

**ATTORNEY GENERAL OF THE STATE OF NEW YORK  
BROOKLYN REGIONAL OFFICE**

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**In the Matter of the**

**Investigation by Andrew M. Cuomo,  
Attorney General of the State of New York,**

**Assurance No. 10-063**

**PINNACLE SECURITY GROUP, LLC,  
d/b/a PINNACLE SECURITY**

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**ASSURANCE OF DISCONTINUANCE**

The Office of the Attorney General of the State of New York ("OAG") commenced an investigation, pursuant to Articles 22-A of the New York State General Business Law ("GBL") and New York State Executive Law ("Exec. Law") § 63(12), of Pinnacle Security Group, LLC d/b/a Pinnacle Security ("Pinnacle" or "the Company") with respect to its home security system business and door-to-door sales practices. This Assurance of Discontinuance ("Assurance") contains the findings of the OAG's investigation and the relief agreed to by the OAG and Pinnacle.

**I. FINDINGS**

1. Pinnacle is a limited liability corporation engaged in the sale, installation, and servicing of home security systems and home security monitoring services. Pinnacle's headquarters are in Orem, Utah.

2. Pinnacle makes sales through door-to-door solicitations in residential neighborhoods in New York State. Each year, Pinnacle hires short-term sales representatives ("Sales Representatives") to make these door-to-door solicitations.

3. In 2008 and 2009, over 4000 New York consumers purchased Pinnacle's home security systems and services as a result of the Company's door-to-door sales efforts. Pinnacle's

home security monitoring contracts are for a term of 39 months and include monthly service fees, installation and activation fees and equipment charges. Under the terms of the contract, if a consumer cancels the contract more than three days after the transaction, Pinnacle may demand full and immediate payment of all money owed for the entire term.

4. The OAG's investigation revealed that Sales Representatives repeatedly engaged in overly aggressive and deceptive sales tactics while conducting door-to-door sales in New York State, including making false and misleading statements and engaging in other deceptive sales techniques designed to induce consumers to purchase Pinnacle's products and services. Moreover, Pinnacle failed to adequately train, oversee, and monitor its sales force to ensure that their sales practices were lawful and not deceptive, and failed to respond promptly and adequately to many of the more than 100 complaints submitted to the company by New York consumers.

#### **Misrepresentations About Competitors**

5. Sales Representatives often targeted consumers who were using home security systems provided by Pinnacle's competitors, and made false and misleading representations to induce these consumers to switch home security providers and to execute a new contract with Pinnacle. The most common false and misleading representations and deceptive practices included:

- a. falsely claiming that the consumer's existing home security provider was either out of business or were no longer monitoring the consumer's homes;
- b. falsely reporting that the consumer's existing home security provider had merged with Pinnacle, or that Pinnacle had taken over the other home security provider's business, and that the consumer needed to execute a new contract with Pinnacle to continue to receive home security services;

c. falsely representing or implying that Pinnacle was affiliated with the consumer's existing home security provider, or that the Sales Representative was affiliated or employed by such company;

d. conducting phony telephone calls in which Sales Representatives falsely represented that the consumer's existing home security contract had been canceled;

e. preparing "cancellation letters" for consumers to send to their existing home security providers; and

f. making and then renegeing on personal promises to pay the cancellation fees and/or remainder of the contract costs that consumers would owe once they canceled their existing home security contracts.

6. As a result of these fraudulent and deceptive sales tactics, consumers found themselves bound by redundant contracts for the provision of home security services – one with their original provider and a new, 39-month contract with Pinnacle. If consumers elected to cancel their Pinnacle contract, Pinnacle would demand full and immediate payment of the service fees due for the entire term of the contract.

#### **Misrepresentations About Contract Terms**

7. Sales Representatives sometimes misrepresented the terms of Pinnacle's standard consumer contract, including but not limited to the cost of Pinnacle's services and the applicability of sales taxes, as well as the length and structure of the contract (i.e., telling consumers that the contracts were month-to-month agreements when in fact they were 39-month agreements).

8. In one instance, a Sales Representative altered the contract after it was signed by the consumer to falsely make it appear that the consumer had authorized Pinnacle to automatically debit monthly payments from the consumer's bank accounts. The Sales Representative's incentive

to falsify these authorizations was that their commissions were reduced if the consumers did not agree to automated payments.

**Deceptive Practices Related to "Welcome Calls"**

9. Pinnacle's practice during door-to-door sales includes conducting "Welcome Calls" during which each consumer speaks by phone with Pinnacle's customer service staff before executing the Pinnacle contract. Following the door-to-door sales presentation, the Sales Representative at the consumer's home calls the customer service staff and describes the terms of the proposed sale. The Sales Representative then gives the phone to the consumer so that the consumer can speak directly to the customer service staff. The purpose of the Welcome Call is to review the contract terms with the consumer and to verify that the consumer understands these terms. However, in several instances, Sales Representatives interfered with these Welcome Calls by coaching consumers on how to answer the questions or by impersonating the consumers and completing the Welcome Calls themselves.

