UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 97448 / May 5, 2023

INVESTMENT ADVISERS ACT OF 1940
Release No. 6302 / May 5, 2023

ADMINISTRATIVE
PROCEEDING File No. 3-21405

In the Matter of **PINNACLE INVESTMENTS, LLC** **Respondent.**	**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTION 15(b) OF THE SECURITIES EXCHANGE ACT OF 1934 AND SECTIONS 203(e) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act"), against Pinnacle Investments, LLC ("Pinnacle" or "Respondent").

II.

In anticipation of the institution of these proceedings, Pinnacle has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over it and the subject matter of these proceedings, which are admitted, Pinnacle consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 15(b) of the Securities Exchange Act of 1934, and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-And-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Pinnacle's Offer of Settlement, the Commission finds[1] that:

Summary

1. From January 2015 to October 2022, Pinnacle, which is dually registered with the Commission as an investment adviser and a broker-dealer, violated antifraud, compliance, and reporting provisions of the Advisers Act. Pinnacle made false and misleading statements in its Forms ADV Part 2A (the "brochure") regarding reviews of advisory client accounts; failed to adequately disclose its conflicts of interests in connection with the outside business activities and related compensation arrangements of an Investment Adviser Representative ("IAR A") with an affiliated fund; failed to adopt and implement policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder concerning reviews of client accounts and conflicts of interest; and failed to deliver to clients information about advisory personnel as required in Form ADV Part 2B (the "brochure supplement"). As a result of this conduct, Pinnacle willfully violated Sections 204(a), 206(2) and 206(4) of the Advisers Act and Rules 204-3 and 206(4)-7 thereunder.

Respondent

2. **Pinnacle Investments, LLC**, is a New York limited liability company with its principal place of business in East Syracuse, New York, and has been dually registered with the Commission as a broker-dealer and an investment adviser since June 2007. Pinnacle is a wholly-owned subsidiary of Pinnacle Holding Company, LLC ("PHC"), a Delaware limited liability company. Pinnacle had approximately $814 million in assets under management as of December 2022.

Other Relevant Entity

3. **Pinnacle Capital Management, LLC** ("PCM"), a Delaware limited liability company, is an investment adviser registered with the Commission since 2006. PCM provides portfolio management advisory services to a registered investment company and its series portfolios. PCM is a wholly-owned subsidiary of PHC.

Facts

4. Pinnacle offers investment advisory, financial planning, and brokerage services to retail advisory clients and brokerage customers, primarily in the central New York area, through its IARs, most of whom are also registered representatives.

5. As a registered investment adviser, Pinnacle was required to file and deliver to clients, on an annual basis, its brochure. Form ADV requires an investment adviser to prepare narrative discussions covering, among other things, the adviser's business practices, fees, and

[1] The findings herein are made pursuant to Pinnacle's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

conflicts of interest. One of the required brochure items is a description of "Review of Accounts." A registered investment adviser must "indicate whether [it] periodically review[s] client accounts or financial plans," and if so, "the frequency and nature of the review, and the titles of the supervised persons who conduct the review."

6. As an investment adviser, Pinnacle is a fiduciary that is obligated to act in the best interests of its clients and not subordinate its clients' interests to its own. As part of its fiduciary duty, Pinnacle "must eliminate or make full and fair disclosure of all conflicts of interest which might incline an investment adviser—consciously or unconsciously—to render advice which was not disinterested. . . ." Commission Interpretation Regarding Standard of Conduct for Investment Advisers, Investment Advisers Act Release No. 5248 (June 5, 2019) [84 FR 33669 (July 12, 2019)]. Pinnacle was also obligated to disclose all material facts relating to how those conflicts could affect the advice it or its IARs provided to clients. To meet this fiduciary obligation, Pinnacle was required to provide its advisory clients with full and fair disclosure that was sufficiently specific so that clients could understand the conflicts of interest concerning Pinnacle's investment advice and have an informed basis on which they could consent to or reject the conflicts.

7. Rule 204-3 under the Advisers Act requires registered investment advisers to deliver to clients and prospective clients a brochure and one or more brochure supplements that contain all information required by Part 2 of Form ADV. The Part 2B brochure supplement provides information about the advisory personnel on whom the clients rely for investment advice, including educational background, experience, disciplinary history (if any), other investment-related business activities, any associated compensation arrangements, and any material conflicts of interest that might arise therefrom.

