UNITED STATES OF AMERICA Before the SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING File No. 3-20531

In the Matter of

Horter Investment Management, LLC and Drew K. Horter, Judge Carol Fox Foelak

Respondents.

DECLARATION OF NICHOLAS MAGINA IN SUPPORT OF THE DIVISION'S MOTION FOR SANCTIONS

I, Nicholas Magina, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a Staff Accountant with the Division of Enforcement ("Division") at the United States Securities and Exchange Commission in its Chicago Regional Office, located at 175 West Jackson Boulevard, Suite 1450, Chicago, Illinois, 60604. I have been employed as a Staff Accountant by the Division since August 16, 2021. My official duties include participating in fact-finding inquiries and investigations to determine whether the federal securities laws have been, are presently being, or are about to be violated, and assisting in the Division's prosecution of enforcement actions.

2. I received a B.A. degree in accounting from Michigan State University and a M.S. degree in accounting from Michigan State University. I have been a Certified Public Accountant in Illinois since November 5, 2009. Prior to joining the SEC, I was a Senior Manager at Ernst and Young for approximately 13 years.

3. As part of my duties, I was asked to prepare a summary chart listing 17 distributions of client funds Horter Investment Management, LLC ("HIM") made to Hannan Properties, LLC ("Hannan Properties") by wire from November 19, 2015 to March 8, 2017. The chart is attached hereto as Exhibit 1.

4. In order to complete this task, I analyzed voluminous HIM records, including client distribution request forms, the client distribution request log, and client account statements. These sources are listed on page 2 of Exhibit 1. It is my understanding that Division staff obtained all of the sources listed on Exhibit 1 from HIM, HIM clients, and other sources during the course of its investigation and produced them to Respondents.

5. For each of the 17 entries on Exhibit I, I listed the client name, authorization name, authorization date, requested distribution amount, distribution method, adviser name, entity distributed to, whether the request was listed on the HIM client distribution request log, and the log date, all of which I obtained from the sources listed on page 2 of Exhibit I.

6. I determined that the 17 wires of client funds HIM distributed to Hannan Properties by wire from November 19, 2015 to March 8, 2017 was \$728,001. I also determined that these 17 requests were made by three HIM clients, John and Mary Ruth (via J.R. Freedom Properties, LLC), Michael and Nanette Maletich, and David and Anne Heinzman. As reflected on Exhibit 1, the subtotals by HIM client are \$330,000 (Ruth), \$155,001 (Maletich), and \$240,000 (Heinzman).

7. I was also asked to review a claim brought against HIM by the Ruths, Maletichs, and Heinzmans, and HIM's settlement agreement with those claimants and determine the amount these clients claimed against HIM for these third-party distributions to Hannan

2

Properties, and the amount HIM paid to these clients in settlement. The sources I reviewed are listed on page 2 of Exhibit 1.

8. I determined that the Ruths, Maletichs, and Heinzmans made claims against HIM for \$387,433.22, \$129,562.46, and \$136,499.20, respectively, for a total of \$653,494.88, arising out of the losses they incurred from HIM's distribution of their client funds to Hannan Properties. To settle these claims, HIM paid a total of \$360,000, which included \$199,482.75 to the Ruths, \$78,166.13 to the Maletichs, and \$82,351.12 to the Heinzmans. These figures are reflected on Exhibit 1.

9. I reviewed a lawsuit brought by Buddy and Gloria Scott against HIM and HIM's settlement agreement with the Scotts. These sources are listed in footnote 3 on Exhibit 1.1 determined that the Scotts claimed HIM and Hannan misappropriated \$800,000 from them during Hannan's tenure at HIM and that HIM paid the Scotts \$380,500 in settlement of that claim. Those amounts are not reflected on Exhibit 1 because it is my understanding that the Scotts did not pay Hannan or Hannan Properties through HIM by making wire distribution requests.

