

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

PINNACLE DEVELOPMENT  
PARTNERS LLC and GENE A.  
O'NEAL,

Defendants.

---

CIVIL CASE NO.  
1:06-CV-2431-JTC

**ORDER**

This matter is currently before the Court on Receiver S. Gregory Hays's Motion for Resolution of Disputed Claims [# 89] and Motion for Order to Direct the Return of Funds to the Receiver Estate [# 114]. Pursuant to the Receiver's Plan for Claims Administration and Distribution of Proceeds (the "Plan") previously approved by the Court, the Receiver moves for resolution of the remaining disputed claims. Additionally, the Receiver seeks an Order directing Rodney Hatfield, Trillium Investments LLC, and RLH Investments to return to the Receiver Estate the \$91,544.53 previously distributed to them. The Court **GRANTS** the Receiver's motions.

## **I. Background**

The Securities and Exchange Commission (“SEC”) initiated this action against Defendants Pinnacle Development Partners, LLC (“Pinnacle”) and Gene A. O’Neal for violations of the Securities Act of 1933 and the Securities Exchange Act of 1934. The Complaint alleged that Defendants engaged in fraudulent investment offerings involving real estate partnerships.

Subsequently, the Court entered a Consent Order granting a preliminary injunction, froze Defendants’ assets, and appointed S. Gregory Hays as Receiver.

In furtherance of his duties, the Receiver directed Pinnacle’s investors and creditors to submit claim forms. The Receiver posted the claim form on its website and mailed a copy to the individuals and entities who, based on Pinnacle’s records, invested in Pinnacle. In order to ensure the proper identity of Pinnacle’s investors, the claim form required that the individual submitting the form provide a list of the names and addresses of the individuals, if any, on whose behalf the individual invested money in Pinnacle. The individuals submitting the claim forms swore, under penalty of perjury, that the information contained in the form was accurate and complete. After the deadline for submitting claims to the Receiver passed,

the Court approved an interim distribution to those individuals who submitted valid claims.

**A. Claims No. 3953 and 3957**

Investor Rodney Hatfield submitted two claims on behalf of himself and RLH Investments and Trillium Investments showing a total net loss \$367,398.44.<sup>1</sup> Mr. Hatfield did not indicate on the claim forms that he had invested money in Pinnacle on behalf of anyone else. Accordingly, the Receiver approved Claim No. 3953 in the amount of \$220,398.44 in the name of RLH Investments and Claim No. 3957 in the amount of \$84,750.00 in the name of Rodney Hatfield and Trillium Investments. Based upon the information contained in the two sworn claim forms, the Receiver made a \$91,544.43 interim distribution to Mr. Hatfield.

After the interim distribution, individuals began contacting the Receiver inquiring as to the status of the interim distribution made to Mr. Hatfield. Thirteen individuals claimed that they provided Mr. Hatfield with the funds to invest in Pinnacle, but that he had not distributed any of the interim distribution to them. Subsequently, the Receiver contacted Mr. Hatfield, who acknowledged that he had made the investments on behalf of

---

<sup>1</sup> RLH Investments and Trillium Investments are controlled by Mr. Hatfield, who submitted both claims.

others, and that he had not distributed any of the interim distribution to them.

**B. The Relief Requested by the Receiver**

Pursuant to Section 2.6.3 of the Plan, the Receiver seeks resolution of the remaining disputed claims. Seven claims remain in dispute. The Receiver also seeks resolution of nine previously approved claims, which the Receiver subsequently discovered discrepancies in submission and other related issues. Additionally, the Receiver seeks approval of four undisputed revised claims and one new claim. Finally, the Receiver requests an order from the Court requiring Mr. Hatfield to turn over the \$91,544.53 distributed to him by the Receiver as part of the interim distribution.

The Receiver provided notice to each investor with an affected claim. The Receiver also instructed the investors that if the investor failed to file a response to the motion, that the Receiver requests that the Court adopt the Receiver's position as unopposed. No investor filed a response to the Receiver's motions.

