



DISTRICT COURT, ARAPAHOE COUNTY, COLORADO  7325 S. Potomac St. Centennial, CO 80112	<p style="text-align: center;"><b>APPROVED BY COURT</b></p> <p style="text-align: center;"><b>06/05/2023</b></p> <p style="text-align: center;">DATE FILED: June 5, 2023 4:56 PM                  CASE NUMBER: 2019CR610</p>  <p style="text-align: center;"><b>JOSEPH RILEY WHITFIELD</b>                  District Court Judge</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
PEOPLE OF THE STATE OF COLORADO,  Plaintiff,  v.  <b>GARY JULE DRAGUL,</b> <b>DOB: 05/07/1962</b>  Defendant.	
PHILIP J. WEISER, Attorney General DANIEL A. PIETRAGALLO, 41794 Senior Assistant Attorney General* 1300 Broadway Denver, CO 80203 (720) 508-6000 Registration Number: 41794 *Counsel of Record	Case No.: 2019CR610  Div.: 407
<b>DEFENDANT'S CRIM. P. RULE 11 GUILTY PLEA ADVISEMENT</b>	


Defendant **GARY JULE DRAGUL** requests the Court accept his guilty plea to **Count Five, Securities Fraud, in violation of §§ 11-51-501(1)(c) and 11-51-603(1) C.R.S. (Class 3 Felony)**. This document represents my desire to plead guilty.


I know that I have the right to remain silent, that I do not have to make this request, and anything I write or say may be used against me. Knowing that, I swear or affirm that I have read and understand everything in this and all of the documents I have submitted in this case. I understand all of the rights that I am giving up by pleading guilty.


- Initial:
1. I am 61 years old. I have completed 16 years of school. At this time my mental and physical health is satisfactory. I am thinking clearly. My decision to plead guilty is not being affected in any way by alcohol, drugs, or medication.
  2. I understand what is happening in this Courtroom today. I read, speak, and understand the English language, or all of the documents and proceedings in this matter have been fully explained to me in a language that I understand.
  3. I understand that if I am not a citizen of the United States, this guilty plea may cause deportation, exclusion from admission to the United States, or denial of naturalization, or other immigration


consequences.


 \_\_\_\_\_ 4. I understand the nature of the charge(s) against me and the elements of the charge(s) which the prosecution would have to prove beyond a reasonable doubt to a unanimous jury before I could be found guilty at trial. The essential elements of the crime to which I am pleading guilty are attached to this document. With my lawyer, I have reviewed the attached document(s) explaining the elements of the charge(s) I am pleading guilty to. I have signed the attached document(s) because I thoroughly understand them.


 \_\_\_\_\_ 5. I understand that I have each of the following rights:


 \_\_\_\_\_ (a) I know that I have the right to plead “not guilty” to all charges against me and to have a speedy and public trial to a jury of 12 persons or to a judge on all charges against me.


 \_\_\_\_\_ (b) I know that I have the right to be represented by a lawyer at all stages of these proceedings, and if I cannot afford a lawyer, the Court will appoint a lawyer for me, free of charge.


 \_\_\_\_\_ (c) I know that I have the right to be presumed innocent at trial and to require the prosecution to prove at trial each element of each charge beyond a reasonable doubt before I could be found guilty.


 \_\_\_\_\_ (d) At that trial, I understand my right to see and cross-examine all witness who might testify against me.


 \_\_\_\_\_ (e) I know that I have the right to present any defense I might have, and to call any witnesses in my own defense. If those witnesses were unwilling to appear, I understand that the Court would issue subpoenas at my request and would order those witnesses to appear and testify. I understand that I would have no burden to present any evidence or witnesses at trial. I would not have to prove myself not guilty. I would be presumed innocent at trial and the burden to prove my guilt would rest solely with the prosecution.


 \_\_\_\_\_ (f) I know that I have the right to remain silent, and not say anything or make any statement whatsoever about this case. I know that if I do choose to make any statement, that statement could be used against me in Court.