10. Executive Law § 63(12) prohibits persons or business entities from engaging in repeated fraudulent or illegal acts or otherwise demonstrating persistent fraud or illegality in the carrying on, conducting or transaction of business. GBL § 349 prohibits deceptive acts or practices in the conduct of any business, trade, or commerce in New York State. GBL § 350-d authorizes the OAG to recover penalties for each violation of GBL § 349.

11. Based on the foregoing, the Attorney General concludes that Pinnacle has violated Exec. Law § 63(12) and GBL § 349.

## II. PROSPECTIVE RELIEF

**WHEREAS**, the Pinnacle neither admits nor denies the OAG's Findings contained in Paragraphs 1-11 above;

**WHEREAS**, the OAG is willing to accept the terms of this Assurance pursuant to New York Executive Law § 63(15) and to discontinue its investigation; and

**WHEREAS**, the parties each believe that the obligations imposed by this Assurance are prudent and appropriate;

**IT IS HEREBY UNDERSTOOD AND AGREED**, by and between the OAG and Pinnacle that:

12. This Assurance shall apply to Pinnacle, its principals, successors and assigns.

### **Sales Practices**

13. Pinnacle shall not engage in any acts or practices in violation of Exec. Law § 63(12) and GBL § 349. Specifically, in its dealing with New York consumers, Pinnacle shall not, either directly or through its representatives or agents:

- a. make any false or misleading statements, directly or by implication, to consumers regarding the home security company with which a consumer already has contracted or any other home security company, including but not limited to any false and misleading statement about Pinnacle's relationship with the home security company and any statement falsely or misleadingly representing that the home security company has gone out of business, is no longer providing home security services, or has merged with another entity;

b. misrepresent, directly or by implication, to a consumer that Pinnacle has acquired, purchased, is affiliated with, is sponsored by, has merged with, or is representing or acting on behalf of another home security company;

c. offer to assist a consumer in terminating or canceling the consumer's contract with another home security company, or offer to cover or reimburse the consumer for any fines, costs, balances, or penalties that may be assessed upon termination or cancellation of a consumer's existing contract with another home security company;

d. make any false or misleading statements to consumers about the characteristics, functions, performance, design, reliability, or feature of the home security systems, equipment or services offered by another home security company;

e. misrepresent, directly or by implication, to a consumer any material terms or conditions applicable to transactions involving the sale of home security systems, equipment or services, or make any representations, directly or by implication, that are inconsistent with the terms contained in Pinnacle's consumer sales contract;

f. make any false or misleading statements to consumers regarding characteristics or features of Pinnacle's home security systems, equipment or services;

g. modify, alter, or amend any aspect of a consumer's sales contract after the contract has been executed without the prior written consent and knowledge of the consumer;

h. interfere in any way with Welcome Calls placed by Pinnacle staff to consumers before they execute the sales contract, including but not limited to coaching consumers during Welcome Calls, impersonating the consumer, or permitting anyone other than the consumer to respond to the questions posed during the Welcome Call; and

i. make any other false or misleading statements or engage in any other deceptive practices to induce a consumer to purchase Pinnacle's home security systems, equipment or services.

14. Prior to the consumer's execution of the contract, Pinnacle shall verbally inform the consumer of the price, payment method, contract term, and cancellation policy.

15. Pinnacle shall clearly and conspicuously disclose all material terms and conditions of each consumer transaction in a written contract provided to each consumer. Within 45 days of the execution of this Assurance, the contract shall also include an addendum that clearly and conspicuously discloses that if the consumer currently has a contract with another home security company, the consumer may be charged a cancellation fee for canceling services provided by that company pursuant to the terms of the consumer's contract with that company. "Clearly and conspicuously" means that the statement, representation or term being disclosed is of such size, color, contrast and/or audibility and is so presented as to be readily noticed and understood by the person to whom it is being disclosed. If such statement is necessary as a modification, explanation or clarification to other information with which it is presented, it must be presented in close proximity to the information it modifies, in a manner so as to be readily noticed and understood.

16. Pinnacle shall ensure that Sales Representatives carry accurate photo identification, affirmatively identify themselves as representatives of Pinnacle when soliciting potential customers, and affirmatively disclose that the purpose of the solicitation is to sell products and services offered by Pinnacle.

17. Pinnacle shall ensure that Sales Representatives fully comply with the Code of Conduct developed and adopted by Pinnacle in 2009, which is attached to this Assurance as Exhibit A and fully incorporated herein by reference.

### **Training**

18. Pinnacle shall modify its training programs and training materials as necessary to incorporate any prohibitions and requirements included in this Assurance.

19. Pinnacle shall provide training to each Sales Representative concerning the terms of this Assurance. All Sales Representatives must participate in this training prior to conducting any further sales calls. The training shall cover:

a. the specific sales practices and conduct that are prohibited or required under this Assurance;

b. an express warning that deceptive sales practices will not be tolerated by Pinnacle's management;

c. a description of the remedial steps that will be taken against any Sales Representative who violates any term of this Assurance or otherwise engages in improper sales practices, including reduction in commissions, fines and termination;

d. an express warning that deceptive sales practices may carry legal consequences for Sales Representatives, including both civil and criminal liability; and

e. a description of the enhanced policies and procedures that Pinnacle has implemented to detect improper sales practices, including those policies and procedures set forth in Paragraphs 22-30 below.