 Finally, Exhibits 2-5 to this Declaration are true and correct copies of the following documents:

- Exhibit 2 Feb. 27, 2017 TCA Distribution Requests for Heinzman
 Properties, LLC for \$45,000, HORTER-SECexam000702;
- (b) Exhibit 3 Excerpt of HIM Client Distribution Request Log, SEC-InvTestimony-000220-Long - SEC-InvTestimony-000238-Long;
- (c) Exhibit 4 Mar. 23, 2017 Email from Kimm Hannan to Drew Horter, et al., re Resignation, HORTER-SEC052338; and

(d) Exhibit 5 - Excerpt of Drew Horter's May 25, 2022 Deposition

Transcript.

Executed on January 9, 2023 Chicago, Illinois Magina, Nicholas

Digitally ugred by Magina, Nicholas Date: 7023 DI 09 10:50:17 06:00'

Nicholas Magina

No. Client Name	Authorization	Authorization	Requested	Distribution	Adviser	Distribution To	Listed on	Date on	Client Claim	HIM
		Date	Distribution	Method			Distribution	Distribution	Against HIM	Settlement
			Amount				Log	Log		Payment
1 J R Freedom Properties, LLC	John and Mary Ruth	11/19/2015	\$ 150,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	No	N/A		
2 J R Freedom Properties, LLC	John and Mary Ruth	1/7/2016	\$ 150,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	No	N/A		
3 J R Freedom Properties, LLC	John and Mary Ruth	2/22/2016	\$ 9,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	No	N/A		
4 J R Freedom Properties, LLC	John and Mary Ruth	2/22/2016	\$ 24,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	No	N/A		
5 Total for J.R. Freedom, LLC			\$ 333,000.00						\$ 387,433.22	\$ 199,482.75
6 Michael Maletich Sr and Nanette Maletich	Michael and Nanette Maletich	6/23/2016	\$ 45,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	Yes	6/27/2016		
7 Michael Maletich Sr and Nanette Maletich	Michael and Nanette Maletich	6/23/2016	\$ 20,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	Yes	6/27/2016		
8 Michael Maletich Sr and Nanette Maletich	Michael and Nanette Maletich	8/11/2016	\$ 15,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	Yes	8/16/2016 ¹		
9 Michael Maletich Sr and Nanette Maletich	Michael and Nanette Maletich	8/18/2016	\$ 15,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	No	N/A		
10 Michael Maletich Sr and Nanette Maletich	Michael and Nanette Maletich	11/3/2016	\$ 35,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	No	N/A		
11 Michael Maletich Sr (Roth IRA)	Michael Maletich	2/6/2017	\$ 18,255 00	By Wire	Kimm Hannan	Hannan Properties, LLC	Yes	2/6/2017		
12 Michael Maletich Sr (Traditional IRA)	Michael Maletich	2/6/2017	\$ 6,746 00	By Wire	Kimm Hannan	Hannan Properties, LLC	Yes	2/5/2017		
13 Total for Maletich			\$ 155,001.00						\$ 129,562.46	\$ 78,166.13
14 Heinzman Properties LLC	David and Anne Heinzman	8/18/2016	\$ 50,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	No	N/A		
15 Heinzman Properties LLC	David and Anne Heinzman	8/26/2016	\$ 50,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	No	N/A		
16 Heinzman Properties LLC	David and Anne Heinzman	12/29/2016	\$ 4,500 00	By Wire	Kimm Hannan	Hannan Properties, LLC	No	N/A		
17 Heinzman Properties LLC	David and Anne Heinzman	12/29/2016	\$ 45,500 00	By Wire	Kimm Hannan	Hannan Properties, LLC	No	N/A		
18 Heinzman Properties LLC	David and Anne Heinzman	2/27/2017	\$ 45,000 00	By Wire	Kimm Hannan	Hannan Properties, LLC	Yes	3/1/2017		
19 Heinzman Properties LLC	David and Anne Heinzman	3/8/2017	\$ 45,000 00	By Wire	Kimm Hannan ²	Hannan Properties, LLC	No	N/A		
20 Total for Heinzman Properties LLC			\$ 240,000.00						\$ 136,499.20	\$ 82,351.12

In the Matter of Horter Investment Management, LLC and Drew K. Horter, AP File No. 3-20531 Horter Investment Management ("HIM") Client Distribution Requests to Hannan Properties, LLC: November 19, 2015 to March 8, 2017

TOTAL HIM CLIENT FUNDS TO HANNAN PROPERTIES

\$ 728,001.00^{1,3}

\$ 653,494.88 \$ 360,000.00

Note: Sources listed on page 2.

