

BRANTLEY CAPITAL CORP

Form 10-K/A

April 29, 2004

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**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 10-K/A**

**(Mark One)**

- þ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
- o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the Fiscal Year Ended December 31, 2003**

**Commission File Number: 814-00127**

**BRANTLEY CAPITAL CORPORATION**

**(Exact name of registrant as specified in its charter)**

**Maryland**  
**(State or other Jurisdiction of**  
**incorporation or organization)**

**34-1838462**  
**(I.R.S. Employer Identification No.)**

**3201 Enterprise Parkway, Suite 350, Cleveland, Ohio 44122**  
**(Address of principal executive offices including zip code)**

**(216) 484-8400**  
**(Registrant's telephone number including area code)**

**Securities registered pursuant to Section 12(b) of the Act:**  
**None**

**Securities registered pursuant to Section 12(g) of the Act:**  
**Common Stock, \$.01 par value**

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Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. x

The aggregate market value of the voting stock held by non-affiliates of the registrant as of June 30, 2003 was \$27,852,177, based on the last sale price of such stock as quoted by the NASDAQ National Market System on such date (officers, directors and 5% shareholders are considered affiliates for purposes of this calculation).

The number of shares of common stock outstanding as of March 30, 2004 was 3,810,535.

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**PRELIMINARY NOTE**

This Form 10-K/ A is being filed by Brantley Capital Corporation (the Company ) to report Part III information in lieu of the incorporation of such information by reference to the Company s Proxy Statement for its 2004 Annual Meeting of Stockholders.

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**PART III**

**Item 10. Directors and Executive Officers of the Registrant**

The following information was furnished to the Company by the nominees and each director currently serving, and sets forth the name, age, principal occupation or employment of each such person and the period during which he has served as a director of the Company. Except as otherwise noted below, each director has held his principal occupation or employment for at least five years. The business address of each director listed below is c/o Brantley Capital Corporation, 3201 Enterprise Parkway, Suite 350, Cleveland, Ohio 44122.

**Class I Directors Term Expiring in 2008**

*Mr. Pinkas is an interested person within the meaning of the Investment Company Act of 1940 because he is an executive officer of the Company and an executive officer and manager of the Company's investment adviser, Brantley Capital Management, L.L.C. Messrs. Bales and Goldstein are considered independent directors for purposes of the Investment Company Act of 1940.*

**Phillip Goldstein**, 58, is a self-employed investment adviser and is the President of Kimball and Winthrop, Inc., an investment advisory firm. Since 1992, Mr. Goldstein has managed investments for a limited number of clients and has served as the portfolio manager and President of the general partner of Opportunity Partners, a private investment partnership. He was elected a director of The Mexico Equity and Income Fund in February 2000, The Italy Fund in May 2000, and Dresdner RCM Global Strategic Income Fund in November 2000. He was also a director of Clemente Strategic Value Fund from 1998 to 2000. Mr. Goldstein was elected to the board of directors of the Company to fill a newly created seat in 2001. Mr. Goldstein is not a director of any other business development companies or funds for which Brantley Capital Management, L.L.C. is also an investment adviser.

**Robert P. Pinkas**, 49, is Chairman of the Board, Chief Executive Officer, Treasurer and a director of the Company; and Chairman of the Board, Chief Executive Officer, Treasurer and a manager of Brantley Capital Management, L.L.C., which serves as the Company's investment adviser. Mr. Pinkas was the founding partner of Brantley Venture Partners, L.P., a venture capital fund started in 1987, and led the formation of three related venture capital funds Brantley Venture Partners, L.P., Brantley Venture Partners II, L.P., Brantley Venture Partners III, L.P. and Brantley Partners IV, L.P. A family limited partnership of which Mr. Pinkas is the sole general partner serves as a general partner of the sole general partner of each of Brantley Venture Partners, L.P., Brantley Venture Partners II, L.P., Brantley Venture Partners III, L.P. and Brantley Partners IV, L.P. Each of Brantley Venture Partners, L.P., Brantley Venture Partners II, L.P., Brantley Venture Partners III, L.P. and Brantley Partners IV, L.P. has made venture capital investments similar to the investments the Company makes in private companies. From 1981 to 1987, Mr. Pinkas was active in venture capital management and financing as a founding director and investor in seven early-stage companies. He serves on the board of directors of several portfolio companies in which one or more of Brantley Venture Partners, L.P., Brantley Venture Partners II, L.P., Brantley Venture Partners III, L.P. and Brantley Partners IV, L.P. have invested, including Gliatech, Inc., Pediatric Services of America, Inc., Medirisk, Inc., Quad Systems Corporation and Waterlink, Inc. Mr. Pinkas has been Chairman of the Board, Chief Executive Office, Treasurer and a director of the Company since its formation in 1996. Mr. Pinkas is a director of four funds for which Brantley Capital Management, L.L.C. is also an investment adviser.

