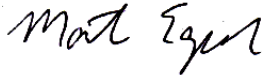


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|---|--|
| DISTRICT COURT, DENVER COUNTY, COLORADO   |  |
| Court Address:<br>1437 Bannock Street, Rm 256, Denver, CO, 80202  |  |
| <b>Plaintiff(s)</b> GERALD ROME SECURITIES COM FOR THE ST OF CO<br>v.<br><b>Defendant(s)</b> GARY DRAGUL et al.                           | DATE FILED: September 4, 2019 8:56 AM<br>CASE NUMBER: 2018CV33011<br><br><p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2018CV33011<br>Division: 424      Courtroom: |
| <b>Order: Receiver's Motion for Order Authorizing Sale of Real Property (3142 South Leyden Street, Denver, Colorado 80222) (w/attach)</b> |  |

The motion/proposed order attached hereto: GRANTED.

Issue Date: 9/4/2019



MARTIN FOSTER EGELHOFF  
District Court Judge

|  |   |
|--|---|
| <p>DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO<br/> Denver District Court<br/> 1437 Bannock St.<br/> 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:<br/> Patrick D. Vellone, #15284<br/> Michael T. Gilbert, #15009<br/> Rachel A. Sternlieb, #51404<br/> ALLEN VELLONE WOLF HELFRICH &amp; FACTOR P.C.<br/> 1600 Stout St., Suite 1100<br/> Denver, Colorado 80202<br/> Phone Number: (303) 534-4499<br/> pvellone@allen-vellone.com<br/> mgilbert@allen-vellone.com<br/> rsternlieb@allen-vellone.com</p> | <p>Case Number:<br/> 2018CV33011</p> <p>Division/Courtroom: 424</p> |
| <p style="text-align: center;"><b>RECEIVER’S MOTION FOR ORDER AUTHORIZING SALE OF REAL PROPERTY (3142 South Leyden Street, Denver, Colorado 80222)</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 enter an order approving the sale of real property located at 3142 South Leyden Street,

Denver, Colorado 80222 (the “Property”).

### **Background**

1. On August 15, 2018, the Securities Commissioner for the State of Colorado (the “Commissioner”), filed his Complaint for Injunctive and Other Relief against Dragul and the GDA Entities.

2. On August 29, 2018, the Commissioner, Dragul and the GDA Entities filed a Stipulated Motion for Appointment of Receiver, consenting to the appointment of a receiver over Dragul and the GDA Entities pursuant to COLO. REV. STAT. § 11-51-602(1), C.R.C.P. 66.

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

### **The Proposed Sale**

4. Pursuant to an August 18, 2019, purchase and sale agreement (the “PSA”), the Receiver agreed to sell and Kelsey Haist and Scott Thompson (“Buyer”) agreed to buy the Property for a purchase price of \$510,000.00 (the “Proposed Sale”). A copy of the fully-executed PSA and its addenda are attached as **Exhibit 1** (the “Contract”).

5. The Property is owned by 3142 South Leyden 14, LLC (“3142 S. Leyden 14”), which is 100% owned by X12 Housing, LLC (f/k/a GDA Housing, LLC) (“X12 Housing”). The sole member of X12 is Gary Dragul. 3142 S. Leyden 14 is managed by X12 Housing Management, Inc. (f/k/a GDA Housing Management, Inc.), whose president and sole shareholder is Gary Dragul. The Property is therefore property of the Receivership Estate the Receiver is authorized to sell.

6. The Property was listed for \$500,000. The Receiver accepted a contract offer for \$485,00 from a prior buyer. Shortly after accepting this offer, the Receiver received the instant offer for \$510,000. Pursuant to a provision in the contract that allows the Receiver to consider (and accept) other offers (“Overbid Provision”), the Receiver terminated the initial contract (the \$485,000 contract) and accepted the subsequent offer for \$510,000. The proposed sale represents the highest and best offer the Estate has received.

7. Under the Contract, closing on the Property is scheduled to occur 30 days after Court approval of the Proposed Sale.

**Sale of The Property is in the Best Interest of the  
Estate and its Creditors.**

8. The Receivership Order grants the Receiver the authority to sell or otherwise dispose of Estate property and obtain Court approval for any sale for greater than \$10,000 (Receivership Order at 12, ¶ 13(t)).

9. The Property was originally purchased on November 10, 2014, for \$405,000.00 by Grant '14, LLC, a wholly-owned Dragul entity, managed by GDA Real

Estate Management, Inc.

