

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

<p>SECURITIES AND EXCHANGE COMMISSION,</p> <p>Plaintiff,</p> <p>vs.</p> <p>PINNACLE DEVELOPMENT PARTNERS, LLC, and GENE A. O'NEAL</p> <p>Defendants.</p>	<p>CIVIL ACTION NO. 06 CV 2431</p>
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RECEIVER'S THIRD INTERIM REPORT

S. Gregory Hays, the Court-appointed Receiver for Pinnacle Development Partners, LLC, files his Third Interim Report showing the Court as follows:

INTRODUCTION

1. S. Gregory Hays was appointed as Receiver for Pinnacle Development Partners, LLC ("Pinnacle") and all of its assets, including assets owned by partnerships controlled by Pinnacle (the "Receiver Estate"), pursuant to the terms of an Order dated October 11, 2006 (the "Receivership Order").

2. In accordance with the Receivership Order, the Receiver filed his First Interim Report on October 30, 2006, and his Second Interim Report on January 26, 2007. The Receiver also has kept the Court apprised of the activities in this receivership over the past twelve months through the filing of various motions, notices and fee applications.

3. This Third Interim Report is intended to provide additional information regarding the activities of the Receiver and the professionals working with him (the “Receiver Team”), and the status of this receivership, since the filing of the Second Interim Report. In general, the facts and circumstances described in the previous reports are accurate as of today. The information in this report supplements, and, where necessary, revises the information provided in the Receiver’s First and Second Interim Reports.

OVERVIEW

4. The Receiver has determined that the investment opportunities offered by Pinnacle – partnership interests in general partnerships (the “Pinnacle Partnerships”) formed purportedly to invest in real property that would later be sold for a profit – operated as a Ponzi scheme. Although Pinnacle did purchase 21 parcels of real property (the “Real Properties”), it did very little to renovate or develop the Real Properties, and it did not sell any of the Real Properties to third

parties. Instead, Pinnacle relied on investor money to fund its operations and to pay returns to earlier investors.

5. As discussed in more detail below, during the course of its operation, Pinnacle raised approximately \$62 million in investor funds. Although Pinnacle made payments to some investors and creditors, the Receiver's analysis shows that Pinnacle's scheme resulted in an actual – *i.e.*, out of pocket – loss to investors and creditors of approximately \$40 million.

6. While the Receiver Team's work is ongoing, much has been accomplished in the last year, and the Receiver's investigation is, for the most part, complete. Since the filing of the Second Interim Report, the Receiver Team has, among other things:

- Engaged in extensive real estate activities, including:
 - securing and maintaining the properties;
 - meeting with developers and prospective purchasers; securing;
 - marketing properties;
 - obtaining appraisals;
 - preparing and obtaining approval of the Receiver's Property Disposition Procedures;
 - resolving title issues;

- selling properties via private sale; and,
 - preparing for and conducting the auction of 15 properties.
- Engaged in highly complex and thorough funds tracing analysis, including the process of recovering, organizing and analyzing the finance, accounting, and banking records of the Receiver Estate.
- Conducted extensive analysis of Pinnacle's tax issues, including tax issues associated with the various Pinnacle Partnerships.
- Obtained approval for the Receiver's Plan for Claims Administration and Distribution of Proceeds.
- Conducted an initial claims analysis and obtained Court approval to make interim distributions.
- Completed a detailed further analysis of all investor claims, resolved issues related to previously approved claims, made an interim distribution of 30% of approved claims, and sought the Court's approval of the Receiver's Revised Approved Claims Schedule.
- Recovered additional assets and money for the Receiver Estate.
- Sold items of personal property for the Receiver Estate.
- Reached agreement with various creditors to reduce claim amounts.

- Reached a \$600,000 dollar settlement with Pinnacle's former attorney, Christopher M. Kunkel.
- Initiated litigation against Pinnacle's former real estate agent and Gene O'Neal's former live-in girlfriend, Dana Ash.
- Communicated with and provided information to United States Attorneys Office and other government agencies.
- Maintained communication with investors via letter, the Receiver's website, an investor blog, and, individually, by email and telephone.