20. Pinnacle shall obtain and maintain a written form signed by each Sales Representative acknowledging that he or she has received and understood the information provided in the above-referenced training.

21. After each Sales Representative completes the required training, Pinnacle shall administer a written test designed to assess the extent to which the Sales Representative

understands the matters covered during the training. Sales Representatives must complete this test and demonstrate a sufficient understanding of the matters covered during the training prior to being permitted to conduct further door-to-door sales calls. Pinnacle shall maintain the results of this test.

#### **Monitoring Sales Practices and Sales Representatives**

22. Pinnacle shall adopt and implement policies and procedures sufficient to ensure that Sales Representatives comply with the terms of this Assurance.

23. Pinnacle shall continue to make Welcome Calls to consumers prior to the final execution of any consumer contract. The questions posed during the Welcome Call shall be designed to ensure that consumers understand all material terms and conditions of the transaction, have not been subject to deceptive sales tactics designed to convince them to switch home security providers, and have not been subject to any other improper sales tactics. During the Welcome Call, Pinnacle shall clearly disclose that the consumer is entering into a contract with Pinnacle and that Pinnacle is not affiliated with any other home security company.

24. Pinnacle shall record all calls placed or received by its consumer service staff and shall maintain these recordings for at least three years.

25. Pinnacle shall conduct periodic telephone consumer satisfaction surveys of recently enrolled New York customers. The surveys should be designed to evaluate the sales practices employed by Sales Representatives and to ensure that the Sales Representatives' conduct complied with this Assurance. From May through September of each calendar year, Pinnacle shall conduct phone surveys of at least three New York State consumers enrolled by each Sales Representative assigned to solicit New York consumers. At least one of these surveys shall be conducted within the first three weeks after the Sales Representative enrolls his or her first New York consumer.

Pinnacle's Compliance Department shall be responsible for conducting these telephone surveys and recording the results. If any of these surveys reveal conduct that violates any term of this Assurance, Pinnacle shall promptly inform the Sales Representative of the survey findings and take all appropriate remedial action, as set forth in Paragraph 28.

26. Pinnacle shall use its recently enhanced complaint monitoring software to track consumer complaints alleging that Sales Representatives have engaged in conduct that would violate any term of this Assurance or have otherwise engaged in improper sales practices, and shall identify patterns of such complaints. The software shall track at least the following information: the nature of such complaint and the requested remedy; the name and address of the complainant; the date such complaint was submitted; the Pinnacle employee who is responsible for addressing and responding to such complaint; identification of the Sales Representative who is the subject of such complaint; each step taken to investigate such complaint; Pinnacle's determination and conclusion after conducting its investigation; any corrective action taken with respect to the consumer who submitted such complaint; and any remedial action taken against the subject Sales Representative. Pinnacle's Chief Executive Officer and its Compliance Department shall receive regular reports reflecting such complaint activity, the number of such complaints against each Sales Representative, and the status and/or resolution of such complaints.

27. Pinnacle shall conduct a prompt and thorough investigation of all customer complaints concerning Sales Representatives. After completing its investigation, Pinnacle shall respond to the consumer's complaint in writing. Customer service personnel shall be available during regular business hours to promptly receive, record, and address customer complaints.

28. In the event that Pinnacle determines that a Sales Representative has violated any term of this Assurance or otherwise engaged in improper sales practices, Pinnacle shall take

prompt and appropriate remedial actions with respect to the Sales Representative, including but not limited to providing additional training, imposing fines, and reducing commissions. Multiple violations of the terms of this Assurance shall result in the termination of a Sales Representative. In addition, if Pinnacle determines that a Sales Representative has violated any term of this Assurance or has otherwise engaged in improper sales practices, Pinnacle shall conduct an investigation into whether other Pinnacle customers enrolled by that Sales Representative were subject to sales practices that violated the terms of this Assurance, and shall document all steps taken during such investigation. Such investigation shall include, but not be limited to: (a) a phone survey of the last ten customers enrolled by that Sales Representative during the three months prior to the alleged improper sales practice, or all of the customers enrolled by that Sales Representative during that three-month period if there are fewer than ten such customers; (b) a review of the contracts executed by the last ten customers enrolled by that Sales Representative during the three months prior to the alleged improper sales practice, or the contracts of all of the customers enrolled by that Sales Representative during that three-month period if there are fewer than ten such customers; (c) an in-person interview with the Sales Representative; and (d) a search to determine if there were prior complaints against the Sales Representative. Pinnacle shall not compensate a Sales Representative for a sale that Pinnacle knows or should have known was made as a result of a violation of any term of this Assurance or through any other improper sales practices.

