% interest in and to the property.
- d) Jeffrey Tennis, a resident of Lititz, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about April 3, 2009, in exchange for a 7.533% interest in and to the property.
- e) Raymond Nutt, a resident of Littleton, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about April 17, 2009, in exchange for a 3.766% interest in and to the property.
- f) Calvin Ewell, a resident of East Earl, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about April 23, 2009, in exchange for a 3.766% interest in and to the property.
- g) David Hoe, a resident of Huntersville, North Carolina, invested approximately thirty thousand dollars (\$30,000.00) in Plainfield 09A, LLC on or about June 5, 2009, in exchange for a 2.185% interest in and to the property.
- h) Lori Hoe, a resident of Huntersville, North Carolina, invested approximately thirty thousand dollars (\$20,000.00) in Plainfield 09A, LLC on or about June 5, 2009, in exchange for a 1.507% interest in and to the property.
- k) Craig Naylor, a resident of Chadds Ford, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about June 5, 2009, in exchange for a 7.533% interest in and to the property.
- l) David and Darcea Haar, residents of Centennial, Colorado, invested approximately twenty thousand dollars (\$20,000.00) in Plainfield 09A, LLC on or about June 11, 2009, in exchange for a 1.507% interest in and to the property.

- m) HBT Partners, a company based in Lancaster, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about June 11, 2009, in exchange for a 7.533% interest in and to the property.
- n) The Benzmiller Family Trust (Kenneth Benzmiller), a company based in Charlotte, North Carolina, invested approximately two hundred thousand dollars (\$200,000.00) in Plainfield 09B, LLC on or about July 9, 2009, in exchange for a 15.07% interest in and to the property.
- o) Eric Aafedt, a resident of Evergreen, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about November 1, 2009, in exchange for a 3.766% interest in and to the property.
- p) Craig Evans, a resident of Denver, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about November 15, 2009, in exchange for a 3.766% interest in and to the property.
- q) Laura Evans, a resident of Denver, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about November 15, 2009, in exchange for a 3.766% interest in and to the property.
- r) James and Barbara McMahon, residents of Englewood, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about February 16, 2010, in exchange for a 3.766% interest in and to the property.
- s) Consolidated GC of Texas (Naresh Daswani), a company based in Houston, Texas, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about April 1, 2012, in exchange for an 8.648% interest in and to the property.
- t) Dennis Anderson, a resident of Wilmington, North Carolina, invested approximately sixty-eight thousand seven hundred and fifty dollars (\$68,750.00) in Plainfield 09A, LLC on or about July 10, 2012, in exchange for a 5.288% interest in and to the property.
- u) Steven Miller, a resident of Mooresville, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about July 10, 2012, in exchange for a 7.692% interest in and to the property.
- v) Bret Chapman, a resident of Concord, NC, invested approximately sixty thousand dollars (\$60,000.00) in Plainfield 09A, LLC on or about November 5, 2012, in exchange for a 4.615% interest in and to the property.

- w) Gideon and Rhonda Lapp, residents of Lancaster, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about June 26, 2013, in exchange for a 7.553% interest in and to the property.
- x) MSHR, Inc., a company based in Huntersville, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about June 26, 2013, in exchange for a 7.553% interest in and to the property.
- y) Eugene Risser, a resident of Lititz, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about June 26, 2013, in exchange for a 7.553% interest in and to the property.
- z) Gerald Deardorff, a resident of York, Pennsylvania, invested approximately one hundred and fifty thousand dollars (\$150,000.00) in Plainfield 09A, LLC on or about July 1, 2013, in exchange for an 11.299% interest in and to the property.
- aa) Philip Vineyard, a resident of Charleston, South Carolina, invested approximately three hundred thousand dollars (\$300,000.00) in Plainfield 09A, LLC on or about July 11, 2013, in exchange for a 22.599% interest in and to the property.
- bb) The Sarah Vineyard Irrevocable Trust, based in Charlotte, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about July 12, 2013, in exchange for a 7.533% interest in and to the property.
- cc) John Heffley, a resident of Lancaster, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about August 28, 2013, in exchange for a 7.553% interest in and to the property.
- dd) William Detterer, a resident of Wyomissing, Pennsylvania, invested approximately two hundred thousand dollars (\$200,000.00) in Plainfield 09A, LLC on or about August 30, 2013, in exchange for a 15.066% interest in and to the property.
- ee) Thomas McCaffrey, a resident of Parker, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about October 1, 2013, in exchange for a 3.766% interest in and to the property.
- ff) Martin Rosenbaum, a resident of Lone Tree, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about January 1, 2014, in exchange for a 4.736% interest in and to the property.