7. As discussed in more detail below, the bulk of the recent and remaining work in this receivership relates primarily to: (1) selling the remaining Real Properties described in detail in the Second Interim Report and Appendix thereto; (2) pursuing and collecting recoveries from Pinnacle's attorney and real estate agent; and (3) making additional distributions to Pinnacle's investors and creditors. The Receiver anticipates that this will be the last interim report filed prior to the Receiver's final report and motion to close the receivership.¹

¹ The Receiver may file an additional report to provide the Court with an update on the status of the Receiver's efforts to dispose of the Real Properties.

THE RECEIVER TEAM'S ACTIVITIES

Accounting and Funds Tracing Activities

8. The Receiver Team has concluded its efforts to account for the receipt, disposition and use of monies paid to Pinnacle by investors. The records reviewed by the Receiver Team in conducting its accounting and funds tracing analysis include: bank statements, wire advices, check copies, deposit slips, and other bank records kept by Pinnacle; Pinnacle's Foundation accounting system; and, information provided by financial institutions and other third parties.

9. The Receiver Team has thoroughly analyzed these records in an effort to develop an overall understanding of the financial and accounting activities of Pinnacle. This process was very complicated and made more difficult because Pinnacle's accounting records were incomplete. Among other things, the Receiver Team faced the following obstacles in completing its analysis:

- Although Pinnacle maintained investor files, Pinnacle did not segregate funds by investor or Pinnacle Partnership. Instead, Pinnacle deposited almost all investor funds into one account at Wachovia. Moreover, it was often times impossible to determine the origin of particular funds received by Pinnacle.

- Pinnacle did not maintain accurate and complete records of the Pinnacle Partnerships purportedly formed by it.
- Although Pinnacle used one bank account at Wachovia for most of its transactions, determining the ultimate use of the funds was difficult because Pinnacle did not maintain a complete, accurate and reliable accounting of transactions. For example, Pinnacle's Foundation accounting system was of limited use to the Receiver Team because Pinnacle failed to maintain or reconcile its accounting records.
- For certain transactions, complete information was not available even after a full review of Pinnacle's records and records provided by financial institutions.

10. Because Pinnacle did not segregate investment proceeds by investor or Pinnacle Partnership, the Receiver Team, in conducting its analysis, aggregated all assets of the Receiver Estate into a single pool, rather than attempting to segregate funds and assets by investor or Pinnacle Partnership. The Receiver Team also had to make assumptions about the nature of many payments.

11. Based on all of the information available to it, the Receiver Team keyed into a central database over 11,000 transactions, including the bank account, transaction date, payee/payor, amount of the transaction, and memo description. A

coding system was developed to classify the nature of each transaction, which allowed the Receiver Team to perform its funds tracing and to determine potential recoveries from third parties. The funds tracing database also was used in determining the proper amount of investor claims.

12. The nature of the data available to the Receiver Team made it impossible to prepare a 100% accurate accounting; however, the Receiver Team's analysis is complete and the Receiver is able to provide this Report to the Court. Accordingly, attached hereto as Exhibit A is a schedule that summarizes the results of the Receiver Team's efforts.²

Recoveries, Causes of Action, and Expenditures

13. *Recoveries.* As set forth in the First Interim Report, upon his appointment, the Receiver took control of \$14.2 million Pinnacle's bank accounts. Further, as set forth in detail in the Second Interim Report and Appendix thereto,

² Although accounting and funds tracing analysis shows investment funds totaling \$62,310,300 and returns on investments totaling \$25,672,600 the actual loss to investors was greater than the difference of \$36,637,600, because certain earlier investors received more than 100% of their initial return. In addition, the funds tracing amounts include \$837,646.54 in uncategorized receipts and \$2,360,236 in uncategorized disbursements. Based on its analysis, the Receiver team believes these monies were related to investor funds and returns. As reflected by the Receiver's Motion for Approval of Revised Approved Claims Schedule, filed with the Court on January 30, 2008, actual losses to investors totaled approximately \$40 million.

the Receiver also took control over the 21 Real Properties titled in the name of Pinnacle or one of the Pinnacle Partnerships. As discussed in further detail below, the Receiver's efforts to sell most of the Real Properties to bring additional cash into the Receiver Estate is ongoing.

