

DISTRICT COURT, DENVER COUNTY  
STATE OF COLORADO  
Denver District Court  
1437 Bannock St.  
Denver, CO 80202

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CASE NUMBER: 2020CV30255

**Plaintiff:** HARVEY SENDER, AS RECEIVER FOR GARY DRAGUL; GDA REAL ESTATE SERVICES, LLC; AND GDA REAL ESTATE MANAGEMENT, LLC

v.

**Defendants:** GARY J. DRAGUL, an individual; BENJAMIN KAHN, an individual; THE CONUNDRUM GROUP, LLP, a Colorado Limited Liability Company; SUSAN MARKUSCH, an individual; ALAN C. FOX, an individual; ACF PROPERTY MANAGEMENT, INC.; a California Corporation, MARLIN S. HERSHEY, an individual; and PERFORMANCE HOLDINGS, INC., a Florida Corporation; OLSON REAL ESTATE SERVICES, LLC, a Colorado Limited Liability Company; JUNIPER CONSULTING GROUP, LLC, a Colorado limited liability company; JOHN AND JANE DOES 1 – 10; and XYZ CORPORATIONS 1 – 10

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Case No.: 2020CV30255

Div./Courtroom: 414

**RECEIVER'S UNOPPOSED MOTION FOR ENLARGEMENT OF TIME**

Harvey Sender, the duly-appointed receiver (the “Receiver”) for Gary Dragul (“Dragul”), GDA Real Estate Services, LLC, GDA Real Estate Management, LLC, and related entities (collectively, “Dragul and the GDA Entities”), pursuant to C.R.C.P. 6(b), hereby moves for an enlargement of time to file a reply in further support of his Motion to Dismiss the Conundrum Group, LLP’s Counterclaims (“MTD”; filed on April 7, 2020), and in response to the Conundrum Group, LLP’s Response to Plaintiff’s Motion to Dismiss (“CG’s Response”; filed June 16, 2020). In support thereof, the Receiver states as follows:

**Certificate regarding conferral pursuant to C.R.C.P. 121, § 1-15(8):**

Counsel for the Receiver conferred with counsel for the Defendant, the Conundrum Group, LLP (“CG”), who advised that it does not oppose the relief requested herein.

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, *Cheval v. Dragul, et al.*, Case No. 2018CV33011 (the “Receivership Action”).

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

3. On August 30, 2018, the Receivership 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. On January 21, 2020, the Receiver filed a Complaint against the above-captioned Defendants.

5. Subsequently, defendants each filed various motions to dismiss under C.R.C.P. 12(b).

6. In response, and as a matter of right, the Receiver filed a First Amended Complaint on June 1, 2020.

7. On March 17, 2020, in response to the original complaint, Defendants Ben Kahn and CG (collectively, the “CG Defendants”) filed a motion for a more definite statement and separately filed their Answer and Jury Demand which included, *inter alia*, CG’s assertion of various counterclaims against the Receivership Estate for (1) breach of contract; (2) account stated; (3) quantum *meruit*/unjust enrichment; and (4) accounting.

8. The Receiver filed a Motion to Dismiss CG’s Counterclaims (the “Motion to Dismiss”) pursuant to C.R.C.P. 12(b)(1) and (5) on April 7, 2020.

9. CG sought and was granted two separate extensions within which it would file its response to the Receiver’s Motion to Dismiss, making it due on or before June 15, 2020.

10. CG subsequently filed its Response to the Receiver's Motion to Dismiss on June 16, 2020, thus, making the Receiver's Reply thereto due on June 23, 2020.

11. Due to undersigned counsel's extremely active dockets and imminent deadlines therein, as well as the attendant difficulties associated with working remotely due to the COVID-19 pandemic, the Receiver requires additional time to prepare and file his reply.

12. The Receiver therefore, respectfully requests a ten-day enlargement of time, through and including July 2, 2020, to file its Reply in further support of his Motion to Dismiss.

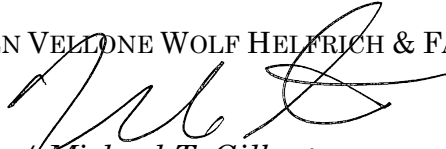
13. No party will be prejudiced by the requested enlargement of time and the request is not made for an improper purpose, such as to delay the proceedings.

14. Pursuant to C.R.C.P. 121, §1-11, the undersigned certifies that a copy of this motion was served on the Receiver.

WHEREFORE, the Receiver requests an enlargement of time in which to file his Reply in Support of the Motion to Dismiss the Conundrum Group, LLP's Counterclaims, through and including July 2, 2020, and for such other relief as the court finds appropriate under the circumstances.

Dated: June 18, 2020.

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.



By: s/ Michael T. Gilbert

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 18, 2020, a true and correct copy of the **RECEIVER'S UNOPPOSED MOTION FOR ENLARGEMENT OF TIME** was filed and served via the Colorado Courts E-Filing system to the following:

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*In accordance with C.R.C.P. 121 § 1-26(7), a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the Court upon request.*