

<b>DISTRICT COURT, DENVER COUNTY STATE OF COLORADO</b>  1437 Bannock St. Denver, CO 80202 (720) 865-8612	DATE FILED: April 16, 2024 5:45 PM FILING ID: AAE84A02B227E CASE NUMBER: 2018CV33011
<b>Plaintiff:</b> Tung Chan, Securities Commissioner for the State of Colorado  v.  <b>Defendants:</b> Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<i>Attorney for Investor/Creditor/Claimant Chad Hurst</i> Christopher S. Mills, Atty. Reg. No. 42042 Jones & Keller, P.C. 1675 Broadway, 26 <sup>th</sup> Floor Denver, CO 80202 Phone: 303-573-1600 Email: <a href="mailto:cmills@joneskeller.com">cmills@joneskeller.com</a>	Case No. 2018CV33011  Courtroom: 424
<b>CHAD HURST’S OBJECTION TO RECEIVER’S SETTLEMENT AGREEMENT WITH CLEARWATER BANKRUPTCY ESTATES</b>	

In an April 15, 2020 Order, this Court held that, when a receiver abandons property, the “property reverts back to the pre-receivership owner; that such abandonment is irrevocable and divests the receiver and the receivership estate from managing and/or controlling the property (inasmuch as the property is no longer part of the receivership estate); and that the receiver has no claim from any equity that might later be derived from such abandoned property.” The Receiver here, Harvey Sender, ignored this Order, and sought to seize from consolidated bankruptcy estates proceeds that were obtained through the sale of a property the Receiver abandoned years earlier. By asserting claims (which this Court had barred) against the bankruptcy estates, the Receiver leveraged the settlement he now seeks for the Court to approve

in his March 29, 2024 Motion to Approve Settlement Agreement with Clearwater Bankruptcy Estates (“Settlement Motion”). The Receiver’s proposed Settlement would have the effect of transferring money from one pool (the Bankruptcy Estates) to the Receiver’s pool (the Receivership Estate) to distribute to many of the same claimants—robbing Peter to pay Paul. In doing so, the Receiver, his attorneys, and his accountants will take a substantial cut, resulting in a net loss of money to be distributed to investors/creditors, including to Chad Hurst. Through the proposed Settlement, the Receiver would also dictate how the Liquidating Trustee would distribute money from the Bankruptcy Estates to overlapping investors/creditors. And, the Receiver purports to release the claims the investors/creditors in the Receivership would have against the Receivership Estate and the Receiver himself without those investors/creditors executing the Settlement or otherwise authorizing the Receiver to release their claims—effectively immunizing the Receiver.

The Receiver’s proposed Settlement is a result of the Receiver ignoring this Court’s Order, and is not in the interests of the Receivership’s investors/creditors.

### **BACKGROUND**

The Receiver here was originally appointed on August 30, 2018, and controlled as part of the estate he oversaw (the “Receivership Estate”) two entities, Clearwater Collection 15, LLC and Clearwater Plainfield 15, LLC (collectively “Clearwater Entities”), and their only asset—the Clearwater Collection Shopping center (“Shopping Center”), which is a major shopping center in Florida. (Settlement Mot. ¶¶ 2-4.) The lender on the Shopping Center commenced a foreclosure action, which was stayed by the Receivership. (*Id.* ¶ 7.)

The Receiver determined the Shopping Center “is of no value to, and is burdensome to the Estate and its creditors”, and moved to abandon it on February 19, 2020. (Receiver’s Motion to Abandon Clearwater Collection (“Abandonment Motion”) ¶ 21). In his proposed order granting the abandonment motion, the Receiver sought the following relief:

As of the date of this Order, any interest the Estate formerly held in Clearwater Collection 15, LLC (“Collection”), and Clearwater Plainfield 15, LLC (“Plainfield”) is abandoned and no longer property of the Receivership Estate, and the Receiver is hereby authorized to stop managing the Clearwater Collection Property referred to the Motion and to stop paying insurance, ongoing maintenance, or any other expenses related to that Property.

(Abandonment Order Proposed Order.) The Court granted the Abandonment Motion on March 3, 2020. The lender then had a separate receiver in Florida (“Florida receiver”) appointed for the Shopping Center.

Despite abandoning his interest in the Clearwater Entities and the Shopping Center, the Receiver suggested that he still had some interest in, or right to seize equity or profit from, the Shopping Center—that he could recover increased equity or profit that someone else obtains from the abandoned property post-abandonment. Thus, on April 15, 2019, Defendant Gary Dragul filed a Motion for Clarification of Order Appointing Receiver and Orders Authorizing Abandonment and for Expedited Briefing Schedule (“Abandonment Clarification Motion”). In the Abandonment Clarification Motion, Mr. Dragul was concerned that “[t]he Receiver claims that, after he abandons a property, if someone else makes a profit or gains equity on it, the Receiver may swoop back in and seize that equity for the Receivership Estate.” (*Id.* at 8.) Mr. Dragul sought for the Court to clarify that when the Receiver abandons an asset of the Receivership Estate, the asset reverts back to its previous owner, the Receiver is divested of any control over the abandoned asset, and that the Receiver has no claim for equity or profit from an

asset once the Receiver abandons it. (*Id.*, generally.) The Receiver substantially agreed, writing in his April 7, 2019 Response that “[u]pon the Court’s entry of the Clearwater Order, Collection and Plainfield were removed from the Receivership Estate and those entities were free to replace GDA Clearwater Management, LLC as manager” and “[t]he [Receivership] Estate holds no equity or managerial interest in Clearwater.” (Abandonment Clarification Motion Response ¶¶ 6, 7.)

On April 15, 2020, this Court (indeed, the current Presiding Judge) granted the Abandonment Clarification Motion. The Court held that “the authorities cited in the motion clearly establish that, once abandoned, property reverts back to the pre-receivership owner; that such abandonment is irrevocable and divests the receiver and the receivership estate from managing and/or controlling the property (inasmuch as the property is no longer part of the receivership estate); **and that the receiver has no claim from any equity that might later be derived from such abandoned property.**” (Abandonment Clarification Order (emphasis added) (citing *In re: Polumbo*, 271 F. Supp. 640 (W.D. Vir. 1967); *Matter of Killebrew*, 888 F.2d 1516 (5th Cir. 1989); *In re Purco*, 76 B.R. 523 (Bankr. 1987); *In re: Cruseturner*, 8 B.R. 581 (Bankr. D. Utah 1981); *In re: Sutton*, 10 B.R. 737 (Bankr. E.D. Vir, 1982)).)

On April 19, 2022, the Clearwater Entities filed voluntary Chapter 11 petitions, commencing jointly-administered bankruptcy cases: Nos. 22-11320-JGR and 11321-JGR (“Bankruptcy Cases”). As a result of the work of the Shopping Center’s Florida receiver and the owners to which the Shopping Center reverted after the Receiver abandoned (which included at that point Chad Hurst), the Shopping Center was sold to the Philadelphia Phillies for \$22,500,000. (Settlement Mot. ¶ 11.) That, plus settlement of a litigation claim with a former

tenant, (*id.* ¶ 13), brought in approximately \$6 million to the Bankruptcy Estates from the property the Receiver formerly abandoned because the Receiver felt it was of inconsequential value and simply a burden to the Receivership Estate. Months after the Bankruptcy Court approved a liquidation plan, however, the Receiver did precisely what Mr. Dragul feared he might do—the Receiver swooped into the Bankruptcy Cases and filed Proofs of Claim seeking over \$10 million from the equity from the Shopping Center he abandoned. (*Id.* ¶¶ 14-15.)

The basis for the Receiver’s Proofs of Claim in the Bankruptcy Cases was claims filed against the Receivership Estate by defrauded investors in the Clearwater Entities. (Exs. A, B (Case No. 22-11320, ECF# 361 at ¶ 15; Case No. 22-11321, ECF# 145 at ¶ 15).) The Receiver further moved to disallow the claims of dozens of the investors and/or creditors in the Bankruptcy Cases, who had also filed claims in the Receivership Estate. The Bankruptcy Liquidating Trustee filed Motions to Strike and he and several investors/creditors responded to the Receiver’s objections to their claims, noting that, in light of the Receiver abandoning the Clearwater Entities and Shopping Center, and this Court’s Order clarifying that abandon really means abandon, the Receiver lacked standing to seek recovery out of the Bankruptcy Estates or to object to others’ claims in it. (Settlement Mot. ¶¶ 16-17, 21; *see also* Ex. C (ECF# 410).) The question of whether the Receiver has standing to seek recovery from the Bankruptcy Estates remains pending with the Bankruptcy Courts. But in the meantime, the litigation costs for the Trustee and the Estates he was tasked to manage became too much to bear. He cried Uncle and agreed to the proposed Settlement with the Receiver.

Under the proposed Settlement, (1) the Liquidating Trustee would pay the Receivership Estate \$500,000 in exchange for the Receiver withdrawing his claims in the Bankruptcy Cases

and assigning his claims objections to the Trustee, (2) the Liquidating Trustee would make distributions from the Bankruptcy Estates in accordance with a procedure the Receiver dictated, and (3) the Receiver purports to release the claims of third-party investors/creditors in the Receivership against the Receivership Estate and that they could assert against the Receiver himself, without those investors/creditors' authorization. (*Id.* ¶ 22 & *id.* Ex. 1.)

### ARGUMENT

#### I. THE RECEIVER IGNORED THIS COURT'S RULING THAT HE WAS BARRED FROM ASSERTING THE CLAIMS HE NOW SEEKS TO SETTLE

In its April 15, 2020 Abandonment Clarification Order, this Court held that the Receiver's abandonment was "irrevocable" and "that the receiver has no claim from any equity that might later be derived from such abandoned property."<sup>1</sup> The Court's ruling is consistent with ample authority. *E.g.*, *Omni Development Corp. v. Atlas Assur. Co. of America*, 956 P.2d 665, 669 (D. Colo. 1998) ("When a bankruptcy court orders property to be abandoned, title in the property reverts back to the debtor."); *In re Polumbo*, 271 F. Supp. 640, 643 (W.D. Vir. 1967) ("Abandonment by the trustee of an asset immediately reverts title to that asset in the bankrupt[.]"); *id.* ("Once he has elected to abandon an asset, the trustee is absolutely precluded from later reclaiming it, even if a subsequent increase in its value would make it of benefit to the estate."); *Matter of Killebrew*, 888 F.2d 1516, 1520 (5th Cir. 1989) ("The effect of abandonment

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<sup>1</sup> The Receiver may believe that the proceeds from the sale of the Shopping Center do not count as an increase in equity that is beyond his reach after he abandoned. Not so. The Receiver's inability to claim "equity" from abandoned property extends to proceeds from the subsequent sale of that abandoned property. In the Abandonment Clarification Order, this Court cited *In re: Sutton*, 10 B.R. 737 (Bankr. E.D. Vir, 1982). There, the court denied the trustee's request to revoke the abandonment to get at \$7,000 of realized equity resulting from the *sale* of the abandoned property. *Id.* at 740. The court denied that request, instead holding that the abandonment was irrevocable.

by a trustee . . . is to divest the trustee of control over the property because once abandoned, property is no longer part of the bankruptcy estate.”); *In re Purco*, 76 B.R. 523, 532 (Bankr. 1987) (“The effect of abandonment is that ownership and control of the asset is reinstated in the debtor with all rights and obligations as before filing a petition in bankruptcy.”); *In re Cruseturner*, 8 B.R. 581, 591 (Bankr. D. Utah 1981) (“Generally, a ‘possessory interest’ is defined as a ‘right to exert control over’ or a ‘right to possess’ property ‘to the exclusion of others. . . Thus, whoever had the possessory right to the property at the filing of bankruptcy again reacquires that right.”); *In re Sutton*, 10 B.R. 737, 740 (Bankr. E.D. Vir. 1982) (“[A]bandonment is deemed irrevocable regardless of any subsequent discovery that the property had greater value than previously believed.”). Moreover, it is difficult to imagine how this Court’s language in the Abandonment Clarification Order could be any clearer.

Yet, the Receiver simply ignored the Court’s Abandonment Clarification Order and in the Bankruptcy Cases claimed a right to the equity from the sale of the Shopping Center he abandoned—precisely what this Court ruled he could not do. Indeed, in the Settlement Motion, the Receiver acknowledges exactly this problem, stating that “the threshold legal challenge to the Receiver’s standing remains pending before the Bankruptcy Court; if determined adversely to the Receiver, this would eliminate *any* claim of the Receiver in the Bankruptcy Cases.” (Settlement Mot. ¶ 24 (emphasis in original).) Thus, in the Bankruptcy Cases, the Receiver asserted claims he was barred from asserting by the clear language in this Court’s Abandonment Clarification Order, and he now seeks to settle those barred claims by leveraging the risk and litigation costs he and the Liquidating Trustee would incur by continuing to litigate those barred claims. That leverage from asserting the barred claims was substantial. As the proposed Settlement itself

states, “[t]he Sender Receivership claims are the largest asserted unsecured claims in the bankruptcy cases. If the Receiver claims are allowed substantially all proceeds of the estates, net of administrative expenses and administrative, priority, and other unsecured claims, will be paid to the Sender Receivership.” (Settlement Mot. Ex. 1 at Recital O.)

Based on the clear language in the Abandonment Clarification Order, the Clearwater Entities and Shopping Center are simply beyond the reach of the Receiver. The Receiver’s purported basis for filing claims in the Bankruptcy Cases was “Claim field against receivership estate for investor losses”. (Ex. D (Claim 10-1 Case No. 22-22320-JGR; *see also* Exs. A, B (Case No. 22-11320, ECF# 361 at ¶ 15; Case No. 22-11321, ECF# 145 at ¶ 15).) But it is unclear how that would give the Receiver a basis to seek recovery from a bankruptcy estate in general, let alone how it would allow him to recover from an asset this Court already ruled is beyond his reach. It does not matter whose or what claims the Receiver purports to assert, how those claims are postured, in what forum or form the Clearwater Entities or Shopping Center exist, whether the Receiver thinks the claimants’ claims in the Receivership or Bankruptcy Cases are meritorious or baseless, or whether the Receiver believes the claimants are deserving or nefarious. The Clearwater Entities and Shopping Center are simply off-limits to the Receiver. The Receiver knew that—he assuredly read the Abandonment Clarification Order just like everyone else—but decided to ignore it and pursue claims that were off-limits anyway. The Court should reiterate what it already held—that abandoned means abandoned—and that it will not tolerate having its orders ignored. It should refuse to approve the Settlement reached in violation of its Abandonment Clarification Order.



## II. THE SETTLEMENT REWARDS THE RECEIVER AND HIS COUNSEL AT THE EXPENSE OF CLAIMANTS IN THE RECEIVERSHIP

The Receiver argues the proposed Settlement is beneficial for the creditors in the Receivership Estate for two main reasons. First, the Receiver negotiated with the Liquidating Trustee to pay the interest holders in the Clearwater Entities even if they did not file claims in the Bankruptcy Cases, so the Receiver need not pay their claims made in the Receivership Case against the Receivership Estate, thus leaving more in the Receivership Estate to be distributed to investors/creditors here. (Settlement Mot. ¶ 26-27.) But this is not a scenario in which the Receiver seeks to recover from a third party he claims owes money to one of the people or entities in Receivership in order to bring new assets into the Receivership Estate. Instead, he seeks to take funds from one pool of money to pay claimants and transfer those funds to his own pool of money to pay the very same claimants. Indeed, the Clearwater claimants in both the Receivership and Bankruptcy Cases substantially overlap (hereafter “Joint-Claimant(s)”). (Ex. E (ECF# 361-4, attached to Receiver’s Response to the Liquidating Trustee’s Objection to Proof of Claim of Harvey Sender, Receiver (Claim No. 10)).) Absent the Settlement, the very same Joint-Claimants would receive distributions from the Bankruptcy Estates, provided they filed claims there,<sup>2</sup> meaning the relief for which the Receiver negotiated would have been provided to them in any event.<sup>3</sup>

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<sup>2</sup> And it should not be concerning if they did not, as the Receiver and Trustee both note they had notice and an opportunity to file claims in the Bankruptcy Cases. (Settlement Mot. Ex. A to Ex 1 at ¶ 3.)

<sup>3</sup> Indeed, in the proposed settlement, the Receiver says he “will treat all payments to Investors [from the Bankruptcy Estates] as a recovery from a collateral source under his plan of distribution and reflect such payments in his treatment of any non-Clearwater/Plainfield claims filed by any Investors in the Sender Receivership” (Settlement Mot. Ex. 1 at ¶ 6), which the

Second, as part of the Settlement, the Liquidating Trustee would pay \$500,000 to the Receivership Estate, which “will increase distributions to other Allowed claimants by \$500,000, which under the anticipated rising tide Plan, would allow additional non-Clearwater investors to recover a larger portion of their losses.” (Settlement Mot. ¶ 27.) That effectively means that the Receiver is taking \$500,000 from some claimants in the Receivership Estate (the Joint-Claimants who also filed claims in the Bankruptcy Cases) and transferring that \$500,000 to other claimants in the Receivership Estate, leading to no net overall benefit for the Receivership claimants.<sup>4</sup>

But worse, the Receiver is not actually transferring that full \$500,000 from some claimants to others. Instead, he will first deduct from the Receivership Estate his fees, his attorneys’ fees, and his accountants’ fees associated with pursuing these barred claims in the Bankruptcy Cases. As of late November 2023, the amount of those fees is approximately \$141,077—which does not include the fees inevitably incurred since that date. (Ex. F.) Thus, the Receiver is effectively taking \$500,000 from some Receivership claimants, taking \$142,000 plus whatever has been billed since then as his cut, then giving \$358,000 (minus more recent billings) to other claimants. If the Court does not approve the Settlement (and does not approve the fees the Receiver incurred by pursuing the barred claims in the Bankruptcy Cases), the Joint-Claimants would have that full \$500,000 distributed to them via the Bankruptcy Liquidation

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Receiver likely could have done anyway without the Settlement based on distributions from the Bankruptcy Estate.

<sup>4</sup> Perhaps the Receiver sees value in redistributing recovery from investors/creditors in Clearwater to other investors/creditors in the Receivership Estate. If this was his goal, he had the opportunity to do that. He could have chosen not to abandon the Clearwater Entities and Shopping Center, did as the Florida receiver and owners to whom the Shopping Center reverted after abandonment did, and put the Entities in bankruptcy and sell the Shopping Center for millions, resulting in about \$6 million available for equitable distribution among all claimants in the Receivership Case. He abandoned instead and lost that ability.

Plan, and the Receivership Estate will not be depleted by the Receiver's fees, leaving more to be distributed to claimants there. Effectively, more goes to the claimants collectively without this Settlement than with it.

This is not in the interests of the investors/creditors. Indeed, one said exactly that in the Bankruptcy Cases. (Ex. G (ECF# 332).) Moreover, Joint-Claimant Chad Hurst would be disproportionately harmed by the proposed Settlement because in addition to the Receiver taking his substantial cut, the terms of disbursement from the Bankruptcy Estates that the Receiver dictated in the Settlement would wholly disallow any recovery for Mr. Hurst—both on his equity claims and administrative claims. And, since the Receiver is assigning his claim objections to the Trustee, the Joint-Claimants in the Bankruptcy Cases would continue to have to litigate their claims there, now against the Trustee rather than Receiver. That will not reduce litigation expenses that are drawing down the Bankruptcy Estates.

Ultimately, the Receiver is attempting to pawn off his job to make distributions to a significant portion of claimants in the Receivership onto the Trustee (while dictating how the Trustee will pay them), while taking half a million dollars from the Trustee's pool of money to put into the Receiver's pool of money, all while taking a substantial cut for himself.

### III. THE SETTLEMENT AGREEMENT RELEASES INVESTORS' CLAIMS WITHOUT THEIR CONSENT

Curiously, the proposed Settlement provides that “[t]he Receiver, acting on behalf of the Sender Receivership, hereby releases . . . any claim of those Investors [in the Clearwater Entities] against the Sender Receivership Estate arising from their investments in the Debtors are hereby released.” (Settlement Mot. Ex. 1 at ¶ 7.) The Investors did not sign the proposed Settlement. Nor is there any place for them to sign it. The Receiver does not identify on what

basis he has authority to release claims of investors who filed claims in the Receivership against the very Receivership Estate he is administering. He is adverse to those investors and cannot waive their claims unless they have assigned those claims to him or otherwise authorized him to do so. While eliminating claims from the Receivership Estate may make distribution easier for the Receiver, he cannot accomplish that by releasing claims that do not belong to him and which he lacks legal authority to release.

Moreover, the language of this release clause appears to extend beyond the claims that investors/creditors have made in the Receivership. It would likely include claims those investors/creditors may have against the Receiver for malfeasance in administering the Receivership. For example, it appears the Receiver converted investors' equity interests to creditor claims without the Court's approval. In addition to tax implications for those investors, this eliminated those investors' property interests (and not even for equivalent value). Since the Receiver serves as an officer of the Court, this raises due process concerns, yet the Receiver purports to immunize himself from liability by releasing potential third-party investors' claims against him without their authorization.

## **CONCLUSION**

Approving the Settlement here would reward the Receiver and his counsel for ignoring this Court's Order at the expense of the claimants in the Receivership Estate. It would allow the Receiver to save face for abandoning an asset that turned out to be quite valuable, force the Liquidating Trustee to do the Receiver's job of paying Joint-Claimants according to a formula the Receiver devised while allowing the Receiver to take credit for those payments, move \$500,000 from the Trustee's pool of money to the Receiver's pool of money to distribute to the

very same claimants, and all while allowing the Receiver to take a substantial cut for himself, his attorneys, and his accountants. And it immunizes the Receiver from liability by releasing third-party investors/creditors claims against the Receivership Estate and Receiver himself without authorization from those investors/creditors. This Settlement is not in “the interests of creditors in deference to their reasonable views.” (Settlement Mot. ¶ 23 (quoting *Kopp v. All Am. Life Ins. Co. (In re Kopexa Realty Venture Co.)*, 213 B.R. 1020, 1022 (B.A.P. 10th Cir. 1997).)

The Court should deny the Receiver’s Settlement Motion and reiterate what it already held: Abandonment means abandonment, the Receiver has no interest in the Clearwater Entities or Shopping Center, those assets are beyond the Receiver’s reach, and the Receiver must comply with the Court’s orders just like all the other parties.

DATED this 16th day of April, 2024.

**JONES & KELLER, P.C.**

/s/ Christopher S. Mills

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **CHAD HURST'S OBJECTION TO RECEIVER'S SETTLEMENT AGREEMENT WITH CLEARWATER BANKRUPTCY ESTATES** was filed and served via the CCE e-file system on this 16th day of April, 2024 to all counsel of record for the parties to the action, including the following:

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UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF COLORADO

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CASE NUMBER: 2018CV33011

In re: ) Case No. 22-11320-JGR
)
CLEARWATER COLLECTION 15, LLC, ) Chapter 11
EIN 47-4082355 )
)
Debtor. )

RESPONSE TO THE LIQUIDATING TRUSTEE’S OBJECTION TO PROOF OF CLAIM OF HARVEY SENDER, RECEIVER (Claim No. 10)

Harvey Sender, the duly-appointed receiver (“Receiver”) for Gary Dragul (“Dragul”), GDA Real Estate Services, LLC (“GDA”), GDA Real Estate Management, LLC, and related entities (collectively, “Dragul and the GDA Entities”), hereby responds to the Liquidating Trustee’s (the “Trustee”) Objection to Sender’s Proof of Claim No. 10 (“Claim Objection,” Dkt. No. 296).

I. Introduction

1. The Trustee’s approach in Debtors’<sup>1</sup> consolidated cases is to treat the Clearwater shopping center as a standalone, legitimate business, and to pay in full claims submitted by purported “equity” investors in the Debtors, including fictitious returns, while disallowing the Receiver’s Claim No. 10 in its entirety.

1 “Debtors” refers to debtor Clearwater Collection 15, LLC (“Collection”), and debtor Clearwater Plainfield 15, LLC (“Plainfield”). As tenants-in-common they owned 82.52% (Collection) and 17.48% (Plainfield) of the Clearwater shopping center in Clearwater, Florida.

2. Although the Receiver was appointed almost five years ago, and the Receiver's accountants have spent hundreds of hours deconstructing Dragul's Ponzi scheme and analyzing the claims filed against the Receivership Estate, the Trustee and his counsel have never consulted with the Receiver regarding the claims filed in Debtors' cases, or the facts underpinning them. The Trustee's cursory allowance of claims would prefer a limited set of Dragul's defrauded investors over others, including claimants who put no cash into either Debtor or the Clearwater shopping center. The Trustee even proposes to pay these non-investors fictitious "profits" when there were none. The Trustee's approach contradicts the central purpose of the Receivership and the Bankruptcy Code: equal treatment among similarly situated creditors.

3. There is no equity in either Debtor. Both were operated as part of Dragul's Ponzi scheme, which was insolvent no later than January 1, 2008. Some claimants in Debtors' cases never invested cash in either Debtor. Others were outright "gifted" interests in the Debtor by Dragul. Dragul induced others to contribute new funds into the Debtor by agreeing to rollover their investments in other failed but unrelated shopping center investments into a purported "equity" interest in the Debtor. The gifted and rollover interests diluted cash investors' ownership percentages with no economic benefit to the Debtor. Yet, the Trustee here proposes to pay virtually all claims (save the Receiver's) in full, including a return of



up to 40% on non-existent investments. The Trustee's approach ignores reality and would ratify Dragul's fraudulent investment scheme.

4. The Receiver was appointed to marshal the assets of the Receivership Estate and pay all creditor claims. The residuum of cash in Debtors' estates is not "equity," and it should not be paid to purported equity holders in the Debtor; instead, it should be paid to the Receivership Estate for equitable distribution to all defrauded investors, not just the select group the Trustee in Debtors' cases seeks to prefer.

## II. Background

5. On April 12, 2018, Dragul was indicted by a Colorado State Grand Jury on nine counts of securities fraud.

6. On August 15, 2018, Gerald Rome, the then Securities Commissioner for the State of Colorado, filed his Complaint for Injunctive and Other Relief against Dragul and the GDA Entities in the action now captioned *Chan v. Dragul, et al.*, 2018-CV-33011, the "**Receivership Case**," which remains pending in Denver District Court. As evidenced by his claims in Debtors' bankruptcy cases, the Receiver continues efforts to collect funds for distribution to creditors and has not yet filed a proposed distribution plan in the Receivership Case.

7. On August 29, 2018, the Commissioner and Dragul and the GDA Entities filed a Stipulated Motion for Appointment of Receiver, consenting to the appointment of a receiver over Dragul and the GDA Entities pursuant to Colo. Rev. Stat. § 11-51-602(1) and C.R.C.P. 66.

8. On August 30, 2018, the Colorado District Court entered a Stipulated Order Appointing Receiver appointing Harvey Sender as receiver for Dragul and the GDA Entities, and their assets, interests, and management rights in related affiliated and subsidiary businesses (the “**Receivership Estate**” or the “**Estate**”). A copy of the Receivership Order is attached as **Exhibit 1**.

9. On March 1, 2019, Dragul was indicted by a Colorado State Grand Jury on five additional counts of securities fraud. **Exhibit 2**.

10. On April 27, 2020, Tung Chang was substituted in the Receivership Action as the Securities Commissioner.

11. One of the properties that was part of the Colorado Receivership Estate was the Clearwater shopping center. Debtors’ interest in the shopping center and attendant litigation claims were their sole assets. The shopping center has now been liquidated through a separate receivership and its net proceeds and the proceeds from a settlement with a former tenant, LA Fitness, are the sole assets of Debtors’ estates.

12. The Receiver managed the Clearwater property from August 18, 2018, until March 3, 2020, when the Colorado Receivership Court entered an order authorizing him to abandon the Estate’s equity interest in the Debtors. The property was subsequently placed into a separate receivership at the behest of the secured lender in the State of Florida on March 10, 2020.

13. Before the Receiver abandoned these equity interests, more than two dozen claims seeking millions of dollars were filed against the Receivership Estate by

Debtors' creditors. These claims arose from Dragul's mismanagement and outright theft of Debtors' assets, including selling over 194% of the equity in Plainfield.

14. On June 5, 2023, the day his criminal trial was finally scheduled to start, Dragul pleaded guilty to two felony counts of securities fraud. Dragul's second indictment included counts for defrauding investors into "investing" in Plainfield 09 A, LLC, the equity holder in the Plainfield Debtor, which in turn owned a 17.48% tenant-in-common interest in the Clearwater shopping center.<sup>2</sup> In many instances, the "investors" in Plainfield 09 A, LLC were rolled over from other investments when Dragul could or would not redeem them, without investing additional cash into either Debtor or the Clearwater shopping center. **Exhibit 2**, Counts 1, 2, 3, and 4. In his Plea Agreement, Dragul admitted to the factual basis for the Plainfield 09 A, LLC fraud claims and agreed to pay restitution to those defrauded investors. **Exhibit 3**, at 10.

### III. The Trustee's Claim Objection

15. The Trustee's Claim Objection seeks to disallow the Receiver's Claim No. 10, for \$2,806,545.22. Contemporaneously with this Response, the Receiver is filing an amended claim for \$8,453,171.24. The original claim was based on claims submitted against the Receivership Estate by defrauded Collection investors on a cash-in, cash-out basis. Some of the "investors" included in the Receiver's Claim have

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<sup>2</sup> Dragul's elaborate and undue complexity of ownership interests is further indicia of his Ponzi scheme.

not filed independent claims in this case. Other “investors” have submitted individual claims both in the Receivership and in this case. *See Exhibit 4*. The Receiver’s amended claim with respect to investor cash-in, cash-out losses has been adjusted to account for rollover contributions and distributions from prior investments, and includes additional amounts reflecting funds deposited by Dragul and other SPE entities into the Clearwater bank accounts, which were part of Dragul’s extensive comingling in furtherance of his Ponzi scheme, and which benefited Dragul to the detriment of all defrauded investors. Although some of the “investor” claims filed in the Debtors’ bankruptcy cases are not based on cash contributed, and seek to recover fictitious returns or for losses incurred in other failed investments, the Trustee proposes to pay them in full. Unlike these “investor” claims, the Receiver’s Claim is not based on “equity.”

16. Like virtually all of Dragul’s investors, defrauded individuals who filed claims in the Receivership Case were fraudulently induced to invest in Dragul’s Ponzi scheme. Since at least January 2008, Dragul’s enterprise, which included multiple SPEs that held interests in various commercial shopping centers throughout the United States (Clearwater is just one of many), was insolvent and being operated as a Ponzi scheme. *See Declaration of Stephanie J. Drew, Exhibit 5, ¶¶ 19-20.*

17. The purported Clearwater “investors,” like all of Dragul’s other investors, were defrauded into investing in a Ponzi scheme. These defrauded investors have a right to recover not based on any “equity,” but instead on claims for

restitution or rescission as a remedy for fraud. *E.g.*, *Donell v. Kowell*, 533 F.3d 762, 772 (9th Cir. 2008); *see also e.g.*, *Sender v. Buchanan (In re Hedged-Invs. Assocs., Inc.)*, 84 F.3d 1286, 1289 (10th Cir. 1996) (under Colorado law, a restitution or rescission claim exists because investors are fraudulently induced to invest in the scheme). Here, all of Dragul's defrauded investors suffered the same harm – loss of their investment dollars – and should be treated equally, and all distributions and vetting of claims run through the Receivership Case.

18. Some of these defrauded investors, however, have filed “equity” claims against Debtors here, notwithstanding that some of them did not actually invest cash into either Debtor or the Clearwater shopping center. And not even based on a cash-in, cash-out analysis deducting distributions they may have received, but on the total amount they claim to have invested, plus in some cases fictitious returns. Yet contrary to all applicable authority that disallows paying fictitious returns, *see, e.g.*, *Lewis v. Taylor*, 2018 CO 76, ¶ 30 (recognizing that fictitious profits are not recoverable in an equity Ponzi scheme),<sup>3</sup> the Trustee would pay those claims in full while disallowing the Receiver's Claim entirely, thereby leaving defrauded investors

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<sup>3</sup> The universal UFTA rule is that equity “investors may retain distributions from an entity engaged in a Ponzi scheme to the extent of their investments, while distributions exceeding their investments constitute fraudulent conveyances which may be recovered by the Trustee.” *In re Churchill Mortg. Inv. Corp.*, 256 B.R. 664, 682 (Bankr. S.D.N.Y. 2000).

who properly filed claims only in the Receivership, and who actually provided capital into the Debtor, without any recovery.

19. The bases for the Trustee’s objection to the Receiver’s Claim are: (a) the Receiver abandoned any claim to “any equity that might be derived from” the Clearwater property (Claim Obj. ¶ 25); (b) the Receiver is the “only truly [sic] unsecured claim” while the remaining “claims asserted in this case are investor claims [*i.e.*, equity]” (*id.* ¶ 28); and (c) it “makes no sense” to allow the Receiver to assert claims on behalf of defrauded investors and to allow the Receiver to potentially dilute the distributions paid to Clearwater investors by allowing the Receiver to distribute them as part of his distribution plan in the Receivership Case. *Id.* ¶ 31. Instead, the Trustee proposes to preferentially distribute Debtors’ assets to a subset of Dragul’s defrauded investors contrary to the principles of equity and the Bankruptcy Code.

#### **IV. The Receiver’s Claim should be allowed.**

##### **A. There is no equity.**

20. The primary basis for the Trustee’s Claim Objection is that the Receiver abandoned the Clearwater shopping center and the Receivership Court entered an order providing the Receiver has “no claim from any equity that might later be derived from” Clearwater. Claim Obj. ¶ 25. From this, the Trustee jumps to the

conclusion that the Receiver “is not entitled to *any* monies received from the liquidation of the Shopping Center.”<sup>4</sup> (Italics added).

21. But the Receiver is not seeking to share in any “equity.” While there are residual proceeds from the sale of the Clearwater shopping center and proceeds from settling a litigation claim in Debtors’ estates, there is no “equity.” The Clearwater entities were just components of Dragul’s multi-faceted, multi-property Ponzi scheme, which was insolvent from before Clearwater was acquired in 2015. It ignores reality to consider Clearwater on a standalone basis, and distribute the proceeds in the estate as if Clearwater had been a legitimate business.

22. The Receiver collapsed all of Dragul’s SPEs, including Clearwater, into a single entity, the Receivership Estate, with all returns to be paid through GDA. This was due to the vast commingling of funds among Dragul’s multiple entities – the worst the Receiver’s forensic accountants have ever seen – which makes it literally impossible to view the SPEs as separate entities: they weren’t. There were literally hundreds of thousands of commingling transactions whereby Dragul transferred funds out of SPE accounts (including Clearwater), into GDA accounts, from GDA accounts into his personal accounts, and then back out from his personal accounts to GDA accounts to the SPE accounts as necessary for quarterly reporting purposes, to

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<sup>4</sup> The Trustee does not, however, argue the Receiver is not entitled to share in funds derived from settling a breach of contract claim against LA Fitness, which was a Receivership asset that was not abandoned.

pay expenses, and to make distributions. As shown by **Exhibit 6**, millions flowed into and out of Clearwater to support Dragul's scheme and to fund his extravagant lifestyle, including gambling losses exceeding \$6.5 million. **Exhibit 5**, at 3-4, ¶¶ 16-18.

**B. The Trustee proposes to allow bogus claims; all recovery should be through the Receivership Estate.**

23. Other than a claim from the IRS for \$200.00, and claims submitted by the former lender, all of the remaining claims in the case which total \$6,070,418.88 (excluding the Receiver's), appear to be have filed by claimed equity investors in the Debtors.<sup>5</sup>

24. Examining the actual claims filed in this case demonstrates the nature of Dragul's fraud and underscores the Trustee's undisciplined and inequitable approach to treating claims. For example, Dragul's family members who benefited from Dragul's scheme have filed \$110,000 in claims,<sup>6</sup> but not one of them invested cash in Clearwater or either Debtor. Instead, Dragul "gifted" them interests and made "distributions" to them over time with cash contributed by other defrauded

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<sup>5</sup> Claim No. 12 by RSS WFCM 2015-LC22\_FL CC15, LLC was a claim by the former secured lender for approximately \$17 million. It has been paid by the Florida receiver and expunged. Dkt. No. 97.

<sup>6</sup> Claim No. 15, \$35,000, was filed by Dragul's mother-in-law. Claim No. 16, \$25,000, was filed by Dragul's daughter. Claim No. 22, \$25,000, was filed by one of Dragul's sons, and Claim No. 23, \$25,000, was filed by Dragul's other son.



investors. **Exhibit 5**, at 5, ¶ 24. Despite this, the Trustee has not objected to these bogus claims.

25. Dragul's close friend Chad Hurst – who Dragul appointed as Clearwater's manager (*see* Dkt. No. 29) – filed Claim Nos. 20 (\$250,000) and 21 (\$150,995.55) for a total of \$400,995.55. The latter for “legal and accounting expenses,” unsupported by any invoices or explanation. There is no basis for his claim to recover over \$143,000 in legal and \$7,000 in accounting fees. Hurst invested \$150,000 in GDA Clearwater 15, LLC. However, Dragul purportedly gave Hurst an additional 14.11% “profit interest” without Hurst providing any additional funds, or providing any additional economic benefit to the Clearwater shopping center or the Debtor, which significantly diluted the interests of other defrauded investors in the Debtor. **Exhibit 5**, at 5, ¶ 27. Between October 2015 and July 2018, Hurst received \$90,230.78 in distributions from the GDA Clearwater 15, LLC (which purportedly holds a 34.82% interest in the Debtor), which represents a return of 60% of his invested capital. This percentage is almost double the distributions paid to other Clearwater investors. On a cash-in, cash-out basis, Hurst's Clearwater loss is \$59,769.22, significantly less than the \$400,995.55 he claims and which the Trustee apparently intends to allow in full. *Id.*

26. William Detterer filed Claim No. 2 for \$200,000, which the Trustee proposes to allow in full. *See* Dkt. No. 317. But Detterer never invested in Clearwater. Instead, he purportedly invested \$100,000 in another SPE shopping center entity,

Southlake 07 A, LLC, before the underlying shopping center was purchased. Dragul then paid distributions to Detterer and other Southlake investors purportedly based on income generated by the non-existent shopping center. Detterer's Southlake investment was "rolled into" Crosspointe 08 A, LLC along with an additional \$36,567 Detterer deposited into Crosspointe, which Dragul inexplicably credited as if it had been invested in another unrelated entity, CP Loan, LLC. *See* Claim No. 2, at 5. Dragul didn't redeem Detterer's investments due to the overall enterprise's insolvency. Instead, in 2013, Dragul apparently convinced Detterer to invest another \$63,433 to buy part of Dragul's personal "equity interest" in Plainfield 09, LLC (for which Dragul had not paid anything), which was never contributed to the shopping center, and which Dragul simply pocketed. **Exhibit 5**, at 6, ¶ 28.

27. Dragul then again "rolled" Detterer's prior \$100,000 investment in Crosspointe and his \$36,567 investment in CP Loan into a membership interest in Plainfield 09 A, LLC. Claim No. 2, at 5. But Dragul had already actually sold/granted/gifted 194% of the membership interests in Plainfield 09 A, LLC in furtherance of his fraud and Detterer's purported rollover interest in Plainfield 09 further diluted other defrauded investors without any additional cash contributed by Detterer to either Debtor. *See* **Exhibit 2**, at 4, at 9, ¶ 11; **Exhibit 5**, at 6, ¶ 29. Detterer is one of the defrauded investors specifically identified in Dragul's second indictment for securities fraud. *Id.*

28. More confusingly, Detterer filed a claim in the Receivership, but not for any purported equity investment. Instead, Detterer's Receivership claim is for \$91,250 (not \$200,000) and is based on a judgment he obtained against GDA for failure to pay a \$121,000 promissory note. **Exhibit 7**. Nevertheless, the Trustee proposes allowing Mr. Detterer's entire \$200,000 claim in full, allocated incorrectly 82% to the Collection estate in which he holds no interest, and 18% to the Plainfield estate. *See* Dkt. No. 317.

29. A similar fact pattern underpins Claim No. 6 for \$170,400 filed by Southern Performance Group, Inc. ("**SPG**"). SPG filed a duplicate claim in the Plainfield case. The Trustee has objected only to the duplication of claims, but proposes to allow the claim in its full amount in Plainfield. *See* Dkt. No. 347. The Trustee has apparently accepted the claim (and all others in the case except for the Receiver's Claim) at face value. *See* Dkt. No. 321. But SPG did not invest directly in either of the Debtors. **Exhibit 5**, at 6, ¶¶ 30-31.

30. Instead in 2008, SPG (like Detterer) apparently invested \$50,000 in Crosspointe 08 A, LLC. In addition in 2009 and 2010, SPG invested \$25,000 in CP Loan, LLC, which was largely deposited into Crosspointe. *See* Claim No. 6, at 16. In 2009, SPG also invested \$20,000 into Plainfield 09 A, LLC, which was oversubscribed by 94%. *Id.*, & **Exhibit 2**, at 9, ¶ 11.

31. In 2013, Dragul induced SPG to purchase \$25,000 of Dragul's personal purported "equity interest" in Plainfield 09, LLC (for which Dragul had not paid any

cash), and then Dragul “rolled” SPG’s prior \$50,000 investment in Crosspointe and his \$25,000 investment in CP Loan into a membership interest in Plainfield 09 A, LLC. **Exhibit 5**, at 6, ¶ 30; *see also, e.g.*, Claim 6, at 19. Accepting the incorrect narrative attached to SPG’s claim, it received credit for \$120,000 into Plainfield 09 A, LLC, to which it adds “40% appreciation,” while failing to deduct the \$47,701.71 in distributions it received on its “investment.” *Id.* at 7, ¶ 31. Without vetting the claim at all, the Trustee nevertheless proposes to allow it for its full face amount of \$170,400, which would pay SPG an illusory 40% return. Dkt. No. 321.

32. Rockefeller’s Claim No. 7 for \$43,023.33 also includes “40% appreciation.” Rockefeller too apparently invested \$30,000 into Plainfield 09 A, LLC. His Claim No. 7, however, seeks to recover not only this \$30,000, but an additional 40% return, because “according to GDA, the value increased to \$42,023.33.” Claim No. 7, at 16. The Trustee proposes allowing Rockefeller’s Claim No. 7 in full without deducting the \$18,620.95 in distributions Rockefeller received which would reflect his cash-in, cash-out loss. Dkt. No. 323; *see Exhibit 4*. The Trustee is either not familiar with the depth of Dragul’s fraud or has ignored it. In attempting to treat Clearwater as a standalone legitimate business, and in proposing to allow investor claims in full and pay fictitious returns, the Trustee is ratifying and furthering Dragul’s fraud.

33. Not surprisingly, both Detterer and Rockefeller have filed claims with the Receivership Estate in an effort to recover their losses. *See Exhibits 7*, and *8*. In doing so, they like all other claimants in the Receivership, agreed to dismiss and not

file any suit or other proceeding in another forum without the Receiver's permission. See **Exhibit 7**, at 3. Yet they have done just that in pursuing claims separately in Debtors' bankruptcy cases.

34. The Trustee has objected to both the Detterer and Rockefeller claims, and several others on a limited bases: **Claim No. 2**, William Detterer; **Claim No. 3**, Gideon Lapp; **Claim No. 6**, Southern Performance Group, Inc.; **Claim No. 7**, Scott Rockefeller; **Claim No. 11**, Thomas McCaffrey; **Claim No. 14**, Laura Evans (by Dana Hushak of Greenleaf Trust); and **Claim No. 17**, David Haar. The objections relate solely to allocations between the two estates and do not consider the economic basis of the claims. The Trustee's objections miss the boat and fail to account for (and therefore further) Dragul's fraud.

35. The same is true for Gideon and Rhonda Lapp. Their Claim No. 3 is for \$100,000, based on their investment amount of \$100,000. The claim reflects they invested "with GDA" in 2013, which includes a 2009 \$50,000 investment in an entity called Syracuse Property 06, LLC, which like others, was "rolled over," – *i.e.*, gifted when Dragul failed to redeem their prior investment – and they were also induced to invest an additional \$50,000 in 2013 into the over-subscribed Plainfield 09, LLC. **Exhibit 9** (Lapp Receivership claim). The Trustee again fails to reduce the Lapps'

claim by the \$40,705.10 in distributions they received for their investments in Syracuse Property 06, LLC and the Debtor.<sup>7</sup>

36. The pattern repeats for McCaffery Claim No. 11 for \$50,000. McCaffrey too never invested in either Debtor or the Clearwater shopping center. Instead, in 2008 he invested \$50,000 in an entity called South Lake 07 A, LLC. Later in 2008, Dragul rolled that investment into Crosspointe 08 A, LLC. **Exhibit 11** (McCaffery Receivership claim). Again, Dragul was unable or unwilling to redeem that investment, and in 2013, Dragul rolled McCaffrey over into the over-subscribed Plainfield 09 A, LLC, without any additional cash investment.

37. Laura Evans filed Claim No. 14 for \$66,000 representing a \$50,000 principal investment plus “accrued interest” of 8% Here again, the Trustee only objects to the claim because it wasn’t allocated between Debtors’ two estates, not because it seeks to recover \$16,000 in fictitious profits. Nor does the Trustee object because Evans never invested cash in either Debtor or the Clearwater shopping center. Instead, Evans invested in a number of Dragul SPEs, going back at least to 2007, including Southlake 07 A, LLC. Her original \$100,000 investment in Southlake was rolled over in part into Plaza Mall of Georgia in 2009. **Exhibit 11** (Evans Receivership claim). Then it appears her “remaining” \$50,000 investment was rolled

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<sup>7</sup> Little wonder the Lapps would prefer the preference scheme the Trustee here seeks to effect, rather than the Receivership vetting of their claim and the Ponzi scheme approved methodology for distribution. *See* Dkt. No. 332.

over into Plainfield 09 A, LLC, again without any additional cash contribution. As indicated in Dragul's Second Indictment and Plea Agreement, **Exhibits 2 and 3**, Dragul subsequently sold Plaza Mall and pocketed the money without redeeming investors. The Trustee recognizes none of this and instead proposes to allow Evans's claim in full and pay an 8% return on a non-existent investment.

38. David and Darcea Haar filed Claim No. 17 in this case and Claim No. 12 in the Plainfield case, each for \$160,000. The Trustee objected only that the claims were duplicative, and proposes allowing a \$160,000 claim in full in the Collection case and expunging the Plainfield claim. Dkt. No. 355.<sup>8</sup> But the Trustee's proposed allocation is wrong and fails to consider the \$53,386.11 in cash distributions the Haars received. The Haars actually invested \$140,000 in the Debtor and received distributions of \$41,239.02 resulting in a net cash loss of \$98,760.98. The Haars also invested \$20,000 in Plainfield 09 A, LLC and received distributions of \$12,147.09 for a net cash loss of \$7,852.91 in that case. The Trustee has ignored both where their cash was invested and the distributions they received.

39. And finally, Martin Rosenbaum filed late Claim No. 24 for \$200,000. Although the Trustee objected to this as a late-filed claim, which the Court nevertheless allowed, he has not otherwise objected. The Rosenbaum claim is based

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<sup>8</sup> The Trustee misspells the Haars' names as "Harr" in his objection.

on an alleged \$100,000 cash contribution to GDA Clearwater 15, LLC, the remainder is based on a prior investment in GDA Digital Media. Claim 24-1. Again, the Trustee has not objected to the allowance of this \$100,000 rollover from another of Dragul's Ponzi scheme entities, nor has he proposed reducing the claim by the \$86,468.40 in distributions Rosenbaum received from Clearwater and GDA Digital Media. *See Exhibit 4.*

**C. The Estates' assets should be distributed equally among all of Dragul's defrauded investors.**

40. As shown on **Exhibit 4**, five investors who actually invested \$500,000 in cash into the Debtors have filed claims in the Receivership Action but not in Debtors' bankruptcy cases. These investors appropriately filed their claims exclusively in the Receivership Action, as required by their claim forms. *See, e.g., Exhibit 7*, at 3-4. Only one investor, Scott Friedman, has filed a claim (No. 18, for \$70,000) in this case but not in the Receivership Case. Similar to other investors, Friedman invested \$20,000 directly in to Clearwater, and received a credit of \$40,000 for his interest in Grandview 06 A, LLC, which itself was a "rollover" of a \$40,000 cash investment he made in CO Rockrimmon Investors, LLC in 2000. Friedman and the Trustee, however, both ignore the \$55,504.14 in distributions Friedman received from the Dragul scheme, accounting for which would result in a cash-in, cash-out loss of only \$4,495.86. *See Exhibit 4.*



41. If the Trustee's preference scheme were to be adopted by this Court (and the Receiver's Claim disallowed), these investors who suffered actual cash losses and properly filed claims only in the Receivership Case would receive nothing, while unsupported, gifted, and rollover claims submitted in Debtors' bankruptcy cases would apparently be allowed in full.