29. In the event that Pinnacle determines that a Sales Representative has violated any term of this Assurance or has otherwise engaged in improper sales practices that resulted in the enrollment of a customer, Pinnacle shall offer that customer: (a) full compensation for any economic harm that resulted directly from such conduct, which may include, among other things, a

refund of payments made by the customer to Pinnacle or reimbursement of cancellation fees imposed by the customer's existing home security company; and (b) the option to cancel the customer's contract with Pinnacle without any cancellation fee or other charge if the customer allows Pinnacle to access the property for the purpose of retrieving equipment within a reasonable amount of time after Pinnacle's request for such access.

30. Pinnacle shall continue to make available to its employees an anonymous online complaint form to report improper sales practices, including sales practices that violate the terms of this Assurance.

### **III. MONETARY RELIEF**

#### **Restitution/Rescission**

31. Pinnacle shall make restitution and/or permit rescission of contracts for all New York consumers who (a) entered into a contract with Pinnacle from January 1, 2008 through the date of execution of this Assurance, and (b) submit a sworn Claim Form, referenced in Paragraph 34 below, stating that they were subject to false, misleading or deceptive door-to-door sales practices ("Eligible Consumers").

32. Within five business days of the execution of this Assurance, Pinnacle shall retain the services of a third-party administrator (hereinafter "Administrator") for purposes of administering the restitution procedure and determining appropriate restitution amounts due to Eligible Consumers in accordance with the terms of this Assurance. The selection of the Administrator shall be subject to the approval of the OAG. The Administrator shall act under the supervision of the OAG. The costs of the Administrator shall be fully borne by Pinnacle.

33. Within ten days of the execution of this Assurance, Pinnacle shall provide to the OAG and to the Administrator a database reflecting the following information: the names,

addresses, and, if available, telephone numbers of all consumers in New York State who entered into a contract with Pinnacle from January 1, 2008 through the date of the execution of this Assurance; the date of each consumer's contract; the total amount of money each consumer paid to date under the contract, broken down by category of charge; whether the contract was canceled and, if so, the date of cancellation; and any refunds Pinnacle has provided to the consumer.

34. The Administrator shall mail the Notice of Settlement, annexed hereto as Exhibit B, together with the Claim Form, annexed hereto as Exhibit C, to all New York consumers who entered into a contract with Pinnacle from January 1, 2008 through the date of execution of this Assurance. Consumers shall have 90 days from the date of the mailing of the Notice of Settlement and the Claim Form ("Claims Period") to submit claims for restitution.

35. The Administrator shall review each timely submitted Claim Form to determine the appropriate amount of restitution. The Administrator shall use the following guidelines in making such determinations:

a. Consumers who claim that they entered into a contract with Pinnacle based on a misrepresentation by a Sales Representative that Pinnacle was affiliated with or taking over for the consumer's existing home security provider, or that the consumer's existing home security provider was out-of-business or for any other reason no longer providing home security services to the consumer, shall be entitled to restitution as follows:

(i) Consumers who claim that they canceled their contract with their previous home security company and paid early cancellation fees or other charges to their previous home security company as a result shall be entitled to be reimbursed fully for those costs.

(ii) Consumers who claim that they canceled their contract with Pinnacle shall be entitled to be reimbursed for any amounts they paid to Pinnacle to purchase or install home security systems and equipment, including any activation fees, and any early cancelation fees.

(iii) Consumers who claim that they canceled their contract with Pinnacle and subsequently entered into a new contract with their previous home security company, and paid such company to repurchase or reinstall home security systems and equipment or paid such company any other fees to re-initiate services, shall be entitled to be reimbursed fully for those costs.

(iv) Consumers who claim that they paid both their existing home security provider and Pinnacle for home security services during a period of time shall be entitled to be fully reimbursed for the amount paid to Pinnacle during this period of time.

(v) Consumers who claim and submit supporting documentation to show they incurred any other expenses as a direct result of the misrepresentations referenced in this subparagraph 35(a) shall be fully reimbursed for such expenses.

b. Consumers who claim that a Sales Representative misrepresented the cost of the home security system, equipment, or services shall be entitled to restitution in the amount that the consumer paid for the purchase and installation of home security products and services from Pinnacle, less the amount that the consumer claims the Sales Representative represented that he or she would be charged.

c. Consumers who claim that they entered into a contract with Pinnacle based on any other false, misleading, or deceptive door-to-door sales practices shall be entitled to restitution if the Administrator determines that the alleged conduct involved a material term of the transaction and directly resulted in actual economic harm to the consumer.

36. If an Eligible Consumer elects to cancel his or her contract by so indicating in the Claim Form, Pinnacle shall cancel the Eligible Consumer's contract without charging any early cancellation fee or other charges. If Pinnacle installed home security equipment at the property, Pinnacle's obligation to cancel the contract is contingent upon the Eligible Consumer allowing Pinnacle to access the property for the purpose of retrieving such equipment within a reasonable amount of time after Pinnacle's request for such access.

