

IN THE DISTRICT COURT OF OKLAHOMA COUNTY

FILED IN THE DISTRICT COURT  
STATE OF OKLAHOMA OKLAHOMA COUNTY OKLA.

FEB - 4 2000

PATRICIA PRESLEY, COURT CLERK

By \_\_\_\_\_  
Deputy

CJ-2000-860

Oklahoma Department of Securities )  
 ex rel. Irving L. Faught, Administrator, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 Pinnacle Capital Fund, an unincorporated )  
 association, and Leslie A. Bacon, )  
 an individual, )  
 )  
 Defendants. )

Case No.

**PETITION FOR PERMANENT INJUNCTION**

**AND OTHER EQUITABLE RELIEF**

COMES NOW the Plaintiff, Oklahoma Department of Securities ex rel. Irving L. Faught, Administrator ("Department"), and for its claims against the above-named Defendants, alleges and states as follows:

**OVERVIEW**

1. This case involves the offer and sale of unregistered securities in and/or from the state of Oklahoma in violation of Section 301 of the Oklahoma Securities Act (the "Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (1991 and Supp. 1999). In addition, the Defendants employed an unregistered agent or acted as an agent without benefit of registration in violation of Section 201 of the Act.

**JURISDICTION**

2. The Administrator of the Department brings this action pursuant to Section 406.1 of the Act and is the proper party to bring this action against the Defendants.

3. Pursuant to Sections 2 and 413 of the Act, Defendants, in connection with their activities and the offer and sale of securities, are subject to the provisions of the Act. By virtue of their transaction of business by contract and otherwise and commission of other acts in this state, Defendants are subject to the jurisdiction of this Court and to service of summons within or outside of this state.

4. Defendants have engaged and are engaging in acts and practices in violation of the Act. Unless enjoined, Defendants will continue to engage in the acts and practices set forth herein and acts and practices of similar purport and object.

#### **DEFENDANTS**

5. Pinnacle Capital Fund ("Pinnacle") is an unincorporated association. At all times material hereto, Pinnacle offered and sold securities in and/or from Oklahoma as described herein.

6. Leslie A. Bacon ("Bacon") is an individual who, at all times material hereto, was a resident of Oklahoma doing the acts complained of in her own name and/or in the name of Pinnacle. At all times material hereto, Pinnacle acted under the control of Bacon.

#### **NATURE OF THE CASE**

7. Pinnacle purports to be a venture capital expansion organization that provides venture capital to rapidly expanding businesses.

8. Venture capital funds are raised from investors through private loan agreements (the "Loan Agreement(s)") described to pay 10% simple interest per month with 100% of the principal to be repaid at the end of ten (10) months. The 100% return described to be guaranteed and investors are given an option to renew the Loan Agreement after ten (10) months.

9. The Loan Agreements are described as non-accessible which, according to Defendants, means that the investors have no recourse to remove the loan principal during the period of the loan.

10. The minimum investment in Loan Agreements to Pinnacle is \$500.00. Payment is directed by Defendants to be made in the form of a cashier's check or money order and sent to Pinnacle Capital Fund at 1509 North Main Street, Suite 128, Altus, Oklahoma 73521. That street address is the address for Mail Boxes Etc. and Suite 128 is the number of a mailbox at the business. That mailbox is registered to Bacon.

11. As a result of their activities, Defendants have received an unknown sum of money from investors for the purported purpose of making venture capital loans.

12. Defendants do not provide investors or potential investors with any substantive information regarding Pinnacle or the businesses or entities with whom investor funds are purportedly placed. [See Exhibits A and B attached hereto.]

### **FIRST CAUSE OF ACTION**

#### **(Violation of Section 301 of the Act: Failure to Register Securities)**

13. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 12 above.

14. The Loan Agreements offered and sold by the Defendants are securities as defined in Section 2 of the Act.

15. The securities offered and sold by Defendants are not and have not been registered under the Act as required by Section 301 of the Act nor offered or sold pursuant to an exemption from registration pursuant to Section 401 of the Act. [See Affidavit attached hereto

as Exhibit C.] By reason of the foregoing, Defendants have violated, and unless enjoined, will continue to violate Section 301 of the Act.

## **SECOND CAUSE OF ACTION**

### **(Violation of Section 201 of the Act: Failure to Register as an Agent)**

16. Plaintiff realleges and incorporates by reference each and every allegation contained in the preceding cause of action.

