

JUN - 3 2009

U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

UNITED STATES OF AMERICA)
)
)
v.)
)
BRYAN KEITH NOEL)
_____)

DOCKET NO. *1:09cr57*

BILL OF INDICTMENT

- Violations:
18 U.S.C. § 2
18 U.S.C. § 152
18 U.S.C. § 1341
18 U.S.C. § 1343
18 U.S.C. § 1349

THE GRAND JURY CHARGES:

At the specified times and at all relevant times:

Introduction

1. From in or about January 2003 through in or about July 2006, defendant BRYAN NOEL, together with unindicted co-conspirator A.K. and others, solicited more than one hundred investors to invest large sums of their retirement savings with Certified Estate Planners, Inc. ("CEP") by promising a conservative investment strategy. Beginning in or around 2003, BRYAN NOEL and A.K., without the CEP clients' knowledge, diverted several million dollars of the clients' assets, thereby significantly decreasing the value of the clients' investments. BRYAN NOEL and A.K. diverted the several million dollars of withdrawn investor assets to BRYAN NOEL's start-up timber company, then continually misrepresented the value of the assets on the quarterly statements mailed to clients so that the clients would not know the true diminished value of their assets. Based on this scheme, the CEP clients were defrauded of approximately \$7 million.

CEP and Pinnacle

2. In or around 1999, BRYAN NOEL created CEP to solicit investors and to offer estate planning services geared towards retirees. BRYAN NOEL and A.K. also created Pinnacle Fiduciary Group & Trust (“Pinnacle”) to act as the business entity that managed the assets invested by CEP’s clients. CEP and Pinnacle operated together to provide estate planning services to CEP clients. At times relevant to this indictment, BRYAN NOEL, A.K., and employees of CEP mailed and caused to be mailed quarterly statements to CEP clients via United States mail.

3. At times relevant to this indictment, BRYAN NOEL held seminars for retirees and potential CEP clients at restaurants located in and around Hendersonville, North Carolina. At these seminars, BRYAN NOEL touted his credentials as a “certified senior specialist” and promised a safe and conservative investment strategy for retirees.

4. Based on these assurances of conservative investing, approximately 140 clients entrusted approximately \$8 million of retirement savings to BRYAN NOEL and A.K.

Bryan Noel’s New Companies

5. In or around December 2002, BRYAN NOEL created International Mineral Exchange (“IME”) in an attempt to enter the international mining business.

6. After IME proved unsuccessful, BRYAN NOEL “morphed” IME into Titan Composites, Inc. (“Titan”), a business which purported to manufacture and sell composite lumber.

7. BRYAN NOEL convinced some CEP clients to use additional amounts of their retirement savings to purchase “convertible debentures” in Titan. Other clients,

after being approached by BRYAN NOEL, did not want to invest in Titan. Other clients were never approached about investing in Titan.

The Scheme to Defraud

8. Beginning in or around October 2003 and continuing until in or around May 2006, BRYAN NOEL and A.K. agreed to withdraw or “loan,” without CEP clients’ knowledge, approximately \$4.5 million from the Pinnacle accounts to IME and Titan.

9. Neither BRYAN NOEL nor A.K., or others working with them, ever communicated to CEP clients that this “loan” had occurred. In fact, BRYAN NOEL and A.K. took numerous fraudulent steps to conceal from CEP clients that large portions of their retirement savings had been loaned to BRYAN NOEL’s latest start-up company, Titan.

10. From in or around December 2003 to July 2006, BRYAN NOEL and A.K. lied to CEP clients about the true value of the clients’ assets by creating a fictitious rate of return for every quarter, applying that fictitious rate of return to the investors’ supposed assets, then mailing and causing to be mailed quarterly statements to the clients misrepresenting the true value of their assets. BRYAN NOEL and A.K. continued these lies over this two-and-a-half year period so that the CEP clients would not withdraw their remaining assets after learning that large portions of their retirement savings had been diverted to and used by Titan.