37. The Administrator shall calculate the total amount of restitution due to Eligible Consumers after reviewing all of the Claim Forms. Within 30 days of the end of the Claims Period, the Administrator will submit to Pinnacle and the OAG a written report setting forth: the total amount of restitution due to Eligible Consumers ("Restitution Amount"); the name, address, and, if available, telephone number, of each Eligible Consumer and the amount of restitution due to the individual; and the names of Eligible Consumers who have elected to cancel their contract. Within ten days of receipt of this report, Pinnacle shall pay to the OAG the Restitution Amount which shall be used to provide restitution to Eligible Consumers. Such payment shall be made by certified or bank check payable to the State of New York and delivered to the State of New York Office of the Attorney General, Brooklyn Regional Office, Attention: AAG Matthew Eubank, 55 Hanson Place, Suite 1080, Brooklyn, New York, 11217. Any payments and all correspondence related to this Assurance must reference Assurance No. 10-063.

**Penalty**

38. Within ten days of the execution of this Assurance, Pinnacle shall pay to the OAG the sum of one hundred fifty thousand dollars (\$150,000) for penalties, costs and fees. Such payment shall be made by certified or bank check payable to the State of New York and delivered to the State of New York Office of the Attorney General, Brooklyn Regional Office, Attention: AAG Matthew Eubank, 55 Hanson Place, Suite 1080, Brooklyn, New York, 11217.

**IV. COMPLIANCE REPORT**

39. Within six months following execution of this Assurance, and every six months thereafter for a period of three years, the Chief Executive Officer of Pinnacle shall submit to the OAG an affidavit confirming that Pinnacle is in full compliance with this Assurance. Each affidavit shall be accompanied by a report setting forth each consumer complaint submitted within the last six months and for each such complaint the information specified in Paragraph 26 above. These materials shall be delivered to the Brooklyn Regional Office of the Attorney General at 55 Hanson Place, Suite 1080, Brooklyn, NY 11217, attn: AAG Matthew Eubank.

**V. MISCELLANEOUS**

40. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by Pinnacle and its counsel and the OAG's own factual investigation as set forth in the Findings in Paragraphs 1-11 above. To the extent that any material representations are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

41. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Pinnacle in agreeing to this Assurance.

42. Pinnacle represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized. Pinnacle shall not take any action or make any statement denying, directly or indirectly, the propriety of this Assurance or expressing the view that this Assurance is without factual basis. Nothing in this Assurance affects Pinnacle's (i) testimonial obligations or (ii) its right to take legal or factual positions in defense of litigation or other legal proceedings to which the OAG is not a party. This Assurance is not intended for use by any third party in any other proceeding and is not intended, and should not be construed, as an admission of liability by Pinnacle.

43. This Assurance may not be amended except by an instrument in writing signed on behalf of all the parties to this Assurance.

44. This Assurance shall be binding on and inure to the benefit of the parties to this Assurance and their respective successors and assigns, provided that no party, other than the OAG, may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG.

45. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

46. To the extent not already provided under this Assurance, Pinnacle shall, upon request by OAG, provide all documentation and information necessary for the OAG to verify compliance with this Assurance.

47. All notices, reports, requests, and other communications to any party pursuant to this Assurance shall be in writing and shall be directed as follows:

If to Pinnacle, to:

Pinnacle Security Group, LLC  
1290 Sandhill Road  
Orem, UT 84058

If to the OAG, to:

NYS Office of the Attorney General  
Attention: AAG Matthew Eubank  
55 Hanson Place, Suite 1080  
Brooklyn, NY 11217

48. Respondents shall provide written notice to the OAG of any change in address within ten days of such change.

49. Acceptance of this Assurance by the OAG shall not be deemed approval by the OAG of any of the practices or procedures referenced herein, and Pinnacle shall make no representation to the contrary.

50. Pursuant to Exec. Law § 63(15), evidence of a violation of this Assurance shall constitute prima facie proof of violation of the applicable law in any action or proceeding thereafter commenced by the OAG.

51. If a court of competent jurisdiction determines that Pinnacle has breached this Assurance, Pinnacle shall pay to the OAG the cost, if any, of such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

52. The OAG finds the relief and agreements contained in this Assurance to be appropriate and in the public interest. The OAG is willing to accept this Assurance pursuant to Exec Law § 63(15), in lieu of commencing a statutory proceeding. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

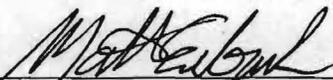
53. This Assurance constitutes the entire agreement between the OAG and Pinnacle and supersedes any prior communication, understanding or agreement, whether written or oral, concerning the subject matter of this Assurance.

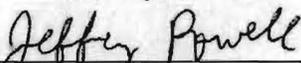
54. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

**IN WITNESS WHEREOF, the undersigned subscribe their names.**

Dated: Brooklyn, New York  
July 21, 2010

**ANDREW M. CUOMO**  
Attorney General of the State of New York

By:   
\_\_\_\_\_  
**MATTHEW EUBANK**  
Assistant Attorney General

By:   
\_\_\_\_\_  
**JEFFREY K. POWELL**  
Deputy Bureau Chief  
Bureau of Consumer Frauds and Protection

**PINNACLE SECURITY GROUP, LLC**

By:   
\_\_\_\_\_  
**KELLY WALKER**  
Chief Executive Officer

# **Exhibit A**

# Code of Conduct

## Introduction

We are genuinely happy that each of you is a part of the Pinnacle team. It is Pinnacle's goal to help each one of you be successful.