¹ This distribution was requested on 8/16/17 and reversed on 8/17/16 (HORTER-SEC036264). A separate distribution request for \$15,000 was made on 8/18/16 (#9 above). The total amount cleared from HIM client accounts for the distribution requests listed above was \$713,001.

² Per the Distribution Log (SEC-InvTestimony-00235-Long), Hannan is listed as Heinzman Properties LLC financial adviser for the 3/1/17 distribution (#18 above). Per Hannan's Form U5 (SEC-InvTestimony-000097-Long), Hannan was terminated from HIM on 3/24/17 and Dino J. LoPresti became Heinzman's financial adviser (HORTER-SEC191004).

³ Buddy and Gloria Scott (herein, "the Scotts") filed a complaint against HIM and Kimm Hannan on 3/22/2018 (HORTER-SEC028406) in which the Scotts claimed that HIM and Hannan misappropriated \$800,000. The Settlement Agreement between HIM and BG Scott Properties, LLC and Buddy and Gloria Scott, signed on 7/17/2019, indicates HIM agreed to pay \$380,500 (SEC-SECCORR-E-0002655). These amounts are not included in the above summary. It is my understanding the Scotts did not make any third-party distribution requests to Hannan Properties through HIM.

No.	J.R. Freedom Properties, LLC Sources
1	Distribution Request: HORTER-SEC055463 - HORTER-SEC055464
	Account Statement: HORTER-SEC191154 & HORTER-SEC191159
2	Distribution Request: HORTER-SEC042936
	Account Statement: HORTER-SEC191206 & HORTER-SEC191210
3	Distribution Request: HORTER-SEC042937
	Account Statement: HORTER-SEC191206 & HORTER-SEC191212
4	Distribution Request: HORTER-SEC042938
	Account Statement: HORTER-SEC191206 & HORTER-SEC191211
5	Statement of Claim: HORTER-SEC046757
	Settlement Agreement: SEC-SECCORR-E-0002663

In the Matter of Horter Investment Management, LLC and Drew K. Horter, AP File No. 3-20531 HIM Client Distribution Requests to Hannan Properties, LLC: November 19, 2015 to March 8, 2017

No.	Michael and Nanette Maletich Sources
6	Distribution Request: HORTER-SEC048599 - HORTER-SEC048600
	Distribution Log: SEC-InvTestimony-000238-Long (line 12)
	Account Statement: HORTER-SEC035995
7	Distribution Request: HORTER-SEC048601 to HORTER-SEC048602
	Distribution Log: SEC-InvTestimony-000238-Long (line 11)
	Account Statement: HORTER-SEC035995
8	Distribution Request: HORTER-SEC054878
	Distribution Log: SEC-InvTestimony-000237-Long (line 8)
	Account Statement: HORTER-SEC036264
9	Distribution Request: HORTER-SEC045993
	Account Statement: HORTER-SEC036256 & HORTER-SEC036265
10	Distribution Request: HORTER-SEC035532
	Account Statement: HORTER-SEC036603 & HORTER-SEC036610
11	Distribution Request: HORTER-SEC067859 - HORTER-SEC067861
	Distribution Log: SEC-InvTestimony-000235-Long (line 2)
	Account Statement: HORTER-SEC-036871
12	Distribution Request: HORTER-SEC051749 - HORTER-SEC051751
	Distribution Log: SEC-InvTestimony-000235-Long (line 1)
	Account Statement: HORTER-SEC036851
13	Statement of Claim: HORTER-SEC046757
	Settlement Agreement: SEC-SECCORR-E-0002646