11. CEP clients relied on these fraudulent statements and, as a result of their reliance, most clients continued investing their retirement savings with BRYAN NOEL and A.K. during this time period.

12. Some clients withdrew assets from CEP based on the fictitious rates of return and, unbeknownst to the clients, withdrew significantly more than the actual value of their investment due to the phony returns displayed on the CEP quarterly statements. BRYAN NOEL and A.K. used other investors' money to pay the fraudulently inflated withdrawn amounts.

13. In or around July 2006, BRYAN NOEL and A.K. misrepresented to investors that their assets had grown to a total of approximately \$16 million. In reality, investors' assets had shrunk to only approximately \$1 million.

The Bankruptcy Proceedings

14. After investors learned that BRYAN NOEL and A.K. had perpetrated a fraud, many sought to recoup some of their money by filing civil lawsuits against BRYAN NOEL, A.K. and others.

15. On or about August 14, 2007, BRYAN NOEL filed for Chapter 7 bankruptcy protection in the United States Bankruptcy Court for the Western District of North Carolina (hereafter "the Bankruptcy Court").

16. BRYAN NOEL fraudulently omitted from his Bankruptcy Petition ("the Petition") and Statement of Financial Affairs some of his assets, thereby concealing such assets from the Bankruptcy Court and the United States Bankruptcy Trustee (hereafter, "the Trustee"), the official designated to dispose of the defendants' bankruptcy estates.

17. These intentional omissions and misrepresentations by BRYAN NOEL materially and detrimentally interfered with the Trustee's and with the Bankruptcy Court's efforts to properly dispose of BRYAN NOEL's bankruptcy estate.

COUNT ONE
18 U.S.C. § 1349
(Conspiracy)

18. The Grand Jury re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1 through 17 of the Bill of Indictment, and further alleges that:

19. From in or about 2003 through in or about June 2006, in Henderson County, within the Western District of North Carolina, and elsewhere, the defendant,

BRYAN NOEL,

conspired, confederated and agreed with A.K. and others known and unknown to the Grand Jury, having devised the above-described scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, to knowingly and willfully cause things to be sent and delivered by mail and by private and commercial interstate carrier for the purposes of executing the above-described scheme and artifice, in violation of Title 18, United States Code, Section 1341.

All in violation of Title 18, United States Code, Section 1349.

COUNTS TWO THROUGH TWENTY-SIX

18 U.S.C. § 1341

(Mail Fraud)

20. The Grand Jury re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1 through 17 of the Bill of Indictment, and further alleges that:

21. On or about the dates set forth below, in Henderson County, within the Western District of North Carolina, and elsewhere, the defendant,

BRYAN NOEL,

aided and abetted by A.K. and others, having devised the above-described scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowingly and willfully caused things, as described below, to be sent and delivered by mail and by private and commercial interstate carrier for the purposes of executing said scheme and artifice, each instance described below being a separate violation of Title 18, United States Code, Sections 1341 and 2:

COUNT	DATE	MAILINGS
2	June 24, 2004	C.B. CEP quarterly statement, dated June 24, 2004, mailed via United States mail
3	April 15, 2005	C.B. CEP quarterly statement, dated April 15, 2004, mailed via United States mail
4	March 24, 2006	C.B. CEP quarterly statement, dated March 24, 2006, mailed via United States mail
5	April 15, 2005	L.B. CEP quarterly statement, dated April 15, 2005, mailed via United States mail
6	March 24, 2006	L.B. CEP quarterly statement, dated March 24, 2006, mailed via United States mail

