

DISTRICT COURT, DENVER COUNTY, COLORADO	
Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202	
DATE FILED: December 22, 2020 5:18 PM	
CASE NUMBER: 2020CV30255	
Plaintiff(s) HARVEY SENDER AS RECEIVER FOR GARY DRAGUL	
v.	
Defendant(s) GARY J DRAGUL et al.	
△ COURT USE ONLY △	
Case Number: 2020CV30255	
Division: 414 Courtroom:	
Order: Application for Entry of Default Against Defendants Susan Markusch and Olson Real Estate Services, LLC w/attach	

The motion/proposed order attached hereto: DENIED.

Per the Court's earlier Order dated December 22, 2020, Order Re: NOTICE OF JOINDER IN UNOPPOSED JOINT MOTION OF DEFENDANTS MARLIN S. HERSHEY, PERFORMANCE HOLDINGS, INC., ACF PROPERTY MANAGEMENT, INC., ALAN C. FOX, AND GARY DRAGUL FOR ADDITIONAL ENLARGEMENT OF TIME TO ANSWER OR OTHERWISE RESPOND TO RECEIVERS FIRST AMENDED COMPLAINT, Defendants Susan Markusch and Olson Real Estate Services, LLC have an extended time to answer or otherwise respond to the First Amended Complaint.

Accordingly, the Application for Entry Default Against Defendants Susan Markusch and Olson Real Estate Services, LLC filed by Harvey Sender as Receiver for Gary Dragul on December 14, 2020, is DENIED.

Issue Date: 12/22/2020



MICHAEL ANTHONY MARTINEZ
District Court Judge

<p>DISTRICT COURT, DENVER COUNTY STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202</p>	
<p>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.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Attorneys for Plaintiff: Patrick D. Vellone, #15284 Matthew M. Wolf, #33198 Rachel A. Sternlieb, #51404 Michael T. Gilbert, #15009 ALLEN VELLONE WOLF HELFRICH & FACTOR P.C. 1600 Stout Street, Suite 1900 Denver, Colorado 80202 Phone (303) 534-4499 pvellone@allen-vellone.com mwolf@allen-vellone.com rsternlieb@allen-vellone.com mgilbert@allen-vellone.com</p>	<p>Case No.: 2020CV30255 Division/Courtroom: 414</p>
<p style="text-align: center;">APPLICATION FOR ENTRY OF DEFAULT AGAINST DEFENDANTS SUSAN MARKUSCH AND OLSON REAL ESTATE SERVICES, LLC</p>	

Plaintiff, Harvey Sender, in his capacity as Receiver for Gary Dragul; GDA Real Estate Services, LLC; And GDA Real Estate Management, LLC (the “**Receiver**”), pursuant to C.R.C.P. 55(a), hereby asks the Clerk to enter default against Defendants Susan Markusch (“Markusch”) and Olson Real Estate Services, LLC (“Olson”).

1. Plaintiff filed his Complaint against Defendants Gary Dragul, Benjamin Kahn, The Conundrum Group, LLP, Susan Markusch, Alan C. Fox, ACF Property Management, Inc., Marlin S. Hershey, Performance Holdings, Inc., John and Jane Does 1-10 and XYZ Corporations 1-10 on January 21, 2020.

2. All listed Defendants were properly and timely served, including Markusch, who was served on February 4, 2020. (See AOS of Susan Markusch, attached as **Exhibit A.**)

3. On June 1, 2020, Plaintiff filed his First Amended Complaint, which added Olson Real Estate Services, LLC as a Defendant.

4. Thomas F. Quinn, Olson’s counsel, waive service of the summons and First Amended Complaint on Olson on June 10, 2020. (See Waiver and Acceptance of Service for Olson Real Estate Services, Inc., attached as **Exhibit B.**)

5. On July 9, 2020, Markusch and Olson filed a joint Unopposed Motion for Extension of Time to Respond to the First Amended Complaint seeking an extension up to and including July 17, 2020, which the Court granted.

6. Defendants Markusch and Olson did not file an Answer to the First Amended Complaint on July 17, 2020, but instead, along with most of the other Defendants in the case, filed a Motion to Dismiss the First Amended Complaint (“Motion to Dismiss”) on July 31, 2020. The Receiver filed his Omnibus Response to Defendants’ Motions to Dismiss on August 17, 2020.

7. On October 28, 2020, this Court denied Defendants’ Motions to Dismiss, making Defendants’ deadline to answer or otherwise respond to the First Amended Complaint November 12, 2020.

8. On November 6, 2020, Defendants ACF Property Management, Inc., Alan C. Fox, Marlin Hershey, Performance Holdings, LLC, and Gary Dragul filed an Unopposed Joint Motion for Extension of Time to Answer or Respond to the First Amended Complaint seeking an extension up to and including December 17, 2020, which the Court granted on November 10, 2020.

9. On December 4, 2020, Defendants ACF Property Management, Inc., Alan C. Fox, Marlin Hershey, Performance Holdings, LLC, and Gary Dragul filed another Unopposed Joint Motion for Extension of Time to Answer or Respond to the First Amended Complaint, which the Court granted on December 8, 2020.

10. Defendants Susan Markusch and Olson Real Estate Services have not requested additional time to plead or otherwise respond to the First Amended Complaint, nor did they plead or otherwise respond by the November 12, 2020,

deadline. Pursuant to C.R.C.P. 55(a), the clerk therefore *shall* enter default against them.

WHEREFORE, Plaintiff asks the Clerk to enter default against Defendants Susan Markusch and Olson Real Estate Services, LLC pursuant to C.R.C.P. Rule 55(a) .

Dated: December 14, 2020.

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

By: s/ Rachel A. Sternlieb *Rachel A. Sternlieb*
Patrick D. Vellone, #15284
Matthew M. Wolf, # #33198
Rachel A. Sternlieb, #51404
Michael T. Gilbert, #15009

ATTORNEYS FOR THE RECEIVER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 14th day of December, 2020 a true and correct copy of the **APPLICATION FOR ENTRY OF CLERK'S DEFAULT AGAINST DEFENDANTS SUSAN MARKUSCH AND OLSON REAL ESTATE SERVICES, LLC** was filed and served via the Colorado Courts E-Filing system and/or email to the following:

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s/ Christina A. Clerihue

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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.