42. Detailed in **Exhibit 4**, and summarized below, claims filed in the Debtors' bankruptcy cases for equity positions in the Debtor total over \$6 million. However, when total net cash is considered these claims are reduced by 63% to \$2,223,498.85.

Claim No.	Claimant	Bankruptcy Claim Amount	Allowable Claim Amount
N/A	Fox, Alan	Transferred to Hagshama	\$2,380,018.93
8	Cofund V, LLC	\$1,200,000.00	(\$176,516.00)
9	Hagshama Florida 13 Clearwater, LLC	\$3,000,000.00	(\$531,290.00)
19	Dickey, William (Hilltoppers Capital)	\$100,000.00	\$68,061.51
5	Eisen, Robert and Jodi	\$100,000.00	\$68,992.34
17	Haar, David & Darcea	\$160,000.00	\$98,760.98
20 & 21	Hurst, Chad	\$400,995.55	\$59,769.22
4	Raabe, Andy (3G2B Partners)	\$100,000.00	\$68,682.07
24	Rosenbaum, Martin	\$200,000.00	\$113,531.60
7	Rockefeller IRA, Scott	\$43,023.33	\$0.00
6	Southern Performance Group, Inc. formerly MSHR	\$170,400.00	\$0.00
11	McCaffrey, Thomas	\$50,000.00	\$0.00
2	Detterer, William	\$200,000.00	\$0.00
3	Lapp, Gideon & Rhonda	\$100,000.00	\$0.00
14	Evans, Laura	\$66,000.00	\$0.00
3 (PF)	Eisen, Charles	\$100,000.00	\$68,992.34
18	Friedman, Scott	\$70,000.00	\$4,495.86
	Total Claim for Clearwater Collection 15, LLC Investors	\$6,060,418.88	\$2,223,498.85
	Percentage of Claim in Excess of Net Cash		63%

43. Bankruptcy courts are courts of equity. *E.g., Young v. United States*, 535 U.S. 43, 50 (2002). Here, Clearwater cannot equitably be treated as a standalone

entity. The extent of the commingling between the Clearwater entities and the many other entities Dragul employed in his Ponzi scheme, including funds used to purchase the Clearwater property and pay distributions, would make this inequitable and impossible. Doing so would in effect be imposing a constructive trust in favor of purported Clearwater investors when in fact Dragul's rolling over of prior investors into Clearwater, his overselling of interests in Plainfield, and his vast commingling of funds, including into and out of Clearwater, make it impossible to trace funds into Clearwater or to particular investors. *See, e.g., Sender v. Heggland Family Trust (In re Hedged-Investments Assocs., Inc.)*, 48 F.3d 470, 474 (10th Cir. 1995) (constructive trust cannot be imposed when it is impossible to trace investor funds due to commingling).

44. As articulated more a hundred years ago by the Supreme Court in the eponymous "Ponzi scheme" case, this case calls "strongly for the principle that equality is equity, and this is the spirit of the bankrupt law." *Cunningham v. Brown*, 265 U.S. 1, 13 (1924). Here as in *Brown*, all claimants in Debtors' bankruptcy cases and the Receivership Action are defrauded investors and it would be error to treat some as "equity" and prefer them over all other defrauded investors. *See id.* The purported investor claimants in this case are not "equity holders," and the Clearwater entities not separately cognizable entities. Clearwater is simply part of the Ponzi scheme, and the "equity" claimants in the case are defrauded creditors, not legitimate shareholders, since the entities were established as a conduit to further Dragul's

scheme. For example, although Dragul raised \$1,260,000 from investors through GDA Clearwater 15, LLC between June 26, 2015, and August 6, 2015, only \$100,000, can be traced directly to the purchase of the Clearwater property, which was used to fund an escrow account prior to closing. The remaining \$1,160,000 was transferred to GDA's bank account soon after receiving the funds and used to further Dragul's scheme. **Exhibit 5**, at 3, ¶ 13. To disallow the Receiver's Claim while allowing purported "equity" claims would inappropriately effect an obvious preference over all of Dragul's other defrauded investors who lost money in precisely the same fraudulent manner. *See, e.g., Jobin v. Youth Benefits Unlimited, Inc. (In re M & L Business Mach. Co.)*, 59 F.3d 1078, 1081 (10th Cir. 1995).

'It is hardly necessary to assert that the object of a bankrupt act, so far as creditors are concerned, is to secure equality of distribution among them of the property of the bankrupt—not among some of the creditors, but among all of them.' Such object is undermined where property fraudulently deprived from one party is repaid at the expense of others similarly situated.

*Id.* (citation omitted; quoting *Pirie v. Chicago Title & Trust Co.*, 182 U.S. 438, 449 (1901)); *see also Rollins v. Neilson (In re Cedar Funding, Inc.)*, 408 B.R. 299, 316 (Bankr. N.D. Cal. 2009) (absent the ability to trace funds, it is impossible to determine the relative merits of competing equitable claims and preferring one set of claimants over another "would be unfair and inconsistent with the Bankruptcy Code's strong policy in favor of treating all creditors equally."); *SEC v. Merrill Scott & Assocs., Ltd.*,

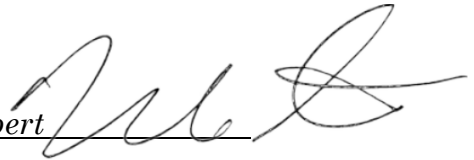
No. 2:02–CV–39–TC, 2009 WL 2984043, at \*8 (D. Utah Sept. 17, 2009) (“equity disfavors preferential treatment when the class of victims is essentially the same.”).

## V. Conclusion

Endorsing the Trustee’s allowance of “investor” claims and paying them fictitious profits while disallowing the Receiver’s Claim would place this Court’s imprimatur on Dragul’s fraudulent enterprise. The Receiver is in the best position to evaluate and allow claims against the Receivership Estate, which is where all investor claims should be paid, and not separately through Debtor’s bankruptcy estates. The Receiver respectfully asks this Court to deny the Trustee’s Claim Objection, allow the Receiver’s amended claims in full, and grant such further relief as the Court deems appropriate.

Dated: July 7, 2023.

**ALLEN VELLONE WOLF HELFRICH & FACTOR  
P.C.**

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**ATTORNEYS FOR THE RECEIVER**

### CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2023, I electronically filed the foregoing with the Clerk of the Court by using the Court's CM/ECF System which will send a Notice of Electronic Filing and copy to the following parties in compliance with the Federal Rules of Bankruptcy Procedure and the Court's Local Rules:

- Aaron A Garber [agarber@wgwc-law.com](mailto:agarber@wgwc-law.com), [ngarber@wgwc-law.com](mailto:ngarber@wgwc-law.com);
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- Brent R. Cohen, [bcohen@lewisroca.com](mailto:bcohen@lewisroca.com)
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All other parties in interest who have requested notice pursuant to the CM/ECF system.

*/s/ Lisa R. Kraai*

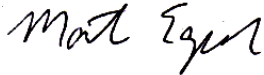
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Allen Vellone Wolf Helfrich & Factor P.C.

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 v. <b>Defendant(s)</b> GARY DRAGUL et al.	<b>DATE FILED:</b> August 30, 2018 8:27 AM <b>CASE NUMBER:</b> 2018CV33011
<b>△ COURT USE ONLY △</b>	
Case Number: 2018CV33011 Division: 424      Courtroom:	
<b>Order: (Proposed) Stipulated Order Appointing Receiver also filed on behalf of Defendants Gary Dragul and GDA Real Estate Service, and GDA Real Estate Management LLC)</b>	

The motion/proposed order attached hereto: SO ORDERED.

Issue Date: 8/30/2018



MARTIN FOSTER EGELHOFF  
District Court Judge

<p>DISTRICT COURT, DENVER COUNTY, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p> <hr/> <p>GERALD ROME, Securities Commissioner for the State of Colorado,</p> <p>Plaintiff,</p> <p>v.</p> <p>GARY DRAGUL, GDA REAL ESTATE SERVICES, LLC, and GDA REAL ESTATE MANAGEMENT, LLC</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>BY THE COURT</p>	<p>Case No.: 2018 CV 33011</p> <p>Courtroom: 424</p>
<p><b>STIPULATED ORDER APPOINTING RECEIVER</b></p>	

THIS MATTER having come before this Court on the Stipulated Motion to Appoint Receiver (the “Motion”) filed by the Plaintiff Gerald Rome, Securities Commissioner for the State of Colorado and Defendants Gary Dragul (“Dragul”), GDA Real Estate Services, LLC (“GDARES”), and GDA Real Estate Management, Inc. (“GDAREM”), and the Court, being otherwise fully advised in the premises,

HEREBY FINDS:

1. The Court has jurisdiction and venue is proper pursuant to C.R.C.P. 98(a).
2. Dragul is an individual and a resident of Colorado, and the manager of

GDARES and GDAREM, among other businesses.

3. GDARES is a Colorado limited liability company with its principal place of business at 5690 DTC Blvd., Suite 515, Greenwood Village, Colorado 80111.

4. GDAREM is a Colorado corporation with its principal place of business at 5690 DTC Blvd., Suite 515, Greenwood Village, Colorado 80111.

5. The Parties have stipulated to the appointment of a Receiver without bond or other security for Dragul, GDARES, and GDAREM, as well as for their respective properties and assets, and interests and management rights in related affiliated and subsidiary businesses as set forth herein.

6. The appointment of a receiver is reasonable and necessary for the protection of the assets and the rights of the parties in this case. Based on the standards set forth in C.R.C.P. 66 and case law thereunder, the Parties have stipulated that the Commissioner is entitled to entry of this Order.

7. Nothing in this stipulated Order shall be deemed an admission by Dragul to any allegations or as a waiver of any defenses thereto or limit Dragul's 4th, 5th, or 6th Amendment rights or other Constitutional and statutory protections and privileges afforded to any criminal defendant, or prevent him from invoking such rights in his personal capacity. Nothing in this Order operates as a waiver or an abrogation of the attorney-client privilege held by Dragul in his personal capacity.

8. Harvey Sender of Sender & Smiley LLC, has been determined to be suitable to serve as Receiver for Dragul (as such term is defined below in this



Order), GDARES and GDAREM, as set forth in this Order. Mr. Sender's business address is 600 17<sup>th</sup> Street, Suite 2800, Denver, Colorado 80202.

IT IS THEREFORE ORDERED THAT:

9. Harvey Sender ("the Receiver") is hereby appointed as Receiver for Dragul (limited to the definition of the "Receivership Property" or "Receivership Estate" as defined herein), GDARES, GDAREM, and all of their assets, including, but not limited to, all real and personal property, including tangible and intangible assets, their interests in any subsidiaries or related companies, management and control rights, claims, and causes of action, wherever located, including without limitation the "LLC Entities" identified in the Commissioner's Motion and Complaint for Injunctive and Other Relief, or assets (including those of Dragul) of any kind or of any nature whatsoever related in any manner, or directly or indirectly derived, from investor funds from the solicitation or sale of securities as described in the Complaint, or derived indirectly or indirectly from investor funds (the "Receivership Property," and altogether this "Receivership Estate"). Except that the personal residence of Dragul, located at 10 Cherry Vale Drive, Englewood, Colorado 80113, shall not be considered "Receivership Property" or part of the "Receivership Estate," unless the Receiver determines that an improvement to or increase in equity in such residence is directly related to the proceeds from the sale of the securities or matters referenced in the Complaint, in which case the improvements or equity shall be considered "Receivership Property" or part of the "Receivership Estate." Consistent with

Colorado's dissolution statutes and applicable law, and as set forth in greater detail below, the Receiver may, in the exercise of his reasonable judgment, investigate any claims and causes of action which may be pursued for the benefit of Dragul, GDARES, GDAREM, their creditors, members, and equity holders, and make recommendations to interested parties and this Court regarding the prosecution of any such claims and causes of action; establish a process for the assertion of claims against the Receivership Estate; make recommendations to this Court for the allowance and payment of such claims; and investigate and make recommendations to this Court for the ongoing operation, sale or distribution of any remaining Receivership Property, or the proceeds thereof, pursuant to the terms hereof.

10. Dragul, GDARES, and GDAREM, and all persons in active participation them, including without limitation, their officers and directors, partners, managers, employees, agents, representatives, attorneys, accountants, banks, contractors, subcontractors, and all who claim under them (collectively, the "Representatives"), are hereby ordered to deliver immediately to the Receiver or his agents all of the Receivership Property and to fully cooperate with the Receiver including, but not limited to, providing the Receiver all reasonably requested documents, records, bank accounts, trust accounts, deposit accounts, savings accounts, money market accounts, and all other demand deposit accounts, inventory, supplies, contracts, accounts receivable, computer databases, sales and marketing materials; together with stock certificates or other indicia of

ownership of any subsidiaries or related companies, and any and all reasonably requested documents, records, bank accounts, trust accounts, deposit accounts, savings accounts, money market accounts, and all other demand deposit accounts, inventory, supplies, contracts, accounts receivable, computer databases, sales and marketing materials, related to the operation of any subsidiaries or related companies. Dragul, GDARES, and GDAREM and their Representatives, when necessary or when requested (subject to Dragul's Constitutional protections, including the Fifth Amendment), shall explain the operation, maintenance and management of the Receivership Property, including any subsidiaries or related entities or companies, to the Receiver or his agents, without compensation therefor. Any claims for nonpayment for services shall not be used as a defense to turning over Receivership Property. All privileges in connection with professional representation of GDARES and GDAREM shall accrue to the sole benefit of the Receiver and the Receivership Estate and may only be waived by the Receiver, except that Dragul maintains all such privileges in his personal capacity. The Receiver may request supplemental authority from this Court upon proper motion, if necessary, to obtain the cooperation of any Representatives or any other foregoing persons acting on behalf of or for Dragul, GDARES and GDAREM, to comply fully and completely with this Order.

11. Any creditors of Dragul, GDARES or GDAREM that are in the possession of, or have taken any action to seize any books, records, or assets of the Receivership Estate (hereinafter called "Creditors") and all persons in active

participation with such Creditors, including without limitation, such Creditors' officers, managers, members, employees, agents, representatives, attorneys, accountants, banks, contractors, subcontractors, and all who claim under them (hereafter called "Creditors' Representatives") are hereby ordered to deliver immediately to the Receiver all of the Receivership Property in such Creditors' or Creditors' Representatives' possession, and to fully cooperate with the Receiver in connection with such turnover. Any claims against Dragul, GDARES or GDAREM shall not be used as a defense to turning over as set forth in this paragraph. The Receiver may request supplemental authority from this Court upon proper motion, if necessary, to obtain the cooperation of Creditors or Creditors' Representatives or any other foregoing persons acting on behalf of or for the Creditors to comply fully and completely with this Order.

12. If the Receiver determines, after reasonable inquiry that a person or entity is in violation of the turnover provisions set forth in Paragraphs 9 and 10 of this Order, the Receiver is instructed to give written notice thereof to the person or entity violating such provisions, with a copy of this Order attached, demanding turnover of such Receivership Property. If the person or entity in possession fails or refuses to turn over the Receivership Property after receiving notice, the Receiver shall file a Request for an Order to Show Cause with this Court.

13. The Receiver shall have all the powers and authority usually held by equity receivers and reasonably necessary to accomplish the purposes stated

herein, including, but not limited to, the following powers which the Receiver may execute without further order of this Court, except as expressly provided herein:

(a) To take from Dragul's, GDARES' and GDAREM's Representatives, and all persons acting in participation with Dragul, GDARES and GDAREM, and from Creditors and Creditors' Representatives, immediate possession and control of all of the assets of Dragul, GDARES and GDAREM, including the Receivership Property, to the exclusion of Dragul, GDARES and GDAREM, and their Representatives or all persons acting in participation with Dragul, GDARES and GDAREM, and Creditors and Creditors' Representatives;

(b) To exercise such control over all subsidiaries and related companies owned or managed by Dragul, GDARES and GDAREM, consistent with the governance documents or operating agreements applicable to the subsidiaries and related companies, including to exercise all rights of Dragul, GDARES and GDAREM to elect new officers, directors, or management of the subsidiaries and related companies, in their respective capacities and not as an assignee;

(c) To take charge of the subject Receivership Property, regardless of where such property is located, including, but not limited to, bank accounts, cash, checks, drafts, notes, security deposits, bonds, books, records, contracts, claims, leases, files, furniture, certificates, licenses, fixtures and equipment, property located in any real property either owned or leased by Dragul, GDARES and GDAREM and any personal property located in storage facilities;

(d) As appropriate, to take possession of offices of Dragul, GDARES

and GDAREM and to change any and all locks on such offices and to limit access to such offices to the Receiver and his agents, subject to any privileges maintained by Dragul in his personal capacity;

(e) To collect in a timely fashion all accounts receivable and other obligations due to Dragul, GDARES and GDAREM, including, as necessary to negotiate and deposit checks made payable to them into accounts maintained by the Receiver and as necessary to review mail directed to Dragul, GDARES and GDAREM and their Representatives in order to collect incoming accounts receivable and other obligations due and owing to Dragul, GDARES and GDAREM;

(f) To contract for and obtain such services as utilities, supplies, equipment and goods as is reasonably necessary to manage, preserve, and protect the Receivership Property as the Receiver may reasonably deem necessary; however, no contract shall extend beyond the termination of the Receivership without the permission of the Court;

(g) To obtain, review and analyze Dragul, GDARES and GDAREM books and records relating to the Receivership Property, including without limitation accounting records, banking records, tax records, and any other books or documents necessary to perform the duties of the Receiver;

(h) To pay, at the Receiver's discretion, any obligations incurred by Dragul, GDARES and GDAREM prior to the appointment of the Receiver that are deemed by the Receiver to be necessary or advisable for the preservation or protection of the Receivership Property;

(i) To borrow from third parties on such reasonable terms as may be acceptable to the Receiver, such funds that may be required for the fulfillment of the Receiver's obligations hereunder, and to meet the needs of the Receivership Estate in excess of the income from the Receivership Estate. The Receiver may issue Receiver's Certificates secured by all assets of the Receivership Estate, including, but not limited to, all claims on insurance policies, surety bonds, and similar assets of the Receivership Estate, in exchange for funds advanced during the term of this receivership, and such Receiver Certificates shall be a first and prior lien and preference claim upon the Receivership Property or a portion of it at the Receiver's election;

(j) To open and maintain accounts at a financial institution insured by the federal government in the name of the Receiver and to deposit all sums received by the Receiver into such account and to make such withdrawals as are necessary to pay the reasonable costs and expenses incurred by the Receiver;

(k) To exercise all rights of an owner incidental to the ownership of the Receivership Property;

(l) 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 companies affiliated with the Receiver, or other third parties to assist the Receiver in the performance of its duties hereunder, all within the Receiver's discretion;

(m) In the Receiver's discretion as appropriate, to hire and pay employees with the necessary skills and experience to operate GDARES and GDAREM efficiently and with least amount of cost or expense, and to preserve the assets of GDARES and GDAREM and the Receivership Estate.

(n) After consultation with the Commissioner and agreement on the amount and funding of a budget related thereto, to institute such legal actions as the Receiver deems reasonably necessary, including actions necessary to enforce this Order to protect the Receivership Property, and to prosecute causes of action of Dragul, GDARES and GDAREM against third parties in this or any other jurisdictions, including foreign countries;

(o) After consultation with the Commissioner and agreement on the amount and funding of a budget related to anticipated out of pocket expenses related thereto, to retain special counsel, and other professionals as needed, on a contingency fee basis containing commercially reasonable terms, as determined by the Receiver in the exercise of his reasonable business judgment, to recover possession of the Receivership Property from any persons who may now or in the future be wrongfully possessing Receivership Property or any part thereof, including claims premised on fraudulent transfer or similar theories, in this or any other jurisdictions, including foreign countries;

(p) To notify any and all insurers under insurance policies and issuers of surety bonds affecting the Receivership Property of the pendency of these proceedings, and that any proceeds paid under any such insurance policy or surety



bond shall be paid to the Receiver to be administered for the benefit of all creditors of Dragul, GDARES and GDAREM;

(q) To pay, at the Receiver's discretion, any obligations incurred by Dragul, GDARES and GDAREM prior to the appointment of the Receiver that are deemed by the Receiver to be necessary or advisable for the preservation or protection of the Receivership Property;

(r) To notify and make demands on any insurers under insurance policies and issuers of any such policies or surety bonds affecting Receivership Property for the turnover and payment of proceeds to the Receiver for the benefit of Creditors, and as necessary, and after consultation with Plaintiffs and agreement on the amount and funding of a budget related thereto, commence litigation against such insurers and/or sureties in order to recover the proceeds of such insurance policies and surety bonds for the benefit of Dragul, GDARES and GDAREM and their creditors; and further provided that, in connection with any such claims or causes of action, the Receiver shall not be deemed to be asserting claims of Dragul, GDARES and GDAREM pursuant to any "insured vs. insured" exclusions that may be set forth in such insurance policies or surety bonds, but rather shall, in accordance with subparagraph (p) below, be deemed to be prosecuting claims of creditors of Dragul, GDARES and GDAREM in connection therewith;

(s) To prosecute claims and causes of actions held by Creditors of Dragul, GDARES and GDAREM, and any subsidiary entities for the benefit of

Creditors, in order to assure the equal treatment of all similarly situated Creditors:

(t) In the Receiver's discretion as appropriate, to consider the potential sale of assets of Dragul, GARDES, and GARDEM to a third-party or to sell or otherwise dispose of any personal property of the Receivership Estate, provided that Court approval shall not be required of any sale or disposition of any property being sold for a sales price of less than \$10,000;

(u) To establish a procedure for the assertion of claims against Dragul, GDARES and GDAREM or the Receivership Property, for the resolution of any disputes regarding such claims, and for the distribution of the proceeds of the Receivership Property;

(v) To issue subpoenas, institute, prosecute, defend, compromise, or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection, preservation and maintenance of the Receivership Assets or proceeds therefrom;

(w) To do such other and further lawful acts as the Receiver reasonably deems necessary for the effective recovery of the Receivership Property, and to perform such other functions and duties as may from time to time be required and authorized by this Court, by the laws of the State of Colorado, or the laws of the United States; and

(x) To do any and all acts necessary, convenient or incidental to the foregoing provisions of this Order and this equity receivership.

14. The Receiver is further directed to review the books and records of Dragul, GDARES and GDAREM, to account for receipts and disbursements of their funds, and to provide a report and accounting of their operations, for a period of time determined by the Receiver to be reasonable under the circumstances, to this Court and to the Commissioner, and any parties that have filed an entry of appearance herein. An initial report shall be filed with the Court within ninety (90) days of entry of this Order. In such report, the Receiver shall identify any claims and causes of action of Dragul, GDARES and GDAREM, identified as of the date of such report, including under insurance policies, on surety bonds, against any of their representatives or third parties, or arising under the Uniform Fraudulent Transfer Act, or any similar statute; and the Receiver's recommendations related thereto. The Receiver shall be authorized to act on his recommendations upon agreement with the Commissioner regarding budgets related to the prosecution thereof, and funding of such litigation, as set forth in this Order.

15. To the extent they have not already done so, Dragul, GDARES and GDAREM and their representatives, Creditors, and Creditors' Representatives, and their agents, are ordered to deliver over immediately to the Receiver, or his agents, all Receivership Property, including, but not limited to, unpaid bills, bank accounts, cash, checks, drafts, notes, security deposits, books, records, contracts, claims, leases, deeds, files, furniture, certificates, licenses, fixtures, escrow, sales contracts, equipment, and stock certificates or other evidence of ownership related to the Subsidiaries, relating to the Receivership Property and shall continue to

deliver immediately to the Receiver any such property received at any time in the future.

16. Any parties holding claims against Dragul, GDARES and GDAREM or the Receivership Estate shall not be entitled to participate as creditors in the distribution of recoveries from the Receiver's administration of the Receivership Estate and collection and liquidation of the assets thereof, unless such parties: (I) agree not to file or prosecute independent claims such parties may have (a) on insurance policies and surety bonds issued in connection with Dragul, GDARES and GDAREM operations, or (b) against Dragul, GDARES and GDAREM or any of their Representatives, and (II) promptly dismiss any lawsuits currently pending in connection therewith.

17. If necessary, the Receiver may request of this Court letters rogatory or commissions or supplemental orders as necessary to require out-of-state directors, officers, employees, agents, representatives, managers, attorneys, accountants, banks, contractors, or any other person acting in t participation with Dragul, GDARES and GDAREM and their Representatives, through the appropriate court of appropriate jurisdiction, to comply with any of the Orders of this Court.

18. The Receiver shall be compensated for his services at the rate of \$400 per hour, together with reimbursement for all reasonable costs and expenses incurred in connection with his duties, which compensation and reimbursement shall be paid from the assets of the Receivership Estate, proceeds of the disposition of Receivership Property, or the proceeds of loans secured by the Receiver.

19. Except as may be expressly authorized by the Court, Dragul, GDARES and GDAREM and all persons in active participation them, including without limitation, their officers and directors, partners, managers, employees, agents, representatives, attorneys, accountants, banks, contractors, subcontractors, and all who claim under them, are enjoined from:

- (a) Collecting any revenues from the Receivership Property, or withdrawing funds from any bank or other depository account relating to the Receivership Property;
- (b) Binding, or purporting to bind, Dragul, GDARES and GDAREM or the Receivership Estate, to any contract or other obligation;
- (c) Holding themselves out as, or acting or attempting to take any and all actions of any kind or nature as Representatives of Dragul, GDARES and GDAREM, or subsidiary entities they own or control, or in any other purported capacity, except with the permission of the Receiver or by further order of this Court; and
- (d) Otherwise interfering with the operation of the Receivership Property, or the Receiver's discharge of his duties hereunder.

20. Upon receipt of a copy of this Order, or upon actual knowledge of the entry of this Order, any other person or business entity shall also be bound by this Order.

21. Should the Receiver determine that tax returns were not filed for periods prior to the entry of this Order for which tax returns were required of

Dragul, GDARES and GDAREM, as funds are available in the Receivership Estate, the Receiver shall use reasonable efforts to have prepared and filed tax returns for any missing periods prior to the entry of this Order. To the extent it is determined that any outstanding tax obligations are due to the Internal Revenue Service, the Colorado Department of Revenue, or any other taxing authorities for any period of time prior to the entry of this Order, such taxes shall be paid, as funds are available in the Receivership Estate. The Receiver shall not be considered a responsible person, or otherwise have any personal liability, for any unpaid tax obligations of Dragul, GDARES and GDAREM (including for any trust fund taxes, such as payroll or sales tax) withheld but not paid to the proper taxing authority for any period prior to the entry of this Order. The Receiver shall file tax returns for periods commencing on the date of the entry of this Order through completion of the dissolution of Dragul, GDARES and GDAREM and discharge of the Receiver, as required by applicable federal, state, or local law.

22. The Receiver is directed and empowered to apply revenues, incomes and sales proceeds collected by the Receiver:

(a) First, to payment of costs and expenses of the Receivership Estate, and including the costs and expenses of preserving and liquidating the Receivership Property, taxes incurred from the appointment of the Receiver through the conclusion of the Receivership Proceeding and discharge of the Receiver, and to compensation due the Receiver and any employees, consultants, or professionals retained by the Receiver or employed by the Receiver to operate

GDARES or GDAREM;

(b) Second, to the payment of any outstanding Receiver's

Certificates;

(c) Third, to creditors holding obligations secured by the Receivership Property, in the order of their priority of record;

(d) Fourth, to the payment of any unsecured tax obligations determined to be due for periods prior to the entry of this Order, pursuant to the tax filing obligations imposed on the Receiver;

(e) Fifth, to the payment of unsecured creditors determined to hold legitimate claims against Dragul, GDARES and GDAREM pursuant to the claims administration procedure adopted by the Receiver, in their legal order of priority; and

(f) Sixth, to the preferred and common partners, members, or other equity interest holders of Dragul, GDARES and GDAREM, as their rights are defined in their governing documents, with the exception of any rights or interests held or owned by or for the benefit of Dragul, GDARES or GDAREM, or any insiders or related parties, with all such rights or interests to be determined by the Court.

23. The debts or liabilities incurred by the Receiver in the course of his operation and management of the Receivership Property, whether in the Receiver's name or in the name of the Receivership Property, shall be the debts and

obligations of the Receivership Estate only, and not of the Receiver in a personal capacity.

24. The Receiver shall enjoy and have the judicial immunity usually applicable to receivers in law and equity. All who are acting, or have acted, on behalf of the Receiver at the request of the Receiver are protected and privileged with the same judicial immunity as the Receiver has under this Order.

25. Nothing herein contained shall be construed as interfering with or invalidating any lawful lien or claim by any person or entity.

26. It is further Ordered that all actions in equity or at law against the Receiver, Dragul, GDARES and GDAREM, or the Receivership Estate are hereby enjoined (and any actions already pending are hereby stayed), pending further action by this Court. The Receiver is instructed to file a request for an Order to Show Cause if any business, entity, or person commences or continues the prosecution of any action in any other court seeking relief in equity or at law against the Receiver, Dragul, GDARES and GDAREM or the Receivership Estate without first seeking relief from this stay of proceedings.

27. The Receiver shall continue in possession of the Receivership Property until the completion of the disposition of this litigation which may anticipate the wind-up of the affairs of Dragul, GDARES and GDAREM.

28. Dragul, GDARES and GDAREM, and their Representatives, or anyone else in possession of records related to the Receivership Property, shall respond in a timely fashion to requests and inquiries from the Receiver concerning



such records, record keeping protocols, filing systems, information sources, algorithms and processes used to store, compile, organize, or manipulate data, and similar matters. With respect to any information or records stored in computer-readable form or located on computers Dragul, GDARES and GDAREM, and their Representatives, the person in possession of such information or records shall provide the Receiver full access to all media on which such records are located and all computers and the necessary application, system, and other software necessary to review, understand, print, and otherwise deal with such computerized records and all passwords and security codes necessary to access such computerized records, regardless of whether such records are separate or commingled with other information, except that information subject to the attorney-client privilege held by Dragul in his personal capacity shall remain privileged. Any such claimed privileged information, or information that may reasonably be considered to be privileged information, obtained by Receiver or commingled with other information shall be disgorged by the Receiver and notice given to Dragul regarding the privileged information and its disposition by the Receiver. In the event that the Receiver questions or disputes that any such information is privileged, the dispute shall be submitted to the Court, together with the disputed information for in camera review.

29. The Receiver may at any time, on proper and sufficient notice to all parties who have appeared in this action, apply to this Court for further

instructions whenever such instructions shall be deemed to be necessary to enable the Receiver to perform the duties of his office properly.

30. Notwithstanding anything to the contrary contained in this Order, the Receiver shall not take any action with regard to ownership, operation, control, storage, generation, or disposal of (a) any substance deemed a "hazardous substance", "pollutant," "contaminant", or similar substance under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675, the Conservation and Recovery Act of 1976, the Solid Waste Amendments of 1984, the Superfund Amendments and Reauthorization Act of 1986, and any other amendments; or (b) any other chemical, toxin, pollutant or substance defined as hazardous or dangerous to human health under any other federal, state or local law, regulation, rule or ordinance, including, without limitation thereto, petroleum, crude oil, or any fraction thereof (all collectively referred to herein as "Hazardous Substances"), without first applying for an obtaining an Order of this Court specifically setting forth the action or actions proposed to be taken and to be taken by the Receiver. Without first applying for and obtaining such an Order of this Court, the Receiver shall have no ownership, control, authority or power (neither shall receiver have any obligation to exercise ownership, control, authorize or power) over the operation, storage, generation or disposal of any Hazardous Substance. All decisions relating to the ownership, operation, control, storage, generation and disposal of any Hazardous Substances shall be resolved by this Court.

31. The Receiver shall take appropriate action as necessary with respect to the January 20, 2015 "CDPHE Stipulation and Order," as defined and with background provided in the Motion Appointing Receiver.

32. Pursuant to C.R.C.P. 66(d)(3), the Receiver shall provide written notice of this action and entry of this Order to any persons in possession of Receivership Property or otherwise affected by this Order, including all known Creditors of Dragul, GDARES and GDAREM, subsidiaries and any their respective Representatives.

33. After the initial report required pursuant to this Order, the Receiver shall make periodic reports of the condition of the Receivership Estate on intervals to be agreed to by the Receiver and the Commissioner as is reasonably necessary to provide timely reporting of the operations of the Receivership Estate to all interested parties, without imposing undue burden and expense on the Receivership Estate. The Receiver shall not be required to, but as reasonably necessary, may follow generally accepted accounting principles or use auditors or accountants in the preparation of his reports to the Court.

34. Court approval of any motion filed by the Receiver shall be given as a matter of course, unless any party objects to the request for Court approval within ten (10) days after service by the Receiver or written notice of such request. Service of motions by facsimile and electronic transmission is acceptable.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this action for all purposes. The Receiver is hereby authorized, empowered and

directed to apply to this Court, with notice to the Commissioner for issuance of such other Orders as may be necessary and appropriate in order to carry out the mandate of this Court.

IT IS FURTHER ORDERED that this Order shall be effective immediately and will remain in effect until terminated or modified by further Order of this Court.

DATED this \_\_\_\_\_ day of August, 2018.

BY THE COURT:

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MARTIN F. EGELHOFF  
Denver District Court Judge

Attachment to Order - 2018CV32011

DISTRICT COURT, COUNTY OF ARAPAHOE, COLORADO  7325 S. Potomac Street Centennial, CO 80112	DATE FILED: March 1, 2019 12:11 PM FILING ID: 74697383BB119 CASE NUMBER: 2019CR610
PEOPLE OF THE STATE OF COLORADO, Plaintiff,  v.  GARY JULE DRAGUL, DOB 05/07/1962, Defendant.	▲ COURT USE ONLY ▲
PHILIP J. WEISER, Attorney General DANIEL A. PIETRAGALLO, 41794 * Senior Assistant Attorney General MICHAEL J. BELLIPANNI #24421 * Senior Assistant Attorney General 1300 Broadway, 9 <sup>th</sup> Floor Denver, CO 80203 (720) 508-6698; (720) 508-6699 *Counsel of Record	Case No.: 19CR610  Div.: 407
<b>COLORADO STATE GRAND JURY INDICTMENT</b>	

- COUNT ONE: SECURITIES FRAUD, §§ 11-51-501(1)(c) and 11-51-603(1), C.R.S. (Class 3 Felony) {50053} {as to Plainfield}
- COUNT TWO: SECURITIES FRAUD, §§ 11-51-501(1)(b) and 11-51-603(1), C.R.S. (Class 3 Felony) {50052} {as to Scott Rockefeller}
- COUNT THREE: SECURITIES FRAUD, §§ 11-51-501(1)(b) and 11-51-603(1), C.R.S. (Class 3 Felony) {50052} {as to Philip Vineyard}
- COUNT FOUR: SECURITIES FRAUD, §§ 11-51-501(1)(b) and 11-51-603(1), C.R.S. (Class 3 Felony) {50052} {as to William Detterer}
- COUNT FIVE: SECURITIES FRAUD, §§ 11-51-501(1)(c) and 11-51-603(1), C.R.S. (Class 3 Felony) {50053} {as to Plaza Mall of Georgia North}

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO  1437 Bannock Street Denver, CO 80202	<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 MICHAEL J. BELLIPANNI #24421 * Senior Assistant Attorney General 1300 Broadway, 9 <sup>th</sup> Floor Denver, CO 80203 (720) 508-6000 * Counsel Of Record	Case No.: 2018CR001  Ct. Rm. 259
<b>COLORADO STATE GRAND JURY INDICTMENT</b>	

Of the 2018-2019 term of the City and County of Denver Court in the year 2019, the 2018-2019 Colorado State Grand Jurors, chosen, selected and sworn in the name and by the authority of the People of the State of Colorado, upon their oaths, present the following:

### ESSENTIAL FACTS

Gary Jule Dragul (hereafter DRAGUL) is the president of and registered agent for GDA Real Estate Services, LLC, a Colorado company located in Arapahoe County, Colorado. At all times relevant herein, DRAGUL managed GDA Real Estate Services, LLC (hereafter referred to as GDA). GDA's primary business is to take investor money and derive profit from organizing and establishing limited liability companies (LLC's) that purchase and manage commercial shopping centers and other commercial real estate ventures. DRAGUL and GDA would offer investors membership interests in these LLC's, with the expectation that the investors would profit from the future stream of income, as well as the potential future appreciation of the property. Many of these investment opportunities resulted in significant losses to the investors.

Despite being considered securities, which required registration with the Securities Exchange Commission and the Colorado Division of Securities, DRAGUL failed to register any of the LLC's and was never licensed to sell securities.

As part of the investigation by the Colorado Division of Securities, DRAGUL and GDA provided copies of business records, including but not limited to: general ledgers, balance sheets, income statements, offering documents, purchase agreements, emails, and copies of promissory notes. Based on a review of the GDA general ledger and other GDA business documents, it appears that GDA accrued millions of dollars in unsecured debt related to promissory notes in 2008 and 2013. Despite carrying substantial amounts of unsecured debt and struggling to meet operating costs, DRAGUL and GDA failed to disclose this material fact when soliciting subsequent investments.

On or about June 16, 2016, in response to an administrative subpoena issued by the Colorado Division of Securities as part of their investigation, DRAGUL and GDA began producing documents related to GDA's business operations, including Plainfield 09A, LLC. It was on or after June 16, 2016 that the State became aware that DRAGUL was engaging in a course of business which acted as a fraud upon investors.

The LLC's established by DRAGUL and GDA constitute joint ventures, which are considered "securities" pursuant to § 11-51-201 (17) C.R.S. Accordingly, such investments are subject to the provisions of the Colorado Securities Act.

In soliciting the investment contracts, DRAGUL made material, untrue statements and omissions of material facts, including but not limited to the following:

- DRAGUL and GDA failed to disclose that they would sell/assign over 100% of the total membership interests in Plainfield 09A, LLC and the Plainfield Commons Shopping Center.
- DRAGUL and GDA failed to disclose the actual risk associated with investments.
- DRAGUL and GDA failed to disclose the actual financial condition and substantial debt of GDA.

- DRAGUL and GDA failed to disclose that investor funds would be deposited into DRAGUL's personal bank account or other unrelated GDA investment accounts.
- DRAGUL and GDA failed to disclose that investor funds would be comingled with other investment accounts.
- DRAGUL and GDA failed to disclose that they would engage in a course of business which diluted the value of membership interests.

The criminal charges alleged herein involve two specific LLC offerings, both commercial shopping center joint ventures.

Between 2009 and 2014, DRAGUL and GDA solicited and received investment funds in Plainfield 09A, LLC and the Plainfield Commons Shopping Center (hereafter PLAINFIELD), which is located at 2663 E. Main Street, Plainfield, Indiana 46168. DRAGUL and GDA engaged in a course of business that operated as a fraud upon investors, by failing to disclose that they would sell over 194% of the membership interest in PLAINFIELD.

Between 2008 and 2016, DRAGUL and GDA solicited and received investor funds related to Plaza Mall North 08A Junior, LLC; a commercial shopping center located at 3410 & 3420 Buford Drive, Buford, GA 30519, and commonly known as Plaza Mall of Georgia North (hereafter PGN). DRAGUL and GDA engaged in a course of business that operated as a fraud upon investors, by failing to disclose the sale of the underlying PGN property to investors and failing to repay investor principal or appreciation, despite selling the property for a profit of \$6 million. DRAGUL and GDA also failed to disclose that they would pay themselves and business associates substantial commissions related to the sale of PGN.

In order to solicit investments in Plainfield and PGN, DRAGUL used an unregistered promoter from North Carolina named Marlin Hershey to recruit investors. He represented that DRAGUL and GDA were very successful and that DRAGUL was worth millions of dollars. Hershey was paid a commission for finding investors for GDA joint ventures. Hershey recruited a number of investors from Pennsylvania, North Carolina, Florida, and Texas. DRAGUL and GDA failed to repay many out-of-state investors that were recruited by Marlin Hershey.

Additionally, DRAGUL and GDA engaged in a course of business that involved comingling funds from numerous LLC accounts in order to make payments related to GDA's operating costs. Specifically, a review of the general ledger, balance sheets, bank account statements, and emails indicates that DRAGUL was transferring money from various LLC's and listing the debt as notes payable to those entities in the GDA general ledger. This appears to be a regular business practice.

DRAGUL also misappropriated investor funds for personal use by diverting substantial amounts of money to personal accounts.



DRAGUL and GDA continued the acts, practices and course of business designed to defraud investors through, and during 2017-2018. After obtaining investor funds, DRAGUL and GDA continued to solicit, accept, and hold investor funds, knowing that they could not generate the promised returns. DRAGUL used investor funds to pay personal expenses and continued to make material misstatements and omissions to the investors after their initial investments. DRAGUL thereby induced investors to maintain their investments with him, and to make subsequent investments. These resulting business practices operated as a fraud or deceit upon GDA's investors.

### COUNT ONE

(Securities Fraud – F3)

C.R.S. §§ 11-51-501(1)(c) and 11-51-603(1) {as to Plainfield}

On or about and between March 9, 2009 and January 1, 2014, with a date of discovery on or after June 16, 2016, in and triable in the State of Colorado, GARY JULE DRAGUL, in connection with the offer or sale of any security, directly or indirectly, unlawfully, feloniously, and willfully engaged in any course of business which operated or would have operated as fraud or deceit upon investors, including Reba Buckwalter, MSHR, Inc., Scott Rockefeller, Jeffrey Tennis, Raymond Nutt, Calvin Ewell, David Hoe, Lori Hoe, Craig Naylor, David and Darcea Haar, HBT Partners, Benzmiller Family Trust (Kenneth Benzmiller), Eric Aafedt, Craig Evans, Laura Evans, James and Barbara McMahon, Consolidated GC of Texas (Naresh Daswani), Dennis Anderson, Steven Miller, Bret Chapman, Gideon and Rhonda Lapp, MSHR, Inc., Eugene Risser, Gerald Deardorff, Philip Vineyard, Sarah Vineyard Irrevocable Trust, John Heffley, William Detterer, Thomas McCaffrey, Martin Rosenbaum, and additional persons both known and unknown to the Grand Jury, contrary to the form of the statutes in such case made and provided, C.R.S. §§ 11-51-501(1)(c) and 11-51-603(1), and against the peace and dignity of the People of the State of Colorado.

**The Essential Facts and all other facts in support of the charges alleged herein are incorporated by reference. Additional facts in support of the offenses as set forth in Count One are as follows:**

1. On or about and between March 1, 2009 and January 1, 2014, DRAGUL and GDA solicited and received investor funds related to Plainfield 09A, LLC and the Plainfield Commons Shopping Center (PLAINFIELD), located at 2663 E. Main Street, Plainfield, Indiana 46168.
2. In connection with the fraudulent sale of these securities, DRAGUL and GDA conducted business in Colorado.

3. In total, DRAGUL and GDA solicited and received approximately thirty separate investments in PLAINFIELD, totaling over \$2.5 million. That amount includes new cash investments of over \$1.5 million.
4. Each investment was evidenced by a Membership Purchase Agreement, which established that the investor was buying a membership interest in the LLC and a corresponding “beneficial interest in and to the Property”. In most cases, the percentage of membership interest and interest in the property were identical.
5. GDA provided investors a short “executive summary”, which indicated that the property would be purchased for \$5,057,000.00.
6. In fact, GDA purchased PLAINFIELD on July 10, 2009, for \$4,653,167.25, approximately \$400,000 less than previously disclosed to investors in the executive summary.
7. By November 2012, DRAGUL and GDA had already sold or assigned 99.24% of the membership interests in PLAINFIELD (and interest in and to the Property) to approximately twenty investors.
8. DRAGUL and GDA would go on to sell/assign additional membership interests in PLAINFIELD to approximately ten other investors. In so doing, DRAGUL and GDA failed to disclose that they had already sold membership interests in PLAINFIELD totaling over 100%.
9. In soliciting these investments, DRAGUL and GDA made material, untrue statements and omissions of material facts, including but not limited to the following:
  - DRAGUL and GDA failed to disclose that they would sell/assign over 100% of the total membership interests in PLAINFIELD.
  - DRAGUL and GDA failed to disclose the actual risk associated with investments.
  - DRAGUL and GDA failed to disclose the actual financial condition and substantial debt of GDA.
  - DRAGUL and GDA failed to disclose that investor funds would be deposited into DRAGUL’s personal bank account or other unrelated GDA investment accounts.
  - DRAGUL and GDA failed to disclose that investor funds would be comingled with other investment accounts.
  - DRAGUL and GDA failed to disclose that they would engage in a course of business which diluted the value of each membership interest.

10. The investments DRAGUL and GDA solicited directly or indirectly, in connection with this count, on or about and between March 9, 2009 and January 1, 2014, include one or more of the following:

- a) Reba Buckwalter, a resident of Lancaster, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about March 9, 2009, in exchange for a 3.766% interest in and to the property.
- b) MSHR, Inc., a company based in Huntersville, North Carolina, invested approximately twenty thousand dollars (\$20,000.00) in Plainfield 09A, LLC on or about April 3, 2009, in exchange for a 1.507% interest in and to the property.
- c) Scott Rockefeller, a resident of Huntersville, North Carolina, invested approximately thirty thousand dollars (\$30,000.00) in Plainfield 09A, LLC on or about April 3, 2009, in exchange for a 2.26% interest in and to the property.
- d) Jeffrey Tennis, a resident of Lititz, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about April 3, 2009, in exchange for a 7.533% interest in and to the property.
- e) Raymond Nutt, a resident of Littleton, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about April 17, 2009, in exchange for a 3.766% interest in and to the property.
- f) Calvin Ewell, a resident of East Earl, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about April 23, 2009, in exchange for a 3.766% interest in and to the property.
- g) David Hoe, a resident of Huntersville, North Carolina, invested approximately thirty thousand dollars (\$30,000.00) in Plainfield 09A, LLC on or about June 5, 2009, in exchange for a 2.185% interest in and to the property.
- h) Lori Hoe, a resident of Huntersville, North Carolina, invested approximately thirty thousand dollars (\$20,000.00) in Plainfield 09A, LLC on or about June 5, 2009, in exchange for a 1.507% interest in and to the property.
- k) Craig Naylor, a resident of Chadds Ford, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about June 5, 2009, in exchange for a 7.533% interest in and to the property.
- l) David and Darcea Haar, residents of Centennial, Colorado, invested approximately twenty thousand dollars (\$20,000.00) in Plainfield 09A, LLC on or about June 11, 2009, in exchange for a 1.507% interest in and to the property.

- m) HBT Partners, a company based in Lancaster, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about June 11, 2009, in exchange for a 7.533% interest in and to the property.
- n) The Benzmiller Family Trust (Kenneth Benzmiller), a company based in Charlotte, North Carolina, invested approximately two hundred thousand dollars (\$200,000.00) in Plainfield 09B, LLC on or about July 9, 2009, in exchange for a 15.07% interest in and to the property.
- o) Eric Aafedt, a resident of Evergreen, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about November 1, 2009, in exchange for a 3.766% interest in and to the property.
- p) Craig Evans, a resident of Denver, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about November 15, 2009, in exchange for a 3.766% interest in and to the property.
- q) Laura Evans, a resident of Denver, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about November 15, 2009, in exchange for a 3.766% interest in and to the property.
- r) James and Barbara McMahon, residents of Englewood, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about February 16, 2010, in exchange for a 3.766% interest in and to the property.
- s) Consolidated GC of Texas (Naresh Daswani), a company based in Houston, Texas, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about April 1, 2012, in exchange for an 8.648% interest in and to the property.
- t) Dennis Anderson, a resident of Wilmington, North Carolina, invested approximately sixty-eight thousand seven hundred and fifty dollars (\$68,750.00) in Plainfield 09A, LLC on or about July 10, 2012, in exchange for a 5.288% interest in and to the property.
- u) Steven Miller, a resident of Mooresville, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about July 10, 2012, in exchange for a 7.692% interest in and to the property.
- v) Bret Chapman, a resident of Concord, NC, invested approximately sixty thousand dollars (\$60,000.00) in Plainfield 09A, LLC on or about November 5, 2012, in exchange for a 4.615% interest in and to the property.