As you know, it is Pinnacle's long-standing policy that no Pinnacle Representative make any false or misleading statements during a sales presentation to a potential customer or otherwise. Specifically, we expect and require that each of you hold yourself to a high standard of honesty and integrity in the conduct of your responsibilities with potential and current customers.

From time to time we receive complaints of alleged inappropriate sales tactics by Pinnacle Representatives. While we understand that most, if not all, of you conduct yourselves appropriately, to avoid any confusion, we are hereby reminding you again of Pinnacle's expectations and Code of Conduct policies. Prior to Pinnacle's summer of 2009, Pinnacle is requiring that each of you electronically execute the Code of Conduct on your mysales account.

## Back-Office Technology Will Detect Failures to Comply

Part of being successful is receiving as much of your backend as possible and Pinnacle desires to assist you in meeting the necessary requirements to achieve your backend. To that end, Pinnacle desires to remind you that failure to comply with Pinnacle's Code of Conduct policies may result in you failing to receive some, if not all, of your backend.

Pinnacle has invested substantial time and money into building an elite back office that will assist you in being successful. Specifically, Pinnacle has retained several capable individuals that are assisting Pinnacle in developing technology and reports that will assist you in being successful. Further, Pinnacle is now better equipped to identify failures to comply with Pinnacle's Code of Conduct policies. While the timing of such detection may be uncertain, it is certain that Pinnacle will detect most, if not all, failures to comply with Pinnacle's Code of Conduct policies. While we hope that such policing measures are unnecessary because of your ethical and honest efforts, such policies are in place to attempt to ensure compliance.

## Disciplinary Action

Failure to comply with Pinnacle policy and the below-referenced directives **will result in disciplinary action, which may include fines, loss of bonuses (including your backend), suspension and/or termination** of your service relationship with Pinnacle, and responsibility for any and all costs associated therewith. Pinnacle reserves the right to terminate any Pinnacle Representative at any time for no reason, or upon the occurrence of any violation of Pinnacle's Code of Conduct policies. Further, certain violations of the Code of Conduct could subject you criminal penalties which may include fines and/or imprisonment.

## Summary of Certain Policies

Although it is impossible for us to list every possible way in which you could be subject to discipline, the examples below represent some of Pinnacle's specific expectations. Specifically, Pinnacle requires that you:

### GENERAL

1. Affirmatively represent yourself as a representative of Pinnacle, including always wearing your Pinnacle ID and your Pinnacle shirt.
2. Do not include any untrue information on the customer contract, including putting in temporary contact or payment information in a customer contract in order to create a shell more quickly.

3. Do not cause any person to whom Pinnacle previously sold an alarm system to enter into a new contract with Pinnacle.
4. Do not sell to any person that is in the initial term of his/her customer contract with ADT.
5. Do not hold yourself out in any manner or imply in any manner as being associated or affiliated with any company other than Pinnacle.
  - i. You must accurately communicate that we are Authorized Dealers of GE but are not "with" GE. Never hold yourself out, state, or imply that you are with or affiliated with ADT, Monitronics, Brink's, APX, Firstline Security, On-Star, Counterforce, IAS, Protection One, or "the Alarm Company," or any other company other than Pinnacle.
  - ii. Ensure that you are not only honest with a potential customer, but that you are perfectly clear that you are a representative from Pinnacle.
6. Do not use brochures, business cards, marketing materials, shirts, hats, or any item that bears a logo or mark tending to suggest that you are affiliated with ADT, Brink's, Counterforce, IAS, Monitronics, Protection One, any other alarm company or simply "the Alarm Company."
  - i. This includes using or wearing any logos or marks of any company other than Pinnacle, even if you previously worked for that company.
7. Do not "run" a credit check or use the social security number of any individual without such individual's express permission, which conduct may be criminal.
  - i. This includes using or running the social security number of an individual with another individual's permission (i.e. a wife allowing you to run the credit of her husband without obtaining his permission).
8. Do not misrepresent Pinnacle, or any of Pinnacle's products, equipment or services.
9. Do not have your name or the name of any Pinnacle Representative as an "emergency contact" for the customer.
10. Do not impersonate, or allow another to impersonate, any customer or potential customer on Pinnacle's "Welcome Call" or on any other call to any other person or entity, including any alarm company.
11. Do not sign any document, or allow another to sign any document, on behalf of any person, regardless of whether the person gives you, or another, permission.
12. Do not coach a customer to answer Pinnacle's "Welcome Call" questions.
  - i. This includes telling a customer to answer "no" on the Welcome Call when asked whether they are currently monitored because they "just" cancelled.
13. Do not personally accept any cash, check or other form of payment from a customer under any circumstances. All payments from a customer must be made to Pinnacle.
  - i. This does not apply to tips given to technicians by customers.
14. Do not take any action that that is contrary to state or federal law regarding any customer 3-day right of rescission or "cooling-off period."
15. Do not sell or solicit in any area in which you know Pinnacle or you are not licensed (including state and local licenses (e.g. a peddlers or solicitors license)).

