

<p>DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202 720.865.8612</p>	<p>DATE FILED: July 2, 2019 4:11 PM FILING ID: 974935295FFBD CASE NUMBER: 2018CV33011</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiff: Chris Myklebust, Securities Commissioner for the State of Colorado</p> <p>v.</p> <p>Defendants: 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 & FACTOR P.C. 1600 Stout St., Suite 1100 Denver, Colorado 80202 Phone Number: (303) 534-4499 E-mail: pvellone@allen-vellone.com E-mail: mgilbert@allen-vellone.com E-mail: rsternlieb@allen-vellone.com</p>	<p>Case Number: 2018CV33011</p> <p>Division/Courtroom: 424</p>
<p>RECEIVER’S APPLICATION FOR LETTERS ROGATORY AND COMMISSION TO REQUIRE THE PRODUCTION OF DOCUMENTS</p>	

Pursuant to C.R.C.P. 28(c), Harvey Sender, the duly-appointed receiver (the “Receiver”) for Gary Dragul, GDA Real Estate Services, LLC, GDA Real Estate Management, LLC, and related entities (collectively, “Dragul and the GDA Entities”), by and through undersigned counsel, respectfully applies for issuance by this Court of (i) Letters Rogatory to the appropriate Florida authority requesting that it issue or authorize issuance of a Subpoena to compel the production of documents by a witness in this action and (ii) a Commission to an appropriate Florida authority to require

the witness to produce documents under the Colorado Rules of Civil Procedure. In support of this Application, Plaintiff states as follows:

1. The above-captioned case was filed in the state of Colorado in the Denver County District Court on August 15, 2018.

2. Based upon review of documents gathered in this matter to date, the Receiver believes third party JPMorgan Chase Bank, N.A. (“JP Morgan Chase”) may have in their possession discoverable information, documents and information relevant to the claims at issue in this case and bearing upon the Receivership Estate.

3. Upon information and belief, JPMorgan Chase’s Registered Agent is CT Corporation System, 1200 S Pine Island Road, Plantation, Florida 33324, in Broward County.

4. Despite undersigned’s request, general counsel for JP Morgan Chase refused to accept service of the Subpoena on behalf of his client.

5. Accordingly, the Receiver hereby seeks from the Court, issuance of Letters Rogatory to the Broward County Court in Florida requesting that it issue the Subpoena for the Production of Documents to JPMorgan Chase, together with a commission authorizing appropriate Florida authority to require JPMorgan Chase to produce the requested documents.

6. Attached as **Exhibit A** is the Receiver’s Subpoena for the Production of Documents to be served on JP Morgan Chase.

7. Submitted herewith is a proposed form of the Letters Rogatory and Commission that the Receiver asks this Court to issue to the above-noted Florida authority.

WHEREFORE, for the reasons stated herein, Harvey Sender, the duly-appointed Receiver, respectfully requests issuance of Letters Rogatory and a Commission in the form proposed and filed herewith, directing the appropriate Florida authority to issue the Subpoena attached as Exhibit A, requiring JP Morgan Chase to produce the documents sought therein, and for such other relief as this Court deems appropriate.

Dated this 2nd day of July, 2019.

Respectfully submitted,



By: s/ Rachel A. Sternlieb

Patrick D. Vellone

Michael T. Gilbert

Rachel A. Sternlieb

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ATTORNEYS FOR THE RECEIVER

CERTIFICATE OF SERVICE

I certify that on the 2nd day of July 2019, a true and correct copy of the foregoing was filed and served via CCE to the following:

Robert W. Finke
Sueanna P. Johnson
Ralph L. Carr Judicial Building
1300 Broadway, 8th Floor
Denver, Colorado 80203

***Counsel for Chris Myklebust,
Securities Commissioner***

Jeffery A. Springer
Springer and Steinberg P.C.
1600 Broadway, Suite 1200
Denver, Colorado 80202

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

Patrick R. Harkins, Esq.
4 Metrotech Center, 22nd Floor
Brooklyn, NY 11245
Tel: 718-242-1376
patrick.harkins@jpmchase.com

***Assistant General Counsel for JP
Morgan Chase Bank, N.A.***

s/ Salowa Khan

Allen Vellone Wolf Helfrich & Factor P.C

<p>DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202 720.865.8612</p>	<p>DATE FILED: July 2, 2019 4:11 PM FILING ID: 974935295FFBD CASE NUMBER: 2018CV33011</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
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<p style="text-align: center;">SUBPOENA FOR THE PRODUCTION OF DOCUMENTS</p>	

To: JPMorgan Chase Bank, N.A.
CT Corporation System
1200 S Pine Island Road
Plantation, FL 33324

You are ordered to:

X Produce the following books, papers and documents, whether in physical or electronic form, or tangible things now in your possession, custody or control:

1. Please produce all records, documents, monthly statements, transactions, pending transactions, void or voided transactions, revoked or rejected transactions, deposit slips, and checks (front and back), depository items, every EFT into and out of the ACCOUNT, and any other activity relating to all ACCOUNTS owned or controlled by **any of the following listed individuals**, or on which ACCOUNTS **any of these listed individuals** are a signatory from January 16, 2016 through the present.

2. Please produced a full and complete copy of all documents relating to loan applications made by **any of the listed individuals**, including those made personally or on behalf of any business entity from January 2016 to the present.

