

<p>DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO  Denver District Court  1437 Bannock St.  Denver, CO 80202  303.606.2433</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><b>Plaintiff:</b> David S. Cheval, Acting 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:  Patrick D. Vellone, #15284  Michael T. Gilbert, #15009  Rachel A. Sternlieb, #51404  ALLEN VELLONE WOLF HELFRICH &amp; FACTOR P.C.  1600 Stout St., Suite 1900  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;"><b>RECEIVER’S MOTION TO APPROVE SETTLEMENT AGREEMENTS WITH BANK OF AMERICA AND CHASE BANK</b></p>	

Harvey Sender, the duly-appointed receiver (“Receiver”) for Gary Dragul (“Dragul”), GDA Real Estate Services, LLC (“GDARES”), GDA Real Estate Management, LLC, and related entities (collectively, “Dragul and the GDA Entities”), asks the Court to enter an order approving settlement agreements with Bank of

America, N.A. (“BOA”) and JP Morgan Chase Bank, N.A. (“Chase”). Copies of the settlement agreements are submitted as **Exhibits 1** and **2** (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 30, 2018, the Court entered a Stipulated Order Appointing Receiver (the “Receivership Order”), appointing Harvey Sender 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.

3. Under the Receivership Order, the Receiver has the authority to prosecute causes of action against third-parties, including claims held by creditors. Receivership Order ¶¶ 13(o) & (s).

4. The Receiver identified claims, including claims under COLO. REV. STAT. § 38-8-101-113, against BOA and Chase. On August 30, 2019, the Receiver filed a complaint in Denver District Court against BOA and others seeking to recover what the Receiver alleged were fraudulent transfers it received from Dragul and the GDA entities, Case No. 2019CV33375. That case was removed to the United States District Court in Colorado and is pending as *Sender v. Bank of Am., et al.*, Case No. 1:19-cv-

02875-WJM-NYW. Before filing the case, the Receiver was able to resolve potential claims against Chase.

5. The proposed Settlement Agreements resolve the disputes between the Receiver and BOA and Chase regarding certain transfers they received from Dragul and the GDA entities before and after the Receiver was appointed, and with respect to Chase, with regard to potential claims the Receiver identified concerning accounts Chase held for GDARES and Rose LLC.

	<b>Party</b>	<b>Potential Claim</b>	<b>Proposed Settlement</b>
1.	BOA	\$66,560.00	\$40,000.00
2.	Chase	\$36,386.28	\$22,750.00
	<b>Total</b>	<b>\$102,946.28</b>	<b>\$62,750.00</b>

**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 BOA and Chase are strong, BOA and Chase have raised various defenses to those claims. The Receiver also investigated claims the Estate might have against Chase with respect to transactions in accounts Chase held for GDARES and a Dragul special purpose entity, Rose, LLC, relating to what appeared to be a \$275,000 set-off between those two accounts after the Receiver was appointed. After reviewing transactions relating to this “set-off,” the Receiver concluded they were merely book entry transactions and did not involve setting off funds of the Estate. The proposed settlement with Chase nevertheless includes \$6,500 to settle any potential claims relating to the set-off.

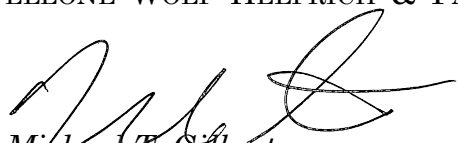
8. The proposed agreements resolve the potential litigation claims against BOA and Chase without further expense or litigation risk, will result in the dismissal of the pending action against BOA, eliminate potentially significant litigation costs for the Estate, and result in the prompt payment of funds to the Estate.

9. 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: March 31, 2020.

ALLEN VELLONE WOLF HELFRICH & FACTOR  
P.C.