No.	David and Anne Heinzman Sources
14	Distribution Request: HORTER-SEC044920
	Account Statement: HORTER-SEC190954 & HORTER-SEC-190962
15	Distribution Request: HORTER-SEC027940
	Account Statement: HORTER-SEC190954 & HORTER-SEC-190962
16	Distribution Request: HORTER-SEC068430
	Account Statement: HORTER-SEC028013 & HORTER-SEC028026
17	Distribution Request: HORTER-SEC068431
	Account Statement: HORTER-SEC028013 & HORTER-SEC191008
18	Distribution Request: HORTER-SECexam000702
	Distribution Log: SEC-InvTestimony-000235-Long (line 4)
	Account Statement: HORTER-SEC191014
19	Distribution Request: HORTER-SEC076963
	Account Statement: HORTER-SEC191004 & HORTER-SEC191015
	Hannan U5: SEC-InvTestimony-000097-Long
20	Statement of Claim: HORTER-SEC046757
	Settlement Agreement: SEC-SECCORR-E-0002637

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NON-RETIREMENT ACCOUNT DISTRIBUTION REQUEST

Institutional Advisor Services

SEC	TION 1: Account Owner		Γ
TCA.	Account Number	Account Type	TCA Acc
	unt Title	1220	SECTION
	man Properties, LLC 4 Digits of Social Security	or Tax Identification Number	By el from the wires.
SEC	TION 2: Distribution Ame	ount	Sele
Selec	t a full or partial distribution	on:	
E	Liquidate 🗌 In-Kind	e my account, select one:	Bank Key E
P:	artial distribution, select Partial cash, list amoun	all that apply: t:	ABA
	Gross Cash Amount \$45,000		Nam Hann
	Partial securities in-kind	l, list securities:	Acco
	Number of Shares	Security Description / Symbol	🗌 By in
	Number of Shares	Security Description / Symbol	TCA
	Number of Shares	Security Description / Symbol	Acco
	Additional securities	information attached	Cont
SEC	TION 3: Distribution Met	hod	SECTIO
Selec	t Method:		I/we auth
	y check or security deliv	(AP)	assets fro
			I/we ackr account r
	lect if applicable:	dolivoru (net evelleble for e D.O. C.	event an
ad	dress). Fee may apply.	t delivery (not available for a P.O. Box	correcting
			harmless

Select one (check fee may apply):

☐ To the account owner and mailed to the address on record ☐ To the account owner and mailed to the address below ☐ To the third party payee at the address below

For the Benefit Of (FBO) i	fapplicable	
Mailing Address		
City	State	Zip



ount Number

N 3: Distribution Method Continued

lectronic transfer. Note: Allow 1-2 business days for delivery processed date for ACH, and the same or next business day for

> By ACH By Wire ct one:

Select one: E Checking account Savings account

oided check provided in lieu of bank information

Bank Name Key Bank	
ABA (Routing) Number	
Name on Bank Account Hannan Properties, LLC	
Account Number	

nternal transfer, transfer to:

Account Number Account Type ount Title tribution Year

N 4: Signature

horize Trust Company of America (TCA) to disburse or transfer rom my/our TCA account according to the above instructions. mowledge that the origination of ACH transactions to my/our must comply with the provisions of U.S. Law, and that in the ACH entry is incorrect, TCA reserves the right to submit ng entries. By signing, I/we hereby agree to indemnify and hold is TCA, its successors and assigns, from and against any losses, claims, liabilities, damages, actions, charges, and expenses including attorney fees, resulting from your compliance with this request, including but not limited to transfer to another party.

Account Owner or Authorized Party Signature	Date 2/27/2017	
Note: For custodial and legal accounts, the cus conservator must sign.	stodian, guardian, or	
Print Name David Heinzman, member		
pint Owner Signature, if applicable	Date 2/27/2017	
Print Name () Anne Heinzman, member		

- End of Form -



TCI NONRETDIST157.7.0316

7103 South Revere Parkway, Centennial, CO 80112 - Member FDIC

Page 1 of 2

OS Received 01/23/2023

HORTER-SECexam000702

Horter Investme....¹Management Client Distribution Request Log Third Party Distributions × .