14. In addition to the \$14.2 million in cash and the Real Properties, the Receiver has taken control of over \$500,000 in additional cash and numerous items of personal property, including:

Description of Asset	Net Recovery
Contents of Pinnacle Corporate Offices	\$50,755
Miscellaneous Office Supplies and Furniture	\$15,485
Recovery of Retainers to Legal Counsel	\$47,460
Earnest Money Recovered Related to Property Purchases Not Consummated	\$125,000
2006 GMC Van	\$13,523
2006 GMC Truck	\$11,000
2006 Hyundai Tucson	\$11,000
2007 Cadillac Escalade	\$56,075
2006 Range Rover	\$46,310
2006 Maserati Gransport	\$69,965
Insurance, Tax, Utility and Miscellaneous Refunds	\$98,225
Petty Cash from Corporate Office	\$2,123

15. *Christopher Kunkel Settlement.* The Receiver Team has investigated various potential causes of action against third parties. Based on this investigation and analysis, the Receiver made a demand upon and has recently entered into a settlement agreement with Pinnacle's former attorney, Christopher M. Kunkel. Effective February 4, 2008, the Receiver reached a settlement agreement with Kunkel, pursuant to which Kunkel and his professional liability insurance carrier agree to pay \$600,000 to the Receiver Estate. The settlement agreement is conditioned upon the Court's entry of an order approving the settlement and enjoining Pinnacle investors from filing suit or asserting any claim against Mr. Kunkel or his insurance carrier that relate in any way to Kunkel's representation of Pinnacle or the Pinnacle Partnerships. On February 14, 2008, the Receiver filed a motion for approval of the settlement agreement.

16. *Dana Ash Litigation.* On October 11, 2007, the Receiver initiated litigation against Pinnacle's former real estate agent and O'Neal's former live-in girlfriend, Dana Ash. *Hays v. Ash*, United States District Court for the Northern District of Georgia, Civil Action No. 1:07-CV-02508. The Receiver asserts four causes of action against Ash: (1) accounting; (2) unjust enrichment; (3) actual fraudulent conveyance; and (4) constructive fraudulent conveyance. In sum, the Receiver alleges that Ash knew or should have known that Pinnacle's investment

program was operating as a Ponzi scheme and that she is not entitled to obtain personal property or funds that she received from O'Neal or Pinnacle. This litigation is currently in discovery and the Receiver therefore is unable to predict whether it ultimately will yield an additional recovery for the Receiver Estate, or the amount of any such recovery.

17. *Schedule of Recoveries and Expenditures.* Attached hereto as Exhibit B is a listing of all recoveries made on behalf of and expenditures incurred by the Receiver Estate to date. For items of real and personal property recovered by the Receiver, a value is assigned only when the property has been sold and resulted in a recovery to the Receiver Estate. For the reasons described below, the amount of funds flowing to the Receiver Estate from the sale of remaining Real Properties is too speculative to predict at this time.

Maintenance and Sale of Real Properties

18. As described in detail in the Second Interim Report, and the Appendix thereto, there were 21 Real Properties included in the Receiver Estate at the time of the Receiver's appointment. Though the cumulative amount paid by Pinnacle for the purchase of these Real Properties was \$13,175,350, the Receiver has discovered that Pinnacle overpaid for many of these Real Properties and took actions, such as evicting tenants, which further reduced the value of some of the

Real Properties. Nevertheless, collectively, the Real Properties are the most significant non-cash asset of the Receiver Estate.