- w) Gideon and Rhonda Lapp, residents of Lancaster, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about June 26, 2013, in exchange for a 7.553% interest in and to the property.
  - x) MSHR, Inc., a company based in Huntersville, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about June 26, 2013, in exchange for a 7.553% interest in and to the property.
  - y) Eugene Risser, a resident of Lititz, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about June 26, 2013, in exchange for a 7.553% interest in and to the property.
  - z) Gerald Deardorff, a resident of York, Pennsylvania, invested approximately one hundred and fifty thousand dollars (\$150,000.00) in Plainfield 09A, LLC on or about July 1, 2013, in exchange for an 11.299% interest in and to the property.
  - aa) Philip Vineyard, a resident of Charleston, South Carolina, invested approximately three hundred thousand dollars (\$300,000.00) in Plainfield 09A, LLC on or about July 11, 2013, in exchange for a 22.599% interest in and to the property.
  - bb) The Sarah Vineyard Irrevocable Trust, based in Charlotte, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about July 12, 2013, in exchange for a 7.533% interest in and to the property.
  - cc) John Heffley, a resident of Lancaster, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about August 28, 2013, in exchange for a 7.553% interest in and to the property.
  - dd) William Detterer, a resident of Wyomissing, Pennsylvania, invested approximately two hundred thousand dollars (\$200,000.00) in Plainfield 09A, LLC on or about August 30, 2013, in exchange for a 15.066% interest in and to the property.
  - ee) Thomas McCaffrey, a resident of Parker, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plainfield 09A, LLC on or about October 1, 2013, in exchange for a 3.766% interest in and to the property.
  - ff) Martin Rosenbaum, a resident of Lone Tree, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC on or about January 1, 2014, in exchange for a 4.736% interest in and to the property.
11. In total, DRAGUL and GDA sold over 194% of the interest in PLAINFIELD. Of the \$1.5 million in new money raised for PLAINFIELD, \$645,150 was directed to DRAGUL personally.

12. On or about March 12, 2015, DRAGUL and GDA sold PLAINFIELD for \$5,563,500.00, a profit of approximately \$1 million.
13. None of the investors in PLAINFIELD were repaid their principal investment. Investors were forced to roll their investments from PLAINFIELD into another LLC, known as Clearwater.
14. The circumstances surrounding the sales, acts, practices and course of business engaged in by DRAGUL and GDA, including the untrue statements of material fact and omissions of material fact as described herein, operated as a fraud upon investors.

**COUNT TWO:**

(Securities Fraud – F3)

C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) {as to Scott Rockefeller}

On or about and between June 26, 2013 and August 2, 2013, with a date of discovery on or after June 16, 2016, in and triable in the State of Colorado, GARY JULE DRAGUL, in connection with the offer, sale, or purchase of any security to MSHR, Inc. and/or Scott Rockefeller, directly or indirectly, unlawfully, feloniously, and willfully made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, contrary to the form of the statutes in such case made and provided, C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) (Securities Fraud – Class 3 Felony), against the peace and dignity of the People of the State of Colorado.

**The Essential Facts and all other facts in support of the charges alleged herein are incorporated by reference. Additional facts in support of the offenses as set forth in Count Two are as follows:**

15. On or about June 26, 2013, after selling/assigning over 100% of the total membership interests in PLAINFIELD, DRAGUL and GDA solicited MSHR, Inc. and/or Scott Rockefeller to invest approximately one hundred thousand dollars (\$100,000.00) in Plainfield 09A, LLC., in exchange for a 7.553% interest in and to the property.
16. On or about July 29, 2013, DRAGUL and GDA sent a letter to MSHR, Inc. – Attn: Scott Rockefeller. The letter evidenced that the investment in PLAINFIELD was funded by rolling over a previous \$50,000 investment in Crosspointe 08A, LLC and a \$25,000 investment in CP Loan, in addition to a cash investment of \$25,000.
17. That letter failed to advise MSHR and/or Scott Rockefeller that DRAGUL and GDA already sold/assigned over 100% of the membership interests in the property.

18. On or about July 30, 2013, MSHR sent check #100 in the amount of \$25,000 to GDA for the additional cash investment required to purchase the diluted membership interests in PLAINFIELD. That check was deposited into GDA's bank account on or about August 2, 2013.
19. In soliciting these investments, DRAGUL and GDA made material, untrue statements and omissions of material facts, including but not limited to the following:
- DRAGUL and GDA failed to disclose that they already sold/assigned over 100% of the total membership interests in PLAINFIELD.
  - DRAGUL and GDA failed to disclose the actual risk associated with investments.
  - DRAGUL and GDA failed to disclose the actual financial condition and substantial debt of GDA.
  - DRAGUL and GDA failed to disclose that investor funds would be comingled with other investment accounts.
  - DRAGUL and GDA failed to disclose that they would engage in a course of business which diluted the value of each membership interest.

### **COUNT THREE**

(Securities Fraud – F3)

C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) {as to Philip Vineyard}

On or about and between July 11, 2013 and August 16, 2013, with a date of discovery on or after June 16, 2016, in and triable in the State of Colorado, GARY JULE DRAGUL, in connection with the offer, sale, or purchase of any security to Philip Vineyard., directly or indirectly, unlawfully, feloniously, and willfully made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, contrary to the form of the statutes in such case made and provided, C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) (Securities Fraud – Class 3 Felony), against the peace and dignity of the People of the State of Colorado.

**The Essential Facts and all other facts in support of the charges alleged herein are incorporated by reference. Additional facts in support of the offenses as set forth in Count Three are as follows:**

20. On or about July 11, 2013, after selling/assigning over 130% of the total membership interests in PLAINFIELD, DRAGUL and GDA solicited Philip Vineyard, to invest approximately three hundred thousand dollars (\$300,000.00) in Plainfield 09A, LLC., in exchange for a 22.599% interest in and to the property.

21. On or about July 11, 2013, DRAGUL and GDA sent a letter to Philip Vineyard. The letter evidenced that the investment in PLAINFIELD was funded by rolling over a previous \$150,000 investment in Syracuse Property 06, LLC, in addition to a cash investment of \$150,000.
22. That letter failed to advise Philip Vineyard that DRAGUL and GDA already sold/assigned well over 100% of the membership interests in the property.
23. On or about July 15, 2013, Philip Vineyard sent check #601 in the amount of \$100,000 to GDA as part of the additional cash investment required to purchase the diluted membership interests in PLAINFIELD. That check was endorsed by DRAGUL personally and deposited on or about July 15, 2013.
24. On or about August 15, 2013, Philip Vineyard sent check #619 in the amount of \$50,000 to GDA as part of the additional cash investment required to purchase the diluted membership interests in PLAINFIELD. That check was endorsed by DRAGUL personally and deposited into his personal bank account on or about August 16, 2013.
25. In soliciting these investments, DRAGUL and GDA made material, untrue statements and omissions of material facts, including but not limited to the following:
  - DRAGUL and GDA failed to disclose that they already sold/assigned over 100% of the total membership interests in PLAINFIELD.
  - DRAGUL and GDA failed to disclose the actual risk associated with investments.
  - DRAGUL and GDA failed to disclose the actual financial condition and substantial debt of GDA.
  - DRAGUL and GDA failed to disclose that investor funds would be deposited into DRAGUL's personal bank account or other unrelated GDA investment accounts.
  - DRAGUL and GDA failed to disclose that investor funds would be comingled with other investment accounts.
  - DRAGUL and GDA failed to disclose that they would engage in a course of business which diluted the value of each membership interest.



### COUNT FOUR

(Securities Fraud – F3)

C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) {as to William Detterer}

On or about and between August 30, 2013 and September 12, 2013, with a date of discovery on or after June 16, 2016, in and triable in the State of Colorado, GARY JULE DRAGUL, in connection with the offer, sale, or purchase of any security to William Detterer, directly or indirectly, unlawfully, feloniously, and willfully made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, contrary to the form of the statutes in such case made and provided, C.R.S. §§ 11-51-501(1)(b) and 11-51-603(1) (Securities Fraud – Class 3 Felony), against the peace and dignity of the People of the State of Colorado.

**The Essential Facts and all other facts in support of the charges alleged herein are incorporated by reference. Additional facts in support of the offenses as set forth in Count Four are as follows:**

26. On or about August 30, 2013, after selling/assigning over 170% of the total membership interests in PLAINFIELD, DRAGUL and GDA solicited William Detterer, to invest approximately two hundred thousand dollars (\$200,000.00) in Plainfield 09A, LLC., in exchange for a 15.066% interest in and to the property.
27. On or about August 30, 2013, DRAGUL and GDA sent a letter to William Detterer. The letter evidenced that the investment in PLAINFIELD was funded by rolling over a previous \$100,000 investment in Crosspointe 08A, LLC and a \$36,567 investment in CP Loan, in addition to a cash investment of \$63,433.
28. That letter failed to advise William Detterer that DRAGUL and GDA already sold/assigned well over 100% of the membership interests in the property.
29. On or about September 10, 2013, William Detterer sent check #203 in the amount of \$63,433 to GDA for the additional cash investment required to purchase the diluted membership interests in PLAINFIELD. That check was endorsed by DRAGUL personally and deposited into his personal bank account on or about September 12, 2013.
30. In soliciting these investments, DRAGUL and GDA made material, untrue statements and omissions of material facts, including but not limited to the following:
  - DRAGUL and GDA failed to disclose that they already sold/assigned over 100% of the total membership interests in PLAINFIELD.
  - DRAGUL and GDA failed to disclose the actual risk associated with investments.

- DRAGUL and GDA failed to disclose the actual financial condition and substantial debt of GDA.
- DRAGUL and GDA failed to disclose that investor funds would be deposited into DRAGUL's personal bank account or other unrelated GDA investment accounts.
- DRAGUL and GDA failed to disclose that investor funds would be comingled with other investment accounts.
- DRAGUL and GDA failed to disclose that they would engage in a course of business which diluted the value of each membership interest.

**COUNT FIVE:**

(Securities Fraud – F3)

C.R.S. §§ 11-51-501(1)(c) and 11-51-603(1) {as to Plaza Mall of Georgia North}

On or about and between December 31, 2008 and April 1, 2016, in and triable in the State of Colorado, GARY JULE DRAGUL, in connection with the offer or sale of any security, directly or indirectly, unlawfully, feloniously, and willfully engaged in any course of business which operated or would have operated as fraud or deceit upon investors, including Barbara Burroughs, W. Slater Burroughs, Calvin Ewell, Elizabeth Maurer, OM&K, LLC, Marshall Parker, Ray Webb Parker, William Parker, Jr., Scott Rockefeller, Keith Snyder, Jeffrey Tennis, Kristina Kapur-Mauleon and Luis Mauleon, Dublin Realty Company, David and Barbara Landis, Gideon and Rhonda Lapp, Eric Aafedt, Harper Beall, Craig Evans, Laura Evans, Marvin Weaver, Douglas and Michelle Shuff, Meeting Street Properties, LLC, Coleen Hurst, Scott Chatham, Leftin Investment Company (Soloman Leftin), Raymond Nutt, Sarah Vineyard Irrevocable Trust, Philip Vineyard, James and Susan Hess, Gerald and Miriam Weaver, Eagle Group V (Eric Blow), Daniel Brittain, Kurtz Hersch, Martin Rosenbaum, Jerry and Susan Horst, Horst Irrevocable Trust, James McMahon, Howard Anderson, Rex and Kimberly Stump, Eisen Steele Family Trust, LLC, 3855 Forest, LLC (David Kaufmann), Stoltzfus Properties, LLC (Al Stoltzfus), Aaron Steinberg, Leora Rosenbaum, Martin, Rosenbaum, Edward Delava – Trustee of the Fox 2002 Irrevocable Trust, Melissa Rosenbaum, Alan C. Fox Irrevocable Trust, and additional persons both known and unknown to the Grand Jury, contrary to the form of the statutes in such case made and provided, C.R.S. §§ 11-51-501(1)(c) and 11-51-603(1), and against the peace and dignity of the People of the State of Colorado.

**The Essential Facts and all other facts in support of the charges alleged herein are incorporated by reference. Additional facts in support of the offenses as set forth in Count Five are as follows:**

31. On or about and between December 31, 2008 and April 1, 2016, DRAGUL and GDA solicited and received investor funds related to Plaza Mall North 08A Junior, LLC; a commercial shopping center located at 3410 & 3420 Buford Drive, Buford, GA 30519, and commonly known as Plaza Mall of Georgia North (hereafter PGN).
32. In connection with the fraudulent sale of these securities, DRAGUL and GDA conducted business in Colorado.
33. In total, DRAGUL and GDA solicited and received approximately forty-seven separate investments in PGN, totaling over \$9 million. That amount includes new cash investments of over \$3 million.
34. Each investment was evidenced by a Membership Purchase Agreement, which established that the investor was buying a membership interest in the LLC.
35. GDA provided investors with a short “executive summary”, which indicated that the property would be purchased for \$28,470,000.00.
36. In fact, GDA purchased PGN on December 24, 2008 for \$25,920,000.00, approximately \$2.55 million less than previously disclosed to investors in the executive summary.
37. As part of this closing, GDA paid themselves a \$200,000 consulting fee, paid SSC a \$75,000 consulting fee, and paid ACF a \$500,000 consulting fee. None of these fees were disclosed to investors prior to the closing.
38. The investments DRAGUL and GDA solicited directly or indirectly, in connection with this count, on or about and between December 31, 2008 and April 1, 2016, include one or more of the following:
  - a) Barbara Burroughs, a resident of Charlotte, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
  - b) W. Slater Burroughs, a resident of Cornelius, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
  - c) Calvin Ewell, a resident of East Earl, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
  - d) Elizabeth Maurer, a resident of Landisville, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.

- e) OM&K, LLC, a company based in Wadmalaw Island, South Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- f) Marshall Parker, a resident of Shelby, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- g) Ray Webb Parker, a resident of Shelby, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- h) William Parker, Jr., a resident of Shelby, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- k) Scott Rockefeller, a resident of Huntersville, North Carolina, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- l) Keith Snyder, a resident of Landisville, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- m) Jeffrey Tennis, a resident of Lititz, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about December 31, 2008.
- n) Kristina Kapur-Mauleon and Luis Mauleon, residents of Ithica, New York, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about January 15, 2009.
- o) Dublin Realty Company, Inc., a company based in Charlotte, North Carolina, invested approximately five hundred and seventy-thousand dollars (\$570,000.00) in Plaza Mall North 08A Junior, LLC on or about January 20, 2009.
- p) David and Barbara Landis, residents of Lititz, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about January 30, 2009.
- q) Gideon & Rhonda Lapp, a resident of Lancaster, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about January 30, 2009.

- r) Eric Aafedt, a resident of Evergreen, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- s) Harper Beall, a resident of Lenoir, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- t) Craig Evans, a resident of Denver, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- u) Laura Evans, a resident of Denver, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- v) Marvin Weaver, a resident of Blue Ball, PA, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- w) Douglas & Michelle Shuff, residents of Lebanon, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about February 5, 2009.
- x) Meeting Street Properties, LLC (John Beall), a company based in Blowing Rock, North Carolina, invested approximately one hundred sixty-three thousand dollars (\$163,000.00) in Plaza Mall North 08A Junior, LLC on or about February 1, 2009.
- y) Coleen Hurst, a resident of Lancaster, Pennsylvania, invested approximately three hundred thousand dollars (\$300,000.00) in Plaza Mall North 08A Junior, LLC on or about April 10, 2012.
- z) Scott Chatham, a resident of Conover, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about May 13, 2013.
- aa) Leftin Investment Company (Solomon Leftin), a company based in Denver, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 1, 2013.
- bb) Raymond Nutt, a resident of Littleton, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about September 1, 2013.
- cc) The Sarah Vineyard Irrevocable Trust, based in Charlotte, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 5, 2013.

- dd) Philip Vineyard, a resident of Charleston, South Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 5, 2013.
- ee) James and Susan Hess, residents of Lancaster, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 6, 2013.
- gg) Gerald and Miriam Weaver, residents of Lancaster, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 9, 2013.
- hh) Eagle Group V (Eric Blow), a resident of Lititz, Pennsylvania, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 11, 2013.
- ii) Daniel Brittain, a resident of Hickory, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 13, 2013.
- jj) Kurtz Hersch, a resident of Monee, Illinois, invested approximately one hundred and fifty thousand dollars (\$150,000.00) in Plaza Mall North 08A Junior, LLC on or about September 13, 2013.
- kk) Martin Rosenbaum, a resident of Lone Tree, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about September 16, 2013.
- ll) Jerry and Susan Horst, residents of Lititz, Pennsylvania, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about September 30, 2013.
- mm) The Horst Irrevocable Trust, a company based in Lititz, Pennsylvania, invested approximately one hundred and fifty thousand dollars (\$150,000.00) in Plaza Mall North 08A Junior, LLC on or about September 30, 2013.
- nn) James McMahon, a resident of Aurora, Colorado, invested approximately fifty thousand dollars (\$50,000.00) in Plaza Mall North 08A Junior, LLC on or about October 1, 2013.
- oo) Howard Anderson, a resident of Taylorsville, North Carolina, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about October 7, 2013.

- pp) Rex and Kimberly Stump, residents of Mooresville, North Carolina, invested approximately two hundred thousand dollars (\$200,000.00) in Plaza Mall North 08A Junior, LLC on or about November 11, 2013.
  - qq) The Eisen Steele Family Trust, LLC, a company based in Englewood, Colorado, invested approximately one hundred and thirty-two thousand dollars (\$132,000.00) in Plaza Mall North 08A Junior, LLC on or about December 1, 2013.
  - rr) 3855 Forest, LLC (Donald Kaufmann), a company based in Englewood, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about May 1, 2014.
  - ss) Stoltzfus Properties, LLC (Al Stoltzfus), a company based in Washington, Utah, invested approximately one hundred and twenty-five thousand dollars (\$125,000.00) in Plaza Mall North 08A Junior, LLC on or about July 1, 2014.
  - tt) Aaron Steinberg, a resident of Denver, Colorado, invested approximately one hundred and twenty-five thousand dollars (\$125,000.00) in Plaza Mall North 08A Junior, LLC on or about May 5, 2015.
  - uu) Leora Rosenbaum, a resident of Denver, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about May 15, 2015.
  - vv) Martin Rosenbaum, a resident of Lone Tree, Colorado, invested approximately three hundred thousand dollars (\$300,000.00) in Plaza Mall North 08A Junior, LLC on or about July 1, 2015.
  - ww) Edward Delava – Trustee of the Fox 2002 Irrevocable Trust, based in California, invested approximately three hundred thousand dollars (\$300,000.00) in Plaza Mall North 08A Junior, LLC on or about October 27, 2015.
  - xx) Melissa Rosenbaum, a resident of Lone Tree, Colorado, invested approximately one hundred thousand dollars (\$100,000.00) in Plaza Mall North 08A Junior, LLC on or about April 1, 2016.
  - yy) The Alan C. Fox Irrevocable Trust, invested approximately three million, seven hundred and ten thousand, seven hundred and sixty-five dollars (\$3,710,765.00) in Plaza Mall North 08A Junior, LLC.
39. On or about April 1, 2016, DRAGUL and GDA brokered an agreement to sell Alan Fox's shares of PGN to an institutional investor from Israel, known as Hagshama Funds (hereafter HAGSHAMA). HAGSHAMA invested approximately \$4.6 million for the purchase of Fox's interest in PGN.

40. As part of the fees paid related to that transaction, GDA also received an “Acquisition Fee” of \$100,000 and HAGSHAMA received an “Equity Arrangement Fee” of \$231,579.
41. GDA also received a “Post Closing Note Loan” from HAGSHAMA in the amount of \$300,000, upon transfer of the shares.
42. On or about April 27, 2017, DRAGUL and GDA sold PGN for \$32,000,000.00; a profit of over \$6 million. DRAGUL and GDA failed to disclose to investors that the property had sold.
43. As part of that closing, GDA was paid a 2% commission totaling \$560,000 and The Shopping Center Group was paid a 1% commission totaling \$320,000. None of the \$880,000 in commissions or fees was disclosed to investors.
44. On or about April 27, 2017, DRAGUL and GDA received a wire transfer for seller proceeds from the sale of PGN, totaling over \$9.8 million.
45. On or about and between May 2, 2017 and May 5, 2017, HAGSHAMA controlled entities received wire transfers in the amount of \$5,668,100; a profit of over \$1 million.
46. Other than HAGSHAMA and two other investors (Leftin and Hurst), none of the remaining forty-four investors in PGN were told of the sale or repaid their principal investment, despite the \$6 million profit.
47. DRAGUL and GDA engaged in a course of business which acted as a fraud upon investors by failing to disclose the sale/profits from PGN, by continuing to send monthly distributions to investors, and by failing to repay principal investments or appreciation on the sale. This led investors to believe that they still owned PGN for over one year after the sale.
48. DRAGUL and GDA also deliberately provided materially false information to investors about the status of PGN after the sale.
49. By way of example, on or about October 17, 2017, DRAGUL spoke with investor Gerald Horst and advised him that he lost money in his PGN investment and that the sale of the property was not yet complete. Horst invested approximately \$200,000 in PGN in September of 2013. His contemporaneous notes about the conversation on or about October 17, 2017, are as follows:

I just got off the phone with Gary Dragul, he says Georgia Plaza North will be sold and settled in about 30 days and expects to issue to us a check for 75-82% of our initial investment. When I asked how it could be so low in a time of high real estate prices he said 45% is a bog [sic] box tenant which are very difficult to find....



50. Investor Philip Vineyard was also directly misled by DRAGUL. In December of 2017, DRAGUL spoke with Vineyard and told him that PGN was doing well. DRAGUL failed to disclose that PGN had sold approximately eight months earlier.
51. On or about May 18, 2018, over one year after the closing on the sale of PGN, DRAGUL and GDA sent an email to investors finally disclosing the sale and indicating that the joint venture was not as successful as they had hoped, because of failed negotiations with a big box tenant.
52. In that email, DRAGUL and GDA failed to disclose that they received over \$9.8 million in proceeds from the sale of PGN, over one earlier.
53. The circumstances surrounding the sales, acts, practices and course of business engaged in by DRAGUL and GDA, including the untrue statements of material fact and omissions of material fact as described herein, as well as the failure to repay investor principal or appreciation, operated as a fraud upon investors.

PHILIP J. WEISER,  
ATTORNEY GENERAL


By:




Michael Bellipanni, Reg. No. 24421  
Senior Assistant Attorney General  
Criminal Justice Section

The 2018 - 2019 State Grand Jury presents the within Indictment, and the same is hereby ORDERED FILED this 28<sup>th</sup> day of February, 2019.

Pursuant to C.R.S. 13-73-107, the Court hereby designates the **County of Arapahoe**, Colorado, as the county of venue for the purposes of trial.



MICHAEL A. MARTINEZ  
Chief Judge, Second Judicial District

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>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

<b>MARKED BOX BELOW INDICATES APPLICABLE SENTENCING RANGE</b>	<b>MISDEMEANORS COMMITTED ON OR AFTER JULY 1, 1993</b>		
	<b>TYPE CLASS</b>	<b>MISDEMEANORS</b>	
		<b>MINIMUM</b>	<b>MAXIMUM</b>
	<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
	<b>2</b>	3 MONTHS \$250 FINE	12 MONTHS \$1,000 FINE
	<b>3</b>	\$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.	▲ <b>COURT USE ONLY</b> ▲
	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.

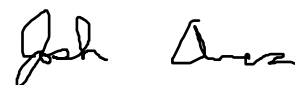
1. The Defendant will enter a plea of GUILTY to the charge(s) of: **Count Five, Securities Fraud, in violation of §§ 11-51-501(1)(c) and 11-51-603(1) C.R.S. (Class 3 Felony).**
2. In exchange for the above guilty plea(s), at sentencing the People will move to dismiss any remaining counts in the Grand 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>  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>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>  vs.  <b>GARY JULE DRAGUL,</b> <b>DOB: 05/07/1962</b>  Defendant.	▲ COURT USE ONLY ▲
	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

Exhibit 4 Clearwater Collection 15, LLC

Harvey Sender as Receiver Amended Claim - Clearwater Collection 15, LLC Bankruptcy

Claim No.	Claimant	Bankruptcy Claim	Receivership Claim	Cash In to Gary Dragul for Interest in Clearwater Collection 15, LLC				Rollovers of Prior Investments	Distributions from Rolled Investments	Net Cash, Rollover Investments	Receiver's Allowable Claim	Bankruptcy Claim in Excess of Allowable Claim
				Cash In to Clearwater Collection 15, LLC	Cash In to Clearwater Collection 15, LLC	Cash Out of Clearwater Collection 15, LLC	Net Cash, Clearwater Collection 15, LLC					
Filed Claims in Receivership Only												
N/A	Diamant, Marc	None	\$50,000.00	\$50,000.00		(\$15,503.99)	\$34,496.01				\$34,496.01	
N/A	Helms, Chris (Lone Pine Resources, LP)	None	\$250,000.00	\$250,000.00		(\$78,294.98)	\$171,705.02				\$171,705.02	
N/A	Hughes, Carol	None	\$50,000.00		\$50,000.00	(\$12,892.67)	\$37,107.33				\$37,107.33	
N/A	Leftin, Sol (Leftin Investment Co.)	None	\$49,534.68	\$50,000.00		(\$15,659.13)	\$34,340.87				\$34,340.87	
N/A	Metz, Aaron	None	\$100,000.00	\$100,000.00		(\$31,007.66)	\$68,992.34				\$68,992.34	
Total - Filed Claims in Receivership Only		\$0.00	\$499,534.68	\$450,000.00	\$50,000.00	(\$153,358.43)	\$346,641.57				\$346,641.57	
Filed Claims in Receivership and Bankruptcy												
N/A	Fox, Alan	Transferred to Hagshama and Cofund V		\$3,000,000.00		(\$619,981.07)	\$2,380,018.93				\$2,380,018.93	\$2,380,018.93
8	Cofund V, LLC	\$1,200,000.00	\$1,631,000.00			(\$176,516.00)	(\$176,516.00)				(\$176,516.00)	(\$1,376,516.00)
9	Hagshama Florida 13 Clearwater, LLC	\$3,000,000.00	\$5,608,000.00			(\$531,290.00)	(\$531,290.00)				(\$531,290.00)	(\$3,531,290.00)
19	Dickey, William (Hilltoppers Capital)	\$100,000.00	\$100,000.00	\$100,000.00		(\$31,938.49)	\$68,061.51				\$68,061.51	(\$31,938.49)
5	Eisen, Robert and Jodi	\$100,000.00	\$56,515.18	\$100,000.00		(\$31,007.66)	\$68,992.34				\$68,992.34	(\$31,007.66)
17	Haar, David & Darcea	\$160,000.00	\$160,000.00	\$140,000.00		(\$41,239.02)	\$98,760.98				\$98,760.98	(\$61,239.02)
20 & 21	Hurst, Chad	\$400,995.55	\$308,377.50	\$150,000.00		(\$90,230.78)	\$59,769.22				\$59,769.22	(\$341,226.33)
4	Raabe, Andy (3G2B Partners)	\$100,000.00	\$100,000.00	\$100,000.00		(\$31,317.93)	\$68,682.07				\$68,682.07	(\$31,317.93)
24	Rosenbaum, Martin	\$200,000.00	\$200,000.00	\$100,000.00		(\$58,912.54)	\$41,087.46	\$100,000.00	(\$27,555.86)	\$72,444.14	\$113,531.60	(\$86,468.40)
7	Rockefeller IRA, Scott	\$43,023.33	Duplicate								Duplicate	(\$43,023.33)
6	Southern Performance Group, Inc. formerly MSHR	\$170,400.00	Duplicate								Duplicate	(\$170,400.00)
11	McCaffrey, Thomas	\$50,000.00	Duplicate								Duplicate	(\$50,000.00)
2	Detterer, William	\$200,000.00	Wrong Debtor								Wrong Debtor	(\$200,000.00)
3	Lapp, Gideon & Rhonda	\$100,000.00	Wrong Debtor								Wrong Debtor	(\$100,000.00)
14	Evans, Laura	\$66,000.00	Wrong Debtor								Wrong Debtor	(\$66,000.00)
Total - Filed Claims in Receivership and Bankruptcy		\$5,890,418.88	\$8,163,892.68	\$3,690,000.00	\$0.00	(\$1,612,433.49)	\$2,077,566.51	\$100,000.00	(\$27,555.86)	\$72,444.14	\$2,150,010.65	(\$3,740,408.23)
Filed Claim in Receivership and Clearwater Plainfield 15, LLC Bankruptcy												
3	Eisen, Charles	\$100,000.00	\$100,000.00	\$100,000.00		(\$31,007.66)	\$68,992.34				\$68,992.34	(\$31,007.66)
Filed Claim in Bankruptcy Only												
18	Friedman, Scott	\$70,000.00	None	\$20,000.00		(\$15,537.76)	\$4,462.24	\$40,000.00	(\$39,966.38)	\$33.62	\$4,495.86	(\$65,504.14)
Total Receivers Claim for Clearwater Collection 15, LLC Investors		\$6,060,418.88	\$8,763,427.36	\$4,260,000.00	\$50,000.00	(\$1,812,337.34)	\$2,497,662.66	\$140,000.00	(\$67,522.24)	\$72,477.76	\$2,570,140.42	(\$3,836,920.03)
Receiver's Claim for Transfers from Estate to Clearwater Collection 15, LLC											\$5,883,030.82	
Total Receiver's Amended Claim											<u>\$8,453,171.24</u>	



UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

In re:	)	Case No. 22-11320-JGR
	)	
CLEARWATER COLLECTION 15, LLC,	)	Chapter 11
EIN 47-4082355	)	
	)	
Debtor.	)	
	)	
In re:	)	Case No. 22-11321-JGR
	)	
CLEARWATER PLAINFIELD 15, LLC,	)	Chapter 11
EIN 47-4097826	)	
	)	
Debtor.	)	

**DECLARATION OF STEPHANIE J. DREW**

I, Stephanie J. Drew, pursuant to 28 U.S.C. §1746, declare under penalty of perjury that the foregoing is true and correct.

1. I am a partner in RubinBrown’s Corporate Finance and Forensic Services Group, an accounting firm with its Denver office located at 1900 16th Street, Suite 300, Denver, Colorado 80202.

2. RubinBrown was retained by Harvey Sender as Receiver in *Chan v. Dragul et al.*, Case No. 2018CV33011 (the “Receivership Case”) on September 7, 2018, to assist him in administering the Receivership Estate, including providing forensic accounting and expert witness services, as well as tax preparation services.

3. I am the supervising partner on this engagement and have been primarily responsible for the work performed in this case to date.

4. RubinBrown and I have extensive experience in providing expert witness and forensic accounting services in connection with litigation support and with respect to the matters for which it has been employed in this case.

5. In connection with our work, we reviewed a number of financial records of Gary J. Dragul (“Dragul”), GDA Real Estate Services, LLC (“GDA RES”), and the Special Purpose Entities (“SPEs”) established by Dragul (“Dragul Estate”); including

bank statements, accounting files, investor records, property records and marketing materials.

6. Using the contemporaneous accounting of GDA RES and the SPEs, we created databases which we relied upon, in part, for our analysis. The primary database, the Cash Database, includes cash receipts and cash disbursements for the Dragul Estate

### **Background**

7. GDA RES was formed in 1997 by Dragul and his wife Shelly Dragul. Originally, most of GDA RES's activity consisted of buying and selling properties with business partner Alan Fox ("Fox") and his company ACF Property Management, LLC ("ACF"), as well as managing Fox/ACF properties. A typical business dealing consisted of GDA RES purchasing a property from a third party and selling the same property, often on the same day, to ACF at a profit. GDA RES would then manage the property for ACF. GDA RES and ACF also received commissions and fees at the closing of each property, for both the purchase and sale of the property. In addition, proceeds were also distributed to GDA RES upon refinancing of the debt obligations for various properties.

8. Investors would routinely loan money to GDA RES in exchange for promissory notes. Prior to 2006, almost all of the notes issued by GDA RES were with Dragul's family members and business partners. Beginning in 2006, GDA RES began issuing promissory notes to outside investors ("Note Investors"), receiving approximately \$1,000,000 in funding in 2006, \$1,400,000 in 2007, and \$4,600,000 in 2008. Over time, the amount of GDA RES promissory notes outstanding increased significantly with GDA RES receiving proceeds from promissory notes of almost \$15,000,000 in 2016, and over \$26,000,000 in 2017.

9. Beginning primarily in 2006, GDA RES began identifying its own real properties for investment which were held through SPEs with GDA RES acting as the manager. In many instances, the real property, which consisted of various commercial shopping centers throughout the United States, was owned by an LLC named for the property and the year in which the property was acquired. In this matter, the primary Clearwater entities include, Clearwater Collection 15, LLC, and Clearwater Plainfield 15, LLC.

10. The property acquisitions were financed in part through bank debt as well as capital raised by the SPEs from outside investors (“SPE Investors”). The SPE Investors consisted primarily of individuals and LLC’s with individual investments averaging approximately \$65,000. Between 2000 and 2018, Dragul created over 95 SPEs funded in part with new SPE Investors’ funds, which total over \$49 million.

11. Over time a pattern emerged within the Dragul Estate. SPE Investors would initially purchase an interest in an SPE. The original investment amounts provided by SPE Investors would be commingled with GDA RES and Dragul for Dragul’s personal use, and used to provide returns to earlier SPE Investors and Note Investors and to pay various operational expenses for GDA RES and the other SPEs.

12. When it came time to purchase the property, comingled funds would be diverted to the purchase of the SPE real estate, usually in an amount less than the amount raised from SPE Investors for a specific property.

13. For example, Dragul raised \$1,260,000 from new SPE Investors related to GDA Clearwater 15, LLC, which were deposited into the GDA Clearwater 15, LLC bank account between June 26, 2015, and August 6, 2015. All but \$100,000 of these funds were transferred out of GDA Clearwater 15, LLC into GDA RES and commingled within the Dragul Estate. When Dragul actually purchased the Clearwater shopping center property, only \$494,118 of comingled funds were used to purchase the property, \$665,882 less than what was raised from the GDA Clearwater 15, LLC SPE investors.

14. The underlying real estate held in the various SPEs was used to provide cash flow for GDA RES, Dragul personally, and other previously established SPEs.

15. In most instances, SPE Investors never recovered their initial investments. As a result, Dragul induced Note Investors and SPE Investors to invest new dollars into SPEs by offering to “roll over” or match their new investment in the SPE. This served to further dilute SPE cash investors.

16. There were hundreds of thousands of commingling transactions which total hundreds of millions of dollars, whereby Dragul transferred funds out of SPE accounts (including Clearwater), into GDA RES accounts, and from GDA RES accounts into his personal accounts. This pattern was repeated multiple times every

day with funds going back from Dragul's personal accounts to GDA RES accounts and into the SPE accounts as necessary for quarterly reporting purposes, payment of operating expenses, and paying fictitious returns to investors.

17. As shown in Exhibit 6 attached to the Receiver's response to the Trustee's Objection to the Receiver's claim in this case, the extent of the commingling and rollovers between the SPEs, GDA RES, and Dragul makes it virtually impossible to segregate the actual activity of each SPE.

18. Because of the extraordinary level of comingling, the Receiver ultimately collapsed the entire Dragul Estate, including Clearwater, into a single entity for tax and distribution purposes. As reflected on Exhibit 6 to the Receiver's response, millions of dollars flowed into and out of Clearwater to support Dragul's scheme which was ultimately used by Dragul to fund his extravagant lifestyle, including gambling losses exceeding \$6.5 million as shown below.

#### **Dragul Personal Cash Uses 1/1/08 – 8/30/18**

<b>Category</b>	<b>Amount Spent</b>
Personal Properties	(\$8,288,251)
Gambling	(\$6,597,037)
Related Parties	(\$4,364,361)
Credit Cards	(\$1,578,727)
<b>Total</b>	<b>(\$20,828,376)</b>

#### **Indicia of a Ponzi Scheme**

19. As part of our work, we determined that no later than approximately January 2007, through the appointment of the Receiver, at the end of August 2018, the Dragul Estate, including the Clearwater entities, operated with multiple indicia of a Ponzi scheme.

20. These indicia include, but are not limited to dependence on outside investor money; SPE Investor funds were not used according to the stated purpose; funds from SPE Investors and Note Investors were in part used to pay promised returns to earlier investors; the Dragul Estate lacked profits sufficient to provide the returns promised to Note Investors and SPE Investors and as a result, were

dependent on an ever-increasing supply of investor money. No later than January 1, 2008, through the appointment of the Receiver on August 30, 2018, the entire GDA enterprise was insolvent.

### **Clearwater Solvency**

21. Based on the closing statement, at the time Dragul purchased the Clearwater Property, the purchase price of \$17,801,000, exceeded the secured debt of \$13,350,000 by \$4,451,000. However, SPE Investors who believed they had a direct interest in the property including investors in Clearwater Plainfield 15, LLC and Clearwater Collection 15, LLC had claims of \$5,959,047 based on cash in/cash out from investors including rollover activity. These claims exceed the \$4,451,000 of residual value by \$1,500,000. As a result, there was no equity in the underlying asset held by the Clearwater entities when it was purchased in August 2015.

22. This high level analysis is conservative since it does not take into account the extensive comingling which occurred throughout the Dragul Estate before the Clearwater Property was purchased, nor does it consider the commingling of the funds raised specifically for the purchase of the Clearwater Property, which were comingled within the Dragul Estate between June 29, 2015, and August 12, 2015, when the property was ultimately purchased.

### **Family Members**

23. Various members of Dragul's family have filed claims in the Clearwater Bankruptcy including Audrey Ahrendt, Dragul's mother in law, and Dragul's three children Chari Dragul, Samuel Dragul, and Spencer Dragul which total \$123,696.01.

24. None of these family members paid any cash for their purported interests in the Clearwater entities. Instead, Dragul gifted them interests, including interests in Plainfield 09 A, LLC. These family members benefited from Dragul's scheme and are net winners of the Dragul Estate who received distributions from the Debtors' bank accounts without providing any economic benefit to either Plainfield or Clearwater. Their net winnings related to Plainfield and Clearwater are as follows and summarized below: Audrey Ahrendt received \$9,234; Charli Dragul received \$9,583.04; Samuel Dragul received \$11,156.59; and Spencer Dragul received \$9,583.04.

### Distributions from Plainfield and Clearwater Entities

Year	Audrey Ahrendt	Spencer Dragul	Samuel Dragul	Charlie Dragul
2013			(\$331.80)	
2014			(\$796.32)	
2015		(\$1,139.87)	(\$1,585.30)	(\$1,139.87)
2016	(\$4,104.00)	(\$3,752.52)	(\$3,752.52)	(\$3,752.52)
2017	(\$4,104.00)	(\$3,752.52)	(\$3,752.52)	(\$3,752.52)
2018	(\$1,026.00)	(\$938.13)	(\$938.13)	(\$938.13)
<b>Total</b>	<b>(\$9,234.00)</b>	<b>(\$9,583.04)</b>	<b>(\$11,156.59)</b>	<b>(\$9,583.04)</b>

### Claims in the Clearwater Bankruptcy

25. Attached to the Receiver's amended claim and included as Exhibits 4 filed with the Receiver's response to the Trustee's claims objections in the Collection and Plainfield bankruptcy cases ("Exhibits 4"), we have summarized the cash in and cash out amounts for claimants in both the Receivership matter and the Clearwater Bankruptcies who Dragul reported to have an interest in the various Clearwater entities. As shown in Exhibits 4, all claims filed in the Debtors' bankruptcy estates are overstated when assessing claims on a cash in cash out basis.

26. Claims related to investments in Clearwater Plainfield, 15, LLC are overstated by \$1,267,035.41 which represents 73% of the investor claim totals related to Clearwater Plainfield 15, LLC. This included the \$551,077.40 claim filed by Chad Hurst and the \$100,000 claim filed by Charles Eisen in the Clearwater Plainfield 15, LLC case. Hurst asserts to hold a 17.48% interest in Clearwater Plainfield 15, LLC. However, Hurst was not an investor in Clearwater Plainfield 15, LLC. Charles Eisen invested \$100,000 in GDA Clearwater 15, LLC. He does not have an interest in Clearwater Plainfield 15, LLC.

27. Instead, Hurst invested \$150,000 in GDA Clearwater 15, LLC. However, Dragul purportedly gave Hurst an additional 14.11% "profit interest" without Hurst providing any additional funds, or providing any additional economic benefit to the Clearwater shopping center or the Debtor, which significantly diluted the interests of other defrauded investors in the Debtor. Between October 2015 and July 2018, Hurst received \$90,230.78 in distributions from GDA Clearwater 15, LLC (which purportedly holds a 34.82% interest in the Debtor), which represents a return of 60% of his invested capital. This percentage is almost double the distributions paid to

other Clearwater investors. On a cash-in, cash-out basis, Hurst's Clearwater loss is \$59,769.22, significantly less than the \$400,995.55 he claims in the Clearwater Collection 15, LLC bankruptcy matter.

28. William Detterer filed Claim No. 2 for \$200,000 in Debtor's Bankruptcy Case. Detterer never invested in Clearwater. Instead, he purportedly invested \$100,000 in another SPE shopping center entity, Southlake 07 A, LLC, before the underlying shopping center was purchased. Dragul then paid distributions to Detterer and other Southlake investors purportedly based on income generated by the non-existent shopping center. Detterer's Southlake investment was "rolled into" Crosspointe 08 A, LLC along with an additional \$36,567 Detterer deposited into Crosspointe, which Dragul inexplicably credited as if it had been invested in another unrelated entity, CP Loan, LLC. Dragul didn't redeem Detterer's investments due to the overall enterprise's insolvency. Instead, in 2013, Dragul apparently convinced Detterer to invest another \$63,433 to buy part of Dragul's personal "equity interest" in Plainfield 09, LLC (for which Dragul had not paid anything), which was never contributed to the shopping center, and which Dragul simply pocketed.

29. Dragul then again "rolled" Detterer's prior \$100,000 investment in Crosspointe and his \$36,567 investment in CP Loan into a membership interest in Plainfield 09 A, LLC. Dragul had already actually sold/granted/gifted 194% of the membership interests in Plainfield 09 A, LLC. Detterer's purported rollover interest in Plainfield 09 further diluted other defrauded investors without any additional cash contributed by Detterer to either Debtor.

30. Southern Performance Group, Inc. ("SPG") filed duplicate claims for \$170,400 in both of Debtors' cases. SPG did not invest directly in either of the Debtors. Instead in 2008, SPG apparently invested \$50,000 in Crosspointe 08 A, LLC. In addition in 2009 and 2010, SPG invested \$25,000 in CP Loan, LLC, which was largely deposited into Crosspointe. In 2009, SPG also invested \$20,000 into Plainfield 09 A, LLC, which was oversubscribed by 94%. In 2013, Dragul induced SPG to purchase \$25,000 of Dragul's personal purported "equity interest" in Plainfield 09, LLC (for which Dragul had not paid any cash), and then Dragul "rolled" SPG's prior \$50,000 investment in Crosspointe and his \$25,000 investment in CP Loan into a membership interest in Plainfield 09 A, LLC.

31. According to the narrative attached to SPG's claim in this case, it received credit for \$120,000 into Plainfield 09 A, LLC, to which it adds "40% appreciation," while failing to deduct the \$47,701.71 in distributions it received on its "investment."

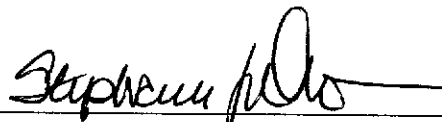
32. David and Darcea Haar have filed claims in both of Debtors' bankruptcy cases Claim No. 12 in the Plainfield case, and Claim No. 17 in the Collection case, each for \$160,000. The Haars invested \$140,000 in GDA Clearwater 15, LLC and \$20,000 in Plainfield.

33. Hagshama purchased its interests in Clearwater Collection 15, LLC through Alan Fox, Dragul's business partner who contributed \$3,000,000 to the purchase of the Clearwater property and received \$619,981.07 in distributions prior to selling his interest to Hagshama for \$4.2 million. Fox, not Clearwater, received the \$1.2 million. The Receivership Estate and Clearwater did not receive any economic benefit from the Fox/Hagshama transaction. After Hagshama bought Fox's interest, Hagshama received \$707,806.00 in distributions from Clearwater.

34. As shown on Exhibit 4 filed with the Receiver's Response to the Trustee's claim objection in the Collection Case, claims related to investments in Clearwater Collection 15, LLC are overstated by \$3,836,920.03 which represents 63% of the investor claim totals related to Clearwater Collection 15, LLC.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

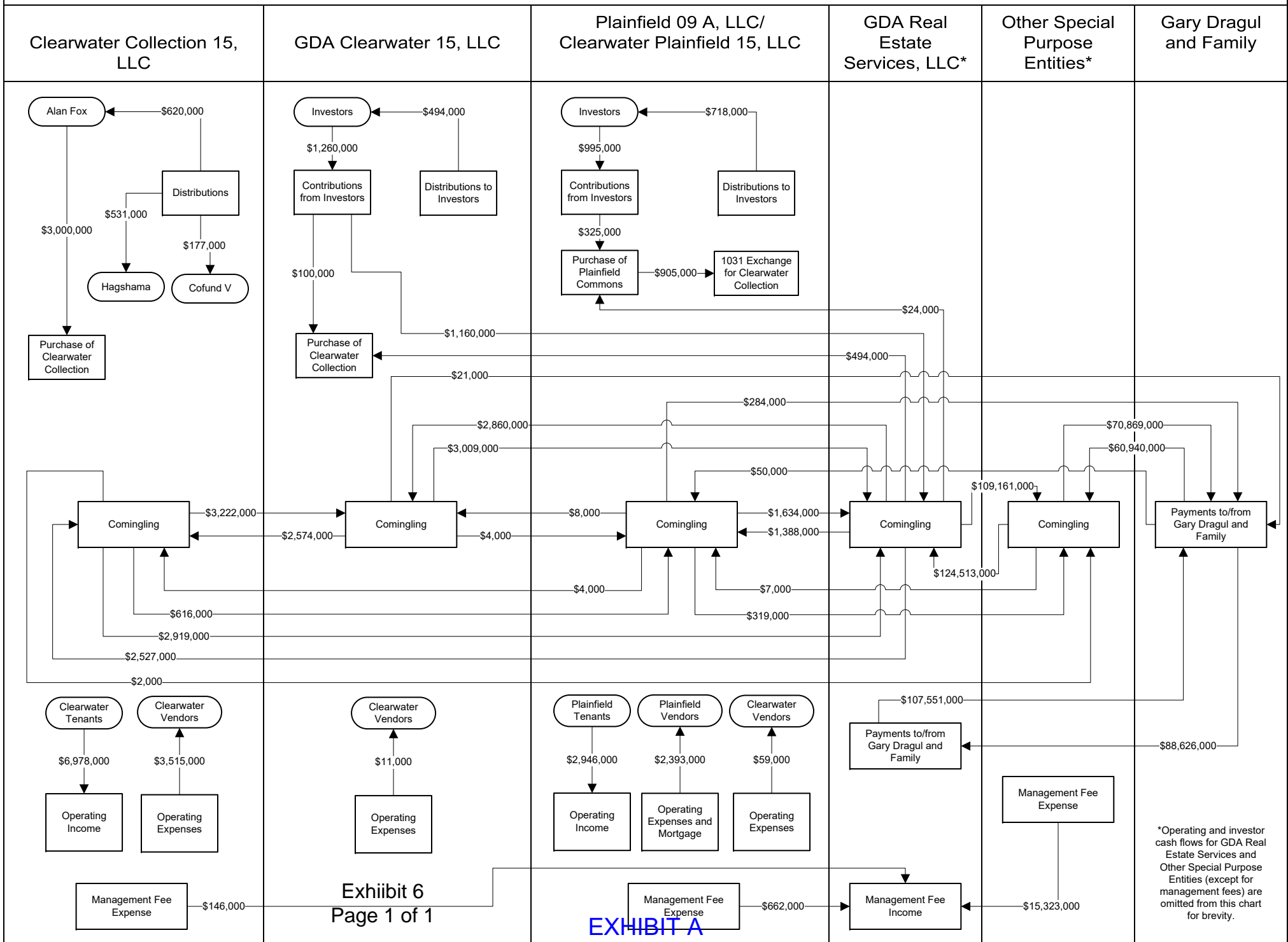
Dated: July 7, 2023, in the United States of America.



Stephanie J. Drew



**Exhibit 6: Cash Activity – Clearwater Collection 15, LLC, GDA Clearwater 15, LLC, and Clearwater Plainfield 15, LLC**



\*Operating and investor cash flows for GDA Real Estate Services and Other Special Purpose Entities (except for management fees) are omitted from this chart for brevity.