11. In total, DRAGUL and GDA sold over 194% of the interest in PLAINFIELD. Of the \$1.5 million in new money raised for PLAINFIELD, \$645,150 was directed to DRAGUL personally.

12. On or about March 12, 2015, DRAGUL and GDA sold PLAINFIELD for \$5,563,500.00, a profit of approximately \$1 million.
13. None of the investors in PLAINFIELD were repaid their principal investment. Investors were forced to roll their investments from PLAINFIELD into another LLC, known as Clearwater.
14. The circumstances surrounding the sales, acts, practices and course of business engaged in by DRAGUL and GDA, including the untrue statements of material fact and omissions of material fact as described herein, operated as a fraud upon investors.

COUNT TWO:

(Securities Fraud – F3)

C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) {as to Scott Rockefeller}

On or about and between June 26, 2013 and August 2, 2013, with a date of discovery on or after June 16, 2016, in and triable in the State of Colorado, GARY JULE DRAGUL, in connection with the offer, sale, or purchase of any security to MSHR, Inc. and/or Scott Rockefeller, directly or indirectly, unlawfully, feloniously, and willfully made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, contrary to the form of the statutes in such case made and provided, C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) (Securities Fraud – Class 3 Felony), against the peace and dignity of the People of the State of Colorado.

The Essential Facts and all other facts in support of the charges alleged herein are incorporated by reference. Additional facts in support of the offenses as set forth in Count Two are as follows:

15. On or about June 26, 2013, after selling/assigning over 100% of the total membership interests in PLAINFIELD, DRAGUL and GDA solicited MSHR, Inc. and/or Scott Rockefeller to invest approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC., in exchange for a 7.553% interest in and to the property.
16. On or about July 29, 2013, DRAGUL and GDA sent a letter to MSHR, Inc. – Attn: Scott Rockefeller. The letter evidenced that the investment in PLAINFIELD was funded by rolling over a previous \$50,000 investment in Crosspointe 08A, LLC and a \$25,000 investment in CP Loan, in addition to a cash investment of \$25,000.
17. That letter failed to advise MSHR and/or Scott Rockefeller that DRAGUL and GDA already sold/assigned over 100% of the membership interests in the property.

18. On or about July 30, 2013, MSHR sent check #100 in the amount of \$25,000 to GDA for the additional cash investment required to purchase the diluted membership interests in PLAINFIELD. That check was deposited into GDA's bank account on or about August 2, 2013.
19. In soliciting these investments, DRAGUL and GDA made material, untrue statements and omissions of material facts, including but not limited to the following:
- DRAGUL and GDA failed to disclose that they already sold/assigned over 100% of the total membership interests in PLAINFIELD.
 - DRAGUL and GDA failed to disclose the actual risk associated with investments.
 - DRAGUL and GDA failed to disclose the actual financial condition and substantial debt of GDA.
 - DRAGUL and GDA failed to disclose that investor funds would be comingled with other investment accounts.
 - DRAGUL and GDA failed to disclose that they would engage in a course of business which diluted the value of each membership interest.

COUNT THREE

(Securities Fraud – F3)

C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) {as to Philip Vineyard}

On or about and between July 11, 2013 and August 16, 2013, with a date of discovery on or after June 16, 2016, in and triable in the State of Colorado, GARY JULE DRAGUL, in connection with the offer, sale, or purchase of any security to Philip Vineyard., directly or indirectly, unlawfully, feloniously, and willfully made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, contrary to the form of the statutes in such case made and provided, C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) (Securities Fraud – Class 3 Felony), against the peace and dignity of the People of the State of Colorado.

The Essential Facts and all other facts in support of the charges alleged herein are incorporated by reference. Additional facts in support of the offenses as set forth in Count Three are as follows:

20. On or about July 11, 2013, after selling/assigning over 130% of the total membership interests in PLAINFIELD, DRAGUL and GDA solicited Philip Vineyard, to invest approximately three hundred thousand dollars (\$300,000.00) in Plainfield 09A, LLC., in exchange for a 22.599% interest in and to the property.

