

**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 ACTION NO.

06 CV 2431-JTC

**NOTICE OF SALE OF REMAINING PROPERTIES AND
MOTION TO REOPEN CASE FOR FINAL ADMINISTRATION
OF RECEIVER ESTATE AND FOR ORDER APPROVING
PROCEDURES FOR FINAL CLOSING OF RECEIVERSHIP**

S. Gregory Hays, the “Receiver” for Defendant Pinnacle Development Partners, LLC (“Pinnacle”) and all of its assets (the “Receiver Estate”) files this Notice of Sale of Remaining Properties and Motion to Reopen the Case and for Order Approving Procedures for Final Closing of Receivership, and states as follows:

BACKGROUND

1. The Receiver was appointed by Order dated October 11, 2006 (the “Receivership Order”) [ECF No. 3].

2. The activities of the Receiver through and including September 29, 2010 are summarized in the following documents:
- a. Receiver's First Interim Report, filed on October 30, 2006 [ECF No. 5];
 - b. Receiver's Second Interim Report, filed on January 26, 2007 [ECF No. 20];
 - c. Receiver's Plan for Claims Administration and Distribution of Proceeds, and Brief in Support, filed on February 28, 2007 [ECF Nos. 21-22];
 - d. Receiver's Real Property Disposition Procedures and Brief in Support, filed on March 12, 2007 [ECF No. 24];
 - e. Receiver's Motion for Approval of Interim Distributions Pending Final Resolution of all Disputed Claims, filed on July 27, 2007 [ECF No. 41];
 - f. Receiver's Motion for Approval of Revised Approved Claims Schedule, filed on January 30, 2008 [ECF No. 59];
 - g. Receiver's Third Interim Report, filed on February 20, 2008 [ECF No. 64];
 - h. Receiver's Status Report, filed on May 9, 2008 [ECF No. 93];
 - i. Receiver's Unopposed Motion for Status Conference, filed on October 10, 2008 [ECF No. 117];
 - j. The 28 fee applications filed by the Receiver to date [ECF Nos. 12, 16, 26, 27, 32, 38, 39, 40, 47, 51, 53, 66, 73, 85, 97, 102, 112, 116, 120, 121, 132, 145, 157, 168, 172, 175, 177, 179];
 - k. Consent Order Administratively Closing Case, entered on September 29, 2010 [ECF No. 181].

3. The Court has also held status conferences on May 14, 2008 and January 9, 2009 to discuss the status of the various real properties (the “Properties”) that were included as part of Pinnacle’s assets, including all assets of the various partnerships controlled by Pinnacle – *i.e.*, the Receiver Estate.

4. As more fully described in the above-listed filings, by October 2009, most of the work in this receivership had been concluded, including: (a) claims administration and distributions totaling 38% of approved investor and creditor claims; (b) recoveries from third parties; and (c) sale of 16 of 22 properties that are a part of the Receiver Estate. The only outstanding issues that related to sale of the following six remaining properties (the “Remaining Properties”):

- a. Adeline Avenue, Atlanta, Fulton County, GA, Tax Parcel No. 14-0174-LL-008-5 (undeveloped land with no address) (“Adeline Avenue”);
- b. 1941 Compton Drive, Atlanta, GA 30315 (“Compton Drive”);
- c. Old Alabama Road, Austell, Cobb County, GA, Tax Parcel Nos. 1802580-002-0 and 180201-003-0 (undeveloped land with no address) (“Old Alabama Road”);
- d. Old National Highway, College Park, Fulton County, GA, Tax Parcel No. 13-0157-LL-011-02 (undeveloped land with no address) (“Old National Highway”);
- e. 2062 Poplar Falls, Lithonia, GA 30058 (“Poplar Falls”); and

f. Sandpiper Lane, Austell, Cobb County, GA, Tax Parcel No. 1801330-027-0 (undeveloped land with no address) ("Sandpiper Lane").

5. On October 29, 2010, at the request of Judge Camp, the Receiver, with the consent of the Securities and Exchange Commission submitted, and Judge Camp entered a Consent Order Administratively Closing Case, entered on September 29, 2010 (the "Consent Order") [ECF No. 181].

6. Under the Consent Order, this action was administratively closed pending the sale of the Remaining Properties, with the Receiver continuing to have all rights, power, and protections as set forth in all previous orders. The Consent Order also confirmed the Receiver's authority to sell the Remaining Properties by private sale or public sale in accordance with the Receiver's Real Property Disposition Procedures, which were approved by Order, dated April 18, 2007 [ECF No. 28]. The Consent Order also authorized the Receiver to pay all professional fees and expenses in the ordinary course out of the assets of the Receiver Estate, without prior court approval.