Pinnacle Misrepresented Its Account Review Practices

8. In 2013, staff from the Commission's Division of Examinations ("EXAMS") examined Pinnacle and found that Pinnacle did not conduct sufficient periodic reviews of client advisory accounts to determine whether client accounts were being managed in accordance with their investment mandates. In addition, EXAMS determined that Pinnacle did not have a chief compliance officer at that time who was sufficiently knowledgeable about the Advisers Act and was empowered to enforce Pinnacle's compliance program. Pinnacle told EXAMS that it would implement periodic reviews of advisory accounts to ensure that client portfolios were managed in accordance with clients' investment objectives and that it would maintain documentation of these account reviews. Pinnacle did not conduct those account reviews.

9. From January 2015 to March 2018, Pinnacle filed brochures with substantially similar disclosures regarding advisory account reviews:

> At Pinnacle Investments, LLC a representative sample of accounts are reviewed at least quarterly. The securities held in Portfolio Management accounts are reviewed continuously, and Portfolio Management accounts may be reviewed more frequently in the event of material market, economic or political events or changes in the client's individual circumstances. All reviews are made by Pinnacle Investments, LLC's [specific members of Pinnacle's management].

After March 2015, Pinnacle changed only the name of the persons then serving in specified management roles and, in March 2017, added the phrase "or their delegates" following the named members of Pinnacle's management.

10. In February 2019, Pinnacle revised the brochure disclosure, changing the statement that the securities in accounts were "reviewed continuously" to "reviewed frequently." In September 2021, Pinnacle further revised the brochure to state that the reviews were conducted "by applicable financial advisers, supervisors and/or their delegates." This language remained the same until October 2022.

11. From at least January 2015 until October 2022, Pinnacle failed to conduct the account reviews described in the brochures because it did not review a "sample of accounts" that was "representative" of its advisory accounts, "at least quarterly," and because it did not conduct a review of the securities in advisory accounts "continuously."

12. While Pinnacle did perform event-driven trade reviews of the securities in advisory accounts, Pinnacle failed to conduct the disclosed account reviews even after Pinnacle revised the disclosure in March 2017 to include "delegates" of the named officers (e.g., Pinnacle's IARs). Pinnacle did not confirm that any delegate actually performed account reviews as contemplated in the brochure, and provided no training, written procedures, or any oversight to any delegate for the purpose of conducting the account reviews.

13. As a result of Pinnacle's failure to perform the account reviews as represented in its brochures, Pinnacle did not discover that from 2015 through 2018, 111 Pinnacle advisory accounts had at least one year of no trades with no documented evidence that the IARs contacted the clients concerning the accounts or provided advisory services to the clients. Eleven of those accounts had no activity or documented evidence of contact for three years; twenty-two accounts had no activity or contact for two years. Yet, Pinnacle continued to charge those accounts advisory fees, totaling $201,843, of which Pinnacle retained $83,462 and paid out the remainder to its IARs.

14. In 2018, EXAMS conducted another examination of Pinnacle, identified a number of inactive advisory accounts, and stated that Pinnacle should implement procedures for the review of inactive accounts. EXAMS also requested that Pinnacle conduct a review of all inactive accounts during the examination period. In approximately February 2019, Pinnacle rebated advisory fees of $30,925.40 to nine inactive client accounts.

15. Beginning in January 2019, Pinnacle manually reviewed certain advisory accounts with low trade activity. Until October 2022, Pinnacle, however, continued to fail to review a "representative sample of accounts" quarterly, or all securities within accounts "continuously." Moreover, Pinnacle did not document criteria used in the low trade activity reviews or the results of the reviews.

Pinnacle Failed to Disclose Conflicts of Interest

16. Pinnacle breached its fiduciary duty and failed to disclose conflicts of interest in connection with the outside business activities of one of its IARs (IAR A) from November 2016 through March 2020.

17. During the 2013 examination, EXAMS staff found that Pinnacle failed to disclose a conflict of interest related to Pinnacle's financial interest in notes in which an advisory client invested. Pinnacle told EXAMS that, going forward, it would disclose any potential conflict of interest to advisory clients "when offering investments in affiliated entities."

18. In approximately November 2016, IAR A, while simultaneously providing advisory services to Pinnacle clients as an IAR, became managing director and head of institutional sales of PCM, in addition to serving in several officer positions of Pinnacle Capital Management Funds Trust (the "Trust"), a registered investment company. PCM provides advisory services to the Trust for its sole series (the "Fund").

19. Beginning in approximately 2018 and continuing through the end of 2019, Pinnacle compensated IAR A for his PCM-related work by increasing his advisory fee ratio (*i.e.*, the payout by Pinnacle of his share of the advisory fees) on advisory accounts that he managed. For example, IAR A's advisory fee ratio paid by Pinnacle fluctuated between 50% and 75%; he received the higher percentage when he did more work for PCM and the Fund.