COUNT	DATE	MAILINGS
7	July 5, 2006	L.B. CEP quarterly statement, dated July 5, 2006, mailed via United States mail
8	June 28, 2004	J.C. and S.C. CEP quarterly statement, dated June 28, 2004, mailed via United States mail
9	January 11, 2005	J.C. and S.C. CEP quarterly statement, dated January 11, 2005, mailed via United States mail
10	July 17, 2006	The C. Family RAMT CEP quarterly statement, dated July 17, 2006, mailed via United States mail
11	June 28, 2004	J.E. and V.E. CEP quarterly statement, dated June 28, 2004, mailed via United States mail
12	September 29, 2005	The J.E. and V.E. Family RAMT CEP quarterly statement, dated September 29, 2005, mailed via United States mail
13	July 5, 2006	The J.E. and V.E. RAMT CEP quarterly statement, dated July 5, 2006, mailed via United States mail
14	January 11, 2005	N.G. CEP quarterly statement, dated January 11, 2005, mailed via United States mail
15	December 29, 2005	J.K. and B.K. CEP quarterly statement, dated December 29, 2005, mailed via United States mail
16	July 24, 2006	J.K. and B.K. CEP quarterly statement, dated July 24, 2006, mailed via United States mail
17	June 23, 2004	F.L. and S.L. CEP quarterly statement, dated June 23, 2004, mailed via United States mail
18	June 25, 2005	F.L. and S.L. CEP quarterly statement, dated June 25, 2005, mailed via United States mail
19	July 5, 2006	The L. Family RAMT CEP quarterly statement, dated July 5, 2006, mailed via United States mail
20	March 28, 2006	H.P. CEP quarterly statement, dated March 28, 2006 mailed via United States mail
21	September 30, 2004	C.S. and S.S. CEP quarterly statement, dated September 30, 2004, mailed via United States mail
22	January 4, 2006	C.S. and S.S. CEP quarterly statement, dated January 4, 2006, mailed via United States mail
23	July 5, 2006	C.S. and S.S. CEP quarterly statement, dated July 5, 2006, mailed via United States mail

COUNT	DATE	MAILINGS
24	June 25, 2004	J.T. and M.T. CEP quarterly statement, dated June 25, 2004, mailed via United States mail
25	April 13, 2005	J.T. and M.T. CEP quarterly statement, dated April 30, 2005, mailed via United States mail
26	July 18, 2006	J.T. and M.T. CEP quarterly statement, dated July 18, 2006, mailed via United States mail

COUNT TWENTY-SEVEN

18 U.S.C. § 152

(False Oath)

22. The Grand Jury re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1 through 17 of the Bill of Indictment, and further alleges that:

23. On or about August 14, 2007, in Buncombe County, within the Western District of North Carolina, and elsewhere, the defendant,

BRYAN NOEL,

did knowingly and fraudulently make a false oath or account in or in relation to any Bankruptcy proceeding, to wit, BRYAN NOEL did not disclose on his bankruptcy petition assets that were in his possession as of the date of his petition, including but not limited to:

- a. a 2002 BMW 745i, VIN WBAGL63492DP51758, purchased in or around 2002 and titled to BRYAN NOEL;
- b. 2004 BMW 745i, VIN WBAGL63414DP71070, purchased on or about March 23, 2004, and titled to BRYAN NOEL;
- c. a 2007 BMW 550i, VIN WBANB53537CP05191, purchased on or about September 14, 2006, and titled to BRYAN NOEL dba Excaliber Business Systems, LLC; and
- d. a 2006 Acura TL, VIN 19UUA65516A041327, purchased on or about May 3, 2006, and titled to BRYAN NOEL.

In violation of Title 18, United States Code, Section 152(2).

COUNTS TWENTY-EIGHT

18 U.S.C. § 152

(False Oath)

24. The Grand Jury re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1 through 17 of the Bill of Indictment, and further alleges that:

25. On or about August 14, 2007, in Buncombe County, within the Western District of North Carolina, and elsewhere, the defendant,

BRYAN NOEL,

did knowingly and fraudulently make a false oath or account in or in relation to any Bankruptcy proceeding, to wit, BRYAN NOEL misrepresented the true state of his financial affairs by failing to disclose on his Statement of Financial Affairs that he had received income from CEP in 2005.

