

**STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT**

**IN THE MATTER OF:
RANDOLPH T. HORNER**

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File No. 0700359

TO THE RESPONDENT: RANDOLPH T. HORNER
856 S INSIGNIA CT
PALATINE , IL
60067

CONSENT ORDER

WHEREAS, on September 18, 2008, a Notice of Hearing was Filed against Randolph T. Horner ("Respondent").

WHEREAS, Respondent on the 18th day of September, executed a certain Stipulation to Enter Consent Order (the "Stipulation"), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, Respondent has admitted to the jurisdiction of the Secretary of State in this matter and Respondent has consented to the entry of this Consent Order ("Consent Order").

WHEREAS, by means of the Stipulation, the Respondent acknowledges, without admitting or denying the truth thereof, that the following allegations shall be adopted as the Secretary of State's Findings of Fact:

- 1) Respondent Randolph T. Horner ("Horner" or "Respondent" hereinafter) is an Investment Advisor Representative for, at the time of the events complained about, Financial Network Investment Corporation, and doing business in Illinois at 1811 Hicks Road, Suite C, in Rolling Meadows, Illinois.

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- 2) Investor is a retired eighty-four year old resident of Illinois that owned a Putnam Hartford Capital Manager Variable Annuity ("Variable Annuity") valued at approximately \$179,380.00. The Variable Annuity had been purchased in 1994 and no longer had severance fees or charges associated with any withdrawals by Investor.
- 3) Investor had been making equal monthly withdrawals from the Variable Annuity to pay living expenses and to fulfill the required minimum distribution under the Federal Tax Code. However, the Variable Annuity was suffering losses in its sub-accounts due to the market downturn.
- 4) On or about January 25, 2006, Investor first met with Horner for investment advice.
- 5) Horner recommended that Investor transfer \$103,572.00 from the Variable Annuity into an AmeriMark Freedom fixed annuity issued by Americom Life and Annuity Insurance Company ("Fixed Annuity"), leaving the balance in the Variable Annuity for liquidity. However, the Fixed Annuity had limited liquidity. It allowed Investor to withdraw up to 10% of the premium per year, but any amount beyond the 10% would incur severance charges until after the seventh year of ownership.
- 6) Soon after the purchase of the Fixed Annuity, Investor suffered a medical emergency and needed all of his assets to be liquid to assist in paying medical costs and living expenses.
- 7) Although Investor continued to have access to the liquid funds in the Variable Annuity, due to Investor's advanced age and net worth, it was foreseeable that Investor may need additional liquidity for his medical and future care than that provided by the Variable Annuity and Fixed Annuity.
- 8) On or about August 7, 2008, Horner and the issuer of the Fixed Annuity refunded Investor's premium.
- 9) The activities described in paragraphs six and seven, above, constitute the activities of an investment adviser representative as defined in Section 2.11b of the Illinois Securities Act of 1953 (the "Act"). *815 ILCS 5/2.11b.*

