

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

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

File No. 0700359

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

NOTICE OF HEARING

You are hereby notified that, pursuant to Section 11.F of the Illinois Securities Law of 1953 (815 ILCS 5/1, *et seq.*) (the “Act”) and 14 Ill. Adm. Code 130, Subpart K (the “Rules”), a public hearing is scheduled to be held at 69 W. Washington Street, Suite 1220, Chicago, Illinois 60602, on the 22nd day of October, 2008, at 10:00 a.m., or as soon thereafter as counsel may be heard, before **George P. Berbas, Esq.**, or another duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered Finding Respondent Randolph T. Horner in violation of the Act and granting such other relief as may be authorized under the Act including but not limited to the imposition of a monetary fine in the maximum amount of \$10,000.00 per violation pursuant to Section 11.F of the Act, for each and every violation, payable within ten (10) business days of the entry of the Order.

The grounds for such proposed action are as follows:

- 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.

Notice of Hearing

C0700359

- 2 -

- 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.*

You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 Ill. Adm. Code 130) (the "Rules"), to file an answer to the allegations outlined above within thirty (30) days of the receipt of this Notice. A failure to file an answer within the prescribed time shall be construed as an admission of the allegations contained in the Notice of hearing.