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

ATTORNEYS FOR THE RECEIVER

**CERTIFICATE OF SERVICE**

I hereby certify that on March 31, 2020, I served a true and correct copy of the foregoing **RECEIVER'S MOTION TO APPROVE TWO SETTLEMENT AGREEMENTS** via CCE to:

Robert W. Finke  
Janna K. Fischer  
Ralph L. Carr Judicial Building  
1300 Broadway, 8th Floor  
Denver, Colorado 80203  
Robert.Finke@coag.gov  
Janna.Fischer@coag.gov

Paul Vorndran  
Chris Mills  
Jones & Keller, P.C.  
1999 Broadway, Suite 3150  
Denver, Colorado 80202  
pvorndran@joneskeller.com  
cmills@joneskeller.com

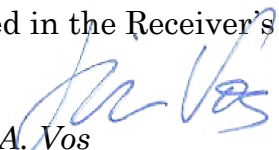
***Counsel for David S. Cheval, Acting Securities Commissioner***      ***Counsel for Defendant Gary Dragul***

A copy was also served by electronic mail to:

John Bernstein, Esq. John.Bernstein@KutakRock.com <b><i>Counsel for JP Morgan Chase Bank, N.A.</i></b>	Erin Edwards, Esq. Erin.edwards@akerman.com <b><i>Counsel for Bank of America, N.A.</i></b>
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**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/ Lisa A. Vos*  
Allen Vellone Wolf Helfrich & Factor P.C.

## SETTLEMENT AGREEMENT AND RELEASE

### I. PARTIES

This Settlement Agreement and Release (“Agreement”) is entered into by and between Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC (“Plaintiff”), and Bank of America, N.A. (“BANA”). Plaintiff and BANA may be referred to individually in this Agreement as the “Party” or collectively as “Parties.”

### II. RECITALS

- A. Plaintiff is the Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC by virtue of a stipulated order (the “Receivership Order”) entered August 30, 2018, by the Court in *Cheval v. Dragul, et al.*, Case No. 2018CV33011, District Court, Denver, Colorado (the “Receivership Court”).
- B. Pursuant to the authority granted by the Receivership Order, on August 30, 2019, Plaintiff filed a Complaint entitled *Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC v. Bank of America, N.A., et al.* in the District Court of Denver County, Colorado, Case No. 2019CV33375 (the “Complaint”). On October 8, 2019, the Complaint was removed to the United States District Court for the District of Colorado, Case No.: 1:19-cv-02875-WJM-NYW (the “U.S. District Court”).
- C. The Complaint asserts claims against BANA for turnover of funds and actual and constructive fraud under Colo. Rev. Stat. § 38-8-105 (“Claims”) regarding payments made by Gary Dragul from his business accounts for the benefit of Dragul’s wife’s BANA credit card account number(s) ending in 3133, 6028, and 8183 (“Account(s)”). Specifically, the Plaintiff alleges that Dragul perpetrated a multi-million-dollar Ponzi scheme and utilized funds provided by investors to pay his personal debts and fund his lavish lifestyle.
- D. BANA disputes and denies Plaintiff’s Claims as to BANA and the allegations made in respect thereof and maintains that it has valid defenses to the Claims and the Complaint.
- E. The Parties hereto wish to resolve all the disputes between them, asserted or unasserted, related to the Complaint, the Account(s) and the Claims, without any admission of any liability.

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**AGREEMENT**

NOW, THEREFORE, in consideration of these promises and the mutual covenants set forth herein and for valuable and mutual consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows in order to avoid the costs and uncertainties of litigation:

1. Recitals. The foregoing recitals are confirmed as true and correct and are incorporated herein by reference. The recitals are a substantive and contractual part of this Agreement.

2. Settlement Procedures.

(a) Receivership Court Approval. This Agreement is subject to approval by the Receivership Court and the Receiver shall file a motion requesting approval of the Agreement by the Receivership Court. If this Agreement is challenged by anyone as not being fair, adequate, or reasonable, the Receiver shall take reasonable steps to defend this Agreement and to affirm the Receiver's view that the terms of the Agreement are fair and equitable to the Estate and all parties in interest. The Agreement shall be deemed null and void if not approved by an order entered by the Receivership Court.

(b) Effective Date. The Effective Date of this Agreement shall be the first business day after an order is entered by the Receivership Court approving it.