20. Between December 2017 and March 2020, approximately 54 of IAR A's advisory clients invested in the Fund. Neither Pinnacle nor IAR A disclosed to those clients that IAR A had dual roles at Pinnacle and PCM; that IAR A was responsible for promoting and increasing institutional investments in the Fund; or that Pinnacle was compensating him for doing so. Pinnacle failed to provide its advisory clients with information about IAR A's role with the Fund and his compensation arrangements that was sufficiently specific to enable the clients to understand the conflicts of interest and make an informed evaluation of Pinnacle's and IAR A's ability to provide disinterested investment advice.

Pinnacle's Deficient Compliance Program

21. From at least December 2015 through September 2022, Pinnacle failed to adopt and properly implement policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder.

22. Before January 2019, despite the statements in its brochure that it would review a representative sample of advisory accounts at least quarterly, Pinnacle had no written policies and procedures regarding account reviews. In January 2019, Pinnacle revised its advisory compliance manual to include a statement that advisory accounts are reviewed at least annually for inactivity and that the reviews would be documented, but provided no procedures for the annual account reviews or any quarterly reviews of a representative sample of accounts. While Pinnacle began to review accounts with low activity in January 2019, the review was initially manual, not documented, and, until the fourth quarter of 2020, involved no process to seek feedback from IARs to evaluate low or no activity.

23. In October 2021, Pinnacle again revised its policies and procedures concerning advisory account reviews, but the revised policies and procedures mirrored the then-current brochure disclosures, stating that a representative sample of accounts are reviewed at least quarterly by applicable financial advisers, supervisors, or their delegates. The revised policies and procedures failed to provide written guidance or criteria for conducting account reviews or identifying a representative sample of accounts for review. Pinnacle also did not provide written guidance to officers, delegates, or IARs about account review criteria.

24. Before January 2019, Pinnacle had no written policies and procedures regarding the identification and disclosure to clients of conflicts of interest in its investment advisory business. In January 2019, Pinnacle adopted a conflicts of interest policy for its investment advisory business that was copied wholesale from the supervisory policies and procedures manual for its broker-dealer business, without making modifications to take into account the nature of Pinnacle's investment advisory business. This policy was not reasonably designed because it failed to address the conflicts and potential conflicts that could arise from its IARs' outside business activities, including, in particular, the conflict that arose from IAR A's compensation arrangements with Pinnacle related to his work for the Fund. Moreover, Pinnacle failed to properly implement the conflicts of interest policy with regard to the conflict arising from IAR A's role as head of institutional sales for the Fund. Pinnacle revised the conflicts of interest policies and procedures in October 2021, for the first time tailoring these policies and procedures to its investment advisory business.

25. In October 2022, Pinnacle revised its policies and procedures, including the sections concerning conflicts of interest and advisory account reviews. The revised policies and procedures addressed the deficiencies noted above.

Pinnacle Failed to Timely Deliver Form ADV Disclosures to Clients

26. From at least 2015 to the present, Pinnacle failed to deliver to clients and prospective clients with the required Form ADV Part 2B brochure supplements. EXAMS notified Pinnacle in the 2018 exam that it was not in compliance with this requirement. In March 2020, Pinnacle provided advisory clients with a brochure supplement, but it did not provide information on all individuals required to be covered by instructions to the form.

Violations

27. As a result of the conduct described above, Pinnacle willfully[2] violated Section 206(2) of the Advisers Act, which prohibits any investment adviser from engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client. A violation of Section 206(2) may rest on a finding of simple negligence.

[2] "Willfully," for purposes of imposing relief under Section 15(b) of the Exchange Act and Section 203(e) of the Advisers Act, "'means no more than that the person charged with the duty knows what he is doing.'" *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). The decision in *The Robare Group, Ltd. v. SEC*, which construed the term "willfully" for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478-79 (D.C. Cir. 2019) (setting forth the showing required to establish that a person has "willfully omit[ted]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

SEC v. Steadman, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 195 (1963)). Proof of scienter is not required to establish a violation of Section 206(2) of the Advisers Act. *Id.*

28. As a result of the conduct described above, Pinnacle willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require a registered investment adviser to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder.

29. As a result of the conduct described above, Pinnacle willfully violated Section 204(a) and Rule 204-3 of the Advisers Act, which requires a registered investment adviser to "deliver to its clients or prospective clients, a brochure and one or more brochure supplements to each client or prospective client that contains all information required by Part 2 of Form ADV," including, but not limited to, information in the Part 2B brochure supplement about any other investment-related business activities of certain supervised persons who provide advisory services to the client and any material conflicts of interest arising therefrom.