21. On or about July 11, 2013, DRAGUL and GDA sent a letter to Philip Vineyard. The letter evidenced that the investment in PLAINFIELD was funded by rolling over a previous \$150,000 investment in Syracuse Property 06, LLC, in addition to a cash investment of \$150,000.
22. That letter failed to advise Philip Vineyard that DRAGUL and GDA already sold/assigned well over 100% of the membership interests in the property.
23. On or about July 15, 2013, Philip Vineyard sent check #601 in the amount of \$100,000 to GDA as part of the additional cash investment required to purchase the diluted membership interests in PLAINFIELD. That check was endorsed by DRAGUL personally and deposited on or about July 15, 2013.
24. On or about August 15, 2013, Philip Vineyard sent check #619 in the amount of \$50,000 to GDA as part of the additional cash investment required to purchase the diluted membership interests in PLAINFIELD. That check was endorsed by DRAGUL personally and deposited into his personal bank account on or about August 16, 2013.
25. In soliciting these investments, DRAGUL and GDA made material, untrue statements and omissions of material facts, including but not limited to the following:
 - DRAGUL and GDA failed to disclose that they already sold/assigned over 100% of the total membership interests in PLAINFIELD.
 - DRAGUL and GDA failed to disclose the actual risk associated with investments.
 - DRAGUL and GDA failed to disclose the actual financial condition and substantial debt of GDA.
 - DRAGUL and GDA failed to disclose that investor funds would be deposited into DRAGUL's personal bank account or other unrelated GDA investment accounts.
 - DRAGUL and GDA failed to disclose that investor funds would be comingled with other investment accounts.
 - DRAGUL and GDA failed to disclose that they would engage in a course of business which diluted the value of each membership interest.

COUNT FOUR

(Securities Fraud – F3)

C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) {as to William Detterer}

On or about and between August 30, 2013 and September 12, 2013, with a date of discovery on or after June 16, 2016, in and triable in the State of Colorado, GARY JULE DRAGUL, in connection with the offer, sale, or purchase of any security to William Detterer, directly or indirectly, unlawfully, feloniously, and willfully made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, contrary to the form of the statutes in such case made and provided, C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) (Securities Fraud – Class 3 Felony), against the peace and dignity of the People of the State of Colorado.

The Essential Facts and all other facts in support of the charges alleged herein are incorporated by reference. Additional facts in support of the offenses as set forth in Count Four are as follows:

26. On or about August 30, 2013, after selling/assigning over 170% of the total membership interests in PLAINFIELD, DRAGUL and GDA solicited William Detterer, to invest approximately two hundred thousand dollars (\$200,000.00) in Plainfield 09A, LLC., in exchange for a 15.066% interest in and to the property.
27. On or about August 30, 2013, DRAGUL and GDA sent a letter to William Detterer. The letter evidenced that the investment in PLAINFIELD was funded by rolling over a previous \$100,000 investment in Crosspointe 08A, LLC and a \$36,567 investment in CP Loan, in addition to a cash investment of \$63,433.
28. That letter failed to advise William Detterer that DRAGUL and GDA already sold/assigned well over 100% of the membership interests in the property.
29. On or about September 10, 2013, William Detterer sent check #203 in the amount of \$63,433 to GDA for the additional cash investment required to purchase the diluted membership interests in PLAINFIELD. That check was endorsed by DRAGUL personally and deposited into his personal bank account on or about September 12, 2013.
30. In soliciting these investments, DRAGUL and GDA made material, untrue statements and omissions of material facts, including but not limited to the following:
 - DRAGUL and GDA failed to disclose that they already sold/assigned over 100% of the total membership interests in PLAINFIELD.
 - DRAGUL and GDA failed to disclose the actual risk associated with investments.

- DRAGUL and GDA failed to disclose the actual financial condition and substantial debt of GDA.
- DRAGUL and GDA failed to disclose that investor funds would be deposited into DRAGUL's personal bank account or other unrelated GDA investment accounts.
- DRAGUL and GDA failed to disclose that investor funds would be comingled with other investment accounts.
- DRAGUL and GDA failed to disclose that they would engage in a course of business which diluted the value of each membership interest.

