

<p>DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, CO 80202</p> <p>TUNG CHAN, 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>DATE FILED: May 7, 2024 9:10 AM FILING ID: 9006D7F8D28EE CASE NUMBER: 2018CV33011</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>PHILIP J. WEISER, Attorney General ROBERT W. FINKE, 40756* First Assistant Attorney General JANNA K. FISCHER, 44952* Assistant Attorney General Ralph L. Carr Judicial Building 1300 Broadway, 8th Floor Denver, CO 80203 Tel: (720) 508-6376 (Finke) (720) 508-6374 (Fischer) Fax: (720) 508-6037 robert.finke@coag.gov janna.fischer@coag.gov *Counsel of Record <i>Attorneys for Plaintiff, Tung Chan, Securities Commissioner for the State of Colorado</i></p> <p>TYRONE GLOVER , 41529 TYRONE GLOVER LAW, LLC 2590 Walnut St. Denver, CO 80205 Tel: (303) 577-1656 Fax: (303) 652-0468 tyrone@tyroneglover.com <i>Attorney for Defendant Gary Dragul</i></p>	<p>Case No.: 2018CV33011</p> <p>Courtroom: 424</p>
<p>STIPULATED MOTION FOR ENTRY OF PERMANENT INJUNCTION</p>	

Plaintiff Tung Chan, Securities Commissioner for the State of Colorado (“Securities Commissioner”), by and through the Colorado Attorney General and undersigned counsel, and Defendants Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC by and through Tyrone Glover Law, LLC., and undersigned counsel., hereby stipulate and agree as follows:

PROCEDURAL BACKGROUND

1. The Commissioner filed a Complaint for Injunctive and Other Relief (“Complaint”), together with a Verified *Ex Parte* Motion for Temporary Restraining Order and Preliminary Injunction, and Order to Freeze Assets, on August 15, 2018 against Defendants, which sought injunctive and other relief.

2. The Commissioner and Defendants Gary Dragul; GDA Real Estate Services, LLC; and GDA Real Estate Management, LLC entered into a stipulation for the appointment of a receiver and an entry of preliminary injunction on August 29, 2018.

3. This Court on August 30, 2018 issued orders appointing a receiver and entering an order of preliminary injunction.

4. The Arapahoe County District Attorney issued an indictment on April 12, 2018 charging Defendant Gary Dragul on with nine felony counts of Securities Fraud. *The People of the State of Colorado v. Gary Dragul*, 2018CR1092 (Arapahoe Cty. Dist. Ct.).

5. Defendants on October 26, 2018 moved to stay this matter pending the conclusion of *People v. Dragul*, No. 2018CR1092 (Arapahoe Cty. Dist. Ct.). Following a hearing, this Court granted the stay on November 9, 2018 (“2018 Stay”).

6. The Arapahoe County District Attorney then issued a second indictment on March 1, 2019, charging Defendant Gary Dragul with five felony counts of Securities Fraud. *People v. Dragul*, No. 2019CR0610 (Arapahoe Cty. Dist. Ct.).

7. On January 21, 2020, a civil case in Denver District Court, was filed by the receiver Harvey Sender against Defendants Gary Dragul; Benjamin Kahn; The Conundrum Group, LLP; Susan Markusch; Alan Fox; ACF Property Management, Inc.; Marlin Hershey; and Performance Holdings, Inc. *Sender v. Dragul*, Case No. 2020CV30255 (Denver Dist. Ct.) (“Receiver Case”).

8. The 2018 Stay had been renewed seventeen times, most recently on March 4, 2023, during the pendency of the two criminal matters and the Receiver Case.

9. On June 5, 2023, Defendant Gary Dragul entered a guilty plea to Count Nine, Securities Fraud in Arapahoe County District Court criminal case no. 2018CR1092, and Count Five, Securities Fraud in Arapahoe County District Court criminal case no. 2019CR0610.

10. On September 15, 2023, Defendant Dragul was sentenced to serve 120 days at the Arapahoe County Jail and ten years of Economic Crime Probation in each case. Defendant Dragul stipulated to the restitution amount and method of

repayment in both criminal cases, 2018CR1092 and 2019CR0610, on this date as well.

