

<p>DISTRICT COURT, DENVER COUNTY STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202</p>	
<p><b>Plaintiff:</b> HARVEY SENDER, AS RECEIVER FOR GARY DRAGUL; GDA REAL ESTATE SERVICES, LLC; AND GDA REAL ESTATE MANAGEMENT, LLC</p> <p>v.</p> <p><b>Defendants:</b> 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.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Attorneys for Defendant Gary J. Dragul Paul L. Vorndran, Atty. Reg. No. 22098 Christopher S. Mills, Atty. Reg. No. 42042 Jones &amp; Keller, P.C. 1999 Broadway, Suite 3150 Denver, CO 80202 Phone: 303-573-1600 Email: pvorndran@joneskeller.com cmills@joneskeller.com</p>	<p>Case No. 2020CV30255</p> <p>Courtroom: 414</p>
<p style="text-align: center;"><b>DEFENDANT GARY DRAGUL’S NOTICE OF PARTIAL JOINDER IN DEFENDANTS (1) FOX’S &amp; ACF PROPERTY MANAGEMENT’S, &amp; (2) HERSHEY’S &amp; PERFORMANCE HOLDINGS, INC.’S, MOTIONS TO DISMISS FIRST AMENDED COMPLAINT</b></p>	

Defendant Gary Dragul, through undersigned counsel, hereby respectfully gives notice that he joins in and adopts as his own portions of the motions to dismiss the Receiver’s First

Amended Complaint filed by Defendants (1) ACF Property Management, Inc. and Alan Fox; and (2) Marlin Hershey and Performance Holdings, Inc. as set forth below.

As to the motion to dismiss filed on July 6, 2020 by Defendants ACF Property Management, Inc. and Alan Fox, Mr. Dragul joins in the following sections:

- All of the Legal Standard section on pages 8-9;
- Portions of Argument Section 1, limited to pages 9-11, the first third of page 12 ending with “. . . GDA was a recipient of many of those commissions” and cites, and the last paragraph starting on page 13 and extending through the first full sentence on page 14 including footnote 3;
- All of Argument Section 2.a. on pages 14-15;
- Portions of Argument Section 2.b., limited to page 15 through the end of the paragraph at the top of page 16, and the full paragraph on page 17 starting with the word “Second,” including footnote 5;
- Portions of Argument Section 3.a, limited to page 19 including footnote 8, and the first half of page 20 through the sentence ending in “. . . even more attenuated fraud theory.”;
- All of Argument Section 3.c on pages 22-23;
- All of Argument Sections 4.a and 4.b on pages 24-25; and
- All of Argument Section 5 on pages 26-27.

As to the motion to dismiss filed on July 6, 2020 by Defendants Marlin S. Hershey and Performance Holdings, Inc., Mr. Dragul joins in the following sections:

- All of Section VI. Argument, subpart A on pages 5-7;
- All of Section VI. Argument, subparts D.1, D.2, and D.3 on pages 9-12, including footnotes 2 & 3; and

- All of Section VI. Argument, subpart E on pages 13-14.

In so joining, Mr. Dragul reserves all rights and does not waive any arguments set forth in his own motion to dismiss the First Amended Complaint. Mr. Dragul reserves the right to file a reply in support of Alan Fox's and ACF Property Management's, and Marlin Hershey's and Performance Holdings, Inc.'s, motions to dismiss the First Amended Complaint to the extent the Receiver's response to those motions sets forth any argument or information unique to Mr. Dragul or for which Mr. Dragul is the most appropriate person to address.

Dated this 13th day of July, 2020.

JONES & KELLER, P.C.

*s/ Christopher S. Mills*

Paul L. Vorndran, #22098

Christopher S. Mills, #42042

*ATTORNEYS FOR DEFENDANT GARY J.  
DRAGUL*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of July, 2020, a true and correct copy of the foregoing **DEFENDANT GARY DRAGUL'S NOTICE OF PARTIAL JOINDER IN DEFENDANTS (1) FOX'S & ACF PROPERTY MANAGEMENT'S, & (2) HERSHEY'S & PERFORMANCE HOLDINGS, INC.'S MOTIONS TO DISMISS FIRST AMENDED COMPLAINT** was filed and served via the Colorado Court E-filing system to the following:

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

Lucas T. Ritchie  
Eric B. Liebman  
Joyce C. Williams  
MOYE WHITE LLP  
16 Market Square 6th Floor  
1400 16th Street  
Denver, CO 80202-2900

James S. Threatt, *Pro Hac Vice*  
Sharon Ben-Shahar Mayer, *Pro Hac Vice*  
Gary S. Lincenberg, *Pro Hac Vice*  
Bird Marella Boxer Wolpert Nessim Drooks  
Lincenberg & Rhow, P.C.  
1875 Century Park East, 23<sup>rd</sup> Fl.  
Los Angeles, CA 90067

Thomas F. Quinn  
Thomas F. Quinn, P.C.  
303 East 17<sup>th</sup> St., Ste. 920  
Denver, CO 80203

Thomas E. Goodreid  
Paul M. Grant  
Goodreid and Grant LLC  
1801 Broadway, Ste. 1400  
Denver, CO 80202

John M. Palmeri  
Margaret L. Boehmer  
Gordon & Rees LLP  
555 Seventeenth St., Ste. 3400  
Denver, CO 80202

*s/ Christopher S. Mills*  
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Christopher S. Mills