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**L. Patrick Bales**, 60, a director of the Company and is a partner with the firm of Bales Partners, Inc., an executive search consulting firm that services smaller growth companies as well as major corporations in both the private and public sector. The firm conducts executive search assignments both domestically and internationally and has affiliate offices in London and Tokyo. Previously, Mr. Bales was employed with Paul R. Ray & Company from 1981 to 1983 in their Chicago office and was on the professional staff of two other search firms in the Chicago area from 1975 to 1981. He spent five years with Weber Marking Systems prior to embarking upon his career in executive search. Mr. Bales has been a director of the Company since its formation in 1996. Mr. Bales is not a director of any other business development companies or funds for which Brantley Capital Management, L.L.C. is also an investment adviser.

**Class IV Directors    Term Expiring in 2006**

*Mr. Cascio is an interested person within the meaning of the Investment Company Act of 1940 because he is an executive officer of the Company and an executive officer and manager of the Company's investment adviser, Brantley Capital Management, L.L.C. Mr. Saltz is considered an independent director for purposes of the Investment Company Act of 1940.*

**Paul H. Cascio**, 42, a director of the Company, serves as Vice President and Secretary of the Company and as Vice President and Secretary of Brantley Capital Management, L.L.C., which serves as the Company's investment adviser. Mr. Cascio also serves as a general partner of the general partner of Brantley Venture Partners II, L.P., Brantley Venture Partners III, L.P. and Brantley Partners IV, L.P. Prior to joining Brantley Venture Partners II, L.P. and Brantley Venture Partners III, L.P. in May, 1996, Mr. Cascio was a Managing Director and head of the General Industrial Manufacturing and Services Group in the Corporate Finance Department at Dean Witter Reynolds Inc. Before joining Dean Witter in 1986, Mr. Cascio was employed in the Corporate Finance Department at E.F. Hutton & Company Inc. Mr. Cascio has been Vice President, Secretary, and a director of the Company since 1998. Mr. Cascio is a director of three funds for which Brantley Capital Management, L.L.C. is also an investment adviser.

**Peter Saltz**, 59, a director of the Company, is a consultant to KraftMaid Cabinetry, Inc., the second largest cabinet manufacturer in the United States. Mr. Saltz served as Vice Chairman of Finance from 1997 to 1999 and Senior Executive Vice President and Chief Financial Officer of KraftMaid from 1980 to 1997 and has over 29 years of experience as a certified public accountant in the United States and South Africa. Mr. Saltz holds a limited partnership interest in BVP III and BVP IV. Mr. Saltz has been a director of the Company since 1998. The board of directors has determined that Mr. Saltz is an audit committee financial expert as defined under Rule 401 of Regulation S-K of the Securities Exchange Act of 1934. Mr. Saltz is not a director of any other business development companies or funds for which Brantley Capital Management, L.L.C. is also an investment adviser.

**Class V Directors    Term Expiring in 2007**

*Mr. Oliver is an interested person within the meaning of the Investment Company Act of 1940 because his law firm serves as the Company's legal counsel. Mr. Hellerman is considered an independent director for purposes of the Investment Company Act of 1940.*

**James P. Oliver**, 57, a director of the Company, is a partner with the law firm of Squire, Sanders & Dempsey L.L.P. and is a past member of the firm's Management Committee. Mr. Oliver's practice focuses on general corporate and board matters with substantial experience in high net worth individuals and their succession wealth issues. Mr. Oliver is a graduate of Bowling Green State University and the University of Cincinnati College of Law. Mr. Oliver has been a director of the Company since he was appointed by the board of directors in 1998 to fill a vacancy on the board. The law firm of Squire, Sanders & Dempsey L.L.P. has represented the Company as general counsel since shortly after its formation in 1996. Mr. Oliver is not a director of any other business development

companies or funds for which Brantley Capital Management, L.L.C. is also an investment adviser.

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**Gerald Hellerman**, 64, a director of the Company, is Managing Director of Hellerman Associates, a financial and corporate consulting firm; Trustee of Third Avenue Value Trust since 1993; Trustee of the Third Avenue Variable Series Trust since 1999; director of Clemente Strategic Value fund from 1998 to 2000; director of The Mexico Equity and Income Fund since 2000. Mr. Hellerman was appointed by the Board of Directors on March 20, 2003 to fill a vacancy on the board. Mr. Hellerman is not a director of any other business development companies or funds for which Brantley Capital Management, L.L.C. is also an investment adviser.

## **Non-Director Executive Officers**

The following information was furnished to the Company by the non-director executive officers and sets forth the name, age, principal occupation or employment of each such person and the period during which he has served as an executive officer of the Company.