Individuals:

Gary J. Dragul	
Shelly R. Dragul	
Charli Dragul	
Spencer Dragul	
Samuel Dragul	
Paul Dragul	
Paulette Dragul	
David Dragul	
Tamera "Tammy" (Dragul) Davis	

3. Statements for the following account:

Account Number	Account Name	SSN/EIN Associated w/Acct	Statement Date(s)
0005244057699	Plaza Mall North 08 B Junior, LLC	Gary Dragul: - EIN: 26-3892547	Open to close

<p><u>PLACE OF PRODUCTION:</u> Stichter, Riedel, Blain & Postler, P.A. Attn: Barbara A. Hart 110 East Madison Street, Suite 200, Tampa, FL 33602 OR <u>ELECTRONICALLY TO:</u> RSTERNLIEB@ALLEN-VELLONE.COM OR <u>US MAIL OR HAND DELIVERY TO:</u> Allen Vellone Wolf Helfrich & Factor P.C. 1600 Stout St., Suite 1100 Denver, CO 80202</p>	<p><u>DATE AND TIME OF PRODUCTION:</u> 14 days from the date of service of this subpoena.</p>
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Notice form:

If this subpoena is served for production of records or a tangible thing, see the attached important notice which sets out portions of Colorado Rule of Civil Procedure 45 concerning protections for subpoenaed persons and the requirements for production of records and tangible things.

Identity of parties:

The following are the names of the parties in this action and the names, addresses, phone numbers and e-mail addresses of the attorneys for the parties and of any parties who have entered appearances without an attorney:

Name:	Address	Phone number:	Email Address
<p><i>Attorneys for Receiver Harvey Sender</i> Patrick D. Vellone, Esq. Michael T. Gilbert, Esq. Rachel A. Sternlieb, Esq. AVWHF P.C.</p>	<p>1600 Stout St. Suite 1100 Denver, CO 80202</p>	<p>(303) 534-4499</p>	<p>pvellone@allen-vellone.com mgilbert@allen-vellone.com rsternlieb@allen-vellone.com</p>

Name:	Address	Phone number:	Email Address
<i>Attorneys for Plaintiff</i> Robert W. Finke Sueanna P. Johnson Matthew J. Bouillon Mascarenas	Ralph L Carr Judicial Building 1300 Broadway 8th Flr Denver, CO 80203	720-508-6376	Robert.finke@coag.gov Sueanna.johnson@coag.gov Matthew.bouillon@coag.gov
<i>Counsel for Defendants, Gary Dragul, GDA Real Estate Services, LLC and GDA Real Estate Management, LLC</i> Jeffery A. Springer, Esq. Springer and Steinberg P.C.	1600 Broadway, Suite 1200 Denver, Colorado 80202	303-861-2800	jspringer@springersteinberg.com

The party and the party's attorney who are serving this subpoena:

Attorneys for the Receiver, Harvey Sender, through counsel at Allen Vellone Wolf Helfrich & Factor P.C.

DATED this 2nd day of July 2019.

Respectfully Submitted,



By: *s/ Rachel A. Sternlieb*

Patrick D. Vellone
Michael T. Gilbert
Rachel A. Sternlieb
1600 Stout Street, Suite 1100
Denver, Colorado 80202
Tel: (303) 534-4499
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E-mail: mgilbert@allen-vellone.com
E-mail: rsternlieb@allen-vellone.com

ATTORNEYS FOR THE RECEIVER

NOTICE PURSUANT TO C.R.C.P. 45(a)(1)(A)(VII)

(c) Protecting a Person Subject to a Subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

(2) Command to Produce Records or Tangible Things.

(A) *Attendance Not Required.* A person commanded to produce records or tangible things need not attend in person at the place of production unless also commanded to attend for a deposition, hearing, or trial.

(B) *For Production of Privileged Records.*

(i) If a subpoena commands production of records from a person who provides services subject to one of the privileges established by C.R.S. § 13-90-107, or from the records custodian for that person, which records pertain to services performed by or at the direction of that person ("privileged records"), such a subpoena must be accompanied by an authorization signed by the privilege holder or holders or by a court order authorizing production of such records.

(ii) Prior to the entry of an order for a subpoena to obtain the privileged records, the court shall consider the rights of the privilege holder or holders in such privileged records, including an appropriate means of notice to the privilege holder or holders or whether any objection to production may be resolved by redaction.

(iii) If a subpoena for privileged records does not include a signed authorization or court order permitting the privileged records to be produced by means of subpoena, the subpoenaed person shall not appear to testify and shall not disclose any of the privileged records to the party who issued the subpoena.

(C) *Objections.* Any party or the person subpoenaed to produce records or tangible things may submit to the party issuing the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials. The objection must be submitted before the earlier of the time specified for compliance or 14 days after the subpoena is served. If objection is made, the party issuing the subpoena shall promptly serve a copy of the objection on all other parties. If an objection is made, the party issuing the subpoena is not entitled to inspect, copy, test or sample the materials except pursuant to an order of the court from which the subpoena was issued. If an objection is made, at any time on notice to the subpoenaed person and the other parties, the party issuing the subpoena may move the issuing court for an order compelling production.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On motion made promptly and in any event at or before the time specified in the subpoena for compliance, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to attend a deposition in any county other than where the person resides or is employed or transacts his business in person, or at such other convenient place as is fixed by an order of court;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion made promptly and in any event at or before the time specified in the subpoena for compliance, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific matters in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order attendance or production under specified conditions if the issuing party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to Subpoena.

(1) Producing Records or Tangible Things.

(A) Unless agreed in writing by all parties, the privilege holder or holders and the person subpoenaed, production shall not be made until at least 14 days after service of the subpoena, except that, in the case of an expedited hearing pursuant to these rules or any statute, in the absence of such agreement, production shall be made only at the place, date and time for compliance set forth in the subpoena; and

(B) If not objected to, a person responding to a subpoena to produce records or tangible things must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand and must permit inspection, copying, testing, or sampling of the materials.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* Unless the subpoena is subject to subsection (c)(2)(B) of this Rule relating to production of privileged records, a person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) make the claim expressly; and

(ii) describe the nature of the withheld records or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.