7. The Consent Order further provided that this Court would retain jurisdiction over any and all matters relating to the receivership and the Receiver Estate, including any matters relating to the sale of the Remaining Properties and

the disbursement and/or distribution of funds by the Receiver after the receivership is closed.

8. Finally, the Consent Order provided that:

The Receiver shall file a Notice with this Court upon the sale of the Remaining Properties, and the case shall be reopened for the final administration of the Receiver Estate, which shall include, among other things, a final accounting by the Receiver of the Receiver Estate and other related Matters.

9. Accordingly, the Receiver hereby files his Notice of the sale of the Remaining Real Properties and seeks to have this case reopened for the final administration of the Receiver Estate, including a final accounting by the Receiver and the entry of an Order finally closing the case.

NOTICE OF SALE OF REMAINING REAL PROPERTIES

10. Since the entry of the Consent Order, the Receiver has sold all of the remaining properties – one at private sale and five at public sale.

11. On November 18, 2010, pursuant to the Court's Order Approving Sale of Real Property dated November 9, 2010 [ECF No. 184], the Receiver sold the Poplar Falls property. The Receiver sold the remaining properties at a public sale held on December 8, 2010. The closing dates, sales prices, and net proceeds to the Receiver Estate of each of these sales is listed in the table below:

Property Name	Gross Sale Price	Commission	Net Sale Proceeds	Closing Date
Adeline Avenue	\$ 43,450.00	\$ 4,819.00	\$ 38,631.00	12/27/2010
Compton Drive	\$ 2,916.10	\$ 323.42	\$ 2,592.68	12/27/2010
Old Alabama Road	\$ 55,550.00	\$ 6,161.00	\$ 49,389.00	12/27/2010
Old National Highway	\$ 176,000.00	\$ 19,520.00	\$ 156,480.00	12/27/2010
Poplar Falls	\$ 240,000.00	\$ 19,200.00	\$ 220,800.00	11/18/2010
Sandpiper Lane	\$ 71,500.00	\$ 7,930.00	\$ 63,570.00	12/27/2010
Totals	\$ 589,416.10	\$ 57,953.42	\$ 531,462.68	

**MOTION TO REOPEN CASE FOR FINAL ADMINISTRATION
AND FOR ORDER APPROVING PROCEDURES FOR
FINAL CLOSING OF RECEIVERSHIP**

12. Having sold the Remaining Properties, the Receiver now seeks to reopen the case for final administration of the Receiver Estate. To that end, attached hereto as Exhibit A is the Receiver's Final Report. The Final Report summarizes the receivership, includes a final accounting of the Receiver Estate, and proposes certain procedures related to the final closing of the Receivership.

13. Upon the Court's granting of the procedures set forth in the Final Report, the Receiver will complete the final work related to the Receivership and the case will be ready for final closing.

WHEREFORE, the Receiver respectfully requests that the Court enter an Order:

- (a) Reopening the case for final administration of the Receiver Estate;
- and
- (b) Approving the procedures set forth in the Receiver's Final Report.

A Proposed Order is attached hereto as Exhibit B.

Respectfully submitted, this 1st day of July, 2011.

/s/ Thomas B. Bosch

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Attorneys for S. Gregory Hays, Receiver

LOCAL RULE 7.1D CERTIFICATE OF COMPLIANCE

The undersigned certifies that this **NOTICE OF SALE OF REMAINING PROPERTIES AND MOTION TO REOPEN CASE FOR FINAL ADMINISTRATION OF RECEIVER ESTATE AND FOR ORDER APPROVING PROCEDURES FOR FINAL CLOSING OF RECEIVERSHIP** has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1B

By: /s/ Thomas B. Bosch
Thomas B. Bosch
Georgia Bar No. 068740

CERTIFICATE OF SERVICE

This is to certify that on July 1, 2011, I electronically filed this **NOTICE OF SALE OF REMAINING PROPERTIES AND MOTION TO REOPEN CASE FOR FINAL ADMINISTRATION OF RECEIVER ESTATE AND FOR ORDER APPROVING PROCEDURES FOR FINAL CLOSING OF RECEIVERSHIP** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to counsel of record.

By: /s/ Thomas B. Bosch
Thomas B. Bosch
Georgia Bar No. 068740

EXHIBIT A

**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 ACTION NO.
06 CV 2431-JTC

RECEIVER'S FINAL REPORT

S. Gregory Hays, the Court appointed Receiver for Defendant Pinnacle Development Partners, LLC ("Pinnacle") and all of its assets, including assets owned by partnerships controlled by Pinnacle (the "Receiver Estate"), files this Final Report.

BACKGROUND

1.