**II. Claims Administration and Disposition of Real Property**

“The district court has broad powers and wide discretion to determine relief in an equity receivership.” SEC v. Elliott, 953 F.2d 1560, 1566 (11th Cir. 1992). “This discretion derives from the inherent powers of an equity

court to fashion relief.” Id. “[A] primary purpose of equity receiverships is to promote orderly and efficient administration of the estate by the district court for the benefit of creditors.” SEC v. Hardy, 803 F.2d 1034, 1038 (9th Cir. 1986). To that end, “it is appropriate for the district court to use summary proceedings.” Elliott, 953 F.2d at 1566. Moreover, Section 2.6.3 of the Plan provides that the Court shall resolve in summary proceedings any disputed claim, which the Receiver cannot resolve by agreement. The Federal Rules of Civil Procedure do not apply to such proceedings.

**A. Claims No. 3953 and 3957**

The Receiver seeks an Order requiring Mr. Hatfield to turn over the \$91,544.53 previously distributed to him. Mr. Hatfield did not respond to the Receiver’s motion.

A District Court administering a receivership estate has authority to order a claimant to make restitution. Alexander v. Hillman, 296 U.S. 222, 241-42, 56 S. Ct. 204, 211 (1935); see also East v. Crowdus, 302 F.2d 645, 647 (8th Cir. 1962) (“The law is that a claimant who files and undertakes to prove his claim in an equitable receivership proceeding becomes a party thereto by intervention and thereby fully submits himself to the jurisdiction of the Court appointing the receiver.”) Ordering a claimant to turnover previously distributed funds or property is appropriate where an individual

misappropriates funds or property from the receiver estate. Hillman, 296 U.S. at 241-242, 56 S. Ct. at 210-211.

Here, Mr. Hatfield failed to indicate on the claim forms the information regarding the individuals on whose behalf he invested in Pinnacle. As a result of this omission, Mr. Hatfield received an interim distribution of \$91,544.53 to which he is not entitled. Accordingly, the Court **GRANTS** the Motion for Order to Direct the Return of Funds to the Receiver Estate [# 114] and **ORDERS** Mr. Hatfield to turn over the \$91,544.53 to the Receiver. The Receiver shall determine the proper parties to receive the distribution related to the two claims submitted by Mr. Hatfield.

### **B. The Remaining Claims**

The Court has considered the Receiver's unopposed position as to each of the remaining disputed claims, as well as the attached exhibits and other materials provided in support. Based on the Court's broad discretion in these matters and the Receiver's unopposed position as to each claims, the Court **GRANTS** the Motion for Resolution of Disputed Claims [# 89] and adopts the position of the Receiver as to the disputed claims.

### **III. Conclusion**

The Court **GRANTS** the Motion for Order to Direct the Return of Funds to the Receiver Estate [# 114] and the Motion for Resolution of

Disputed Claims [# 89]. The Court **RESOLVES** the disputed claims and **APPROVES** the claims as specified in Attachment A. The Court **ORDERS** Rodney Hatfield and Trillium Investments, LLC to turn over \$25,425.00 to the Receiver Estate and Rodney Hatfield and RLH Investments to turn over \$66,119.53 to the Receiver Estate. Finally, the Court **DENIES** the Receiver's request to have specific investors return their net profits.

**SO ORDERED**, this 10th day of November, 2008.

A handwritten signature in blue ink, appearing to read "Jack Camp", is written over a horizontal line.

JACK T. CAMP  
UNITED STATES DISTRICT JUDGE

**Attachment A**

<b><u>Claim No.</u></b>	<b><u>Investor Name</u></b>	<b><u>Approved Amounts</u></b>
2323	A. Whi.	\$0.00
2643	D. Cra.	\$8,500.00
3327	K. Kad.	\$3,250.00
3498	M. Vil.	\$0.00
3630	M. Mer.	\$0.00
3720	N. Vil.	\$0.00
3979	R. Vil.	\$0.00
2371	Shane Properties, LLC	\$11,250.00
2407	B. Bon. and J. Bon.	\$7,500.00
3719	NS Beachside Investments, Inc.	\$10,000.00
2506	Christopher M. Pesche and Renate R. Pesche	\$12,000.00
2395	B. Hea.	\$2,375.00
2908	G. Mar., Jr. and D. Mar.	\$0.00
3048	J. Gre.	\$0.00
3554	M. Moo.	\$0.00
3742	Omar D. Pena and Maris Pena	\$7,500.00
2553	R. Rei. and D. Rei.	\$13,500.00
3013	I. Ter.	\$0.00
3163	J. Foo.	\$10,000.00
3283	K. Joy.	\$8,800.00
3801	Palm Beach Home Solutions, LLC	\$2,500.00