

<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>Plaintiff: Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC.</p> <p>v.</p> <p>Defendants: Bank of America, N.A., American Express Company, and Discover Bank.</p>	
<p>Attorneys for Defendant American Express Company:</p> <p>John A. Chanin FOSTER GRAHAM MILSTEIN & CALISHER, LLP 360 South Garfield Street, 6th Floor Denver, Colorado 80209 Email: jchanin@fostergraham.com; Phone: 303-333-9810 Facsimile: 303-333-9786</p> <p>Attorneys for Defendant Bank of America, NA:</p> <p>Erin E. Edwards AKERMAN LLP 1900 Sixteenth Street, Suite 1700 Denver, Colorado 80202 Telephone: (303) 260-7712 Facsimile: (303) 260-7714 Email: justin.balser@akerman.com Email: erin.edwards@akerman.com</p>	<p>Case Number: 19CV33375</p> <p>Division Courtroom: 275</p>
<p>NOTICE OF FILING OF NOTICE OF REMOVAL</p>	

PLEASE TAKE NOTICE that on October 8th, 2019, Defendants Bank of America, N.A., American Express Company and Discover Bank, by and through their undersigned counsel, jointly removed this action to the United States District Court for the District of Colorado, pursuant to the provisions of 28 U.S.C. §§ 1332, 1441 and 1446. Accordingly, as provided in 28 U.S.C. § 1446(d), this Court may proceed no further unless and until the case is remanded by order of the United States District Court. A copy of Defendants' Notice of Removal is attached as Exhibit A hereto and has been served on all counsel of record.

Dated: October 8, 2019

Respectfully submitted,

FOSTER GRAHAM MILSTEIN
& CALISHER, LLP

/s/ John A. Chanin
John A. Chanin

Attorneys for Defendant American Express
Company

AND

AKERMAN LLP

s/ Erin E. Edwards
Justin D. Balsler
Erin E. Edwards

Attorneys for Defendant Bank of America,
N.A.

CERTIFICATE OF SERVICE

I hereby certify that I have this 8th day of October, 2019, caused a copy of the foregoing NOTICE OF FILING OF NOTICE OF REMOVAL to be served upon counsel for Plaintiff by e-mail, as indicated below, and by e-mail and/or by depositing a copy of same in the United States mail, postage prepaid, addressed as follows:

Michael T. Gilbert, Esq.
Patrick D. Vellone, Esq.
Jeremy T. Jonsen, Esq.
Rachel A. Sternlieb, Esq.
Allen Vellone Wolf Helfrich & Factor, P.C.
1600 Stout Street, Suite 1100
Denver, Colorado 80202

E-mail:

pvellone@allen-vellone.com
mgilbert@allen-vellone.com
jjonsen@allen-vellone.com
rsternlieb@allen-vellone.com

By: /s/ Lucas Wiggins

<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>Plaintiff: Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC.</p> <p>v.</p> <p>Defendants: Bank of America, N.A., American Express Company, and Discover Bank.</p>	
<p>Attorneys for Defendant American Express Company:</p> <p>John A. Chanin FOSTER GRAHAM MILSTEIN & CALISHER, LLP 360 South Garfield Street, 6th Floor Denver, Colorado 80209 Email: jchanin@fostergraham.com Phone: 303-333-9810 Facsimile: 303-333-9786</p> <p>Attorneys for Defendant Bank of America, NA:</p> <p>Erin E. Edwards AKERMAN LLP 1900 Sixteenth Street, Suite 1700 Denver, Colorado 80202 Telephone: (303) 260-7712 Facsimile: (303) 260-7714 Email: justin.balser@akerman.com Email: erin.edwards@akerman.com</p>	<p>Case Number: 19CV33375</p> <p>Division Courtroom: 275</p>
<p>NOTICE TO ADVERSE PARTIES AND STATE COURT</p>	

TO: HARVEY SENDER, Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA

Real Estate Management, LLC, c/o Michael T. Gilbert, Esq., Patrick D. Vellone, Esq., Jeremy T. Jonsen, Esq., Rachel A. Sternlieb, Esq., Allen Vellone Wolf Helfrich & Factor, P.C., 1600 Stout Street, Suite 1100, Denver, Colorado 80202

PLEASE TAKE NOTICE that on October 8th, 2019, Defendants Bank of America, N.A., American Express Company and Discover Bank, by and through their undersigned counsel, removed this action to the United States District Court for the District of Colorado, Denver Division, pursuant to the provisions of 28 U.S.C. §§ 1332, 1441 and 1446. A copy of Defendants' Notice of Removal is attached as Exhibit A hereto. This notice is served on Harvey Sender, Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC, in compliance with 28 U.S.C. § 1446.

