

DISTRICT COURT, DENVER COUNTY, COLORADO	
Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202	
Plaintiff(s) GERALD ROME SECURITIES COM FOR THE ST OF et al v. Defendant(s) GARY DRAGUL et al.	DATE FILED: March 31, 2021 8:39 AM CASE NUMBER: 2018CV33011 <p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2018CV33011 Division: 424 Courtroom:
Order: Fifth Application for Professional Fees and Expenses w/attached	

The motion/proposed order attached hereto: APPROVED.

The Court notes that no objection has been filed.

Issue Date: 3/31/2021



SHELLEY ILENE GILMAN
District Court Judge

<p>DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202 303.606.2433</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiff: Tung Chan, Securities Commissioner for the State of Colorado</p> <p>v.</p> <p>Defendants: Gary Dragul; GDA Real Estate Services, LLC; and GDA Real Estate Management, LLC</p>	
<p>Attorneys for Receiver:</p> <p>Patrick D. Vellone, #15284 Michael T. Gilbert, #15009 Rachel A. Sternlieb, #51404 ALLEN VELLONE WOLF HELFRICH & FACTOR P.C. 1600 Stout St., Suite 1900 Denver, Colorado 80202 (303) 534-4499 pvellone@allen-vellone.com mgilbert@allen-vellone.com rsternlieb@allen-vellone.com</p>	<p>Case Number: 2018CV33011</p> <p>Division/Courtroom: 424</p>
<p style="text-align: center;">FIFTH APPLICATION FOR PROFESSIONAL FEES AND EXPENSES</p>	

Harvey Sender, the duly-appointed receiver (“Receiver”) for Gary Dragul (“Dragul”), GDA Real Estate Services, LLC, GDA Real Estate Management, LLC, and related entities (collectively, “Dragul and the GDA Entities”), submits this Fifth Application for Fees and Expenses (the “Application”), which covers the period from April 1, 2020, through January 31, 2021.

1. On August 15, 2018, Gerald Rome, Securities Commissioner for the State of Colorado (the “Commissioner”), filed his Complaint for Injunctive and Other Relief against Dragul and the GDA Entities.

2. On August 30, 2018, the Court entered its Order Appointing Receiver (“Receivership Order”), which appointed Harvey Sender Receiver for Dragul and the GDA Entities and related businesses.

3. The Receivership Order gives the Receiver the authority to “hire and pay general counsel, accounting, and other professionals as may be reasonably necessary to the proper discharge of the Receiver’s duties, and to hire, pay and discharge the personnel necessary to fulfill the obligations of the Receiver hereunder, including the retention of . . . other third parties to assist the Receiver in the performance of its duties hereunder, all within the Receiver’s discretion[.]” Receivership Order at 9, ¶ 13(l). The Receivership Order further authorizes the Receiver to retain counsel on a contingent fee basis after consultation with the Commissioner. *Id.* at 10, ¶ 13(o).

4. The Receiver hired Allen Vellone Wolf Helfrich & Factor P.C. (“Allen & Vellone”) as counsel in this and all related matters to provide legal services on an hourly fee-for-services basis, and notice thereof was provided on September 7, 2018. Effective November 1, 2019, the Receiver and Allen & Vellone agreed to modify its existing fee agreement so that Allen & Vellone would thereafter be compensated on a contingent fee basis for work performed in the Insider Case, the Family Case, and ancillary litigation, on the following terms: 25% of any recovery obtained before September 5, 2020; 38% of amounts recovered after September 5, 2020, through the filing of any appeal; and 45% of amounts recovered after any appeal; the Receivership Estate to pay the expenses incurred in litigation matters subject to the contingent fee agreement. The Commissioner approved the agreement, notice of which was provided to the Court and all parties-in-interest on May 11, 2020.