The Securities and Exchange Commission filed the above-styled civil enforcement action on October 11, 2006 [ECF No. 1]. In an Order of the same date, S. Gregory Hays was appointed as Receiver for the Receiver Estate (the "Receivership Order") [ECF No. 3].

2.

In accordance with his responsibilities under the Receivership Order, the Receiver developed a claims submission and review process designed to: identify investors and other creditors with claims against the Receiver Estate; determine the proper amounts of those claims; and, ultimately, make payments to legitimate claimants in a way that is appropriate under the circumstances of this case. The process developed by the Receiver to accomplish these purposes is set forth in the Receiver's Plan for Claims Administration and Distribution of Proceeds (the "Plan"), which was approved by the Court on April 27, 2007 [ECF No. 28].

3.

After carefully administering the claims submission and review process pursuant to the Plan, the Receiver filed a Motion for Approval of Interim Distributions Pending Final Resolution of All Disputed Claims on July 27, 2007 [ECF No. 41], which the Court granted on August 24, 2007 [ECF No. 48]. On January 30, 2008, the Receiver filed a Motion for Approval of Revised Approved Claims Schedule [ECF No. 59], which the Court approved on March 25, 2008 [ECF No. 71]. On April 29, 2008, the Receiver filed a Motion for Resolution of Disputed Claims [ECF No. 89], which the Court granted on November 12, 2008 [ECF No. 124].

4.

As described below, the Receiver has now distributed the vast majority of the Receiver Estate to investors and other creditors with approved claims. Moreover, the Receiver has now sold all of the real properties that were part of the Receiver Estate, which included the 21 properties that initially were included in the Receiver Estate, which are described more fully in the Receiver's Second Interim Report [ECF No. 20], as well as one property obtained by the Receiver in settlement of claims asserted by the Receiver in related litigation styled *S. Gregory Hays, Receiver for Pinnacle Development Partners, LLC v. Dana F. Ash*, Civil Action No. 1:07-CV-2508-JTC, United States District Court for the Northern District of Georgia.

5.

Consistent with the terms of the Receivership Order and the Plan, this Final Report contains a financial summary indicating the receipt and disbursement of money by the Receiver during the course of the receivership, a description of the activities necessary to close the receivership, and the Receiver's plan for the distribution of all funds remaining in the Receiver Estate.

FINANCIAL SUMMARY FOR THE RECEIVER ESTATE

6.

A financial statement for the Receiver Estate indicating the receipt and disbursement of money by the Receiver during the course of the receivership is attached as Exhibit A, and a summary of recoveries and disbursements is included in the following paragraphs.

7.

Over the course of this receivership, the Receiver recovered a total of \$20.8 million to be administered in the Receiver Estate. As set forth in the Plan, the Receiver administered these funds as a common fund, with all investors and other creditors receiving a pro rata payment of the monies available for distribution.

8.

To date, the Receiver has distributed \$15.8 million to investors and other creditors with approved claims. These distributions represent almost 40% of the total approved claims of \$39.2 million.¹

¹ Total approved claims include those approved claims in the Receiver's Revised Approved Claims Schedule, which was approved by the Court on March 25, 2008 [ECF No. 71], as adjusted as a result of: (1) the Court's November 12, 2008 Order [ECF No. 124], which granted the Receiver's Motion for Resolution of Disputed Claims [ECF No. 89] and the Receiver's Motion for Order Directing Return of Funds to the Receiver Estate [ECF No. 114]; (2) the return of funds to the Receiver Estate and the addition of new claimants resulting from the resolution of litigation

9.

During the course of this receivership, the Receiver submitted 28 interim fee applications for the approval of payment of the professional fees and expenses of the Receiver, Hays Financial Consulting, and Troutman Sanders, LLP for services provided through March 2010.² None of the fees and expenses in these applications were opposed and the Court granted each of the Receiver's interim fee applications. The total approved professional fees and expenses were: Receiver, \$193,648.84; HFC, \$1,806,311.04; and Troutman Sanders, \$934,765.77.

10.

On September 29, 2010, the Court entered a Consent Order Administratively Closing Case [ECF No. 181], in which the Court authorized the Receiver to pay all professional fees and expenses in the ordinary course out of the assets of the Receiver Estate without first applying to the Court for such payment. The total amount of professional fees and expenses paid by the Receiver since September

against Rodney Hatfield and related entities in *Hatfield v. S. Gregory Hays, Receiver for Pinnacle Development Partners, LLC*, Case No. M96457, Superior Court of California, Monterey County; (3) reclassification of certain claims as disapproved in accordance with Section 3.7 of the Plan; and (4) other miscellaneous non-material changes.