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	<p style="text-align: center;"><b>π COURT USE ONLY π</b></p> <hr/> <p style="text-align: center;">Case No. 2018CV33011</p> <p style="text-align: center;">Division 424</p>
<p><b>Plaintiff:</b> Gerald Rome,                  Securities Commissioner for the State of Colorado                  v.  <b>Defendants:</b> Gary Dragul; GDA Real Estate Services, LLC; and GDA Real Estate Management, LLC</p>	
<p>Attorneys for Claimant William Detterer:</p> <p>M. Gabriel McFarland (#26167)                  Cyd Hunt (#15058)                  Evans &amp; McFarland, LLC                  910 13th Street, Suite 200                  Golden, Colorado 80401                  tel (303) 279-8300                  fax (303) 277-1620                  email: gmcfarland@emlawyers.com                  chunt@emlawyers.com</p>	
<b>CLAIM FORM</b>	

The undersigned counsel, on behalf of claimant William Detterer, hereby asserts a claim against the Receivership Estate of Gary J. Dragul; GDA Real Estate Services, LLC; GDA Real Estate Management, LLC; and related entities.

1. Amount of Claim as it existed on August 30, 2018:

Claim is asserted against:	GDA Real Estate Services, LLC
Actual damages:	\$91,250.00
Consequential/other damages	N/A
Interest	N/A
Attorney fees and costs	N/A
Other	N/A
<b>TOTAL:</b>	<b>\$91,250.00</b>

2. The foregoing claim arose on August 10, 2018 and is based upon the

following events:

- On December 10, 2015, Mr. Detterer filed a complaint against GDA Real Estate Services, LLC; GDA Real Estate Management, Inc.; and Gary J. Dragul, stating claims for breach of contract and unjust enrichment based on nonpayment of a promissory note. **Exhibit 1, Complaint.**
- On August 3, 2016, the parties to that case participated in a mediation before the Hon. Joseph J. Bellipanni and reached a settlement agreement. **Exhibit 2, Settlement Agreement in JAG Case No. 2016-0709.**
- Shortly thereafter, the parties executed a Settlement Agreement and Mutual Release detailing the terms of their agreement. **Exhibit 3, “the Agreement.”**
- Pursuant to the Agreement, GDA Real Estate, LLC promised to pay Mr. Detterer a total of \$121,000, with an initial immediate payment of \$1,000 and monthly payments of \$1,250 thereafter on the tenth of each month.
- On August 29, 2016, the Court dismissed the subject litigation pursuant to the parties’ stipulation. **Exhibit 4, Order Granting Stipulated Motion to Dismiss.**
- Payments were made pursuant to the Agreement through July 10, 2018. The check tendered on August 10, 2018 bounced. The total received by Mr. Detterer pursuant to the Agreement was \$29,750. **Exhibit 5, Settlement Payments.**
- The undersigned notified Benjamin Kahn, counsel for Dragul, *et al.* of the

deficiency on August 27, 2018 and received no response. **Exhibit 6, email from Hunt to Kahn.**

- The undersigned notified GDA Real Estate Services, LLC of the deficiency on November 20, 2018 and received no response. **Exhibit 7, letter from Hunt to Dragul.**
- As GDA Real Estate Services, LLC has failed to cure the deficiency in settlement payments within ten days of notice and remains in default on the Agreement, Mr. Detterer is entitled to file or record or otherwise enforce the Confession of Judgment attached as Exhibit A to the Agreement, and the balance of \$91,250 in settlement payments is due and owing. Given the extant receivership, Mr. Detterer will not file the Confession of Judgment outside of the within proceeding.

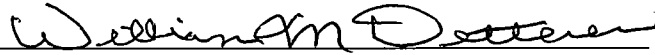
**DOCUMENTS SUPPORTING THE CLAIM ARE ATTACHED TO THIS FORM.**

3. This claim is unsecured.
4. N/A
5. Claimant does not assert entitlement to interest.
6. N/A
7. Claimant is represented as set forth in the case caption.

**CLAIMANT HEREBY CERTIFIES THAT HE HAS DISMISSED ANY OTHER PENDING SUITS OR PROCEEDINGS HE HAS COMMENCED AGAINST DRAGUL, THE DRAGUL ENTITIES, OR THE RECEIVERSHIP ESTATE AND WILL NOT FILE OR REFILE ANY SUIT OR PROCEEDING IN ANOTHER**

**FORUM WITHOUT THE RECEIVER'S PERMISSION OR LEAVE OF THIS COURT.**

8. I certify and attest, under penalty of perjury, that the information contained in the foregoing Claim Form is true and correct:



William Detterer  
308 Charleston Lane  
Reading, Pennsylvania 19610  
610-781-0294  
bill.detterer@yahoo.com

DATED this 17<sup>th</sup> day of December, 2018.

**EVANS & MCFARLAND, LLC**

*The original signature is on file at Evans & McFarland, LLC*

By: /s/ Cyd Hunt  
Cyd Hunt

**ATTORNEYS FOR CLAIMANT**

DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202	
<b>Plaintiff:</b> Gerald Rome, Securities Commissioner for the State of Colorado  v.  <b>Defendants:</b> Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC	<b>▲ COURT USE ONLY ▲</b>  Case Number: 2018CV33011  Division/Courtroom: 424
<b>CLAIM FORM</b>	

The undersigned Claimant hereby asserts a claim against the Receivership Estate of Gary J. Dragul (“Dragul”); GDA Real Estate Services, LLC; GDA Real Estate Management, LLC; and related entities (collectively, “Dragul and the GDA Entities” or the “Estate”).

1. Amount of Claim as it existed on August 30, 2018.

Claim is asserted against:	GDA Real Estate and Gary Dragul
	\$458,230.49 in principal +
Actual damages:	\$46,437.24 in outstanding, accrued, unpaid interest
Consequential and other damages, if any:	
Interest, if any:	\$46,437.24
Attorneys’ fees and costs, if any:	
Other:	
<b>TOTAL:</b>	<b>\$504,667.73 (\$458,230.49 in principal + \$46,437.24 in interest)</b>

2. The foregoing claim arose on **08/30/2018**, and is based upon the following events:

To Whom It May Concern,

I’m sending this cover letter along with supporting documentation to clarify a few things specific to the GDA Real Estate Investments being claimed by me.

The following GDA Real Estate investments were originally transacted when I was married to Melanie Sue Hershey-Rockefeller. She is also an investor and now that we are divorced will be submitting her own individual claim.

When married, we invested in many properties, such as...

- Multiple Promissory Notes
- Plainfield Commons aka Clearwater Commons (Some funds invested in William Scott Rockefeller's Pensco IRA and some outside of his IRA)
- Plaza Mall of Georgia North (invested in William Scott Rockefeller's Pensco IRA)
- Fort Collins
- Prospect Square
- Walden Park (invested in William Scott Rockefeller's Pensco IRA)
- Broomfield
- Village Crossroads
- Crosspointe
- Syracuse
- Rose LLC aka Senor Frogs

Over time investment, such as Syracuse, Village Crossroads, Broomfield, and other underperforming investments, were consolidated and rolled into other investments in hopes of regenerating higher interest / returns. In many cases, GDA required that in order to roll an underperforming investment, GDA would require a dollar for dollar contribution. As an example, if we were to roll a \$50,000 underperforming investment (i.e. Syracuse into Rose LLC), GDA would require us to pay an additional \$50,000 to GDA, that was often in the form of a Promissory Note. Now I know it was all part of Gary Dragul's fraudulent scheme to raise additional capital. A few of the investments (Plainfield / Clearwater...Plaza Mall of Georgia North...Walden Park) were invested through my Pensco IRA. The rest of the investments were made in the name of our joint S Corporation...MSHR Inc. After separation / divorce, I set up a separate S Corporation...Southern Performance Group Inc. and you will notice GDA Real Estate made checks payable to Southern Performance Group Inc, in lieu of MSHR, Inc. for the Plainfield / Clearwater (the part outside my Pensco IRA) and Fort Collins investments. See email thread I attached following the Separation Agreement requesting GDA Real Estate to change the monthly interest distribution payment to Southern Performance Group Inc. in lieu of MSHR.

To potentially further complicate things, Ms. Rockefeller and I separated November 2015, then eventually divorced.

Therefore, to help clarify who is entitled to which investments, as a part of the Receivership Claim Process, I've attached a copy of our entire Separation Agreement. Please refer to Page 4 of the Agreement, specifically Article 2 (Property Settlement), Section 2.1(b)(3) Retirement Benefits and Investments, to reference what GDA investments are legally mine to claim (as well as what investments are legally Melanie Sue Hershey-Rockefeller's).

To summarize, the following investments are in play to be claimed because the other aforementioned investments, not listed here, have been rolled into other investments as part of the previously mentioned consolidation...

- Plainfield Commons aka Clearwater Commons (100% to William Scott Rockefeller)
- Plaza Mall of Georgia North (100% to William Scott Rockefeller)
- Fort Collins (100% to William Scott Rockefeller)
- Prospect Square (100% to William Scott Rockefeller)
- Walden Park (100% to William Scott Rockefeller under Bullet ix - 100% of Pensco IRA to William Scott Rockefeller)
- \$125,000 Promissory Note of which \$38,400.98 has been paid back, thus leaving an outstanding, unpaid balance of \$86,299.02 (To be split 50 / 50 between William Scott Rockefeller and Melanie Sue Hershey Rockefeller)
- Rose LLC (100% to Melanie Sue Hershey Rockefeller)

On a separate note, I'll be representing the State of Colorado and testifying against Gary Dragul at his criminal hearing on February 7, 2019.

If you have any questions, I may be reached at...  
Email: scott\_rockefeller@yahoo.com  
Cell: 704-906-6246

Thank you for your time and support in this matter.

William Scott Rockefeller

**DOCUMENTS SUPPORTING THE CLAIM MUST BE ATTACHED TO THIS CLAIM FORM.**

3. This claim is:

Unsecured

4. If the claim is secured, please identify the location of all collateral:

5. If the claim includes interest, please specify each of the reasons for such interest and the rate thereof (e.g. contract, statute, etc.):

Please refer to the attached cover letter along with the cover letter for each individual investment claim that has been uploaded.

6. The nature and value of any offset or counterclaim (i.e., money or property that you owe Dragul, the GDA Entities, or the Estate, or any claims that Dragul, the GDA Entities, or the Estate may have against you):

Not applicable. There are no monies that I owe to Gary Dragul, or any of the GDA entities, or Estate...nor are there any claims against me.

7. If you are represented by an attorney, please provide details:

Not represented by an attorney.

**CLAIMANT HEREBY CERTIFIES THAT IT HAS DISMISSED ANY OTHER PENDING SUITS OR PROCEEDINGS IT HAS COMMENCED AGAINST DRAGUL, THE DRAGUL ENTITIES, OR THE RECEIVERSHIP ESTATE AND THAT IT WILL NOT FILE (OR RE-FILE) ANY SUIT OR PROCEEDING IN ANOTHER FORUM WITHOUT THE RECEIVER'S PERMISSION OR LEAVE OF THIS COURT.**

8. I hereby certify and attest, under the penalty of perjury, that the information contained in the foregoing Claim Form is true and correct:

Claimant Name: William Scott Rockefeller

Claimant Address:

Street Address: 10610 Quarrier Drive

City: Cornelius State: NC

Zip Code: 28031



Claimant Phone Number: (704) 906-6246

Claimant Facsimile Number:

Claimant Email: scott\_rockefeller@yahoo.com

*William Scott Rockefeller*

Dated: 1/26/2019

To: Rachel Sternlieb &

Allen Vellone Wolf Heffrich & Factor P.C.

We want to take time to say thank you for all you are doing to help us investors recoup the funds we invested with GDA (Gary Dragul). It has put a hardship on us financially with these losses. Please feel free to call with any questions.

Shirley I. Friedman  
Gideon & Lapp  
538 3441

# FILE A CLAIM

The Receiver's Motion to Establish Claims Administration Procedure and to Set Claims Bar Date has been granted. This means that the Notice of Claims Bar Date and Procedure for Filing Claims and a Sample Claim Form have been approved by the Receivership Court and can be found on the Pleadings Page on this website. The deadline for filing Claims is February 1, 2019.

Submit only one Claim Form. If you invested in more than one GDA project, use the space provided to identify all investments made.

You will be able to complete and submit the Claim Form with all supporting documents below.

**Amount of Claim as it existed on August 30, 2018.**

## Claim Details

Claim is asserted against: \*

all Shopping Centers we invested in with GDA (Gary)  
Actual damages: \$ 625,000 (\* see attached forms)

Consequential and other damages, if any:

ALL % Percentages of Centers we bought into.  
Interest, if any: \$ 476,801.35

Attorneys' fees and costs, if any: 0

Other: Accountant 50.00

TOTAL: \$ 1,101,851.35 + Percentages of Shopping Centers.

The foregoing claim arose on: \*

From 2006 - August 30, 2018

Summary of Events \*

This claim is: \* to recoup funds that were invested with GDA (Gary Dragul) + interest + ownership share.  
If the claim includes interest, please specify each of the reasons for such interest and the rate thereof (e.g. contract, statute, etc.): on contracts stated + agreed upon amount.

**\*Claims asserted against:**

- 1) Grandview LLC- \$50,000 investment (Jan 2006- Aug 2018)
  - 1.79% Membership/ownership
  - 323.75 monthly interest/distribution
  
- 2) Westcreek- \$50,000 investment (Sept 2006- Aug 2018)
  - 1.07% Membership/ownership
  - \$343.75 monthly interest/distribution
  
- 3) Prospect Square- \$100,000 investment (May 2007- Aug 2018)
  - 2.513% Membership/ownership
  - \$666.67 monthly interest/distribution
  
- 4) Addison Plaza- \$50,000 investment (March 2007- Aug 2018)
  - 1.709% Membership/ownership
  - \$322.92 monthly interest/distribution
  
- 5) Walden Park- \$75,000 investment (June 2008- Aug 2018)
  - 2.003% Membership/ownership
  - \$437.50 monthly interest/distribution
  
- 6) Fort Collins- \$50,000 investment (June 2008- Aug 2018)
  - 1.600% Membership/ownership
  - 8% interest
  - \$333.33 monthly distribution
  
- 7) Syracuse- \$50,000 investment (Feb 2009- Aug 2018)
  - 1.515% Membership/ownership
  - 8% interest
  - \$333.33 monthly distribution
  
- 8) Plaza Mall of Georgia - \$50,000 investment (Jan 2009- Aug 2018)
  - 0.587% Membership/ownership
  - 8% interest
  - \$333.33 monthly distribution

**To: Rachel Sternleib & Allen Vellone Wolf Helfrich & Factor P.C.**

We want to take time to say thank you for all you are doing to help us investors recoup the funds we invested with GDA (Gary Dragel). It has put a hardship on us financially with these losses. Please feel free to call us with any questions.

Sincerely,  
Gideon & Rhonda Lapp  
(717) – 538- 3441

9) Plainfield- \$100,000 investment (June 2013- Aug 2018)

- 7.553% Membership/ownership
- 8% interest
- \$666.66 monthly distribution

10) Crosspoints- \$50,000 investment (March 2008- Aug 2018)

- 1.515% Membership/ownership
- 8% interest
- \$333.33 monthly distribution

**The nature and value of any offset or counterclaim:**

i.e., Money or property that you owe Dragul, the GDA Entities, or the Estate, or any claims that Dragul, the GDA Entities, or the Estate may have against you

**Attorney Information**

---

Are you currently represented by an attorney? \*

No

Name of Attorney

Attorney's Address

Street Address

City

State

ZIP Code

Attorney's Phone

Attorney's Facsimile Number

Attorney's Email

**Claimant Information**

---

Gideon and Rhonda Lapp  
Address \*

Street Address 2728 E 14<sup>th</sup> st.

Address Line 2 Unit A

City Tulsa

State / Province / Region OK.

ZIP / Postal Code 74104

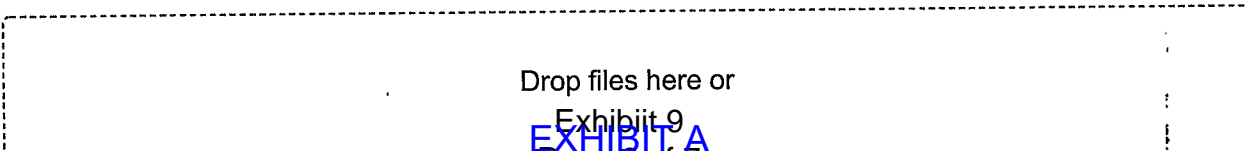
Country USA

Phone \* 717-538-3441

Facsimile 717-278-7107

Email \* Lappinvestors@gmail.com

File Supporting Documents FAQ



Drop files here or

Exhibit 9  
**EXHIBIT A**  
Page 6 of 7

Date Jan 21, 2019

Name of Claimant \*

**CLAIMANT HEREBY CERTIFIES THAT IT HAS DISMISSED ANY OTHER PENDING SUITS OR PROCEEDINGS IT HAS COMMENCED AGAINST DRAGUL, THE DRAGUL ENTITIES, OR THE RECEIVERSHIP ESTATE AND THAT IT WILL NOT FILE (OR RE-FILE) ANY SUIT OR PROCEEDING IN ANOTHER FORUM WITHOUT THE RECEIVER'S PERMISSION OR LEAVE OF THIS COURT. \***

I hereby certify and attest, under the penalty of perjury, that the information contained in the foregoing Claim Form is true and accurate to the best of my knowledge.

**Before submitting this Claim Form, please make sure you have:**

1. Completed all fields in the Claimant Information section of the Claim Form, including your email address, telephone number and mailing address.
2. Stated the total of your Claim.
3. Uploaded all documents that support your claim.
4. Signed the Attestation under penalty of perjury.

The image shows two handwritten signatures in black ink, written over a solid horizontal line. The signature on the left is cursive and appears to be 'L J Long'. The signature on the right is also cursive and appears to be 'L'Lean K Joff'.



DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202	
<b>Plaintiff:</b> Gerald Rome, Securities Commissioner for the State of Colorado  v.  <b>Defendants:</b> Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC	<b>▲ COURT USE ONLY ▲</b>  Case Number: 2018CV33011  Division/Courtroom: 424
<b>CLAIM FORM</b>	

The undersigned Claimant hereby asserts a claim against the Receivership Estate of Gary J. Dragul (“Dragul”); GDA Real Estate Services, LLC; GDA Real Estate Management, LLC; and related entities (collectively, “Dragul and the GDA Entities” or the “Estate”).

1. Amount of Claim as it existed on August 30, 2018.

Claim is asserted against:	Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC
Actual damages:	\$150,000.00
Consequential and other damages, if any:	0
Interest, if any:	\$3,583.12 (#1=\$916.46) + (#2=\$2000) + (#3= \$666.66)
Attorneys’ fees and costs, if any:	
Other:	
<b>TOTAL:</b>	<b>\$153,583.12 + attorney fees</b>

2. The foregoing claim arose on **08/30/2018**, and is based upon the following events:

3 separate investments (claims) were made with GDA including:

#1. Signed agreement with GDA to invest \$50,000 in the home at 3142 South Leyden 14, LLC on October 15th, 2015. Payments stopped after June of 2018. Promissory agreement attached. This claim is secured by a second deed of trust for the property at 3142 S Leyden St. Denver, CO 802222.

#2. One \$50,000 promissory note dated February 27, 2018 with DGA Real Estate Services, LLC.

#3. One \$50,000 initially invested in Crosspoint 08 A, LLC then transferred to Southlake 07 A, LLC, then transferred into Plainfield 09 A, LLC, then ultimately transferred into Clearwater 15, LLC. All

documentation of transfers is attached.

**DOCUMENTS SUPPORTING THE CLAIM MUST BE ATTACHED TO THIS CLAIM FORM.**

3. This claim is:

Secured by the following collateral or security:

#1. 3142 South Leyden 14, LLC investment is secured by a second deed of trust for the property at 3142 S Leyden St. Denver, CO 802222.

#2. Personal promissory note is secured by GDA Real Estate Services, LLC.

#3. Clearwater 15, LLC is secured by the Clearwater Collection property located at 21688-21800 US Highway 19 N, Clearwater, FL 33765

4. If the claim is secured, please identify the location of all collateral:

#1- 3142 S Leyden St. Denver, CO 802222.

#2- Assets of GDA Real Estate Services, LLC

#3- 21688-21800 US Highway 19 N, Clearwater, FL 33765

5. If the claim includes interest, please specify each of the reasons for such interest and the rate thereof (e.g. contract, statute, etc.):

#1- 3142 S Leyden St. Denver, CO 802222. -interest only payments were to be made each month in the amount of \$458.33. No payments made in July or August = \$916.46

#2- Assets of GDA Real Estate Services, LLC- claim includes interest not paid in July or August. The interest rate denoted in the promissory note was at the rate of 11% per annum. Interest only amount owed is \$2000.00.

#3- 21688-21800 US Highway 19 N, Clearwater, FL 33765. Interest only monthly payments of \$333.33 were not paid in the months of July or August in the total amount owed of \$666.66

6. The nature and value of any offset or counterclaim (i.e., money or property that you owe Dragul, the GDA Entities, or the Estate, or any claims that Dragul, the GDA Entities, or the Estate may have against you):

NA

7. If you are represented by an attorney, please provide details:

Name of Attorney: Stephanie McCoy

Attorney's Address:

Street Address: 1515 Wynkoop #360

City: Denver State: Colorado

Zip Code: 80202

Attorney's Phone Number: (303) 335-6381

Attorney's Facsimile Number: 303-845-9762

Attorney's Email: mcco@themccoymccoyfirm.com

**CLAIMANT HEREBY CERTIFIES THAT IT HAS DISMISSED ANY OTHER PENDING SUITS OR PROCEEDINGS IT HAS COMMENCED AGAINST DRAGUL, THE DRAGUL ENTITIES, OR THE RECEIVERSHIP ESTATE AND THAT IT WILL NOT FILE (OR RE-FILE) ANY SUIT OR PROCEEDING IN ANOTHER FORUM WITHOUT THE RECEIVER'S PERMISSION OR LEAVE OF THIS COURT.**

8. I hereby certify and attest, under the penalty of perjury, that the information contained in the foregoing Claim Form is true and correct:

Claimant Name: Thomas P McCaffrey

Claimant Address:

Street Address: 15305 Foxglove Ct.

City: Parker State: CO

Zip Code: 80134

Claimant Phone Number: (303) 588-2227

Claimant Facsimile Number:

Claimant Email: tmccaffrey6@comcast.net

*Thomas P McCaffrey*

Dated: 1/2/2019

DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202	
<b>Plaintiff:</b> Gerald Rome, Securities Commissioner for the State of Colorado  v.  <b>Defendants:</b> Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC	<b>▲ COURT USE ONLY ▲</b>  Case Number: 2018CV33011  Division/Courtroom: 424
<b>CLAIM FORM</b>	

The undersigned Claimant hereby asserts a claim against the Receivership Estate of Gary J. Dragul (“Dragul”); GDA Real Estate Services, LLC; GDA Real Estate Management, LLC; and related entities (collectively, “Dragul and the GDA Entities” or the “Estate”).

1. Amount of Claim as it existed on August 30, 2018.

Claim is asserted against:	<u>Gary Dragul, GDA</u>
Actual damages:	\$ <u>300,000.00</u>
Consequential and other damages, if any:	\$ _____
Interest, if any:	\$ _____
Attorneys’ fees and costs, if any:	\$ _____
Other:	\$ _____
<b>TOTAL:</b>	<b>\$ <u>300,000</u></b>

2. The foregoing claim arose on April 26, 2018, and is based upon the following events:

Gary Dragul / GDA Indictment

Fraud, Ponzi

DOCUMENTS SUPPORTING THE CLAIM MUST BE ATTACHED TO THIS CLAIM FORM.

3. This claim is (select one):

[ ] unsecured; OR,

[X] secured by the following collateral or security:

- 1. Southlake 07, A LLC now Plaza Mall North & Clearwater
- 2. Ft. Collins WFO2
- 3. Safeway Marketplace 07A

4. If the claim is secured, please identify the location of all collateral:

- 1. Plaza Mall North.
- 2. CLEARWATER
- 3. FT COLLINS
- 4. Safeway Marketplace

5. If the claim includes interest, please specify each of the reasons for such interest and the rate thereof (e.g. contract, statute, etc.):

N/A

6. The nature and value of any offset or counterclaim (i.e., money or property that you owe Dragul, the GDA Entities, or the Estate, or any claims that Dragul, the GDA Entities, or the Estate may have against you):

N/A

7. If you are currently represented by an attorney, please complete the following:

N/A

Name of Attorney (Please print)

Address (street address, not post-office box)

Telephone Number  
Facsimile Number  
E-mail Address

CLAIMANT HEREBY CERTIFIES THAT IT HAS DISMISSED ANY OTHER PENDING SUITS OR PROCEEDINGS IT HAS COMMENCED AGAINST DRAGUL, THE DRAGUL ENTITIES, OR THE RECEIVERSHIP ESTATE AND THAT IT WILL NOT FILE (OR RE-FILE) ANY SUIT OR PROCEEDING IN ANOTHER FORUM WITHOUT THE RECEIVER'S PERMISSION OR LEAVE OF THIS COURT.

8. I hereby certify and attest, under the penalty of perjury, that the information contained in the foregoing Claim Form is true and correct:

Laura Evans  
Claimant Signature

Laura K. Evans  
Name of Claimant (Please print)

6130 Crowfoot Valley Rd

Parker CO 80134  
Address (street address, not post-office box)

303.358.1046  
Telephone

Facsimile

Laura5280@yahoo.com  
E-mail Address

Dated: Jan, 9, 2019.

Wells Fargo policy - 7 yrs to retrieve cancel checks. Due to being past date could not obtain the checks.

Carbon of checks written

DO NOT USE FOR REORDERING PURPOSES  
Protect Your Duplicate Checks Store your duplicate checks in your check box.

- Track your expenses...
- Clothing
  - Food
  - Credit Card
  - Utilities
  - Entertainment
  - Insurance
  - Transportation
  - Mortgage
  - Other: \_\_\_\_\_

TAX DEDUCTIBLE ITEM

1284

Contributor of file  
Five hundred thousand and 00/100

THIS ITEM	100,000.00
BALANCE	
DEPOSIT	
OTHER	
BALANCE FORWARD	

For enhanced security, your name and account number do not appear on this copy.

NOT NEGOTIABLE

DO NOT USE FOR REORDERING PURPOSES  
Protect Your Duplicate Checks Store your duplicate checks in your check box.

- Track your expenses...
- Clothing
  - Food
  - Credit Card
  - Utilities
  - Entertainment
  - Insurance
  - Transportation
  - Mortgage
  - Other: \_\_\_\_\_

TAX DEDUCTIBLE ITEM

1235

Grubway Warehouse of Allie  
One hundred thousand dollars and 00/100

THIS ITEM	100,000.00
BALANCE	
DEPOSIT	
OTHER	
BALANCE FORWARD	

For enhanced security, your name and account number do not appear on this copy.

NOT NEGOTIABLE

DO NOT USE FOR REORDERING PURPOSES  
Protect Your Duplicate Checks Store your duplicate checks in your check box.

- Track your expenses...
- Clothing
  - Food
  - Credit Card
  - Utilities
  - Entertainment
  - Insurance
  - Transportation
  - Mortgage
  - Other: \_\_\_\_\_

TAX DEDUCTIBLE ITEM

1403

For 1 Wellins WE OPPT & Co  
One hundred thousand and 00/100

THIS ITEM	100,000.00
BALANCE	
DEPOSIT	
OTHER	
BALANCE FORWARD	

For enhanced security, your name and account number do not appear on this copy.

NOT NEGOTIABLE

ck 1284  
\$100,000

AGREEMENT FOR SALE AND  
ASSIGNMENT OF MEMBERSHIP INTEREST

Southlake 07 A, LLC a newly formed LLC, hereinafter referred to as "Seller" accepts the Membership Interest investment of Laura Evans, hereinafter referred to as "Buyer".

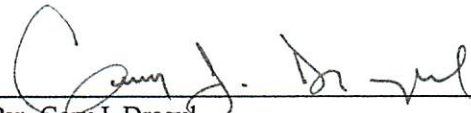
Southlake 07 A, LLC, and Buyer hereby mutually agree as follows:

1. Southlake 07 A, LLC hereby sells and assigns the Membership Interest of 2.072% to Buyer.
2. This Sale and Assignment shall be effective as of December 15, 2007.
3. Buyer shall pay to Southlake 07 A, LLC the sum of One Hundred Thousand and no/100 Dollars (\$100,000.00), payable in full on or before October 12, 2007.
4. Seller hereby represents and warrants that there are no impediments to sale of said Membership Interest, nor any liens thereon except loans which may have been entered into by the LLC.
5. Buyer shall succeed to Seller's interest in the operating account of said LLC as of December 15, 2007, in full satisfaction of all prorations. Buyer shall succeed to any and all claims which the Seller may have, for any reason, either against the LLC, or any present or prior member of manager of said LLC.
6. The parties agree to execute such other and further documents as may be necessary or convenient to place in effect the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of October 8, 2007.

Southlake 07 A, LLC  
a Texas limited liability company

By: GDA Real Estate Management, Inc.  
Its: Manager

  
By: Gary J. Dragul  
Its: President

\_\_\_\_\_  
Laura Evans

\_\_\_\_\_  
Social Security Number/Tax I.D. Number





GDA Real Estate Services, LLC  
8301 East Prentice Avenue, Suite 210  
Greenwood Village, Colorado 80111

*2.0% ownership*

October 8, 2007

Laura Evans  
599 Blue Jay Drive  
Golden, CO 80401

Via Federal Express

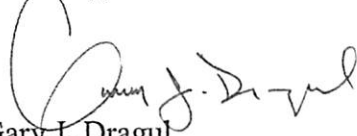
Re: Investment in Southlake Plaza

Dear Mrs. Evans:

Enclosed please find two copies of the agreement to purchase a membership interest in Southlake Plaza. Please sign and return one copy of the agreement, along with your investment funds made payable to Southlake 07 A, LLC, by Friday, October 12, 2007. For your convenience, I have enclosed a return Federal Express label to be used with the Federal Express reusable envelope. You should retain the second copy of the agreement for your records.

The first monthly distribution will be a prorated amount from the day of closing through the end of the month. Subsequent monthly distributions will be \$625.00 for the first year. We currently expect the purchase of this asset to close by December 15, 2007. I look forward to sharing a long-standing relationship as co-investors in Southlake Plaza. Please let me know if you have any questions.

Sincerely,

  
Gary J. Dragul  
President

encl.

Exhibit 11  
**EXHIBIT A**

PARTNER# 7

Schedule K-1  
(Form 1065)

2016

Department of the Treasury  
Internal Revenue Service

For calendar year 2016, or tax  
year beginning \_\_\_\_\_  
ending \_\_\_\_\_

Final K-1  Amended K-1 OMB No. 1545-0123

Partner's Share of Income, Deductions,  
Credits, etc. See back of form and separate instructions.

Part III Partner's Share of Current Year Income,  
Deductions, Credits, and Other Items

1	Ordinary business income (loss)	15	Credits
2	Net rental real estate income (loss)		
*		438	
3	Other net rental income (loss)	16	Foreign transactions
4	Guaranteed payments		
5	Interest income		
6a	Ordinary dividends	1	
6b	Qualified dividends		
7	Royalties		
8	Net short-term capital gain (loss)		
9a	Net long-term capital gain (loss)	17	Alternative minimum tax (AMT) items
9b	Collectibles (28%) gain (loss)		
9c	Unrecaptured section 1250 gain		
10	Net section 1231 gain (loss)	18	Tax-exempt income and nondeductible expenses
11	Other income (loss)		
12	Section 179 deduction	19	Distributions
13	Other deductions	A	3,665
		20	Other information
		A	1
14	Self-employment earnings (loss)		

Part I Information About the Partnership

A Partnership's employer identification number  
**26-3772234**

B Partnership's name, address, city, state, and ZIP code  
**PLAZA MALL NORTH 08 A JUNIOR, LLC**  
**5690 DTC BOULEVARD, SUITE 515**  
**GREENWOOD VILLAGE CO 80111**

C IRS Center where partnership filed return  
**E-FILE**

D  Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner

E Partner's identifying number  
**481-86-5971**

F Partner's name, address, city, state, and ZIP code  
**LAURA EVANS**  
**6130 N CROWFOOT VALLEY DRIVE**  
**PARKER CO 80134**

G  General partner or LLC member-manager  Limited partner or other LLC member

H  Domestic partner  Foreign partner

I1 What type of entity is this partner? **INDIVIDUAL**

I2 If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here

J Partner's share of profit, loss, and capital (see instructions):

	Beginning	Ending
Profit	0.564000%	0.547700%
Loss	0.564000%	0.547700%
Capital	0.709726%	0.547700%

K Partner's share of liabilities at year end:

Nonrecourse \$ \_\_\_\_\_

Qualified nonrecourse financing \$ **70,491**

Recourse \$ \_\_\_\_\_

L Partner's capital account analysis:

Beginning capital account \$ **32,501**

Capital contributed during the year \$ \_\_\_\_\_

Current year increase (decrease) \$ **439**

Withdrawals & distributions \$ **(3,665)**

Ending capital account \$ **29,275**

Tax basis  GAAP  Section 704(b) book  
 Other (explain)

M Did the partner contribute property with a built-in gain or loss?  
 Yes  No  
If "Yes," attach statement (see instructions)

\*See attached statement for additional information.

For IRS Use Only



1403  
ck 1384  
\$100,000

AGREEMENT FOR SALE AND  
ASSIGNMENT OF MEMBERSHIP INTEREST

Fort Collins WF 02, LLC a newly formed LLC, hereinafter referred to as "Seller" accepts the Membership Interest investment of Laura Evans, hereinafter referred to as "Buyer".

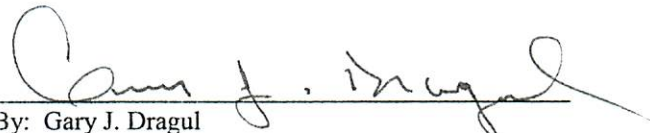
Fort Collins WF 02, LLC, and Buyer hereby mutually agree as follows:

1. Fort Collins WF 02, LLC hereby sells and assigns the Membership Interest of 3.201% to Buyer.
2. This Sale and Assignment shall be effective upon Seller's receipt of Buyer's funds.
3. Buyer shall pay to Fort Collins WF 02, LLC the sum of One Hundred Thousand and no/100 Dollars (\$100,000.00), payable in full on or before August 28, 2008.
4. Seller hereby represents and warrants that there are no impediments to sale of said Membership Interest, nor any liens thereon except loans which may have been entered into by the LLC.
5. Buyer shall succeed to Seller's interest in the operating account of said LLC a upon Seller's receipt of Buyer's funds, in full satisfaction of all prorations. Buyer shall succeed to any and all claims which the Seller may have, for any reason, either against the LLC, or any present or prior member or manager of said LLC.
6. The parties agree to execute such other and further documents as may be necessary or convenient to place in effect the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of August 22, 2008.

Fort Collins WF 02, LLC  
a Colorado limited liability company

By: GDA Real Estate Management, Inc.  
Its: Manager

  
By: Gary J. Dragul  
Its: President

\_\_\_\_\_  
Laura Evans

\_\_\_\_\_  
Social Security Number/Tax I.D. Number



GDA Real Estate Services, LLC  
8301 East Prentice Avenue, Suite 210  
Greenwood Village, Colorado 80111

August 22, 2008

Laura Evans  
599 Blue Jay Drive  
Golden, CO 80401

Via Federal Express

Re: Investment in Fort Collins WF 02, LLC

Dear Ms. Evans:

Enclosed please find two copies of the agreement to purchase a \$100,000 membership interest in Fort Collins WF 02, LLC. Please sign and return one copy of the agreement, along with your investment funds made payable to Fort Collins WF 02, LLC, by August 28, 2008. For your convenience, I have enclosed a return Federal Express label to be used with the Federal Express reusable envelope. You should retain the second copy of the agreement for your records.

The first monthly distribution will be a prorated amount from the day we receive your funds through the end of the month. Subsequent monthly distributions will be \$604.17 for the first year. I look forward to sharing a long-standing relationship as co-investors in Fort Collins WF 02, LLC. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary J. Dragul', is written over the typed name.

Gary J. Dragul  
President

encl.

PARTNER# 9

Schedule K-1 (Form 1065)

2016

Department of the Treasury Internal Revenue Service

For calendar year 2016, or tax year beginning ending

Final K-1

Amended K-1

984446 OMB No. 1545-0123

Partner's Share of Income, Deductions, Credits, etc. See back of form and separate instructions.

Part I Information About the Partnership

A Partnership's employer identification number 27-0039412
B Partnership's name, address, city, state, and ZIP code FORT COLLINS WF 02, LLC
5690 DTC BOULEVARD, SUITE 515 GREENWOOD VILLAGE CO 80111
C IRS Center where partnership filed return E-FILE
D Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner

E Partner's identifying number 481-86-5971
F Partner's name, address, city, state, and ZIP code LAURA EVANS
6130 N CROWFOOT VALLEY DRIVE PARKER CO 80134
G General partner or LLC member-manager Limited partner or other LLC member
H Domestic partner Foreign partner
I1 What type of entity is this partner? INDIVIDUAL
I2 If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here
J Partner's share of profit, loss, and capital (see instructions):
Beginning Ending
Profit 2.935800% 2.935800%
Loss 2.935800% 2.935800%
Capital 3.201000% 3.201000%
K Partner's share of liabilities at year end:
Nonrecourse \$
Qualified nonrecourse financing \$ 85,918
Recourse \$
L Partner's capital account analysis:
Beginning capital account \$ 80,514
Capital contributed during the year \$
Current year increase (decrease) \$ 2,376
Withdrawals & distributions \$ (3,254)
Ending capital account \$ 79,636
M Did the partner contribute property with a built-in gain or loss? Yes No

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

Table with 4 columns: Line number, Description, Amount, and Other information. Rows include Ordinary business income (loss), Net rental real estate income (loss), Other net rental income (loss), Guaranteed payments, Interest income, Ordinary dividends, Qualified dividends, Royalties, Net short-term capital gain (loss), Net long-term capital gain (loss), Collectibles (28%) gain (loss), Unrecaptured section 1250 gain, Net section 1231 gain (loss), Other income (loss), Section 179 deduction, Other deductions, Distributions, Other information, Self-employment earnings (loss).

\*See attached statement for additional information.

For IRS Use Only

## MEMBERSHIP PURCHASE AGREEMENT

This MEMBERSHIP PURCHASE AGREEMENT (this "Agreement") dated as of February 1, 2009, (the "Effective Date"), is made by and between Plaza Mall North 08 A Junior, LLC ("Seller") and Laura Evans, ("Buyer").

- A. The Seller is a 76.70% member of Plaza Mall North 08 B Junior, LLC a Georgia limited liability company ("Company") which owns undivided tenancy-in-common interest in and certain commercial real property located at 3410 & 3420 Buford Drive, Buford, GA 30519, and commonly known as "Plaza Mall of Georgia North" (the "Property"). The ultimate manager (the "Manager") of the Company is GDA Real Estate Management, Inc.
- B. Buyer desires to purchase, and Seller desires to sell, a 0.587% membership interest (the "Acquired Interest") in the Property, which represents a fractional ownership interest in Plaza Mall North 08 A Junior, LLC on the terms and conditions set forth in this Agreement. Seller is thereby transferring to Buyer a 0.587% beneficial interest in and to the Property.

NOW THEREFORE, in consideration of the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller hereby agree as follows:

1. Sale of Interest. Subject to the terms and conditions of this Agreement, upon the Effective Date Seller agrees to sell, convey, transfer, assign and deliver to Buyer all of the Seller's right, title and interest in and to the Acquired Interest, free and clear of all liens, charges, options, pledges, mortgages, security interests and other encumbrances, except for the restrictions set forth in the loan for the Property ("Encumbrances"), and Buyer shall purchase such Acquired Interest.
2. Consideration. In consideration for the purchase and sale set forth in Section 1, Buyer shall pay to Seller Fifty Thousand and no/100 Dollars (\$50,000.00) (the "Purchase Price") as follows: **Payable in full upon Buyer's execution of this Agreement and as set forth in the Letter Agreement attached hereto.**
3. Disclaimer of Warranties. Neither party is relying on any statement or representations made by the other not embodied therein. Buyer hereby expressly acknowledges that no such warranties and representations have been made, except as expressly set forth in the Agreement.
4. Acceptance of Interest. Buyer shall succeed to Seller's interest in the operating account of said LLC upon closing, in full satisfaction of all prorations. Buyer shall succeed to any and all claims which the Seller may have, for any reason, either against the LLC, or any present or prior member or manager of said LLC.
5. Investment Representations. Buyer, by executing this Agreement, hereby acknowledges, covenants, represents and warrants to the Seller, Company and Manager, and each of them as follows:
  - a. Such Buyer is experienced in business affairs and capable of evaluating the merits and risks of this investment.
  - b. Buyer realizes that such Buyer's investment in the Company involves an element of substantial uncertainty as to the potential for profitability of the business of the Company. Buyer has made its own independent investigation as to the nature of this investment and has not relied upon oral representations of the Seller, Manager or other buyers in determining whether to invest.
  - c. The Manager has not requested a tax ruling on behalf of the Company to the effect that the Company will be taxed as a partnership for federal income tax purposes nor does the

**Laura**

**From:** Beth Freestone [beth@gdare.com]  
**Sent:** Monday, February 02, 2009 12:22 PM  
**To:** Laura@denvercostcutters.com  
**Cc:** Gary Dragul; Marlin Hershey  
**Subject:** Remaining Southlake Equity

Dear Laura:

I hope you are doing well. This email is to recognize that \$50,000 of your \$100,000 Southlake investment was transferred to Plaza Mall North effective 2/1/09. You still have \$50,000 remaining in Southlake which will be placed in another investment of your choosing. We will have some great properties to propose very shortly. Please contact us with any further questions.

Thanks,  
Beth

Beth Freestone  
GDA Real Estate Services, LLC  
8301 E. Prentice Avenue, Suite 210  
Greenwood Village, CO 80111  
Phone: 303-221-5500  
Fax: 303-221-5501

Southlake  
100,000 invest  
\$50,000 trans to (Plaza N)  
\$50 ?? ~~transferred~~ to  
~~what?~~  
transferred to  
(Plainfield)



**Laura**

**From:** Beth Freestone [beth@gdare.com]  
**Sent:** Tuesday, February 03, 2009 12:55 PM  
**To:** Laura@denvercostcutters.com  
**Cc:** Gary Dragul; Marlin Hershey  
**Subject:** RE: Remaining Southlake Equity

Dear Laura:

As an addition to the email below, you will continue to receive a distribution for your remaining \$50,000 in Southlake until it is transferred to another property.

Thanks,  
Beth

Beth Freestone  
GDA Real Estate Services, LLC  
8301 E. Prentice Avenue, Suite 210  
Greenwood Village, CO 80111  
Phone: 303-221-5500  
Fax: 303-221-5501

**From:** Beth Freestone  
**Sent:** Monday, February 02, 2009 12:22 PM  
**To:** 'Laura@denvercostcutters.com'  
**Cc:** Gary Dragul; 'Marlin Hershey'  
**Subject:** Remaining Southlake Equity

Dear Laura:

I hope you are doing well. This email is to recognize that \$50,000 of your \$100,000 Southlake investment was transferred to Plaza Mall North effective 2/1/09. You still have \$50,000 remaining in Southlake which will be placed in another investment of your choosing. We will have some great properties to propose very shortly. Please contact us with any further questions.

Thanks,  
Beth

Beth Freestone  
GDA Real Estate Services, LLC  
8301 E. Prentice Avenue, Suite 210  
Greenwood Village, CO 80111  
Phone: 303-221-5500  
Fax: 303-221-5501



→ NY COM

**Gary J. Dragul, GDA Real Estate Management, Inc. and GDA Companies**  
**(collectively, "GDA") Investor Questionnaire**

Full Name : Laura Ann Klein Evans  
Date of Birth : 10.25.1966  
Address : 6130 N. Crowfoot Valley Rd Parker CO 80134  
E-Mail Address: Laura5280@yahoo.com  
Phone Number : 303.358.1046  
Business Address : \_\_\_\_\_  
Business Phone Number : \_\_\_\_\_

1. How did you first become associated with GDA? When?  
My ex husband Craig Evans and I were introduced to Gary Dragul by Dana Bradley with Performance Holdings 704.892.0282
2. Prior to your investment with GDA, how much investing experience did you have? none
3. Are you an accredited investor? \* yes
4. What was the date of your investment(s) and the amount of money you invested? (please provided copies of the front and back of checks, wire transfer, etc.)  
Please see back of page
5. Who presented this investment to you? Gary Dragul Dana Bradley
6. How did GDA receive your money? (via US Mail, gave check in person, etc.)?  
personal check
7. What did you have to do to receive a return on your investment?  
monthly distributions were mailed to investors.
8. What were you told the rate of return would be with this investment?  
each investment varied - see back
9. What were you told about the administrative fees associated with this investment?  
none
10. What were you told your money would be invested in?  
shopping centers - strip malls located throughout country.

- 11. Did you receive a Promissory Note with this investment?  
membership purchase agreements with all.
  - 12. What was the primary reason that prompted you to invest with GDA?  
Return on investments.
  - 13. How would GDA profit on this investment?  
GDA needed investors to purchase <sup>have funds</sup> to purchase these properties
  - 14. Did you receive a Private Placement Memorandum (description or summary of investment) for this investment? If so, when?  
NO. Received a "membership purchase Agreement" for each investment upon funds being received by GDA
  - 15. Were you told if any risks were involved with this investment? If so, what risk were disclosed to you?  
NO
  - 16. Have you received any return interest on your investment? If so, how much?  
See BACK
  - 17. What is the current status of your investment?  
See BACK
  - 18. Would you be willing to discuss your investment with us?  
yes!!
  - 19. Please provide any additional comments (please use the back of this page if necessary).  
Gary Diagul is a thief  
ponzi scheme!
- Greg Noteriani 303-929-AT31

\*Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds \$1,000,000.  
 Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has reasonable expectation of reaching the same income level in the current year.  
 Any trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person(knowledgeable about securities) and  
 Any entity in which all of the equity owners are accredited investors.

To: Gary Dragul

From: Laura Evans

RE: Remaining Southlake Equity

Dear Gary:

As you may or may not be aware, I invested \$100,000.00 in Southlake. \$50,000 of my investment was transferred to Plaza Mall North and the remaining \$50,000 is still due to me. Please see copies of your emails confirming that a distribution of \$50,000.00 was to be sent to me.

I have never agreed to reinvest the remaining \$50,000.00 and as of this date I have never received my remaining \$50,000.00

Please inform me ASAP of when I can expect to receive this \$50,000.00

Thank you

Laura Evans

303-358-1046

CLIENT INCOME TAX WORKSHEET

LAURA EVANS  
 599 BLUE JAY DRIVE  
 GOLDEN, CO 80401

INVESTMENT	STATE	DATE ACQUIRED	% ENTITY	2009 K-1
YM RETAIL	CO	10/1/2007	3.600%	X
WALDEN	TX	8/14/2008	2.821%	X
FORT COLLINS WF 02, LLC	CO	8/28/2008	2.936%	**
PLAZA GEORGIA NORTH	GA	2/1/2009	0.765%	X
SOUTHLAKE				1099 FROM GDA

\*\*Please note that we are awaiting information from our Management Company to finalize the Fort Collins WF 02, LLC tax return and will forward your tax information shortly.

1099 FOR INTEREST PAID ON PROMISSORY NOTE ALSO INCLUDED.

✓ **Fort Collins**

The properties in the Fort Collins group are Shoppes at the Meadows, Southwest Commons, Shops at Laveen Ranch Marketplace and Trophy Club.

**1. Shoppes at the Meadows located in Lone Tree, Colorado**

The occupancy rate at Shoppes at the Meadows is currently 95.01%. We have completed four new leases since our last report. Zunesis leased 7,849 square feet for 65.5 months, Hooters Restaurant leased 7,079 square feet for 120 months, Clark Legal Services leased 1,457 square feet for 40 months and InnoVapor leased 1,446 square feet for 60 months. These four new leases incurred a total tenant finish cost of \$255,191.75 and a total commission cost of \$172,693.38 for a total leasing cost of \$427,885.13. Our broker is marketing a 1,547 square foot office vacancy and a 3,851 square foot vacancy, the latter of which was recently made into a speculative suite in an effort to help prospective tenants more completely visualize their office space. We sent a proposal to a prospective tenant, Wells Treat, for the 3,851 square foot space and will provide an update in our next report. In addition, our broker recently began marketing a 1,252 square foot retail space currently occupied by Cool Cuts 4 Kids. In early August, the tenant informed property management that this is an underperforming location and that their corporate owner, Regis Corporation, is seeking an early termination prior to their lease expiration date of June 30, 2016. Our broker is pursuing a solid retail tenant to add to the strong tenant mix at the center. This trade area remains one of the strongest in the Denver metro area, with high lease rates and low vacancy rates. This center also continues to benefit from the outstanding performance of Park Meadows Mall, which is the best performing mall in the Denver metro area.