19. Since filing the Second Interim Report, the Receiver Team has dedicated a considerable amount of time and effort to resolving various issues related to the Real Properties, securing and maintaining the Real Properties, and marketing the Real Properties for sale. For example, the Receiver Team has:

- Placed notice of the Receiver's appointment and seizing of the Pinnacle's assets in the public records of the counties where the Real Properties are located, providing notice that the Real Properties could not be conveyed or encumbered without the consent of the Receiver.
- Contracted with a licensed real estate broker to facilitate the marketing and sale of many of the Real Properties, which included conducting an "open house" for those Real Properties considered to be in move-in condition.
- Obtained appraisals from a licensed real estate appraiser to determine the fair market value of many of the Real Properties.
- Refurbished the E. Mercer property to livable condition and secured tenants for all but one of the units. This work was necessary to maintain

multi-family zoning status on the property, and to avoid an estimated reduction of greater than 75% in the value of the property.

- Listed the Real Properties on national commercial and residential listing services and web sites targeted towards individuals and entities in the market for purchasing real property.
- Circulated flyers and brochures to potential purchasers.
- Contacted various real estate developers and made them aware of the unimproved Real Properties.
- Obtained title insurance policies, which were previously paid for by Pinnacle but never delivered, for the following Real Properties: 406 Rhinehill Road; 15 Oxbo Road; 2217 Browns Mill Road; 2062 and 2139 Poplar Falls Road; 1 Sandpiper Lane; and 00 Davis Drive.
- Filed claims against Pinnacle's title insurance policy for title issues that arose regarding the E. Mercer property, the Rhinehill/Browns Road property and the Ben Hill property.
- Cleared title problems related to the E. Mercer property, S. Gordon property and the Rhinehill/Browns Road property (the title company has denied coverage for the title claim made on the Ben Hill property and the Receiver is seeking to resolve that title issue via another alternative).

- Lawfully removed a tenant occupying the S. Gordon property for failing to pay rent for several consecutive months.
- Negotiated favorable settlement amounts for liens and judgments of record against Defendants related to taxes and homeowner's association dues.
- Inspected the Real Properties frequently and took actions to prevent further damage to the Real Properties.

The fees and expenses associated with these efforts are included in Exhibit B hereto.

20. *Real Property Disposition Procedures.* Due to the number of Real Properties, the Receiver deemed it essential to establish orderly procedures to sell the Real Properties by private sale or by public sale. To that end, on April 18, 2007, the Court Approved the Receiver's Real Property Disposition Procedures. These Procedures comply with the requirements of 28 U.S.C. § 2001, but further clarify some of the provisions contained therein in order to avoid repeatedly seeking the Court's guidance on real property issues. The Real Property Disposition Procedures have reduced significantly the expenses associated with the sale of the Real Properties, and have allowed the Receiver to consummate the private sales and plan the public sale discussed below.

21. *Private Sales.* In an effort to obtain the maximum price for each of the Real Properties, the Receiver, since April 2007, focused on selling the Real Properties by private sale. To date, the Receiver has sold two of the Real Properties via private sale – 15 Oxbo Road, Roswell, Georgia, and 406 E. Rhinehill Road/2217 Browns Mill Road, Atlanta, Georgia. The sales of these two properties have resulted in a net gain to the Receiver Estate of approximately \$1.275 million.

22. In addition to the two properties that have already sold, 8 & 16 Clifton Way, Atlanta, Georgia is currently under contract, and, on February 14, 2008, the Receiver filed a motion for the approval of the sale of this property. 1459 E. Mercer Avenue, College Park, Georgia, also is under contract, and the Receiver will file a motion regarding this property upon completion of the buyer's inspection period. The sale of 6175 Old National Highway, College Park, Georgia is being negotiated and pending contract. Finally, upon the buyer's request, 1967 Brian Way, Decatur, Georgia is awaiting the Court's entry of an Amended Order authorizing sale; however, the Receiver will complete the sale based on the initial

order if the buyer is willing to do so. If all of these sales are consummated, they will result in a net recovery to the Receiver Estate of approximately \$1.04 million³

23. *Public Sale.* Though the Receiver initially focused on selling the Real Properties via private sale, and despite the Receiver Team's efforts to market and sell the Properties, there was little interest in most of the Real Properties. Moreover, the Receiver Team expended considerable time and effort following up on offers and other expressions of interest that ultimately did not lead to sales. The lack of interest can be attributed to a number of factors, including the overall downturn in the real estate market and poor choices made by Pinnacle in its selection of properties.

24. The unsold Real Properties continued to require a substantial amount of the Receiver Team's resources to market and maintain while the Receiver sought to sell them via private sale. These costs depleted the assets of the Receiver Estate. Accordingly, the Receiver determined that it was in the best interest of the Receiver Estate to sell 15 of the remaining Real Properties by public sale pursuant to Section 3 of the Receiver's Real Property Disposition Procedures.

³ The expected sales price of the Clifton Way property is \$525,000.00; however, there are existing mortgages totaling approximately \$420,000.00 on this property, and the buyer will receive \$8,000 towards closing costs and \$5,000 towards electrical work upon closing. Therefore, the net recovery to the Receiver Estate from the sale of this property would be approximately \$92,000.00, less closing costs, commissions, property taxes and transfer taxes.

25. The Receiver held a public sale of the following properties on February 12, 13, and 14, 2008:

February 12th Public Sale:

- a. Old Alabama and Cardell, Austell, Georgia
- b. 1171 South Gordon Road, Austell, Georgia
- c. 00 Davis Drive, Austell, Georgia
- d. 2990 Jones Road, Atlanta, Georgia
- e. 000 Bankhead Highway, Atlanta, Georgia
- f. 000 Adeline Avenue, Atlanta, Georgia
- g. 1 Sandpiper Lane, Austell, Georgia
- h. 3440 Boulder Park Drive, Atlanta, Georgia

February 13th Public Sale:

- i. 2990 Mt. Zion Road, Atlanta, Georgia
- j. 1051 Regis Road, Atlanta, Georgia
- k. 1484 and 1500 Columbia Drive, Decatur, Georgia
- l. 1967 Brian Way, Atlanta, Georgia (in the event the private sale is not consummated)

February 14th Public Sale:

- m. 5927 Rockbridge Road, Stone Mountain, Georgia

- n. 2062 Poplar Falls Road, Lithonia, Georgia
- o. 2139 Poplar Falls Road, Lithonia, Georgia

26. More information regarding the Receiver's planning for and advertisement of the public sale can be found in the Receiver's Notice of Sale of Real Properties by Public Sale and Motion for Order Designating Remaining Properties as Part of Receiver Estate, filed by the Receiver on January 16, 2008. The Receiver also provided notice of the auction and a copy of the auction brochure to all investors.

27. Pinnacle paid a collective purchase price of \$9,582,850 for the Real Properties to be sold by public sale. Though the Receiver did not anticipate that these Properties would generate similar prices in the public sale, the Receiver viewed the public sale as the best opportunity, given all circumstances, to obtain the maximum net recovery for the Receiver Estate.

28. Unfortunately, the public sale resulted in the sale of only four of the 15 Real Properties offered for sale: (a) 2990 Jones Road and 000 Bankhead Highway, Atlanta, Georgia, for a combined total of \$109,000 (b) 5927 Rockbridge Road, Stone Mountain, Georgia for \$40,000; and (c) 3440 Boulder Park Drive, Atlanta, Georgia for \$924,000. The sale of the Boulder Park property benefits the Receiver Estate both because it will yield a significant recovery and because the

Receiver Estate will no longer incur the significant maintenance and security costs associated with the property.

29. Though bids were made on most of the other Real Properties, the bids offered only a very small percentage of Pinnacle's purchase price, and the Receiver deemed it imprudent to sell these properties for such reduced prices without further analysis of the best way to maximize the recovery for the Receiver Estate.

Ultimately, Pinnacle's poor choices in selecting properties, and the continuing decline in the local real estate market, may force the Receiver to continue to hold the remaining Real Properties until more favorable market conditions permit for their sale at a reasonable price.