 \_\_\_\_\_ (g) I also know that I have the right to either testify at trial or to remain silent, and that if I chose not to testify, the Judge would instruct the jury that they could not consider my decision to not testify for any purpose. I understand that whether I testified or not at trial would be purely my decision.


 \_\_\_\_\_ (h) I know that if I were convicted of any charge at trial I would have the right to appeal that conviction to a higher Court.

 \_\_\_\_\_ (i) I know that I may have a right to a Preliminary Hearing, and I understand that right.


 \_\_\_\_\_ (j) I am aware that I may have the right to bail, and I am aware of the amount of that bail.


 \_\_\_\_\_ (k) **I know that when I plead guilty, except for the right to counsel, I give up all of these rights and all possible defense(s) to the charge(s).**


 \_\_\_\_\_ 6. The decision to plead guilty is my decision and it has been made freely and voluntarily. There has been no threat, coercion, undue influence, or force used to make me plead guilty. I know that I do not have to follow my lawyer's advice and that I do not have to plead guilty. This is my decision to plead guilty.


 \_\_\_\_\_ 7. I know that a plea of guilty admits the charge, and a plea of not guilty denies the charge. I admit that there are sufficient facts in this case which could be presented at trial by the prosecution which would result in a strong likelihood of my conviction.


 \_\_\_\_\_ 8. To the charge(s) of **Count Five, Securities Fraud, in violation of §§ 11-51-501(1)(c) and 11-51-603(1) C.R.S. (Class 3 Felony)**, I plead **GUILTY**.


 \_\_\_\_\_ 9. The elements of the charge(s) to which I am pleading guilty, which are attached to this document, have been explained to me. I understand fully everything the prosecutor would have had to prove beyond a reasonable doubt to each and every member of a 12-person jury before I could have been convicted.


 \_\_\_\_\_ 10. I understand that one of the elements which the prosecutor would have had to prove is my mental state at the time of commission of the crime. In addition to understanding the elements, I understand the applicable definition(s) below, and I understand what the prosecutor would have had to prove in that regard:


 \_\_\_\_\_ INTENTIONALLY: A person acts “intentionally” or “with intent” when his/her conscious objective is to cause the specific result proscribed by the statute defining the offense. It is immaterial whether or not the result actually occurred.


 \_\_\_\_\_ KNOWINGLY: A person acts “knowingly” or “willfully” with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of such nature or that such circumstance exists. A person acts “knowingly” or “willfully” with respect to a result of his/her conduct when he/she is aware that his/her conduct is practically certain to cause the result.


 \_\_\_\_\_ RECKLESSLY: A person acts “recklessly” when he/she consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.


 \_\_\_\_\_ NEGLIGENTLY: A person acts with “criminal negligence” when, through a gross deviation from the standard of care that a reasonable person would exercise, he/she fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.


 \_\_\_\_\_ 11. I understand that the Court is not bound by and does not have to follow anyone's recommendations concerning the entry of a guilty plea, the penalty to be imposed, and the granting or denial of probation. Any proposed plea agreement and any concession(s) are fully and accurately set forth in this written document.


 12. I have had a full opportunity to discuss with my lawyer everything I know about this case and all defenses that may be available to me. My lawyer has also discussed the elements of the charges which the prosecutor would have to prove, all lesser included charges, and all possible defenses. I understand my lawyer, I am satisfied with the advice and representation I have received from my lawyer.

 13. I understand that if the Court accepts my guilty plea to a felony I will stand convicted of a felony. I understand that this felony conviction may be used against me in any future proceeding under the habitual criminal laws. I also understand that my felony conviction may be used against me in any future proceeding concerning my credibility. If I have entered into a Stipulation of a Deferred Judgment and Sentence, and I have not yet completed the terms of that agreement, my guilty plea may be used against me in any future proceeding. I understand if I have entered into a Stipulation of a Deferred Judgment and Sentence and I violate the terms of that agreement, I may stand convicted of a felony and then I will be re-sentenced by the Court. I also understand that my being allowed to enter into a Stipulation of a Deferred Judgment and Sentence is specifically contingent on my having no prior felony convictions or outstanding warrants at the time the plea is entered.