Date	Client Name	Account #	Adviser	Ameant	3 ^{rd)} Rarty Payee	Brocessor	Authorization
2/5/17	Michael	-	Hannan	14.746.00	Havinan Propert	es Jussica	Kill
2/10/17	Michael	-	Hannan	\$18,225.00	Hannan Propertie	1	Vanh
2910	Bence	-	B. Gray	\$38,000.00	Organic Prior Vera	Jessica	Levic
3/1/17	Heinzman Properties	-	Hannan	a diamana and	Hunnan Properties		Vevir
5 20 17	Dallas	-	Thurgood	8	Donna Dallas	Jessicer	Lo.r.
3/22/17	John o Hilmi MD PIELC Refire John o Hilmi M		M. Beatrice	\$ 2,07549	Mass Mutal 1 JP Morgan	Justices	LONA
7122/17	PILC Resigna	3	M. Beatrice	\$ 22,924.51	Mass Muitail JP Morgan	Jessices	Krild
129/17	Nelson	-	D. Bergen	\$1,000.00	Crown of life Lithern Church	Jessica	1L.O.M.D.
44In	Michael		B. Gray	\$100,000	Minnesota Mutual Life	Jussincer	Kallt
4617	Toper 4 Anne Huddlestor	C	K. Morris	#41,61426	· Escrow Series	Jessica	H.and
761	Buskin Trust			\$5,000.00	Baskin Living Trust	Jessiver (Atomo Ined
41317	Supplemental TR.		G. Jensen	\$2,000.00	Alexandria Walsh	Jussiver (Hicrif.
1/17/17	Dzee Culhagii		P. Sabapath	\$ \$24,000.00	Retirement Flanning Services	Jessieer	LUAN

Revised 6-1-2016

OS Received 01/23/2023

SEC-InvTestimony-000235-Long

Horter Investment Management Client Distribution Request Log Third Party Distributions

Date	Client Name	Account #	Advisor	Amount	3 rd Party Payee	Processor	Authorization
10/27/10	Honman Living Thist		Snyder	\$280,000	Doris Hohman	Jessice	Kicht-
11/2/16	Ronald Muller		Innerbichter	\$4,000	College (c)	Jessice	XIA
11/2/10			Innerbichler	44,000	Hope Luthern Church (0)	Jessicer	LAR
11/16/16	Contraine Bross		Reens	\$100,000	Athene	Jussicer	Recall
12/13/16			C Payne	\$ 2910,210	Youngwortet	Jessker	Lant
	SP Forward Reingurand		CPayne	\$ 2910,210		Jessirces	Kicult
	ne United		CPayne	\$ 387,503		Jessicer	Konff
	68 Forward Rinswand		CRAYNE	\$ 608, 175		Jessicer	M.
	67 Forward RUNSWANCE		C Payne	#2910,212		Jessice	MA.
	Ble Forward Rinsurance		CPayne	\$294,200		Jessicer	MA
1/18/17	and a second sec		B. Gray	\$ 7,000	Elaine Wilson	Jussian	M
2/2/17	Michael Maletich		K. Hannan		Todd & Brooke Maletich	Justices	1LMK
2/2/17	L & Z + L + + + - E		L. Hannan	\$9,000	Todd + Brooke Maletich	Jessice	KMAR

Revised 6-1-2016 OS Received 01/23/2023

SEC-InvTestimony-000236-Long

Horter Investment Management Client Distribution Request Log Third Party Distributions

