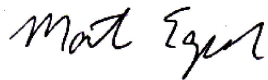


DISTRICT COURT, DENVER COUNTY, COLORADO	
Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202	
<b>Plaintiff(s)</b> GERALD ROME SECURITIES COM FOR THE ST OF CO v. <b>Defendant(s)</b> GARY DRAGUL et al.	DATE FILED: February 27, 2024 9:42 AM CASE NUMBER: 2018CV33011  <p style="text-align: center;"><b>△ COURT USE ONLY △</b></p> Case Number: 2018CV33011 Division: 424      Courtroom:
<b>Order:RECEIVERS MOTION TO APPROVE PAYMENT OF RETAINER</b>	

The motion/proposed order attached hereto: GRANTED.

Issue Date: 2/27/2024



MARTIN FOSTER EGELHOFF  
District Court Judge

<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><b>Plaintiff:</b> TUNG CHAN, Securities Exchange Commissioner for the State of Colorado</p> <p>v.</p> <p><b>Defendants:</b> 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  Averil K. Andrews, # 56148  ALLEN VELLONE WOLF HELFRICH &amp; 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</p> <p>Division/Courtroom: 424</p>
<p><b>RECEIVER’S MOTION TO APPROVE PAYMENT OF RETAINER</b></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”), hereby asks the Court to approve the estate’s payment of a retainer to the law firm of Smith Debnam Narron Drake Saintsing & Meyers, LLP, whom the Receiver has retained to collect a \$14+ million judgment 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.

2. On August 30, 2018, the Court entered its Order Appointing Receiver (“Receivership Order”), which appointed Harvey Sender Receiver for Dragul (limited to the definition of the “Receivership Property” or “Receivership Estate” as defined in the Receivership Order), GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC.

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).

1. On December 15, 2023, in *Sender v. Dragul, et al.*, Case No. 2022 CV 30255, Denver District Court, the Receiver obtained a \$14,770,358.49 Judgment (“Judgment”) against Marlin Hershey, and a judgment of \$9,534,538.00 against Hershey’s company, Performance Holdings, Inc., with interest accruing on the judgments at 8% per annum until paid. Although the judgment debtors have appealed, they have not posted a supersedeas bond to stay collection on the judgments.


2. The Receiver believes the judgment debtors reside and have assets in North Carolina. To execute on the Judgments, the Receiver has employed Smith Debnam as local counsel as local counsel to domesticate the Judgments in North Carolina and levy on debtors’ assets. A Notice of Employment of Smith Debnam is being filed concurrently with this motion.

4. As part of its engagement, Smith Debnam requires a \$3,000.00 retainer and a \$500.00 cost-deposit. Therefore, the Receiver hereby asks the Court to approve payment of the retainer and cost-deposit so that local counsel can proceed with post-judgment execution efforts.

5. Pursuant to paragraph 34 of the Receivership Order, Court approval of any motion filed by the Receiver shall be given as a matter of course within 10 days after the motion is filed and served.

Dated: February 16, 2024.

ALLEN VELLONE WOLF HELFRICH & FACTOR  
P.C.

By: s/ Averil K. Andrews   
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ATTORNEYS FOR THE RECEIVER, HARVEY  
SENDER

**CERTIFICATE OF SERVICE**

The undersigned certifies that on February 16, 2024 a true and correct copy of the foregoing motion was filed and served via the Colorado Courts E-Filing system to the following:

Robert W. Finke  
Janna K. Fischer  
Ralph L. Carr Judicial Building  
1300 Broadway, 8th Floor  
Denver, Colorado 80203  
Robert.Finke@coag.gov  
Janna.Fischer@coag.gov

***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.*