5. This Application covers the period from April 1, 2020, through February 28, 2021, and requests the following fees and expenses, which are specifically set forth in **Exhibits 1-4**:

PROFESSIONAL FEES AND EXPENSES INCURRED			
APRIL 1, 2020 – FEBRUARY 28, 2021			
EX.	PROVIDER	DESCRIPTION	AMT. SOUGHT
1	Harvey Sender	Receiver	\$45,440.00 ¹
	Allen & Vellone	Counsel for the Receiver	
2		Hourly Fees - Main Receivership Case	\$94,421.60 ²
		Contingent Fees	\$393,000.00 ³
3		Costs	\$9,349.65 ⁴
		Total	\$496,563.55
4	RubinBrown LLP		\$138,682.10 ⁵
Total			\$681,193.35

6. As of March 31, 2020, the Estate had paid the following professional fees and expenses as detailed in the Receiver's first four fee applications: **First Application**: submitted December 6, 2018, for the period August 30, 2018, through November 30, 2018; **Second Application**: submitted April 19, 2019, for the period December 1, 2018, through March 31, 2019; **Third Application**: submitted November 14, 2019, for the period April 1, 2019, through October 31, 2019; and

¹ The Receiver has not billed for paralegal time spent on this case effectively discounting fees by up to 25%.

² This reflects a 20% discount of Allen & Vellone's hourly time cost of \$118,027.00 during the application period.

³ This includes contingent fees of 38% of the amounts recovered for the following (recovered amount in parentheses): (1) Fox/ACF: \$247,000 (\$650,000); (2) Family Case: \$47,500 (\$125,000); (3) Juniper Consulting: \$3,800 (\$10,000); and (4) Brownstein: \$95,000 (\$250,000).

Since the effective date of the contingent fee agreement, Allen & Vellone timekeepers have billed 2,024.7 hours with a corresponding time cost of \$706,656.25 on matters covered under the agreement.

⁴ This includes costs of \$1,548.53 incurred in the main Receivership Case and costs of \$7,801.12 in the contingent fee cases.

⁵ RubinBrown billed fees for the application fee were \$199,481.85; this application reflects a 30% discount. In addition, as a matter of practice, RubinBrown does not bill for significant time spent addressing administrative and operational matters or supervising junior staff.

Fourth Application, submitted May 11, 2019, for the period November 1, 2019, through March 31, 2020.⁶

PROFESSIONAL FEES AND EXPENSES PAID		
AUGUST 30, 2018 – MARCH 31, 2020		
Provider	Description	Amount Paid
Harvey Sender	Receiver	\$476,768.36
Allen Vellone Wolf Helfrich & Factor P.C.	Counsel for the Receiver	\$1,276,448.22
RubinBrown LLP	Accountants (forensic accounting, expert witness, and tax preparation)	\$737,358.26
Waldrep LLP	North Carolina local counsel for the Receiver	\$10,518.85
Frost Brown Todd, LLC	Ohio local counsel for the Receiver	\$71,190.56
Revesco Property Services	Property manager (commercial and residential)	\$325,355.32
Kelly Reinhart	Accountant (former GDA accountant for tax preparation)	\$41,200.00
Total Professional Fees and Expenses		\$2,938,839.57

7. Pursuant to paragraph 10 of the Receivership Order, Court approval of any motion filed by the Receiver shall be given as a matter of course unless a party objects within ten days after service. This Application and its Exhibits are available at www.dragulreceivership.com.

⁶ The Receiver filed a Fourth Fee Application on May 11, 2020. On June 5, 2020, Dragul objected to that application and the Receiver's contingent fee agreement with Allen & Vellone. The Court denied Dragul's objection and approved the Fourth Fee Application on December 9, 2020.

Dated: March 9, 2021.

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.



By: /s/ Michael T. Gilbert

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ATTORNEYS FOR THE RECEIVER

Attachment to Order of Appointment CV 2020-0003301-1

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2021, a true and correct copy of the foregoing **Fifth Application for Professional Fees and Expenses** was filed and served via the Colorado Courts E-Filing system on all counsel of record and to the following:

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***Tung Chan, Securities Commissioner
for the State of Colorado***

and

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Counsel for Defendant Gary Dragul

***Counsel for Brownstein Hyatt Farber
Schreck, LLP***

CERTIFICATION OF E-SERVICE ON KNOWN CREDITORS

In accordance with this Court's February 1, 2019 Order clarifying notice procedures for this case, I also certify that a copy of the foregoing is being served by electronic mail on all currently known creditors of the Receivership Estate to the addresses set forth on the service list maintained in the Receiver's records.

By: /s/ Salowa Khan
Allen Vellone Wolf Helfrich & Factor, P.C.