² ECF Nos. 12, 16, 26, 27, 32, 38, 39, 40, 47, 51, 53, 66, 73, 85, 97, 102, 112, 116, 120, 121, 132, 145, 157, 168, 172, 175, 177, 179.

29, 2010, for services rendered from April 2010 through May 2011 are: Receiver, \$18,600.00; HFC, \$101,750.38; Troutman Sanders, \$34,797.77. Throughout the course of the receivership, the Receiver Estate also incurred and paid other fees and expenses in the ordinary course, as permitted by the Receivership Order.

11.

Though the Receiver has completed distributions to investors and other creditors with approved claims and most of the other work in this receivership has been completed, the Receiver has retained approximately \$4,000 in the Receiver Estate for the payment of professional fees and expenses incurred in completing the remaining work necessary prior to the final closing of the receivership. In addition, as of the date of this filing, checks totaling approximately \$35,000 from the final distribution on approved claims have not yet been cashed. The Receiver's proposal for the distribution of the \$4,000, along with any distribution checks that are not cashed within 120 days of issuance is set forth below, along with a description of the activities necessary to close the Receiver Estate.

**ACTIVITIES NECESSARY TO CLOSE THE RECEIVERSHIP AND USE
OF FUNDS REMAINING IN THE RECEIVER ESTATE**

12.

The activities in this receivership are largely complete, with only a few outstanding matters that require resolution and/or completion prior to the final closing of the receivership.

13.

Dissolution of the Pinnacle Partnerships. Pinnacle structured its investment opportunities as fractional shares of general partnerships, all of which were formed in Georgia, which Pinnacle represented as being formed to invest in real property (the “Pinnacle Partnerships”). Pinnacle was a partner in each of the Pinnacle Partnerships. In total, Pinnacle formed more than 50 Pinnacle Partnerships, some of which were, at one time or another, the record owner of one or more of the 21 parcels of real property that were part of the initial Receiver Estate. A list of the known Pinnacle Partnerships is attached hereto as Exhibit B.³ Pinnacle never

³ Exhibit B includes all Pinnacle Partnerships that were listed as record owners of any of the real properties in the Receiver Estate and other partnerships for which the Receiver was able to locate formation documents or similar records. Because Pinnacle’s records were not well organized and were incomplete, and because Pinnacle never treated the Pinnacle Partnerships as true partnerships, it is impossible for the Receiver to know whether partnerships in addition to those listed on Exhibit B were formed by Pinnacle.

adhered to the terms of any of the partnership agreements related to the Pinnacle Partnerships and the Partnerships were, for all intents and purposes, fictitious entities created to further Pinnacle's investment fraud. The Pinnacle Partnerships engaged in no business, and none of the Pinnacle Partnerships has any remaining assets, liabilities or partners (other than the investors whose claims – *i.e.*, interests in the partnerships – have been administered during this receivership).

14.

Pursuant to O.C.G.A. § 18-8-32(a)(2) - (5), a court shall decree a dissolution of a partnership whenever, among other things:

- (2) A partner becomes in any other way incapable of performing his part of the partnership contract;
- (3) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business;
- (4) A partner willfully or persistently commits a breach of the partnership agreement or otherwise so conducts himself in matters relating to the partnership business that is not reasonably practicable to carry on the business in partnership with him;
- (5) Other circumstances render a dissolution equitable.

Here, all of these factors have been present from the day each of the Pinnacle Partnerships was formed. Accordingly, included in the proposed Order is a decree

dissolving all of the Pinnacle Partnerships and relieving the Receiver from any and all further obligations or liabilities related to the Pinnacle Partnerships.

15.

Final Tax Returns. The Receiver has prepared and filed the final tax returns for the Receiver Estate. The Receiver does not anticipate any tax liability related to these filings and any amounts owed will be paid from the \$4,000 held in reserve and/or funds that are available as a result of uncashed distribution checks.

16.

Document Retention. Upon entry of the accompanying proposed Order, the Receiver will destroy Pinnacle's pre-receivership records. The Receiver will maintain the records created during the course of this receivership in accordance with his standard document retention and destruction policies.

17.

Final Payment of Professional Fees and Expenses. All professional fees and expenses for services performed through May 2011 have been paid; however, additional fees and expenses have been incurred in connection with the filing of this Final Report and the Receiver expects that modest additional fees and expenses will be incurred in connection with closing the receivership. As described above, the Receiver has reserved \$4,000 for unpaid fees and expenses

incurred to date and for the payment of future fees and expenses. Moreover, the Receiver anticipates that a portion of the \$35,000 in outstanding final distribution checks will not be cashed. The Receiver intends to use a portion of the funds that become available from these unclaimed distribution checks to pay professional fees and expenses that are in excess of the \$4,000 held in reserve. The Receiver will pay these fees and expenses in the ordinary course as funds become available.