(c) Payment. BANA agrees to pay to Plaintiff in one lump sum the amount of Forty Thousand Dollars and No Cents (\$40,000.00) (the "Settlement Funds"). The Settlement Funds shall be provided in the form of a check made payable to Harvey Sender, Receiver, and delivered to Jeremy Thayer Jonsen, Esq., Allen Vellone Wolf Helfrich & Jordan PC, 1600 Stout Street, Suite 1900, Denver, Colorado 80202, within thirty (30) days of the latter of the following events: (i) the Effective Date; (ii) BANA's receipt of a properly completed W-9 form from Plaintiff; or (iii) BANA's receipt of a fully-executed Agreement. These documents shall be provided to BANA's counsel at the following address: Tonya L. Urps, Esq., McGuireWoods LLP, 201 North Tryon Street, Suite 3000, Charlotte, North Carolina 28202.

(d) Dismissal of Action with Prejudice. In consideration for BANA's promises and covenants contained herein, within three (3) business days of receipt of the Settlement Funds, the Parties shall execute and file with the U.S. District Court a stipulated dismissal with prejudice together with any other documents required to dismiss the Complaint against BANA with prejudice, each Party to bear its own costs and attorneys' fees. From and after

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execution of this Agreement, Plaintiff agrees to take no further action to prosecute the Complaint against BANA.

3. Release. Upon the Effective Date, the Parties hereby release and forever discharge, on their own behalf and on behalf of their heirs, agents, and legal representatives, each other and their current and former legal representatives, officers, attorneys, insurers, employees, agents, subsidiaries, parents, and related entities (“Released Parties”) from any and all known or unknown claims, demands, and causes of action of any sort and all damages, in equity or contract, which the Parties now or hereafter can, shall or may have relating to the Claims, the Complaint, or the Account(s) (“Released Matters”).

4. Agreement Pertains Only to the Released Matters. This Agreement pertains only to the Released Matters and nothing in this Agreement shall be deemed or construed as a modification of or a release of or from any other accounts, agreements, debts, loans, promissory notes, mortgages, security agreements, contracts, liabilities, or obligations the Parties now have or may have in the future (or any one of them, or any combination of them) that are not specifically and expressly described in detail in this Agreement.

5. Release of Unknown Claims. The Parties hereby acknowledge that they may hereafter discover facts different from, or in addition to, those which they now claim or believe to be true with respect to the Released Matters, and agree that this Agreement shall be and remain effective in all respects notwithstanding the discovery of such different or additional facts with respect to the Released Matters. The Parties acknowledge that this release is intended to include in its scope all claims against the Released Parties arising from the Released Matters, whether known or unknown, and that this Agreement contemplates the extinguishment of any such claim or claims. The Parties expressly waive any right to assert hereafter any claims which were excluded from this Agreement through ignorance, oversight, error, or otherwise.

6. Representations. Plaintiff represents and warrants that Plaintiff has not sold, transferred, conveyed, assigned, or otherwise disposed of any right, title, or interest in any of the Released Matters to any person or entity, and that Plaintiff is not aware of any other person or entity who may have or who has asserted or can assert a right, title, or interest in any of the Released Matters. The Parties affirm they are fully capable of executing this Agreement and understand its contents and further, that they have had legal counsel of their own choice explain the legal effect of signing this Agreement.

7. Settlement Not an Admission. This Agreement, and any negotiations or proceedings connected with it, shall not constitute or be construed as, or be deemed to be evidence of, an admission of or concession of any wrongdoing by either Party.

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8. Non-Disparagement. Plaintiff and Plaintiff's attorneys will not, directly or indirectly, make any negative or disparaging statements against BANA maligning, ridiculing, defaming, or otherwise speaking ill of BANA, and its business affairs, practices or policies, standards, or reputation (including but not limited to statements or postings harmful to BANA's business interests, reputation or good will) in any form (including but not limited to orally, in writing, on any social media, blogs, internet, to the media, persons and entities engaged in radio, television, or internet broadcasting, or to persons and entities that gather or report information on trade and business practices or reliability) that relate to this Agreement, the Complaint, and the allegations regarding the Released Matters. Nothing in the Agreement shall, however, be deemed to interfere with each Party's obligation to report transactions with appropriate governmental, taxing, or registering agencies.

