

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Mutual Release (the "Agreement") is entered into as of this 4th day of February, 2008 by and between S. Gregory Hays, as Receiver of Pinnacle Development Partners LLC and its assets (the "Receiver Estate"), and Christopher M. Kunkel, Attorney at Law, P.C., Christopher M. Kunkel, and their employees (collectively referred to as "Kunkel"), and Kunkel's professional liability insurance carrier, Westport Insurance Corporation ("Westport").

WHEREAS, the Receiver was appointed by the United States District Court for the Northern District of Georgia in a civil enforcement action styled *Securities and Exchange Commission v. Pinnacle Development Partners LLC, et. al.*, Civil Action File No. 1:06-CV-2341-JTC ("the Enforcement Action");

WHEREAS, Defendant Pinnacle Development Partners, LLC ("Pinnacle"), solicited and received investments in certain general partnerships, which were formed purportedly to invest in distressed real property (the "Pinnacle Partnerships");

WHEREAS, the Securities and Exchange Commission ("SEC") and the Receiver allege that the Pinnacle Partnerships were securities and were the subject of a fraudulent scheme;

WHEREAS, the Receiver is, among other things, authorized and directed to administer and manage the Receiver Estate, including the right to institute actions for the protection of the Receiver Estate;

WHEREAS, the Receiver believes that, pursuant to and in conjunction with the authorizations and orders of the Court in the Enforcement Action, it is incumbent upon him and his counsel to use their best efforts to assert claims and collect monies which are due, or may be

due, to the Receiver Estate for the benefit of creditors of the Receiver Estate, including the investors in Pinnacle and the Pinnacle Partnerships (the "Investors");

WHEREAS, Kunkel acted as the attorney for Pinnacle and the Pinnacle Partnerships during the years 2005 and 2006;

WHEREAS, the Receiver has made a demand for payment upon Kunkel based upon the Receiver's assertion that the legal services rendered by Kunkel to Pinnacle and the Pinnacle Partnerships did not conform to the appropriate standards of care;

WHEREAS, Kunkel is insured against professional liability claims such as those asserted by the Receiver, pursuant to the terms of an insurance policy, Policy No. WLW318003997401, issued by Westport and having a limit of liability in the amount of \$1,000,000 per claim, less fees and other expenses incurred in defending any claims thereunder (the "Policy");

WHEREAS, Kunkel and Westport deny any liability to the Receiver Estate;

WHEREAS, the proceeds of the Policy have been and will continue to be eroded by the cost of defending claims asserted by the Receiver and/or Pinnacle investors;

WHEREAS, while denying that Kunkel or Westport are liable to the Receiver or any other claimant, and while denying that either the Receiver or any other claimant would have standing to assert a claim directly against Westport, Kunkel and Westport wish to resolve, prior to the depletion of the Policy, the Receiver's claims, as well as any other potential Investor claim that might be asserted against Kunkel or Westport arising from or related to Kunkel's relationship with or work done for or on behalf of Pinnacle or the Pinnacle Partnerships;

WHEREAS, Kunkel has, under penalty of perjury, provided the Receiver with a personal financial statement;

WHEREAS, the Receiver is satisfied that Kunkel has insufficient assets with which to fully satisfy any significant judgment rendered against him, whether by virtue of the claims of the Receiver or Investor actions as may be hereafter commenced, and the Receiver further believes that the cost to continue to defend any and all such actions will likely exhaust the Policy and any other assets that are available to Kunkel at this time, leaving Kunkel without the ability to satisfy any liability that might be adjudged against him; and,

WHEREAS, the Receiver has determined through his investigation that the terms of this Agreement are in the best interest of the Receiver Estate and, ultimately, all of the Investors and other creditors of the Receiver Estate;

NOW, THEREFORE, in consideration of TEN DOLLARS (\$10.00), the mutual promises and covenants set forth herein, along with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Court Approval. This Agreement shall be effective and binding on all parties hereto only upon the entry of an Order of the Court in the Enforcement Action:
 - a. Approving the terms of this Agreement; and,
 - b. Permanently enjoining the filing of related claims against Kunkel and Westport.
2. Effective Date. The Effective Date shall be the date that the Order described in Paragraph 1, above, becomes final and not subject to appeal.
3. Payment. Within ten business days of the Effective Date, Kunkel and/or Westport shall pay to the receiver the amount of \$600,000.

