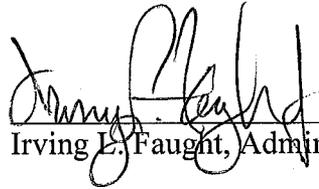


FURTHER AFFIANT SAYETH NOT.

Dated this 19 day of July, 2006.

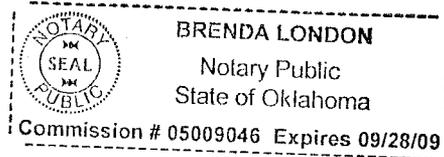
(SEAL)


Irving E. Faught, Administrator

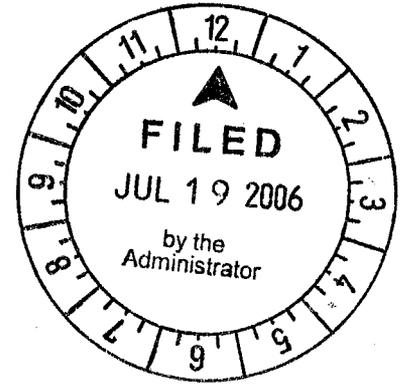
Subscribed and sworn to before me this 19 day of July, 2006.


Notary Public

My Commission Expires:
My Commission No.:
SEAL



**STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
FIRST NATIONAL CENTER, SUITE 860
120 NORTH ROBINSON
OKLAHOMA CITY, OKLAHOMA 73102**



In the Matter of:

Hoyit A. Bacon
CRD No. 1974347,

Respondent.

ODS File No. 03-118

NOTICE OF OPPORTUNITY FOR HEARING

1. Pursuant to his authority under Section 405 of the Oklahoma Securities Act, Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (2001 & Supp. 2003), and Section 1-602 of the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2003), the Administrator ("Administrator") of the Oklahoma Department of Securities ("Department") authorized an investigation into the activities Hoyit A. Bacon ("Bacon") in connection with the offer, sale and/or purchase of securities and the provision of investment advice in and/or from Oklahoma.

2. On the 19th day of July, 2006, the attached Enforcement Division Recommendation ("Recommendation") was left in the office of the Administrator.

3. Pursuant to Section 1-411 of the Act, the Administrator hereby gives notice to Respondent of his right to request a hearing to show why an order based on the Recommendation should not be issued.

4. The request for a hearing on the Recommendation must be received by the Administrator within fifteen (15) days after service of this Notice. Pursuant to Section 1-411 of the Act, failure to request a hearing as provided for herein shall result in the issuance of an order barring Bacon from association with a broker-dealer and/or an investment adviser in any capacity.

5. The request for hearing shall be in writing and Respondent shall specifically admit or deny each allegation in said request as required by 660:2-9-2 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities ("Rules").

6. Upon receipt of a written request, pursuant to 660:2-9-2 of the Rules, a hearing on this Notice shall be set within ninety (90) days or a written order denying hearing shall be issued.

7. Notice of the date, time and location of the hearing shall be given to Respondent not less than forty-five (45) days in advance thereof pursuant to 660:2-9-2 of the Rules.

19 Witness my Hand and the Official Seal of the Oklahoma Department of Securities this day of July, 2006.

(SEAL)

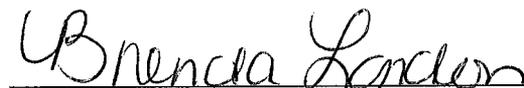


IRVING N. FAUGHT, ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES

CERTIFICATE OF MAILING

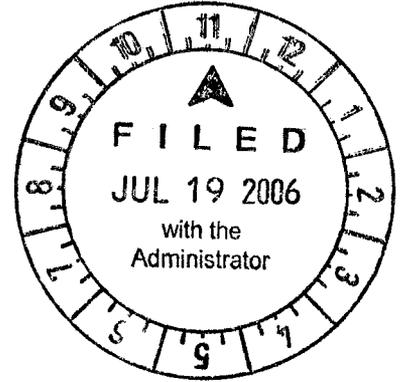
The undersigned hereby certifies that on the 19 day of July, 2006, a true and correct copy of the above and foregoing Notice of Opportunity for Hearing and attached Enforcement Division Recommendation was mailed by certified mail, return receipt requested, delivery restricted, with postage prepaid thereon, addressed to:

Hoyit A. Bacon
104 W. McKennon
Bixby, OK 74008



Brenda London, Paralegal

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
FIRST NATIONAL CENTER, SUITE 860
120 NORTH ROBINSON
OKLAHOMA CITY, OKLAHOMA 73102



In the Matter of:

Hoyit A. Bacon
CRD No. 1974347,

Respondent.