**2. Southwest Commons located in Littleton, Colorado**

Southwest Commons is currently 94.56% occupied. We have completed three new leases since our last update. Christy Sports leased 34,781 square feet for 63 months, Lumber Liquidators leased 7,100 square feet for 88 months and Merle Norman leased 1,800 square feet for 64 months. These three new leases incurred a total tenant finish cost of \$366,716 and a total commission cost of \$105,923.12 for a total leasing cost of \$472,639.12. Overall the trade area has remained strong, with high demand for highly visible spaces, but not much interest in the less visible spaces. Our broker is currently marketing four less visible spaces, totaling 14,489 square feet, in addition to one more visible 2,270 square foot space. We have a leasing incentive in place for the less visible spaces for a starting rental rate of \$12 per square foot per year with \$.50 per square foot annual rent increases, 3 months free rent and a \$10 per square foot tenant improvement allowance. In addition to the leasing incentive, our broker's opinion is that the recent opening of Christy Sports will help in leasing one or two of the less visible spaces in the center. As reported in our last update, Hastings hired a broker to attempt to negotiate an early termination or possible downsize. This tenant occupies 48,458 square feet, pays \$8.25 per square foot per year in rent and has a scheduled lease expiration of May 31, 2021. We have made numerous attempts to contact the tenant's real estate representative for an update with no response to date. Our broker is marketing the partial space, as well as the full space, in the event the tenant decides to relocate. The Tutoring Club (1,350 square feet, currently paying \$18 per square foot per year in rent, lease scheduled to expire on May 31, 2021) had considered a potential sale of the business however, the tenant later informed us that this is no longer a possibility and they will agree to vacate the space early if we have a tenant. Our broker has been notified and this tenant continues to meet rental obligations. A complete remodel of

✓ 3  
**Plainfield Commons**

The exchange property, after the sale of Plainfield Commons, is Clearwater Collection Shopping Center in Clearwater, Florida.

**Clearwater Collection Shopping Center located in Clearwater, Florida**

Clearwater Collection is a well-maintained property consisting of five retail units totaling 134,361 square feet. It is 96.8% occupied with a strong national tenant roster including LA Fitness, Floor & Décor and Buffalo Wild Wings. The property is also home to Newpoint Pinellas Academy and High School. The property is adjacent to and shares a parking lot with Bright House Field, the Philadelphia Phillies spring training facility. With LA Fitness and the school drawing people to the center multiple times a week this center is similar to a grocery anchored asset. Located alongside US Highway 19 N, the main north/south artery of travel in Pinellas County, the center has daily traffic counts of 91,013 cars per day, as well as 31,806 cars per day along its cross street. Clearwater Collection is located in the immediate center of the retail trade area on US Highway 19 N in Pinellas County and is part of one of the largest metropolitan areas in the Southeast. Pinellas County is included in the four-county metropolitan area known as Tampa Bay MSA which has a total population of 2.7 million making it the 19<sup>th</sup> largest MSA in the U.S. The more widely known cities within Pinellas County include St. Petersburg, Clearwater and Largo. Pinellas is mostly built-out and has very little usable unimproved land left for development due to its small land mass and dense population. Residential population in a three mile radius of the property is estimated at 88,086 and expected to grow 2.79% over the next five years. The average household income is in excess of \$55,692.

The property is currently 96.8% occupied, with one vacancy totaling 4,300 square feet. Our brokers are actively marketing this space and anticipate it will take approximately 3 – 6 months to lease the space at a rental rate in the mid-teens. LA Fitness will soon begin construction of a new basketball court (paid for by the prior owner) and fully expect this major repair to add to the success of LA Fitness going forward. Floor and Décor consistently performs in the top 10% of the Floor and Décor chain and this location is on target to do almost \$20,000,000 in sales this year. The Newpoint Charter School recently worked out an agreement with the city and the Philadelphia Phillies organization to provide a grass field behind their premises for the students to play a variety of sports. In the past, the school used the parking lot in front of the premises for the outdoor curriculum. The grass field is much safer and solidifies the school's interest in remaining in this location and expanding.



2

**Plaza Georgia North located in Buford Georgia**

The occupancy at Plaza Georgia North is currently 100%. Since our last report, we completed a new lease with DXL for the 6,660 square foot space effective August 4, 2014. The 124 month lease includes 4 months free rent, then rent starting at \$18.75 per square foot per year for years 1 – 5, followed by a flat 10% rent increase for years 6 – 10, then 3 five year options to renew each with a flat 10% rent increase per option period. This new lease incurred a tenant finish cost of \$198,000 and commission cost of \$57,548.70 for a total leasing cost of \$255,548.70. Doctor's Wellness Alliance's (3,000 square feet, currently paying \$19.67 per square foot per year in rent, lease scheduled to expire on February 28, 2017) business has declined and, at one point, the tenant was in default of rent payments. This tenant has since cured the default, is current on rent payments and is attempting to sell the business and assign the lease. Simultaneously, we are considering replacement tenants for this space and recently sent a proposal to a prospective dental tenant. In addition, we have begun renewal discussions with Modern Eye Optometry (2,009 square feet, currently paying \$28.98 per square foot per year in rent, lease scheduled to expire on December 31, 2015). We will provide updates on both spaces in our next report. The trade area has remained stable and Plaza Georgia North is in one of the strongest locations in the area due to its close proximity to the Mall of Georgia, the largest shopping mall in the state of Georgia, with more than two hundred stores on three levels.

4

**Safeway Marketplace located in Denver, Colorado**

Earlier this year we sent an update on two significant issues affecting Safeway Marketplace. First, the market downturn and declining rents and occupancy level caused a significant reduction in income and ultimately the value of the property. Second, the existence of an inherited environmental problem at the property that was not known at the time the property was acquired. We also informed you that we had reached an agreement with the State of Colorado to resolve and settle the lawsuit resulting from the environmental issue, subject to completion of an environmental cleanup effort that is satisfactory to the State. The agreement requires the receiver to contribute operating revenue to the remediation efforts, and allows for remediation and any penalties to be paid over a period of more than twelve months. We are currently receiving estimates for the required remediation at the property. We will provide more information in our next update on the timing for this project and do not anticipate that the State will confirm that the property is clean until well into 2016 at the earliest. We understand this is not the result anyone would have wanted, however the convergence of the State's efforts to cause the current property owner to fund the environmental cleanup and the collapse of the commercial real estate market created an income gap that left no alternative to eventual capitulation. The property remains in the hands of the receiver and we will provide an additional update when the timing is determined for completion of the environmental remediation and for resolution of the foreclosure action by the lender.

PLAINFIELD 09 A, LLC

Laura Evans

2/20/2018

768

333.33

*Recent distributions*

Front Range Bank

Monthly Distribution - Clearwater

333.33

GDA CLIENT TRUST ACCOUNT

59655

Laura Evans

2/20/2018

Safeway Marketplace (YM Retail)  
Fort Collins  
Plaza Georgia North

203.33  
274.88  
305.42

PLAINFIELD 09 A, LLC

77

Laura Evans

3/20/2018

333.33

Front Range Bank

Monthly Distribution - Clearwater

333.33

GDA CLIENT TRUST ACCOUNT

5974

Laura Evans

3/20/2018

Safeway Marketplace (YM Retail)  
Fort Collins  
Plaza Georgia North

203.33

274.88

305.42

Front Range Bank

Monthly Distribution

783.63

PLAINFIELD 09 A, LLC

774

Laura Evans

4/20/2018

333.33

Front Range Bank

Monthly Distribution - Clearwater

333.33

GDA CLIENT TRUST ACCOUNT

59838

Laura Evans

4/20/2018

Safeway Marketplace (YM Retail)  
Fort Collins  
Plaza Georgia North

203.33  
274.88  
305.42

Front Range Bank

Monthly Distribution

783.63

NAME: Laura Evans

27

CHECK DATE: 5/20/2018

YM Retail

203.33

Chase

Distribution

203.33

**Fort Collins WF 02, LLC**

NAME: Laura Evans

CHECK DATE: 5/20/2018

6505

274.88

274.88  
203.33  
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478.21

Chase

Distribution

274.88

**Plainfield 09 A, LLC**

NAME: Laura Evans

CHECK DATE: 5/20/2018

8005

333.33

Chase

Distribution - Clearwater

333.33

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF COLORADO

DATE FILED: April 16, 2024 5:45 PM  
FILING ID: AAE84A02B227E  
DOE NUMBER: 2018CV33011

In re:

CLEARWATER PLAINFIELD 15, LLC  
EIN: 47-40097826

Case No.: 22-11321-JGR  
Chapter: 11

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**RESPONSE TO THE LIQUIDATING TRUSTEE’S OBJECTION TO PROOF  
OF CLAIM OF HARVEY SENDER, RECEIVER (Claim No. 6)**

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Harvey Sender, the duly-appointed receiver (“**Receiver**”) for Gary Dragul (“**Dragul**”), GDA Real Estate Services, LLC (“**GDA**”), GDA Real Estate Management, LLC, and related entities (collectively, “**Dragul and the GDA Entities**”), hereby responds to the Liquidating Trustee’s (the “**Trustee**”) Objection to Sender’s Proof of Claim No. 6 (“**Claim Objection**,” Dkt. No. 118).

**I. Introduction**

1. The Trustee’s approach in Debtors<sup>1</sup> consolidated cases is to treat the Clearwater shopping center as a standalone, legitimate business, and to pay in full claims submitted by purported “equity” investors in the Debtors, including fictitious returns, while disallowing the Receiver’s Claim No. 6 in its entirety.

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<sup>1</sup> “**Debtors**” refers to debtor Clearwater Collection 15, LLC (“**Collection**”), and debtor Clearwater Plainfield 15, LLC (“**Plainfield**”). As tenants-in-common they owned 82.52% (Collection) and 17.48% (Plainfield) of the Clearwater shopping center in Clearwater, Florida.

2. Although the Receiver was appointed almost five years ago, and the Receiver's accountants have spent hundreds of hours deconstructing Dragul's Ponzi scheme and analyzing the claims filed against the Receivership Estate, the Trustee and his counsel have never consulted with the Receiver regarding the claims filed in Debtors' cases, or the facts underpinning them. The Trustee's cursory allowance of claims would prefer a limited set of Dragul's defrauded investors over others, including claimants who put no cash into either Debtor or the Clearwater shopping center. The Trustee even proposes to pay these non-investors fictitious "profits" when there were none. The Trustee's approach contradicts the central purpose of the Receivership and the Bankruptcy Code: equal treatment among similarly situated creditors.

3. There is no equity in either Debtor. Both were operated as part of Dragul's Ponzi scheme, which was insolvent no later than January 1, 2008. Some claimants in Debtors' cases never invested cash in either Debtor. Others were outright "gifted" interests in the Debtor by Dragul. Dragul induced others to contribute new funds into the Debtor by agreeing to rollover their investments in other failed but unrelated shopping center investments into a purported "equity" interest in the Debtor. The gifted and rollover interests diluted cash investors' ownership percentages with no economic benefit to the Debtor. Yet, the Trustee here proposes to pay virtually all claims (save the Receiver's) in full, including a return of



up to 40% on non-existent investments. The Trustee's approach ignores reality and would ratify Dragul's fraudulent investment scheme.

4. The Receiver was appointed to marshal the assets of the Receivership Estate and pay all creditor claims. The residuum of cash in Debtors' estates is not "equity," and it should not be paid to purported equity holders of the Debtors; instead, it should be paid to the Receivership Estate for equitable distribution to all defrauded investors, not just the select group the Trustee in Debtors' cases seeks to prefer.

## II. Background

5. On April 12, 2018, Dragul was indicted by a Colorado State Grand Jury on nine counts of securities fraud.

6. On August 15, 2018, Gerald Rome, the then Securities Commissioner for the State of Colorado, filed his Complaint for Injunctive and Other Relief against Dragul and the GDA Entities in the action now captioned *Chan v. Dragul, et al.*, 2018-CV-33011, the "**Receivership Case**," which remains pending in Denver District Court. As evidenced by his claims in Debtors' bankruptcy cases, the Receiver continues efforts to collect funds for distribution to creditors and has not yet filed a proposed distribution plan in the Receivership Case.

7. On August 29, 2018, the Commissioner and Dragul and the GDA Entities filed a Stipulated Motion for Appointment of Receiver, consenting to the appointment of a receiver over Dragul and the GDA Entities pursuant to Colo. Rev. Stat. § 11-51-602(1) and C.R.C.P. 66.

8. On August 30, 2018, the Colorado District Court entered a Stipulated Order Appointing Receiver appointing Harvey Sender as receiver for Dragul and the GDA Entities, and their assets, interests, and management rights in related affiliated and subsidiary businesses (the “**Receivership Estate**” or the “**Estate**”). A copy of the Receivership Order is attached as **Exhibit 1**.

9. On March 1, 2019, Dragul was indicted by a Colorado State Grand Jury on five additional counts of securities fraud. **Exhibit 2**.

10. On April 27, 2020, Tung Chang was substituted in the Receivership Action as the Securities Commissioner.

11. One of the properties that was part of the Colorado Receivership Estate was the Clearwater shopping center. Debtors’ interest in the shopping center and attendant litigation claims were their sole assets. The shopping center has now been liquidated through a separate receivership and its net proceeds and the proceeds from a settlement with a former tenant, LA Fitness, are the sole assets of Debtors’ estates.

12. The Receiver managed the Clearwater property from August 18, 2018, until March 3, 2020, when the Colorado Receivership Court entered an order authorizing him to abandon the Estate’s equity interest in the Debtors. The property was subsequently placed into a separate receivership at the behest of the secured lender in the State of Florida on March 10, 2020.

13. Before the Receiver abandoned these equity interests, more than two dozen claims seeking millions of dollars were filed against the Receivership Estate by

Debtors' creditors. These claims arose from Dragul's mismanagement and outright theft of Debtors' assets, including by selling over 194% of the equity in Plainfield.

14. On June 5, 2023, the day his criminal trial was finally scheduled to start, Dragul pleaded guilty to two felony counts of securities fraud. Dragul's second indictment included counts for defrauding investors into "investing" in Plainfield 09 A, LLC, the equity holder in the Plainfield Debtor, which in turn owned a 17.48% tenant-in-common interest in the Clearwater shopping center, which was funded through a 1031 exchange.<sup>2</sup> In many instances, "investors" in Plainfield 09 A, LLC were rolled over from other investments when Dragul could or would not redeem them, without investing additional cash into either Debtor or the Clearwater shopping center. **Exhibit 2**, Counts 1, 2, 3, and 4. In his Plea Agreement, Dragul admitted to the factual basis for the Plainfield 09 A, LLC fraud claims and agreed to pay restitution to those defrauded investors. **Exhibit 3**, at 10.

### III. The Trustee's Claim Objection

15. The Trustee's Claim Objection seeks to disallow the Receiver's Claim No. 6, for \$941,091.43. Contemporaneously with this Response, the Receiver is filing an amended claim for \$2,527,656.16. The original claim was based on claims submitted against the Receivership Estate by defrauded Plainfield investors on a cash-in, cash-out basis. Some of the "investors" included in the Receiver's Claim have

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<sup>2</sup> Dragul's elaborate and undue complexity of ownership interests is further indicia of his Ponzi scheme.

not filed independent claims in this case. Other “investors” have submitted individual claims both in the Receivership and in this case. *See Exhibit 4.* The Receiver’s amended claim with respect to investor cash-in, cash-out losses has been adjusted to account for rollover contributions and distributions from prior investments, and includes additional amounts reflecting funds deposited by Dragul and other SPE entities into the Clearwater bank accounts, which were part of Dragul’s extensive comingling in furtherance of his Ponzi scheme, and which benefited Dragul to the detriment of all defrauded investors. Although some of the “investor” claims filed in the Debtors’ bankruptcy cases are not based on cash contributed, and seek to recover fictitious returns or for losses incurred in other failed investments, the Trustee proposes to pay them in full. Unlike these “investor” claims, the Receiver’s Claim is not based on “equity.”

16. Like virtually all of Dragul’s investors, defrauded individuals who filed claims in the Receivership Case were fraudulently induced to invest in Dragul’s Ponzi scheme. Since at least January 2008, Dragul’s enterprise, which included multiple SPEs that held interests in various commercial shopping centers throughout the United States (Clearwater is just one of many), was insolvent and being operated as a Ponzi scheme. *See Declaration of Stephanie J. Drew, Exhibit 5, ¶¶ 19-20.*

17. The purported Clearwater “investors,” like all of Dragul’s other investors, were defrauded into investing in a Ponzi scheme. These defrauded investors have a right to recover not based on any “equity,” but instead on claims for

restitution or rescission as a remedy for fraud. *E.g.*, *Donell v. Kowell*, 533 F.3d 762, 772 (9th Cir. 2008); *see also e.g.*, *Sender v. Buchanan (In re Hedged-Invs. Assocs., Inc.)*, 84 F.3d 1286, 1289 (10th Cir. 1996) (under Colorado law, a restitution or rescission claim exists because investors are fraudulently induced to invest in the scheme). Here, all of Dragul’s defrauded investors suffered the same harm – loss of their investment dollars – and should be treated equally, and all distributions and vetting of claims run through the Receivership Case.

18. Some of these defrauded investors, however, have filed “equity” claims against Debtors here, notwithstanding that some of them did not actually invest cash into either Debtor or the Clearwater shopping center. And not even based on a cash-in, cash-out analysis deducting distributions they may have received, but on the total amount they claim to have invested, plus in some cases fictitious returns. Yet contrary to all applicable authority that disallows paying fictitious returns, *see, e.g.*, *Lewis v. Taylor*, 2018 CO 76, ¶ 30 (recognizing that fictitious profits are not recoverable in an equity Ponzi scheme),<sup>3</sup> the Trustee would pay those claims in full while disallowing the Receiver’s Claim entirely, thereby leaving defrauded investors who properly filed claims only in the Receivership, and who actually provided capital into the Debtor, without any recovery.

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<sup>3</sup> The universal UFTA rule is that equity “investors may retain distributions from an entity engaged in a Ponzi scheme to the extent of their investments, while distributions exceeding their investments constitute fraudulent conveyances which may be recovered by the Trustee.” *In re Churchill Mortg. Inv. Corp.*, 256 B.R. 664, 682 (Bankr. S.D.N.Y. 2000).

19. The bases for the Trustee’s objection to the Receiver’s Claim are: (a) the Receiver abandoned any claim to “any equity that might be derived from” the Clearwater property (Claim Obj. ¶ 25); (b) the Receiver is the “only truly [sic] unsecured claim” while the remaining “claims asserted in this case are investor claims [*i.e.*, equity]” (*id.* ¶ 28); and (c) it “makes no sense” to allow the Receiver to assert claims on behalf of defrauded investors and to allow the Receiver to potentially dilute the distributions paid to Clearwater investors by allowing the Receiver to distribute them as part of his distribution plan in the Receivership Case. *Id.* ¶ 31. Instead, the Trustee proposes to preferentially distribute Debtors’ assets to a subset of Dragul’s defrauded investors contrary to the principles of equity and the Bankruptcy Code.

**The Receiver’s Claim should be allowed.**

**A. There is no equity.**

20. The primary basis for the Trustee’s Claim Objection is that the Receiver abandoned the Clearwater shopping center and the Receivership Court entered an order providing the Receiver has “no claim from any equity that might later be derived from” Clearwater. Claim Obj. ¶ 25. From this, the Trustee jumps to the conclusion that the Receiver “is not entitled to *any* monies received from the liquidation of the Shopping Center.”<sup>4</sup> (*Italics added*).

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<sup>4</sup> The Trustee does not, however, argue the Receiver is not entitled to share in funds derived from settling a breach of contract claim against LA Fitness, which was a Receivership asset that was not abandoned.

21. But the Receiver is not seeking to share in any “equity.” While there are residual proceeds from the sale of the Clearwater shopping center and proceeds from settling a litigation claim in Debtors’ estates, there is no “equity.” The Clearwater entities were just components of Dragul’s multi-faceted, multi-property Ponzi scheme, which was insolvent from before Clearwater was acquired in 2015. It ignores reality to consider Clearwater on a standalone basis, and to distribute the proceeds in the estate as if Clearwater had been a legitimate business.

22. The Receiver collapsed all of Dragul’s SPEs, including Clearwater, into a single entity, the Receivership Estate, with all returns to be paid through GDA. This was due to the vast commingling of funds among Dragul’s multiple entities – the worst the Receiver’s forensic accountants have ever seen – which makes it literally impossible to view the SPEs as separate entities: they weren’t. There were literally hundreds of thousands of commingling transactions whereby Dragul transferred funds out of SPE accounts (including Clearwater), into GDA accounts, from GDA accounts into his personal accounts, and then back out from his personal accounts to GDA accounts to the SPEs as necessary for quarterly reporting purposes, to pay expenses, and to make distributions. As shown by **Exhibit 6**, millions flowed into and out of Clearwater to support Dragul’s scheme and to fund his extravagant lifestyle, including gambling losses of over \$6.5 million. **Exhibit 5**, at 3-4, ¶¶ 16-18.

**B. The Trustee proposes to allow bogus claims; all recovery should be through the Receivership Estate.**

23. Other than a claim from the IRS for \$700.00, and a claim submitted by the former lender, all of the remaining claims in the case, which total \$1,387,196.63 (excluding the Receiver's claim), appear to be have filed by claimed equity investors in the Debtors, and family members of Dragul who benefited from the scheme before the Receiver was appointed.

24. Examining the actual claims filed in this case demonstrates the nature of Dragul's fraud and underscores the Trustee's undisciplined and inequitable approach to treating claims. For example, Dragul's family members, who benefited from Dragul's scheme, have filed \$13,696.01 in claims,<sup>5</sup> but not one of them invested cash in Clearwater or either Debtor. Instead, Dragul "gifted" them interests and made "distributions" to them over time with cash contributed by other defrauded investors. **Exhibit 5**, at 5, ¶ 24. Despite this, the Trustee has not objected to these bogus claims.

25. Dragul's close friend Chad Hurst – who Dragul appointed as Clearwater's manager (*see* Dkt. No. 29) – filed Claim No. 13, for \$551,077.40, without *any* backup or explanation. The claim filed by Hurst in the Receivership Case attached as **Exhibit 7** (which the Trustee has never sought to examine), shows that

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<sup>5</sup> Claim No. 9, for \$4,398.67, was filed by Dragul's daughter. Claim No. 9, for \$4,398.67, was filed by one of Dragul's sons, and Claim No. 11, for \$4,898.67, was filed by Dragul's other son.



Hurst invested only \$150,000 into GDA Clearwater 15, LLC, an interest holder in Collection, not the Debtor Plainfield. “Thereafter, Dragul converted various other investments in the amount of \$150,000 to additional membership interest in Clearwater, for a total investment of \$300,000.” **Exhibit 7**, at 4. And according to Hurst, he “received guaranteed monthly distribution payments in the amount of \$2,792.50.” So at most, Hurst invested \$150,000 in Collection – not Debtor Plainfield. **Exhibit 5**, at 5, ¶ 27. Although Hurst provides *no* explanation as to how he is owed \$551,077.40 on a \$150,000 investment in another Debtor, the Trustee has not objected to his claim, and appears sanguine with paying it in full.

26. Southern Performance Group, Inc. (“**SPG**”) filed Claim No. 5 for \$170,400. It has filed a duplicate claim in the Collection case. The Trustee has objected only to the duplication of claims, but proposes to allow the claim in its full amount against Debtor. *See* Case No. 22-113220. Dkt. No. 347. The Trustee has apparently otherwise accepted the claim (and all others in the case except for the Receiver’s Claim) at face value. *See id.*

27. In 2008, SPG apparently invested \$50,000 in Crosspointe 08 A, LLC. In addition in 2009 and 2010, SPG invested \$25,000 in CP Loan, LLC, which was largely deposited into Crosspointe. *See* Claim No. 5, at 16. In 2009, SPG also invested \$20,000 into Plainfield 09 A, LLC, which was oversubscribed by 94%. *Id.*, & **Exhibit 2**, at 9, ¶ 11.

28. In 2013, Dragul induced SPG to purchase \$25,000 of Dragul's personal purported "equity interest" in Plainfield 09, LLC (for which Dragul had not paid any cash), and then Dragul "rolled" SPG's prior \$50,000 investment in Crosspointe and his \$25,000 investment in CP Loan into a membership interest in Plainfield 09 A, LLC. *See, e.g.*, Claim 5, at 19. Accepting the incorrect narrative attached to SPG's claim, it received credit for \$120,000 into Plainfield 09 A, LLC. SPG then pads its claim to include "40% appreciation," while failing to deduct the \$47,701.71 in distributions SPG received on its "investment." **Exhibit 5**, at 6, ¶¶ 30-31. Without vetting the claim at all, the Trustee nevertheless proposes to allow it in its full face amount of \$170,400, in order to pay SPG an illusory 40% return. Case No. 22-11320, Dkt. No. 321.

29. Rockefeller's Claim No. 4 for \$42,023.33 also includes "40% appreciation." He too apparently invested \$30,000 into Plainfield 09 A, LLC. His Claim No. 4, however, seeks to recover not only this \$30,000, but an additional 40% return, because "according to GDA, the value increased to \$42,023.33." Claim No. 4, at 16. Rockefeller's claim fails to account for the \$18,620.95 in distributions he received from Dragul, which results in a net loss of only \$11,379.05. *See Exhibit 4*. Yet, the Trustee proposes allowing Rockefeller's Claim No. 4 in full. *See* Case No. 22-11320, Dkt. No. 323. The Trustee is either not familiar with the depth of Dragul's fraud or has ignored it. In attempting to treat Clearwater as a standalone legitimate business, and in proposing to allow investor claims in full without deducting prior

distributions and paying fictitious returns, the Trustee is ratifying and furthering Dragul's fraud.

30. Not surprisingly, Rockefeller and Southern have filed claims with the Receivership Estate in an effort to recover their losses. *See Exhibits 8, and 9.* In doing so, they like all other claimants in the Receivership, agreed to dismiss and not file any suit or other proceeding in another forum without the Receiver's permission. *See, e.g., Exhibit 8, at 3.* Yet they have done just that in pursuing claims separately in Debtors' bankruptcy cases.

31. The Trustee has objected to claims filed by Thomas McCaffrey, **Claim No. 7**, and David Haar, **Claim No. 12**. But the Trustee's objections miss the boat and fail to account for (and therefore further) Dragul's fraud. McCaffery's Claim No. 7 is for \$50,000. But McCaffrey never invested in either Debtor or the Clearwater shopping center. He invested in an entity called South Lake 07 A, LLC. Then in 2008, Dragul rolled that investment into Crosspointe 08 A, LLC. **Exhibit 10** (McCaffery Receivership claim). Again, Dragul was unable or unwilling to redeem that investment, and rolled McCaffrey over into the over-subscribed Plainfield 09 A, LLC, without any additional cash investment.

32. Finally, David and Darcea Haar filed Claim No. 12 in this case and Claim No. 17 in the Collection case, each for \$160,000. The Trustee objected only that the claims were duplicative, and proposes allowing a \$160,000 claim in full in the Collection case and expunging the Plainfield claim. *See Case No. 22-1123011320, Dkt.*

No. 355. But the Trustee's proposed allocation is wrong and fails to consider \$53,386.11 in cash distributions the Haars received. The Haars, actually invested \$140,000 in GDA Clearwater 15, LLC and received distributions of \$41,239.02 resulting in a net cash loss of \$98,760.98 in the Collection case. The Haars invested \$20,000 in the Debtor and received distributions of \$12,147.09 for a net cash loss of \$7,852.91. The Trustee has ignored both where their cash was invested and the distributions they received. *See Exhibit 5*, at 7, ¶ 32.

**C. The Estates' assets should be distributed equally among all of Dragul's defrauded investors.**

33. As shown on **Exhibit 4**, sixteen investors who actually invested almost \$1.3 million in cash into Dragul's scheme have filed claims in the Receivership Action but not in Debtors' bankruptcy cases. These investors appropriately filed their claims exclusively in the Receivership Action, as required by their claim forms. *See, e.g., Exhibit 8*, at 3-4. So if the Trustee's preference scheme were to be adopted by this Court (and the Receiver's Claim disallowed), these investors who suffered actual cash losses and properly filed claims only in the Receivership Case would receive nothing, while unsupported, gifted, and rollover claims submitted in Debtors' bankruptcy cases would apparently be allowed in full.

34. Detailed in **Exhibit 4**, and summarized below, claims filed in the Debtors' bankruptcy cases for equity positions in the Debtor total \$1,739,500.62. However, when total net cash is considered these claims are reduced by 73% to \$472,465.21.

Claim No.	Claimant	Bankruptcy Claim Amount	Allowable Claim Amount
2	Benzmiller, Ken	\$200,000.00	\$75,860.55
12	Haar, David and Darcea	\$160,000.00	\$7,852.91
7	McCaffrey, Thomas	\$50,000.00	\$29,984.04
4	Rockefeller IRA, Scott	\$42,023.22	\$11,379.05
5	Southern Performance Group, Inc. formerly MSHR	\$170,400.00	\$72,298.29
14	Rosenbaum, Martin	\$100,000.00	\$68,748.39
13	Hurst, Chad	\$551,077.40	\$0.00
3	Eisen, Charles	\$100,000.00	\$0.00
2 (CWC)	Detterer, William	\$200,000.00	\$125,397.58
3 (CWC)	Lapp, Gideon & Rhonda	\$100,000.00	\$59,294.90
14 (CWC)	Evans, Laura	\$66,000.00	\$21,649.50
	Total Claim for Clearwater Plainfield 15, LLC Investors	\$1,739,500.62	\$472,465.21
	Percentage of Claim in Excess of Net Cash		73%

35. Bankruptcy courts are courts of equity. *E.g., Young v. United States*, 535 U.S. 43, 50 (2002). Here, Clearwater cannot equitably be treated as a standalone entity. The extent of the commingling between the Clearwater entities and the many other entities Dragul employed in his Ponzi scheme would make this inequitable and impossible. Doing so would in effect be imposing a constructive trust in favor of purported Clearwater investors when in fact Dragul's rolling over of prior investors into Clearwater, his overselling of interests in Plainfield, and his vast commingling of funds, including into and out of Clearwater, make it impossible to trace funds into Clearwater or to particular investors. *See, e.g., Sender v. Heggland Family Trust (In re Hedged-Investments Assocs., Inc.)*, 48 F.3d 470, 474 (10th Cir. 1995) (constructive trust cannot be imposed when it is impossible to trace investor funds due to commingling).

36. As articulated more a hundred years ago by the Supreme Court in the eponymous "Ponzi scheme" case, this case calls "strongly for the principle that

equality is equity, and this is the spirit of the bankrupt law.” *Cunningham v. Brown*, 265 U.S. 1, 13 (1924). Here as in *Brown*, all claimants in Debtors’ bankruptcy cases and the Receivership Action are defrauded investors and it would be error to treat some as “equity” and prefer them over all other defrauded investors. *See id.* The purported investor claimants in this case are not “equity holders,” and the Clearwater entities not separately cognizable entities. Clearwater is simply part of the Ponzi scheme, and the “equity” claimants in the case are defrauded creditors, not legitimate shareholders. For example, although Dragul raised \$1,260,000 from investors through GDA Clearwater 15, LLC between June 26, 2015, and August 6, 2015, only \$100,000, can be traced directly to the purchase of the Clearwater property, which was used to fund an escrow account prior to closing. The remaining \$1,160,000 was transferred to GDA’s bank account soon after receiving the funds and used to further Dragul’s scheme. **Exhibit 5**, at 3, ¶ 13. To disallow the Receiver’s Claim while allowing purported “equity” claims would inappropriately effect an obvious preference over all of Dragul’s other defrauded investors who lost money in precisely the same fraudulent manner. *See, e.g., Jobin v. Youth Benefits Unlimited, Inc. (In re M & L Business Mach. Co.)*, 59 F.3d 1078, 1081 (10th Cir. 1995)).

‘It is hardly necessary to assert that the object of a bankrupt act, so far as creditors are concerned, is to secure equality of distribution among them of the property of the bankrupt—not among some of the creditors, but among all of them.’ Such object is undermined where property fraudulently deprived from one party is repaid at the expense of others similarly situated.

*Id.* (citation omitted; quoting *Pirie v. Chicago Title & Trust Co.*, 182 U.S. 438, 449 (1901)); *see also Rollins v. Neilson (In re Cedar Funding, Inc.)*, 408 B.R. 299, 316 (Bankr. N.D. Cal. 2009) (absent the ability to trace funds, it is impossible to determine the relative merits of competing equitable claims and preferring one set of claimants over another “would be unfair and inconsistent with the Bankruptcy Code’s strong policy in favor of treating all creditors equally.”); *SEC v. Merrill Scott & Assocs., Ltd.*, No. 2:02–CV–39–TC, 2009 WL 2984043, at \*8 (D. Utah Sept. 17, 2009) (“equity disfavors preferential treatment when the class of victims is essentially the same.”).

#### **IV. Conclusion**

37. Endorsing the Trustee’s allowance of “investor” claims and paying them fictitious profits while disallowing the Receiver’s Claim would place this Court’s imprimatur on Dragul’s fraudulent enterprise. The Receiver is in the best position to evaluate and allow claims against the Receivership Estate, which is where all investor claims should be paid, and not separately through Debtor’s bankruptcy estates. The Receiver respectfully asks this Court to deny the Trustee’s Claim Objection, allow the Receiver’s amended claims in full, and grant such further relief as the Court deems appropriate.

Dated: July 7, 2023.

**ALLEN VELLONE WOLF HELFRICH & FACTOR  
P.C.**

By: /s/ Michael T. Gilbert

Michael T. Gilbert

1600 Stout Street, Suite 1900

Denver, Colorado 80202

Tel: (303) 534-4499

E-mail: mgilbert@allen-vellone.com

**ATTORNEYS FOR THE RECEIVER**



### CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2023, I electronically filed the foregoing with the Clerk of the Court by using the Court's CM/ECF System which will send a Notice of Electronic Filing and copy to the following parties in compliance with the Federal Rules of Bankruptcy Procedure and the Court's Local Rules:

- Aaron A Garber [agarber@wgwc-law.com](mailto:agarber@wgwc-law.com), [ngarber@wgwc-law.com](mailto:ngarber@wgwc-law.com);
- 8931566420@filings.docketbird.com
- Alison Goldenberg [Alison.Goldenberg@usdoj.gov](mailto:Alison.Goldenberg@usdoj.gov) [janice.hensen@usdoj.gov](mailto:janice.hensen@usdoj.gov)
- US Trustee [USTPRegion19.DV.ECF@usdoj.gov](mailto:USTPRegion19.DV.ECF@usdoj.gov)
- John O'Brien, [jobrien@spencerfane.com](mailto:jobrien@spencerfane.com)
- Zachary Fairlie, [zfairlie@spencerfane.com](mailto:zfairlie@spencerfane.com)
- Timothy M. Swanson, [tim.swanson@moyewhite.com](mailto:tim.swanson@moyewhite.com)

All other parties in interest who have requested notice pursuant to the CM/ECF system.

*/s/ Lisa R. Kraai*

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Allen Vellone Wolf Helfrich & Factor P.C.

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

IN RE: )  
 )  
CLEARWATER COLLECTION 15, LLC )  
EIN: 47-4082355 )  
 )  
Debtor. )  
\_\_\_\_\_ )

DATE FILED: April 16, 2024 5:45 PM  
FILING ID: AAE84A02B227E  
CASE NUMBER: 2018CV33011  
Case No. 22-11320-JGR  
Chapter 11

**MOTION TO STRIKE CLAIM OBJECTIONS  
FILED BY HARVEY SENDER, RECEIVER**

Thomas Kim, the Liquidating Trustee (the “Liquidating Trustee”) for the estate of Clearwater Collection 15, LLC for his Motion to Strike Claim Objections Filed by Harvey Sender, Receiver respectfully states as follows:

**BACKGROUND**

1. Clearwater Collection 15, LLC (the “Debtor”) is an 82.52% owner of a shopping center located at 21688 Highway 19 N, Clearwater, FL 33765 (the “Shopping Center”). The other owner is Clearwater Plainfield 15, LLC (together with the Debtor, the “Debtors”), who filed a companion Chapter 11 case.<sup>1</sup>

2. On August 30, 2018, Harvey Sender was appointed as the Receiver for Gary Dragul and entities related to Mr. Dragul. GDA Real Estate Services, LLC, GDA Real Estate Management, LLC, and their respective properties and assets, and interests and management rights in related affiliated and subsidiary businesses (the “Sender Receivership”).

3. On March 3, 2020, Mr. Sender abandoned from the Sender Receivership the receivership’s interest in Clearwater Collection 15, LLC and Clearwater Plainfield 15, LLC.

4. On April 15, 2020, the state court overseeing the Sender Receivership issued an “Order: Defendant Gary Dragul’s Motion for Clarification of Order Appointing Receiver and Orders Authorizing Abandonment and for Expedited Briefing Schedule” (the “Abandonment Order”), wherein the court ruled:

The motion/proposed order attached hereto: GRANTED.

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1 The Clearwater Collection 15, LLC Chapter 11 case and the Clearwater Plainfield 15 LLC Chapter 11 case were jointly administered.

Having considered the motion, the response and the reply thereto, it appears to the Court that the parties agree substantially, if not entirely, with the relief requested. However, lest there be any question, the Court finds that the authorities cited in the motion clearly establish that, once abandoned, property reverts back to the pre-receivership owner; that such abandonment is irrevocable and divests the receiver and the receivership estate from managing and/or controlling the property (inasmuch as the property is no longer part of the receivership estate); and **that the receiver has no claim from any equity that might later be derived from such abandoned property.** See *In re: Polumbo*, 271 F. Supp. 640 (W.D. Vir. 1967); *Matter of Killebrew*, 888 F.2d 1516 (5th Cir. 1989); *In re Purco*, 76 B.R. 523 (Bankr. 1987); *In re: Cruseturner*, 8 B.R. 581 (Bankr. D. Utah 1981); *In re: Sutton*, 10 B.R. 737 (Bankr. E.D. Vir, 1982). (emphasis added).

5. On August 16, 2018, a predecessor entity to RSS WFCM 2015-LC22-FL CC15, LLC (“Secured Creditor”) commenced a foreclosure action with respect to the Shopping Center in the 6<sup>th</sup> Judicial Circuit in and for Pinellas County, Florida (the “Foreclosure Action”).

6. The Foreclosure Action was stayed as a result of the Sender Receivership.

7. After the abandonment of the Debtors in the Sender Receivership, and at the request of Secured Creditor, on or around March 10, 2020, the 6<sup>th</sup> Judicial Circuit in and for Pinellas County, Florida, Case No. 1805459-CI, appointed Michal Vullis of Avison Young (the “Florida Receiver”) as receiver over the Shopping Center.

8. The Debtors each filed a Voluntary Petition pursuant to Chapter 11 of the Bankruptcy Code on April 19, 2022 (the “Petition Date”).

9. The Debtor selected to file bankruptcy because: (a) there was a strong belief that equity existed in the Shopping Center sufficient to satisfy the Secured Creditor’s claim in full, pay any other creditors and make a distribution to equity/the investors; (b) the sale process undertaken by the Florida Receiver was not disclosed; and (c) the Debtor felt in the dark about the true amount owed to the Secured Creditors.

10. On April 11, 2023 the Court entered an Order confirming the Debtors’ First Amended Joint Plan of Liquidation (the “Plan”).

11. After the Petition Date, and primarily through discovery and information provided by the Florida Receiver, it was learned from the Florida Receiver that the Florida Receiver had hired a broker in December of 2021 and the Shopping Center has been marketed since February of 2022.

12. As a result of the sale efforts, final offers were received from a number of bidders, with a maximum sale price of \$22,500,000. The Florida Receiver and the Philadelphia Phillies and a nonbinding letter agreement for the purchase of the property of \$22,500,000 (the “Sale”). The parties were in the process of negotiating an agreement for the purchase of the Shopping Center.

13. The sale has proceeded to a closing and the Debtors’ bankruptcy estates received over \$5,000,000.

14. The Liquidating Trustee also settled a litigation claim with LA Fitness bringing an additional \$1,000,000 into the estate.

15. On August 22, 2022, Harvey Sender, as receiver for the Sender Receivership, filed a Proof of Claim in the amount of \$2,806,545.25 (the “Sender Claim;” *see* Claim Register No. 10).

16. The Proof of Claim asserts the basis of the Claim is for “claim filed against receivership estate for investor loses.”

17. The Proof of Claim also acknowledges that certain parties in interest in the bankruptcy case filed individual claims for the identical claim being asserted in the Sender Claim.

18. Based upon the mandates of the Abandonment Order, the Liquidating Trustee filed his Objection to the Sender Claim, seeking to expunge the Sender Claim on May 26, 2023 (the “Sender Claim Objection”).

19. On June 14, 2023, one of the largest creditors of the estate, Cofund V, LLC and Hagshama Florida 13, LLC filed a joinder into the Sender Claim Objection (the “Joinder”).

20. On July 7, 2023, Mr. Sender, receiver filed his response to Sender Claim Objection and the Joinder.

21. On July 7, 2023, Mr. Sender, receiver filed an amended Proof of Claim in the amount of \$8,453,171.24. The Sender Claim is the only truly asserted unsecured claim while the remainder of the claims asserted in this case are investor claims. So, there is an argument, that the first dollars distributed under the Plan and Liquidating Trust would go to the Sender Receivership before going to the investor claimants. Under the Amended Sender Claim, all proceeds would go to the Sender Receivership as opposed to directly to the investors.

22. Mr. Sender, receiver, was listed as a creditor in this case. Mr. Sender, receiver has received the pleadings, and other court documents, including the Plan, Disclosure Statement and the Liquidating Trust Agreement.

23. On July 18, 2023, Mr. Sender, receiver filed a total of ten claim objections comprised of: (a) two omnibus objections to claims; (b) the two claims filed by Hagshama Florida 13Clearwater LLC and Cofund V, LLC; (c) the claim filed by Robert and Jodi Eisen; (d) the claim filed by Scott Friedman; (e) the claim filed by David and Darcea Haar; (f) the claim filed by Hilltoppers Capital Growth, LLC; (g) the claims of Chad Hurst; (h) the claim of 3G2B Partners, LLC; and (i) the claim of Martin Rosenbaum (collectively, the “Sender Commenced Claim Objections”).

### **BASIS FOR RELIEF REQUESTED**

24. There are three grounds for striking the Sender Commenced Claim Objections. First, the Sender Commenced Claim Objections are time barred. If not, then given Mr. Sender, receiver does not have hold an allowed or allowable claim, he does not have standing to bring the Sender Commenced Claim Objections. Lastly, the right to bring claim objections belongs to the Liquidating Trustee.

#### *The Sender Claim Objections are Time Barred*

25. The Sender Commenced Claim Objections are time barred by the Plan.

26. The Plan at paragraph 9.5 provides: “All Claim objections and Avoidance Actions in the case must be filed by the later of (a) limitation period set forth in 11 U.S.C. §546(a) or (b) 90 days following the Effective Date. The Liquidating Trustee shall have standing to commence, prosecute, and settle Claim objections and Avoidance Actions without need for further Court approval.” (emphasis added).

27. Bankruptcy Code § 546(a) is limited only to the deadline to commence avoidance actions and does not apply to the deadline to object to proofs of claim.

28. Federal Rule of Bankruptcy Procedure 3007 governs objections to claims, however, the rule does not provide a deadline for filing such objections. *Matter of Kula*, 107 B.R. 225, 226 (Bankr. Neb. 1989); Fed. R. Bankr. P. 3007. In *Matter of Kula*, a chapter 11 case, the plan of reorganization did not provide for a deadline to file objections, but the Court stated that plans “may set a deadline for filing objections to claims.” *Id.*

29. 11 U.S.C. § 1141 provides that “the provisions of a confirmed plan bind the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor, equity security holder, or general partner in the debtor, whether or not the claim or interest

of such creditor, equity security holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.”

30. Thus, pursuant to paragraph 9.5 of the Plan, the deadline to file objections was intended to be and is 90 days following the Effective Date.

31. The Plan defines the Effective Date as the date the Plan is confirmed which occurred on April 11, 2023. Ninety days from the date of confirmation of the Plan occurred on July 10, 2023.

32. The Sender Commenced Claim Objections were filed on July 18, 2023, after the 90 day deadline.

33. Thus, the Sender Commenced Claim Objections are time barred by paragraph 9.5 of the Plan.

*Mr. Sender, Receiver Does Not Have Standing to Bring the Claims*

34. Even if the Court determines the Sender Commence Claim Objections were not barred by the deadline prescribed by paragraph 9.5 of the Plan, Mr. Sender, receiver does not have standing to commence the Sender Commenced Claim Objections.

**A. Mr. Sender Does Not Hold a Claim in This Case**

35. Given the Abandonment Order bars Mr. Sender, receiver from receiving any distribution from the sale of the assets of the Debtors, Mr. Sender, receiver does not hold a claim against the Debtors’ estate and therefore no standing in this case.

36. The Liquidating Trustee understands this issue is disputed by Mr. Sender, receiver.

37. If the deadline to file a claim objections is not governed not by the 90 day deadline, but rather by Bankruptcy Code § 546(a), then the deadline to file claim objections would be two years from the Petition Date, or April 19, 2024.

38. It would be an unjust result to force the other parties in interest to responds to and litigate the Sender Commenced Claim Objections while it uncertain whether Mr. Sender, receiver has standing in this case.

39. There is no reason to compel any party to respond to or address the Sender Commenced Claim Objections unless and until it is determined Mr. Sender, receiver has standing in this case.

40. Thus, the Sender Commenced Claim Objections should be stricken and can refiled before April 19, 2024 if Mr. Sender, receiver holds a claim in this case.

**B. The Liquidating Trustee is Vested with Bringing Claim Objections**

41. In a case factually similar to this case, the Court in *In re Abengoa Bioenergy Biomass of Kansas, LLC*, 2018 WL 2138620 (Bankr. Kan. 2018), laid out why the right to bring claim objections belongs solely with the Liquidating Trustee. In considering whether a creditor could commence claim objections when a liquidating trustee has been appointed first observed that when a trustee is appointed, the commencement of claim objections rests with the trustee:

The primacy of the Trustee in the liquidation process is consistent with long-recognized bankruptcy practice. Bloomberg's *Bankruptcy Treatise* states “Thus, when a trustee has been appointed, courts generally hold that a general creditor does not have standing to object to a proof of claim.” BLOOMBERG LAW: BANKRUPTCY TREATISE, Pt. II, Ch. 51 at § III.C. [Bankruptcy Code § 502(a) ] (D. Michael Lynn et al. eds., 2017). *Collier* agrees—

Yet apart from the line of cases permitting some indirect mode of contest, the right of individual creditors to object to the claim of another creditor is restricted. While a creditor may object before a trustee is qualified or when there is no trustee, once the trustee has been duly appointed it is the duty of the trustee to examine and take action concerning the disallowance of claims.

Richard Levin & Henry J. Sommer eds., 4 COLLIER ON BANKRUPTCY ¶ 502.02[2][d] (16 ed.).

*Collier* also notes that only “in a few instances,” are creditors considered proper parties in interest to object to claims. Their rights are limited because of the—

...needs of orderly and expeditious administration [that] do not permit the full and unfettered exercise of such right.... *it is the trustee who acts as the primary spokesman for all the creditors* in the discharge of the trustee's duty.

*Id.*

The Rules' drafters harbored the same concerns as echoed in the 1983 Advisory Committee's notes to Fed. R. Bankr. P.

While the debtor's other creditors may make objections to the allowance of a claim, the demands of orderly and expeditious administration have led to a recognition that the right to object is generally exercised by the trustee. Pursuant to § 502(a) of the Code, however, any party in interest may object to a claim. But under § 704 the trustee, if any purpose would be served thereby, has the duty to, examine proofs of claim and object to improper claims.

*In re Abengoa Bioenergy Biomass of Kansas, LLC*, 2018 WL \* 3.

42. The *Abengoa* Court examined the language of the plan confirmed in that case and noted the powers of the appointed liquidating trustee (the “Kansas Trustee”), established on the date of confirmation, included the following:

“[t]he [Kansas] Trustee shall be the exclusive trustee of the Liquidating Trust and the Liquidating Trust Assets . . . [t]he powers, rights, and responsibilities of the [Kansas] Trustee shall be specified in the Liquidating Trust Agreement and shall including the authority and responsibility to: (a) receive, manage, invest, supervise, and protect the Liquidating Trust Assets; (b) pay taxes or other obligations incurred by the Liquidating Trust; (c) retain and compensate, without further order of the Bankruptcy Court, the services of employees, professionals and consultants to advise and assist in the reasonable administration, prosecution and distribution of Liquidating Trust Assets; (f) *resolve issues involving Claims and Interests in accordance with this Plan*; (g) undertake all administrative functions of the Debtor’s Chapter 11 Case, including the payment of fees payable to the United States Trustee and the ultimate closing of the Debtor’s Chapter 11 Case. *The Liquidating Trust is the successor to the Debtor and its Estate.*”

*Id.* \* 2.

