DISTRICT COURT, DENVER COUNTY

STATE OF COLORADO

Denver District Court 1437 Bannock St. Denver, CO 80202 303.606.2433 DATE FILED: November 16, 2020 10:57 AM

FILING ID: 90EFF26B4DC21 CASE NUMBER: 2018CV33011

Plaintiff: Tung Chan, Securities Commissioner for the State of Colorado

v.

Defendants: Gary Dragul; GDA Real Estate Services,

LLC; and GDA Real Estate Management, LLC

▲ COURT USE ONLY ▲

ATTORNEYS FOR RECEIVER HARVEY SENDER

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Division/Courtroom: 424

RECEIVER'S RESPONSE TO DEFENDANT GARY DRAGUL'S MOTION TO ORDER CLAIMS AGAINST BROWNSTEIN ABANDONED

Harvey Sender, the duly-appointed receiver ("Receiver") for Gary Dragul ("Dragul"), GDA Real Estate Services, LLC ("GDARES"), GDA Real Estate Management, LLC, and related entities (collectively, "Dragul and the GDA Entities"), hereby responds to Defendant Gary Dragul's Motion to Order Claims Against Brownstein Abandoned ("Second Motion to Abandon" or "Motion," filed October 26, 2020).

- 1. Dragul's Second Motion to Abandon asks the Court to deem abandoned legal malpractice claims he caused to be filed on October 26, 2020, in Nevada State Court against the law firm of Brownstein Hyatt Farber Schreck, LLC in the case captioned *Dragul et al.*, v. Brownstein Hyatt Farber Schreck, LLP, Case No. A-20822625-C, Eighth Judicial District Court, Clark County, Nevada (the "Nevada Action"). A copy of the Complaint and Jury Demand in the Nevada Action is attached to Dragul's Motion as Exhibit 2.
- 2. Dragul commenced the Nevada Action without the Receiver's knowledge or consent, and without this Court's approval notwithstanding the Court's October 1, 2020 Order, which denied his first motion to deem the Brownstein claims (and others) abandoned.
- 3. In the Second Motion to Abandon, Dragul acknowledges that the claims asserted in the Nevada Action are property of the Receivership Estate, but nevertheless seeks this Court's authority to pursue them for his exclusive benefit, purportedly because the Receiver has refused to pursue them for the benefit of the Estate.
- 4. As reflected by the Receiver's Motion to Approve Settlement Agreement with Brownstein Hyatt Farber Schreck, LLC, which is filed contemporaneously herewith, the Receiver has reached a settlement with Brownstein that will result in the payment of \$250,000 to the Estate. The Receiver has monetized the claims

asserted against Brownstein in the Nevada Action for the benefit of the Estate and its creditors, thereby rendering the Second Motion to Abandon moot.

WHEREFORE, the Receiver asks the Court to deny Dragul's Second Motion to Abandon as moot.

Dated: November 16, 2020.

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

1s/ Rachel A. Sternlieb Rochel A. Sturlieb
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CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2020, I served a true and correct copy of the foregoing RECEIVER'S RESPONSE TO DRAGUL'S MOTION TO ORDER CLAIMS AGAINST BROWNSTEIN ABANDONED via CCE to the following:

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Counsel for Defendants, Gary Dragul, GDA Real Estate Services, LLC and GDA Real Estate Management, LLC

s/Christina A. Clerihue

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