**Michael J. Finn**, 52, is President of the Company and is a manager of Brantley Capital Management, L.L.C., which serves as the Company's investment adviser. Mr. Finn also serves as a general partner of the general partner of Brantley Venture Partners II, L.P., Brantley Venture Partners III, L.P. and Brantley Partners IV, L.P. From 1987 to 1995, Mr. Finn served as portfolio manager and Vice President of the Venture Capital Group of Sears Investment Management Company in Chicago. In this capacity, Mr. Finn managed the development of a \$150 million portfolio of private equity investments, including the investment of over \$24 million directly in 25 operating companies. From 1983 to 1987, he led the development of a \$250 million venture capital program for the State of Michigan Department of Treasury as its deputy director. In 1982, Mr. Finn founded and served as President of the Michigan Certified Development Corporation, a small business development corporation which financed over \$50 million of investments in six companies in Michigan during the period 1982 to 1984. In 1976, he launched the Forward Development Corporation, an entity sponsored by the U.S. Small Business Administration for small business financing. He serves on the board of directors of several portfolio companies in which one or more of Brantley Venture Partners, L.P., Brantley Venture Partners II, L.P., Brantley Venture Partners III, L.P. and Brantley Partners IV, L.P. have invested, including Medirisk, Inc. and Pediatric Services of America, Inc. Mr. Finn has been a director and the President of the Company since its formation in 1996. Mr. Finn is a director of three funds for which Brantley Capital Management, L.L.C. is also an investment adviser.

**Tab A. Keplinger**, 43, has served as Vice President and Chief Financial Officer of the Company since its inception. Prior to joining the Company in February 1997, Mr. Keplinger was Vice President and Chief Financial Officer of Victoria Financial Corporation. Before joining Victoria Financial Corporation in 1990, Mr. Keplinger was a senior audit manager in the manufacturing and service sectors for KPMG Peat Marwick.

**Shawn M. Wynne**, 45, joined the Company in 2001 as a Vice President and is primarily responsible for the origination, evaluation, structuring and management of our mezzanine investment activities. Prior to joining the Company, Mr. Wynne was a Director at Stonehenge Partners Inc., the successor firm to Banc One Capital Markets, Banc One Corporation's investment banking and principal investment entity, which managed \$500 million in assets. He was responsible for origination, execution and management of mezzanine and preferred stock investments for Banc One Capital Markets, Inc. Prior to joining Banc One Capital Markets, Mr. Wynne held senior business development and group management positions with Banc One and the Bank of Nova Scotia. He is a member of the board of directors of various private companies.

## **Audit Committee**

The audit committee has oversight responsibilities with respect to the Company's financial audit and reporting process, system of internal controls, and process for monitoring compliance with law and with the Company's Code of Conduct. The audit committee is also responsible for maintaining open communication between and among the audit

committee, management and the independent public accountants. Notwithstanding the above, the audit committee is not responsible for conducting audits, preparing financial statements, or assuring the accuracy of financial statements or filings, all of which is the responsibility of management and the outside auditors.

The audit committee, which is currently composed of Messrs. Goldstein, Hellerman, and Saltz, held five meetings during 2003. Mr. Hellerman was appointed to fill a vacancy on the Audit Committee resulting from the resignation of Benjamin Bryan from the Board of Directors. Each member of the Audit Committee is considered independent under the rules promulgated by the Nasdaq Stock Market. The Company's board of directors has determined that Peter Saltz is an audit committee financial expert as defined under Item 401 of Regulation S-K of the Securities Exchange Act of 1934. Peter Saltz, Gerald Hellerman and Phillip Goldstein meet the current independence and experience requirements of Rule 10A-3 of the Exchange Act, and, in addition, neither is an interested person of the Company as defined in Section 2(a)(19) of the 1940 Act.

The audit committee performs its oversight functions and responsibilities pursuant to a written charter adopted by the board of directors.

### **Code of Ethics**

The Company has adopted a code of ethics which applies to, among others, its senior officers, including its Chief Executive Officer and its Chief Financial Officers, as well as every employee of the Company. The Company's code can be accessed via its website at <http://www.brantleycapital.com>. The Company intends to disclose amendments to or waivers from a required provision of the code on Form 8-K.

### **Compliance with Section 16(a) of the Securities Exchange Act of 1934**

Section 16(a) of the Securities Exchange Act of 1934 requires the officers and directors of the Company and persons who beneficially own more than 10% of the Company's common stock to file reports of securities ownership and changes in such ownership with the SEC. Officers, directors and 10%

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stockholders are also required by the rules promulgated by the SEC to furnish to the Company copies of all Section 16(a) reports they file.

Based solely upon a review of the copies of such forms furnished to the Company, the Company believes that each of its officers and directors complied with all Section 16(a) filing requirements applicable to them during the fiscal year ended December 31, 2003.

## **Item 11. Executive Compensation**

### **Organization and Compensation of the Board of Directors**

#### **Organization and Compensation of the Board of Directors**

The board of directors has established an audit committee, a compensation committee, an executive committee and a nominating committee. During 2003, the board of directors held four regularly scheduled meetings and three special meetings. All directors attended at least 75% of the aggregate number of meetings of the board of directors and of the respective committees on which they served. The Company requires each director to make a diligent effort to attend all board and committee meetings as well as each annual meeting of stockholders.