17. Pinnacle is the issuer of the securities. Defendant Bacon, by virtue of her efforts and activities in effecting and attempting to effect sales of the securities, is an agent of the Defendant issuer as defined in Section 2 of the Act. Defendant Bacon is not, and has not been, registered under the Act as an agent for the offer or sale of securities as required by Section 201 of the Act. [See, Affidavit attached hereto as Exhibit D.] By reason of the foregoing, the Defendants have violated, and unless enjoined, will continue to violate Section 201 of the Act.

## **PRAYER FOR RELIEF**

Defendants have engaged in acts and practices in violation of the Act and have, as a result of these activities, received an unknown amount of money from investors. Unless enjoined, the Defendants will continue to engage in the acts and practices set forth herein and acts and practices of similar purport and object. A danger exists that the money received by Defendants from the investors or money or securities held by Defendants on behalf of the investors will be lost, removed or transferred. A temporary restraining order to issue instant, asset freeze and temporary and permanent injunctions to issue against Defendants are necessary to preserve these funds, securities and the records relating thereto and prevent further violations of the Act.

WHEREFORE, based upon the foregoing, and pursuant to the authority specifically granted by Section 406.1 of the Act, the Department prays for the court to grant the following relief:

I.

A temporary restraining order to issue instanter and a temporary injunction, restraining and enjoining the Defendants, their agents, servants, employees, assigns, attorneys, and those persons in active concert or participation with them who receive actual notice of the temporary restraining order and temporary injunction, directly or indirectly, and each of them from:

- a. offering or selling securities in and/or from this state unless and until the securities are registered under the Act; and
- b. transacting business in this state as broker-dealers or agents unless appropriately registered under the Act; and
- c. directly or indirectly, tampering with, altering, concealing, removing, destroying or otherwise disposing of any and all books, records, documents, files, correspondence, computer disks or computer generated data of any type, however created or stored, pertaining to Defendants or any financial or securities transaction by Defendants;

II.

An order freezing certain of the assets of Defendants;

III.

An order requiring immediate production of certain books, records, and account information necessary to determine an accounting of investor money;

IV.

A permanent injunction forever enjoining and restraining Defendants from:

- a. violating Section 301 of the Act; and
- b. violating Section 201 of the Act.

V.

An order requiring Defendants to make restitution to any and all investors who purchased securities from Defendants or who transferred money to Defendants for the purchase of securities on their behalf;

VI.

An order requiring Defendants to disgorge all ill-gotten gains and such other equitable relief as the Court may deem necessary, just and proper in connection with the enforcement of the Act; and

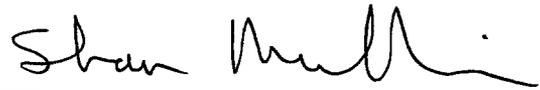
VII.

An order imposing a civil penalty against Defendants in the amount of Fifty Thousand Dollars (\$50,000.00).

Respectfully submitted,

OKLAHOMA DEPARTMENT OF SECURITIES  
Irving L. Faught, Administrator

By:



Patricia A. Labarthe, #10391  
Shaun M. Mullins, #16869  
Oklahoma Department of Securities  
120 North Robinson, Suite 860  
Oklahoma City, Oklahoma 73102  
(405) 280-7700



# The Pinnacle Capital Fund

1509 N. Main St., Suite 128 ~ Altus, OK 73521  
Ph: 580-480-4072 ~ Fax: 580-482-6733

## Private Loan Agreement

This private non-recourse loan agreement is initiated between \_\_\_\_\_

and the **Pinnacle Capital Fund** for the amount of \$ \_\_\_\_\_ (\$500 minimum) and is effective immediately upon acceptance by the **Pinnacle Capital Fund**. This loan agreement is for a period of 10 months only paying 10% simple interest per month. All loan funds must be clean and clear United States dollars of non-criminal origin.

Whenever funds are dispersed, funds will be returned to the lender in the form of United States funds as designed by the **Pinnacle Capital Fund** will be issued. The lender assumes total responsibility for any and all taxes and fees regarding these loan funds and interest earned. These principal funds will be totally non-accessible to the lender during the entire loan period. These funds are non-transferable. This agreement cannot be canceled once accepted by the **Pinnacle Capital Fund**. The signing of this document by the lender constitutes full acceptance of the terms of this agreement.

The lender is not a part of any management of proposed operations. All **Pinnacle Capital Fund** information is completely proprietary. An acknowledgement will be mailed to the lender immediately upon receipt of completed agreement(s) and funds. Unauthorized changes to this document will void the entire agreement. All funds are escrowed.

Please make all cashiers' checks or money orders payable only to the **Pinnacle Capital Fund**. Please ship all agreements and funds to the address listed above via overnight delivery carrier so that you have a guaranteed delivery receipt.