43. The plan also provided the Kansas Trustee with the “right to make and file objections to Claims in the Bankruptcy Court,” which the Court interpreted to include “objections to claims that were filed before the effective date.” *Id.*



44. The Plan confirmed in this case and Liquidating Trust language closely parallels that language in the *Abengoa* case. Specifically, the Plan at paragraph 9.5 provides: “All Claim objections and Avoidance Actions in the case must be filed by the later of (a) limitation period set forth in 11 U.S.C. §546(a) or (b) 90 days following the Effective Date. The Liquidating Trustee shall have standing to commence, prosecute, and settle Claim objections and Avoidance Actions without need for further Court approval.” (emphasis added).

45. The Liquidating Trust Agreement provides the following relevant definitions in Article 1:

Causes of Action means any action, claim, cause of action, controversy, demand, right, action, Lien, indemnity, interest, guaranty, suit, obligation, liability, damage, judgment, account, defense, offset, power, privilege, license, and franchise of any kind or character whatsoever, whether known, unknown, contingent or noncontingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, Disputed or undisputed, secured or unsecured, assertible directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law. For the avoidance of doubt, “Cause of Action” includes: (a) any right of setoff, counterclaim, or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (b) any claim based on or relating to, or in any manner arising from, in whole or in part, tort, breach of contract, breach of fiduciary duty, violation of state or federal law or breach of any duty imposed by law or in equity, including securities laws, negligence, and gross negligence; (c) the right to object to Claims or Interests; (d) any claim pursuant to section 362 of the Bankruptcy Code or Avoidance Actions; (e) any claim or defense including fraud, mistake, duress, and usury; and any other defenses set forth in section 558 of the Bankruptcy Code; and (f) any state or foreign law fraudulent transfer or similar claim. (emphasis added).

Trust Assets shall mean the Liquidating Trust Assets, including Causes of Action and Avoidance Actions, vested in the Liquidating Trust free and clear of liens, claims, encumbrances, charges and all interests.

46. In its relevant portions, the Liquidating Trust Agreement further provides:

Section 2.1 *Creation of the Liquidation Trust*. The Liquidating Trust is hereby constituted and created, in accordance with Treasury Regulations Section 301.7701-4(d) and Revenue Procedure 94-45 to: (i) administer, hold, and liquidate the Liquidating Trust Assets, including Causes of Action (including Avoidance Actions); (ii) administer, investigate, prosecute, settle or abandon all Liquidating Trust Assets in the name of, and for the benefit of, the Estate for Collection and the Estate for Plainfield, subject to the limitations set forth in the Plan; (iii) after payment of the expenses incurred in the liquidation of the Liquidating Trust Assets, distribute surplus amounts recovered

therefrom to in accordance with the Plan; (iv) close the Debtors' Chapter 11 Cases in accordance with the Bankruptcy Code and Bankruptcy Rules; and (vi) object to Claims.

*Section 2.2 Appointment and Acceptance of the Liquidating Trustee.* Thomas Kim is hereby appointed as the Liquidating Trustee, to act and serve as the Liquidating Trustee of the Liquidation Trust. Thomas Kim hereby accepts the appointment as the Liquidating Trustee of the Liquidation Trust, and, in such capacity, agrees to hold the Liquidating Trust Assets, in trust, in accordance with the terms of this Agreement and to administer the Liquidating Trust pursuant to the terms and conditions of this Agreement and the Plan.

*Section 2.4 Transfer of Assets to the Trust.* Pursuant to the Plan and the Confirmation Order, on the Effective Date, the Liquidating Trust Assets shall be unconditionally and irrevocably transferred, assigned and delivered by the Debtors to the Liquidation Trust, in trust, to be administered for the benefit of the Estate of Collection and Estate of Plainfield, free and clear of all claims, liens, encumbrances, charges and other interests. Any cash, proceeds or other property received from third parties arising from or related to the prosecution, settlement, or compromise of any Causes of Action (including Avoidance Actions) shall constitute Liquidating Trust Assets for purposes of Distributions under this Agreement. Upon the transfer of the Liquidating Trust Assets, the Liquidating Trust shall succeed to all of the Debtors' and the Estate of Collection's and the Estate of Plainfield's rights, title, and interests in and to the Liquidating Trust Assets, and the Debtors and the Estate of Collection and the Estate of Plainfield will have no further interest in or with respect to the Liquidating Trust Assets or the Liquidation Trust.

*Section 3.3 No Suits by Liquidating Trust Beneficiaries.* No Liquidating Trust Beneficiary shall have any right by virtue of any provision of this Agreement to institute any action or proceeding, at law or in equity, against any person, including the Liquidating Trustee, with respect to the Trust Assets; provided, however, that a Liquidating Trust Beneficiary shall be permitted to institute in the Bankruptcy Court an action or proceeding, in law or in equity, against the Liquidating Trustee solely with respect to this Agreement or the Trust Assets, and the Liquidating Trustee shall have no liability to any Liquidating Trust Beneficiary except for acts or omissions arising from gross negligence, intentional misconduct, willful misconduct or actual fraud. (emphasis added).

*Section 5.1 Powers of the Liquidating Trustee.* In connection with the administration of the Liquidation Trust, the Liquidating Trustee is authorized to perform any and all acts necessary and desirable to accomplish the purposes of the Liquidation Trust. The Liquidating Trustee will act for the Liquidation Trust, the Debtors and the Estate of Collection and the Estate of Plainfield, subject to the provisions of the Plan, the Confirmation Order and this Agreement. On the Effective Date, the Liquidating

Trustee shall succeed to all rights of the Debtors and the Estate of Collection and the Estate of Plainfield with respect to the Trust Assets necessary to protect, conserve and liquidate all the Liquidating Trust Assets. Without limiting, but subject to, the foregoing, the Liquidating Trustee shall be expressly authorized to:

(a) prosecute, collect, compromise, settle, or abandon any Cause of Action and Avoidance Action without further approval of or application to the Bankruptcy Court (except to the extent required by this Agreement, the Plan, or the Confirmation Order);

(b) appear and have standing in the Bankruptcy Court (or any other court having jurisdiction over the Liquidating Trust Assets) to be heard with regard to the Causes of Action (including Avoidance Actions), object to Claims and other matters that may affect or relate to the Liquidating Trust Assets;

(c) act on behalf of the Debtors, the Estate of Collection, the Estate of Plainfield or the Liquidating Trust in prosecuting, compromising, settling, or defending any Cause of Action, Avoidance Action, or rights (whether legal or equitable) pertaining to a Trust Asset that exist as of the Effective Date or could arise at any time thereafter, whether under the Bankruptcy Code or other applicable law, including in all adversary proceedings and contested matters then pending (whether or not originally asserted in the name of the Debtors, the Estate of Collection, the Estate of Plainfield or the Liquidation Trust, or any other authorized Estate representative, such as the Creditors' Committee) or that can be commenced in the Bankruptcy Court and in all actions and proceedings that may be pending (whether or not originally asserted in the name of the Debtors, the Estate of Plainfield, the Estate of Collection or the Liquidation Trust, or any other authorized Estate of Plainfield and Estate of Collection authorized representative, such as the Creditors' Committee) or that can be commenced elsewhere;

(d) receive, manage, invest, supervise, and protect the Liquidating Trust Assets and Segregated Causes of Action, including paying taxes, if any, or other obligations incurred in connection therewith;

\* \*\*

(f) liquidate and monetize the Trust Assets and Causes of Action (including Avoidance Actions);

47. The *Abengoa* Court also explained why the language of the Plan and Liquidating Trustee Agreement further bars creditors from objecting to other beneficiary claims:

Both the Plan and Trust provide that the Kansas Trustee succeeded to the debtor in possession's rights and duties on the effective date. Those rights and duties are generally

outlined in § 1107(a) and, with some exceptions not relevant here, are the same as those of a chapter 11 trustee appointed under § 1104. Section 1106(a)(1) provides that a chapter 11 trustee has most of the same powers and duties as a chapter 7 trustee. Mr. Kozel is not a “chapter 11 trustee” because he was not appointed under § 1104, but he does retain powers to examine and object to proofs of claim in the manner of a chapter 11 trustee, powers that are identical to those of a chapter 7 trustee to examine and object to proofs of claim “if a purpose would be served.”

\*\*\*

The Kansas Trustee cites cases that follow this general line of authority. They include *In re Western Asbestos Co.*, [313 B.R. 832, 845 (Bankr. N.D. Cal. 2003)] where a bankruptcy court in the Northern District of California upheld a liquidating trustee's right to object to claims while denying other creditors that right, stating that once a plan is confirmed, its terms govern who may object to claims. Whether that right is assigned to the creditors' committee or, as there (and in this case) the liquidating trustee, “there is nothing inconsistent with the Bankruptcy Code in this provision.” Though it is a chapter 7 case, the court's opinion in *Pascazi v. Fiber Consultants, Inc.* [445 B.R. 124 (S.D.N.Y. 2011)] is also convincing. While noting that creditors are “theoretically” parties in interest who have standing to object to other creditors' claims, the court also recognized that a majority of courts hold that only the chapter 7 trustee may object to individual proofs of claim and that this limitation is “premised on the ‘demands of orderly and expeditious administration.’” [Id. at 129 citing *In re Manshul Const. Corp.* 223 B.R. 428, 431 (Bankr. S.D.N.Y. 1998) (quoting Fed. R. Bankr. P. 3007 advisory committee’s notes).

*In re Abengoa Bioenergy Biomass of Kansas, LLC*, 2018 WL \* 3-4. Citing at fn 28, See *In re Micro-Precision Technologies, Inc.*, 303 B.R. 238, 243 (Bankr. D. N.H. 2003) (discussing restrictions on one creditor's ability to object to the proof of claim of another creditor in a chapter 11 case; most important qualification on creditor's right to object is that the trustee acts as the spokesman for all the creditors in discharge of the trustee's duty unless the trustee refuses to take action ); *Kowal v. Malkemus (In re Thompson)*, 965 F.2d 1136, 1147 (1st Cir. 1992); *In re Parker Montana Co.*, 47 B.R. 419, 421–22 (D. Mont. 1985); *In re Meade Land & Development Co., Inc.*, 1 B.R. 279, 282 (Bankr. E.D. Pa. 1979).

48. Lastly, the *Abengoa* Court observed that if a party in the case took issue with the liquidating trustee such party should have objected to the plan:

The Kansas Trustee merely seeks to enforce his rights and duties over claims administration as set forth in the Plan and Trust. During confirmation, the MLT did not

object to the Plan's broad grant of authority to the Kansas Trustee over resolution of claims or the parallel grant in the Liquidating Trust. The MLT is now bound by the confirmed Plan and Trust. As noted previously in this Order, the case law interpreting § 502(a) recognizes that the right of creditors to object to other creditor claims is limited where a trustee is in place or a plan has been confirmed. (citations omitted).

49. For the identical reasons adopted by the *Abengoa* Court, the Sender Commenced Claim Objections should be stricken. The Liquidating Trustee is the sole party vested with the right to commence and litigate claims objections. Such supports efficient administration of the Liquidating Trust.

**CONCLUSION**

WHEREFORE, the Liquidating Trustee respectfully requests that the Court enter an Order, a proposed form is filed herewith, sticking the Sender Commenced Claim Objections, and granting such further and additional relief as the Court may deem proper.

DATED: August 1, 2023

Respectfully submitted,

By: /s/ Aaron A. Garber

Aaron A. Garber #36099

**Wadsworth Garber Warner Conrardy, P.C.**

2580 West Main Street, Suite 200

Littleton, CO 80120

Telephone: (303) 296-1999

Telecopy: (303) 296-7600

Email: [agarber@wgwc-law.com](mailto:agarber@wgwc-law.com)

*Counsel for the Liquidating Trustee*

### CERTIFICATE OF SERVICE

The undersigned certifies that on August 1, 2023 I served via ECF a copy **MOTION TO STRIKE CLAIM OBJECTIONS FILED BY HARVEY SENDER, RECEIVER** on all parties against whom relief is sought and those otherwise entitled to service pursuant to FED.R.BANKR.P. and these L.B.R. at the following addresses:

Malcolm M Bates mbates@duanemorris.com  
Stephen Charles Breuer stephen@breuer.law, stephen@ecf.courtdrive.com  
Brent R. Cohen bcohen@lewisroca.com, brent-cohen-8759@ecf.pacerpro.com, jeastin@lrrc.com  
Zachary Fairlie zfairlie@spencerfane.com, lwhitaker@spencerfane.com  
Lars H. Fuller larsfuller@yahoo.com  
Aaron A Garber agarber@wgwc-law.com, ngarber@wgwc-law.com;8931566420@filings.docketbird.com  
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US Trustee USTPRegion19.DV.ECF@usdoj.gov  
Deanna L. Westfall deanna.westfall@coag.gov,  
Robert.padjen@coag.gov;jade.darnell@coag.gov

By: /s/Nichole Garber  
For Wadsworth Garber Warner Conrardy, PC

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

IN RE:	)	
	)	Case No. 22-11320-JGR
CLEARWATER COLLECTION 15, LLC	)	
EIN: 47-4082355	)	Chapter 11
	)	
Debtor.	)	
<hr/>		
IN RE:	)	
	)	Case No. 22-11321-JGR
CLEARWATER PLAINFIELD 15, LLC	)	Chapter 11
EIN: 47-4097826	)	
	)	
Debtor.	)	

**ORDER STRIKING CLAIM OBJECTIONS  
FILED BY HARVEY SENDER, RECEIVER**

UPON CONSIDERATION of the Motion to Strike Claim Objections Filed by Harvey Sender, Receiver (the “Motion”), and the objection thereto, and having heard the arguments of counsel and considered the evidence presented, and for cause shown,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED;

2. All claim objections filed Mr. Sender, receiver including: (a) two omnibus objections to claims; (b) the two claims filed by Hagshama Florida 13Clearwater LLC and Cofund V, LLC; (c) the claim filed by Robert and Jodi Eisen; (d) the claim filed by Scott Friedman; (e) the claim filed by David and Darcea Haar; (f) the claim filed by Hilltoppers Capital Growth, LLC; (f) the claims of Chad Hurst; (g) the claim of 3G2B Partners, LLC; and (h) the claim of Martin Rosenbaum are hereby stricken.

DATED: August \_\_\_, 2023

BY THE COURT:

\_\_\_\_\_  
Honorable Joseph J. Rosania, Jr.  
United States Bankruptcy Judge



<b>Fill in this information to identify the case:</b>
Debtor 1 <u>Clearwater Collection 15, LLC</u>
Debtor 2 <u>Clearwater Plainfield 15, LLC</u> (Spouse, if filing)
<u>United States Bankruptcy Court District of Colorado</u>
Case number: <u>22-11320</u>

FILED

U.S. Bankruptcy Court  
District of Colorado

8/22/2022

Kenneth S. Gardner, Clerk

DATE FILED: April 16, 2024 5:45 PM  
FILING ID: AAE84A02B227E  
CASE NUMBER: 2018CV33011

**Official Form 410  
Proof of Claim**

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

<b>1. Who is the current creditor?</b>	<u>Harvey Sender, Receiver</u>	
	Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
<b>2. Has this claim been acquired from someone else?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
<b>3. Where should notices and payments to the creditor be sent?</b>  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b>	<b>Where should payments to the creditor be sent? (if different)</b>
	<u>Harvey Sender, Receiver</u>	_____
	Name	Name
	<u>600 17th Street Suite 2800 South Denver, CO 80202</u>	_____
	Contact phone <u>303-454-0525</u>	Contact phone _____
	Contact email <u>hsender@sendersmilev.com</u>	Contact email _____
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
<b>4. Does this claim amend one already filed?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
<b>5. Do you know if anyone else has filed a proof of claim for this claim?</b>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Who made the earlier filing? <u>3G2B Partners, LLC and Robert &amp; Jodi Eisen Charles Jerome Eisen filed claim in Case#22-11321-JGR#3</u>	

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

<p><b>6. Do you have any number you use to identify the debtor?</b></p>	<p><input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____</p>
<p><b>7. How much is the claim?</b></p>	<p>\$ <u>2806545.22</u></p> <p><b>Does this amount include interest or other charges?</b>  <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).</p>
<p><b>8. What is the basis of the claim?</b></p>	<p>Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).                  Limit disclosing information that is entitled to privacy, such as healthcare information.</p> <p><b>Claim filed against receivership estate for investor losses</b></p> <p>_____</p>
<p><b>9. Is all or part of the claim secured?</b></p>	<p><input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes. The claim is secured by a lien on property.</p> <p><b>Nature of property:</b>  <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>.  <input type="checkbox"/> Motor vehicle  <input type="checkbox"/> Other. Describe: _____</p> <p><b>Basis for perfection:</b> _____</p> <p>Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</p> <p><b>Value of property:</b> \$ _____</p> <p><b>Amount of the claim that is secured:</b> \$ _____</p> <p><b>Amount of the claim that is unsecured:</b> \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)</p> <p><b>Amount necessary to cure any default as of the date of the petition:</b> \$ _____</p> <p><b>Annual Interest Rate</b> (when case was filed) _____ %</p> <p><input type="checkbox"/> Fixed  <input type="checkbox"/> Variable</p>
<p><b>10. Is this claim based on a lease?</b></p>	<p><input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes. <b>Amount necessary to cure any default as of the date of the petition.</b> \$ _____</p>
<p><b>11. Is this claim subject to a right of setoff?</b></p>	<p><input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes. Identify the property: _____</p>

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?  No  Yes. Check all that apply: Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ \_\_\_\_\_

Up to \$3,350\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ \_\_\_\_\_

Wages, salaries, or commissions (up to \$15,150\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ \_\_\_\_\_

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ \_\_\_\_\_

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ \_\_\_\_\_

Other. Specify subsection of 11 U.S.C. § 507(a)(\_) that applies \$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

**The person completing this proof of claim must sign and date it. FRBP 9011(b).**

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

**A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.**

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this Proof of Claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 8/22/2022  
MM / DD / YYYY

/s/ Michael T. Gilbert  
\_\_\_\_\_  
Signature

Print the name of the person who is completing and signing this claim:

Name Michael T. Gilbert  
First name Middle name Last name

Title Attorney

Company Allen Vellone Wolf Helfrich & Factor PC

Address 1600 Stout Street, Suite 1900  
Identify the corporate servicer as the company if the authorized agent is a servicer  
Number Street  
Denver, CO 80202  
City State ZIP Code

Contact phone 303-534-4499 Email mgilbert@allen-vellone.com

Exhibit 4 Clearwater Collection 15, LLC												
Harvey Sender as Receiver Amended Claim - Clearwater Collection 15, LLC Bankruptcy												
Claim No.	Claimant	Bankruptcy Claim	Receivership Claim	Cash In to Clearwater Collection 15, LLC	Cash In to Gary Dragul for Interest in Clearwater Collection 15, LLC	Cash Out of Clearwater Collection 15, LLC	Net Cash, Clearwater Collection 15, LLC	Distributions from			Bankruptcy Claim in Excess of Allowable Claim	
								Rollovers of Prior Investments	Roller Investments	Net Cash, Rollover Investments		Allowable Claim
Filed Claims in Receivership Only												
N/A	Diamant, Marc	None	\$50,000.00	\$50,000.00		(\$15,503.99)	\$34,496.01				\$34,496.01	
N/A	Helms, Chris (Lone Pine Resources, LP)	None	\$250,000.00	\$250,000.00		(\$78,294.98)	\$171,705.02				\$171,705.02	
N/A	Hughes, Carol	None	\$50,000.00		\$50,000.00	(\$12,892.67)	\$37,107.33				\$37,107.33	
N/A	Leftin, Sol (Leftin Investment Co.)	None	\$49,534.68	\$50,000.00		(\$15,659.13)	\$34,340.87				\$34,340.87	
N/A	Metz, Aaron	None	\$100,000.00	\$100,000.00		(\$31,007.66)	\$68,992.34				\$68,992.34	
Total - Filed Claims in Receivership Only		\$0.00	\$499,534.68	\$450,000.00	\$50,000.00	(\$153,358.43)	\$346,641.57				\$346,641.57	
Filed Claims in Receivership and Bankruptcy												
N/A	Fox, Alan	Transferred to Hagshama and Cofund V		\$3,000,000.00		(\$619,981.07)	\$2,380,018.93				\$2,380,018.93	\$2,380,018.93
8	Cofund V, LLC	\$1,200,000.00	\$1,631,000.00			(\$176,516.00)	(\$176,516.00)				(\$176,516.00)	(\$1,376,516.00)
9	Hagshama Florida 13 Clearwater, LLC	\$3,000,000.00	\$5,608,000.00			(\$531,290.00)	(\$531,290.00)				(\$531,290.00)	(\$3,531,290.00)
19	Dickey, William (Hilltoppers Capital)	\$100,000.00	\$100,000.00	\$100,000.00		(\$31,938.49)	\$68,061.51				\$68,061.51	(\$31,938.49)
5	Eisen, Robert and Jodi	\$100,000.00	\$56,515.18	\$100,000.00		(\$31,007.66)	\$68,992.34				\$68,992.34	(\$31,007.66)
17	Haar, David & Darcea	\$160,000.00	\$160,000.00	\$140,000.00		(\$41,239.02)	\$98,760.98				\$98,760.98	(\$61,239.02)
20 & 21	Hurst, Chad	\$400,995.55	\$308,377.50	\$150,000.00		(\$90,230.78)	\$59,769.22				\$59,769.22	(\$341,226.33)
4	Raabe, Andy (3G2B Partners)	\$100,000.00	\$100,000.00	\$100,000.00		(\$31,317.93)	\$68,682.07				\$68,682.07	(\$31,317.93)
24	Rosenbaum, Martin	\$200,000.00	\$200,000.00	\$100,000.00		(\$58,912.54)	\$41,087.46	\$100,000.00	(\$27,555.86)	\$72,444.14	\$113,531.60	(\$86,468.40)
7	Rockefeller IRA, Scott	\$43,023.33	Duplicate								Duplicate	(\$43,023.33)
6	Southern Performance Group, Inc. formerly MSHR	\$170,400.00	Duplicate								Duplicate	(\$170,400.00)
11	McCaffrey, Thomas	\$50,000.00	Duplicate								Duplicate	(\$50,000.00)
2	Detterer, William	\$200,000.00	Wrong Debtor								Wrong Debtor	(\$200,000.00)
3	Lapp, Gideon & Rhonda	\$100,000.00	Wrong Debtor								Wrong Debtor	(\$100,000.00)
14	Evans, Laura	\$66,000.00	Wrong Debtor								Wrong Debtor	(\$66,000.00)
Total - Filed Claims in Receivership and Bankruptcy		\$5,890,418.88	\$8,163,892.68	\$3,690,000.00	\$0.00	(\$1,612,433.49)	\$2,077,566.51	\$100,000.00	(\$27,555.86)	\$72,444.14	\$2,150,010.65	(\$3,740,408.23)
Filed Claim in Receivership and Clearwater Plainfield 15, LLC Bankruptcy												
3	Eisen, Charles	\$100,000.00	\$100,000.00	\$100,000.00		(\$31,007.66)	\$68,992.34				\$68,992.34	(\$31,007.66)
Filed Claim in Bankruptcy Only												
18	Friedman, Scott	\$70,000.00	None	\$20,000.00		(\$15,537.76)	\$4,462.24	\$40,000.00	(\$39,966.38)	\$33.62	\$4,495.86	(\$65,504.14)
Total Receivers Claim for Clearwater Collection 15, LLC Investors		\$6,060,418.88	\$8,763,427.36	\$4,260,000.00	\$50,000.00	(\$1,812,337.34)	\$2,497,662.66	\$140,000.00	(\$67,522.24)	\$72,477.76	\$2,570,140.42	(\$3,836,920.03)
Receiver's Claim for Transfers from Estate to Clearwater Collection 15, LLC											\$5,883,030.82	
Total Receiver's Amended Claim											<u>\$8,453,171.24</u>	

DATE FILED April 16 2024 5:45 PM  
 FILING ID: AAE84A02B227E  
 CASE NUMBER: 2018CV33011

**RECEIVER'S FEES**

(As Reflected in Invoices Appended to Fee Applications Since Bankruptcy Petitions Filed)

DATE FILED: April 16, 2024 5:45 PM  
FILING ID: AAE84A02B227E  
CASE NUMBER: 2018CV33011

<b>DATE</b>	<b>BILLED AMOUNT</b>
20220420	\$200.00
20220526	\$600.00
20220606	\$400.00
20220608	\$680.00
20220609	\$200.00
20220915	\$200.00
20221004	\$120.00
20221115	\$120.00
20230109	\$520.00
20230405	\$200.00
20230615	\$400.00
20230707	\$320.00
20230711	\$200.00
20230807	\$200.00
20230815	\$400.00
20230825	\$160.00
20230827	\$200.00
20231018	\$1,800.00
20231019	\$1,800.00
20231109	\$160.00
20231115	\$240.00
<b>TOTAL</b>	<b>\$9,120.00</b>

**RECEIVER'S ATTORNEYS' FEES**

(As Reflected in Invoices Appended to Fee Applications Since Bankruptcy Petitions Filed)

<b>DATE</b>	<b>BILLED AMOUNT</b>
20220420	\$130.00
20220420	\$65.00
20220420	\$65.00
20220525	\$130.00
20220525	\$65.00
20220526	\$97.50
20220526	\$130.00
20220526	\$162.50
20220526	\$130.00

20220526	\$60.00
20220527	\$22.50
20220531	\$97.50
20220601	\$162.50
20220602	\$495.00
20220602	\$227.50
20220603	\$325.00
20220606	\$495.00
20220606	\$162.50
20220607	\$300.00
20220607	\$792.00
20220607	\$130.00
20220607	\$227.50
20220608	\$420.00
20220608	\$742.50
20220608	\$97.50
20220608	\$97.50
20220609	\$240.00
20220609	\$130.00
20220610	\$120.00
20220615	\$396.00
20220615	\$390.00
20220615	\$97.50
20220727	\$297.00
20220727	\$90.00
20220816	\$600.00
20220816	\$495.00
20220822	\$80.00
20230223	\$275.00
20230511	\$550.00
20230607	\$165.00
20230608	\$362.50
20230608	\$550.00
20230609	\$825.00
20230610	\$1,540.00
20230610	\$1,045.00
20230611	\$1,980.00
20230612	\$1,265.00
20230613	\$1,375.00
20230614	\$4,235.00
20230615	\$495.00

20230616	\$942.50
20230616	\$3,905.00
20230624	\$1,540.00
20230628	\$1,210.00
20230705	\$825.00
20230706	\$3,465.00
20230707	\$1,450.00
20230707	\$2,750.00
20230709	\$4,785.00
20230710	\$219.00
20230710	\$146.00
20230710	\$362.50
20230714	\$362.50
20230722	\$330.00
20230725	\$145.00
20230726	\$220.00
20230801	\$110.00
20230802	\$362.50
20230802	\$440.00
20230802	\$220.00
20230803	\$580.00
20230803	\$507.50
20230803	\$2,860.00
20230804	\$362.50
20230804	\$440.00
20230805	\$507.50
20230805	\$2,860.00
20230806	\$145.00
20230807	\$145.00
20230816	\$55.00
20230818	\$1,595.00
20230818	\$225.00
20230823	\$1,305.00
20230825	\$362.50
20230827	\$362.50
20230827	\$962.50
20230828	\$362.50
20230828	\$550.00
20230830	\$1,522.50
20230830	\$1,375.00
20230831	\$580.00

20230831	\$660.00
20230901	\$725.00
20230905	\$870.00
20230906	\$1,650.00
20230908	\$550.00
20230913	\$362.50
20230915	\$880.00
20230920	\$275.00
20230920	\$550.00
20230921	\$275.00
20230930	\$110.00
20231017	\$217.50
20231017	\$715.00
20231018	\$220.00
20231019	\$605.00
20231031	\$220.00
20231114	\$110.00
20231115	\$550.00
20231121	\$165.00
20231122	\$110.00
<b>TOTAL</b>	<b>\$74,702.50</b>

**RECEIVER'S ACCOUNTANTS' FEES**

(As Reflected in Invoices Appended to Fee Applications Since Bankruptcy Petitions Filed)

<b>DATE</b>	<b>BILLED AMOUNT</b>
20220718	\$500.00
20220727	\$900.00
20220812	\$500.00
20220816	\$900.00
20220819	\$1,500.00
20220822	\$700.00
20230606	\$1,817.00
20230607	\$943.00
20230608	\$1,380.00
20230609	\$700.00
20230609	\$184.00
20230609	\$414.00
20230609	\$1,058.00
20230612	\$500.00
20230612	\$644.00
20230613	\$1,300.00



20230613	\$1,518.00
20230614	\$115.00
20230615	\$1,300.00
20230616	\$1,700.00
20230619	\$700.00
20230621	\$1,300.00
20230622	\$1,100.00
20230622	\$92.00
20230622	\$276.00
20230623	\$1,700.00
20230623	\$1,104.00
20230624	\$966.00
20230626	\$500.00
20230626	\$1,587.00
20230627	\$1,541.00
20230628	\$1,700.00
20230628	\$1,587.00
20230629	\$736.00
20230630	\$1,300.00
20230630	\$713.00
20230703	\$828.00
20230705	\$1,100.00
20230705	\$598.00
20230706	\$1,300.00
20230706	\$1,863.00
20230707	\$1,700.00
20230707	\$437.00
20230710	\$900.00
20230710	\$1,656.00
20230711	\$1,100.00
20230711	\$1,058.00
20230712	\$1,700.00
20230712	\$391.00
20230714	\$500.00
20230724	\$368.00
20230908	\$184.00
20231016	\$200.00
20231017	\$300.00
20231017	\$368.00
20231113	\$299.00
20231114	\$138.00

20231115	\$529.00
20231120	\$253.00
20231121	\$2,100.00
20231121	\$989.00
20231122	\$920.00
<b>TOTAL</b>	<b>\$57,254.00</b>

Trustee: HARVEY SENDER, RECEIVER

**Time Worksheet**

Entries From 11/01/21 To 08/31/22

**Case Number:** 2018CV33011  
**Case Status:** OPEN  
**Petition Date:** 08/15/18

**Case Name:** GARY DRAGUL; GDA REAL ESTATE  
**Judge:** SERVICES, LLC  
**Original 341a Meeting:** BLANK - NO JUDGE

DATE FILED: September 30, 2022 3:14 PM  
 FILING ID: C37F6034818A6  
 CASE NUMBER: 2018CV33011

Date	Description	Hours	Unit Rate	Total
<b>Matter Code: Receiver Time</b>				
11/10/21	Review draft of report. Provide comments to counsel and proposed changes.	0.50	400.00	200.00
01/13/22	Review and consider Freedom insurance litigation. Emails with counsel regarding above.	1.00	400.00	400.00
01/16/22	Review Clearwater report. Email comments.	0.50	400.00	200.00
01/22/22	Telephone conference with Eric and Michael regarding Kahn. Review and respond to emails regarding above.	0.50	400.00	200.00
03/02/22	Review and respond to various emails regarding Kahn settlement options. Review emails regarding Clearwater.	0.50	400.00	200.00
03/15/22	Several phone calls and emails with Eric Johnsen regarding offer. Telephone conference with Michael Gilbert regarding federal litigation.	0.60	400.00	240.00
04/05/22	Telephone conference with Eric Jonsen regarding Kahn offers.	0.50	400.00	200.00
04/19/22	Review and respond to emails regarding settlement offer on Kahn.	0.30	400.00	120.00
04/20/22	Review bankruptcy petitions for two Florida entities. Email comments to counsel.	0.50	400.00	200.00
04/21/22	Review latest settlement offer and attachments. Review and respond to various emails regarding above.	0.50	400.00	200.00
05/20/22	Review updated insurance response. Consider respond and email counsel.	0.40	400.00	160.00
05/24/22	Telephone conference with M. Gilbert and Eric Johnsen.	0.50	400.00	200.00
05/26/22	Telephone conference with Michael and Rachel regarding Clearwater. Review pleadings from the Bankruptcy Court and relevant receiver motions. Consider approach and discuss with counsel.	1.50	400.00	600.00
06/01/22	Review emails and attachments regarding tax return requests from Dragul. Conference call regarding production issues.	0.60	400.00	240.00
06/06/22	Review and respond to emails regarding Clearwater. Review extensive memo and attachments.	1.00	400.00	400.00
06/08/22	Review memos regarding Clearwater issues. Conference call regarding strategy. 1.0; Review limited objection. Telephone conference M. Gilbert regarding above .3; Review Kahn settlement agreement. Provide comments to counsel .4	1.70	400.00	680.00
06/09/22	Review and respond to emails regarding Hagshama. Review attachments. Telephone conference with M. Gilbert regarding above.	0.50	400.00	200.00
06/16/22	Review and consider various drafts of pleadings. Email comments to counsel.	0.50	400.00	200.00
06/21/22	Review and consider Order regarding motions to dismiss. Emails to counsel regarding above.	0.50	400.00	200.00
06/24/22	Review and consider objection to stay motion. Emails to counsel regarding above and regarding Hershey.	0.50	400.00	200.00

Exhibit 1 to Receiver's Seventh Fee Application

EXHIBIT F  
Page 1 of 2

06/28/22	Review and respond to emails regarding Kahn settlement and regarding Hershey offer.	0.40	400.00	160.00
07/11/22	Review Hershey disclosures.	0.20	400.00	80.00
07/27/22	Prepare for and attend conference call with counsel regarding offers and status .8; Review and respond to emails regarding above .2	1.00	400.00	400.00
	<b>Totals for Receiver Time</b>	<hr/>	<hr/>	<hr/>
		14.70		5,880.00
	<b>Report Totals</b>	14.70		5,880.00

Client	Trans Date	Tkpr	Rate	Hours Worked	Hours to Bill	Amount	
Client ID 19461.103 SENDER/HARVEY							
19461.103	11/09/2021	PDV					Attorney A. Andrews fees re: 4/8/2021 - 4/13/2021 and 4/16/2021 written off from 19461.103 and transferred to 19461.106 per Attorney M. Gilbert instruction.
19461.103	11/09/2021	PDV			0	0	Attorney M. Wolf fees re: 4/13/2021 written off from 19461.103 and transferred to 19461.106 per Attorney M. Gilbert instruction.
19461.103	11/09/2021	PDV			0	0	Paralegal S. Khan fees re: 10/22/2021 written off from 19461.103 and transferred to 19461.106 per Attorney M. Gilbert instruction.
19461.103	11/09/2021	PDV			0	0	Paralegal S. Chavez fees re: 5/21/2021 and 6/22/2021 written off from 19461.103 and transferred to 19461.106 per Attorney M. Gilbert instruction.
19461.103	11/09/2021	PDV			0	0	Attorney R. Sternlieb fees re: 3/15/2021, 3/29/2021 and 3/30/2021 written off from 19461.103 and transferred to 19461.106 per Attorney M. Gilbert instruction.
19461.103	11/09/2021	PDV			0	0	Legal Assistant Y. Davis fees re: 5/7/2021, 6/11/2021, 6/18/2021, and 7/8/2021 written off from 19461.103 and transferred to 19461.106 per Attorney M. Gilbert instruction.
19461.103	11/16/2021	PDV			0	0	Courtesy write down applied to Receiver's Sixth Report, Fee Application per Attorney M. Gilbert and Attorney P. Vellone.
19461.103	06/07/2022	PDV		600	0.5	0.5	300 Review Attorney R. Sternlieb and Attorney M. Gilbert Clearwater analysis; conference with Attorney M. Gilbert re: same.
19461.103	06/08/2022	PDV		600	0.7	0.7	420 Telephone conference with Attorney M. Gilbert and Client re: Clearwater; review bankruptcy filings re: same.
19461.103	06/09/2022	PDV		600	0.4	0.4	240 Telephone conference with Attorney M. Gilbert re: Clearwater bankruptcy hearing.
19461.103	06/10/2022	PDV		600	0.2	0.2	120 Review and respond to Attorney M. Gilbert email re: Clearwater bankruptcy hearing.
19461.103	08/16/2022	PDV		600	1	1	600 Conference with Attorney M. Gilbert and S. Drew re: Clearwater claims.
Subtotal for Timekeeper PDV				<b>Billable</b>	<b>2.8</b>	<b>2.8</b>	<b>1680 PATRICK D. VELLONE</b>
19461.103	11/01/2021	MTG		450	4	4	1800 Review file and prepare initial drafts of Sixth Receiver Report and Sixth Fee Application.
19461.103	11/10/2021	MTG		450	0.75	0.75	337.5 Review fee application in response to client comments and revise same; confer with Attorney P. Vellone re: same.
19461.103	11/18/2021	MTG		450	0.25	0.25	112.5 Finalize and prepare to file 6th Receiver report and 6th Fee Application.
19461.103	05/19/2022	MTG		495	2.5	2.5	1237.5 Review/analyze: confer with Mr. Pietrogallo re: Dragul request for additional tax information; prepare spreadsheet analysis re: same; confer with Attorney R. Sternlieb and Ms. Drew re: same.
19461.103	05/26/2022	MTG		495	3.7	3.7	1831.5 Review request from lender to join in 543(b) motion; confer with Ms. Fischer re: same; confer with Attorney R. Sternlieb and client re: same; review pleadings relating to same and draft joinder for filing.
19461.103	06/01/2022	MTG		495	0.2	0.2	99 Confer with Ms. Drew re: tax returns and status of review and production.
19461.103	06/01/2022	MTG		495	0.7	0.7	346.5 Teleconference with Mr. Sender, Attorney R. Sternlieb, and Ms. Drew re: tax return production; edit update to website to reflect Dragul criminal trial date and status of Insider Case.
19461.103	06/02/2022	MTG		495	1	1	495 Prepare for and attend hearing on Clearwater bankruptcy matter re: 543(b) motion.
19461.103	06/06/2022	MTG		495	1	1	495 Review Attorney R. Sternlieb memorandum re: Clearwater; draft email to client [REDACTED]; confer with Mr. Garber re: secured lender's motion for relief from stay.
19461.103	06/07/2022	MTG		495	1.6	1.6	792 Reviewed lender's motion for relief from stay in Clearwater bankruptcy cases and conferred with Attorney R. Sternlieb re: strategy for dealing with same.
19461.103	06/08/2022	MTG		495	1.5	1.5	742.5 Confer with Mr. Sender and Attorney P. Vellone re: Clearwater strategy; review Hagshama and Debtors' objections to lender's relief from stay motion and formulate strategy for hearing.
19461.103	06/09/2022	MTG		495	4.2	4.2	2079 Confer with Brent Cohen, Mr. Sender, and Attorney P. Vellone re: stay relief hearing and our position; attend hearing.
19461.103	06/15/2022	MTG		495	0.8	0.8	396 Attend ruling on Clearwater motion for relief from stay.
19461.103	07/27/2022	MTG		495	0.6	0.6	297 Confer with Ms. Drew re: submitting claim in Clearwater bankruptcy cases.
19461.103	08/16/2022	MTG		495	1	1	495 Confer with Ms. Drew and Attorney P. Vellone re Clearwater claims.
Subtotal for Timekeeper MTG				<b>Billable</b>	<b>23.8</b>	<b>23.8</b>	<b>11556 MICHAEL T. GILBERT</b>
19461.103	06/01/2022	SK		200	0.1	0.1	20 Create ShareFile link for Dragul tax returns and circulate same.
19461.103	06/23/2022	SK		200	0.2	0.2	40 Circulate email of Motion to creditor list.
Subtotal for Timekeeper SK				<b>Billable</b>	<b>0.3</b>	<b>0.3</b>	<b>60 SALOWA KHAN</b>
19461.103	07/27/2022	SBC		200	0.45	0.45	90 Prepare Proofs of Claim for Clearwater bankruptcy cases; send same to Ms. Drew.

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19461.103	08/22/2022	SBC	200	0.4	0.4	80	File proofs of claim in Clearwater matters.
Subtotal for Timekeeper SBC		Billable		0.85	0.85	170	SAVANNA B. CHAVEZ
19461.103	11/02/2021	RAS	295	0.5	0.5	147.5	Emails to/from Paralegal M. Davies and website developer re: ongoing issues with website and resolution; return investor's call and provide update and status.
19461.103	12/16/2021	RAS	295	0.6	0.6	177	Telephone conference with Jon Block re: continuance of criminal trial; emails to/from Attorney M. Gilbert, Attorney P. Vellone and Mr. Sender re: same; email to Paralegal M. Davies re: update to website.
19461.103	04/20/2022	RAS	325	0.4	0.4	130	Review/analyze pleadings filed in Clearwater case re: suggestion of bankruptcy and locate cases on Pacer.
19461.103	04/20/2022	RAS	325	0.2	0.2	65	Communicate (with client) - emails to/from client re: Clearwater entity's filing for bankruptcy.
19461.103	04/20/2022	RAS	325	0.2	0.2	65	Communicate (other external) - email to U.S. Trustee re: Clearwater entities' bankruptcy.
19461.103	05/18/2022	RAS	325	0.7	0.7	227.5	Communicate (in firm) - conference with Attorney M. Gilbert and Ms. Drew re: request for Tax Returns from Dragul's criminal attorney and response to discuss with prosecutor re: same.
19461.103	05/18/2022	RAS	325	1.8	1.8	585	Review/analyze file materials, emails, etc. and draft summary email to Attorney M. Gilbert re: tax return request from Dragul's criminal counsel and points for discussion re: same with prosecutor.
19461.103	05/25/2022	RAS	325	0.4	0.4	130	Telephone conference with counsel for Clearwater secured lender re: bankruptcy and pending motion to excuse turnover.
19461.103	05/25/2022	RAS	325	0.2	0.2	65	Email to Mr. Sender, Attorney P. Vellone and Attorney M. Gilbert attaching pleadings and email from counsel for Clearwater secured lender re: motion to excuse turnover.
19461.103	05/26/2022	RAS	325	0.3	0.3	97.5	Telephone conference with Attorney M. Gilbert re: conference with counsel for Clearwater secured lender.
19461.103	05/26/2022	RAS	325	0.4	0.4	130	Telephone conference with Mr. Sender and Attorney M. Gilbert re: Clearwater Bankruptcy and Secured Lender's pending motion to excuse turnover. and strategy re: same.
19461.103	05/26/2022	RAS	325	0.5	0.5	162.5	Emails to/from Legal Assistant T. Novoa re: preparing Entries of Appearance in Clearwater Case (0.2); review, edit and finalize same and email Legal Assistant T. Novoa for filing (0.3).
19461.103	05/26/2022	RAS	325	0.4	0.4	130	Review objections filed by Hagshama and the Commissioner in the Clearwater Bankruptcy re: Dragul's Motion for Turnover of the Property
19461.103	05/26/2022	RAS	325	0.6	0.6	195	Review draft Joinder in Secured Lender's Motion and email Attorney M. Gilbert with comments and suggestions for inclusion; telephone conference with Attorney M. Gilbert re: same.
19461.103	05/31/2022	RAS	325	0.3	0.3	97.5	Emails to/from Mr. Sender re: Clearwater Bankruptcy filings and other items and conference with Attorney M. Gilbert re: same.
19461.103	06/01/2022	RAS	325	0.2	0.2	65	Telephone conference with Attorney M. Gilbert, Mr. Sender and Ms. Drew re: Tax Return request from Dragul's criminal attorneys.
19461.103	06/01/2022	RAS	325	0.2	0.2	65	Emails to/from Paralegal M. Davies and Attorney M. Gilbert re: updates to receivership website.
19461.103	06/01/2022	RAS	325	0.5	0.5	162.5	Review Joint Report and Debtor's Response to Report filed in Clearwater Bankruptcy and email to Attorney M. Gilbert and Attorney P. Vellone re: same.
19461.103	06/02/2022	RAS	325	0.7	0.7	227.5	Attend and observe hearing in Clearwater Bankruptcy case and conference with Attorney M. Gilbert re: same. (NO CHARGE)
19461.103	06/03/2022	RAS	325	1	1	325	Telephone conference with Attorney M. Gilbert re: Clearwater issues to look at for conference with Bankruptcy Counsel for Clearwater entities; email pleadings re: same to Attorney M. Gilbert; review and analyze pleadings re: same and email summary to Attorney M. Gilbert.
19461.103	06/06/2022	RAS	325	0.5	0.5	162.5	Telephone conference with Attorney M. Gilbert re: Clearwater Bankruptcy and Claims on behalf of Receivership Estate.
19461.103	06/07/2022	RAS	325	0.4	0.4	130	Telephone conference with Attorney M. Gilbert re: Clearwater pleadings recently filed by secured lender and debtor and strategy re: same.
19461.103	06/07/2022	RAS	325	0.7	0.7	227.5	Review Clearwater Secured Lender's Motion for Relief from Stay and Emergency Hearing Motion and Debtor's Response re: same.
19461.103	06/08/2022	RAS	325	0.3	0.3	97.5	Telephone conference with Attorney M. Gilbert re: conference with Mr. Sender and Attorney P. Vellone re: strategy for Clearwater Bankruptcy.
19461.103	06/08/2022	RAS	325	0.3	0.3	97.5	Review Hagshama's Limited Objection to Secured Lender's Motion for Relief from Stay.
19461.103	06/09/2022	RAS	325	0.4	0.4	130	Emails to/from Attorney M. Gilbert re: zoom credentials for evidentiary hearing in Clearwater Bankruptcy case; review Reply filed by Secured Lender and witness and exhibits lists in advance of evidentiary hearing
19461.103	06/15/2022	RAS	325	1.2	1.2	390	Attend and observe hearing in Clearwater Bankruptcy re: oral ruling on Secured Lender's Motion for Relief from Stay; review and edit notes and email same to Attorney M. Gilbert. (NO CHARGE)
19461.103	06/15/2022	RAS	325	0.3	0.3	97.5	Telephone conference with Attorney M. Gilbert re: draft response, Clearwater oral ruling and other items.
19461.103	08/05/2022	RAS	325	0.3	0.3	97.5	Review emails to/from Attorney M. Gilbert and investor/creditor of estate re: claims against Hershey and status of Receivership.
Subtotal for Timekeeper RAS		Billable		12.6	12.6	4062	RACHEL A. STERNLIEB

			Nonbillable	1.9	1.9	617.5	
			Total	14.5	14.5	4679.5	
19461.103	11/02/2021	MRD	150	0.4	0.4	60	Continue website maintenance; email communication with website master.
19461.103	11/04/2021	MRD	150	0.5	0.5	75	Email communication with website master regarding issues; upload pleadings to website; revise language on website.
19461.103	11/11/2021	MRD	150	0.3	0.3	45	Upload multiple pleadings to website.
19461.103	11/12/2021	MRD	150	0.2	0.2	30	Upload pleading to website.
19461.103	11/16/2021	MRD	150	0.1	0.1	15	Telephone conversation with Claimant Owsley.
19461.103	12/06/2021	MRD	150	0.2	0.2	30	Upload pleadings to website.
19461.103	12/16/2021	MRD	150	0.2	0.2	30	Email communication with Attorney R. Sternlieb; revise website language regarding continuance of criminal trial.
19461.103	01/14/2022	MRD	180	0.2	0.2	36	Update website language regarding new criminal trial dates.
19461.103	03/08/2022	MRD	180	0.2	0.2	36	Upload pleading to website.
19461.103	03/14/2022	MRD	180	0.1	0.1	18	Upload pleading to website.
19461.103	04/23/2022	MRD	180	0.3	0.3	54	Post information regarding Hershey indictment and April 22, 2022 hearing on website.
19461.103	06/01/2022	MRD	180	0.5	0.5	90	Draft language for website regarding Status Conference; update criminal trial date on website; revise language on website pursuant to Attorney M. Gilbert request.
19461.103	06/27/2022	MRD	180	0.4	0.4	72	Upload multiple pleadings to website.
19461.103	08/01/2022	MRD	180	0.3	0.3	54	Upload pleading to website; address website issues.
Subtotal for Timekeeper MRD		Billable		<b>3.9</b>	<b>3.9</b>	<b>645</b>	<b>MARILYN R. DAVIES</b>
19461.103	04/25/2022	YMD	180	0.05	0.05	9	Review pleadings, calendar relevant deadlines, and circulate to team (Dkt. no. 171).
Subtotal for Timekeeper YMD		Billable		<b>0.05</b>	<b>0.05</b>	<b>9</b>	<b>YVONNE M. DAVIS</b>
19461.103	05/26/2022	TMN	150	0.4	0.4	60	Prepare Entry of Appearance for Attorney R. Sternlieb and Attorney M. Gilbert in the Clearwater case.
19461.103	05/27/2022	TMN	150	0.15	0.15	22.5	Prepare Entry of Appearance for Attorney R. Sternlieb and Attorney M. Gilbert for the Clearwater Plainfield 15, LLC case.
Subtotal for Timekeeper TMN		Billable		<b>0.55</b>	<b>0.55</b>	<b>82.5</b>	<b>TERRI M. NOVOA</b>
Total for Client ID 19461.103		Billable		44.85	44.85	18264.5	SENDER/HARVEY
		Nonbillable		1.9	1.9	617.5	SENDER-DRAGUL RECEIVERSHIP
		Total		46.75	46.75	18882	
<b>GRAND TOTALS</b>							
		Billable		<b>44.85</b>	<b>44.85</b>	<b>18264.5</b>	
		Nonbillable		<b>1.9</b>	<b>1.9</b>	<b>617.5</b>	
		Total		<b>46.75</b>	<b>46.75</b>	<b>18882</b>	