9. Confidentiality. The terms of this Agreement and any and all facts related to the Released Matters, and the negotiations leading hereto (collectively the "Information"), except as provided herein, are to be kept strictly confidential by the Parties. Notwithstanding this confidentiality clause, BANA understands and agrees that pursuant to paragraph 2(a) above, the Receiver will file with the Receivership Court a motion to which this Agreement shall be attached (the "Approval Motion") and that the Approval Motion shall be served on all case parties and parties in interest and posted on the Receivership website. The Parties otherwise agree not to publicize or disclose the Information, directly or indirectly, to any person or entity except as may be necessary for the preparation of financial statements or tax returns, as may be required by law, or by a valid order of a court with competent jurisdiction. If any party or person acting on behalf of the Parties hereto receives an inquiry about this Agreement, such party will respond only that "the matter has been resolved." Furthermore, other than as provided herein, the Parties and their counsel shall not post or otherwise disclose or reveal to any person or entity any Information on the Internet or any other media outlet, including but not limited to websites or newspapers, email, Facebook, MySpace, and Twitter. Nothing in this Agreement shall, however, be deemed to interfere with each Party's obligation to report transactions with appropriate Courts, including the United States District Court for the District of Colorado, the Receivership Court, governmental, taxing and/or registering agencies or Court Order. Confidentiality is a material provision of this Agreement and the matters to be held confidential hereunder are to be held strictly confidential by the Parties subject to the terms and limitations of this Agreement. This paragraph constitutes a material provision of this Agreement.

10. Tax Consequences. Plaintiff acknowledges that Plaintiff has not sought, received, or relied on BANA, BANA's counsel, or any agent of BANA for any tax advice of any kind with respect to the effects of this Agreement, the Release, or the delivery of any consideration identified herein and BANA may be required to file certain 1099 or other information reports with the United States Internal Revenue Service or other government agencies as required indicating payment to Plaintiff as

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set forth in this Agreement. Plaintiff has been advised to consult with tax counsel of Plaintiff's choice to seek legal and tax advice regarding the taxability or non-taxability of consideration provided herein.

11. Construction. In construing this Agreement, none of the Parties hereto shall have any term or provision, or any uncertainty or ambiguity as to any term or provision herein, construed against such Party solely by reason of such Party having drafted the same, as a result of the manner of the preparation of the Agreement, or otherwise.

12. Successors and Assigns. The Parties agree that the terms of this Agreement shall be binding on each of their respective heirs, successors, and assigns.

13. Choice of Law. This Agreement shall be deemed to be made under and shall be interpreted in accordance with the laws of the State of Colorado.

14. Jurisdiction, Venue, Specific Performance. The Parties consent to the jurisdiction and venue of the Receivership Court for any disputes arising under this Agreement. The Receivership Court shall, upon application of any Party, require specific performance by any Party of any obligation hereunder.

15. Costs and Attorneys' Fees. Each Party shall bear its own costs and attorneys' fees incurred prior to the Effective Date. In connection with any litigation, mediation, arbitration, or other proceeding brought to enforce the terms of this Agreement, the prevailing Party shall be entitled to recover from the other Party its costs and reasonable attorneys' fees, through and including any appeal or post-judgment proceeding.

16. Exceptions. BANA understands and acknowledges that nothing in this Agreement prohibits or limits Plaintiff or Plaintiff's counsel from initiating communications directly with, responding to any inquiry from, volunteering information to, or providing testimony before, the Securities and Exchange Commission, the Department of Justice, FINRA, any other self-regulatory organization or any other governmental, law enforcement, or regulatory authority, regarding this settlement and its underlying facts and circumstances, or any reporting of, investigation into, or proceeding regarding suspected violations of law, and that Plaintiff is not required to advise or seek permission from BANA before engaging in any such activity. Plaintiff recognizes that, in connection with any such activity, Plaintiff must inform such authority that the information being provided is confidential, subject to the requirements of the Court.

