

**GRANTED BY COURT**

**11/04/2019**

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CASE NUMBER: 2018CV33011

DISTRICT COURT, DENVER COUNTY, STATE OF  
COLORADO

Denver District Court  
1437 Bannock St.  
Denver, CO 80202  
720.865.8612

  
Martin Foster Egelhoff  
Judge

**Plaintiff:** David S. Cheval, Acting Securities  
Commissioner for the State of Colorado

v.

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

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Attorneys for Receiver:

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Case Number:  
2018CV33011

Division/Courtroom: 424

**RECEIVER'S MOTION TO ABANDON 15 RESIDENTIAL PROPERTIES**

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"), hereby requests Court

approval to abandon the Estate's interest in 15 residential properties owned by the Estate.

## 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 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.

## II. Authority

4. The Receivership Order authorizes the Receiver to sell or otherwise dispose of the assets of the Estate, including the personal property of the Receivership Estate. *Receivership Order* ¶ 13(t), at 12. Upon obtaining a court order, a receiver may generally abandon property that is of inconsequential value to an estate. *E.g.* 65 AM. JUR. 2D RECEIVERS § 156. Under the Bankruptcy Code, property may be

abandoned that is burdensome or of inconsequential value or benefit to a bankruptcy estate. 11 U.S.C. § 554(a).

5. The Receivership Estate presently includes 22 single-family residential properties (the “22 Residential Properties”). The Receiver has twice been under contract to sell all 22 Residential Properties, once in February 2019 to Odyssey Acquisitions III, LLC for \$775,000 (that sale included 2 additional residential properties), and once in May 2019 with Chad Hurst for \$575,000. Odyssey backed out of its contract within days, and after the Receiver obtained Court approval of the Hurst contract (over objection and after an evidentiary hearing), Hurst refused to close.<sup>1</sup>

6. The Receiver has since tried to market and sell all of the 22 Residential Properties and continues to do so with respect to the seven remaining properties that are not the subject of this motion.

7. The 15 residential properties the Receiver seeks to abandon are identified on the attached Exhibit 1, which also includes the Receiver’s analysis of the lack of or minimal equity in the properties. The fair market values on Exhibit 1 are proposed list prices based on the Receiver’s market research and the opinion of the Estate’s residential property broker. Based on the Receiver’s experience in this case, it is unlikely the properties would be sold for their listing prices.

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<sup>1</sup> The Estate retained Hurst’s \$100,000 earnest money deposit.

8. All 15 properties are owned by special purpose entities Dragul formed, each of whose sole member is X12 Housing, LLC (“X12”), f/k/a GDA Housing, LLC, whose sole member is Dragul. X12 is managed by X12 Housing Management, Inc., f/k/a GDA Housing Management, Inc.,<sup>2</sup> whose sole shareholder and President is Dragul. The 15 properties are therefore property of the Estate the Receiver is authorized to sell or otherwise dispose of.

9. Although the Receiver has been able to negotiate minimal concessions with the first mortgage holder on these properties, he has not been able to reach an agreement that would, after accounting for the administrative expenses to sell these properties, preserve any equity for the Estate.<sup>3</sup> The Receiver continues to incur liabilities to Revesco for managing the 15 properties, and is paying insurance and maintenance for them. Continuing to incur and pay these expenses would be burdensome to the Estate and not yield any return to the Estate or its creditors. Upon entry of an order authorizing the Receiver to abandon the 15 properties, the Receiver will stop managing the properties and cease paying insurance and ongoing maintenance for them. The Receiver will cooperate to turn the properties over to secured lenders and is serving this motion on them.

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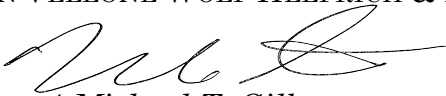
<sup>2</sup> On April 17, 2018, Articles of Amendment changing the name of GDA Housing Management, Inc. to X12 Housing Management, Inc. was filed with the Colorado Secretary of State.

<sup>3</sup> Three of the 15 properties show equity assuming they were sold within the next 90 days at the proposed list price/estimated fair market value. But the administrative cost of doing so would more than offset any estimated equity.

WHEREFORE, the Receiver asks the Court to enter an order authorizing him to abandon any interests the Estate may have in the 15 residential properties listed on Exhibit 1, and authorizing the Receiver to stop managing the properties and to stop paying insurance and ongoing maintenance for them.

Dated: October 11, 2019.

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

  
By: s/ Michael T. Gilbert  
Patrick D. Vellone, #15284  
Michael T. Gilbert, #15009  
Rachel A. Sternlieb, #51404

ATTORNEYS FOR THE RECEIVER

**CERTIFICATE OF SERVICE**

I hereby certify that on October 11, 2019, a true and correct copy of **RECEIVER'S MOTION TO ABANDON 15 RESIDENTIAL PROPERTIES** was filed and served via the Colorado Courts E-Filing system to the following:

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***Counsel for Patch of Land Lending, LLC***

**CERTIFICATION OF E-SERVICE ON KNOWN CREDITORS**

In accordance with this Court's February 1, 2019 Order clarifying notice procedures for this case, I also certify that a copy of the foregoing is being 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.

*s/Teresa Silcox*

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Allen Vellone Wolf Helfrich & Factor P.C.