In violation of Title 18, United States Code, Section 152(2).

NOTICE OF FORFEITURE AND FINDING OF PROBABLE CAUSE

26. Notice is hereby given of the provisions of 18 U.S.C. § 982 and 28 U.S.C. § 2461(c). Under section 2461(c), criminal forfeiture is applicable to any offenses for which forfeiture is authorized by any other statute, including but not limited to 18 U.S.C. § 981 and all specified unlawful activities listed or referenced in 18 U.S.C. § 1956(c)(7), which are incorporated as to proceeds by § 981(a)(1)(C). The defendant has or had a possessory or legal interest in the following property that is subject to forfeiture in accordance with section 982 and/or section 2461(c):

- a. all property involved in the violations alleged in this bill of indictment;
- b. all property which is proceeds of such violations; and,

- c. in the event that any property described in (a) or (b) cannot be located or recovered or has been substantially diminished in value or has been commingled with other property which cannot be divided without difficulty, all other property of the defendant, to the extent of the value of the property described in (a) and (b).

27. The grand jury finds probable cause to believe that the following property is subject to forfeiture on one or more of the grounds stated above:

- a. All currency and monetary instruments which were received during, involved in or used or intended to be used to facilitate the crimes alleged in this bill of indictment, including but not limited to the following:
 - i. the sum of approximately \$7,000,000.00 in proceeds; and,
 - ii. all funds, including but not limited to \$286,783.57, in Wachovia Account 2000026505189, such account held in the name of Pinnacle Fiduciary & Trust Group;
 - iii. all funds, including but not limited to \$292,350.09, in Ameritrade Account 706059117, such account held in the name of Pinnacle Fiduciary & Trust Group;
 - iv. all funds, including but not limited to \$407,469.67, in Tradestation Account 17243339, such account held in the name of Pinnacle Fiduciary & Trust Group;
 - v. all funds, including but not limited to \$3,106.21, in Tradestation Account 17241607, such account held in the name of Pinnacle Fiduciary & Trust Group;

- vi. all funds, including but not limited to \$533.01, in Tradestation Account 17240487, such account held in the name of Pinnacle Fiduciary & Trust Group;
 - vii. all funds, including but not limited to \$1,290.39, in Tradestation Account 17242607, such account held in the name of Pinnacle Fiduciary & Trust Group FBO International Mineral Exchange;
 - vii. all funds, including but not limited to \$2948.00, in Fidelity Account Z44043583, such account held in the name of Pinnacle Fiduciary & Trust Group; and
 - viii. all funds, including but not limited to \$3632.00, in Fidelity Account Z44671681, such account held in the name of Pinnacle Fiduciary & Trust Group;
- b. the following automobiles:
- i. one 2002 BMW 745i, VIN WBAGL63492DP51758, titled to Bryan Noel;
 - ii. one 2004 BMW 745i, VIN WBAGL63414DP71070, titled to Bryan Noel;
 - iii. one 2007 BMW 550i, VIN WBANB53537CP05191, titled to Bryan Noel dba Excaliber Business Systems, LLC;
 - iv. one 2006 Acura TL, VIN 19UUA65516A041327, titled to Bryan Noel;
 - v. one 2006 Honda Ridgeline, VIN 2HJYK16576H509699, titled to Bryan Noel and H.N.

- c. any and all interest of Bryan Noel in the following businesses:
- i. Certified Estate Planners, LLC;
 - ii. Pinnacle Fiduciary and Trust Group aka Pinnacle Advisory Group;
 - iii. Silverado Financial Group, LLC; and
 - iv. Titan Composites Incorporated.

A TRUE BILL.

FOREPERSON 

EDWARD R. RYAN
ACTING UNITED STATES ATTORNEY


MELISSA L. RIKARD
ASSISTANT UNITED STATES ATTORNEY