17. Validity of Agreement. Should any clause, sentence, paragraph, or other part of this Agreement be finally adjudged by any court of competent jurisdiction to be unconstitutional, invalid or in any way unenforceable, such adjudication shall not affect, impair, invalidate, or

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nullify the remainder of the Agreement, but shall affect only the clause, sentence, paragraph, or other parts so adjudged.

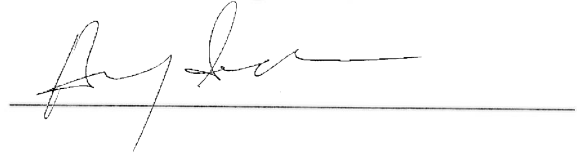
18. Signing in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same document. Signatures delivered by facsimile and email as electronic files shall be deemed effective as originals.

19. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and may not be modified or amended except in a writing signed by the Parties.

IN WITNESS WHEREOF, the Parties evidence their agreement and have executed this Agreement as of the day and year first below written.

Date Executed: 3/14/2020

**Harvey Sender, Receiver for Gary Dragul,  
GDA Real Estate Services, LLC and GDA  
Real Estate Management, LLC**



Date Executed: 3/11/2020

**BANK OF AMERICA, N.A.**

By: Mary Lee Trevino  
Printed Name: MARY LEE TREVINO  
Title: Vice President

*Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC v. Bank of America, N. A., et al.*

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## **Amended and Restated Settlement Agreement and Mutual Release**

### **I. Parties**

This Amended and Restated Settlement Agreement and Mutual Release (“**Agreement**”) is entered into as of the date last signed below, by and between JP Morgan Chase Bank, N.A. (“**Chase**”), its successors and assigns, and Harvey Sender (the “Receiver”), in his capacity as Receiver for Gary J. Dragul (“**Dragul**”), GDA Real Estate Services, LLC (“**GDARES**”), GDA Real Estate Management, LLC (“**GDAREM**”), and a number of related entities (the “**Estate**”). Dragul, GDARES, GDAREM, and all related entities are referred to as “**Dragul and the GDA Entities**”; Chase and the Receiver are each a “Party,” and jointly the “**Parties**.”

### **II. Recitals**

A. On August 30, 2018, the Court in *Rome v. Gary Dragul, et al.*, Case No. 2018CV33011 Denver County District Court (the “**Receivership Action**”), entered a Stipulated Order Appointing Receiver (“**Receivership Order**”) which appointed the Receiver.

B. Under the Receivership Order, the Receiver is authorized, among other things, to take immediate possession and control of all of the assets of the Estate, to investigate and pursue all claims and causes of action on behalf of the Estate, including claims on behalf of creditors premised on fraudulent transfer or similar theories.

C. The Receiver has identified claims the Estate purportedly has against Chase and First USA Bank, N.A.<sup>1</sup> in connection with transfers made by Dragul and the GDA Entities to Chase in connection with certain credit card obligations. The Receiver has also identified claims the Estate purportedly has against Chase in connection with certain account transfers between GDARES and Rose LLC. Chase denies that the Estate has any meritorious claims against Chase based on any legal theory that would provide a remedy to the Estate resulting in any liability owing by Chase to the Estate based on the above-stated credit card claims, the GDARES/Rose account transfer claims, or any other claims not specifically identified herein.

D. On November 27, 2019, the Receiver and Chase executed a Settlement Agreement and Mutual Release (the “**November 2019 Agreement**”) in connection with certain claims the Receiver alleged against Chase. Though fully executed, the November 2019 Agreement was not presented to the Receivership Court for approval. This Agreement amends and restates the November 2019 Agreement. Upon the full execution of this Agreement and approval by the Receivership Court, the November 2019 Agreement shall be deemed a nullity and of no force and effect.