Dated: October 8th, 2019

Respectfully submitted,

FOSTER GRAHAM MILSTEIN
& CALISHER, LLP

/s/ John A. Chanin
John A. Chanin

Attorneys for Defendant American Express
Company

AND

AKERMAN LLP

s/ Erin E. Edwards
Justin D. Balsler
Erin E. Edwards

Attorneys for Defendant Bank of America,
N.A.

CERTIFICATE OF SERVICE

I hereby certify that I have this 8th day of October, 2019, caused a copy of the foregoing NOTICE TO ADVERSE PARTIES AND STATE COURT to be served upon counsel for Plaintiff by e-mail, as indicated below, and by e-mail and/or by depositing a copy of same in the United States mail, postage prepaid, addressed as follows:

Michael T. Gilbert, Esq.
Patrick D. Vellone, Esq.
Jeremy T. Jonsen, Esq.
Rachel A. Sternlieb, Esq.
Allen Vellone Wolf Helfrich & Factor, P.C.
1600 Stout Street, Suite 1100
Denver, Colorado 80202

E-mail:

pvellone@allen-vellone.com
mgilbert@allen-vellone.com
jjonsen@allen-vellone.com
rsternlieb@allen-vellone.com

By: /s/ Lucas Wiggins

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Case No. 1:19-cv-02875

HARVEY SENDER, as Receiver for Gary
Dragul, GDA Real Estate Services LLC,
and GDA Real Estate Management LLC,

Plaintiff,

v.

BANK OF AMERICA, N.A.,
AMERICAN EXPRESS COMPANY and
DISCOVER BANK

Defendants.

NOTICE OF REMOVAL

Notice is hereby given that Defendants Bank of America, N.A., American Express Company and Discover Bank (collectively, “Defendants”) hereby jointly remove to this Court, pursuant to 28 U.S.C. §§ 1332(a)(1) and (b), 1441(a)-(b) and 1446, that civil action, filed in the District Court of Denver County, Colorado, styled Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services LLC and GDA Real Estate Management LLC v. Bank of America, N.A., American Express Company and Discover Bank, Case No. 2019-CV-33375. In support hereof, Defendants show this Court as follows:

I. Procedural Compliance.

1. This Notice of Removal is timely, as it has been filed within thirty (30) days after receipt of Plaintiff’s Complaint through service or otherwise, as provided in 28 U.S.C. § 1446(b), such Complaint having been served by Plaintiff on Defendant American Express Company on September 11, 2019, and first received by counsel for American Express Company on September

16, 2019.

2. True and correct copies of the Civil Cover Sheet, Returns of Service on Defendants, the State Court Complaint and Exhibits thereto, Notice of Related Case, and the Answer and Affirmative Defenses of American Express Company, which were filed to date in the Colorado state court action, along with the Docket from that case, are respectively attached as Exhibits to this Notice of Removal and incorporated herein by reference.

3. In compliance with 28 U.S.C. § 1446(b)(2)(A), all named Defendants, by and through their respective counsel, join in and consent to the removal of this action and are signatories to this Notice of Removal.

4. In compliance with 28 U.S.C. § 1446(a) and (d), the Defendants are simultaneously serving a copy of this Notice of Removal and a Notice of Removal to All Adverse Parties and State Court on counsel for Plaintiff, and filing a copy of those Notices with the clerk of the Denver County Clerk of Court so as to effectuate the removal of the action to this Court. Copies of those notices (without Exhibits) to be filed are attached hereto as a Composite Exhibit titled “Notice of Notice of Removal.”

II. This Court has Diversity Jurisdiction.

“The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs and is between... citizens of different states.” 28 U.S.C. § 1332(a), (1).

a. There is Complete Diversity: Plaintiff is a Citizen of Colorado and Defendants are Citizens of North Carolina, New York and Delaware Pursuant to the Allegations in the Complaint.