Date	Client Name	Account #	Advisor	Amount	3 rd Party Payee	Processor	Authorization
7/6/10	Robert L Dewcliney Trust	Ł	Eichmann	\$300,000.00	Robert Devolvery	Jessicer	the Cast
7/11/10	F Carolone Trust-1Roger		Tarno	\$7,000.00	Roger + Miriam Takno	Jessicer	Kealt
7/12/10	Jessica Taleno UTMA		Takno	\$1,800.00	Roger + Miriam Tarno	Jessicer	Lodd
Thalio	K2MC, Kinnison		Luebke	\$17,500.00	City National Bank	L Jessice	Alinsmul
7/28/10	JamesTaylor	_	B.Smith	\$27,274.00	California Bank + Trust	Jessicer	the alt
85/10	Michael Drosandere Treas		D. Horter	\$481,958.77- Full	Michael Dressander	Jessices	L-CULA
8/11/10	Trust / Roger		Tarno	\$8,000.00	Roger & Miriam Tarno Trust	Jessica	Hert
8/16/16	Nanette		Hannan	\$ 15,000.00	Hannan Doperties, LLC	Jessicer	Kens
8/29/10	F Cardone Trust/Roger	7	Tarno	\$11,000.00	Roger + Miniam Takno Trust	Jessices	Kat
9/1/10	Miller	j anj	R. Perez	A70,000.00	Joines, Childers, McLurkin + Donaldson	Jessica	1-caft
9/21/10	Keme, Kinnison		Luebke	\$50,000	Kareen Kinnisan,	Jessicer.	Kend
9/21/10	Kinnison		LUEDKE	\$189,040.38	North Coast Escrow	Jessices	Lett
10/11/10	Dorothy Thrasher		Redaelli	\$113,166.37	E -Trade	Jussicer	1- CAR

Horter Investment Management Client Distribution Request Log Third Party Distributions

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Date	Client Name	Account #	Advisor	Amount	3 rd Party Payee	Processor	Authorization
6/3/16	GU Forward Reinsurance		CORY Payne	\$18,306.34	YAG Management	Jessica	KAL
13/14	65 Forward Reinsurance		Corry Payne	\$12,367.52	YAG Management	Jessicer	Vun
13/10	Gle Foeward Reinsurance		Corry Payne	\$25,797.01	YAG Management	Jessicer	Levir
13/10	67 Forward Reinsurance	I	Corry Payne	\$25,790.89	YAG Management	Jessicer	Vever
13/10	G8 Forward Reinsurance	1	Cory Payne	\$11,247.57	YAG Management	tessicer	Vev
13/10	Ompen Reinsurance	Į.	Corry Payne	\$34,164.31	YAG Management	Jessicer	Kluin
1/3/10	SP Forward Reinsurance	l i	Coey Payne	\$ 14,541.84	YAG Management	- Jessices	Kevir
13/10	VAG Reinsurance		CORN Payne	\$47,033.01	YAG Management	Jessicer	Kun
hulia	Donnalley		1. Taylor	\$100,000.00	Gilla Tobias, U.P Trust Account	Jessicer	CIX
	F Cardone Trust ERIC		R. Tarno	\$3,500 00	ERIC TARNO	Jessicer	ady
27/14	Micharell a Nanette Maletich		Kimm Hannar	\$20,000.00	Hannan Properties	Jussicer	Kun
27/14	g Nanette Maletich		Kimm Hannan	\$45,000.00	Hannari Properties	Jessicer	Luia
1/28/14	Kaken		R. Webke	\$30,000.00	Karen L Kinnison Family Living Trust	Jessiver	K=CALS