ODS File No. 03-118

ENFORCEMENT DIVISION RECOMMENDATION

Pursuant to the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2003), and the Oklahoma Securities Act ("Predecessor Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (2001 and Supp. 2003), the Oklahoma Department of Securities ("Department") conducted an investigation into the activities of Hoyit A. Bacon ("Bacon") in connection with the offer, sale and/or purchase of securities and the provision of investment advice in and/or from Oklahoma. Based thereon, the following Findings of Fact, Authorities, and Conclusions of Law are submitted to the Administrator of the Department ("Administrator") in support of the issuance of an order barring Bacon from association with a broker-dealer and/or an investment adviser in any capacity and imposing any other sanctions as deemed appropriate and as authorized by law.

Findings of Fact

1. In August 1997, Bacon was registered under the Predecessor Act as an investment adviser representative of Aaron Wilbanks & Associates, Inc. ("Wilbanks"), an investment adviser registered under the Predecessor Act. Bacon was discharged from Wilbanks on March 28, 2003, for violations of internal policies. Bacon is not currently registered as an investment adviser or investment adviser representative under the Act.

2. In August 1997, Bacon was registered under the Predecessor Act as an agent and principal of Wilbanks Securities, Inc. ("Wilbanks Securities"), a broker-dealer registered under the Predecessor Act. Bacon was discharged from Wilbanks Securities on March 28, 2003, for violations of internal policies. Bacon is not currently registered as a broker-dealer or agent under the Act.

Customer A

3. On January 1, 2000, Bacon entered into an Investment Advisory Agreement with Customer A, an Oklahoma resident, wherein he identified himself, a "duly Registered Investment Advisor Representative," as the "Advisor" ("Agreement").

4. The Agreement did not identify Wilbanks as the investment adviser with which Bacon was associated, and Bacon did not inform Wilbanks that he had entered into the Agreement.

5. The company name at the top of the Agreement was Bacon & Bacon Infinity Financial Advisors, Inc. ("Infinity Financial Advisors").

6. Bacon, doing business as Infinity Financial Advisors, advised Customer A on the implementation of her complete financial plan, including the allocation of stocks, bonds, variable annuities and insurance held in trust accounts for which Customer A was the trustee or a co-trustee ("Trusts"). Certain of the Trusts were also managed by Bacon as an investment adviser representative of Wilbanks. Certain of the Trusts paid advisory fees to Bacon *dba* Infinity Financial Advisors and to Wilbanks for the same advisory services. Bacon did not disclose in writing to Customer A that certain Trusts would be billed by both Bacon *dba* Infinity Financial Advisors and Wilbanks for the same advisory services.

7. Bacon did not advise Wilbanks or Wilbanks Securities of his outside investment advisory activities.

8. Bacon and Infinity Financial Advisors were not registered as investment advisers under the Predecessor Act.

Customer B

9. On December 21, 1999, Bacon completed the broker-dealer account application of Wilbanks Securities for Customer B, an Oklahoma resident. Customer B's account application indicated that she was 74 years old, retired, and widowed. Customer B's income was less than \$25,000 per year, her net worth was \$125,000, and her liquid assets were not more than \$5,000.

10. Customer B had been a customer of Bacon prior to his association with Wilbanks Securities. In May 1997, Bacon advised Customer B to purchase a variable annuity issued by London Pacific Life and Annuity Company ("London Pacific"). Customer B invested almost \$79,000 in the London Pacific annuity.

11. In or about December 1999, Bacon recommended that Customer B invest \$30,000 in a deferred variable annuity called the ING Golden Select ES II issued by the Golden American Life Insurance Company. On December 27, 1999, Customer B purchased the ING Golden Select ES II variable annuity for \$30,000.

12. In or about September 2000, Bacon recommended that Customer B sell her London Pacific variable annuity and purchase a deferred variable annuity called Golden Select Premium Plus issued by the Golden American Life Insurance Company. At that time, the London Pacific annuity had an account value of about \$84,367.

13. On or about September 12, 2000, Customer B surrendered her London Pacific variable annuity, incurring fees in the amount of \$8,436.74.

14. On or about September 18, 2000, Customer B purchased the Golden Select Premium Plus variable annuity for \$75,930.70.

