

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

Division/Courtroom: 414

RECEIVER'S NOTICE OF ERRATA TO FIRST AMENDED COMPLAINT

Plaintiff, Harvey Sender, solely in his capacity as Receiver for the “Estate” described below (the “**Receiver**”), submits this Notice of Errata to the First Amended Complaint to clarify and make non-substantive corrections to certain allegations concerning Defendant Juniper Consulting Services, LLC (“Juniper”) as follows:

I. Introduction

1. On June 1, 2019, the Receiver submitted his First Amended Complaint and Jury Demand.

2. The First Amended Complaint mistakenly identifies Defendant Juniper Consulting Services, LLC (“Juniper”) as an entity owned by and associated with Defendant Susan Markusch (“Markusch”).

3. After filing and service of the First Amended Complaint on the named Defendants, including Juniper, the Receiver learned that Juniper is actually owned and controlled by Elizabeth Gold, who served as in-house counsel for the GDA Entities. The Receiver submits this Errata to clarify and correct allegations in the First Amended Complaint relating to Juniper.

II. Errata to First Amended Complaint

4. Paragraph 7 of the First Amended Complaint at page 2 incorrectly includes Juniper as one of “two [...] wholly-owned companies” of Markusch. The last sentence of paragraph 7 at page 3 of the First Amended Complaint is hereby corrected to read: “In addition to the handsome salary Dragul paid her, Markusch profited from

undisclosed and illegal real estate commissions through her wholly-owned company, Olson Real Estate Services, LLC (“Olson”).”

5. The parenthetical in the last sentence of paragraph 19 of the First Amended Complaint on page 5 incorrectly includes Juniper as one of the “Markush Defendants.” The following corrections are hereby made to the First Amended Complaint:

a. The parenthetical in the last sentence of Paragraph 19 is hereby removed from Paragraph 19 and added to the final sentence of Paragraph 18, which is hereby corrected to read: “(Markusch and Olson RES are referred to as the **“Markusch Defendants”**).”

b. Added to Paragraph 19 in place of the former parenthetical is the following: “At all times relevant herein, Juniper was owned and controlled by Elizabeth Gold who served as in-house counsel for GDA RES, GDA REM and the GDA Entities.”

6. The table contained in Paragraph 87 is corrected to list Juniper’s commissions separately from the Markusch Defendants’ commissions as follows:

Defendant	Total Commissions Received
Gary Dragul	\$19,148,047.10
Markusch Defendants	\$205,296.67
Juniper Consulting Services, LLC	\$104,900.00
Kahn Defendants	\$1,701,441.92
Fox Defendants	\$10,200,304.81
Hershey Defendants	\$3,175,655.54

7. Paragraph 89 is corrected to add Juniper to the Defendants listed in that Paragraph, which now reads: “The undisclosed and illegal fees Dragul, the Markusch Defendants, Juniper, the Kahn Defendants, the Fox Defendants and the Hershey Defendants received in connection with this scheme were deducted as closing costs; some fees were charged during the ownership of the property, typically during refinancing; and some were charged in connection with the sale of certain properties as reflected in the following three examples:”.

8. The table contained in Paragraph 297 is corrected is corrected to list Juniper’s commissions separately from the Markusch Defendants’ commissions as follows:

Defendant	Commissions from Escrow	Commissions from GDA Entities	Total Commissions Received
Gary Dragul	\$18,822,421.55	\$325,625.55	\$19,148,047.10
Markusch Defendants	\$141,796.67	\$63,500	\$205,296.67
Juniper Consulting Services, LLC	\$71,000.00	\$33,800.00	\$104,900.00
Kahn Defendants	\$661,026.87	\$1,040,415.05	\$1,701,441.92
Fox Defendants	\$9,714,804.81	\$485,500.00	\$10,200,304.81
Hershey Defendants	\$578,500.00	\$2,597,155.54	\$3,175,655.54

9. The words “Juniper and” are hereby deleted from the third line in the first sentence of Paragraph 304 of the First Amended Complaint on page 83.

10. The amount of commissions received as stated in Paragraph 305 is corrected to read “\$205,296.67.”

Dated: October 26, 2020.

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

Rachel A. Sternlieb

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 26th day of October, 2020 a true and correct copy of **The Receiver's Notice of Errata to First Amended Complaint** 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.