- i. If you receive a citation for soliciting without a license, you will be personally responsible for paying the fine and any negative consequences resulting from the citation. You will not be reimbursed by Pinnacle.
16. Do not modify, amend, add, scratch out, or change, in any way, the language of a customer contract.
17. Do not state that you are with or affiliated with the police department or any other governmental agency.
18. Do not include or allow any person's name to be included on a customer contract as the Dealer's Authorized Representative other than the person who sold the account.
19. Do not use, or include on any customer contract, any financial transaction card information or any other form of payment information other than the home owner's personal financial information.
20. Do not use, or allow to be used, prepaid financial transaction card information on a customer contract (i.e. prepaid credit or debit cards).
21. Do not state that the Veterans Administration, Medicare, Senior Assistance, or any other program will pay for the monthly monitoring fee for any customer.
22. Do not use, make, or handout a business card unless it is the Pinnacle approved business card.
23. Do not make any promises that are not contained in the customer contract.
24. Do not use, in any capacity, a representative identification number other than your own.
25. Do not put a sale in another person's name.
26. Do not attempt to manipulate AMAP in any way (e.g. changing an address, running additional credit checks, adding new customers to accounts).
27. Do not give legal advice to anyone, especially a customer (e.g. telling a customer they can get out of a contract).
28. Do not use customer information that you have previously obtained or obtained from another individual to resell a customer.
29. Do not tell customers that we will keep their account "in house" or will not sell their account.
30. Do not violate the cosigner policy, which is:
  - i. The person signing the monitoring agreement must be the homeowner, pass credit, and pay the monitoring fee from their personal checking, credit card, or debit card account. The only authorized cosigner allowed on a monitoring agreement is the legal spouse of the homeowner, who may also pay the monitoring fee from their personal checking, credit card, or debit card account.
  - ii. No cosigners are allowed, other than the legal spouse of a homeowner.
31. Do not "run" any more than two credit checks per household.
32. Do not modify an address or any customer information in an attempt to get a credit check to pass.

33. Do not tell any potential customer that their current alarm system will not work or may not work because of the conversion to digital television or anything similar to it.

*ITEMS THAT PRIMARILY APPLY TO SWITCHOVERS*

34. Do not ever take any existing equipment in a person's home from the residence.
35. Do not make any false or misleading statements regarding the function, performance, capabilities, specifications, features, requirements, reliability or design of any other company's alarm system, equipment, or services.
36. Do not cancel, or agree to cancel or "take care" of, any contract on behalf of any person that currently has monitoring service.

a. Specifically:

- i. Do not prepare or deliver a form cancellation notice for a person;
- ii. Do not mail, fax or otherwise send in the cancellation notice to the other monitoring company on behalf of the customer;
- iii. Do not call the current monitoring company and impersonate the customer with or without the permission of the customer; and
- iv. Do not sign a cancellation form on behalf of the customer with or without the permission of the customer.
- v. Do not commit to pay the remaining balance of the customer's current contract.
- vi. Do not solicit current ADT customers to breach their contract with ADT by using confidential information of ADT or by using misrepresentations or deceptive or misleading practices.

\*You may carry blank paper, envelopes and stamps as a courtesy for customers. However, the customer must write, sign and send any cancellation notice the customer desires to send; do not do so on the customer's behalf regardless of whether the customer gives you permission.

37. Do not state or otherwise imply in any manner proposed during a solicitation or sale relating to a person that then currently has alarm monitoring service:
- i. That any monitoring company is going out of business;
  - ii. That an alarm company is not, or has stopped, monitoring the alarm system of that potential customer;
  - iii. That an alarm company will no longer be able to monitor the alarm system for that person, residence or business;
  - iv. That Pinnacle is acquiring, merging with, has taken over, is being purchased by, or is otherwise part of any monitoring company;
  - v. That a monitoring company is changing its name if such is untrue;
  - vi. That any change to the potential customer's equipment or alarm monitoring service is merely an "update" or "upgrade" when such change (1) actually requires the customer to execute a new agreement with Pinnacle, and/or (2) would result in a change in alarm monitoring service providers;

vii. That Pinnacle is taking over the monitoring of an ADT account or has purchased an ADT account from ADT or is a "sister company" of any other company;

viii. That any company does not exist;

ix. That Pinnacle's services originate with, are sponsored by, are approved by, or are supervised or controlled by any other monitoring company.

**OTHER ITEMS**

1. Be aware of the capacity of each potential customer's ability to enter into a customer agreement voluntarily, intentionally, and knowingly (e.g. the elderly and those taking medications).
2. Ensure that you clearly inform each customer that they will be charged sales tax in addition to the monthly monitoring rate.
3. Never enter into, or appear to enter into, any agreement, or appearance of an agreement on behalf of Pinnacle.