Disgorgement and Prejudgment Interest

30. The disgorgement and prejudgment interest ordered in Section IV.C are consistent with equitable principles, do not exceed Respondent's net profits from its violations, and will be distributed to harmed advisory clients to the extent feasible. The Commission will hold funds paid pursuant to Section IV.C in an account at the United States Treasury pending distribution. Upon approval of the distribution final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred to the general fund of the U.S. Treasury subject to Section 21F(g)(3) of the Exchange Act.

Remedial Efforts

31. In January 2022, Pinnacle retained a third-party compliance consultant ("Compliance Consultant") to conduct a review of its compliance program and make recommendations to improve its policies and procedures. As discussed above, in October 2022 Pinnacle revised its written policies and procedures, including the sections concerning conflicts of interest and advisory account reviews. In determining to accept the Offer, the Commission considered remedial acts undertaken by Pinnacle in response to the Compliance Consultant's recommendations.

Undertakings

32. Notice to Advisory Clients. Within thirty (30) days of the entry of this Order, Pinnacle undertakes to notify those former and current Pinnacle advisory clients whose accounts are referenced in Paragraph 13, above, that between 2015 and 2018 had at least one year of no trades, with no evidence that the IARs contacted the clients concerning the accounts or provided advisory services to the clients (the "affected clients"), of the settlement terms of this Order by sending a copy of this Order to each affected client via mail, email or such other method not unacceptable to the Commission staff, together with a cover letter in a form not unacceptable to the Commission staff.

33. Compliance Consultant.

A. Effective upon entry of this Order, Pinnacle undertakes to continue to retain the services of the Compliance Consultant, exclusively bearing all costs, including compensation and expenses, associated with the retention of the Compliance Consultant.

B. Pinnacle shall require the Compliance Consultant to conduct, at the end of the second and fourth quarters after the date of the entry of this Order, comprehensive reviews of the effectiveness and implementation of Pinnacle's compliance policies and procedures (each, an "Interim Review"), relating to: (1) reviews of advisory accounts; (2) assessing advisory conflicts of interest and disclosure thereof; (3) the review, filing and dissemination of the Form ADV and other disclosures obligations; and (4) IAR training (the "Policies and Procedures"). Pinnacle shall require the Compliance Consultant to provide Pinnacle with any recommendations for changes or improvements to the effectiveness and implementation of the Policies and Procedures as the Compliance Consultant deems appropriate during any Interim Review and prior to the issuance of reports required in paragraphs 33.C, 33.D, and 33.G, below.

C. Pinnacle shall require, within thirty (30) days from the completion of the first Interim Review, the Compliance Consultant to submit a written and detailed report to Pinnacle and the Commission staff (the "Semi-Annual Report"). The Semi-Annual Report will describe the first Interim Review, the names of the individuals who performed the Interim Review, the conclusions reached, any recommendations by the Compliance Consultant for changes in or improvements to the Policies and Procedures and/or Pinnacle's implementation thereof, and the status of Pinnacle's adoption of such recommendations by the Compliance Consultant or failure to cooperate with reasonable requests to access its files, books, records, or personnel.

D. Pinnacle shall require, within thirty (30) days from the completion of the second Interim Review, the Compliance Consultant to submit a written and detailed report to Pinnacle and the Commission staff (the "Anniversary Report"). The Anniversary Report will describe the second Interim Review, the names of the individuals who performed the Interim Review, the conclusions reached, any recommendations by the Compliance Consultant for changes in or improvements to the Policies and Procedures and/or Pinnacle's implementation thereof, and the status of Pinnacle's adoption of such recommendations by the Compliance Consultant or failure to cooperate with reasonable requests to access its files, books, records, or personnel.

E. Pinnacle shall adopt all recommendations contained in the Semi-Annual Report and the Anniversary Report within forty-five (45) days of the date of each Report; provided, however, that within thirty (30) days after the date of each Report, Pinnacle shall in writing advise the Compliance Consultant and the Commission staff of any recommendations that Pinnacle considers to be unduly burdensome, impractical, or inappropriate. With respect to any recommendation that Pinnacle considers to be unduly burdensome, impractical, or inappropriate, Pinnacle need not adopt that recommendation at that time but shall propose in writing an alternative policy, procedure, or system designed to achieve the same objective or purpose.