15. Between September 18, 2000 and March 31, 2003, Customer B withdrew \$59,074 from the Golden Select Premium Plus variable annuity. Between December 27, 1999 and March 31, 2003, Customer B withdrew \$16,769 from the ING Golden Select ES II variable annuity. Customer B incurred surrender fees in excess of \$4,710 as a result of such withdrawals.

History of Customer Complaints, Civil Litigation and Regulatory Actions

16. Bacon was registered with American Express Financial Advisors, Inc. ("American Express") from October 1989 until August 1992. On July 30, 1996, American Express updated Bacon's Form U5 to reflect a pending civil lawsuit against Bacon alleging that Bacon borrowed \$25,000 from a client during his employment at American Express and failed to repay it. On July 7, 1999, American Express again updated Bacon's Form U5 to show that the civil lawsuit against Bacon had been settled for \$28,432.31.

17. In or about April 2003, Wilbanks Securities received a customer complaint alleging that Bacon charged a \$1,500 to \$1,800 cash set-up fee to open an account.

18. In March 2005, the NASD initiated a regulatory action against Bacon based on activity that occurred during his employment at Wilbanks Securities. In such action, the NASD alleged that Bacon violated NASD Rules 2110 and 3030 by engaging in outside business activities, for compensation, without written notice to his member firms; by filling out forms incorrectly stating that all of his advisory business was conducted through his firm and that all outside business activities had been disclosed to the firm; and by entering into investment advisory agreements with a public customer through his member firm's affiliated registered investment adviser and also through an unregistered investment adviser and double billing the customer for investment advisory services. Without admitting or denying the allegations, Bacon consented to the entry of findings. Bacon was fined \$5,000, censured, ordered to pay restitution in the amount of \$11,793.59 plus interest, and suspended from association with any NASD member firm in any capacity for one year, ending July 31, 2006.

To the extent any of these Findings of Fact are more properly characterized as Conclusions of Law, they should be so considered.

Authorities

1. Section 1-701 of the Act provides in pertinent part:
 - A. The predecessor act exclusively governs all actions or proceedings that are pending on the effective date of this act or may be

instituted on the basis of conduct occurring before the effective date of this act.

2. Section 2 of the Predecessor Act provides in pertinent part:

(1) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

(1) a depository institution;

(2) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of their profession or;

(3) any person who:

(A) does not exercise investment discretion with respect to the assets of clients or maintain custody of the assets of clients for the purpose of investing those assets, except when the person is acting as a bona fide fiduciary in a capacity such as an executor, trustee, personal representative, estate or trust agent, guardian, conservator, or person serving in a similar fiduciary capacity;

(B) does not accept or receive, directly or indirectly, any commission, fee, or other remuneration contingent upon the purchase or sale of any specific security by a client of such person; and

(C) does not advise on the purchase or sale of specific securities;

(4) a professional geologist, professional engineer or professional geophysicist and professional petroleum landman who is engaged in the business of exploring for and/or producing oil and gas or other valuable minerals as an ongoing business when giving advice, analyses, interpretations or reports that relate to securities covered by Section 2(v)(17) of this title;

- (5) a broker-dealer whose performance of these services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for them;
- (6) a publisher of any newspaper, news column, newsletter, news magazine, or business or financial publication or service of general, regular, and paid circulation, whether communicated in hard copy form or by electronic means;
- (7) an investment adviser representative; or
- (8) such other persons not within the intent of this paragraph as the Administrator may by rule or order designate.

3. Section 201 of the Predecessor Act provides in pertinent part:

- (c)(1) It is unlawful for any person to transact business in this state as an investment adviser unless registered under this act or unless exempt from registration as provided in paragraph (2) of this subsection.

4. Subsection (b) of Rule 660:10-5-42 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities ("Rules") provides in pertinent part:

- (1) A broker-dealer and his agents, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade. A broker-dealer and his agents shall not violate any rule of a national securities exchange or national securities association of which it is a member with respect to any customer, transaction or business effected in this state.
- (2) In recommending to a customer the purchase, sale or exchange of any security, the broker-dealer and his agents shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs. Prior to making a recommendation to a customer, a broker-dealer shall also make reasonable efforts to obtain information concerning the customer's financial background, tax status, and investment objectives, and such other information used or considered to be reasonable and necessary by such broker-dealer or registered agent in making such recommendation.

5. Conduct Rule 2310 of the National Association of Securities Dealers ("NASD") provides in pertinent part:

- (a) In recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.