Revised 6-1-2016 OS Received 01/23/2023

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HORTER-SEC052338



HORTER-SEC052339



OS Received 01/23/2023 CONFIDENTIAL

HORTER-SEC052340

 UNITED STATES OF AMERICA before the SECURITIES AND EXCHANGE COMMISSION ADMINISTRATIVE PROCEEDING FILE NO. 3-20531 IN THE MATTER OF)) Horter Investment) Management, LLC and) Drew K. Horter,)) Respondents.) VIDEOTAPED REMOTE DEPOSITION OF DREW K. HORTER Wednesday, May 25, 2022 Reported By: Denise Sankary, RPR, RMR, CRR, Job No. 220525DSA 	 REMOTE APPEARANCES: On behalf of the Securities and Exchange Commission: UNITED STATES SECURITIES and EXCHANGE COMMISSION ALYSSA A. QUALLS, ESQUIRE JONATHAN EPSTEIN, ESQUIRE 175 West Jackson Boulevard, Suite 1450 Chicago, Illinois 60604 Phone: 312-886-2542 Email: quallsa@sec.gov Email: epsteinj@sec.gov On behalf of the Respondents: NICOLE WOODS, ESQUIRE ICE MILLER 250 West Street, Suite 700 Columbus, Ohio 43215 Phone: 317-236-2100 Email: nicole.woods@icemiller.com ALSO PRESENT: Tim Hunter, Videographer Lynette Nichols, SEC Paralegal
1	3
 UNITED STATES OF AMERICA before the SECURITIES AND EXCHANGE COMMISSION ADMINISTRATIVE PROCEEDING FILE NO. 3-20531 IN THE MATTER OF)) Horter Investment) Management, LLC and) Drew K. Horter,) Respondents.) Mespondents.) Tespondents.) Mane ending at 12:50 p.m. on Wednesday, May 25, 2022, before Denise Sankary, Certified Realtime Reporter. 	Image: space spac