 14. I understand the full range of potential penalties for my offense(s) as set forth below on this document in the chart of applicable sentencing ranges.

 (a) I know that if I plead guilty to a felony, I may be sentenced to the custody of the Department of Corrections (prison), as shown in the below chart for my applicable sentencing range. I understand that the Department of Corrections will determine my place of incarceration. I know that if the Judge were to conclude that extraordinary mitigating or aggravating circumstances are present in my case, I could be sentenced to any term of imprisonment from the minimum to the maximum sentence allowed by law as set out in the “extraordinary circumstances” section in the chart below. I understand and agree that by pleading guilty, I agree to allow the Judge to determine whether extraordinary mitigating or aggravating circumstances are present in my case, and I agree to give up any right I might have to a jury make that determination.

 (a.1) I know that if I plead guilty to a misdemeanor, I may be sentenced to the custody of the Department of Corrections (prison), as shown in the below chart for my applicable sentencing range. I understand that the Department of Corrections will determine my place of incarceration. I know that if the Judge were to conclude that my misdemeanor offense presented an “extraordinary risk” or harm to society, I could be sentenced to any term of imprisonment from the minimum to the maximum sentence allowed by law as set out in the “extraordinary risk” section in the chart below. I understand and agree that by pleading guilty, I agree to allow the Judge to determine whether my misdemeanor offense presented an “extraordinary risk” or harm to society, and I agree to give up any right I might have to a jury make that determination.

 (b) I know that if I receive a sentence to the Department of Corrections, I must serve a mandatory period of parole as indicted in the chart below. Parole is after, in addition to and distinct from any other sentence imposed. Additionally, if my parole is revoked I may be required to serve the time remaining on parole in the Department of Corrections. The period of parole I must serve is as indicated in the box marked in the following sentencing range chart:

<b>MARKED BOX BELOW INDICATES APPLICABLE SENTENCING RANGE</b>	<b>FELONIES COMMITTED ON OR AFTER JULY 1, 1993</b>					
		<b>PRESUMPTIVE RANGE</b>		<b>EXTRAORDINARY CIRCUMSTANCES</b>		<b>MANDATORY PERIOD of PAROLE</b>
	CLASS	MINIMUM	MAXIMUM	MINIMUM	MAXIMUM	MANDATORY PAROLE
	<b>1</b>	Life Imprisonment	Death	Life Imprisonment	Death	
	<b>2</b>	8 years \$5,000 fine	24 years \$1,000,000 fine	4 years	48 years	5 years
<b>X</b>	<b>3</b>	4 years \$3000 fine	12 years \$750,000 fine	2 years	24 years	5 years
	Extra-ordinary Risk Crime	4 years \$3000 fine	16 years \$750,000 fine	2 years	32 years	5 years
	<b>4</b>	2 years \$2000 fine	6 years \$500,000 fine	1 year	12 years	3 years
	Extra-ordinary Risk Crime	2 years \$2000 fine	8 years \$500,000 fine	1 year	16 years	3 years
	<b>5</b>	1 year \$1000 fine	3 years \$100,000 fine	6 months	6 years	2 years
	Extra-ordinary Risk Crime	1 year \$1000 fine	4 years \$100,000 fine	6 months	8 years	2 years
	<b>6</b>	1 year \$1000 fine	18 months \$100,000 fine	6 months	3 years	1 year
	Extra-ordinary Risk Crime	1 year \$1000 fine	2 years \$100,000 fine	6 months	4 years	1 year

Crimes that present an extraordinary risk of harm to society shall include the following:

1. Aggravated robbery, section 18-4-302
2. Child abuse, section 18-6-401
3. Unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture, or dispense, section 18-18-405 (Note-not simple possession)
4. Any crime of violence as defined in section 18-1.3-406
5. Stalking, section 18-3-602, or section 18-9-111(4) as it existed prior to August 11, 2010
6. Sale of materials to manufacture controlled substances, section 18-18-412.7

<u>MARKED BOX BELOW INDICATES APPLICABLE SENTENCING RANGE</u>	<b>MISDEMEANORS COMMITTED ON OR AFTER JULY 1, 1993</b>		
	TYPE CLASS	MISDEMEANORS	
		MINIMUM	MAXIMUM
	<b>1</b>	<b>6 MONTHS</b> <b>\$500 FINE</b>	<b>18 MONTHS</b> <b>\$5,000 FINE</b>
	EXTRAORDINARY RISK CRIME	6 MONTHS \$500 FINE	24 MONTHS \$5,000 FINE
	2	3 MONTHS \$250 FINE	12 MONTHS \$1,000 FINE
	3	\$50 FINE	6 MONTHS \$750 FINE

Misdemeanors which present an extraordinary risk or harm to society shall include the following:

- 1) Child abuse;
- 2) Third degree assault;
- 3) Third degree sex assault prior to July 1, 2000;
- 4) Unlawful sexual contact, on and after July 1, 2000;
- 5) Second degree sexual assault, prior to July 1, 2000;
- 6) Sexual assault, on and after July 1, 2000;
- 7) Violation of restraining order – 2nd and subsequent offenses;
- 8) Failure to register as a sex offender.



Based on the above, I understand the sentencing ranges that are applicable for my crime(s).



(c) I know that if the Court sentences me to incarceration for a felony, that sentence must be to at least the midpoint, but not more than twice the maximum in the presumptive range, if, at the time of committing the crime(s) in this case I was:

- \_\_\_\_\_ On probation or parole for another felony, or
- \_\_\_\_\_ Confined or had escaped while completing a felony sentence, or
- \_\_\_\_\_ On a felony appeal bond, or
- \_\_\_\_\_ If I am pleading guilty in this case to a crime of violence.


I understand and agree that by pleading guilty, I agree to allow the Judge to determine whether any of these circumstances are present in my case, and I agree to give up any right I might have to have a jury make that determination. Further, I admit that circumstances that I have initialed above are present in my case.





(d) I know that if the Court sentences me to incarceration for a felony, the Court must sentence me to at least the minimum, but not more than twice the maximum in the presumptive range, if, at the time of committing the crime(s) in this case I was:


- \_\_\_\_\_ Charged with or on bond for another felony in another case for which I have now been convicted, or
- \_\_\_\_\_ Under a Deferred Judgment and Sentence for a felony, or
- \_\_\_\_\_ On a juvenile parole for an offense that would be considered an adult felony, or
- \_\_\_\_\_ On bond after pleading guilty to a lesser offense when the original offense charged was a felony.


I understand and agree that by pleading guilty, I agree to allow the Judge to determine whether any of these circumstances are present in my case, and I agree to give up any right I might have to have a jury make that determination. Further, I admit that circumstances that I have initialed above are present in my case.


 \_\_\_\_\_ (e) I know that the sentence is imposed by the Court. The Court is not bound by any promises made by anyone concerning sentencing. Any promises or agreements made to me with respect to the sentence that are not set forth in this document are invalid.


 \_\_\_\_\_ (f) I know that by pleading guilty to a felony offense, from this point forward I may not and it will be illegal for me to own, possess, or use any firearms.


 \_\_\_\_\_ (g) I understand and agree that by pleading guilty to any criminal offense in this case, if I have a history of any sex offenses or if I have been previously convicted on or after January 1, 1994, of any type of sex-related criminal offense, including attempt, solicitation, and conspiracy to commit a sex-related criminal offense, or if I have been previously convicted on or after July 1, 2000, of any criminal offense, the underlying factual basis of which involved a sex-related criminal offense, I will be required, as part of the pre-sentence investigation by the Probation Department, to submit to a mental health sex-offense specific evaluation, and that I may be required to undergo sex offender treatment to the extent appropriate. I further understand that such sex offender supervision may include treatment, therapy, monitoring, and intensive supervision, which includes specific conditions that have been explained to me.