F. As to any recommendation on which Pinnacle and the Compliance Consultant do not agree, Pinnacle shall attempt in good faith to reach an agreement with the Compliance Consultant on an alternative proposal within sixty (60) days after the date of the Semi-Annual

Report or Anniversary Report, as applicable. Within fifteen (15) days after the conclusion of the discussion and evaluation by Pinnacle and the Compliance Consultant, Pinnacle shall require that the Compliance Consultant inform Pinnacle and the Commission staff in writing of the Compliance Consultant's final determination concerning any recommendation objected to by Pinnacle. Pinnacle shall abide by the determinations of the Compliance Consultant and, within thirty (30) days after final agreement between Pinnacle and the Compliance Consultant or final determination of the Compliance Consultant, whichever occurs first, Pinnacle shall adopt and implement all of the recommendations that the Compliance Consultant deems appropriate.

G. Within thirty (30) days of Pinnacle's adoption of all of the recommendations in the Anniversary Report that the Compliance Consultant deems appropriate, Pinnacle shall require the Compliance Consultant to submit a written final report to Pinnacle and the Commission staff (the "Final Report"). The Final Report will (1) describe how Pinnacle has adopted and implemented the Compliance Consultant's recommendations, if any, from the Semi-Annual Report and Anniversary Report; (2) certify that the Compliance Consultant agrees with Pinnacle's adoption and implementation of its recommendations, if any; and (3) include an opinion of the Compliance Consultant on whether the Policies and Procedures, and Pinnacle's implementation thereof, are reasonably designed to prevent violations of the federal securities laws by Pinnacle and its employees.

H. Pinnacle shall cooperate fully with the Compliance Consultant and shall provide the Compliance Consultant with access to its files, books, records, and personnel as reasonably requested by the Compliance Consultant. For the period of the engagement, Pinnacle: (1) shall not have the authority to terminate the Compliance Consultant or substitute another compliance consultant for the Compliance Consultant without the prior written approval of the Commission staff; and (2) shall compensate the Compliance Consultant and persons engaged to assist the Compliance Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

I. Pinnacle shall require the Compliance Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Compliance Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Pinnacle, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Compliance Consultant will require that any firm with which she is affiliated or of which she is a member, and any person engaged to assist the Compliance Consultant in performance of her duties under this Order shall not, without prior written consent of the Commission staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Pinnacle, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two (2) years after the engagement.

For the period of engagement and for a period of two years from completion of the engagement, Pinnacle undertakes not to (i) retain the Compliance Consultant for any other professional services outside of the services described in this Order; (ii) enter into any other professional relationship with the Compliance Consultant, including any employment,

consultant, attorney-client, auditing or other professional relationship; or (iii) enter, without prior written consent of the Commission staff, into any such professional relationship with any of the Compliance Consultant's present or former affiliates, employers, directors, officers, employees, or agents acting in their capacity as such.

J. A Report will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of a Report could discourage cooperation, impede pending or potential government investigations or undermine the objectives of the reporting requirement. For these reasons, among others, Reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the Commission determines in its sole discretion that disclosure would be in furtherance of the Commission's discharge of its duties and responsibilities, or (4) as otherwise required by law.

34. Certification. Pinnacle undertakes to certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Hane L. Kim, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 Pearl St., Suite 20-100, New York, NY 10004-2616, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

35. Recordkeeping. Pinnacle shall preserve for a period of not less than six (6) years from the end of the fiscal year last used, the first two years in an easily accessible place, any record of its compliance with the undertakings set forth herein.

36. Deadlines. For good cause shown, the Commission staff may extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Section 15(b) of the Exchange Act and Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondent shall cease and desist from committing or causing any violations and any future violations of Sections 204(a), 206(2), and 206(4) of the Advisers Act and Rules 204-3 and 206(4)-7 promulgated thereunder.

B. Respondent is censured.

C. Respondent shall pay disgorgement of $83,462, prejudgment interest of $11,874 and civil penalties of $393,381 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment shall be made in the following installments:

1. Due within 14 days of the entry of this Order: $122,179.25;

2. Due within 90 days of the entry of this Order: $122,179.25;

3. Due within 180 days of the entry of this Order: $122,179.25; and

4. The remainder within 365 days after the entry of this Order.

Payments shall be applied first to post-order interest, which accrues pursuant to SEC Rule of Practice 600 and pursuant to 31 U.S.C. 3717. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Pinnacle Investments, LLC, as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Hane L. Kim, Assistant Regional Director, U.S. Securities and Exchange Commission, Division of Enforcement, 100 Pearl St, Suite 20-100, New York, NY 10004-2616.

D. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the disgorgement, prejudgment interest, and penalties referenced in Section IV.C above. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

E. Respondent shall comply with the undertakings enumerated in paragraphs 32 through 36 above.

By the Commission.

Vanessa A. Countryman
Secretary