1	Exhibit 49 12/10/16 E-mail from Kimm 52	1 MS. WOODS: Good morning. My name is
-	Hannan to Drew Horter and others	÷ •
2	Subject: Update with attachment	2 Nicole Woods. I am a partner here at
3	Exhibit 32 11/14/14 Form U5 for Kimm C. 56	3 Ice Miller. I am counsel for respondents,
	Hannan	4 Horter Investment Management, LLC, and the
4		5 witness, Drew K. Horter.
	Exhibit 55 04/01/16 Horter Investment 83	6 THE COURT REPORTER: Mr. Horter, would you
5	Management, LLC Policies and	7 raise your right hand, please?
	Procedures Manual	
6		
_	Exhibit 54 05/01/15 Horter Investment 85	9 give today will be the truth, the whole truth,
7	Management, LLC Policies and	10 and nothing but the truth?
0	Procedures Manual	11 THE WITNESS: Yes.
8		12 THE COURT REPORTER: Thank you.
9 10		13 Thereupon:
11		1
12		
13		15 having been first duly sworn, was examined and
14		16 testified as follows:
15		17 EXAMINATION
16		18 BY MS. QUALLS:
17		19 Q. Okay. Good morning. Mr. Horter, could
18		20 you state and spell your name for the record?
19		
20		A. Drew K. Horter, D-R-E-W, K., H-O-R-T-E-R.
21		22 Q. Thank you .
22 23		23 What is your occupation?
23		A. Financial adviser.
25		Q. Okay. And are you a respondent in this
20		
	5	7
1	Wednesday, May 25, 2021	1 case?
1 2		1 case? 2 A. Yes.
	Wednesday, May 25, 2021 10:11 a.m 12:50 p.m.	2 A. Yes .
2 3	10:11 a.m 12:50 p.m.	 A. Yes. Q. These proceedings are taking place
2 3 4	10:11 a.m 12:50 p.m. THE VIDEOGRAPHER: And here begins the	 A. Yes. Q. These proceedings are taking place remotely via WebEx, and each representative of the
2 3 4 5	10:11 a.m 12:50 p.m. THE VIDEOGRAPHER: And here begins the videotaped deposition of Drew Horter in the	 A. Yes. Q. These proceedings are taking place remotely via WebEx, and each representative of the SEC is at a location in Illinois.
2 3 4 5 6	10:11 a.m 12:50 p.m. THE VIDEOGRAPHER: And here begins the videotaped deposition of Drew Horter in the matter of the Horter Investment Management,	 A. Yes. Q. These proceedings are taking place remotely via WebEx, and each representative of the SEC is at a location in Illinois. Mr. Horter, are you participating from
2 3 4 5 6 7	10:11 a.m 12:50 p.m. THE VIDEOGRAPHER: And here begins the videotaped deposition of Drew Horter in the matter of the Horter Investment Management, LLC, and Drew K. Horter.	 A. Yes. Q. These proceedings are taking place remotely via WebEx, and each representative of the SEC is at a location in Illinois. Mr. Horter, are you participating from Ohio?
2 3 4 5 6	10:11 a.m 12:50 p.m. THE VIDEOGRAPHER: And here begins the videotaped deposition of Drew Horter in the matter of the Horter Investment Management, LLC, and Drew K. Horter. This case is being heard in the United	 A. Yes. Q. These proceedings are taking place remotely via WebEx, and each representative of the SEC is at a location in Illinois. Mr. Horter, are you participating from Ohio? A. Yes.
2 3 4 5 6 7	10:11 a.m 12:50 p.m. THE VIDEOGRAPHER: And here begins the videotaped deposition of Drew Horter in the matter of the Horter Investment Management, LLC, and Drew K. Horter.	 A. Yes. Q. These proceedings are taking place remotely via WebEx, and each representative of the SEC is at a location in Illinois. Mr. Horter, are you participating from Ohio?
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 a. So it continued until February 2022? b. Once a quarter is the general rule or as needed. c. And are there in their review of all of Horter's existing policies and procedures, how are they pointizing what which cores to look at first? c. A. Not of the process or the priority. c. Okay. So you don't have any knowledge of that? d. Not of the process or the priority. d. Not of the process or the priority. e. Not of the process or the priority. e. Not of the process or the priority. e. A. Not of the process or the priority. e. A. Not of the process or the priority. e. A. Not of the process or the priority. e. A. Not of the process or the priority. e. A. Not of the process or the priority. e. A. Not of the process or the priority. e. A. Not of the process or the priority. e. A. Not of the process or the priority. e. A. Not of the process or the priority. e. A. Not of the process or the priority. e. A. Not of the process or the priority. e. A. Mad but don't have a vote on the committee. e. A. Mad but don't have a vote on the final authority to hire, fire, and discipline IARS? e. A. Mol motion in the transport of all of those at off-site? e. A. Not and that now. e. O. So van know how many there are now? A. All but one. e. O. Now, withing the supervision of all of those at off-site? e. A. Not white were fold so us the prane office group will be comprised. e. A. Not will be comprised. e. A. Mot motion. e. O. Kay. Now any nole currently in supervising IARS? e. A. Mot now. e. O. Now, withing the 2014 to 2017 time frame, so in charge of operations, and H managed asson tong as CCO. e. A. Mot motion. e. A. Mot now. e. M. Mon they counded the committee, firm was retained in October 2021? M. M			
 Q. Index often do they meet? A. Once a quarter is the general rule or as meeded. Q. And are there - in their review of all of Horter's existing policies and procedures, how are they prioritizing what - which ones to look at first? Q. And are there - in their review of all of Horter's existing policies and procedures, how are they prioritizing what - which ones to look at first? Q. And are there - in their review of all of Horter's existing policies and procedures, how are they prioritizing what - which ones to look at first? Q. And, So you don't have any knowledge of the discription of the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you show how many there are now? Q. Is that still true today? 29 A. Slightly less than that now. Q. Okay. And so the branch office group will be overseeing the supervision of all of those 44 of fistle IARs, is that right? A. Not now. Q. Okay. Now, during the 2014 to 2017 time frame, is it true thay ou have any role currently in supervising IARs? Q. And that continued up until this Calfee firmwas retained in October 2021? A. When they actually formed the committee and they actually formed the committee. Q. Now and are net heads how the display and agreement? Q. And that continued up until this Calfee firmwas retained in October 2021? A. When they actually formed the committee. Q. And the tora	1	recently.	1 Q. So it continued until February 2022?
 A. Once a quarter is the general rule or as needed. Q. And are there - in their review of all of Hoter's existing policies and procedures, how are they prioritizing what - which ones to look at first? Q. Carect. Q. Carect. Q. And back in 2014 to 2017, you had be called functions; is that right? A. Yes. Except for when they need any questions of me. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you don't have a vote on the committee. Q. And you have any role currently at Horter; is that right? A. Yes. Q. Is that still true today? 29 A. Slightly less than that now. Q. