



Department of Justice

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HEAD OF \$62 MILLION REAL ESTATE INVESTMENT FUND PLEADS GUILTY TO DEFRAUDING INVESTORS IN PONZI SCHEME

Gene O'Neal Admits to Lying to Pinnacle Investors by Falsely Guaranteeing a 25% Return on Investment in 60 Days

Atlanta, GA - GENE A. O'NEAL, 36, of Atlanta, Georgia, pled guilty today before United States District Judge Beverly B. Martin to two counts of mail and wire fraud related to a scheme to defraud investors in Pinnacle Development Partners, LLC ("Pinnacle"), a real estate investment fund formerly run by O'NEAL. In particular, O'NEAL admitted to using the funds invested by later Pinnacle investors to pay a 25 percent rate of return within 60 days that he had fraudulently guaranteed to earlier investors. These profits were not generated from Pinnacle's real estate activities, as O'NEAL falsely represented to investors, but rather by recycling later investors' capital contributions to pay the exorbitantly high returns promised to earlier investors—a classic "Ponzi" scheme. O'NEAL was indicted on these counts by a federal grand jury on March 6, 2007.

"O'Neal's guarantee of a 25 percent rate of return within 60 days allowed him to raise approximately \$62 million in investment in just 15 months," said United States Attorney David E. Nahmias. "What he knew, but his investors did not, is that he could only conceal his false promise for a short time by using the capital contributions of later investors to fund the exorbitant returns guaranteed to earlier investors. O'Neal did not earn the huge profits he promised to Pinnacle investors from the purchase, improvement and sale of real estate, but rather simply by incurring ever-increasing amounts of investment and therefore ever-increasing amounts of unsustainable and undisclosed debt. Today's guilty plea, which comes just eight months after we first became aware of the defendant's significant criminal conduct and just four months after his indictment, reflects our continued commitment to moving swiftly in prosecuting investor fraud."

According to the indictment and the documents and information presented in court: Beginning in July 2005, Pinnacle, which was founded by O'NEAL and headquartered in Atlanta, began telling investors they could make a 25% profit in 45 days, which later became a 25% profit in 60 days, upon investment in partnerships Pinnacle formed to acquire real property. Investors were told that Pinnacle was in the business of purchasing distressed,

foreclosed or bank-owned real estate, which Pinnacle intended to re-sell at a profit after making minor repairs and cosmetic improvements. Pinnacle solicited investment by running more than \$2.5 million worth of advertising in national and local media publications. As a result of his aggressive advertising campaign promising 25% returns in either 45 or 60 days, O'NEAL induced more than 2,000 investors from throughout the United States and certain foreign countries to invest approximately \$62 million in just 15 months.

Pinnacle represented in its offering materials that its real property had been and continued to be sold to third parties at a substantial profit, that it contributed 50% of its own capital to the acquisition costs of its real property and that its investors were secured by being individually named on the deeds to Pinnacle real estate. In fact, however, Pinnacle never sold, or for that matter developed or improved, any of the real property it bought with investor funds and therefore never generated any income with which to pay the 25% profit, plus a return of principal, O'NEAL had guaranteed his investors. To pay the false returns promised to Pinnacle investors, which upon reinvestment was compounding 25% every 60 days, O'NEAL recycled tens of millions of dollars in invested capital from later investors to earlier investors, who were falsely told that their returns were being paid from the development and sale of Pinnacle real property.

Over time, and as huge amounts of investment poured in, Pinnacle acquired larger and considerably more expensive, both in terms of acquisition and development costs, parcels of real estate. O'NEAL told Pinnacle employees, but not most Pinnacle investors, that this real estate would be developed in phases with Pinnacle partnerships holding the properties for 60 days at a time. In fact, however, of the 21 real estate parcels Pinnacle bought, only half were assigned to a Pinnacle partnership and less than half of the partnerships Pinnacle formed ever appeared as record owners or partial record owners of Pinnacle real property, meaning that investors associated with the majority of Pinnacle's partnerships were never assigned to a property, much less individually named on its deed. In addition, the multi-family structures and raw land Pinnacle purchased (using 100% investor assets) required extensive rehabilitation and development to ever generate income or be sold at a profit. To conceal this fact, O'NEAL directed that certain of them be transferred between and among Pinnacle partnerships. Although these were merely paper transactions and did not involve an actual sale, the transfer prices were as much as ten times the initial acquisition price, thereby fostering the illusion that properties were being developed and sold at significant profits. O'NEAL also directed that investors not be told about these related-party transactions unless they specifically asked.

Aside from the \$2.5 million spent on advertising, O'NEAL also used investor assets to pay more than \$2.5 million in salary and commissions, more than \$700,000 to furnish Pinnacle's offices, and more than \$3.5 million in general and administrative expenditures. O'NEAL also used investor funds to purchase, among other things, a \$72,000 Land Rover, a \$69,000 Cadillac Escalade and, for O'NEAL's personal benefit, a \$117,000 Maserati and \$26,000 worth of jewelry.

The two mail and wire counts to which O'NEAL pleaded guilty today each carry a maximum term of imprisonment of 20 years and a maximum fine of \$250,000 per count. Sentencing has been scheduled for September 17, 2007, at 10:00 a.m.

This case is being investigated by Special Agents of the Federal Bureau of Investigation and Postal Inspectors with the United States Postal Inspection Service.

Assistant United States Attorneys Justin Anand and Paul Monnin are prosecuting the case.

For further information please contact David E. Nahmias (pronounced NAH-me-us), United States Attorney, or Charysse L. Alexander, Executive Assistant United States Attorney, through Patrick Crosby, Public Affairs Officer, U.S. Attorney's Office, at (404) 581-6016. The Internet address for the HomePage for the U.S. Attorney's Office for the Northern District of Georgia is www.usdoj.gov/usao/gan.