COUNT FIVE:

(Securities Fraud – F3)

C.R.S. §§ 11-51-501(1)(c) and 11-51-603(1) {as to Plaza Mall of Georgia North}

On or about and between December 31, 2008 and April 1, 2016, in and triable in the State of Colorado, GARY JULE DRAGUL, in connection with the offer or sale of any security, directly or indirectly, unlawfully, feloniously, and willfully engaged in any course of business which operated or would have operated as fraud or deceit upon investors, including Barbara Burroughs, W. Slater Burroughs, Calvin Ewell, Elizabeth Maurer, OM&K, LLC, Marshall Parker, Ray Webb Parker, William Parker, Jr., Scott Rockefeller, Keith Snyder, Jeffrey Tennis, Kristina Kapur-Mauleon and Luis Mauleon, Dublin Realty Company, David and Barbara Landis, Gideon and Rhonda Lapp, Eric Aafedt, Harper Beall, Craig Evans, Laura Evans, Marvin Weaver, Douglas and Michelle Shuff, Meeting Street Properties, LLC, Coleen Hurst, Scott Chatham, Leftin Investment Company (Soloman Leftin), Raymond Nutt, Sarah Vineyard Irrevocable Trust, Philip Vineyard, James and Susan Hess, Gerald and Miriam Weaver, Eagle Group V (Eric Blow), Daniel Brittain, Kurtz Hersch, Martin Rosenbaum, Jerry and Susan Horst, Horst Irrevocable Trust, James McMahon, Howard Anderson, Rex and Kimberly Stump, Eisen Steele Family Trust, LLC, 3855 Forest, LLC (David Kaufmann), Stoltzfus Properties, LLC (Al Stoltzfus), Aaron Steinberg, Leora Rosenbaum, Martin, Rosenbaum, Edward Delava – Trustee of the Fox 2002 Irrevocable Trust, Melissa Rosenbaum, Alan C. Fox Irrevocable Trust, and additional persons both known and unknown to the Grand Jury, contrary to the form of the statutes in such case made and provided, C.R.S. §§ 11-51-501(1)(c) and 11-51-603(1), and against the peace and dignity of the People of the State of Colorado.

The Essential Facts and all other facts in support of the charges alleged herein are incorporated by reference. Additional facts in support of the offenses as set forth in Count Five are as follows:

31. On or about and between December 31, 2008 and April 1, 2016, DRAGUL and GDA solicited and received investor funds related to Plaza Mall North 08A Junior, LLC; a commercial shopping center located at 3410 & 3420 Buford Drive, Buford, GA 30519, and commonly known as Plaza Mall of Georgia North (hereafter PGN).
32. In connection with the fraudulent sale of these securities, DRAGUL and GDA conducted business in Colorado.
33. In total, DRAGUL and GDA solicited and received approximately forty-seven separate investments in PGN, totaling over \$9 million. That amount includes new cash investments of over \$3 million.
34. Each investment was evidenced by a Membership Purchase Agreement, which established that the investor was buying a membership interest in the LLC.
35. GDA provided investors with a short “executive summary”, which indicated that the property would be purchased for \$28,470,000.00.
36. In fact, GDA purchased PGN on December 24, 2008 for \$25,920,000.00, approximately \$2.55 million less than previously disclosed to investors in the executive summary.
37. As part of this closing, GDA paid themselves a \$200,000 consulting fee, paid SSC a \$75,000 consulting fee, and paid ACF a \$500,000 consulting fee. None of these fees were disclosed to investors prior to the closing.
38. The investments DRAGUL and GDA solicited directly or indirectly, in connection with this count, on or about and between December 31, 2008 and April 1, 2016, include one or more of the following:
 - a) Barbara Burroughs, a resident of Charlotte, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
 - b) W. Slater Burroughs, a resident of Cornelius, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
 - c) Calvin Ewell, a resident of East Earl, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
 - d) Elizabeth Maurer, a resident of Landisville, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.