18.

The Receiver and the professionals working with him bear the risk that the amount reserved, together with the funds that become available from unclaimed distribution checks, will be insufficient to cover the remaining professional fees and expenses. To the extent the Receiver Estate incurs additional fees and expenses (including payments owed to taxing authorities) that are less than the reserve and the unclaimed checks, the excess amounts will be treated as “Unclaimed Funds,” the disposition of which is addressed in Paragraph 23 below.

19.

Gene O’Neal Restitution. Defendant Gene O’Neal, who controlled Pinnacle at all relevant times prior to the appointment of the Receiver, was also named a defendant in a criminal proceeding in this District: *United States v.*

O'Neal, Case No. 1:07-CR-0070, United States District Court for the Northern District of Georgia, Atlanta Division (Martin, J.) (the "Criminal Action").

20.

On September 18, 2007, a judgment was entered against *O'Neal* in the criminal case (the "Criminal Judgment") and he was ordered to pay restitution in the amount of \$22,031,700.⁴ Judge Martin further ordered that all restitution payments be made to the Receiver and that "[p]ayments received S. Gregory Hays, Receiver, will be disbursed to the list of victims supplied by the Unites States." A copy of the judgment is attached hereto as Exhibit C.

21.

The Receiver is prepared to comply with the obligations imposed upon him by the Criminal Judgment; however, the Receiver does not believe that there will be sufficient restitution payments to merit a distribution for years to come, if ever. Therefore, the Receiver's obligations under the Criminal Judgment should not delay the closing of this receivership.

⁴ The Receiver testified at *O'Neal*'s sentencing hearing. \$22,031,700 was the anticipated amount of losses *after* all distributions by the Receiver in this action. Therefore, the restitution amount is not diminished as a result of the distributions by the Receiver to date.

22.

The Receiver has consulted the Financial Litigation Unit of the United States Attorney's Office for the Northern District of Georgia, which does not oppose the termination of the receivership and the transfer of the restitution collection and distribution functions to the Clerk of Court. The United States Attorney's Office intends forthwith to file a Motion to Amend the Judgment in the Criminal Action, to recommend modification of the judgment to accommodate the transfer of these functions. Any fees and expenses incurred by the Receiver and the professionals working with him related to the Receiver's obligations under the Criminal Judgment will be paid by the Receiver in the ordinary course from the remaining Unclaimed Funds and from any restitution payments received by the Receiver.

23.

Unclaimed Funds. Pursuant to Section 3.7 of the Plan, "Unclaimed Funds" constitute "any check issued as part of an interim distribution or the final distribution in this receivership that has not been cashed within 120 days of the date of the check." The Plan, which was approved prior to entry of the Criminal Judgment, provides that Unclaimed Funds may be donated to the charity of the Receiver's choice. In light of the Criminal Judgment, the Receiver plans to retain

for future restitution distributions any Unclaimed Funds that remain after the final payment of professional fees; however, if the United States Attorney's Office Motion to Amend the Judgment the Criminal Action is granted, and unless directed to do otherwise, the Receiver will donate these remaining Unclaimed Funds to the Crime Victims Fund established by the Victims of Crime Act of 1984.

24.

Final Notice. After all activities of the Receiver have been completed (other than performance of the Receiver's obligations under the Criminal Judgment), the Receiver shall file a simple Notice with the Court advising that all matters in this receivership have been concluded and that the receivership will be closed. Upon filing of the Notice, the receivership will be closed without the necessity of further Order of the Court and the Receiver shall be relieved of all of his duties and obligations under the Receivership Order.

25.

A proposed Order authorizing the procedure set forth herein and the closing of the receivership is attached hereto.

CONCLUSION

WHEREFORE, S. Gregory Hays, Receiver, respectfully requests that the Court enter the attached proposed Order authorizing the procedure set forth herein and the closing of the receivership.

This 1st day of July, 2011.

/s/ Thomas B. Bosch

J. David Dantzler, Jr.

Georgia Bar No. 205125

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Attorneys for S. Gregory Hays, Receiver

Local Rule 7.1D Certificate of Compliance

The undersigned certifies that this Final Report has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1B

By: /s/ Thomas B. Bosch
Thomas B. Bosch
Georgia Bar No. 068740

CERTIFICATE OF SERVICE

This is to certify that on July 1, 2011, I electronically filed this **RECEIVER'S FINAL REPORT** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to counsel of record.