10. On May 13, 2015, Grant 14, LLC sold the property to GDA Affiliate, 3142 South Leyden 14, LLC for \$405,000.

11. On August 24, 2016, Dragul refinanced the Property and obtained a \$311,500.00 loan from Velocity Commercial Capital, LLC (“Velocity”), which he personally guaranteed, and which is secured by a Deed of Trust, Security Agreement and Assignment of Leases and Rents (“the Velocity Loan”). On November 27, 2018, Velocity declared the Loan in default.

12. On or about March 21, 2018, WBF/CT Associates, LLC (“WBF”) extended a line of credit of up to \$1,200,000.00 to Dragul (the “LOC”). The LOC was evidenced by a March 21, 2018, Promissory Note and Loan Agreement, and was secured and cross-collateralized by 11 residential properties, including 3142 South Leyden Street (collectively, the “Collateral”). A Second Deed of Trust dated March 27, 2018, was recorded against the Property by WBF on April 26, 2017.

13. On November 1, 2018, the Court entered an Order approving a Settlement Agreement between the Receiver and WBF resolving a dispute as to how net sales proceeds from the sale of the Collateral would be distributed. Pursuant to the Settlement Agreement, WBF agreed to accept 70% of the net sales proceeds from the sale of the Collateral and the remaining 30% would be paid to the Estate. WBF also agreed to release its second deed of trust on the Property. The net sales proceeds, and corresponding distribution to the Receiver, is estimated to be as follows:

|  |                 |
|--|-----------------|
| Sale Price                                     | \$510,000       |
| 1st Mortgage (Velocity)                        | (\$372,995)     |
| Broker Commission (5.5%)                       | (\$28,050)      |
| Estimated Closing Costs (1.5%)                 | (\$7,650)       |
| Estimated Unpaid Taxes, 2017 – 2018            | (\$5,610)       |
| <b>NET SALE PROCEEDS</b>                       | <b>\$95,695</b> |
|  |                 |
| 2 <sup>nd</sup> Mortgage (WBF/CT) (70% of net) | (\$66,987)      |
| <b>Proceeds to Receiver (30% of net)</b>       | <b>\$28,709</b> |

14. The Property is a 3-bedroom, 3-bath, 1,272 square-foot home located in Denver, Colorado. It was listed for \$500,000 and was under contract for \$485,000 when the Receiver got a higher and better offer from Buyer. Pursuant to the Overbid Provision in the PSA, the Receiver terminated the contract with the prior purchaser and entered into a contract with Buyer. Under the Proposed Sale, Buyer has agreed to purchase the Property for \$510,000, \$10,000 more than the list price.

15. Buyer is an arms-length purchaser with no affiliation to Dragul or the Dragul Entities. Based on the listing broker's market valuation, \$510,000 is a fair market price for the Property.

16. The principal balance of the first mortgage on the Property is approximately \$372,995. The Property is encumbered by a second deed of trust in

favor of WBF/CT Associates, LLC that secures an outstanding letter of credit balance of \$1,120,000. Under the Court's November 1, 2018, Order approving the Estate's settlement agreement with WBF, the Receivership Estate will receive 30% of the net sale proceeds from the proposed sale of the Property, approximately \$28,709. The Receiver believes the proposed sale is fair, reasonable, and in the best interests of the Estate. The sale will result in payment in full of the first mortgage on the Property and will net the Estate approximately \$28,709. Closing is scheduled to occur 30 days after Court approval of the instant Motion.

17. Pursuant to paragraph 10 of the Receivership Order, Court approval of any motion filed by the Receiver shall be given as a matter of course within 10 days after the motion is filed and served. As reflected by the certificate of service below, this Motion is being served on all parties who have appeared in this case and on all currently known creditors of the Estate.

WHEREFORE, the Receiver asks the Court to grant this Motion and approve the proposed sale of the Property in accordance with the terms of the Contract.

Dated: August 22, 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**

I hereby certify that on August 22, 2019, I served a true and correct copy of the foregoing **RECEIVER'S MOTION FOR ORDER AUTHORIZING SALE OF REAL PROPERTY (3142 South Leyden Street, Denver, Colorado 80222)** via CCE to the following:

Cynthia H. Coffman  
Robert W. Finke  
Matthew J. Bouillon Mascareñas  
Ralph L. Carr Judicial Building  
1300 Broadway, 8th Floor  
Denver, Colorado 80203

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Securities Commissioner***

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***Counsel for WBF/CT Associates, LLC***

A copy of the Motion was also served by electronic mail on all currently known creditors of the Receivership Estate to the addresses set forth on the service list maintained in the Receiver's records.

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