

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER,          COLORADO          Court Address: 1437 Bannock Street          Denver, CO 80202          Telephone: 303-606-2429</p>	<p>DATE FILED: July 23, 2020 3:02 PM          FILING ID: A0B2B68663148          CASE NUMBER: 2020CV30255</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, BENJAMIN KAHN, THE CONUNDRUM GROUP, LLP, SUSAN MARKUSCH, ALAN C. FOX, ACF PROPERTY MANAGEMENT, INC., MARLIN S. HERSHEY, PERFORMANCE HOLDINGS, INC., OLSON REAL ESTATE SERVICES, LLC, JUNIPER CONSULTING GROUP, LLC, and JOHN AND JANE DOES 1-10, and XYZ CORPORATIONS 1-10.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><b>Attorneys for ACF Defendants:</b>          Lucas T. Ritchie, Atty. Reg. No. 35805          Eric B. Liebman, Atty. Reg. No. 27051          Joyce C. Williams, Atty. Reg. No. 52930          MOYE WHITE LLP          16 Market Square 6<sup>th</sup> Floor          1400 16<sup>th</sup> Street          Denver, CO 80202          Telephone: 303-292-2900          Email: Luke.Ritchie@moyewhite.com          Eric.Liebman@moyewhite.com          Joyce.Williams@moyewhite.com</p> <p>and</p> <p>Gary S. Lincenberg (<i>admitted pro hac vice</i>)          Sharon Ben-Shahar Mayer (<i>admitted pro hac vice</i>)          James S. Threatt (<i>admitted pro hac vice</i>)          BIRD, MARELLA, BOXER, WOLPERT, NESSIM, DROOKS,          LINCENBERG &amp; RHOW, P.C.          1875 Century Park East, Twenty-Third Floor          Los Angeles, CA 90067          Telephone: 310-201-2100          Email: glincenberg@birdmarella.com          smayer@birdmarella.com          jthreatt@birdmarella.com</p>	<p>Case Number: 2020CV30255</p> <p>Courtroom 414</p>
<p style="text-align: center;"><b>DEFENDANTS ACF PROPERTY MANAGEMENT, INC. AND ALAN C. FOX'S          JOINDER IN CO-DEFENDANTS' MOTIONS TO DISMISS</b></p>	

Defendants ACF Property Management, Inc. and Alan C. Fox (collectively “ACF”), through counsel, hereby join in and adopt as their own the following:

1. The final paragraph of Argument Section A and the entirety of Argument Sections B through E of Defendants Marlin S. Hershey’s and Performance Holdings, Inc.’s Motion to Dismiss Pursuant to C.R.C.P. 12(b)(1) and (5), which was filed and served on July 6, 2020, to the extent those arguments and legal authorities in support thereof are applicable to the Receiver’s claims against ACF.

2. The entirety of Argument Sections I through IV of Defendant Gary Dragul’s Motion to Dismiss First Amended Complaint, which was filed and served on July 6, 2020, to the extent those arguments and legal authorities in support thereof are applicable to the Receiver’s claims against ACF.

In so joining, ACF reserves all rights and does not waive any arguments set forth in its own Motion to Dismiss Pursuant to C.R.C.P. 12(b)(1), 12(b)(5), and 9(b), which was filed and served on July 6, 2020.

Dated: July 23, 2020.

Respectfully submitted,

MOYE WHITE LLP

s/ Lucas T. Ritchie

Lucas T. Ritchie

Eric B. Liebman

Joyce C. Williams

and

BIRD, MARELLA, BOXER, WOLPERT, NESSIM,

DROOKS, LINCENBERG & RHOW, P.C

Gary S. Lincenberg (*admitted pro hac vice*)

Sharon Ben-Shahar Mayer (*admitted pro hac vice*)

James S. Threatt (*admitted pro hac vice*)

*Attorneys for Defendants ACF Property Management, Inc. and Alan C. Fox*

## CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2020 a true and correct copy of the foregoing was electronically filed via CCEF and served on the following:

Patrick D. Vellone, Esq.  
Rachel E. Sternlieb, Esq.  
Michael T. Gilbert, Esq.  
ALLEN VELLONE WOLF  
HELFRICH & FACTOR P.C.  
1600 Stout St., Suite 1100  
Denver, CO 80202  
*Attorneys for Receiver*

Paul L. Vorndran, Esq.  
Christopher S. Mills, Esq.  
JONES & KELLER, P.C.  
1999 Broadway, Suite 3150  
Denver, CO 80202  
*Attorneys for Defendant Gary J. Dragul*

Thomas F. Quinn, Esq.  
Thomas F. Quinn, P.C.  
303 E. 17<sup>th</sup> Avenue, Suite 920  
Denver, CO 80203  
*Attorneys for Defendant Susan Markusch*

John M. Palmeri, Esq.  
Edward J. Hafer, Esq.  
Margaret L. Boehmer, Esq.  
GORDON & REES LLP  
555 Seventeenth Street, Ste. 3400  
Denver, CO 80202  
*Attorneys for Defendants Benjamin Kahn  
and The Conundrum Group, LLP*

Thomas E. Goodreid, Esq.  
Paul M. Grant, Esq.  
Goodreid & Grant LLC  
1801 Broadway, Suite 1400  
Denver, CO 80202  
*Attorneys for Defendants Performance  
Holdings, Inc. and Marlin Hershey*

s/ Brenda K. Sussman