By: /s/ Thomas B. Bosch
Thomas B. Bosch
Georgia Bar No. 068740

EXHIBIT A

EXHIBIT A

Pinnacle Development Partners, LLC Estate Sources and Uses of Funds (10/11/06 - 06/14/11)

Recoveries

Frozen Funds at Wachovia	\$ 14,191,995
Petty Cash	\$ 2,124
Interest Income	\$ 660,486
Earnest Money/Deposit/Retainer/Etc	\$ 408,872
Gene O'Neal Bank Accounts	\$ 36,181
Gross Proceeds from Sale of Real Property	\$ 4,481,805
Net Proceeds from Sale of Vehicles	\$ 207,873
Net Proceeds From Sale of Personal Property	\$ 82,526
Rental Income	\$ 30,828
Christopher Kunkel Settlement	\$ 600,000
Dana Ash Settlement	\$ 10,000
Mark Beierschmidt	\$ 15,888
Rodney Hatfield	\$ 59,700
Security Union Title	\$ 7,318
Gene O'Neal Restitution	\$ 438
Tax Refunds	\$ 38,948
Total Recoveries	<u>\$ 20,834,980</u>

Estate Expenses

Distributions on Approved Claims (Investors & Other Creditors)	\$ 15,789,446
Professional Fees & Expenses - Receiver	\$ 212,249
Professional Fees & Expenses Paid - Troutman Sanders LLP	\$ 969,564
Professional Fees & Expenses Paid - Hays Financial Consulting	\$ 1,908,061
Cost to Maintain Real Property and All Other Administrative Expenses	\$ 1,180,059
Costs Related to Sale of Real Property	\$ 683,864
Insurance	\$ 87,531
Total Expenses	<u>\$ 20,830,773</u>
Cash in Estate	\$ 4,206

EXHIBIT B

EXHIBIT B

PINNACLE PARTNERSHIPS

- (1) 1035 Harwell Street Development Partners
- (2) 1051 Regis Road Development Partners
- (3) 1100 First Street Development Partners
- (4) 1270 Trenton Street Development Partners
- (5) 1459 East Mercer Avenue Development Partners
- (6) 1490 Persimmon Log Court Development Partners
- (7) 176 Rhodesia Avenue Development Partners
- (8) 1967 Brian Way Development Partners
- (9) 2020 Corners Circle Development Partners
- (10) 2637 Ben Hill Avenue Development Partners
- (11) 2653 Tilson Road Development Partners
- (12) 2654 Baker Ridge Drive Development Partners
- (13) 2928 Webb Drive Development Partners
- (14) 3060 Waters Road Development Partners
- (15) 318 Simpson Road Development Partners
- (16) 3440 Bramblevine Circle Development Partners
- (17) 429 St. Ives Square Development Partners
- (18) 5150 Jamaica Court Development Partners
- (19) 5190 Cotter Drive Development Partners
- (20) 5218 Heather Lane Development Partners
- (21) 5283 Collingwood Terrace Development Partners
- (22) 5927 Rockbridge Road Development Partners

- (23) 8 Clifton Street Development Partners
- (24) 824 Bolton Road Development Partners
- (25) 8825 East Bourne Development Partners
- (26) 957 Victory Drive Development Partners
- (27) Ben Hill Avenue Development Partners
- (28) Brian Way Development Partners
- (29) Edgewood Condominiums Development Partners
- (30) Regis Road Development Partners
- (31) Rockbridge Road Development Partners
- (32) The Village at East Mercer Development Partners
- (33) Adeline Avenue Development Partners
- (34) Adeline Estates Development Partners
- (35) Adeline Village Development Partners
- (36) Jones Road Development Partners
- (37) Jones Estates Development Partners
- (38) Jones Village Development Partners
- (39) Jones Corner Development Partners
- (40) Columbia Drive Development Partners
- (41) Columbia Estates Development Partners
- (42) Columbia Village Development Partners
- (43) Rhinehill Road Development Partners
- (44) Rhinehill Estates Development Partners
- (45) Mt. Zion Road Development Partners
- (46) Mt. Zion Estates Development Partners
- (47) Boulder Park Development Partners

- (48) Boulder Estates Development Partners
- (49) Oxbo Road Development Partners
- (50) Oxbo Estates Development Partners
- (51) Sandpiper Lane Development Partners
- (52) Sandpiper Estates Development Partners
- (53) Poplar Falls Road Development Partners
- (54) Poplar Falls Estates Development Partners
- (55) Old Alabama at Cardell Development Partners
- (56) Old Alabama Estates Development Partners
- (57) Old National Highway Development Partners
- (58) 2139 Poplar Falls Road Development Partners
- (59) 2139 Poplar Falls Estates Development Partners
- (60) Davis Drive Development Partners
- (61) Davis Estates Development Partners
- (62) Niskey Lake Road Development Partners
- (63) Niskey Lake Estates Development Partners
- (64) Village at Lone Oak Development Partners
- (65) Edgewood Development Partners
- (66) 1459 East Mercer Development Partners
- (67) 5907 Lone Oak Development Partners

EXHIBIT C

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA

-vs-

Case No. 1:07-CR-0070-BBM

GENE A. O'NEAL

**Defendant's Attorney:
Michael O'Leary**

**JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)**

The defendant plead guilty to Count(s) 5 and 15 of the Indictment.