30. *Ben Hill Property.* One of the Real Properties – 2637 Ben Hill Avenue, Atlanta, Georgia – has a discrepancy in the chain of title that occurred in connection with a prior owner's conveyance of the property – the legal description was retyped and numerous errors were made. The incorrect legal description became the description of the property and this mistake was perpetuated over time, including in the conveyance to Pinnacle. The result is that a prior owner in the chain of title legally has an interest in this property. The Receiver Team is working to correct this defect, but the Receiver anticipates that he will need to seek

the Court's resolution pursuant to Section 2 of the Real Property Disposition Procedures.

31. *2062 Poplar Falls*. The Receiver Team has recently discovered an error in the conveyance of 2062 Poplar Falls property to Pinnacle. The former owner of the property alerted the Receiver Team that approximately one acre of this property was inadvertently conveyed to Pinnacle. The former owner has provided the Receiver Team with documentation sufficient to show the explanation and the Receiver Team is currently working to resolve this issue.

Claims Administration and Distribution

32. A tremendous amount of the Receiver Team's time and effort in this receivership has been dedicated to tasks related to claims administration and distribution. In furtherance of his duties, the Receiver provided investors and other creditors with claim forms, which were approved by this Court's Order dated January 22, 2007. The January 22, 2007 Order also established a Claims Bar Date of March 1, 2007.

33. Subsequently, on April 18, 2007, the Court approved the Receiver's Plan for Claims Administration and Distribution of Proceeds (the "Plan"). The Plan established a comprehensive process for, among other things, claims analysis,

priority of claims and expenses, resolution of disputed claims, and the distribution of proceeds from the Receiver Estate.

34. During its initial claims analysis and review process, the Receiver Team sought to limit the review costs incurred by the Receiver Estate by relying primarily on information provided by investors and creditors on their claim forms, which were signed under penalty of perjury. The Receiver Team also attempted to reconcile the information provided on the claim forms with records created and maintained by Pinnacle, but found that Pinnacle's records often were incomplete and unclear.

35. Based upon the provisions of the Plan and the Receiver Team's initial claims analysis, on July 27, 2007, the Receiver filed a Motion for Approval of Interim Distributions Pending Final Resolution of All Disputed Claims. The Court granted the Receiver's motion on August 24, 2007.

36. In preparing for the interim distribution, the Receiver discovered numerous issues that required resolution prior to making the interim distribution. These issues included:

- Investors made investments with funds from both individual accounts and corporate entity accounts, but filed only one claim form in the name of the individual. Similar issues arose with respect to investors who

made investments in their own name and through Individual Retirement Accounts, and sought all returns to be made to individual, without considering the concomitant tax implications. To avoid funds being returned to the wrong individuals or entities, the Receiver deemed it necessary to determine the proper claimant(s) to whom to issue distribution checks. This process was complicated further by Pinnacle's incomplete and inaccurate records.

- Claim forms were submitted by individuals or entities who never invested in Pinnacle at all, but were making claims based on investments made by others, including friends, family members, partnerships and other entities. Again, the Receiver determined it was necessary to correct these claims to reflect the proper claimant.
- Investors failed on their claim forms to account for certain returns made by Pinnacle, or double-counted returns, making the amount of their approved claims incorrect. Pinnacle's records often times reflected information inconsistent with both the claim forms and the actual amounts invested and returned.

In most of the above instances, the Receiver Team needed to go back to underlying bank records, including monthly statements, wire transfer advices and other documentation, to reconcile the discrepancies.

37. Beginning in September 2007, the Receiver Team reviewed and thoroughly analyzed all investor claims and, through communications with investors, including obtaining investor declarations, the Receiver Team was able to resolve the vast majority of claims issues and make a first interim distribution in the amount of 30% of approved claims.

38. Although the claims review process required a tremendous amount of time and effort from the Receiver Team, it was necessary to ensure that claims were approved in the name of actual Pinnacle investors and in the appropriate amounts.

39. On January 30, 2008, the Receiver filed a Motion for Approval of Revised Approved Claims Schedule. Due to the modification of previously approved claims and the addition of newly allowed claims, the revised approved claims schedule reflects 1945 investor claims, totaling \$39,772,419.23, and 24 creditor claims, in the amount of \$299,327.10.