11. On October 25, 2023, receiver Harvey Sender and Defendants Gary Dragul, Susan Markusch, and Olson Real Estate Services, LLC. stipulated to a settlement on all claims in the Receiver Case.

12. On December 22, 2023, the Arapahoe County District Court approved a stipulation between the prosecution and Dragul, which was entered into in 2019CR0610. That stipulation set restitution for case number 2019CR610 as the settlement to be paid in the Receiver Case.

STIPULATED AGREEMENT

In order to avoid the cost and uncertainty of litigation, the Commissioner and Defendants Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC do stipulate and agree as follows:

13. A permanent injunction shall enter, in the form attached hereto as EXHIBIT A.

14. Per the terms of the injunction, Defendants agree to refrain from any of the following acts:

- a. Offering to sell or selling any securities or investments in or from the State of Colorado, or
- b. Making recommendations or otherwise rendering advice from the State of Colorado or to clients in the State of Colorado regarding

securities and managing securities accounts or portfolios for clients in the State of Colorado, and

c. Engaging in business in or from the State of Colorado as a securities broker-dealer, sales representative, investment adviser, or investment adviser representative.

15. The Defendants have voluntarily executed this Stipulation and understand the legal consequences of this Stipulation and accompanying Order.

16. The Court shall retain jurisdiction of this action and reserve the power to enter additional orders to effectuate the fair and orderly administration of this action as may be appropriate to ensure the Defendants' compliance with this Stipulation and Order.

17. The Defendants acknowledge that their failure to comply with this Stipulation and the Order may be punished by contempt.

18. Nothing in the Order shall be construed to limit or alter the powers granted to the appointed Receiver.

19. By agreeing to this Stipulation, the Defendants agree not to take any action or to make, or permit to be made, any public statement denying, or directly or indirectly creating the impression that the actions filed by the Commissioner are without factual basis. The Defendants shall take all reasonably necessary steps to ensure that all of their agents and employees understand and comply with this agreement. Nothing in this paragraph affects Defendants' right to take legal or factual positions in litigation or other legal proceedings.

20. The Defendants hereby waive further service of the Order attached hereto as Exhibit A, to the extent that any service is required pursuant to C.R.C.P. 65 and agree that issuance of the Order by the Court shall constitute notice of its terms.

21. The Defendants acknowledge that they had the opportunity to discuss this Stipulation and accompanying Order with an attorney of their choice prior to executing this Stipulation, and that they have voluntarily executed this Stipulation and understand the legal consequences of this Stipulation and accompanying Order, and that no promise, threat, or inducement of any kind, except as stated herein, has been made to induce them to enter into this Stipulation.

Respectfully submitted this 7th day of May 2024.

PHILIP J. WEISER
Attorney General

/s/ Janna K. Fischer

ROBERT W. FINKE, 40756*
First Assistant Attorney General
JANNA K. FISCHER, 44952*
Senior Assistant Attorney General
Financial and Health Services Unit
*Attorneys for Plaintiff Tung Chan, Securities
Commissioner*
*Counsel of Record

/s/ Tyrone Glover

A. Tyrone Glover, 41529
TYRONE GLOVER LAW, LLC
Counsel for Defendant Gary Dragul

CERTIFICATE OF SERVICE

I certify that I have duly served the foregoing **STIPULATED MOTION FOR ENTRY OF PERMANENT INJUNCTION** upon all parties herein through the Colorado Courts E-Filing system this 7th day of May 2024, addressed as follows:

Patrick D. Vellone, Esq.
Michael T. Gilbert, Esq.
Averil K. Andrews, Esq.
ALLEN VELLONE WOLF
HELFRICH & FACTOR P.C.
1600 Stout St., Suite 1100
Denver, Colorado 80202
Counsel for Receiver Harvey Sender

TYRONE GLOVER , 41529
TYRONE GLOVER LAW, LLC
2590 Walnut St.
Denver, CO 80205
Tel: (303) 577-1656
Fax: (303) 652-0468
tyrone@tyroneglover.com
Attorney for Defendant Gary Dragul

/s/ Erin Shine

The Office of The Attorney General