Accordingly, the defendant is adjudged guilty of such count(s) which involves the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Count No.</u>
18 U.S.C. §1341	Mail Fraud	5
18 U.S.C. §1343	Wire Fraud	15

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

Count(s) 1-4, 6-14, 16-19 are dismissed pursuant to the terms of the plea agreement.

It is ordered that the defendant shall pay the special assessment of **\$200.00** which shall be due immediately.

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within thirty days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No. XXX-XX-8843 Date of Imposition of Sentence: September 17, 2007
Defendant's Date of Birth: 1970
Defendant's Mailing Address:
Sandy Springs, GA

Signed this the 18th day of September, 2007.

s/Beverly B. Martin
BEVERLY B. MARTIN
UNITED STATES DISTRICT JUDGE

1:07-CR-0070-BBM : GENE A. O'NEAL

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **144 MONTHS on each of Counts 5 and 15, with terms to be served concurrently.**

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons as notified by the United States Marshal.

The court recommends that the defendant be designated to FPC Montgomery for service of sentence.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
Deputy U.S. Marshal

1:07-CR-0070-BBM : GENE A. O'NEAL

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **3 YEARS on each of Counts 5 and 15, with terms to run concurrently.**

While on supervised release, the defendant shall not commit another federal, state or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard and special conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

The defendant shall not possess a firearm as defined in 18 U.S.C. § 921.

The defendant shall not own, possess or have under his control any firearm, dangerous weapon or other destructive device.

The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall pay any restitution that remains unpaid at the commencement of the term of supervised release at the monthly rate of \$200.00, plus 25% of any gross monthly income in excess of \$2,000.00.

The defendant shall not incur new credit charges or open additional lines of credit without the approval of the United States Probation Officer and unless the defendant is in compliance with the installment payment schedule.

The defendant shall make a full disclosure of finances and submit to an audit of financial documents at the request of the United States Probation Office.

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on supervised release and at least two periodic drug tests thereafter as directed by the probation officer.

Pursuant to 42 U.S.C. §14135a(d)(1) and 10 U.S.C. §1565(d) which require mandatory DNA testing for federal offenders convicted of felony offenses, the defendant shall cooperate in the collection of DNA as directed by the United States Probation Officer.

The defendant shall submit to a search of his person, property, real or personal, residence, place of business or employment and/or vehicle(s) at the request of the United States Probation Officer.

1:07-CR-0070-BBM : GENE A. O'NEAL

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer within **72** hours of any change in residence or employment;
7. The defendant shall refrain from the excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician, and shall submit to periodic urinalysis tests as directed by the probation officer to determine the use of any controlled substance;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
11. The defendant shall notify the probation officer within **72** hours of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

RESTITUTION

The defendant shall make restitution to the following person(s) in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
S. Gregory Hays, Receiver Hays Financial Consulting, LLC 3343 Peachtree Road, NE East Tower, Suite 200 Atlanta, GA 30326	\$22,031,700.00

Payments received by S. Gregory Hays, Receiver, will be disbursed to the list of victims as supplied by the United States.

The defendant shall make payments from any wages he earns in prison, or any other assets available to him while incarcerated, in accordance with the Bureau of Prisons Financial Responsibility Program. Any portion of the restitution that remains unpaid at the time of the defendant's release from imprisonment shall become a condition of supervision and be paid at the monthly rate of \$200.00, plus 25% of any gross monthly income in excess of \$2,000.00.

EXHIBIT B

**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 ACTION NO.

06 CV 2431-JTC

**[Proposed] ORDER REOPENING THE CASE FOR FINAL
ADMINISTRATION, AUTHORIZING THE PROCEDURES SET
FORTH IN THE RECEIVER'S FINAL REPORT,
AND CLOSING THE RECEIVERSHIP**

This matter comes before the Court upon the filing by S. Gregory Hays, Receiver for Defendant Pinnacle Development Partners, LLC ("Pinnacle") and its assets (collectively, the "Receiver Estate") of the: (1) Notice of Sale of Remaining Properties and Motion to Reopen the Case for Final Administration and for Order Approving Procedures for Final Closing of the Receivership, and (2) the Receiver's Final Report. Having read and considered these filings and the procedures set forth in the Final Report,

IT IS HEREBY ORDERED that:

1. This case is reopened for final administration of the Receiver Estate.

2. All general partnerships created by Pinnacle in connection with the investment offerings at issue in this litigation (the "Pinnacle Partnerships") are dissolved and the Receiver shall bear no further responsibility whatsoever with respect to the Pinnacle Partnerships, including any claims or liabilities asserted against.