4. Release of Kunkel and Westport. The Receiver, on behalf of himself, his successors and assigns, as well as on behalf of the Receiver Estate, hereby forever releases, discharges and acquits Kunkel and Westport, and their respective past, present, and future successors assigns, parent corporations, subsidiaries, affiliates, agents, employees, officers, directors, servants, attorneys, shareholders, benefit trustees, heirs, executors, administrators, insurers and re-insurers, from any and all claims, demands or causes of action that the Receiver or Receiver Estate now have or which may hereafter accrue on account of, in connection with, or which may in any way grow out of the legal services rendered by Kunkel for or on behalf of Pinnacle or the Pinnacle Partnerships. Notwithstanding the foregoing, nothing herein is intended to be nor should be construed to be a release of any other person or entity who was a principal or agent of Pinnacle or the Pinnacle Partnerships, or who worked on or provided services in connection with Pinnacle's investment offerings. The Receiver hereby expressly reserves such claims against any such person or entity not expressly released herein.

5. Release of Receiver and Receiver Entities. Except as expressly set forth herein, Kunkel and Westport, on behalf of themselves and their principals, employees, successors and assigns, hereby release, discharge and acquit the Receiver, his employees, agents, attorneys and assigns, as well as the Receivership Estate, from any and all claims, demands or causes of action that any of them may have that in any way relate to or arise from the activities of Pinnacle, the Pinnacle Partnerships or this Receivership. Notwithstanding the forgoing, nothing herein is intended to be nor should be construed to be a release of any person or entity who was a principal or agent of Pinnacle or the Pinnacle Partnerships who was not a principal, employee or agent of

Kunkel. Kunkel and Westport hereby expressly reserve such claims against any such person or entity not released herein.

6. Approval Process. Upon the execution of this Agreement, the Receiver shall file a motion in the Enforcement Action seeking approval of the terms of this settlement and compromise. Within five days of the filing of the motion, notice of the filing of the motion shall be served upon each person known to the Receiver who invested with Pinnacle or one of the Pinnacle Partnerships. If the Court approves this settlement in accordance with Paragraph 1, above, the terms of this Agreement shall become binding on the parties hereto as of the Effective Date. If the Court does not approve this Agreement, the Agreement shall terminate immediately upon the entry of an order denying the Receiver's motion seeking approval.

7. Indemnity and Defense

(a) In the event that this Settlement Agreement is approved as provided for above, the Receiver agrees that, subject to the limitations set forth in subparagraph (d), below, he shall indemnify, defend and hold harmless Kunkel and Westport from and against all liability and loss, including attorneys fees and expenses of litigation, incurred in connection with any claim or action asserted, maintained, or otherwise prosecuted by any Investor(s) after the Effective Date in any way relating to, because of, or in connection with the legal services rendered by Kunkel for or on behalf of Pinnacle or the Pinnacle Partnerships.

(b) In the event that Kunkel or Westport makes a demand upon the Receiver under this indemnity provision with respect to any claim or action, the Receiver shall have the right, at his option and in his sole discretion, to demand from Kunkel or Westport an assignment of any claim or action which Kunkel or Westport may have against any such claimant.

(c) In the event, for any reason, Kunkel or Westport do not, after notice, promptly cooperate in connection with assigning any claim either may have against any such claimant, then the Receiver is hereby authorized, constituted and appointed as attorney-in-fact for Kunkel or Westport to assign such claim on behalf of Kunkel or Westport to the Receiver, if the Receiver so decides.

(d) The Receiver's obligations under this indemnity are limited to the assets of the Receiver Estate and, in any event, shall not exceed \$600,000, which is amount being paid by Kunkel and Westport in connection with this settlement. Kunkel and Westport understand and agree that the indemnity is given by the Receiver in that capacity and not in his personal or individual capacity.

8. Cooperation. Kunkel and Westport agree that, upon execution of this Agreement and continuing thereafter, they shall, without charge to the Receiver or the Receiver Estate, cooperate with the Receiver and his counsel and other professionals working with them to provide information and assistance in the Receiver's investigation, as well as the prosecution or defense of any claims by or against the Receiver Entities; however, Kunkel and Westport shall be entitled to reimbursement from the Receiver Estate for reasonable out-of-pocket expenses such as travel and significant copying or duplication of records.