#### **Audit Committee**

The audit committee has oversight responsibilities with respect to the Company's financial audit and reporting process, system of internal controls, and process for monitoring compliance with law and with the Company's Code of Conduct. The audit committee is also responsible for maintaining open communication between and among the audit committee, management and the independent public accountants. Notwithstanding the above, the audit committee is not responsible for conducting audits, preparing financial statements, or assuring the accuracy of financial statements or filings, all of which is the responsibility of management and the outside auditors.

The audit committee, which is currently composed of Messrs. Goldstein, Hellerman, and Saltz, held five meetings during 2003. Mr. Hellerman was appointed to fill a vacancy on the Audit Committee resulting from the resignation of Benjamin Bryan from the Board of Directors. Each member of the Audit Committee is considered independent under the rules promulgated by the Nasdaq Stock Market. The Company's board of directors has determined that Peter Saltz is an audit committee financial expert as defined under Item 401 of Regulation S-K of the Securities Exchange Act of 1934. Peter Saltz, Gerald Hellerman and Phillip Goldstein meet the current independence and experience requirements of Rule 10A-3 of the Exchange Act, and, in addition, neither is an interested person of the Company as defined in Section 2(a)(19) of the 1940 Act.

The audit committee performs its oversight functions and responsibilities pursuant to a written charter adopted by the board of directors.

#### **Compensation Committee**

The function of the compensation committee is to assist the board of directors in evaluating and recommending compensation of the senior executives of the Company and to administer the Company's stock option plan in accordance with the terms thereof, including the designation of which officers and employees of the Company shall receive stock options, and the number of shares which should be subject to each option so granted. The compensation committee, which is currently composed of Messrs. Bales and Saltz, held one meeting in connection with a meeting of the board of directors during 2003.



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**Executive Committee**

The function of the executive committee is to assist the board in carrying out its responsibilities. The executive committee has and may exercise those rights, powers and authority as may be exercised by the full board, except where action by the full board is required by statute, an order of the Securities and Exchange Commission or the Company's charter or bylaws. The executive committee is composed of Messrs. Pinkas, Oliver and Cascio. The committee did not meet during 2003.

**Nominating Committee**

The function of the nominating committee is to recommend candidates for the board of directors. The board of directors currently acts as the Nominating Committee. The Nominating Committee held one meeting in conjunction with a meeting of the board of directors during 2002. The full board of directors currently acts as the Nominating Committee and is composed of four independent directors and three directors who could be considered interested persons under the 1940 Act. The board of directors has not adopted a charter for the Nominating Committee. The Company believes that because decisions regarding nominations are made by the entire board, including the independent directors, that a separate charter is not necessary. In identifying and evaluating nominees, including shareholder nominees, the board will consider:

the appropriate size and composition of the Company's board of directors;

whether or not the person is an interested person of the Company as defined in Section 2(a)(19) of the 1940 Act;

the needs of the Company with respect to the particular talents and experience of its directors;

the knowledge, skills and experience of nominees in light of prevailing business conditions and the knowledge, skills and experience already possessed by other members of the Board;

familiarity with national and international business matters;

experience with accounting rules and practices;

appreciation of the relationship of the Company's business to the changing needs of society;

the desire to balance the considerable benefit of continuity with the periodic injection of the fresh perspective provided by new members; and

all applicable laws, rules, regulations and listing standards.

The Nominating Committee's goal is to assemble a board of directors that brings to the Company a variety of perspectives and skills derived from high quality business and professional experience.

Other than the foregoing there are no stated minimum criteria for director nominees, although the Nominating Committee may also consider such other factors as it may deem are in the best interests of the Company and its stockholders. The Nominating Committee also believes it appropriate for certain key members of the Company's management to participate as members of the board.

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The Nominating Committee identifies nominees by first evaluating the current members of the board of directors willing to continue in service. Current members of the board with skills and experience that are relevant to the Company's business and who are willing to continue in service are considered for re-nomination, balancing the value of continuity of service by existing members of the board with that of obtaining a new perspective. If any member of the board does not wish to continue in service or if the Nominating Committee or the board decides not to re-nominate a member for re-election, the Nominating Committee identifies the desired skills and experience of a new nominee in light of the criteria above. Current members of the Nominating Committee and board of directors are polled for suggestions as to individuals meeting the criteria of the Nominating Committee. Research may also be performed to identify qualified individuals. To date, the Company has not engaged third parties to assist in the identification or evaluation of potential nominees although the Company reserves the right in the future to retain a third party search firm, if necessary.

The Nominating Committee will consider nominees recommended by stockholders; stockholders may send resumes of recommended persons to the attention of Paul H. Cascio, Vice President and Secretary Brantley Capital Corporation, 3201 Enterprise Parkway, Suite 350, Cleveland, Ohio 44122.

**Communications Between Stockholders and Board of Directors**

Stockholders with questions about the Company are encouraged to contact Brantley Capital's Investor Relations department. However, if stockholders believe that their questions have not been addressed, they may communicate with the Company's board of directors by sending their communications to Brantley Capital Corporation Board of Directors, c/o Mr. Paul Cascio, 3201 Enterprise Parkway, Suite 350, Cleveland, Ohio 44122. All stockholder communications received in this manner will be delivered to one or more members of the Board of Directors. The Company has adopted a code of ethics which applies to, among others, its senior officers, including its Chief Executive Officer and its Chief Financial Officers, as well as every employee of the Company. The Company's code can be accessed via its website at <http://www.brantleycapital.com>. The Company intends to disclose amendments to or waivers from a required provision of the code on Form 8-K.