I accept the terms of this loan agreement.

Lender Signature \_\_\_\_\_ Date \_\_\_\_\_

Lender \_\_\_\_\_

Address \_\_\_\_\_ Telephone (\_\_\_\_) \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_

Referred by: Dan Gogolin

Total Loan Amount \$ \_\_\_\_\_ (\$500 Minimum)

Cashiers' Check

Money Order

+ \$50.00 PCF CLUB Fee

No. \_\_\_\_\_

\$ \_\_\_\_\_

Total Amount

For Office Use ONLY  
Accepted by

**Pinnacle Capital Fund**

Representative \_\_\_\_\_

Date \_\_\_\_\_

EXHIBIT

A

# Pinnacle Capital Fund

100% Return  
On Your Money —  
10% Simple Interest  
Paid Every Month  
For 10 Months  
With Possible  
Renewal Options!

The **Pinnacle Capital Fund** is a private venture capital expansion organization which provides funds to rapidly expanding and highly profitable areas of business growth such as United States based health care and technology. The purpose of the **Pinnacle Capital Fund** is to provide its Private clients an outstanding 100% return on loan funds with 10% simple interest paid every month for 10 months **GUARANTEED** with renewal options.

The minimum loan that private clients can make to the **Pinnacle Capital Fund** is \$500 in the form of a cashier's check or money order only. Naturally, principal funds are non-accessible until the end of the 10 month term.

This is not an offer or solicitation to participate. Past performance is no guarantee of future results. Please read all materials carefully before you lend or send any money. The **Pinnacle Capital Fund** does not provide legal or tax advice. You must consult your own legal or tax advisor.

## Pinnacle Capital Fund

1509 N. Main St., Suite 128 ~ Altus, OK 73521

Ph: 580-480-4072 ~ Fax: 580-482-6733

October 10, 1999

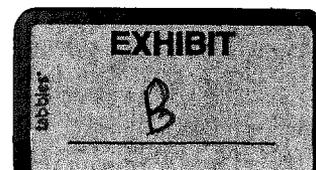
Leslie Bacon  
Re: Pinnacle Capital Fund

Dennis W. Pryor  
8817w Fifty South  
West Lafayette, In. 47906  
Fax:1-765-583-0058

Dear Miss Bacon:

Hello. It's been awhile since I have corresponded with you. I apologize, I have a new baby boy and he's keeping my wife and I pretty busy. I had an opportunity to speak with my friend and his investment club, a couple of weeks ago at their monthly meeting. The overall consensus was one of cautious enthusiasm. I heard a six figure amount mentioned several times and also several individuals mention low 5 figure amounts for themselves. However due to the substantial total amount being discussed several questions were raised that I was unable to answer. The group asked me to obtain the answers to the following questions before they would put this program up for a vote. They are as follows:

- 1). Exactly what is a non-recourse loan agreement? Does this mean the lender has no course of action whatsoever if PCF violates the loan agreement? Please be detailed and specific in your answer
- 2). Who exactly is PCF? Who owns or manages the fund? Are names and addresses available? May they be contacted?
- 3). The loan agreement says that all funds are escrowed. Where and with whom? May they be contacted?
- 4). In order to ensure that their substantial loan amount is safeguarded from PCF just folding and disappearing with their money would you or anyone from management be willing to provide the following information (to be used only if it becomes necessary to initiate legal action should PCF violate the loan agreement) first name middle name and last name, Date of birth, social security number, Drivers license number, complete home address including home telephone number, complete work address including name of company work phone number position held and length of employment. They were concerned



that they would not know who to contact, how to reach them or where they are located should it become necessary.

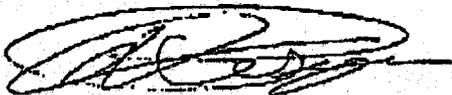
5). How long has the PCF been operating? I told them I thought it was close to 2 years but wasn't exactly sure.

6). Is there a law firm or a lawyer that represents PCF? If so may they have the name address and telephone number?

I know these questions are of a pesimestic nature, but due to the large amount of money being discussed I can see how it would be necessary to know the answers to these questions. Especially since the loan is unsecured by collateral. Please contact me by fax at 1-765-583-0058 ASAP with the detailed answers to these questions so that I may forwarded them to the group in a timely manner. Your unwillingness or inability to answers the questions will undoubtedly effect their decision so please be forthcoming and honest in your responses.

I stand to receive a substantial referral bonus if this goes through so I myself would appreciate knowing the answers to these questions. It will also help me when discussing this program with potential clients. Thank you for your time. I will expect to hear from you shortly.

Sincerely,



Dennis W. Pryor

*This is the questions I faxed her on 10 oct 99.*

# The Pinnacle Capital Fund

1509 N. Main St., Suite 128 ~ Altus, OK 73521  
Ph: 580-480-4072 ~ Fax: 580-482-6733

October 15, 1999

Dennis W. Pryor  
8817 W Fifty South  
West Lafayette, IN 47906

Re: Investment Club

Dear Dennis,

Thank you for all of your continuing efforts with Pinnacle! I can appreciate how your son keeps you busy. We have a new daughter ourselves who is seven weeks old with a touch of colic. As always, PCF is honest in its responses.

Your questions are addressed individually as follows:

1. A non-recourse loan is a loan that the lender has no recourse to remove the principle before the terms of the loan are due. Therefore, all lenders must leave the funds or loan amount in PCF for the full ten months. Lenders may not change their minds and ask for the principle to be paid back early. The lender would always have a course of action if performance is not met. The first action is usually an informal inquiry such as a phone call. The second action is usually a written request, and the third action is other legal options.
2. Pinnacle Capital Fund is the administrator and manages resources for a private capital group. All names and addresses are unavailable because that information is proprietary. They are busy with several projects and choose to only be contacted through the administrator.
3. Yes all funds are escrowed, but with different projects. Therefore, those projects can not be directly contacted.
4. PCF will continue to grow, build and serve its clients. However, no personal information is available.
5. Pinnacle has been operating since May 1997.
6. Yes, PCF has a legal representation as needed in all of its business matters. These attorneys are not available for the public to contact.

# The Pinnacle Capital Fund

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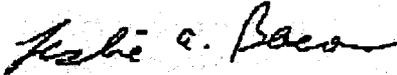
We have been as forthcoming as possible in answering the above mentioned questions. Please remember that Pinnacle is PRIVATE. As a result, we do not offer a prospectus or year end statements. Dennis, I realize that these may not be the answers that you expected. The information PCF does offer is contained in our "brochure" as I advised you in my last correspondence. Privacy and confidentiality must be maintained at all times.

As you know, Pinnacle is not an investment rather Pinnacle deals with simple interest loans.

Since we grow only by referral and do not solicit, our members should share PCF with people such as yourself who are discriminating and open minded. You always have the opportunity to qualify for referral bonuses.

We thank you for your continuing business! We look forward to serving any new members who you refer. We will process their loans and forward their paperwork to them within ten days.

Sincerely,



Leslie A. Bacon  
President

*This is her response to my questions.*

AFFIDAVIT

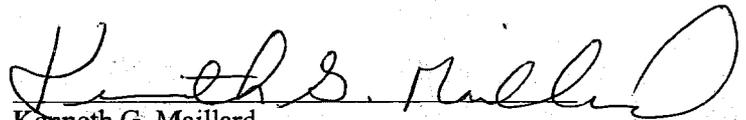
STATE OF OKLAHOMA     )  
  ) SS.  
COUNTY OF OKLAHOMA    )

I, Kenneth G. Maillard, Director of Registrations of the Oklahoma Department of Securities (Department), swear that I have conducted an examination of the registration and exemption files of the Department pertaining to current and past registrations for the offer or sale of securities in Oklahoma and that nowhere therein was found a record of an application for the registration of securities pursuant to Section 301 of the Oklahoma Securities Act (Act), 71 O.S. §§1-413, 501, 701-703 (Supp. 1999), for The Pinnacle Capital Fund.

I further swear that nowhere within the registration files for the Department was found a record of a registration of securities for The Pinnacle Capital Fund pursuant to Section 301 of the Act.

I further swear that nowhere within the exemption files for the Department was found a record of a notice of intent to claim exemption from Sections 301 and 402 of the Act for The Pinnacle Capital Fund pursuant to any subsection of Section 401 of the Act.

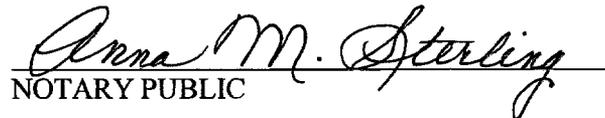
(SEAL)



Kenneth G. Maillard  
DIRECTOR OF REGISTRATIONS  
OKLAHOMA DEPARTMENT OF SECURITIES  
First National Center, Suite 860  
120 North Robinson  
Oklahoma City, Oklahoma 73102  
(405) 280-7700

Subscribed and sworn to before me this 3<sup>rd</sup> day of February, 2000.

(NOTARIAL SEAL)



NOTARY PUBLIC

My Commission Expires:

December 21, 2003