The Plaintiff, Harvey Sender, is the duly appointed and authorized Receiver for Gary Dragul, GDA Real Estate Services LLC and GDA Real Estate Management LLC. *See* Complaint at ¶ 1. As alleged in the Complaint, the individual and entities in receivership are citizens of

Colorado, and were placed into receivership pursuant to a complaint filed by the Securities Commissioner for the State of Colorado. Furthermore, Harvey Sender is a practicing attorney in the State of Colorado, with his principal place of business in Denver, Colorado, and upon information and belief Mr. Sender is a citizen of the State of Colorado. *See* Complaint at ¶ 4. Thus whether this Court looks to the individual and entities in receivership or Mr. Sender for purposes of diversity, the citizenship on Plaintiff's side is undoubtedly in Colorado.

As to the Defendants, Plaintiff alleges that Defendants are North Carolina, New York and Delaware corporations or institutions, with principal places of business in North Carolina, New York and Delaware. *See* Complaint at ¶¶ 5-7.

Simply stated, there is complete diversity.

b. The Amount in Controversy Exceeds \$75,000.

Again, looking to the Plaintiff's Complaint, it is clear that the \$75,000 threshold is satisfied. While Defendants dispute that Plaintiff is entitled to any relief, Plaintiff has asserted claims for alleged fraudulent transfers totaling \$8,386,104.25. *See* Complaint at ¶¶ 37-40.

III. Conclusion.

This Notice of Removal is timely and satisfies the requirements for diversity jurisdiction: the amount in controversy exceeds \$75,000, exclusive of interests and costs, and there is complete diversity since the Plaintiff is a Colorado citizen and none of the Defendants are Colorado citizens.

WHEREFORE, Defendants hereby jointly remove this action from the District Court of Denver County, Colorado to the United States District Court for the District of Colorado, Denver Division pursuant to 28 U.S.C. §§ 1441 and 1446; and respectfully request that this action be assigned a civil action number and otherwise placed on the docket of this Court for further proceedings, as though this action had originally been initiated in this Court.

Dated: October 8th, 2019

Respectfully submitted,

By: s/ Erin E. Edwards
Justin D. Balser
Erin E. Edwards
AKERMAN LLP
1900 Sixteenth Street, Suite 1700
Denver, Colorado 80202
Telephone: (303) 260-7712
Facsimile: (303) 260-7714
Email: justin.balser@akerman.com
Email: erin.edwards@akerman.com

Attorneys for Defendant Bank of America,
N.A.

By: s/ John A. Chanin
John A. Chanin
Katherine Roush
FOSTER GRAHAM MILSTEIN &
CALISHER, LLP
360 South Garfield Street, 6th Floor
Denver, Colorado 80209
jchanin@fostergraham.com
kroush@fostergraham.com
Phone: 303-333-9810
Facsimile: 303-333-9786

and

ARNALL GOLDEN GREGORY LLP
Darryl S. Laddin (Georgia Bar No. 460793)
(*Pro Hac Vice Application to be Filed*)
171 17th Street, NW, Suite 2100
Atlanta, Georgia 30363
Telephone: (404) 873-8500
E-Mail: dladdin@agg.com

Attorneys for Defendant American Express
Company

By: /s/ Darren McHugh

Darren McHugh (Reg. #: 40079)
Stradling Yocca Carlson & Rauth,
P.C.
1400 16th Street, Suite 400,
Denver, CO 80202
Phone Number: (720) 616-6980
FAX Number: (949) 823-6880
E-mail: dmchugh@sycr.com

and

Karla Kraft (Pro Hac Vice
Application Pending)
Stradling Yocca Carlson & Rauth,
P.C.
660 Newport Center Drive, Suite
1600
Newport Beach, CA 92660-6422
Phone Number: (949) 725-4000
Email: kkraft@sycr.com

Attorneys for Defendant Discover Bank

CERTIFICATE OF SERVICE

I hereby certify that I have this 8th day of October, 2019, caused a copy of the foregoing NOTICE OF REMOVAL to be served upon counsel for Plaintiff by e-mail, as indicated below, and by e-mail and/or by depositing a copy of same in the United States mail, postage prepaid, addressed as follows:

Michael T. Gilbert, Esq.
Patrick D. Vellone, Esq.
Jeremy T. Jonsen, Esq.
Rachel A. Sternlieb, Esq.
Allen Vellone Wolf Helfrich & Factor, P.C.
1600 Stout Street, Suite 1100
Denver, Colorado 80202

E-mail:

pvellone@allen-vellone.com
mgilbert@allen-vellone.com
jjonsen@allen-vellone.com
rsternlieb@allen-vellone.com

By: /s/ Lucas Wiggins