**Detail Cost Transaction File List**  
Transaction File List - Costs  
ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

<u>Client</u>	<u>Trans Date</u>	<u>E/A</u>	<u>C T</u>	<u>Rate</u>	<u>Units</u>	<u>Amount</u>	
<b>Client ID 19461.103 SENDER/HARVEY</b>							
19461.103	11/30/2021	E	2			21.42	Westlaw on-line database research.
19461.103	02/28/2022	E	2			2.98	Westlaw on-line database research.
19461.103	07/31/2022	E	2			96.99	Westlaw on-line database research.
	<b>Subtotal for Expense Type 2</b>				Billable	121.39	ONLINE RESEARCH
19461.103	05/31/2022	E	4			19.56	Delivery - FEDERAL EXPRESS 05/11/22, H. SENDER
	<b>Subtotal for Expense Type 4</b>				Billable	19.56	EXPRESS DELIVERY
19461.103	03/31/2022	E	5			36.73	Filing fee - Colorado Courts E-filing system (CCE)
19461.103	03/31/2022	E	5			15.00	Colorado Courts E-filing system (CCE) - Case History Report
19461.103	04/30/2022	E	5			24.95	Other professionals - 02/20/22, APPS4RENT.COM
19461.103	04/30/2022	E	5			24.95	Other professionals - 03/20/22, APPS4RENT.COM
19461.103	05/31/2022	E	5			24.95	Other WWW.APPS4RENT.COM
	<b>Subtotal for Expense Type 5</b>				Billable	126.58	MISCELLANEOUS
19461.103	11/30/2021	A	0			24.95	WWW.APPS4RENT.COM - SEPTEMBER SERVICES
19461.103	11/30/2021	A	0			24.95	WWW.APPS4RENT.COM - OCTOBER SERVICES
19461.103	12/31/2021	A	0			323.64	BLUEHOST.COM - HOST WEBSITE: DRAGULRECEIVERSHIP.COM
19461.103	01/31/2022	A	0			24.95	APPS4RENT.COM - JANUARY 2022 SERVICES
19461.103	01/31/2022	A	0			24.95	APPS4RENT.COM - DECEMBER 2022 SERVICES
19461.103	02/28/2022	A	0			24.95	WWW.APPS4RENT.COM - JANUARY 2022
19461.103	06/30/2022	A	0			24.95	WWW.APPS4RENT.COM - MAY 2022
19461.103	06/30/2022	A	0			6.38	Conference call services AMERICAN TELECONFERENCING SERVICES, LTD. - 06/01/22, 4X PARTICIPANTS
19461.103	07/31/2022	A	0			24.95	WWW.APPS4RENT.COM - JUNE 2022
19461.103	07/31/2022	A	0			24.95	WWW.APPS4RENT.COM - JULY 2022
19461.103	08/31/2022	A	0			24.95	INDEPENDENT FINANCIAL - WWW.APPS4RENT.COM
	<b>Subtotal for Advance Type 0</b>				Billable	554.57	MISCELLANEOUS
19461.103	11/30/2021	A	1			48.00	Filing fee - Colorado Courts E-filing system (CCE)
19461.103	04/30/2022	A	1			48.00	Filing fee - Colorado Courts E-filing system (CCE) COLORADO INTERACTIVE, LLC
19461.103	05/31/2022	A	1	0.100	687.00	68.70	PACER Public Access to Court Electronic Records
19461.103	06/30/2022	A	1			24.00	Filing fee - Colorado Courts E-filing system (CCE)
19461.103	06/30/2022	A	1			15.00	Colorado Courts E-filing system (CCE) - Case History Report
	<b>Subtotal for Advance Type 1</b>				Billable	203.70	FILING FEE
<b>Total for Client ID 19461.103</b>					Billable	1,025.80	SENDER/HARVEY SENDER-DRAGUL RECEIVERSHIP
<b>GRAND TOTALS</b>							
					Billable	1,025.80	

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CASE NUMBER: 2018CV33011



**Detail Cost Transaction File List**  
 Transaction File List - Costs  
 ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

<u>Client</u>	<u>Trans Date</u>	<u>E/A</u>	<u>T</u>	<u>Rate</u>	<u>Units</u>	<u>Amount</u>	
<b>Client ID 19461.106 SENDER/HARVEY</b>							
19461.106	02/28/2022	E	2			10.81	Westlaw on-line database research.
19461.106	03/31/2022	E	2			57.99	Westlaw on-line database research.
19461.106	05/31/2022	E	2			30.95	Westlaw on-line database research.
19461.106	06/30/2022	E	2			48.26	Westlaw on-line database research.
19461.106	06/30/2022	E	2			121.19	Westlaw on-line database research.
19461.106	07/31/2022	E	2			22.08	Westlaw on-line database research.
19461.106	07/31/2022	E	2			56.50	Westlaw on-line database research.
<b>Subtotal for Expense Type 2</b>							
					Billable	347.78	ONLINE RESEARCH
19461.106	05/31/2022	A	1	0.100	23.00	2.30	PACER Public Access to Court Electronic Records
19461.106	05/31/2022	A	1	0.100	23.00	2.30	PACER Public Access to Court Electronic Records
19461.106	06/30/2022	A	1			84.00	Filing fee - Colorado Courts E-filing system (CCE)
19461.106	06/30/2022	A	1	0.100	11.00	1.10	PACER Public Access to Court Electronic Records
19461.106	07/31/2022	A	1			24.00	Filing fee - Colorado Courts E-filing system (CCE)
19461.106	08/31/2022	A	1			60.00	Filing fee - Colorado Courts E-filing system (CCE)
<b>Subtotal for Advance Type 1</b>							
					Billable	173.70	FILING FEE
19461.106	07/31/2022	A	2			612.50	Professional services - DIGITAL ESI CONSULTING
<b>Subtotal for Advance Type 2</b>							
					Billable	612.50	PROFESSIONAL SERVICE
<b>Total for Client ID 19461.106</b>							
					Billable	1,133.98	SENDER/HARVEY COCCA
<b>GRAND TOTALS</b>							
					Billable	1,133.98	



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 FILING CERTIFIED PUBLIC ACCOUNTANTS & BUSINESS CONSULTANTS  
 CASE NUMBER: 2018CV33011

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.  
 MICHAEL T. GILBERT  
 1600 STOUT STREET  
 SUITE 1100  
 DENVER, CO 80202

Invoice No. 921973  
 Client No. 32501.0005

Date 09/22/2022

RE: Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, Inc.

Date	Category	Name	Memo	Hours	Standard Rate	Standard Amount	Billed Rate	Billed Amount	Discount
1/19/2022	Tax Preparation	DREW	Year end reporting and 1099 Analysis	2.25	\$497.00	\$1,118.25	\$400.00	\$900.00	(\$218.25)
1/25/2022	Tax Preparation	HILLIARD	Prepared 1099s	0.25	\$189.00	\$47.25	\$175.00	\$43.75	(\$3.50)
1/25/2022	Tax Preparation	WOODRUFF	1099 log in	0.50	\$264.00	\$132.00	\$250.00	\$125.00	(\$7.00)
1/25/2022	Tax Preparation	WOODRUFF	1099 review	0.50	\$264.00	\$132.00	\$250.00	\$125.00	(\$7.00)
1/31/2022	Tax Preparation	WOODRUFF	Finalize 1099s	0.25	\$264.00	\$66.00	\$250.00	\$62.50	(\$3.50)
7/11/2022	Data Production	RUDLOFF	Data duplication and validation support.	2.25	\$609.00	\$1,370.25	\$550.00	\$1,237.50	(\$132.75)
7/14/2022	Data Production	RUDLOFF	Data duplication support	0.50	\$609.00	\$304.50	\$550.00	\$275.00	(\$29.50)
7/15/2022	Data Production	RUDLOFF	Data preparation and duplication	0.50	\$609.00	\$304.50	\$550.00	\$275.00	(\$29.50)
7/18/2022	Bankruptcy Claim	DREW	Call with Mr. Gilbert	1.25	\$497.00	\$621.25	\$400.00	\$500.00	(\$121.25)
7/27/2022	Bankruptcy Claim	DREW	Review documents for claim against Clearwater	2.25	\$497.00	\$1,118.25	\$400.00	\$900.00	(\$218.25)
8/9/2022	Insider Matter	DREW	Discussion on insider case.	1.75	\$497.00	\$869.75	\$400.00	\$700.00	(\$169.75)
8/11/2022	Tax Preparation	DREW	Finalize Work papers for Tax Return	3.25	\$497.00	\$1,615.25	\$400.00	\$1,300.00	(\$315.25)
8/12/2022	Bankruptcy Claim	DREW	Clearwater claim analysis	1.25	\$497.00	\$621.25	\$400.00	\$500.00	(\$121.25)
8/16/2022	Bankruptcy Claim	DREW	Claims Analysis for BK	2.25	\$497.00	\$1,118.25	\$400.00	\$900.00	(\$218.25)
8/19/2022	Bankruptcy Claim	DREW	Claims for Bankruptcy	3.75	\$497.00	\$1,863.75	\$400.00	\$1,500.00	(\$363.75)
8/22/2022	Bankruptcy Claim	DREW	Claims analysis for Plainfield and Clearwater	1.75	\$497.00	\$869.75	\$400.00	\$700.00	(\$169.75)
8/22/2022	Tax Preparation	WOODRUFF	logging in return	0.50	\$264.00	\$132.00	\$250.00	\$125.00	(\$7.00)
8/26/2022	Tax Preparation	WOODRUFF	reviewing work papers and returns	1.00	\$264.00	\$264.00	\$250.00	\$250.00	(\$14.00)
8/30/2022	Tax Preparation	ABRAMOVITZ	Review Tax Return	1.00	\$644.00	\$644.00	\$600.00	\$600.00	(\$44.00)
8/31/2022	Tax Preparation	FYFE	Assembled client return.	0.50	\$149.00	\$74.50	\$125.00	\$62.50	(\$12.00)
			Total	27.50		\$13,286.75		\$11,081.25	(\$2,205.50)

Summary By Project

Category	Hours	Standard Rate	Standard Amount	Billed Rate	Billed Amount	Discount
Bankruptcy Claim Analysis	12.50		\$6,212.50		\$5,000.00	(\$1,212.50)
Data Production	3.25		\$1,979.25		\$1,787.50	(\$191.75)
Insider Matter	1.75		\$869.75		\$700.00	(\$169.75)
Tax Preparation	10.00		\$4,225.25		\$3,593.75	(\$631.50)
<b>Total</b>	<b>27.50</b>		<b>\$13,286.75</b>		<b>\$11,081.25</b>	<b>(\$2,205.50)</b>

Summary By Name

Name	Hours	Standard Rate	Standard Amount	Billed Rate	Billed Amount	Discount
ABRAMOVITZ	1.00	\$644.00	\$644.00	\$600.00	\$600.00	(\$44.00)
DREW	19.75	\$497.00	\$9,815.75	\$400.00	\$7,900.00	(\$1,915.75)
FYFE	0.50	\$149.00	\$74.50	\$125.00	\$62.50	(\$12.00)
HILLIARD	0.25	\$189.00	\$47.25	\$175.00	\$43.75	(\$3.50)
RUDLOFF	3.25	\$609.00	\$1,979.25	\$550.00	\$1,787.50	(\$191.75)
WOODRUFF	2.75	\$264.00	\$726.00	\$250.00	\$687.50	(\$38.50)
	<b>27.50</b>		<b>\$13,286.75</b>		<b>\$11,081.25</b>	<b>(\$2,205.50)</b>

Total Fees Billed \$13,286.75  
 Discount 17% (\$2,205.50)  
 Expenses: Drives for \$715.38  
 Document Request  
 Amount Due \$11,796.63

Current Amount Due \$ 11,796.63

Payment is due on receipt. A 1.5% per month service charge will be added to balances remaining unpaid 30 days or more after the invoice date.

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Trustee: HARVEY SENDER, RECEIVER

**Time Worksheet**

Entries From 09/01/22 To 11/30/23

**Case Number:** 2018CV33011  
**Case Status:** OPEN  
**Petition Date:** 08/15/18

**Case Name:** GARY DRAGUL; GDA REAL ESTATE  
**Judge:** SERVICES, LLC  
**Original 341a Meeting:** BLANK - NO JUDGE

DATE FILED: December 20, 2023 3:26 PM  
 FILING ID: 18A7A4669C283  
 CASE NUMBER: 2018CV33011

Date	Description	Hours/Rate	Rate	Total
<b>Matter Code: Receiver Time</b>				
09/08/22	Telephone conference with Michael regarding case status and report.	0.50	400.00	200.00
09/13/22	Review and execute tax returns.	0.50	400.00	200.00
09/15/22	Review and consider various Clearwater motions.	0.50	400.00	200.00
09/23/22	Review and respond to emails regarding subpoena. Review proposed 7th report and fee applications.	1.00	400.00	400.00
10/04/22	Telephone conference with Michael and Brent Cohen regarding Clearwater.	0.30	400.00	120.00
11/15/22	Telephone conference with M Gilbert regarding Clearwater issues.	0.30	400.00	120.00
12/01/22	Review and respond to emails regarding case status.	0.30	400.00	120.00
12/08/22	Review financials consider initial distribution .5; Telephone conference with M Gilbert regarding above .2	0.70	400.00	280.00
12/14/22	Review and respond to emails regarding distribution issues. Telephone conference with Michael regarding above.	0.50	400.00	200.00
12/16/22	Prepare for and attend conference with commissioner 1.0; Telephone conference with counsel regarding above .2	1.20	400.00	480.00
01/09/23	Review Clearwater Plan and Disclosure Statement. Email to M Gilbert regarding above.	1.30	400.00	520.00
01/18/23	Review and respond to emails regarding withdrawal and regarding trial discovery issues.	0.30	400.00	120.00
01/26/23	Review regarding Court Order regarding withdrawal and objections. Telephone conference with counsel regarding above.	0.30	400.00	120.00
02/23/23	Review settlement proposal suggestions. Consider issues and concerns. Email extensive comments.	1.00	400.00	400.00
02/27/23	Conference call regarding settlement offer.	0.50	400.00	200.00
03/01/23	Telephone conference with M Gilbert regarding offer. Review emails regarding above.	0.50	400.00	200.00
03/13/23	Review and respond to email regarding deposition dates.	0.40	400.00	160.00
03/18/23	Review declaration re MSJ. Telephone call with MGilbert regarding continuance hearing. Review and respond to emails regarding new dates	0.60	400.00	240.00
03/22/23	Review MSJ response. Review and execute declaration.	0.50	400.00	200.00
04/05/23	Review first amended Clearwater plan. E mail comments to counsel.	0.50	400.00	200.00
04/12/23	Review Heshey discovery responses. Email comments.	0.40	400.00	160.00
04/19/23	Review receiver reports and Harper opinions to prepare for deposition.	2.00	400.00	800.00
04/26/23	Review material from counsel to prepare for deposition.	3.00	400.00	1,200.00
05/02/23	Prepare for and attend deposition; preparation meeting.	1.00	400.00	400.00
05/09/23	Review exhibits for depo prep 2.0, Attend Price deposition 3.5. Telephone call with P Vellone re deposition .6	6.10	400.00	2,440.00

EXHIBIT 1  
 Page 1 of 3

05/10/23	Prepare for and attend deposition of H. Sender by Dragul's counsel.	9.00	400.00	3,600.00
06/01/23	Attend deposition of Susan Markush.	6.00	400.00	2,400.00
06/02/23	Numerous calls and conferences re potential global settlement.	3.00	400.00	1,200.00
06/06/23	Telephone calls and email with counsel regarding plea deal and impact on the receivership.	0.40	400.00	160.00
06/15/23	Review objection to Clearwater claim. Review joinder. Consider approach. Draft email to counsel with proposed changes.	1.00	400.00	400.00
06/26/23	Review and respond to emails regarding settlement offer. Zoom call with counsel regarding above.	0.50	400.00	200.00
06/27/23	Attend Hershey deposition.	7.00	400.00	2,800.00
07/07/23	Review response to objection to clearwater claim and attachments. Email comments to counsel .5; Review and respond to emails re discovery and mediation .3	0.80	400.00	320.00
07/11/23	Review Hurst motion in Clearwater. Email comments to counsel regarding objections.	0.50	400.00	200.00
07/24/23	Review motion for partial summary judgment as to Dragul. Email comments.	0.80	400.00	320.00
07/28/23	Conference call regarding deposition preparation. Begin review of Dragul transcript.	2.00	400.00	800.00
07/29/23	Review volumes of Dragul depo transcripts. Prepare for deposition.	2.50	400.00	1,000.00
07/31/23	Review proposed exhibits for deposition 1.0; Attend deposition of H Sender 4.5	5.50	400.00	2,200.00
08/07/23	Review drafts of various pleadings to be filed in Clearwater. Email comments to counsel	0.50	400.00	200.00
08/15/23	Review Clearwater Hurst objection. Skim transcript of deposition for errors.	1.00	400.00	400.00
08/21/23	Review Dragul mediation statement and attachment. Email to counsel.	0.50	400.00	200.00
08/22/23	Attend mediation with JAG.	5.00	400.00	2,000.00
08/25/23	Review and respond to emails regarding Clearwater and impact on potential settlement.	0.40	400.00	160.00
08/27/23	Review and respond to numerous emails and attachments regarding Clearwater issues.	0.50	400.00	200.00
08/29/23	Attend Day 2 of JAG mediation.	6.50	400.00	2,600.00
08/31/23	Review and respond to various emails regarding potential settlement .5; Telephone call with M Gilbert regarding settlement .2	0.70	400.00	280.00
09/11/23	Teams meeting with counsel regarding mediation prep.	0.70	400.00	280.00
09/12/23	Prepare for and attend continued mediation.	8.50	400.00	3,400.00
09/18/23	Multiple telephone calls regarding settlement agreement.	0.50	400.00	200.00
09/18/23	Review changes to mediation term sheet. Email comments re changes.	0.40	400.00	160.00
09/26/23	Emails with Pat regarding trial issues.	0.30	400.00	120.00
10/04/23	Conference call and emails regarding pre trial conference and settlement demands.	0.50	400.00	200.00
10/18/23	Work on Clearwater settlement. Telephone call with M. Gilbert regarding changes and comments. 1.0; Work on settlement with Dragul civil case. Attend 2 hearings. Review emails regarding settlement terms. Multiple telephone calls with with Pat Vellone. 3.5	4.50	400.00	1,800.00
10/19/23	Work on changes and modifications to Clearwater settlement. Work on changes to Dragul trial settlement. Attend various hearings re settlement	4.50	400.00	1,800.00

of Dragul trial.

Meet with Vellone regarding above.

10/25/23	Multiple telephone call's with Vellone regarding Hershey offers and counters.	1.00	400.00	400.00
10/26/23	Meet with Pat Vellone regarding trial preparation. Review draft of Dragul settlement motion.	3.50	400.00	1,400.00
10/27/23	Begin work on trial preparation.	1.00	400.00	400.00
10/28/23	Review documents. Prepare for Hershey trial.	1.50	400.00	600.00
10/30/23	Attend Day one of Hershey trial.	10.00	400.00	4,000.00
10/31/23	Prep for and attend Day 2 of Hershey trial.	10.00	400.00	4,000.00
11/01/23	Prep for and attend Day 3 of Hershey trial.	10.00	400.00	4,000.00
11/02/23	Prep for and attend Day 4 of Hershey trial.	10.00	400.00	4,000.00
11/03/23	Prep for and attend Day 5 of Hershey trial.	10.00	400.00	4,000.00
11/06/23	Attend day 6 of Hershey trial. Discuss verdict with counsel and jury.	10.00	400.00	4,000.00
11/07/23	Emails with creditors regarding jury verdict.	0.30	400.00	120.00
11/08/23	Telephone call with Michael regarding case status and interim distribution.	0.30	400.00	120.00
11/09/23	Review Clearwater waterfall. Email comments.	0.40	400.00	160.00
11/15/23	Review Clearwater schedules. Telephone call with Michael. Telephone call with Michael and S Drew re issues.	0.60	400.00	240.00
<b>Totals for Receiver Time</b>			<u>166.80</u>	<u>66,720.00</u>
<b>Report Totals</b>			166.80	66,720.00

**Detail Fee Transaction File List**  
Transaction File List - Fees  
ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

Client	Trans Date	Tkpr	Rate	Hours Worked	Hours to Bill	Amount	
<b>Client ID 19461.103 SENDER/HARVEY</b>							
19461.103	07/10/2023	AKA	365.00	0.60	0.60	219.00	Telephone conference with Attorney M. Gilbert regarding claim objections in bankruptcy (.4); review subsequent emails to Stephanie Drew and Attorney P. Vellone regarding drafts (.1); email Lisa Kraai regarding filing and mailing objections (.1).
19461.103	07/14/2023	AKA	365.00	6.00	6.00	2,190.00	Work on 20+ claims objections.
Subtotal for Timekeeper AKA			Billable	6.60	6.60	2,409.00	AVERIL K. ANDREWS
19461.103	11/11/2022	PDV				0.00	Written off per Sixth Application.
19461.103	06/08/2023	PDV	725.00	0.50	0.50	362.50	Conference with Attorney M. Gilbert and Attorney B. Pompea re: response to Clearwater claim objection; review emails from Attorney M. Gilbert, S. Drew and Client re: same; review and comment on Clearwater claim objection.
19461.103	06/16/2023	PDV	725.00	1.30	1.30	942.50	Review and revise Attorney M. Gilbert draft response to claim objection in Clearwater bankruptcy.
19461.103	07/07/2023	PDV	725.00	2.00	2.00	1,450.00	Review and revise 3 Clearwater briefs.
19461.103	07/10/2023	PDV	725.00	0.50	0.50	362.50	Telephone conference with Attorney M. Gilbert re: Clearwater claim objections.
19461.103	07/14/2023	PDV	725.00	0.50	0.50	362.50	Review and revise S. Drew declaration re: Clearwater claims objections.
19461.103	07/25/2023	PDV	725.00	0.20	0.20	145.00	Emails to/from Attorney M. Gilbert re: Hurst objection in Clearwater.
19461.103	08/02/2023	PDV	725.00	0.50	0.50	362.50	Emails to/from Attorney M. Gilbert and Client re: Liquidating trustee motion to strike our claim objections in the Clearwater case; voicemails for Attorney M. Gilbert re: same.
19461.103	08/03/2023	PDV	725.00	0.80	0.80	580.00	Emails to/from and telephone conference with Attorney M. Gilbert re: Response to Liquidating trustee motion to strike our claim objections in the Clearwater case; emails to/from opposing counsel re: mediation.
19461.103	08/03/2023	PDV	725.00	0.70	0.70	507.50	Review and redline Response to Liquidating Trustee's Motion to Strike Receiver's Claim Objections.
19461.103	08/04/2023	PDV	725.00	0.50	0.50	362.50	Emails to/from Attorney M. Gilbert re: Response Brief on Motion to Strike our claim objections in the Clearwater case; emails to/from opposing counsel re: Motion for Summary Judgment response.
19461.103	08/05/2023	PDV	725.00	0.70	0.70	507.50	Review and revise Objection to Hurst Administrative Claim; emails to/from Attorney M. Gilbert re: opposition to Hurst Administrative Claim in the Clearwater case.
19461.103	08/06/2023	PDV	725.00	0.20	0.20	145.00	Final review and comment re: Objection to Hurst Administrative claim.
19461.103	08/07/2023	PDV	725.00	0.20	0.20	145.00	Emails to/from Attorney M. Gilbert re: opposition to Hurst Administrative Claim in the Clearwater case; telephone conference with Attorney M. Gilbert re: Motion to Restrict Access re: same.
19461.103	08/23/2023	PDV	725.00	1.80	1.80	1,305.00	Telephone conference with Attorney M. Gilbert re: Clearwater settlement issues; review and respond to emails re: mediation settlement memorandum; emails to/from opposing counsel re: case deadlines; conference with Attorney M. Wolf re: settlement terms.
19461.103	08/25/2023	PDV	725.00	0.50	0.50	362.50	Telephone conference with Attorney M. Gilbert re: Clearwater and calls with Garber and Cohen.
19461.103	08/27/2023	PDV	725.00	0.50	0.50	362.50	Telephone conference with Attorney M. Gilbert re: CCM; review and revise same; emails to/from Attorney M. Gilbert re: same.
19461.103	08/28/2023	PDV	725.00	0.50	0.50	362.50	Review Plainfield CCM/CNCM; review and respond to Judicial Arbitrator Group and opposing counsel emails.
19461.103	08/30/2023	PDV	725.00	2.10	2.10	1,522.50	Telephone conference with Attorney M. Gilbert re: approach to Hagshima; review Attorney M. Gilbert emails and attached Hagshima agreement; telephone

DATE FILED: December 20, 2023 3:28 PM  
FILING ID: 1BA7A4669C283  
CASE NUMBER: 2018CV33011

**Detail Fee Transaction File List**  
Transaction File List - Fees  
ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

Client ID	Client	Trans Date	Tkpr	Rate	Hours Worked	Hours to Bill	Amount	
19461.103	19461.103	08/31/2023	PDV	725.00	0.80	0.80	580.00	conference with Attorney M. Gilbert re: same; review and comment re: email to B. Cohen.
19461.103	19461.103	09/01/2023	PDV	725.00	1.00	1.00	725.00	Review Attorney M. Gilbert and Client emails re: settlement options in light of Hagshima position on Clearwater; telephone conference with Attorney M. Gilbert re: discussion with A. Garber.
19461.103	19461.103	09/05/2023	PDV	725.00	1.20	1.20	870.00	Review Garber, Attorney M. Gilbert and Client emails re: Clearwater; emails to/from opposing counsel re: resumption/conclusion of mediation; email to Attorney M. Wolf re: status; telephone conference with Attorney A. Andrews re: same.
19461.103	19461.103	09/05/2023	PDV	725.00	1.20	1.20	870.00	Review Garber, Attorney M. Gilbert and Client emails re: Clearwater; emails to/from opposing counsel re: resumption/conclusion of mediation; conference with Law Clerk re: receivership research; emails to/from Attorney M. Gilbert re: mediation; review court order re: extension for response to Motion for Summary Judgment.
19461.103	19461.103	09/13/2023	PDV	725.00	0.50	0.50	362.50	Review Attorney M. Gilbert emails and Clearwater filings; review email from B. Reis re: settlement.
19461.103	19461.103	10/17/2023	PDV	725.00	0.30	0.30	217.50	Review draft of Clearwater settlement agreement; telephone conference with Attorney M. Gilbert re: same.
	Subtotal for Timekeeper PDV		Billable		17.80	17.80	12,905.00	PATRICK D. VELLONE
19461.103	19461.103	09/09/2022	MTG	495.00	3.30	3.30	1,633.50	Prepare draft of Seventh Receiver's Report and Seventh Fee Application; review Mr. Sender's fee statement.
19461.103	19461.103	09/30/2022	MTG	495.00	0.80	0.80	396.00	Review and revise 7th Fee application and 7th Receiver's report; confer with Ms. Drew re: same.
19461.103	19461.103	12/14/2022	MTG	495.00	0.20	0.20	99.00	Confer with Mr. Sender and Ms. Drew re: potential plan of distribution.
19461.103	19461.103	12/16/2022	MTG	495.00	0.80	0.80	396.00	Prepare for and participate in conference with Commission, Messrs. Sender, Finke, Ms. Fischer, and Attorney P. Vellone re: status.
19461.103	19461.103	02/23/2023	MTG	550.00	0.50	0.50	275.00	Research issues concerning Clearwater bankruptcy case, plan, and claims filed.
19461.103	19461.103	04/18/2023	MTG	550.00	1.00	1.00	550.00	Confer with Messrs. Sender and Pietrogallo re: Mr. Sender expert testimony in Dragul criminal trial.
19461.103	19461.103	05/02/2023	MTG	550.00	0.80	0.80	440.00	Attended telephone hearing on Rosenbaum late filed claim.
19461.103	19461.103	05/11/2023	MTG	550.00	1.00	1.00	550.00	Collect relevant documents re: Clearwater claims and basis and email to client, Attorney P. Vellone, and Ms. Drew re: same; confer with Ms. Drew re: same.
19461.103	19461.103	06/07/2023	MTG	550.00	0.30	0.30	165.00	Confer with Ms. Drew re: Clearwater claims objection.
19461.103	19461.103	06/08/2023	MTG	550.00	1.00	1.00	550.00	Review Clearwater claim objection (.3) and confer with Attorney P. Vellone re: same (1).
19461.103	19461.103	06/09/2023	MTG	550.00	1.50	1.50	825.00	Confer with Mses. Drew and Fried re: Clearwater amended claim and claims objection.
19461.103	19461.103	06/10/2023	MTG	550.00	2.80	2.80	1,540.00	Begin to draft response to motion to expunge Clearwater claim; conduct research re: same.
19461.103	19461.103	06/10/2023	MTG	550.00	1.90	1.90	1,045.00	Continued to prepare response to Clearwater claim objection; reviewed indictments and claims by Detterer and Rockefeller and drafted section relating to those claimants
19461.103	19461.103	06/11/2023	MTG	550.00	3.60	3.60	1,980.00	Continue to prepare response to Trustee's motion to expunge Sender claim in Clearwater bankruptcy case.
19461.103	19461.103	06/12/2023	MTG	550.00	2.30	2.30	1,265.00	Continue to prepare response to Clearwater claims objection and to research and review cases for response.
19461.103	19461.103	06/13/2023	MTG	550.00	2.50	2.50	1,375.00	Continue to prepare response to Clearwater claims objection and to research and review cases for response; confer with Ms. Drew re: same.



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ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

Client	Trans Date	Tkpr	Rate	Hours Worked	Hours to Bill	Amount	
<b>Client ID 19461.103 SENDER/HARVEY</b>							
19461.103	06/14/2023	MTG	550.00	7.70	7.70	4,235.00	Continue to prepare draft response to the Clearwater Trustee's objection to Sender Claim No. 10.
19461.103	06/15/2023	MTG	550.00	0.80	0.90	495.00	Confer with Ms. Drew and Attorney P. Vellone re response to Clearwater claims objection (.8); confer with Ms. Fischer re: Commissioner's position re: Clearwater claims.
19461.103	06/16/2023	MTG	550.00	7.10	7.10	3,905.00	Continue'd to prepare response to Trustee's claims objection in both Clearwater cases, review and revise same, and review underlying claim; conduct additional legal research to support same; outline affidavit points for Ms. Drew.
19461.103	06/24/2023	MTG	550.00	2.80	2.80	1,540.00	Confer with Ms. Drew re: response to Trustee's claim objections in Collection and Plainfield cases, and review and revise same based on discussion.
19461.103	06/28/2023	MTG	550.00	2.20	2.20	1,210.00	Confer with Ms. Drew re: Clearwater analysis and claims; review and revise Collection response to Claim objection.
19461.103	07/05/2023	MTG	550.00	1.50	1.50	825.00	Confer with Ms. Drew re: claims in Clearwater, and responses to Trustee's claim objections.
19461.103	07/06/2023	MTG	550.00	6.30	6.30	3,465.00	Continue to prepare response to Trustee's objection to Sender Claims in Clearwater bankruptcy cases and review exhibits re same; confer with Ms. Drew and Ms. Fried re: same.
19461.103	07/07/2023	MTG	550.00	5.00	5.00	2,750.00	Finalize response to Trustee's objection to Sender Claims in Clearwater bankruptcy cases and exhibits re same (4.2); confer with Ms. Drew re: same (.7), and arrange to file same (.1).
19461.103	07/09/2023	MTG	550.00	8.70	8.70	4,785.00	Continue to prepare claims objections in Clearwater cases, and confer with Ms. Drew re: same: 3G2B; Dickey; Robert, Jodi, and Charles Eisen; Friedman; Haar; Hagshama/Cofund; Hilltoppers; Hurst (x2); Omnibus Objections to equity claims, duplicate claims, and claims filed in wrong case; Rosenbaum; Prepare Omnibus Claims Objections in Clearwater Collection case for equity claims and duplicate and claims filed in wrong case.
19461.103	07/22/2023	MTG	550.00	0.60	0.60	330.00	Draft Motion for Extension of Time to object to Hurst Administrative Claim in Clearwater bankruptcy case.
19461.103	07/26/2023	MTG	550.00	0.40	0.40	220.00	Confer with Ms. Benzmilller and Mr. Haar re: status of Receiver's claims objections in Clearwater cases.
19461.103	08/01/2023	MTG	550.00	0.20	0.20	110.00	Receive and begin review of Trustee's motion to strike Sender claim objections in Clearwater cases.
19461.103	08/02/2023	MTG	550.00	0.80	0.80	440.00	Review motion to strike Sender claims objections in Clearwater cases and emails from Mr. Sender and Attorney P. Vellone re: potential response.
19461.103	08/02/2023	MTG	550.00	0.40	0.40	220.00	Further review/analysis of motion to strike Sender claims objections in Clearwater and outline response to same.
19461.103	08/03/2023	MTG	550.00	5.20	5.20	2,860.00	Prepared draft response to the Trustee's motion to strike the Receiver's claim objections in the Clearwater case.
19461.103	08/04/2023	MTG	550.00	0.80	0.80	440.00	Begin to prepare objection to Hurst administrative claim and reviewed same.
19461.103	08/05/2023	MTG	550.00	5.20	5.20	2,860.00	Prepare objection to Hurst Administrative Claim in Clearwater bankruptcy cases.
19461.103	08/16/2023	MTG	550.00	0.10	0.10	55.00	Email to investor re: status of potential distributions.
19461.103	08/18/2023	MTG	550.00	2.90	2.90	1,595.00	Confer with Mr. Garber about filing CCM in Clearwater (.8); review CCM filed by Garber (.1); draft CCM for Receiver's claims objections and review filings re: same (1.6); confer with Attorney P. Vellone re: potential settlement issues and conversation with Mr. Garber (.4).
19461.103	08/27/2023	MTG	550.00	1.75	1.75	962.50	Prepare draft CCM and CNCM for Clearwater claims objections and confer with Attorney P. Vellone re:

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ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

Client	Trans Date	Tkpr	Rate	Hours Worked	Hours to Bill	Amount
<b>Client ID 19461.103 SENDER/HARVEY</b>						
19461.103	08/28/2023	MTG	550.00	1.00	1.00	550.00 same. Confer with Mr. Pietragallo re: potential settlement; confer with Ms. Drew re: same; review and revise Clearwater certificates of contested and non-contested matters.
19461.103	08/30/2023	MTG	550.00	2.50	2.50	1,375.00 Analyzed Hagshama Clearwater claims and potential distributions, and confer with Ms. Drew re: same (.7); confer with Attorney P. Vellone (.5) and Brent Cohen re: same (.5) and potential settlement; further conversation with Attorney P. Vellone re: Hagshama position (.4) and analysis of Receiver/Hagshama agreement re: Clearwater sales proceeds (.3); draft email to Mr. Cohen re: same. (.4).
19461.103	08/31/2023	MTG	550.00	1.20	1.20	660.00 Review Clearwater analysis; confer with Ms. Drew re: restitution issues; confer with Messrs. Garber, Sender, and Attorney P. Vellone re: potential Clearwater settlement.
19461.103	09/06/2023	MTG	550.00	3.00	3.00	1,650.00 Analyzed claims objections in Clearwater and updated spreadsheet re: same.
19461.103	09/08/2023	MTG	550.00	1.00	1.00	550.00 Confer with Mr. Pietragallo about ongoing settlement discussions re: Dragul and Clearwater (.5); confer with Mses. Drew and Fried re: Clearwater claims spreadsheet.
19461.103	09/15/2023	MTG	550.00	1.60	1.60	880.00 Confer with Mr. Garber and Judge Cashette re: settlement; continue to analyze Clearwater claimants and out of pocket losses; confer with Attorney P. Vellone and Mr. Sender re: most recent offer and response thereto; confer with Ms. Drew re: proposed plan of distribution and percentage recovery under rising tide analysis.
19461.103	09/20/2023	MTG	550.00	0.50	0.50	275.00 Review and revise motion to vacate 9/21 hearing on claims objections; confer with Mr. Garber re: same.
19461.103	09/20/2023	MTG	550.00	1.00	1.00	550.00 Review and respond to emails re: settlement; confer with Attorney P. Vellone, Mr. Sender, Ben Reiss, and Aaron Garber re: same.
19461.103	09/21/2023	MTG	550.00	0.50	0.50	275.00 Review and edit CCM for Hurst Administrative Claim (.2); review and edit response to Plainfield Motion to Strike Receiver's claims objections (.1); confer with Ms. Drew re: status of settlement and proposed plan.
19461.103	09/30/2023	MTG	550.00	0.20	0.20	110.00 Confer with Mr. Garber re: Clearwater settlement.
19461.103	10/17/2023	MTG	550.00	1.30	1.30	715.00 Review draft Settlement Agreement re: the Clearwater claims and edit it.
19461.103	10/18/2023	MTG	550.00	0.40	0.40	220.00 Review Clearwater schedules prepared by RubinBrown, share with Aaron Garber, and confer with Mr. Garber re: same.
19461.103	10/19/2023	MTG	550.00	1.10	1.10	605.00 Review and revise Clearwater Settlement Agreement (2x) and transmit to Mr. Garber; confer with Mses. Drew and Fried re: same.
19461.103	10/31/2023	MTG	550.00	0.40	0.40	220.00 Email to Mr. Garber re: status of Clearwater Settlement Agreement; confer with Mr. Cohen re: same.
19461.103	11/14/2023	MTG	550.00	0.20	0.20	110.00 Confer with Ms. Drew re: effect of Clearwater distribution plan on Receivership estate.
19461.103	11/15/2023	MTG	550.00	1.00	1.00	550.00 Review proposed Clearwater distribution provided by Mr. Garber and Dragul's org chart and investor list and compare them; confer with Ms. Drew and Mr. Sender re: same.
19461.103	11/21/2023	MTG	550.00	0.30	0.30	165.00 Confer with Stephanie Drew about Clearwater distribution schedule.
19461.103	11/22/2023	MTG	550.00	0.20	0.20	110.00 Confer with Stephanie Drew about Clearwater distribution schedule and send email to Mr. Garber re: same.

**Detail Fee Transaction File List**  
Transaction File List - Fees  
ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

Client	Trans Date	Tkpr	Rate	Hours Worked	Hours to Bill	Amount	
<b>Client ID 19461.103 SENDER/HARVEY</b>							
<b>Subtotal for Timekeeper MTG</b>			Billable	102.15	102.25	55,957.00	MICHAEL T. GILBERT
19461.103	08/18/2023	SK	225.00	1.00	1.00	225.00	Telephone with Attorney M. Gilbert; review Clearwater BK filings and update chart.
19461.103	08/21/2023	SK	225.00	0.40	0.40	90.00	Review spreadsheet for responses to Objections Claims.
<b>Subtotal for Timekeeper SK</b>			Billable	1.40	1.40	315.00	SALOWA KHAN
19461.103	08/10/2023	SBC	225.00	1.50	1.50	337.50	Prepare investor search via IPro.
19461.103	08/14/2023	SBC	225.00	1.00	1.00	225.00	Copy files to system to be imported into IPro; email Paralegal S. Khan re: same.
19461.103	08/15/2023	SBC	225.00	3.90	3.90	877.50	Prepare investor searches.
19461.103	08/18/2023	SBC	225.00	2.00	2.00	450.00	Prepare investor searches via IPro.
<b>Subtotal for Timekeeper SBC</b>			Billable	8.40	8.40	1,890.00	SAVANNA B. CHAVEZ
19461.103	10/05/2022	EMB	200.00	0.40	0.40	80.00	Review status of services writs of garnishment.
19461.103	10/07/2022	EMB	200.00	0.30	0.30	60.00	Review status of service of writs of garnishment.
19461.103	10/10/2022	EMB	200.00	0.10	0.10	20.00	Review status of service of writs of garnishment.
<b>Subtotal for Timekeeper EMB</b>			Billable	0.80	0.80	160.00	ELIZABETH M. BRYANS
19461.103	10/07/2022	MRD	180.00	0.20	0.20	36.00	Upload pleadings to website.
19461.103	10/13/2022	MRD	180.00	0.30	0.30	54.00	Update criminal trial date information on website; upload pleadings to website.
19461.103	11/01/2022	MRD	180.00	0.30	0.30	54.00	Upload pleadings to website.
19461.103	02/28/2023	MRD	180.00	0.20	0.20	36.00	Pull pleadings from docket and upload to website.
19461.103	05/11/2023	MRD	180.00	0.10	0.10	18.00	Update website regarding continued trial dates.
19461.103	05/23/2023	MRD	180.00	0.10	0.10	18.00	Email communication with Attorney M. Gilbert and S. Drew.
19461.103	06/06/2023	MRD	180.00	0.80	0.80	144.00	Email communication with Attorney M. Gilbert; review plea agreements; draft language for website regarding Dragul's and Hershey's criminal trials.
19461.103	06/10/2023	MRD	180.00	0.50	0.50	90.00	Update website regarding Dragul's plea agreements and regarding Hershey's criminal trial.
19461.103	06/27/2023	MRD	180.00	0.10	0.10	18.00	Upload pleadings to website.
<b>Subtotal for Timekeeper MRD</b>			Billable	2.60	2.60	468.00	MARILYN R. DAVIES
19461.103	06/22/2023	YMD	195.00	0.70	0.70	136.50	Draft Motion for Extension of Time to respond to claims objections in clearwater BK cases along with Certificate of Service and Proposed Order.
19461.103	06/22/2023	YMD	195.00	0.20	0.20	39.00	Finalize motion for extension of time to respond to claims objections and file same.
19461.103	09/05/2023	YMD	195.00	0.50	0.50	97.50	Draft certificate of contested matter for Hurst administrative expense claim (21-11320).
19461.103	09/13/2023	YMD	195.00	0.05	0.05	9.75	Review pleadings, calendar relevant deadlines, and circulate to team (Trustee's motion to approve settlement agreement with Dragul family members (BK case no. 19-12135)).
19461.103	09/14/2023	YMD	195.00	0.05	0.05	9.75	Review pleadings, calendar relevant deadlines, and circulate to team (various motions re: Sender's amended claims and claim objections in Collection and Plainfield cases).
19461.103	09/20/2023	YMD	195.00	0.05	0.05	9.75	Review pleadings, calendar relevant deadlines, and circulate to team (order vacating September 21 hearing in Collection and Plainfield cases).
19461.103	09/20/2023	YMD	195.00	0.50	0.50	97.50	Draft response to Receiver's motion to strike in Plainfield case.
19461.103	10/11/2023	YMD	195.00	0.50	0.50	97.50	Draft motion for extension of time to respond to objections to amended proof of claims.