**Compensation of Executive Officers and Directors**

The following table sets forth the compensation of the Company's directors, none of whom is an employee of the Company. Except as set forth in such table, no other compensation was paid to any director (including those who also serve as executive officers) by the Company or any other entity in the Company's fund complex during 2003. No information has been provided with respect to executive officers of the Company (other than those who also serve as directors), since none of them receives aggregate compensation from the Company and the Company's fund complex in excess of \$60,000.

**Compensation Table**

Name of Director	Aggregate Compensation from the Company(1)	Securities Underlying Options/SARs(2)	Pension or Retirement Benefits Accrued as Part of Company Expenses	Total Compensation from Fund and Fund Complex Paid to Directors(3)
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**Interested Directors**

Paul H. Cascio	0	0	0	0
James P. Oliver	0	0	0	0
Robert P. Pinkas	0	0	0	0

**Independent Directors**

Patrick Bales	\$ 11,500	0	0	\$ 11,500
Phillip Goldstein	11,500	0	0	11,500
Gerald Hellerman	9,500	0	0	9,500
Peter Saltz	11,500	0	0	11,500
Benjamin Bryan(4)	2,500	0	0	2,500

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(1) Compensation consists of amounts received for service as a director. See Organization and Compensation of the Board of Directors above.

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- (2) See Stock Option Plan for more information relating to the terms of the options granted in 2002.
- (3) Consists only of directors' fees paid by the Company during 2002. Such fees are also included in the column entitled Aggregate Compensation from the Company.
- (4) Mr. Bryan resigned as a director on March 20, 2003.

**Compensation of Directors**

Each director who is not an officer of the Company receives a monthly fee of \$500 and an attendance fee of \$1,000 for each board and committee meeting attended.

**Stock Option Awards**

No options were granted during 2003.

The following table sets forth the details of option exercises by each named individual during 2003 and the values of those unexercised options at December 31, 2003.

**Option Exercises and Year-End Option Values**

Name	Shares Acquired Upon Exercise	Value Realized(1)	Number of Securities Underlying Unexercised Options		Value of Unexercised In-the-Money Options(2)	
			Exercisable	Unexercisable	Exercisable	Unexercisable
<b>Interested Directors</b>						
Paul Cascio	0	0	100,000	0	5,000	0
James P. Oliver	0	0	6,000	0	0	0
Robert P. Pinkas	0	0	450,000	0	45,000	0
<b>Independent Directors</b>						
Patrick Bales	0	0	10,000	0	0	0
Phillip Goldstein	0	0	2,000	0	0	0
Gerald Hellerman	0	0	0	0	0	0
Peter Saltz	0	0	6,000	0	0	0
Benjamin Bryan(3)	0	0	10,000	0	0	0

- (1) Value realized is calculated as the closing market price on the date of exercise, net of option exercise price, but before any tax liabilities or transaction costs. This is the deemed market value, which may



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actually be realized only if the shares are sold at that price.

- (2) Value of unexercised options is calculated based on the closing price of \$10.20 per share on December 31, 2003, net of the option exercise price, but before any tax liabilities or transaction costs. In-the-Money Options are options with an exercise price that is less than the market price as of December 31, 2002.
- (3) Mr. Bryan resigned as a director on March 30, 2003.

**Stock Option Plan**

The Company's 1996 Stock Option Plan (the "Stock Option Plan") permits the granting of nonqualified stock options to officers and employees of the Company. All officers of the Company are eligible to be selected to participate in the Stock Option Plan. At present, the Company has no employees. The Stock Option Plan is administered by the compensation committee of the board of directors, which selects the persons who are eligible to participate and determines the number of options to be granted.

The number of shares of common stock available for grant under the Stock Option Plan is 1,175,000, subject to certain adjustments. Options granted under the Stock Option Plan are exercisable at a price not less than the greater of (i) the current market value (as defined in the Stock Option Plan) on the date of option grant and (ii) the current net asset value of the shares of common stock. Options become exercisable to the extent of one-third of the subject shares after one year from the grant date, two-thirds of the subject shares after two years from the grant date and all subject shares after three years from the grant date.

The Company's Disinterested Director Option Plan (the "Director Option Plan") permits the granting of non-qualified stock options to the directors of the Company who are not employees or officers. All such directors of the Company are eligible to be selected to participate in the Director Option Plan, which is administered by the compensation committee of the board of directors. In order for options to be issued to the non-employee directors, the Company obtained exemptive relief from the SEC. Under the terms of the exemptive order and the Director Option Plan Agreement, each qualified director will be granted an option to purchase 2,000 shares upon their initial appointment to the board of directors. Throughout the term of the plan and immediately following each annual meeting of stockholders of the Company, each qualified director then serving on the Company's board of directors will be granted options to purchase 2,000 additional shares, subject to adjustment. Such option grants were made retroactively by the Company to its formation. As a result, the three original qualifying directors who served on the Company's board of directors since the Company's formation received options to purchase 6,000 shares each. The remaining qualifying directors who served on the Company's board of directors since 1998 each received options to purchase 2,000 shares of common stock.