 \_\_\_\_\_ (h) I know that I could be fined for my crime(s) in any amount from the minimum to the maximum. I also know that I will be charged with additional costs and fees. I know that the Court may impose both a sentence and a fine.

 \_\_\_\_\_ (i) I know that if I am granted the privilege of probation, I could be required to serve up to 90 days in the Arapahoe County Detention Center for each felony (60 days for each misdemeanor) as a condition of probation. I also understand that as a condition of my probation I could be required to serve up to two years in the Arapahoe Detention Center on work or education release. I know that as a condition of my probation, I must pay restitution, all fines, fees, and court ordered costs.

 \_\_\_\_\_ (j) I know that my conviction can result in adverse collateral consequences including but not limited to adverse consequences for my employment, any licenses I hold, my housing, and/or my immigration status. I waive the right to request or receive any order for relief from those collateral consequences pursuant to § 18-1.3-107 C.R.S. and related laws.

 \_\_\_\_\_ (k) I have been advised, understand, and specifically waive my right to request any reduction or reconsideration of sentence pursuant to C.R.C.P. 35(b).

 \_\_\_\_\_ (m) Regardless of what sentence is imposed by the Court I know that I must pay restitution or any other costs, if ordered by the Court.

**I swear or affirm that I have read and understand this entire document as well as any attachments, and every representation I have made is true.**

Defendant:  Date: 06/03/2023

**As defense counsel, I affirm that the above-named defendant has executed the foregoing DEFENDANT'S CRIM. P. RULE 11 GUILTY PLEA ADVISEMENT. As defense counsel I have thoroughly reviewed this document and any attachments with the defendant in regard to the entry of this guilty plea.**

Defense Counsel: 

Reg. No.: 41529

Date: 06/03/2023



DISTRICT COURT, ARAPAHOE COUNTY, COLORADO  7325 S. Potomac St. Centennial, CO 80112 <hr/> <b>THE PEOPLE OF THE STATE OF          COLORADO</b>  vs.  <b>GARY JULE DRAGUL,</b> <b>DOB: 05/07/1962</b>  Defendant.	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
	Case No.: 2019CR610  Div.: 407
<b>PLEA AGREEMENT</b>	

Below is the complete and accurate agreement between the People of the State of Colorado, as represented by the People, and the above-named defendant. All concessions and stipulations are fully set forth herein.


1. The Defendant will enter a plea of GUILTY to the charge(s) of: **Count Five, Securities Fraud, in violation of §§ 11-51-501(1)(c) and 11-51-603(1) C.R.S. (Class 3 Felony).**
2. In exchange for the above guilty plea(s), at sentencing the People will move to dismiss any remaining counts in the Grand Jury Indictment.
3. The People and the Defendant have agreed to the following (**subject to the approval of the Court**):
  - The parties stipulate that the Defendant shall be sentenced to ten (10) years of Economic Crime Probation at Count Five. The Defendant shall comply strictly with all terms and conditions as set forth by the Economic Crime Probation Officer. Probation shall run concurrent with 2018CR1092.
  - As a punitive sanction, the Defendant agrees to serve sixty (60) days in the Arapahoe County Jail, which will run consecutive to 2018CR1092 (120 days total), followed by a period of eight (8) months of in-home detention, which will run concurrent to 2018CR1092.

- As a material condition of the plea agreement, the Defendant stipulates to restitution in the amount of one million dollars (\$1,000,000.00) at 2018CR1092. The Defendant shall forthwith initiate a transfer of \$700,000 to his attorney's COLTAF account. That money shall be paid within 10 days of the Defendant's plea of guilty. If the Defendant fails to pay restitution consistent with the terms of the agreement at 2018CR1092, then he is subject to open sentencing on all counts.
- The Defendant stipulates to a factual basis for restitution at 2019CR610, as enumerated in the Grand Jury Indictment and agrees to pay restitution for any counts dismissed as part of this plea agreement. Restitution shall be determined later by stipulation or at a contested restitution hearing.
- As a material condition of the plea agreement, the Defendant agrees to actively cooperate with Receiver Harvey Sender to facilitate an amicable resolution to any remaining litigation in the Dragul Receivership.
- The Defendant shall complete 100 hours of useful public service.
- If the Defendant pays all restitution, the People agree not to object to a petition for early termination of probation supervision.