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<sup>1</sup> First USA Bank was acquired by Bank One in 1999. Bank One was acquired by Chase in 2004.

E. In an effort to avoid the uncertainties of litigation and expense related thereto, the Parties desire to fully and completely resolve this matter in good faith and now desire to settle all claims that the Estate may have against Chase and that Chase may have against the Estate as more fully described herein.

### III. Covenants

For good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals Incorporated. The representations and recitals set forth above are true and correct and are made a part of this Agreement.

2. Receivership Court Approval. This Agreement is subject to approval by the Receivership Court and the Receiver shall file a motion requesting approval of the Agreement by the Receivership Court. If this Agreement is challenged by anyone as not being fair, adequate, or reasonable, the Receiver shall take reasonable steps to defend this Agreement and to affirm the Receiver's view that the terms of the Agreement are fair and equitable to the Estate and all parties in interest. The Agreement shall be deemed null and void if not approved by an order entered by the Receivership Court.

3. Effective Date. The Effective Date of this Agreement shall be the first business day after an order is entered by the Receivership Court approving it.

4. Settlement Payment. Within 14 days after the Effective Date, Chase shall pay the Estate the sum of Twenty-Two Thousand Seven Hundred Fifty Dollars and No Cents (\$22,750.00) (the "**Settlement Payment**"). The Settlement Payment shall be made payable to "Harvey Sender, Receiver" and delivered to counsel for the Receiver. Receiver shall provide Chase with an IRS Form W-9 as a condition to the delivery of the Settlement Payment to Receiver. Receiver agrees and acknowledges that Chase may make payment of the Settlement Payment in two separate checks that total the Settlement Payment.

5. Mutual Releases.

a) Release by Receiver. Except as otherwise set forth in this Agreement, in consideration of the promises, covenants and agreements set forth herein and for other good and valuable consideration, upon the Receiver's receipt of the Settlement Payment, Receiver, solely on behalf of the Estate, and his attorneys, agents, representatives, predecessors, successors, and assigns (collectively "**Receiver Releasers**") hereby waives, remises, releases, acquits, satisfies, and forever discharges Chase, and Chase's past, present and future officers, directors, agents, servants, employees, legal representatives, assigns, successors, affiliates, shareholders, beneficiaries, predecessors, insurers, administrators, and successors in interest; Chase's parent, holding, subsidiary, affiliated, and related entities; any business entity or division owning or controlling Chase in whole or in part; any business entity or division owned or controlled in whole or in part by Chase, and any investor or

servicer that has any interest whatsoever in the claims (all of the foregoing persons and entities are hereinafter collectively referred to as the “**Chase Released Parties**”) that may be asserted by the Receiver against the Chase Released Parties, of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims, and demands whatsoever, whether known or unknown, matured or unmatured, accrued or unaccrued, direct or indirect, suspected or unsuspected, fixed or contingent, in law or in equity, (collectively “**Receiver Released Claims**”), which Receiver Releasors ever had, now has, or hereafter can, shall, or may have against the Chase Released Parties, for, upon, or by reason of any matter, cause, or thing whatsoever.

b) Release by Chase. Upon the Effective Date, and subject to the limitations set forth in this Paragraph 5(b), Chase, for itself, its predecessors, successors, assigns, agents, representatives, attorneys and all persons acting through and under it, (collectively, the “**Chase Releasors**”), and subject to the limitations set forth herein, hereby releases the Receiver and the Estate, and his attorneys, agents, representatives, predecessors, successors, and assigns (collectively “**Receiver Released Parties**”) from all claims whatsoever, whether known or unknown, matured or unmatured, accrued or unaccrued, direct or indirect, suspected or unsuspected, fixed or contingent, in law or in equity, (collectively “**Chase Released Claims**”), which Chase Releasors ever had against the Receiver Released Parties, for, upon, or by reason of any matter, cause, or thing whatsoever; **provided**, however, that the Chase Released Claims do not include:

