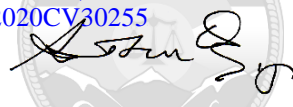


DENIED BY COURT

10/28/2020

DATE FILED: October 28, 2020 3:26 PM

CASE NUMBER: 2020CV30255

DISTRICT COURT, CITY AND COUNTY OF DENVER COLORADO Court Address: 1437 Bannock Street Denver, CO 80202 Telephone: 303-606-2429	 ROBERT LEWIS MCGAHEY JR District Court Judge
Plaintiff: HARVEY SENDER, AS RECEIVER FOR GARY DRAGUL, GDA REAL ESTATE SERVICES, LLC, and GDA REAL ESTATE MANAGEMENT, LLC, v. Defendants: GARY J. DRAGUL, BENJAMIN KAHN, THE CONUNDRUM GROUP, LLP, SUSAN MARKUSCH, ALAN C. FOX, ACF PROPERTY MANAGEMENT, INC., MARLIN S. HERSHEY, PERFORMANCE HOLDINGS, INC., and JANE DOES 1-10, and XYZ CORPORATIONS 1-10.	▲ COURT USE ONLY ▲
	Case Number: 2020CV30255 Courtroom 414
ORDER GRANTING DEFENDANTS ACF PROPERTY MANAGEMENT, INC. AND ALAN C. FOX'S MOTION TO DISMISS AMENDED COMPLAINT	

THIS MATTER has come before the Court on Defendants ACF Property Management, Inc. and Alan C. Fox's (collectively "ACF Defendants") Motion to Dismiss Pursuant to C.R.C.P. 12(b)(1), 12(b)(5), and 9(b). The Court being now fully advised in the matter, hereby ORDERS:

(1) Plaintiff Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC (the "Receiver") lacks standing to bring the claims for relief asserted against the ACF Defendants. The Receiver's Complaint is thus **DISMISSED** with prejudice, pursuant to C.R.C.P. 12(b)(1), as to the ACF Defendants;

(2) The Receiver's claims for relief asserted against the ACF Defendants fail for a lack of particularity and for otherwise not stating a claim upon which relief can be granted. The Receiver's Complaint is thus **DISMISSED** with prejudice, pursuant to C.R.C.P. 12(b)(5) and 9(b), as to the ACF Defendants; and

(3) The Receiver's claims for relief asserted against the ACF Defendants are time-barred by the applicable statutes of limitations and/or repose. The Receiver's Complaint is thus **DISMISSED** with prejudice, as a matter of law, as to the ACF Defendants.

Dated: _____

BY THE COURT:

Robert L. McGahey, Jr.
District Court Judge
Denver District Court