

Local AO 450 (rev. 5/10)

United States District Court
District of North Dakota

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Plaintiff

DEFAULT

v.

JUDGMENT IN A CIVIL CASE

NORTH DAKOTA DEVELOPMENTS, LLC,
ROBERT L. GAVIN, AND DANIEL J. HOGAN

Case No. 4:15-CV-00053

Defendants,

and

NORTH DAKOTA DEVELOPMENTS PROPERTY
MANAGEMENT LLC, GREAT AMERICAN LODGE LLC, NDD
HOLDINGS 1 LLC, NDD HOLDINGS 2 LLC, NDD MODULAR
LLC, AUGUSTA EXPLORATION, LLC, AND AMES
ENGINEERING & DEVELOPMENT SERVICES LLC,

Relief Defendants

- Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.
- Decision on Motion.** This action came before the Court on motion. The issues have been considered and a decision rendered.
- Stipulation.** This action came before the court on motion of the parties. The issues have been resolved.
- Dismissal.** This action was voluntarily dismissed by Plaintiff pursuant to Fed. R. Civ. P. 41(a)(1)(ii).

IT IS ORDERED AND ADJUDGED:

Having made its Findings of Fact and Conclusions of Law, the Court ORDERS, ADJUDGES, AND DECREES as follows:

(1) Robert L. Gavin and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of the Final Judgment by personal service or otherwise are:

(a) Permanently restrained and enjoined from violating Section 5 of the Securities Act, 15 U.S.C. § 77e, by, directly or indirectly, in the absence of any applicable exemption:

- see attached page(s)

Date: April 24, 2018

ROBERT J. ANSLEY, CLERK OF COURT

by: /s/ Christy Davis, Deputy Clerk

- (a) Permanently restrained and enjoined from violating Section 5 of the Securities Act, 15 U.S.C. § 77e, by, directly or indirectly, in the absence of any applicable exemption:
- (i) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; and
 - (ii) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.
- (b) Permanently restrained and enjoined from violating Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:
- (i) to employ any device, scheme, or artifice to defraud;
 - (ii) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
 - (iii) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.
- (c) Permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:
- (i) to employ any device, scheme, or artifice to defraud;

- (ii) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (iii) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

(2) that Defendant Gavin is liable for disgorgement of \$350,000, representing profits gained as a result of the conduct alleged in the complaint, together with prejudgment interest thereon in the amount of \$24,613 for a total of \$374,613 and a third-tier civil penalty in the amount of \$500,000 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. §77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. §78u(d)(3). Defendant shall satisfy this obligation by paying these amounts to the Securities and Exchange Commission within 14 days after entry of Final Judgment. The Defendant may transmit payments electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. The Defendant may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Robert L. Gavin as a defendant in this action; and specifying that payment is made pursuant to the Final Judgment. The Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the SEC's counsel in this action. By making this payment, the Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to the Defendant.

(3) The SEC may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after fourteen (14) days following entry of Final Judgment.

(4) The Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. §1961. The SEC shall hold the funds (collectively, the "Fund") and may propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002.

(5) The Court shall retain jurisdiction over the administration of any distribution of the Fund.

(6) If the SEC staff determines that the Fund will not be distributed, the Commission shall send the funds paid pursuant to the Final Judgment to the United States Treasury.

Finding no reason for just delay, the Court directs the Clerk of Court to enter final judgment against Robert L. Gavin in accordance with the Court's order pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.