**Item 12. Stock Ownership of Officers, Directors and Beneficial Owners**

The following table sets forth as of March 31, 2004, the number of shares of the Company's common stock beneficially owned by each of its current directors and executive officers and all directors and executive officers as a group, according to information furnished to the Company by such persons, except as noted below. Unless otherwise indicated, the Company believes that each director and executive officers set forth in the table has sole voting and investment power with respect to such shares of common stock. The address for each of the directors and executive officers is c/o Brantley Capital Corporation, 3201 Enterprise Parkway, Suite 350, Cleveland, Ohio 44122.

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<b>Name</b>	<b>Amount and Nature of Beneficial Ownership</b>	<b>Percent of Class(1)</b>
<b>Interested Directors</b>		
Paul H. Cascio(3)	112,101(4)	2.94%
James P. Oliver	6,900(5)	*
Robert P. Pinkas(3)	512,706(6)	13.45
<b>Independent Directors</b>		
L. Patrick Bales	10,800(8)	*
Phillip Goldstein	262,300(7)	6.88%
Gerald Hellerman	0	*
Peter Saltz	17,000(5)	*
<b>Non-Director Executive Officers</b>		
Michael J. Finn(3)	258,347(2)	6.78%
Tab A. Keplinger	77,250(9)	2.03%
Shawn M. Wynne	900	*
All Directors and Executive Officers as a Group (11 persons)	1,258,314	33.02%

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\* Shares owned are less than one percent of class.

- (1) Based on 3,810,535 shares of common stock outstanding as of March 31, 2004.
- (2) Includes 150,000 shares subject to stock option grants.
- (3) Owner of an interest in Brantley Capital Management, L.L.C., which serves as the Company's investment adviser.
- (4) Includes 100,000 shares subject to stock option grants.
- (5) Includes 6,000 shares subject to stock option grants.
- (6) Includes 450,000 shares subject to stock option grants.
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- (7) Information regarding share ownership was obtained from the Schedule 13D that Phillip Goldstein and Andrew Dakos filed jointly as a group on May 22, 2001. Mr. Goldstein reported beneficial ownership of 253,400 shares of the Company's common stock and Mr. Dakos reported beneficial ownership of 6,900 shares of the Company's common stock. Because they filed the Schedule 13D as a group, the Company has aggregated their share ownership for purposes of this table. Mr. Goldstein reported sole voting power as to 156,500 shares of common stock, shared voting power as to 7,000 shares, and sole investment power as to 253,400 shares. Mr. Dakos reported sole voting and investment power as to 4,000 shares of common stock and shared voting investment power as to 2,900 shares. Includes 2,000 shares subject to stock option grants.
- (8) Includes 10,000 shares subject to stock option grants.
- (9) Includes 75,000 shares subject to stock option grants.

The following table sets forth information about persons known by the Company to be a beneficial owner of more than 5% of the outstanding shares of its common stock other than as noted above:

<b>Name</b>	<b>Amount and Nature of Beneficial Ownership</b>	<b>Percent of Class</b>
Richard A. Barone Ancora Capital One Chagrin Highlands, 2000 Auburn Drive, Suite 420 Cleveland, Ohio 44122	148,900(1)	3.91%
Fifth Third Bancorp Fifth Third Center Cincinnati, Ohio 45263	364,800(2)	9.6%
Deutsche Banc AG Taunusanlage 12, D-60325 Frankfurt am Main Federal Republic of Germany	262,509(3)	6.89%

- (1) Information regarding share ownership was obtained from the Schedule 13D filed by Richard A. Barone on July 7, 2003. Mr. Barone reported sole voting and investment power as to 10,000 shares of the Company's common stock and shared investment power as to 138,900 shares of the Company's common stock.
- (2) Information regarding share ownership was obtained from the Schedule 13G filed jointly by Fifth Third Bancorp and Fifth Third Bank on February 14, 2003. Fifth Third Bancorp reported sole voting as to 182,400 shares of common stock and sole investment power as to 182,400 shares of common stock. Fifth Third Bank reported sole voting power as to 182,400 shares of common stock and sole investment power as to 182,400 shares of common stock. The address of Fifth Third Bank is the same as Fifth Third Bancorp.
- (3) Information regarding share ownership was obtained from the Schedule 13G filed jointly by Deutsche Banc AG in February, 2004.

