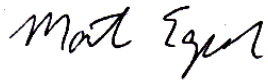


DISTRICT COURT, DENVER COUNTY, COLORADO	
Court Address: 1437 Bannock Street, Rm 256, Denver, CO, 80202	
Plaintiff(s) GERALD ROME SECURITIES COM FOR THE ST OF CO v. Defendant(s) GARY DRAGUL et al.	DATE FILED: November 4, 2019 8:39 AM CASE NUMBER: 2018CV33011 <p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2018CV33011 Division: 424 Courtroom:
Order: Motion to Approve Six Settlement Agreements w/attach	

The motion/proposed order attached hereto: GRANTED.

The settlements are approved.

Issue Date: 11/4/2019



MARTIN FOSTER EGELHOFF
District Court Judge

<p>DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202 720.865.8612</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiff: David S. Cheval, Acting 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 style="text-align: center;">MOTION TO APPROVE SIX SETTLEMENT AGREEMENTS</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 six settlement agreements identified below. Copies of the

settlement agreements are submitted as **Exhibits 1-6** (the “Settlement Agreements”).

I. Background

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 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, as well as their interests and management rights in related affiliated and subsidiary businesses (the “Receivership Estate” or the “Estate”). Receivership Order at 2, ¶ 5.

4. The proposed Settlement Agreements resolve the disputes between the Receiver and the six parties listed below regarding certain transfers they received from the Estate and potential litigation claims against them by the Receiver:

	Party	Claim Amount	Proposed Settlement
1.	Steve Kris	\$59,138.75	\$30,000.00
2.	Michael Powers	\$36,000.00	\$18,000.00
3.	Cristiano Luchetta	\$22,777.94	\$15,000.00
4.	Jim Bauer	\$142,100.00	\$71,050.00
5.	John Blackerby	\$33,500.00	\$16,750.00
6.	Jim Gruenewald	\$39,450.00	\$19,725.00
	Total	\$332,966.69	\$170,525.00

5. In addition to settling potential litigation claims, two settling parties are releasing claims they have filed against the Estate (Kris, \$60,000.00; Luchetta, \$154,900.01).

II. The Settlement Agreements are in the best interests of the Estate and its creditors.

6. There exists little Colorado authority with respect to factors the Court should consider in determining whether to approve a Receiver's settlement agreement. In analogous bankruptcy contexts courts consider whether "the settlement is fair and equitable and in the best interests of the estate." In considering whether to approve a settlement, bankruptcy courts consider four primary factors: "the probable success of the underlying litigation on the merits, the possible difficulty in collection of a judgment, the complexity and expense of the litigation, and the

interests of creditors in deference to their reasonable views.” *Kopp v. All Am. Life Ins. Co. (In re Kopexa Realty Venture Co.)*, 213 B.R. 1020, 1022 (B.A.P. 10th Cir. 1997); *Kaiser Steel Corp. v. Frates (In re Kaiser Steel Corp.)*, 105 B.R. 971, 977 (D. Colo. 1989). Courts also recognize that deference should be given to the business judgment of the Receiver. *See, e.g., In re OptInRealBig.com, LLC*, 345 B.R. 277, 291 (Bankr. D. Colo. 2006) (deferring to the business judgment of the bankruptcy trustee).

7. Considering these factors, the Court should approve the Settlement Agreements. Although the Receiver believes his claims to recover the transfers to the settling parties are strong, they could and would be expected to raise various defenses to the Estate’s claims, and the proposed agreements resolve those potential litigation claims without further expense or litigation risk, and if approved will effect the release of more than \$200,000 in claims against the Estate.

8. 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 enter an Order approving the Settlement Agreements.

Dated: October 23, 2019.

ALLEN VELLONE WOLF HELFRICH & FACTOR
P.C.



By: /s/ Michael T. Gilbert

Patrick D. Vellone

Michael T. Gilbert

Rachel A. Sternlieb

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ATTORNEYS FOR THE RECEIVER

Attachment to Order 2019-10-23 CV 33011

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2019, I served a true and correct copy of the foregoing **MOTION TO APPROVE SIX SETTLEMENT AGREEMENTS** via CCE to the following:

Robert W. Finke
Sueanna P. Johnson
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1300 Broadway, 8th Floor
Denver, Colorado 80203
Robert.Finke@coag.gov
Sueanna.Johnson@coag.gov

***Counsel for David S. Cheval, Acting
Securities Commissioner***

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

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Otten Johnson Robinson Neff
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Denver, CO 80202
brad@ottenjohnson.com

Counsel for Alan Fox

A copy of the Motion was also served by electronic mail and/or U.S. Mail first-class, postage-prepaid on all currently known creditors of the Receivership Estate to the addresses set forth on the service list maintained in the Receiver's records. A Copy of the Motion was additionally served by electronic mail to the following:

John Young, Esq.
jyoung at MarkusWilliams.com
***Counsel for Jonathan Gruenwald, Jim
Bauer, and John Blackerby***

William Groh, Esq.
wcgroh@thowardlaw.com
Counsel for Cristiano Luchetta

Peter Cal, Esq.
PCAL@shermanhoward.com
Counsel for Michael Powers

Steve Kris, ***pro se***
steve@ascentcapital.com


/s/ Teresa Silcox

Attachment to Order - 2018C1833011