40. The Receiver Team's analysis resulted in the reduction of previously Approved Claims by \$693,300.34. Since the July 27, 2007 Motion for Approval of

Interim Distributions, however, the Receiver allowed: (a) seven timely filed claims that were not included on the original approved claims schedule, totaling \$122,500; (b) four late filed claims, totaling \$16,550; and, (c) six claims that were originally disputed claims, but regarding which the investors withdrew their disputes, totaling \$286,500. These newly allowed claims are included on the Revised Approved Claims Schedule, and the Receiver will make interim distributions on these claims upon the Court's approval of the Revised Approved Claims Schedule. Accordingly, the Revised Approved Claims Schedule reflects a net reduction in Approved Claims of \$267,750.34.

41. There remain outstanding seven disputed claims, and nine previously approved claims with respect to which the Receiver was unable to resolve outstanding issues through agreement with investors. The Receiver intends to file a motion within the next 30 days seeking the Court's resolution of these claims.⁴

Tax Work

42. The Receiver Team has performed a significant amount of tax analysis related to the Receiver Estate. In an effort to locate additional assets of the Receiver Estate, identify investors, and quantify potential tax liabilities, the

⁴ The Receiver expects that total amount of approved claims to increase by up to \$100,000 after the Court's resolution of 16 additional claims.

Receiver Team conducted a detailed review of the 2005 Pinnacle Partnership tax returns, which had been prepared, but not filed, by Pinnacle.

43. *Treatment of Investor Losses.* In conducting its tax analysis, the Receiver Team discovered that erroneous 2005 K-1's had been prepared by Pinnacle and provided to investors prior to the appointment of the Receiver. The Receiver instructed investors to disregard these K-1's.

44. The Receiver Team also has provided guidance regarding the potential tax implications resulting from investor losses. Although each individual investor's tax situation is different, the Receiver provided two separate tax memorandums to investors, which addressed possible tax treatment of investor losses and provided updates regarding a significant recent decision that might related to individual losses. The Receiver instructed investors to provide these memorandums to their tax advisors to assist with their individual tax situations.

45. *Real Property and Personal Property in the Receiver Estate.* The Receiver team put into place procedures to ensure that the real and personal property in the Receiver Estate receives appropriate tax treatment. For example, the Receiver Team filed final personal property tax and license returns, and continues to review property tax bills for properties that remain in the Receiver Estate.

46. *Recoveries for the Receiver Estate.* The Receiver Team's tax work has yielded direct recoveries for the Receiver Estate. The Receiver Team prepared 2005 tax returns for 32 Pinnacle Partnerships, resulting in a claim of \$33,000 in estimated withholding taxes erroneously paid by Pinnacle, which related to distributions to out of state investors. The Receiver Team also cancelled Pinnacle's subscriptions to tax research services and obtained refunds for unused subscriptions.

47. The tax work will continue until this receivership is closed.

Respectfully submitted, this 20th day of February, 2008.

By: /s/ Thomas B. Bosch
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Local Rule 7.1D Certificate of Compliance

The undersigned certifies that this brief has been prepared with on of the font and point selections approved by the Court in Local Rule 5.1B.

By: /s/ Thomas B. Bosch.
Thomas B. Bosch

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

<p>SECURITIES AND EXCHANGE COMMISSION,</p> <p>Plaintiff,</p> <p>vs.</p> <p>PINNACLE DEVELOPMENT PARTNERS, LLC, and GENE A. O'NEAL</p> <p>Defendants.</p>	<p>CIVIL ACTION NO. 06 CV 2431</p>
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CERTIFICATE OF SERVICE

This shall certify that on February 20, 2008, I electronically filed the RECEIVER'S THIRD INTERIM REPORT with the Clerk of Court using the CM/EFC system, which will automatically send an e-mail notification of such filing to the following attorneys of record:

James Alexander Rue
William P. Hicks
Michael D. Watson

This 20th day of February, 2008.

/s/ Thomas B. Bosch
Thomas B. Bosch
Georgia State Bar No. 068740