- e) OM&K, LLC, a company based in Wadmalaw Island, South Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- f) Marshall Parker, a resident of Shelby, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- g) Ray Webb Parker, a resident of Shelby, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- h) William Parker, Jr., a resident of Shelby, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- k) Scott Rockefeller, a resident of Huntersville, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- l) Keith Snyder, a resident of Landisville, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- m) Jeffrey Tennis, a resident of Lititz, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- n) Kristina Kapur-Mauleon and Luis Mauleon, residents of Ithica, New York, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about January 15, 2009.
- o) Dublin Realty Company, Inc., a company based in Charlotte, North Carolina, invested approximately five hundred and seventy-thousand dollars (\$570,000.00) in Plaza Mall North 08A Junior, LLC on or about January 20, 2009.
- p) David and Barbara Landis, residents of Lititz, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about January 30, 2009.
- q) Gideon & Rhonda Lapp, a resident of Lancaster, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about January 30, 2009.

- r) Eric Aafedt, a resident of Evergreen, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- s) Harper Beall, a resident of Lenoir, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- t) Craig Evans, a resident of Denver, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- u) Laura Evans, a resident of Denver, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- v) Marvin Weaver, a resident of Blue Ball, PA, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- w) Douglas & Michelle Shuff, residents of Lebanon, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about February 5, 2009.
- x) Meeting Street Properties, LLC (John Beall), a company based in Blowing Rock, North Carolina, invested approximately one hundred sixty-three thousand dollars (\$163,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- y) Coleen Hurst, a resident of Lancaster, Pennsylvania, invested approximately three hundred thousand dollars (\$300,000.00) in Plaza Mall North 08A Junior, LLC on or about April 10, 2012.
- z) Scott Chatham, a resident of Conover, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about May 13, 2013.
- aa) Leftin Investment Company (Solomon Leftin), a company based in Denver, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 1, 2013.
- bb) Raymond Nutt, a resident of Littleton, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about September 1, 2013.
- cc) The Sarah Vineyard Irrevocable Trust, based in Charlotte, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 5, 2013.

- dd) Philip Vineyard, a resident of Charleston, South Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 5, 2013.
- ee) James and Susan Hess, residents of Lancaster, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 6, 2013.
- gg) Gerald and Miriam Weaver, residents of Lancaster, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 9, 2013.
- hh) Eagle Group V (Eric Blow), a resident of Lititz, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 11, 2013.
- ii) Daniel Brittain, a resident of Hickory, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 13, 2013.
- jj) Kurtz Hersch, a resident of Monee, Illinois, invested approximately one hundred and fifty thousand dollars (\$150,000.00) in Plaza Mall North 08A Junior, LLC on or about September 13, 2013.
- kk) Martin Rosenbaum, a resident of Lone Tree, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 16, 2013.
- ll) Jerry and Susan Horst, residents of Lititz, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about September 30, 2013.
- mm) The Horst Irrevocable Trust, a company based in Lititz, Pennsylvania, invested approximately one hundred and fifty thousand dollars (\$150,000.00) in Plaza Mall North 08A Junior, LLC on or about September 30, 2013.
- nn) James McMahon, a resident of Aurora, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about October 1, 2013.
- oo) Howard Anderson, a resident of Taylorsville, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about October 7, 2013.

- pp) Rex and Kimberly Stump, residents of Mooresville, North Carolina, invested approximately two hundred thousand dollars (\$200,000.00) in Plaza Mall North 08A Junior, LLC on or about November 11, 2013.
 - qq) The Eisen Steele Family Trust, LLC, a company based in Englewood, Colorado, invested approximately one hundred and thirty-two thousand dollars (\$132,000.00) in Plaza Mall North 08A Junior, LLC on or about December 1, 2013.
 - rr) 3855 Forest, LLC (Donald Kaufmann), a company based in Englewood, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about May 1, 2014.
 - ss) Stoltzfus Properties, LLC (Al Stoltzfus), a company based in Washington, Utah, invested approximately one hundred and twenty-five thousand dollars (\$125,000.00) in Plaza Mall North 08A Junior, LLC on or about July 1, 2014.
 - tt) Aaron Steinberg, a resident of Denver, Colorado, invested approximately one hundred and twenty-five thousand dollars (\$125,000.00) in Plaza Mall North 08A Junior, LLC on or about May 5, 2015.
 - uu) Leora Rosenbaum, a resident of Denver, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about May 15, 2015.
 - vv) Martin Rosenbaum, a resident of Lone Tree, Colorado, invested approximately three hundred thousand dollars (\$300,000.00) in Plaza Mall North 08A Junior, LLC on or about July 1, 2015.
 - ww) Edward Delava – Trustee of the Fox 2002 Irrevocable Trust, based in California, invested approximately three hundred thousand dollars (\$300,000.00) in Plaza Mall North 08A Junior, LLC on or about October 27, 2015.
 - xx) Melissa Rosenbaum, a resident of Lone Tree, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about April 1, 2016.
 - yy) The Alan C. Fox Irrevocable Trust, invested approximately three million, seven hundred and ten thousand, seven hundred and sixty-five dollars (\$3,710,765.00) in Plaza Mall North 08A Junior, LLC.
39. On or about April 1, 2016, DRAGUL and GDA brokered an agreement to sell Alan Fox's shares of PGN to an institutional investor from Israel, known as Hagshama Funds (hereafter HAGSHAMA). HAGSHAMA invested approximately \$4.6 million for the purchase of Fox's interest in PGN.