3. I have reviewed the foregoing Plea Agreement, and the terms are fully set forth in this document. No amendments will be made to the plea agreement unless the terms are set forth in writing and agreed to by signature of all parties. Any amendment to the foregoing plea agreement is subject to the Court's approval.

Dated this 3<sup>rd</sup> day of June, 2023.

By: /s/ Daniel A. Pietragallo  
Daniel A. Pietragallo  
Senior Assistant Attorney General

By:   
Josh Amos, Esq.  
Counsel for GARY JULE DRAGUL

By:   
Tyrone Glover, Esq.  
Counsel for GARY JULE DRAGUL

By:   
GARY JULE DRAGUL,  
Defendant

DISTRICT COURT, ARAPAHOE COUNTY, COLORADO  7325 S. Potomac St. Centennial, CO 80112 <hr/> <b>THE PEOPLE OF THE STATE OF          COLORADO</b>  <b>vs.</b>  <b>GARY JULE DRAGUL,</b> <b>DOB: 05/07/1962</b>  Defendant.	<p style="text-align: center;">▲ <b>COURT USE ONLY</b> ▲</p>
	Case No.: 2019CR610  Div.: 407
<b>ADVISEMENT OF ELEMENTS OF THE CRIME</b>	

I understand that at a trial the prosecutor would have to prove each and every element of the offense(s) to which I am pleading beyond a reasonable doubt, the highest burden of proof under the law.

The following are the ESSENTIAL elements of the charges, **Count Five, Securities Fraud, in violation of §§ 11-51-501(1)(c) and 11-51-603(1) C.R.S. (Class 3 Felony)**, for which I am entering a plea of guilty. At a trial the prosecution would have to prove each of these elements beyond a reasonable doubt.

1. That the crime occurred on or about and between January 1, 2013 and August 30, 2013.
2. That the crime(s) occurred in, or are triable in, Arapahoe County, State of Colorado.
3. That the crime(s) were committed willfully. A person acts “knowingly” or “willfully” with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of such nature or that such circumstance exists. A person acts “knowingly” or “willfully” with respect to a result of his/her conduct when he/she is aware that his/her conduct is practically certain to cause the result.

4. The elements of Securities Fraud, in violation of §§ 11-51-501(1)(c) and 11-51-603(1) C.R.S. (Class 3 Felony), are as follows:
- a. The defendant,
  - b. in the State of Colorado, on or between the dates stated,
  - c. in connection with the offer or sale of any security,
  - d. directly or indirectly,
  - e. willfully
  - f. engaged in any act, practice or course of business which operated or would operate as a fraud or deceit upon any person.
5. I have read and understand the above elements of the charges.



06/03/2023

Defendant

Date



06/03/2023


Attorney for Defendant

Date

DISTRICT COURT, ARAPAHOE COUNTY, COLORADO  7325 S. Potomac St. Centennial, CO 80112 <hr/> <b>THE PEOPLE OF THE STATE OF          COLORADO</b>  <b>vs.</b>  <b>GARY JULE DRAGUL,</b> <b>DOB: 05/07/1962</b>  Defendant.	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
	Case No.: 2019CR610  Div.: 407
<b>STATEMENT REGARDING          DEFENDANT’S STIPULATION TO FACTUAL BASIS FOR PLEA</b>	

Defendant agrees that there are sufficient facts, including but not limited to those as set forth in the discovery provided to me, that if believed by a jury beyond a reasonable doubt, shall serve as an adequate factual basis for the guilty plea. As a result, he stipulates to the factual basis, as enumerated in the Grand Jury Indictment.

Dated this 3<sup>rd</sup> day of June, 2023.

By:   
 \_\_\_\_\_  
 GARY JULE DRAGUL