By signing below I acknowledge that I have read, been trained on, understand and agree to comply with all pages and directives of this Code of Conduct. If I did not understand any directive or if I required additional clarification on any directive from the Code of Conduct, before signing, I have contacted Adam Christian, Compliance Manager, at (801) 437-9058 or [achristian@pinnsec.com](mailto:achristian@pinnsec.com) and received such clarification and/or understanding.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

# Exhibit B

**EXHIBIT B**

**<Letterhead of ADMINISTRATOR>**

<MONTH DAY>, 2010

<Consumer Name>  
<Street Address>  
<City, State Zip Code>

**Notification of Settlement with Pinnacle Security Group, LLC**

Dear <Consumer Name>:

This letter has been sent to you because you have been identified as a past or present customer of Pinnacle Security Group, LLC ("Pinnacle Security") who entered into a contract with Pinnacle Security on or after January 1, 2008.

Andrew M. Cuomo, the Attorney General of the State of New York, has conducted an investigation of the door-to-door sales practices of Pinnacle Security. To resolve this investigation, Pinnacle has agreed to, among other things, provide restitution to consumers who were victims of false, misleading or deceptive door-to-door sales practices. Such consumers will also be allowed to terminate their contract with Pinnacle without incurring any early termination fee or other charge. <ADMINISTRATOR> has been retained to process requests for restitution and/or contract rescission.

Included with this mailing is a Claim Form. If you believe that you were subject to false, misleading or deceptive door-to-door sales practices, please complete the enclosed Claim Form and return it by mail to the address provided on the form itself. The Claim Form must be sworn and notarized. In order to participate in this settlement, your Claim Form must be post marked no later than <MONTH DAY>, 2010, or received at our office by the end of business that day.

<ADMINISTRATOR> will be responsible for reviewing Claim Forms and determining the amount of restitution, if any, due to each individual. If you have any questions or concerns please call <ADMINISTRATOR> at (       )       -

Very truly yours,

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<Title>  
<ADMINISTRATOR>

# Exhibit C



**Cancellation of Contract:**

( ) 2. Check if you wish to cancel your contract with Pinnacle Security because of the misrepresentations made by Pinnacle's sales personnel, as stated in paragraph 1 of this Claims Form.

**Restitution:** (You may check multiple boxes as applicable.)

( ) 3. Because of the misrepresentations made by Pinnacle's sales personnel, as stated in paragraph 1 of this Claims Form, I cancelled my contract with my previous home security company and paid such company an early cancellation fee/other fees in the amount of \$\_\_\_\_\_. (attach copy of bill from previous home security service provider reflecting charges and proof of payment)

( ) 4. Because of the misrepresentations made by Pinnacle's sales personnel, as stated in Paragraph 1 of this Claim Form, I cancelled my contract with Pinnacle. I was charged by Pinnacle an early cancellation fee in the amount of \$\_\_\_\_\_, and, prior to cancellation, had been charged by Pinnacle \$\_\_\_\_\_ for the purchase and installation of the home security system and equipment (including any activation fee). (attach copy of bill from Pinnacle reflecting charges and proof of payments)

( ) 5. Because of the misrepresentations made by Pinnacle's sales personnel, as stated in Paragraph 1 of this Claim Form, my existing home security equipment was removed and Pinnacle's equipment was installed in its place. After learning of the misrepresentations made by Pinnacle's sales personnel, I cancelled my contract with Pinnacle and returned to my previous home security company. In order for me to use this company's service again, it was necessary for me to repurchase home security equipment from my previous home security company, pay for reinstallation of my security equipment, and/or pay other fees to re-initiate services, which cost

\$\_\_\_\_\_. (attach copy of bill from previous home security service provider reflecting charges and proof of payment)

( ) 6. Because of the misrepresentations made by Pinnacle's sales personnel, as stated in Paragraph 1 of this Claim Form, I was obligated to pay and actually paid both Pinnacle and my existing home security company at the same time. During that time period, I paid Pinnacle \$\_\_\_\_\_ and my existing home security company \$\_\_\_\_\_. (attach copies of bills from Pinnacle and previous home security provider reflecting charges and proof of payments to both companies)

( ) 7. Because of the misrepresentations made by Pinnacle's sales personnel, as stated in Paragraph 1 of this Claim Form, I was under the impression that the cost for Pinnacle's home security products and services was a total of \$\_\_\_\_\_, when in fact I was obligated to pay and actually paid a total of \$\_\_\_\_\_. (attach copies of bills from Pinnacle and proof of payment)

( ) 8. The misrepresentations made by Pinnacle's sales personnel, as stated in Paragraph 1 of this Claim Form, directly resulted in additional financial harm to me in the amount of \$\_\_\_\_\_, which is separate and apart from the amounts referenced in paragraphs 3-7 above. The following is a detailed description of the basis for my claim that I suffered this additional financial harm as a direct result of the misrepresentations by Pinnacle's sales personnel. (attach additional pages if necessary and supporting documentation)

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9. Please check one of the following:

To date, I have not received any refunds from Pinnacle for the payments referenced above.

To date, I have received refunds from Pinnacle in the amount of \$\_\_\_\_\_.

\_\_\_\_\_  
Signature of Consumer

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public

Please return completed Affidavit to:

ADMINISTRATOR  
Street Address  
City, State, Zip Code