- i. Any claims, whether known or unknown, matured or unmatured, accrued or unaccrued, direct or indirect, suspected or unsuspected, fixed or contingent, in law or in equity, the Chase Releasors may have against any Receiver Released Parties related to or in connection with any personal or individual accounts, loans, obligations or other relationships they may have with the Chase Released Parties. The Chase Released Claims are expressly limited to and do not extend beyond the Receiver Released Parties’ professional capacities in connection with the Receivership Action.
- ii. Any claims, whether known or unknown, matured or unmatured, accrued or unaccrued, direct or indirect, suspected or unsuspected, fixed or contingent, in law or in equity, the Chase Releasors may have against Dragul and/or Shelly Dragul in connection with real property and all improvements, fixtures and personal property thereon located at 10 Cherry Lane Drive, Englewood, Colorado, including, without limitation, mortgage accounts ending in 2622 and 9137;



- iii. Any claims, whether known or unknown, matured or unmatured, accrued or unaccrued, direct or indirect, suspected or unsuspected, fixed or contingent, in law or in equity, the Chase Releasors may have against Dragul personally.
- iv. Any claims, whether known or unknown, matured or unmatured, accrued or unaccrued, direct or indirect, suspected or unsuspected, fixed or contingent, in law or in equity, the Chase Releasors may have against Shelly Dragul;
- v. Any claims, whether known or unknown, matured or unmatured, accrued or unaccrued, direct or indirect, suspected or unsuspected, fixed or contingent, in law or in equity, the Chase Releasors may have relating to, in connection with, or arising from credit card accounts for Shelly Dragul ending in 5556, 5460 and 8470, checking accounts for Shelly Dragul ending in 1016, 3921, 5371, and a savings account for Shelly Dragul ending in 6709.

This release does not in any manner whatsoever extend to nor does it benefit Shelly Dragul. Shelly Dragul has no rights under this release. The Chase Releasors expressly reserve and retain any and all rights and claims against Dragul and Shelly Dragul that otherwise are not expressly released herein as Chase Released Claims.

Nothing in this release shall be deemed to affect, alter, amend, supplement, waive, release, compromise or otherwise have any impact whatsoever on any loan, contract, instrument, security agreement, collateral, mortgage, deed of trust, security interest or any other obligation (collectively, the **“Dragul and the GDA Entities Loan Documents”**) owing by Dragul and/or the GDA Entities to the Chase Released Parties. The Receiver Released Parties agree and acknowledge that this release does not release, terminate, void or otherwise affect any pledge of any collateral made by Dragul/or the GDA Entities to any Chase Released Parties and the Dragul and the GDA Entities Loan Documents remain in full force and effect.

6. Compromise of Disputed Claims. It is expressly understood and agreed that the terms of this Agreement are contractual and not mere recitals and that the agreements contained herein, and the consideration transferred hereunder, are to compromise doubtful and disputed claims and that no releases or other consideration given shall be construed or considered an admission of liability. To the contrary, this Agreement is entered into to avoid litigation and any further dispute or claims and to buy peace to the extent described herein.

7. Non-Admission of Liability. Nothing in this Agreement shall constitute or be construed as an admission of liability on behalf of Chase or the Receiver, their agents, affiliates, assigns, parents, successors, subsidiaries, and/or successors, or an admission as to the validity of the allegations the Receiver has made against Chase in written communications to Chase. It is also understood and agreed to by the Parties



that this Agreement does not constitute an order or finding of any violation of law related to fraudulent, manipulative, or deceptive conduct.

8. Specific Performance. The Receivership Court shall, upon application of any Party, require specific performance by any other Party of any obligation hereunder. The Parties consent to the jurisdiction and venue of the Receivership Court.

9. Waiver of Jury Trial. The Parties irrevocably and unconditionally waive to the fullest extent permitted by applicable law any right they may have to trial by jury of any claim or cause of action, or in any legal proceeding, directly or indirectly based upon or arising out of this Agreement.

10. Authorization. The Parties represent and warrant that no promise or inducement has been offered except as expressly set forth herein; that the person signing this Agreement on behalf of each Party is both authorized and legally competent to execute this Agreement and accepts full responsibility therefor; and, that it has not assigned, transferred or hypothecated any claim or interest identified herein.