3. The Receiver is authorized to destroy all of Pinnacle's pre-receivership records. The Receiver shall maintain the records created during the course of this receivership in accordance with his standard document retention and destruction policies.

4. The Receiver is authorized to pay any remaining professional fees and expenses in the ordinary course from the reserve held by the Receiver for the payment of such fees and expenses and from any funds that become available as a result of any of the distribution checks from the Receiver's final distribution remaining uncashed as of 120 days after their date of issuance.

5. The Receiver is authorized to comply with his obligations under the September 18, 2007 judgment entered against Gene O'Neal (the "Criminal Judgment") in *United States v. O'Neal*, Case No. 1:07-CR-0070, United States District Court for the Northern District of Georgia, Atlanta Division (Martin, J.). To the extent any funds remain in the Receiver Estate after the payment of all

remaining professional fees and expenses (the "Unclaimed Funds"), the Receiver is authorized to retain those funds for future restitution distributions made pursuant to the Criminal Judgment. Any professional fees and expenses incurred by the Receiver in complying with his obligations under the Criminal Judgment will be paid by the Receiver in the ordinary course from the remaining Unclaimed Funds and from restitution payments received by the Receiver

6. Upon direction from the Court in Criminal Action No. 1:07-CR-0070, the Receiver is further authorized to transfer the receipt and distribution of restitution payments to the Clerk of Court in accordance with 18 U.S.C. 3611 and Criminal Judgment No. 1:07-CR-0070, and any amendments thereto. Unless directed otherwise, at the time of this transfer, the Receiver may donate any remaining Unclaimed Funds to the Crime Victims Fund established by the Victims of Crime Act of 1984.

7. To the extent not specifically address in this Order, all procedures set forth in the Final Report are approved and authorized.

8. After all activities of the Receiver have been completed (other than the performance of the Receiver's obligations under the Criminal Judgment), the Receiver shall file a simple Notice with the Court advising that all matters in this receivership have been concluded and that the receivership will be closed. Upon

filing of the Notice, the receivership will be closed without the necessity of further Order of the Court and the Receiver shall be relieved of all of his duties and obligations under the Receivership Order.

9. Upon the Receiver's filing of the Notice set forth in Paragraph 8, this receivership shall be terminated and closed without the necessity of further Order of the Court and: (i) S. Gregory Hays shall be fully relieved and discharged of all of his duties and obligations under the Order Granting Preliminary Injunction, Freezing Assets, Appointing Receiver and Order Other Ancillary Relief, dated October 11, 2006 (the "Receivership Order") [ECF No. 3], and any other duties or obligations incident to his service or appointment as Receiver in this case, and (ii) S. Gregory Hays and his attorneys, accountants, and consultants (the "Receiver Team") shall be fully released and discharged from any and all claims and causes of action which might be brought against them for matters arising from their administration of the assets turned over to the Receiver, including without limitation any claim concerning or relating to the filing of any local, state, or federal tax returns for the Receiver Estate or any of the Defendants herein and/or the reporting of any income, assets, or tax consequences to any person or entity.

10. Neither the Receiver nor any member of the Receiver Team shall have any liability to any person or entity for any action taken in good faith in

connection with carrying out the procedures set forth in this Order or the Receivership Orders. In the event that such a claim or cause of action is asserted against the Receiver or any member of the Receiver Team, the Receiver or Receiver Team member shall be entitled to a defense by counsel of his or her choice, payable as any other fee or expense incurred in connection with this receivership, even if willful misconduct is alleged.

11. The Receiver shall retain the authority to pursue any third party recoveries which, in his sole and absolute discretion, would benefit the Receiver Estate. However, the Receiver shall be under no obligation to pursue such recoveries.

12. This Court shall retain jurisdiction over any and all matters relating to the receivership and the Receiver Estate, including any matters relating to the distribution of funds received by the Receiver in connection with his obligations under the Criminal Judgment or otherwise received after the receivership is closed. To the extent any dispute arises concerning the Receiver's administration of the Receiver Estate or to the extent any person or entity seeks to pursue or assert any claim or action against the Receiver or any member of the Receiver Team arising out of or related to this receivership, the Court shall retain jurisdiction to hear and resolve any such dispute or claim.

IT IS SO ORDERED, this ____ day of _____, 2011.

Judge
United States District Court
Northern District of Georgia