**Table of Contents****Dollar Range of Securities Beneficially Owned By Directors**

Set forth below is the dollar range of equity securities beneficially owned by each nominee and continuing director as of March 31, 2004:

<b>Name of Director</b>	<b>Dollar Range of Equity Securities Beneficially Owned(1)(2)(3)</b>
<b>Interested Directors</b>	
Paul H. Cascio(4)	Over \$100,000
James P. Oliver(4)	\$50,000 \$100,000
Robert P. Pinkas(4)	Over \$100,000
<b>Independent Directors</b>	
L. Patrick Bales	Over \$100,000
Phillip Goldstein	Over \$100,000
Gerald Hellerman	None
Peter Saltz	Over \$100,000

- (1) Beneficial ownership has been determined in accordance with Rule 16a-1(a)(2) of the Securities Exchange Act of 1934.
- (2) The dollar ranges are: None, \$1 \$10,000, \$10,001 \$50,000, \$50,001 100,000, or over \$100,000.
- (3) The dollar range of the Company's equity securities owned by each director is based on the closing price of \$11.92 per share on March 31, 2004 on the Nasdaq National Market.

**Item 13. Certain Relationships and Related Transactions**

Brantley Capital Management, L.L.C., pursuant to the terms of an investment advisory agreement, is responsible, on a day-to-day basis, for the selection and supervision of portfolio investments. Transactions between the Company and the Brantley Capital Management, including operational responsibilities, duties and compensation, are governed by the investment advisory agreement. Throughout the term of the investment advisory agreement, the Company will pay to Brantley Capital Management an annual management fee of 2.85% of the Company's net assets, determined at the end of each calendar quarter and payable in arrears. For the year ended December 31, 2003, the Company paid Brantley Capital Management an investment advisory fee in the aggregate amount of \$473,474. Robert P. Pinkas, Chairman, Chief Executive Officer, Treasurer and a director of the Company, Michael J. Finn, President and a director of the Company, Paul H. Cascio, Vice President and a director of the Company and Tab A. Keplinger, Chief Financial Officer of the Company are officers and managers of Brantley Capital Management, and together own a majority of Brantley Capital Management.

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The Company co-invests in portfolio companies from time to time with affiliates of the Company and Brantley Capital Management, including certain venture capital investment partnerships. Certain officers and directors of the Company and officers of Brantley Capital Management also serve as general partners of the investment partnerships general partner. The Company's co-investments with such affiliates are subject to the terms and conditions of the exemptive order granted by the Commission, which relieves the Company from certain provisions of the Investment Company Act of 1940 and permits certain joint transactions with the investment partnerships.

The Company is an investor in Disposable Products Company, LLC, a non-woven paper products manufacturer. Grand River Industries, Ltd. owns approximately 35% of Disposable Products' outstanding capital stock. Grand River is a wholly-owned subsidiary of Objective Industrial Investments Partners, L.P. Robert P. Pinkas, Chairman and Chief Executive Officer of the Company, is a managing member in Objective Industrial. As a result of his investment commitment in Objective Industrial, Mr. Pinkas owns 20% of Grand River.

James P. Oliver has been a director of the Company since 1998 and is a partner with the law firm of Squire Sanders & Dempsey L.L.P., which has represented the Company as counsel since shortly after its formation in 1996.

On March 19, 2003, we entered into a Memorandum of Understanding (the "MOU") with Phillip Goldstein, a director of the Company, pursuant to which Mr. Goldstein agreed to dismiss the lawsuit he filed against the Company in September 2002, subject to compliance with the Investment Company Act of 1940. The court approved the proposed settlement on February 26, 2004.

On June 4, 2003, the Company filed an application for exemptive relief from certain provisions of the 1940 Act in order to effect the provisions of the MOU. On June 18, 2003, the Company received comments on its application from the staff of the Division of Investment Management (the "Staff") of the Securities and Exchange Commission (the "SEC"). On August 14, 2003 the Company responded to those comments. With such response, the Company proposed a MOU that was submitted to the Staff. On November 12, 2003, the Company received comments regarding its August 14, 2003 response. The Company responded to the comments on December 18, 2003. On February 11, 2004, the Staff requested a response from the Board of Directors, which the Board provided on February 25, 2004. The application is still pending.

The MOU is subject to approval by the stockholders, and the receipt of exemptive relief from the SEC. There can be no assurances that this exemptive relief would be granted by the SEC staff.

Pursuant to the MOU, we would agree, among other things:

to cause there to be four (4) directors who are not interested persons as defined under the 1940 Act and cause the board to be exactly seven (7) directors in total;

if Mr. Goldstein or Gerald Hellerman is no longer a director of the Company, then whichever of Mr. Goldstein or Mr. Hellerman remains on the board shall have the right to select a nominee;;

to not convert the Company from being an advised fund to an internally managed fund unless a majority of the independent directors agree;

to allow any independent director to request independent counsel, subject to the approval of the board, which cannot be unreasonably withheld; and

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to refrain from making defamatory remarks about any party to the agreement.