11. Successors. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties and their legal representatives, successors and assigns, whether by operation of law or otherwise.

12. Controlling Law. This Agreement is made and entered into in the State of Colorado, and shall in all respects be interpreted, enforced, and governed by and under the laws of the State of Colorado, without reference to Colorado's law on conflicts of law.

13. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable.

14. Fair Interpretation. This Agreement is the product of negotiations between the Parties and shall be given fair interpretation. The Parties acknowledge this Agreement shall be deemed to have been mutually prepared so that the rule of construction that ambiguities are to be resolved against the drafting Party shall not be employed in interpreting this Agreement.

15. Parties Advised by Counsel. The Parties acknowledge they have been represented by counsel or have had the opportunity to consult with counsel with respect to this Agreement and all matters covered by and relating to it.

16. No Waiver of Breaches of Agreement. The failure by a Party to insist on strict compliance with any of the covenants or restrictions in this Agreement shall not be construed as a waiver, nor shall any course of action deprive a Party of the right to require strict compliance with this Agreement.

17. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with regard to the subject matter hereof and supersedes all prior

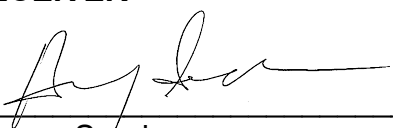
and contemporaneous representations, contracts, or agreements of any nature. Any modification of any provision of this Agreement shall not be valid unless in writing and executed by the Parties. Upon the full execution of this Agreement and approval by the Receivership Court, the November 2019 Agreement shall be deemed a nullity and of no force and effect.

18. Costs and Attorneys' Fees. Each Party shall bear its own costs and attorneys' fees incurred prior to the Effective Date. In connection with any litigation, mediation, arbitration, or other proceeding brought to enforce the terms of this Agreement, the prevailing Party shall be entitled to recover from the other Party its costs and reasonable attorneys' fees, through and including any appeal or post-judgment proceeding.

19. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the document. Signatures delivered by facsimile and email as electronic files shall be deemed effective as originals. Any Party may execute this Agreement by and through electronic signature. Upon written request (including email) by any Party for a hand-written signature, the other Party shall comply with such request within a reasonable period of time

20. Headings and Titles. The headings and titles in this Agreement are for convenience only and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision herein.

**IN WITNESS WHEREOF**, the Parties hereto hereby execute this Agreement and as of the date first above written.

<b>RECEIVER</b>  _____ Harvey Sender  Dated: <u>03.30.2020</u>	<b>JP MORGAN CHASE BANK, N.A.</b>  By: <u>/s Matthew Kinst</u> Name: <u>Matthew Kinst</u> Title: <u>VP &amp; Assistant G.C.</u>  Dated: <u>March 30, 2020</u>
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DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202 720.865.8612	
<b>Plaintiff:</b> David S. Cheval, Acting Securities Commissioner for the State of Colorado  v.  <b>Defendants:</b> Gary Dragul; GDA Real Estate Services, LLC; and GDA Real Estate Management, LLC	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> Case Number: 2018CV33011  Division/Courtroom: 424
<b>[PROPOSED] ORDER GRANTING RECEIVER’S MOTION TO APPROVE TWO SETTLEMENT AGREEMENTS</b>	

THIS MATTER is before the Court on the **RECEIVER’S MOTION TO APPROVE TWO SETTLEMENT AGREEMENTS** (the “Motion”) filed by Harvey Sender, the duly appointed Receiver in this case (the “Receiver”). The Court has reviewed the Motion and the file and is otherwise advised, and

HEREBY ORDERS that the Motion is GRANTED, the two settlement agreements attached to the Motion as Exhibits 1 and 2 are hereby approved, and the parties to those settlement agreements are authorized to take all actions necessary to consummate the agreements.

Dated: \_\_\_\_\_, 2020.

BY THE COURT:

\_\_\_\_\_  
 Hon. District Court Judge