

DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202	DATE FILED: October 25, 2022 7:49 AM CASE NUMBER: 2018CV33011
Plaintiff(s) GERALD ROME SECURITIES COM FOR THE ST OF et al. v. Defendant(s) GARY DRAGUL et al.	<p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2018CV33011 Division: 424 Courtroom:
Order: Seventh Application for Professional Fees and Expenses w/attached	

The motion/proposed order attached hereto: APPROVED.

Issue Date: 10/25/2022



SHELLEY ILENE GILMAN
 District Court Judge

DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202 303.606.2433	<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>	
Attorneys for Receiver: Patrick D. Vellone, #15284 Michael T. Gilbert, #15009 Averil K. Andrews, # 56148 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 aandrews@allen-vellone.com	Case Number: 2018CV33011 Division/Courtroom: 424
SEVENTH APPLICATION FOR PROFESSIONAL FEES AND EXPENSES	

Harvey Sender, the duly-appointed receiver (“Receiver”) for the assets of Gary Dragul (“Dragul”), GDA Real Estate Services, LLC, GDA Real Estate Management, LLC, and related entities (collectively, “Dragul and the GDA Entities”), submits this Seventh Application for Professional Fees and Expenses (the “Application”), which covers the period from November 1, 2021, through August 31, 2022.

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 November 1, 2021, through August 31, 2022, and requests the following fees and expenses, which are specifically set forth in **Exhibits 1-4**:

PROFESSIONAL FEES AND EXPENSES INCURRED			
NOVEMBER 1, 2021 – AUGUST 31, 2022			
EX.	PROVIDER	DESCRIPTION	AMT. SOUGHT
1	Harvey Sender	Receiver	\$5,880.00 ¹
	Allen & Vellone	Counsel for the Receiver	
2		Hourly Fees - Main Receivership Case	\$15,525.00 ²
		Contingent Fee Insider Case	\$142,500.00 ³
3		Costs	\$2,159.78 ⁴
		Total	\$161,952.80
4	RubinBrown LLP		\$11,796.63 ⁵
Total			\$177,861.41

6. Effective February 28, 2021, the Estate had paid the following professional fees and expenses as detailed in the Receiver's first five 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); **Fourth Application,** submitted May 11, 2019 (for the period

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

² This reflects a discount of 15% of the actual time cost, which was \$18,264.50.

³ This is 38% of the \$375,000 received under the settlement with the Kahn Defendants in the Insider Case, which was approved by the Receivership Court on July 6, 2022.

⁴ This includes costs of \$1,025.80 incurred in the main Receivership Case and costs of \$1,133.98 in the Insider Case.

⁵ This includes costs of \$715.38. RubinBrown billed fees during the current application period were \$13,286.75; this application reflects a 17% 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.


November 1, 2019, through March 31, 2020); **Fifth Application**: submitted March 9, 2021 (for the period April 1, 2020, through February 28, 2021); **Sixth Application**: submitted November 11, 2021 (for the period March 1, 2021, through October 31, 2021):

PROFESSIONAL FEES AND EXPENSES PAID		
AUGUST 30, 2018 – OCTOBER 31, 2021		
Provider	Description	Amount Paid
Harvey Sender	Receiver	\$535,048.36
Allen Vellone Wolf Helfrich & Factor P.C.	Counsel for the Receiver	\$1,812,058.54
RubinBrown LLP	Accountants (forensic accounting, expert witness, and tax preparation)	\$890,298.86
Waldrep LLP	North Carolina local counsel for the Receiver	\$10,611.85
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; tax preparation)	\$41,200.00
Total Professional Fees and Expenses		\$3,685,763.48

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.

Dated: September 30, 2022.

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

By: /s/ Michael T. Gilbert 

Patrick D. Vellone

Michael T. Gilbert

Averil K. Andrews

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ATTORNEYS FOR THE RECEIVER

Attachment to Order - 2018CV33041

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2022, a true and correct copy of the foregoing **Seventh 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:

Robert W. Finke
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***Tung Chan, Securities Commissioner
for the State of Colorado***

Counsel for Defendant Gary Dragul

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/ Yvonne M. Davis *Yvonne M. Davis*
Allen Vellone Wolf Helfrich & Factor P.C.