

<p>DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiff: TUNG CHAN, Securities Exchange 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: Patrick D. Vellone, #15284 Michael T. Gilbert, #15009 Averil K. Andrews, # 56148 ALLEN VELLONE WOLF HELFRICH & FACTOR P.C. 1600 Stout St., Suite 1100 Denver, Colorado 80202 Phone Number: (303) 534-4499 E-mail: pvellone@allen-vellone.com E-mail: mgilbert@allen-vellone.com E-mail: aandrews@allen-vellone.com</p>	<p>Case Number: 2018CV33011 Division/Courtroom: 424</p>
<p style="text-align: center;">RECEIVER’S NOTICE OF EMPLOYMENT OF SMITH DEBNAM NARRON DRAKE SAINTSING & MEYERS, LLP</p>	

Harvey Sender, the duly-appointed Receiver in the above-captioned case (“Receiver”), hereby gives notice that he has employed Smith Debnam Narron Drake Saintsing & Meyers, LLP (“Smith Debnam”) to act as local counsel regarding the judgment obtained by the Receiver against Marlin Hershey and Performance Holdings, Inc.

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 Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC (collectively, “Dragul and the DGA Entities”).

2. On August 30, 2018, the Court entered its Order Appointing Receiver (“Receivership Order”) which appointed Harvey Sender of Sender & Smiley LLC as receiver for Dragul and the GDA Entities, as well as for their respective properties and assets, and interests and management rights in related affiliated and subsidiary businesses (the “Receivership Estate” or the “Estate”). Receivership Order at p. 2, ¶ 5.

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 p. 9, ¶ 13(l).

4. On December 15, 2023, in Harvey Sender v. Gary J. Dragul, et al., the Plaintiff obtained an Order for Judgment (“Judgment”) in favor of the Plaintiff Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC and against judgment debtor Defendant Marlin Hershey in the amount of \$14,770,358.49 and against judgment debtor Performance Holdings, Inc. in the amount of \$9,534,538.00, with interest accruing on the judgment amounts at 8% per annum until paid in full.


5. The Receiver believes the judgment debtors reside and have assets in North Carolina. To execute on the Judgment and levy on assets located in North Carolina, the Receiver wishes to employ local counsel.

6. The Receiver hereby gives notice that he has retained Smith Debnam to act as local counsel in order to domesticate the Colorado judgment in North Carolina and locate assets held by or transferred by the judgment debtors. A copy of the engagement agreement between the Receiver and Smith Debnam is attached as **Exhibit A**. Smith Debnam is to be paid on an hourly basis with lead counsel at

\$300/hour, and paralegal time at \$100/hour. The Receiver believes these rates are reasonable.

Dated: February 16, 2024.

ALLEN VELLONE WOLF HELFRICH & FACTOR
P.C.

By: s/ Averil K. Andrews 
Patrick D. Vellone, Reg. No. 15284
Michael T. Gilbert, Reg. No. 15009
Averil K. Andrews, Reg. No. 56148

ATTORNEYS FOR THE RECEIVER, HARVEY
SENDER

CERTIFICATE OF SERVICE

The undersigned certifies that on February 16, 2024 a true and correct copy of **Receiver's Notice of Employment of Smith Debnam Narron Drake Saintsing & Meyers, LLP** was filed and served via the Colorado Courts E-Filing system to the following:

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***Counsel for Tung Chan, Securities
Commissioner***

/s/ Rebecca H. Bradshaw _____

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.