In addition, the MOU provides that at the next Annual Meeting of Stockholders following SEC approval:

the Company would ask shareholders to approve a plan of orderly disposition of the assets of the Company or a sale of the assets with the goal of prompt cash distribution to stockholders;

the Company would ask shareholders to approve a new investment advisory agreement pursuant to which, prospectively:

the advisor's fees would be reduced from 2.85% to 2.5% of our net asset value;

all stock options would be forfeited and cancelled; and

the advisor would be entitled to receive a fee equal to 20% of the aggregate distributions made by the Company in excess of \$10.00 per share; however, none of the amount would be paid until aggregate distributions totaled \$12.50 per share.

The MOU also includes provisions that would require the parties to take all steps necessary to accomplish the goals of the Memorandum, including voting their shares in favor of the proposals when and if they are presented at a meeting of stockholders. Under the MOU, the Company would also be required to reimburse Mr. Goldstein for certain expenses (not to exceed \$275,000) he incurred in connection with the proxy solicitation and litigation related to the Annual Meeting of Stockholders held on September 17, 2002. Mr. Goldstein would also agree not to engage in, lead or fund a proxy contest while the agreement is in effect. The term of the MOU would run until December 31, 2006.

## **Item 14. Principal Accountant Fees and Services**

### **Audit Fees**

KPMG LLP billed the Company aggregate fees of \$50,950 for the audit of the Company's annual financial statement for the fiscal year ended December 31, 2003 and for the review of the financial statements included in the Company's Forms 10-Q for such fiscal year. KPMG LLP billed the Company aggregate fees of \$62,500 for the audit of the Company's annual financial statement for the fiscal year ended on December 31, 2002 and for the review of the financial statements included in the Company's Forms 10-Q for such fiscal year.

The following are aggregate fees billed to the Company by KPMG LLP during 2003 and 2002:

	<b>Fiscal Year Ended December 31, 2003</b>	<b>Fiscal Year Ended December 31, 2002</b>
Audit Fees	\$ 50,950	\$ 62,500
Audit-Related Fees		
Tax Fees		\$
All Other Fees		
<b>Total Fees:</b>	<b>\$ 50,950</b>	<b>\$ 62,500</b>

### *Audit Fees*

Audit fees consist of fees billed for professional services rendered for the audit of the Company's consolidated financial statements and review of the interim consolidated financial statements included in quarterly reports and services that are normally provided by KPMG LLP in connection with statutory and regulatory filings.

#### *Audit Related Fees*

Audit-related fees are fees billed for assurance and related services that are reasonably related to the performance of the audit or review of the Company's consolidated financial statements and are not reported under Audit Fees.

#### *Tax Fees*

Tax fees consist of fees billed for professional services for tax compliance, tax advice and tax planning. These services include assistance regarding federal, state and international tax compliance, tax audit defense, customs and duties, mergers and acquisitions, and international tax planning.

#### *All Other Fees*

All other fees consist of fees for products and services other than the services reported above.

In accordance with its charter, the Audit Committee's policy is to pre-approve all audit and permissible non-audit services provided by KPMG LLP. These services may include audit services, audit-related services, tax services and other related services. Pre-approval is generally provided for up to one year, and any pre-approval is detailed as to the particular service or category of service and is generally subject to a specific budget. The Audit Committee limits the engagement by the Company of KPMG LLP for non-audit services and tax services to those circumstances where the services are considered integral to the audit services that it provides, or in which there is another compelling rationale for using its services. KPMG LLP and management are required to periodically report to the Audit Committee regarding the extent of services provided by KPMG LLP in accordance with this pre-approval, and the fees for the services performed to date. The Audit Committee may also pre-approve particular services on a case-by-case basis. During the year ending December 31, 2004, all services provided by KPMG LLP will be pre-approved by the Audit Committee in accordance with this policy.

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Table of Contents**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Company has duly caused this Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

## BRANTLEY CAPITAL CORPORATION

By: /s/ ROBERT P. PINKAS

Title: Robert P. Pinkas, Chairman of the Board, Chief  
Executive Officer and Treasurer

Date: April 29, 2004

Pursuant to the requirements of the Securities Exchange Act of 1934, this Report on Form 10-K has been signed below by the following persons on behalf of the Company in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ ROBERT P. PINKAS</u>	Chairman of the Board, Chief	April 29,
Robert P. Pinkas	Executive Officer, Treasurer and	2004
	Director (principal executive	
	officer and principal accounting	
	officer)	
<u>/s/ TAB A. KEPLINGER</u>	Vice President and Chief Financial	April 29,
Tab A. Keplinger	Officer (principal financial	2004
	officer)	
<u>/s/ PAUL H. CASCIO</u>	Vice President, Secretary and	April 29,
Paul H. Cascio	Director	2004
<u>/s/ L. PATRICK BALES</u>	Director	April 29,
L. Patrick Bales		2004
<u>/s/ GERALD HELLERMAN</u>	Director	April 29,
Gerald Hellerman		2004
<u>/s/ PETER SALTZ</u>	Director	April 29,
Peter Saltz		2004
<u>/s/ JAMES P. OLIVER</u>	Director	April 29,
James P. Oliver		2004
<u>/s/ PHILLIP GOLDSTEIN</u>	Director	April 29,
Phillip Goldstein		2004