**Detail Fee Transaction File List**  
 Transaction File List - Fees  
 ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

<u>Client</u>	<u>Trans Date</u>	<u>Tkpr</u>	<u>Rate</u>	<u>Hours Worked</u>	<u>Hours to Bill</u>	<u>Amount</u>	
<b>Client ID 19461.103 SENDER/HARVEY</b>							
19461.103	10/30/2023	YMD	195.00	0.05	0.05	9.75	Review pleadings, calendar relevant deadlines, and circulate to team (status report deadline).
19461.103	11/07/2023	YMD	195.00	0.05	0.05	9.75	Review pleadings, calendar relevant deadlines, and circulate to team (various motions to expunge, BK Case No. 22-11320).
19461.103	11/15/2023	YMD	195.00	0.05	0.05	9.75	Review pleadings, calendar relevant deadlines, and circulate to team (motion to approve Settlement Agreement with Susan Markusch, BK Case No. 19-12135).
<b>Subtotal for Timekeeper YMD</b>			Billable	<u>2.70</u>	<u>2.70</u>	<u>526.50</u>	YVONNE M. DAVIS
19461.103	10/03/2022	TMN	150.00	0.25	0.25	37.50	Prepare Notice of Withdrawal.
<b>Subtotal for Timekeeper TMN</b>			Billable	<u>0.25</u>	<u>0.25</u>	<u>37.50</u>	TERRI M. NOVOA
<b>Total for Client ID 19461.103</b>			Billable	<u>142.70</u>	<u>142.80</u>	<u>74,668.00</u>	SENDER/HARVEY SENDER-DRAGUL RECEIVERSHIP
<b>GRAND TOTALS</b>							
			Billable	<u>142.70</u>	<u>142.80</u>	<u>74,668.00</u>	

**Detail Cost Transaction File List**  
Transaction File List - Costs  
ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

Client	Trans Date	E/A	C T	Rate	Units	Amount	
<b>Expense Type 2 ONLINE RESEARCH</b>							
19461.103	06/30/2023		E 2			67.55	Westlaw on-line database research.
19461.103	07/31/2023		E 2			12.50	Westlaw on-line database research.
19461.103	08/31/2023		E 2			28.21	Westlaw on-line database research.
19461.103	11/30/2023		E 2			24.83	Westlaw on-line database research.
<b>Total for Expense Type 2</b>					Billable	133.09	ONLINE RESEARCH
<b>Advance Type 0 MISCELLANEOUS</b>							
19461.103	11/30/2022		A 0			24.95	WWW.APPS4RENT.COM - OCTOBER SERVICES
19461.103	12/31/2022		A 0			24.95	WWW.APPS4RENT.COM - NOVEMBER SERVICES
19461.103	02/28/2023		A 0			24.95	APPS4RENT.COM - JANUARY 2023
19461.103	03/31/2023		A 0			24.95	WWW.APPS4RENT.COM, FEBRUARY 2023
19461.103	04/30/2023		A 0			24.95	WWW.APPS4RENT.COM, MARCH 2023
19461.103	04/30/2023		A 0			24.95	WWW.APPS4RENT.COM, APRIL 2023
19461.103	06/30/2023		A 0			27.56	JIMMY JOHN'S LUNCH - 05/09/23
19461.103	07/30/2023		A 0			24.95	WWW.APPS4RENT.COM - MAY 2023
19461.103	07/30/2023		A 0			24.95	WWW.APPS4RENT.COM - JUNE 2023
19461.103	08/31/2023		A 0			24.95	WWW.APPS4RENT.COM - JULY 2023
19461.103	09/30/2023		A 0			24.95	WWW.APPS4RENT.COM, AUGUST 2023
19461.103	09/30/2023		A 0			24.95	WWW.APPS4RENT.COM, SEPTEMBER 2023
<b>Total for Advance Type 0</b>					Billable	302.01	MISCELLANEOUS
<b>Advance Type 1 FILING FEE</b>							
19461.103	10/31/2022		A 1			72.00	Filing fee - Colorado Courts E-filing system (CCE) COLORADO INTERACTIVE, LLC
19461.103	09/30/2023		A 1	0.100	5.00	0.50	PACER Public Access to Court Electronic Records
19461.103	10/31/2023		A 1			40.89	Filing fee - Colorado Courts E-filing system (CCE) COLORADO INTERACTIVE, LLC
<b>Total for Advance Type 1</b>					Billable	113.39	FILING FEE
<b>Advance Type 3 DEPOSITION</b>							
19461.103	06/30/2023		A 3			1,267.50	Deposition - AB LITIGATION SERVICES - VIDEO DEPOSITION OF S. MARKUSCH
19461.103	06/30/2023		A 3			1,825.45	Deposition - AB LITIGATION SERVICES - ORIGINAL TRANSCRIPT OF S. MARKUSCH
19461.103	06/30/2023		A 3			-1,825.45	Deposition - AB LITIGATION SERVICES, CREDIT (MISAPPLIED ACCOUNT)
19461.103	08/31/2023		A 3			384.38	Deposition - AB LITIGATION SERVICES - VIDEO RECORDING OF M. HERSHEY VOL: II
19461.103	08/31/2023		A 3			858.40	Deposition - AB LITIGATION SERVICES - TRANSCRIPT OF M. HERSHEY VOL: II
<b>Total for Advance Type 3</b>					Billable	2,510.28	DEPOSITION
<b>Advance Type 6 SERVICE OF PROCESS</b>							
19461.103	10/31/2022		A 6			105.00	Service of process fee - FRONT RANGE LEGAL PROCESS SERVICE INC. - CANVAS CREDIT UNION
19461.103	10/31/2022		A 6			75.00	Service of process fee - ABC LEGAL SERVICES, LLC - CORNERSTAR WINE & LIQUOR, LLC
<b>Total for Advance Type 6</b>					Billable	180.00	SERVICE OF PROCESS
<b>GRAND TOTALS</b>							
					Billable	3,238.77	

DATE FILED: December 20, 2023 3:26 PM  
FILING ID: 1BA7A4669C283  
CASE NUMBER: 2018CV33011

**Detail Cost Transaction File List**  
Transaction File List - Costs  
ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

Client	Trans Date	E/A	C/T	Rate	Units	Amount	
<b>Client ID 19461.106 SENDER/HARVEY</b>							
19461.106	01/31/2023	E	2			46.44	Westlaw on-line database research.
19461.106	02/28/2023	E	2			32.87	Westlaw on-line database research.
19461.106	02/28/2023	E	2			14.79	Westlaw on-line database research.
19461.106	03/31/2023	E	2			22.87	Westlaw on-line database research.
19461.106	04/30/2023	E	2			11.91	Westlaw on-line database research.
19461.106	04/30/2023	E	2			32.00	Westlaw on-line database research.
19461.106	05/31/2023	E	2			18.74	Westlaw on-line database research.
19461.106	05/31/2023	E	2			27.41	Westlaw on-line database research.
19461.106	07/31/2023	E	2			323.61	Westlaw on-line database research.
19461.106	07/31/2023	E	2			10.76	Westlaw on-line database research.
19461.106	07/31/2023	E	2			26.97	Westlaw on-line database research.
19461.106	07/31/2023	E	2			102.34	Westlaw on-line database research.
19461.106	08/31/2023	E	2			3.17	Westlaw on-line database research.
19461.106	09/30/2023	E	2			32.41	Westlaw on-line database research.
19461.106	09/30/2023	E	2			11.32	Westlaw on-line database research.
19461.106	10/31/2023	E	2			138.28	Westlaw on-line database research.
19461.106	10/31/2023	E	2			41.59	Westlaw on-line database research.
19461.106	11/30/2023	E	2			189.86	Westlaw on-line database research.
19461.106	11/30/2023	E	2			148.74	Westlaw on-line database research.
<b>Subtotal for Expense Type 2</b>					Billable	1,236.08	ONLINE RESEARCH
19461.106	06/30/2023	E	9			52.67	Delivery Charge - DENVER BOULDER COURIERS - 06/22/23
19461.106	10/31/2023	E	9			124.02	Delivery Charge - DENVER BOULDER COURIERS - DENVER DISTRICT COURT
<b>Subtotal for Expense Type 9</b>					Billable	176.69	DELIVERY
19461.106	01/31/2023	A	0			24.95	WWW.APPS4RENT.COM, DECEMBER SERVICES
19461.106	08/31/2023	A	0			193.15	07/19 - TUSCANY COFFEE & DELI, LUNCH
19461.106	09/30/2023	A	0			14.50	JAMES MCMAHON - WITNESS FEE
19461.106	10/28/2023	A	0			30.68	TRIAL SUPPLIES, COSTCO
19461.106	10/31/2023	A	0			85.48	ZOCALITO - TRAIL PREPARATION LUNCH, 10/30/23
19461.106	10/31/2023	A	0			32.44	JIMMY JOHN'S - DEPOSITION LUNCH, 10/11/23
19461.106	11/30/2023	A	0			76.89	CORNER BAKERY - TRAIL LUNCH
19461.106	11/30/2023	A	0			285.00	DENVER BOULDER COURIERS - TRAIL SUPPLIES TRANSPORTATION TO/FROM COURTHOUSE
<b>Subtotal for Advance Type 0</b>					Billable	743.09	MISCELLANEOUS
19461.106	12/31/2022	A	1			48.00	Filing fee - Colorado Courts E-filing system (CCE)
19461.106	12/31/2022	A	1	0.100	8.00	0.80	PACER Public Access to Court Electronic Records
19461.106	01/31/2023	A	1			48.00	Filing fee - Colorado Courts E-filing system (CCE)
19461.106	02/28/2023	A	1			96.00	Filing fee - Colorado Courts E-filing system (CCE) COLORADO INTERACTIVE, LLC
19461.106	03/31/2023	A	1			156.00	Filing fee - Colorado Courts E-filing system (CCE)
19461.106	04/30/2023	A	1			84.00	Filing fee - Colorado Courts E-filing system (CCE)
19461.106	05/31/2023	A	1			120.00	Filing fee - Colorado Courts E-filing system (CCE)
19461.106	06/30/2023	A	1			36.00	Filing fee - Colorado Courts E-filing system (CCE) COLORADO INTERACTIVE, LLC
19461.106	07/31/2023	A	1			84.00	Filing fee - Colorado Courts E-filing system (CCE)
19461.106	07/31/2023	A	1			30.00	Colorado Courts E-filing system (CCE) - Case History Report (2x)
19461.106	07/31/2023	A	1			45.00	Colorado Courts E-filing system (CCE) - Case History Report (3x)
19461.106	08/31/2023	A	1			24.00	Filing fee - Colorado Courts E-filing system (CCE) COLORADO INTERACTIVE, LLC
19461.106	09/30/2023	A	1			72.00	Filing fee - Colorado Courts E-filing system (CCE)
19461.106	10/31/2023	A	1			432.00	Filing fee - Colorado Courts E-filing system (CCE) COLORADO INTERACTIVE, LLC
19461.106	10/31/2023	A	1	0.100	6.00	0.60	PACER Public Access to Court Electronic Records
19461.106	10/31/2023	A	1	0.100	1.00	0.10	PACER Public Access to Court Electronic Records
19461.106	11/30/2023	A	1			108.00	Filing fee - Colorado Courts E-filing system (CCE)
<b>Subtotal for Advance Type 1</b>					Billable	1,384.50	FILING FEE
19461.106	07/13/2023	A	2			139.15	Professional services - JILLIAN M. TURNER INC. - Rush Transcripts
19461.106	08/31/2023	A	2			2,214.50	Professional services - JUDICIAL ARBITER GROUP, INC.
19461.106	08/31/2023	A	2			1,999.50	Professional services - JUDICIAL ARBITER GROUP, INC.
19461.106	09/30/2023	A	2			1,999.50	Professional services - JUDICIAL ARBITER GROUP, INC. - PREPARATION FOR SETTLEMENT CONFERENCE

**Detail Cost Transaction File List**  
Transaction File List - Costs  
ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

Client	Trans Date	C E/A T	Rate	Units	Amount
<b>Client ID 19461.106 SENDER/HARVEY</b>					
<b>Subtotal for Advance Type 2</b>				Billable	6,352.65 PROFESSIONAL SERVICE
19461.106	05/31/2023	A 3			950.00 Deposition - JEANNIE REPORTING - CERTIFIED COPY OF TRANSCRIPT, S. DREW
19461.106	05/31/2023	A 3			656.00 Deposition - JEANNIE REPORTING - CERTIFIED COPY OF TRANSCRIPT, J. PRICE
19461.106	05/31/2023	A 3			992.00 Deposition - JEANNIE REPORTING - CERTIFIED COPY OF TRANSCRIPT, H. SENDER
19461.106	06/06/2023	A 3			1,058.75 Deposition - AB LITIGATION SERVICES - VIDEO RECORDING, M. HERSHEY
19461.106	06/30/2023	A 3			1,002.50 Deposition - JEANNIE REPORTING - CERTIFIED COPY TRANSCRIPT OF J. BLOCK
19461.106	06/30/2023	A 3			1,961.25 Deposition - AB LITIGATION SERVICES - TRANSCRIPT OF M. HERSHEY
19461.106	07/30/2023	A 3			200.00 Deposition - AB LITIGATION SERVICES - ORIGINAL TRANSCRIPT OF MARLIN HERSHEY
19461.106	07/30/2023	A 3			97.50 Deposition - AB LITIGATION SERVICES - LATE CANCEL / NO SHOW, M. HERSHEY VIDEO DEPOSITION
19461.106	07/31/2023	A 3			1,112.50 Deposition - AB LITIGATION SERVICES - VIDEO DEPOSITION OF G. DRAGUL, VOL: II
19461.106	07/31/2023	A 3			2,089.28 Deposition - AB LITIGATION SERVICES - ORIGINAL TRANSCRIPT OF G. DRAGUL VOL: II
19461.106	07/31/2023	A 3			1,640.08 Deposition - AB LITIGATION SERVICES - ORIGINAL TRANSCRIPT OF G. DRAGUL
19461.106	07/31/2023	A 3			1,330.00 Deposition - AB LITIGATION SERVICES - VIDEO DEPOSITION OF G. DRAGUL
19461.106	08/31/2023	A 3			1,825.45 Deposition - AB LITIGATION SERVICES - ORIGINAL TRANSCRIPT OF SUSAN MARKUSCH
19461.106	08/31/2023	A 3			200.00 Deposition - AB LITIGATION SERVICES - ORIGINAL TRANSCRIPT OF SUSAN MARKUSCH (NO SHOW / LATE CANCEL)
19461.106	08/31/2023	A 3			150.00 Deposition - AB LITIGATION SERVICES - VIDEO DEPOSITION, SUSAN MARKUSCH VOL: II (LATE CANCEL / NO SHOW)
19461.106	09/30/2023	A 3			12.19 Deposition - JEANNIE REPORTING, REMAINING BALANCE DUE FOR H. SENDER TRANSCRIPT
19461.106	09/30/2023	A 3			653.31 Deposition - JEANNIE REPORTING, CERTIFIED COPY TRANSCRIPT OF H. SENDER
19461.106	10/31/2023	A 3			1,025.63 Deposition - AB LITIGATION SERVICES - VIDEO RECORDING, SUSAN MARKUSCH VOL: II
<b>Subtotal for Advance Type 3</b>				Billable	16,956.44 DEPOSITION
19461.106	09/30/2022	A 6			75.00 Service of process fee - ABC LEGAL SERVICES, LLC - SUSAN MARKUSCH
19461.106	09/30/2022	A 6			75.00 Service of process fee - ABC LEGAL SERVICES, LLC - SUSAN MARKUSCH
19461.106	10/31/2022	A 6			129.00 Service of process fee - ABC LEGAL SERVICES, LLC - KEY BANK
19461.106	11/30/2023	A 6			105.00 Service of process fee - FRONT RANGE LEGAL PROCESS SERVICE INC. - GARY DRAGUL
<b>Subtotal for Advance Type 6</b>				Billable	384.00 SERVICE OF PROCESS
19461.106	10/31/2023	A 7			205.12 Travel Expenses - MAGNOLIA HOTEL STAY
19461.106	10/31/2023	A 7			18.00 Travel Expenses - PARKING
19461.106	11/02/2023	A 7			13.00 Travel Expenses - PARKING (1 OF 3 DAYS FOR S. KHAN)
19461.106	11/03/2023	A 7			15.00 Travel Expenses - PARKING (2 OF 3 DAYS FOR S. KHAN)
19461.106	11/06/2023	A 7			15.00 Travel Expenses - PARKING (3 OF 3 DAYS FOR S. KHAN)
19461.106	11/30/2023	A 7			36.00 Travel Expenses - TRIAL PARKING FOR ATTORNEY A. ANDREWS
<b>Subtotal for Advance Type 7</b>				Billable	302.12 TRAVEL
<b>Total for Client ID 19461.106</b>				Billable	27,535.57 SENDER/HARVEY COCCA

**GRAND TOTALS**

Billable 27,535.57



**ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.**

MICHAEL T. GILBERT  
 1600 STOUT STREET  
 SUITE 1100  
 DENVER, CO 80202

**Invoice No.** 985418  
**Client No.** 32501.0005

**Date** 12/01/2023

**RE: Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC,  
 and GDA Real Estate Management, Inc.**

Date	Category	Name	Memo	Hours	Standard Rate	Standard Amount	Billed Rate	Billed Amount	Discount
9/30/2022	Insider Matter	DREW	Insider Report Analysis	1.25	\$530.00	\$662.50	\$400.00	\$500.00	(\$162.50)
10/21/2022	Insider Matter	DREW	Insider Report Analysis	2.75	\$530.00	\$1,457.50	\$400.00	\$1,100.00	(\$357.50)
12/12/2022	Receivership Claim Analysis	FRIED	Reconciling investor claims with cash database.	5.50	\$233.00	\$1,281.50	\$230.00	\$1,265.00	(\$16.50)
12/13/2022	Receivership Claim Analysis	FRIED	Reconciling investor claims with cash database.	7.25	\$233.00	\$1,689.25	\$230.00	\$1,667.50	(\$21.75)
12/14/2022	Receivership Claim Analysis	FRIED	Reconciling investor claims with cash database.	4.50	\$233.00	\$1,048.50	\$230.00	\$1,035.00	(\$13.50)
12/20/2022	Insider Matter	DREW	Insider Report Analysis	3.25	\$530.00	\$1,722.50	\$400.00	\$1,300.00	(\$422.50)
12/22/2022	Insider Matter	DREW	Insider Report Analysis	5.75	\$530.00	\$3,047.50	\$400.00	\$2,300.00	(\$747.50)
12/23/2022	Insider Matter	ZETLMEISL	Review insider report.	1.50	\$614.00	\$921.00	\$500.00	\$750.00	(\$171.00)
12/29/2022	Insider Matter	DREW	Insider Report Analysis	6.25	\$530.00	\$3,312.50	\$400.00	\$2,500.00	(\$812.50)
12/30/2022	Insider Matter	DREW	Insider Report Analysis	2.75	\$530.00	\$1,457.50	\$400.00	\$1,100.00	(\$357.50)
1/11/2023	Tax Preparation	FRIED	Preparing 2022 tax analysis.	0.75	\$233.00	\$174.75	\$230.00	\$172.50	(\$2.25)
1/16/2023	Tax Preparation	MITCHELL	Reviewed the 1099 list and tax trial balance that Liz created. Formatted and sent the 1099 list to the tax department.	0.50	\$206.00	\$103.00	\$206.00	\$103.00	\$0.00
1/18/2023	Tax Preparation	SCOTT	1099 Prep	0.30	\$211.00	\$63.30	\$211.00	\$63.30	\$0.00
1/24/2023	Tax Preparation	WOODRUFF	1099 Review	0.30	\$281.00	\$84.30	\$250.00	\$75.00	(\$9.30)
2/8/2023	Insider Matter	DREW	Review of new report.	2.75	\$530.00	\$1,457.50	\$400.00	\$1,100.00	(\$357.50)
2/13/2023	Insider Matter	DREW	Response Report	6.75	\$530.00	\$3,577.50	\$400.00	\$2,700.00	(\$877.50)



2/16/2023	Tax Preparation	MELANAPHY	Extension	0.10	\$212.00	\$21.20	\$212.00	\$21.20	\$0.00
2/20/2023	Insider Matter	DREW	Response Report	6.25	\$530.00	\$3,312.50	\$400.00	\$2,500.00	(\$812.50)
2/21/2023	Insider Matter	DREW	Response Report	6.50	\$530.00	\$3,445.00	\$400.00	\$2,600.00	(\$845.00)
2/22/2023	Insider Matter	DREW	Response Report	5.25	\$530.00	\$2,782.50	\$400.00	\$2,100.00	(\$682.50)
2/23/2023	Insider Matter	DREW	Response Report	3.75	\$530.00	\$1,987.50	\$400.00	\$1,500.00	(\$487.50)
2/24/2023	Insider Matter	DREW	Response Report	5.25	\$530.00	\$2,782.50	\$400.00	\$2,100.00	(\$682.50)
2/25/2023	Insider Matter	DREW	Response Report	4.00	\$530.00	\$2,120.00	\$400.00	\$1,600.00	(\$520.00)
2/26/2023	Insider Matter	ZEID	Detailed QC of Ms. Drew's response report.	1.50	\$325.00	\$487.50	\$325.00	\$487.50	\$0.00
2/27/2023	Insider Matter	DREW	Response Report	3.50	\$530.00	\$1,855.00	\$400.00	\$1,400.00	(\$455.00)
2/27/2023	Insider Matter	FRIED	Preparing Exhibits M and N for response report.	1.50	\$233.00	\$349.50	\$230.00	\$345.00	(\$4.50)
3/7/2023	Data Production	RUDLOFF	Media preservation and prep for disposal.	1.00	\$650.00	\$650.00	\$550.00	\$550.00	(\$100.00)
4/19/2023	Receivership Claim Analysis	DREW	Questions related to claim from investor.	0.75	\$530.00	\$397.50	\$400.00	\$300.00	(\$97.50)
4/24/2023	Receivership Claim Analysis	DREW	Questions related to claim from investor.	2.75	\$530.00	\$1,457.50	\$400.00	\$1,100.00	(\$357.50)
5/9/2023	Insider Matter	DREW	Call with Pat Vellone regarding depositions.	0.50	\$530.00	\$265.00	\$400.00	\$200.00	(\$65.00)
5/10/2023	Insider Matter	DREW	Deposition preparation.	4.75	\$530.00	\$2,517.50	\$400.00	\$1,900.00	(\$617.50)
5/11/2023	Insider Matter	DREW	Deposition preparation.	0.25	\$530.00	\$132.50	\$400.00	\$100.00	(\$32.50)
5/25/2023	Insider Matter	DREW	Prepare for Susan Marchush deposition.	2.75	\$530.00	\$1,457.50	\$400.00	\$1,100.00	(\$357.50)
5/30/2023	Insider Matter	DREW	Prepare for Susan Marchush deposition.	2.25	\$530.00	\$1,192.50	\$400.00	\$900.00	(\$292.50)
5/31/2023	Insider Matter	DREW	Prepare for Susan Marchush deposition.	1.75	\$530.00	\$927.50	\$400.00	\$700.00	(\$227.50)
6/1/2023	Insider Matter	DREW	Attend Susan Marchush deposition.	6.00	\$557.00	\$3,342.00	\$400.00	\$2,400.00	(\$942.00)
6/6/2023	Bankruptcy Claim	FRIED	Preparing summaries of cash activities for Plainfield 09 A, LLC, Clearwater Plainfield 15, LLC, and Clearwater Collection 15, LLC to use to rebut objection to the Receivership's claim in the Clearwater bankruptcies.	7.90	\$233.00	\$1,840.70	\$230.00	\$1,817.00	(\$23.70)
6/7/2023	Bankruptcy Claim	FRIED	Preparing summaries of cash activities for Plainfield 09 A, LLC, Clearwater Plainfield 15, LLC, and Clearwater Collection 15, LLC to use to rebut objection to the Receivership's claim in the Clearwater bankruptcies. Summarizing investor contributions and rollovers based on supporting documentation.	4.10	\$233.00	\$955.30	\$230.00	\$943.00	(\$12.30)

6/8/2023	Bankruptcy Claim	FRIED	Preparing summaries of cash activities for Plainfield 09 A, LLC, Clearwater Plainfield 15, LLC, and Clearwater Collection 15, LLC to use to rebut objection to the Receivership's claim in the Clearwater bankruptcies. Summarizing investor contributions and rollovers based on supporting documentation.	6.00	\$233.00	\$1,398.00	\$230.00	\$1,380.00	(\$18.00)
6/9/2023	Bankruptcy Claim	DREW	Clearwater Claim issues.	1.75	\$557.00	\$974.75	\$400.00	\$700.00	(\$274.75)
6/9/2023	Bankruptcy Claim	FRIED	Discussion with Stephanie Drew regarding methodology for amended claim in Clearwater bankruptcies.	0.80	\$233.00	\$186.40	\$230.00	\$184.00	(\$2.40)
6/9/2023	Bankruptcy Claim	FRIED	Meeting with Stephanie Drew and Michael Gilbert to discuss the Receivership's claims in the Clearwater bankruptcies.	1.80	\$233.00	\$419.40	\$230.00	\$414.00	(\$5.40)
6/9/2023	Bankruptcy Claim	FRIED	Preparing analysis of cash activities and investor rollovers for Plainfield 09 A, LLC, Clearwater Plainfield 15, LLC, and Clearwater Collection 15, LLC to update the Receivership's claim in the Clearwater bankruptcies.	4.60	\$233.00	\$1,071.80	\$230.00	\$1,058.00	(\$13.80)
6/12/2023	Bankruptcy Claim	DREW	BK Claim review.	1.25	\$557.00	\$696.25	\$400.00	\$500.00	(\$196.25)
6/12/2023	Bankruptcy Claim	FRIED	Preparing analysis of cash activities and investor rollovers for Plainfield 09 A, LLC, Clearwater Plainfield 15, LLC, and Clearwater Collection 15, LLC to update the Receivership's claim in the Clearwater bankruptcies.	2.80	\$233.00	\$652.40	\$230.00	\$644.00	(\$8.40)
6/13/2023	Bankruptcy Claim	DREW	Review docs/conclusions for BK matter.	3.25	\$557.00	\$1,810.25	\$400.00	\$1,300.00	(\$510.25)
6/13/2023	Bankruptcy Claim	FRIED	Preparing analysis of cash activities and investor rollovers for Plainfield 09 A, LLC, Clearwater Plainfield 15, LLC, and Clearwater Collection 15, LLC to update the Receivership's claim in the Clearwater bankruptcies.	6.60	\$233.00	\$1,537.80	\$230.00	\$1,518.00	(\$19.80)

6/14/2023	Bankruptcy Claim	FRIED	Discussion with Stephanie Drew regarding amended claim in Clearwater bankruptcies.	0.50	\$233.00	\$116.50	\$230.00	\$115.00	(\$1.50)
6/15/2023	Bankruptcy Claim	DREW	Review docs/conclusions for BK matter.	3.25	\$557.00	\$1,810.25	\$400.00	\$1,300.00	(\$510.25)
6/16/2023	Bankruptcy Claim	DREW	Review docs/conclusions for BK matter.	4.25	\$557.00	\$2,367.25	\$400.00	\$1,700.00	(\$667.25)
6/19/2023	Bankruptcy Claim	DREW	Bankruptcy Claim Analysis.	1.75	\$557.00	\$974.75	\$400.00	\$700.00	(\$274.75)
6/21/2023	Bankruptcy Claim	DREW	Analysis for BK objection	3.25	\$557.00	\$1,810.25	\$400.00	\$1,300.00	(\$510.25)
6/22/2023	Insider Matter	DREW	Bankruptcy Claim Analysis.	2.75	\$557.00	\$1,531.75	\$400.00	\$1,100.00	(\$431.75)
6/22/2023	Bankruptcy Claim	FRIED	Discussion with Stephanie Drew regarding response to objection to the Receiver's claim in the Clearwater bankruptcies.	0.40	\$233.00	\$93.20	\$230.00	\$92.00	(\$1.20)
6/22/2023	Bankruptcy Claim	FRIED	Gathering investor rollover and cash investment data for response to objection to the Receiver's claim in the Clearwater bankruptcies.	1.20	\$233.00	\$279.60	\$230.00	\$276.00	(\$3.60)
6/23/2023	Bankruptcy Claim	DREW	Analysis for BK objection	4.25	\$557.00	\$2,367.25	\$400.00	\$1,700.00	(\$667.25)
6/23/2023	Bankruptcy Claim	FRIED	Reviewing and updating response to objection to the Receiver's claim in the Clearwater bankruptcies. Preparing associated exhibits.	4.80	\$233.00	\$1,118.40	\$230.00	\$1,104.00	(\$14.40)
6/24/2023	Bankruptcy Claim	FRIED	Reviewing and updating response to objection to the Receiver's claim in the Clearwater bankruptcies. Preparing associated exhibits.	4.20	\$233.00	\$978.60	\$230.00	\$966.00	(\$12.60)
6/26/2023	Insider Matter	DREW	Documents for depositions including bank statements.	1.25	\$557.00	\$696.25	\$400.00	\$500.00	(\$196.25)
6/26/2023	Bankruptcy Claim	FRIED	Preparing claim exhibit for response to objection to Receiver's claim in Clearwater bankruptcies.	6.90	\$233.00	\$1,607.70	\$230.00	\$1,587.00	(\$20.70)
6/27/2023	Bankruptcy Claim	FRIED	Preparing exhibits for response to objection to the Receiver's claim in the Clearwater bankruptcies.	6.70	\$233.00	\$1,561.10	\$230.00	\$1,541.00	(\$20.10)
6/28/2023	Insider Matter	DREW	Bankruptcy Claim Analysis.	4.25	\$557.00	\$2,367.25	\$400.00	\$1,700.00	(\$667.25)
6/28/2023	Bankruptcy Claim	FRIED	Preparing exhibits for response to objection to the Receiver's claim in the Clearwater bankruptcies.	6.90	\$233.00	\$1,607.70	\$230.00	\$1,587.00	(\$20.70)

6/29/2023	Bankruptcy Claim	FRIED	Preparing exhibits for response to objection to the Receiver's claim in the Clearwater bankruptcies.	3.20	\$233.00	\$745.60	\$230.00	\$736.00	(\$9.60)
6/29/2023	Tax Preparation	NELSON_S	Save info log in.	0.20	\$399.00	\$79.80	\$399.00	\$79.80	\$0.00
6/30/2023	Tax Preparation	CLOHESSY	2022 Tax Return	1.00	\$228.00	\$228.00	\$228.00	\$228.00	\$0.00
6/30/2023	Bankruptcy Claim	DREW	Bankruptcy Claim Analysis.	3.25	\$557.00	\$1,810.25	\$400.00	\$1,300.00	(\$510.25)
6/30/2023	Bankruptcy Claim	FRIED	Preparing exhibits for response to objection to the Receiver's claim in the Clearwater bankruptcies.	3.10	\$233.00	\$722.30	\$230.00	\$713.00	(\$9.30)
7/3/2023	Bankruptcy Claim	FRIED	Preparing exhibits for response to objection to the Receiver's claim in the Clearwater bankruptcies.	3.60	\$233.00	\$838.80	\$230.00	\$828.00	(\$10.80)
7/5/2023	Bankruptcy Claim	DREW	Bankruptcy Claim Analysis.	2.75	\$557.00	\$1,531.75	\$400.00	\$1,100.00	(\$431.75)
7/5/2023	Bankruptcy Claim	FRIED	Preparing exhibits for response to objection to the Receiver's claim in the Clearwater bankruptcies.	2.60	\$233.00	\$605.80	\$230.00	\$598.00	(\$7.80)
7/6/2023	Bankruptcy Claim	DREW	Bankruptcy Claim Analysis.	3.25	\$557.00	\$1,810.25	\$400.00	\$1,300.00	(\$510.25)
7/6/2023	Bankruptcy Claim	FRIED	Reviewing and updating response to objection to the Receiver's claim in the Clearwater bankruptcies. Preparing associated exhibits.	8.10	\$233.00	\$1,887.30	\$230.00	\$1,863.00	(\$24.30)
7/7/2023	Bankruptcy Claim	DREW	Bankruptcy Claim Analysis.	4.25	\$557.00	\$2,367.25	\$400.00	\$1,700.00	(\$667.25)
7/7/2023	Bankruptcy Claim	FRIED	Reviewing and updating response to objection to the Receiver's claim in the Clearwater bankruptcies. Preparing associated exhibits.	1.90	\$233.00	\$442.70	\$230.00	\$437.00	(\$5.70)
7/10/2023	Bankruptcy Claim	DREW	Bankruptcy Claim Analysis.	2.25	\$557.00	\$1,253.25	\$400.00	\$900.00	(\$353.25)
7/10/2023	Bankruptcy Claim	FRIED	Reviewing and updating Receiver's objections to investor claims in the Clearwater bankruptcies.	7.20	\$233.00	\$1,677.60	\$230.00	\$1,656.00	(\$21.60)
7/11/2023	Bankruptcy Claim	DREW	Bankruptcy Claim Analysis.	2.75	\$557.00	\$1,531.75	\$400.00	\$1,100.00	(\$431.75)
7/11/2023	Bankruptcy Claim	FRIED	Reviewing and updating Receiver's objections to investor claims in the Clearwater bankruptcies.	4.60	\$233.00	\$1,071.80	\$230.00	\$1,058.00	(\$13.80)
7/12/2023	Bankruptcy Claim	DREW	Bankruptcy Claim Analysis.	4.25	\$557.00	\$2,367.25	\$400.00	\$1,700.00	(\$667.25)

7/12/2023	Bankruptcy Claim	FRIED	Preparing summary of investor rollovers for Clearwater and discussing with Averil Andrews.	1.70	\$233.00	\$396.10	\$230.00	\$391.00	(\$5.10)
7/14/2023	Bankruptcy Claim	DREW	Bankruptcy Claim Analysis.	1.25	\$557.00	\$696.25	\$400.00	\$500.00	(\$196.25)
7/17/2023	Insider Matter	DREW	Analysis for Dragul's Deposition.	1.75	\$557.00	\$974.75	\$400.00	\$700.00	(\$274.75)
7/18/2023	Insider Matter	DREW	Analysis for Dragul's Deposition.	2.25	\$557.00	\$1,253.25	\$400.00	\$900.00	(\$353.25)
7/18/2023	Insider Matter	DREW	Dragul Deposition questions.	0.25	\$557.00	\$139.25	\$400.00	\$100.00	(\$39.25)
7/18/2023	Insider Matter	FRIED	Identifying promissory notes issued and 2016-2017 and pulling executed agreements where they exist.	5.60	\$233.00	\$1,304.80	\$230.00	\$1,288.00	(\$16.80)
7/19/2023	Insider Matter	FRIED	Pulling K-1 data for Plaza Mall.	0.50	\$233.00	\$116.50	\$230.00	\$115.00	(\$1.50)
7/24/2023	Bankruptcy Claim	FRIED	Reviewing and cross-referencing objections filed to claims in Clearwater bankruptcies.	1.60	\$233.00	\$372.80	\$230.00	\$368.00	(\$4.80)
7/28/2023	Insider Matter	DREW	Review deposition transcripts for Mr. Dragul.	2.75	\$557.00	\$1,531.75	\$400.00	\$1,100.00	(\$431.75)
8/2/2023	Tax Preparation	MIRAMONTES	Tax Return Preparation	2.45	\$222.00	\$543.90	\$222.00	\$543.90	\$0.00
8/2/2023	Tax Preparation	WOODRUFF	Answering preparer questions.	0.30	\$295.00	\$88.50	\$250.00	\$75.00	(\$13.50)
8/17/2023	Tax Preparation	ALEXANDER	Review and update 2022 tax return and workpapers.	0.75	\$281.00	\$210.75	\$281.00	\$210.75	\$0.00
8/18/2023	Tax Preparation	ALEXANDER	Finalize return.	0.25	\$281.00	\$70.25	\$281.00	\$70.25	\$0.00
8/18/2023	Tax Preparation	WOODRUFF	Tax Preparation Review.	0.30	\$295.00	\$88.50	\$250.00	\$75.00	(\$13.50)
8/21/2023	Tax Preparation	ALEXANDER	Update return for equity adjustments.	0.25	\$281.00	\$70.25	\$281.00	\$70.25	\$0.00
8/21/2023	Tax Preparation	FYFE	Tax Production.	0.30	\$167.00	\$50.10	\$125.00	\$37.50	(\$12.60)
8/21/2023	Tax Preparation	NELSON_S	Partner review of 2022 return and workpapers, finalize for filing.	1.00	\$399.00	\$399.00	\$399.00	\$399.00	\$0.00
8/29/2023	Insider Matter	FRIED	Preparing summary of investor cash in, cash out, rollovers in, and rollover distributions for Plaza Mall of Georgia.	0.90	\$251.00	\$225.90	\$230.00	\$207.00	(\$18.90)
8/30/2023	Insider Matter	FRIED	Preparing summary of investor cash in, cash out, rollovers in, and rollover distributions for Plaza Mall of Georgia.	3.40	\$251.00	\$853.40	\$230.00	\$782.00	(\$71.40)
8/31/2023	Insider Matter	FRIED	Preparing summary of investor cash in, cash out, rollovers in, and rollover distributions for Plaza Mall of Georgia.	4.70	\$251.00	\$1,179.70	\$230.00	\$1,081.00	(\$98.70)
9/1/2023	Insider Matter	DREW	Plaza Mall of Georgia Analysis.	1.75	\$585.00	\$1,023.75	\$400.00	\$700.00	(\$323.75)
9/8/2023	Bankruptcy Claim	FRIED	Meeting with Michael Gilbert and Stephanie Drew in preparation for September 21, 2023 hearing.	0.80	\$251.00	\$200.80	\$230.00	\$184.00	(\$16.80)

9/8/2023	Insider Matter	FRIED	Preparing spreadsheet of investor data with case notes.	2.20	\$251.00	\$552.20	\$230.00	\$506.00	(\$46.20)
9/11/2023	Insider Matter	FRIED	Updating spreadsheet of investor data with case notes.	0.20	\$251.00	\$50.20	\$230.00	\$46.00	(\$4.20)
9/13/2023	Receivership Claim Analysis	FRIED	Discussing preparation of plan of distribution with Stephanie Drew.	0.30	\$251.00	\$75.30	\$230.00	\$69.00	(\$6.30)
9/14/2023	Receivership Claim Analysis	FRIED	Preparing preliminary plan of distribution.	1.00	\$251.00	\$251.00	\$230.00	\$230.00	(\$21.00)
9/15/2023	Insider Matter	DREW	Initial review and discussion related to distributions.	2.25	\$585.00	\$1,316.25	\$400.00	\$900.00	(\$416.25)
9/15/2023	Receivership Claim Analysis	FRIED	Preparing preliminary plan of distribution.	1.80	\$251.00	\$451.80	\$230.00	\$414.00	(\$37.80)
9/18/2023	Insider Matter	DREW	Claims/Settlement analysis.	1.50	\$585.00	\$877.50	\$400.00	\$600.00	(\$277.50)
9/18/2023	Insider Matter	FRIED	Preparing comparison of investors in Plaza Mall of Georgia and Plainfield/Clearwater.	0.50	\$251.00	\$125.50	\$230.00	\$115.00	(\$10.50)
9/20/2023	Insider Matter	DREW	Claims/Settlement analysis.	2.75	\$585.00	\$1,608.75	\$400.00	\$1,100.00	(\$508.75)
9/25/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation for plan of distribution.	0.80	\$251.00	\$200.80	\$230.00	\$184.00	(\$16.80)
9/26/2023	Tax Preparation	DREW	Letter to IRS regarding penalties for GDA.	1.25	\$585.00	\$731.25	\$400.00	\$500.00	(\$231.25)
9/26/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation for plan of distribution.	3.50	\$251.00	\$878.50	\$230.00	\$805.00	(\$73.50)
9/27/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	0.60	\$251.00	\$150.60	\$230.00	\$138.00	(\$12.60)
9/28/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	3.00	\$251.00	\$753.00	\$230.00	\$690.00	(\$63.00)
9/29/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	2.00	\$251.00	\$502.00	\$230.00	\$460.00	(\$42.00)
10/2/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	2.40	\$251.00	\$602.40	\$230.00	\$552.00	(\$50.40)
10/4/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	1.00	\$251.00	\$251.00	\$230.00	\$230.00	(\$21.00)
10/5/2023	Insider Matter	DREW	Trial preparation.	3.75	\$585.00	\$2,193.75	\$400.00	\$1,500.00	(\$693.75)
10/5/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	2.20	\$251.00	\$552.20	\$230.00	\$506.00	(\$46.20)

10/6/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	5.80	\$251.00	\$1,455.80	\$230.00	\$1,334.00	(\$121.80)
10/9/2023	Insider Matter	DREW	Trial preparation.	2.25	\$585.00	\$1,316.25	\$400.00	\$900.00	(\$416.25)
10/9/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	1.40	\$251.00	\$351.40	\$230.00	\$322.00	(\$29.40)
10/11/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	5.00	\$251.00	\$1,255.00	\$230.00	\$1,150.00	(\$105.00)
10/12/2023	Insider Matter	DREW	Trial preparation.	2.25	\$585.00	\$1,316.25	\$400.00	\$900.00	(\$416.25)
10/12/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	5.50	\$251.00	\$1,380.50	\$230.00	\$1,265.00	(\$115.50)
10/13/2023	Insider Matter	DREW	Trial preparation.	1.75	\$585.00	\$1,023.75	\$400.00	\$700.00	(\$323.75)
10/13/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	4.80	\$251.00	\$1,204.80	\$230.00	\$1,104.00	(\$100.80)
10/14/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	2.30	\$251.00	\$577.30	\$230.00	\$529.00	(\$48.30)
10/16/2023	Bankruptcy Claim	DREW	Review claims to produce to Bankruptcy Trustee.	0.50	\$585.00	\$292.50	\$400.00	\$200.00	(\$92.50)
10/17/2023	Bankruptcy Claim	DREW	Claims analysis review for Clearwater.	0.75	\$585.00	\$438.75	\$400.00	\$300.00	(\$138.75)
10/17/2023	Insider Matter	DREW	Trial preparation.	1.25	\$585.00	\$731.25	\$400.00	\$500.00	(\$231.25)
10/17/2023	Bankruptcy Claim	FRIED	Preparing cash-in/cash-out pro-rata schedules for Clearwater/Plainfield.	1.60	\$251.00	\$401.60	\$230.00	\$368.00	(\$33.60)
10/17/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	1.00	\$251.00	\$251.00	\$230.00	\$230.00	(\$21.00)
10/18/2023	Insider Matter	DREW	Trial preparation.	1.50	\$585.00	\$877.50	\$400.00	\$600.00	(\$277.50)
10/18/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	3.60	\$251.00	\$903.60	\$230.00	\$828.00	(\$75.60)
10/19/2023	Insider Matter	DREW	Review settlement agreement.	0.50	\$585.00	\$292.50	\$400.00	\$200.00	(\$92.50)
10/19/2023	Insider Matter	DREW	Trial preparation.	2.75	\$585.00	\$1,608.75	\$400.00	\$1,100.00	(\$508.75)
10/19/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	6.60	\$251.00	\$1,656.60	\$230.00	\$1,518.00	(\$138.60)
10/20/2023	Insider Matter	DREW	Trial preparation.	2.75	\$585.00	\$1,608.75	\$400.00	\$1,100.00	(\$508.75)

10/20/2023	Receivership Claim Analysis	FRIED	Reviewing investor data and supporting documentation and preparing plan of distribution.	9.80	\$251.00	\$2,459.80	\$230.00	\$2,254.00	(\$205.80)
10/23/2023	Insider Matter	DREW	Review Hershey deposition and compare exhibit 8 to our analysis.	3.25	\$585.00	\$1,901.25	\$400.00	\$1,300.00	(\$601.25)
10/24/2023	Insider Matter	DREW	Trial preparation and demonstratives for trial.	4.25	\$585.00	\$2,486.25	\$400.00	\$1,700.00	(\$786.25)
10/25/2023	Insider Matter	DREW	Demonstratives for trial.	6.25	\$585.00	\$3,656.25	\$400.00	\$2,500.00	(\$1,156.25)
11/2/2023	Insider Matter	DREW	Trial preparation.	1.50	\$585.00	\$877.50	\$400.00	\$600.00	(\$277.50)
11/2/2023	Receivership Claim Analysis	FRIED	Reviewing source documents to calculate adjustment needed to plan of distribution for Tarantino transfer for claimants' interests.	4.90	\$251.00	\$1,229.90	\$230.00	\$1,127.00	(\$102.90)
11/3/2023	Insider Matter	DREW	Trial Testimony	3.50	\$585.00	\$2,047.50	\$400.00	\$1,400.00	(\$647.50)
11/7/2023	Tax Preparation	TIKYANI	Binder Finalization	0.20	\$232.00	\$46.40	\$232.00	\$46.40	\$0.00
11/10/2023	Receivership Claim Analysis	FRIED	Preparing plan of distribution.	5.90	\$251.00	\$1,480.90	\$230.00	\$1,357.00	(\$123.90)
11/13/2023	Bankruptcy Claim	FRIED	Preparing plan of distribution with Clearwater bankruptcy collateral source information included.	1.30	\$251.00	\$326.30	\$230.00	\$299.00	(\$27.30)
11/14/2023	Bankruptcy Claim	FRIED	Analysis of Clearwater bankruptcy proposed distributions on receivership.	0.60	\$251.00	\$150.60	\$230.00	\$138.00	(\$12.60)
11/15/2023	Bankruptcy Claim	FRIED	Analyzing impact of Clearwater bankruptcy distributions on receivership plan of distribution.	2.30	\$251.00	\$577.30	\$230.00	\$529.00	(\$48.30)
11/20/2023	Bankruptcy Claim	FRIED	Preparing schedule with updated waterfall calculation for Clearwater bankruptcy to align distribution methodology with approved plan.	1.10	\$251.00	\$276.10	\$230.00	\$253.00	(\$23.10)
11/20/2023	Tax Preparation	TIKYANI	Binder Finalization	0.15	\$232.00	\$34.80	\$232.00	\$34.80	\$0.00
11/21/2023	Bankruptcy Claim	DREW	Clearwater bankruptcy issues.	5.25	\$585.00	\$3,071.25	\$400.00	\$2,100.00	(\$971.25)
11/21/2023	Bankruptcy Claim	FRIED	Preparing analysis of Clearwater bankruptcy distributions.	4.30	\$251.00	\$1,079.30	\$230.00	\$989.00	(\$90.30)
11/22/2023	Bankruptcy Claim	FRIED	Preparing analysis of Clearwater bankruptcy distributions.	4.00	\$251.00	\$1,004.00	\$230.00	\$920.00	(\$84.00)
Total				448.35		\$172,909.10		\$138,795.65	(\$34,113.45)

Summary By Project

Category	Hours	Standard Rate	Standard Amount	Billed Rate	Billed Amount	Discount
Bankruptcy Claim Analysis	173.30		\$58,182.90		\$48,954.00	(\$9,228.90)
Data Production	1.00		\$650.00		\$550.00	(\$100.00)



Insider Matter	167.75		\$86,238.70		\$63,822.50	(\$22,416.20)
Receivership Claim Analysis	95.95		\$24,749.45		\$22,663.50	(\$2,085.95)
Tax Preparation	10.35		\$3,088.05		\$2,805.65	(\$282.40)
<b>Total</b>	<b>448.35</b>		<b>\$172,909.10</b>		<b>\$ 138,795.65</b>	<b>\$ (34,113.45)</b>

Summary By Name

Name	Hours	Standard Rate	Standard Amount	Billed Rate	Billed Amount	Discount
ALEXANDER	1.25		\$351.25	\$281.00	\$351.25	\$0.00
CLOHESSY	1.00		\$228.00	\$228.00	\$228.00	\$0.00
DREW	203.50		\$112,640.25	\$400.00	\$81,400.00	(\$31,240.25)
FRIED	232.50		\$56,028.30	\$230.00	\$53,475.00	(\$2,553.30)
FYFE	0.30		\$50.10	\$125.00	\$37.50	(\$12.60)
MELANAPHY	0.10		\$21.20	\$212.00	\$21.20	\$0.00
MIRAMONTES	2.45		\$543.90	\$222.00	\$543.90	\$0.00
MITCHELL	0.50		\$103.00	\$206.00	\$103.00	\$0.00
NELSON_S	1.20		\$478.80	\$399.00	\$478.80	\$0.00
RUDLOFF	1.00		\$650.00	\$550.00	\$550.00	(\$100.00)
SCOTT	0.30		\$63.30	\$211.00	\$63.30	\$0.00
TIKYANI	0.35		\$81.20	\$232.00	\$81.20	\$0.00
WOODRUFF	0.90		\$261.30	\$250.00	\$225.00	(\$36.30)
ZEID	1.50		\$487.50	\$325.00	\$487.50	\$0.00
ZETLMEISL	1.50		\$921.00	\$500.00	\$750.00	(\$171.00)
	<b>448.35</b>		<b>\$172,909.10</b>		<b>\$138,795.65</b>	<b>(\$34,113.45)</b>

Total Fees Billed	\$172,909.10
Discount 20%	(\$34,113.45)
<b>Amount Due</b>	<b>\$138,795.65</b>

Current Amount Due \$ 138,795.65

Payment is due on receipt. A 1.5% per month service charge will be added to balances remaining unpaid 30 days or more after the invoice date.

<p>Pay online by credit card or ACH Debit: <a href="http://www.rubinbrown.com/payment">www.rubinbrown.com/payment</a></p> <p>Pay at RubinBrown's client payment website. You will need your client number and zip code to enroll in RubinBrown Online Billpay or Pay as a Guest.</p> <p><b>Effective September 15, 2023, please note all clients paying via credit card will be assessed a 1.5% fee. (CT, MA &amp; PR clients excluded) In addition, American Express will no longer be accepted.</b></p>	<p>Send check to: RubinBrown LLP PO Box 790379 St. Louis, MO 63179-0379</p> <p>Include Client Number and Invoice Number on the check</p>	<p>Wire payment to: Receiving Bank: Enterprise Bank &amp; Trust 150 N Meramec Ave., St. Louis, MO 63105 ABA #081006162 Account Name: RubinBrown LLP Account #139424 SWIFT Code #ENTRUS44 (Int'l Wires only)</p> <p>Please include the Client Number and Invoice Number in the bank reference or send that information in an email to <a href="mailto:Billingquestions@rubinbrown.com">Billingquestions@rubinbrown.com</a></p>	<p>Bill.com Network ID: RubinBrown LLP 0124733228222559</p>
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For questions regarding your account, please contact your RubinBrown executive or email your questions to [billingquestions@rubinbrown.com](mailto:billingquestions@rubinbrown.com).

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UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

IN RE:	)	DATE FILED: April 16, 2024 5:45 PM
	)	FILING ID: AAE84A02B227E
CLEARWATER COLLECTION 15, LLC	)	Case No. 22-11320-JGR
EIN: 47-4082355	)	Chapter 11
	)	(Jointly Administered)
Debtor.	)	
<hr/>		
IN RE:	)	Case No. 22-11321-JGR
	)	Chapter 11
CLEARWATER PLAINFIELD 15, LLC	)	
EIN: 47-4097826	)	
	)	
Debtor.	)	

**NOTICE OF FILING EMAIL RECEIVED FROM INVESTOR REGARDING  
OBJECTION TO CLAIM OF HARVEY SENDER, RECEIVER**

PLEASE TAKE NOTICE that undersigned counsel has received and been requested to file the attached email regarding the objection to the claim of Harvey Sender, Receiver.

Dated: June 20, 2023

Respectfully submitted,

By: s/ Aaron A. Garber  
 Aaron A. Garber, #36099  
**Wadsworth Garber Warner Conrardy, P.C.**  
 2580 West Main Street, Suite 200  
 Littleton, CO 80120  
 Telephone: (303) 296-1999  
 Telecopy: (303) 296-7600  
 Email: agarber@wgwc-law.com

**EXHIBIT**

**Aaron Garber**

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**From:** Rhonda Lapp <lappinvestors@gmail.com>  
**Sent:** Monday, June 19, 2023 8:50 PM  
**To:** Aaron Garber  
**Subject:** Letter

June 19,2023

To whom this may concern:

We are asking attorney Aaron Garber to submit this letter on our behalf.

We are investors with the Plainfield/ Clearwater case from Gary Dragul. We are asking that total proceeds stay with Mr. Garber on our behalf to distribute to us the investors. We do not want Harvey Sender to be given any portion of those proceeds. Mr. Garber has committed to us the investors to distribute what he can for our shares.

Thank you for your consideration on this.

Gideon and Rhonda Lapp

### CERTIFICATE OF SERVICE

The undersigned certifies that on June 20, 2023, I served via ECF a copy of the **NOTICE OF FILING EMAIL RECEIVED FROM INVESTOR REGARDING OBJECTION TO CLAIM OF HARVEY SENDER, RECEIVER** on all parties against whom relief is sought and those otherwise entitled to service pursuant to ED.R.BANKR.P. and these L.B.R. at the following addresses:

Malcolm M Bates mbates@duanemorris.com  
Stephen Charles Breuer stephen@breuer.law, stephen@ecf.courtdrive.com  
Brent R. Cohen bcohen@lewisroca.com, brent-cohen-8759@ecf.pacerpro.com, jeastin@lrrc.com  
Zachary Fairlie zfairlie@spencerfane.com, lwhitaker@spencerfane.com  
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By: /s/ Nichole Garber  
For Wadsworth, Garber, Warner and Conrardy, P.C.