6. Conduct Rule 3030 of the NASD provides:

No person associated with a member in any registered capacity shall be employed by, or accept compensation from, any other person as a result of any business activity, other than a passive investment, outside the scope of his relationship with his employer firm, unless he has provided prompt written notice to the member. Such notice shall be in the form required by the member. Activities subject to the requirements of Rule 3040 shall be exempted from this requirement.

7. Rule 660:10-7-42 of the Rules provides in pertinent part:

- (b) An investment adviser or investment adviser representative shall not engage in dishonest or unethical practices including, although not limited to, the following:

- (1) Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative.

* * *

- (10) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including:

- (A) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such service; and

(B) Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the investment adviser or its employees.

8. Section 406 of the Predecessor Act provides in part:

(a) If the Administrator reasonably believes, whether or not based upon an investigation conducted under Section 405 of this title, that a person has violated the Oklahoma Securities Act, except under the provisions of Section 202.1 or 305.2 of this title, or a rule or order of the Administrator under the Oklahoma Securities Act or has engaged in dishonest or unethical practices in the securities business, the Administrator, in addition to any specific power granted by any other section of the Oklahoma Securities Act, may impose one or more the following sanctions:

* * *

- (3) bar or suspend the person from association with a broker-dealer or investment adviser subject to the provisions of the Oklahoma Securities Act;
- (4) place limitations on the activities, functions, or operation of the person;
- (5) issue an order against a person who willfully violates the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act, imposing a civil penalty up to a maximum of Five Thousand Dollars (\$5,000.00) for a single violation or transaction or of Fifty Thousand Dollars (\$50,000.00) for multiple violations or transactions in a single proceeding or a series of related proceedings[.]

9. Section 1-411 of the Act provides in part:

C. If the Administrator finds that the order is in the public interest and paragraphs 1 through 6, 8, 9, 10, 12 or 13 of subsection D of this section authorizes the action, an order under this act may censure, impose a bar, impose a civil penalty in an amount not to exceed a maximum of Five Thousand Dollars (\$5,000.00) for a single violation or Two Hundred Fifty Thousand Dollars (\$250,000.00) for multiple violations on a registrant, and/or recover the costs of the investigation from a registrant and if the registrant is a broker-

dealer or investment adviser, from any partner, officer, or director, any person having a similar function or any person directly or indirectly controlling the broker-dealer or investment adviser.

- D. A person may be disciplined under subsections A through C of this section if the person:

* * *

2. Has willfully violated or willfully failed to comply with this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous ten (10) years;

* * *

5. Is the subject of an order, issued after notice and opportunity for hearing by:

* * *

- c. the Securities and Exchange Commission or by a self-regulatory organization suspending, barring, canceling or expelling the registrant from membership in a self-regulatory organization[.]

* * *

13. Has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance or insurance business within the previous ten (10) years[.]

Conclusions of Law

1. Bacon, individually and doing business as Bacon & Bacon Infinity Financial Advisors, Inc., transacted business in this state as an unregistered investment adviser, in violation of Section 201 of the Predecessor Act.

2. Bacon, individually and doing business as Bacon & Bacon Infinity Financial Advisors, Inc., engaged in dishonest or unethical practices in violation of subsections (b) of 660:10-5-42 and 660:10-7-42 of the Rules by recommending securities to Customer B without having reasonable grounds for believing his recommendation was suitable for such customer, accepting compensation from another person as a result of business activity outside the scope of his relationship with Wilbanks without providing written notice to Wilbanks, and failing to

disclose to Customer A in writing that certain Trusts would be double billed for advisory services.

3. Bacon is the subject of an order, issued after notice and opportunity for hearing, by the NASD suspending his association with an NASD member for one-year, ending July 31, 2006.

4. The Administrator of the Department is authorized to bar Bacon from association with a broker-dealer and/or an investment adviser in any capacity.

5. It is in the public interest to bar Bacon from association with a broker-dealer and/or an investment adviser in any capacity.

To the extent any of these Conclusions of Law are more properly characterized as Findings of Fact, they should be so considered.

WHEREFORE, it is recommended that the Administrator issue an order barring Bacon from association with a broker-dealer and/or an investment adviser in any capacity and imposing any other sanctions as deemed appropriate and as authorized by law.

Dated this 19th day of July, 2006.

Respectfully submitted,



Terra Shamas, Attorney
Amanda Cornmesser, Attorney
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Oklahoma City, OK 73102
(405) 280-7700