40. As part of the fees paid related to that transaction, GDA also received an “Acquisition Fee” of \$100,000 and HAGSHAMA received an “Equity Arrangement Fee” of \$231,579.
41. GDA also received a “Post Closing Note Loan” from HAGSHAMA in the amount of \$300,000, upon transfer of the shares.
42. On or about April 27, 2017, DRAGUL and GDA sold PGN for \$32,000,000.00; a profit of over \$6 million. DRAGUL and GDA failed to disclose to investors that the property had sold.
43. As part of that closing, GDA was paid a 2% commission totaling \$560,000 and The Shopping Center Group was paid a 1% commission totaling \$320,000. None of the \$880,000 in commissions or fees was disclosed to investors.
44. On or about April 27, 2017, DRAGUL and GDA received a wire transfer for seller proceeds from the sale of PGN, totaling over \$9.8 million.
45. On or about and between May 2, 2017 and May 5, 2017, HAGSHAMA controlled entities received wire transfers in the amount of \$5,668,100; a profit of over \$1 million.
46. Other than HAGSHAMA and two other investors (Leftin and Hurst), none of the remaining forty-four investors in PGN were told of the sale or repaid their principal investment, despite the \$6 million profit.
47. DRAGUL and GDA engaged in a course of business which acted as a fraud upon investors by failing to disclose the sale/profits from PGN, by continuing to send monthly distributions to investors, and by failing to repay principal investments or appreciation on the sale. This led investors to believe that they still owned PGN for over one year after the sale.
48. DRAGUL and GDA also deliberately provided materially false information to investors about the status of PGN after the sale.
49. By way of example, on or about October 17, 2017, DRAGUL spoke with investor Gerald Horst and advised him that he lost money in his PGN investment and that the sale of the property was not yet complete. Horst invested approximately \$200,000 in PGN in September of 2013. His contemporaneous notes about the conversation on or about October 17, 2017, are as follows:

I just got off the phone with Gary Dragul, he says Georgia Plaza North will be sold and settled in about 30 days and expects to issue to us a check for 75-82% of our initial investment. When I asked how it could be so low in a time of high real estate prices he said 45% is a bog [sic] box tenant which are very difficult to find....

50. Investor Philip Vineyard was also directly misled by DRAGUL. In December of 2017, DRAGUL spoke with Vineyard and told him that PGN was doing well. DRAGUL failed to disclose that PGN had sold approximately eight months earlier.
51. On or about May 18, 2018, over one year after the closing on the sale of PGN, DRAGUL and GDA sent an email to investors finally disclosing the sale and indicating that the joint venture was not as successful as they had hoped, because of failed negotiations with a big box tenant.
52. In that email, DRAGUL and GDA failed to disclose that they received over \$9.8 million in proceeds from the sale of PGN, over one earlier.
53. The circumstances surrounding the sales, acts, practices and course of business engaged in by DRAGUL and GDA, including the untrue statements of material fact and omissions of material fact as described herein, as well as the failure to repay investor principal or appreciation, operated as a fraud upon investors.

PHILIP J. WEISER,
ATTORNEY GENERAL


By:



Michael Bellipanni, Reg. No. 24421
Senior Assistant Attorney General
Criminal Justice Section

The 2018 - 2019 State Grand Jury presents the within Indictment, and the same is hereby ORDERED FILED this 28th day of February, 2019.

Pursuant to C.R.S. 13-73-107, the Court hereby designates the **County of Arapahoe**, Colorado, as the county of venue for the purposes of trial.



MICHAEL A. MARTINEZ
Chief Judge, Second Judicial District