9. Media/Press Contact. The Receiver agrees he will not make any press release or other written or oral statement regarding this settlement to any media outlet and that he will instruct his agents and employees to avoid all such disclosures and will use his best efforts to assure compliance. Should the Receiver be approached by the media, he agrees to inform the inquiring party that the Parties recently resolved certain disputes; as a result, other than the filings

made with the Court and communication with investors, creditors, the Securities and Exchange Commission and the Court, the Parties cannot comment on those matters.

Nothing herein shall prohibit or prevent the Receiver from performing his duties in this receivership, which include informing investors and creditors of the settlement with Kunkel; nor shall anything herein prevent the Receiver from communicating with the Court or the Securities and Exchange Commission regarding the settlement.

10. The Receiver, Kunkel and Westport acknowledge and agree that this Agreement is entered into for the purpose of compromising disputed claims and that the giving and receiving of the consideration and covenants provided for herein shall not be construed as an admission by Kunkel or Westport of any liability or wrongdoing of any kind. Conversely, the Receiver believes that the monetary liability to the Receiver Estate is well in excess of the amount paid pursuant to this Agreement and, by entering into this Agreement with Kunkel and Westport, the Receiver does not intend to release, waive, limit or otherwise modify his rights and claims against others, not identified in this Agreement, who may be liable to the Receiver Estate.

11. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

12. This Agreement in all respects shall be interpreted, enforced and governed by and under the laws of the State of Georgia, without giving effect to conflict of laws. The Receiver, Kunkel and Westport agree that the United States District Court for the Northern District of Georgia, Atlanta Division, shall have exclusive jurisdiction over all issues related to this Agreement.

13. This Agreement contains the entire agreement between the parties hereto and may not be amended or modified except by a written agreement signed by each of them. The Receiver, Kunkel and Westport acknowledge that no representations, inducements, promises, or agreements have been made by or on behalf of any party except those covenants and agreements embodied in this Agreement and the sworn personal financial statements provided by Kunkel. No agreement, statement, or promise not contained in this Agreement shall be valid or binding.

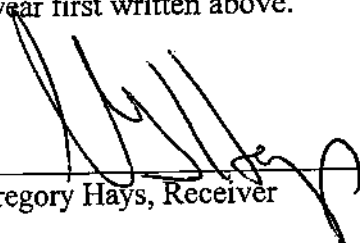
14. The parties to this Agreement stipulate that each term and condition of this Agreement is material to each of the parties and that, in the event the Court does not approve this Agreement in *toto* without modification, no party shall be bound hereby.

15. The Receiver, Kunkel and Westport warrant and represent that in executing this Agreement, they have relied upon legal advice from their attorneys of choice, that the terms of this Agreement, and its consequences, have been completely read and explained by their attorneys, and that they fully understand the terms of this Agreement.

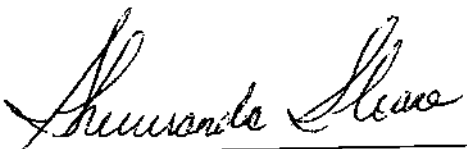
16. This Agreement may be executed in counterparts.

(Signatures on Following Page)

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year first written above.



S. Gregory Hays, Receiver



Witness

Christopher M. Kunkel, Individually
and on behalf of Christopher M. Kunkel,
Attorney at Law, PC

Witness

[Need Westport Rep. Name]
Westport Insurance Corporation

Witness

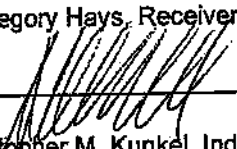

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and on behalf of Christopher M. Kunkel,

Attorney at Law, PC

[Need Westport Rep. Name] Witness

Westport Insurance Corporation

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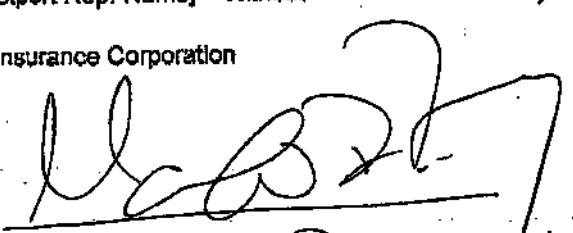
 2/12/08

Christopher M. Kunkel, Individually Witness

and on behalf of Christopher M. Kunkel,
Attorney at Law, PC

[Need Westport Rep. Name] Witness

Westport Insurance Corporation

By: 
Matthew R. Davis, Asst Vice President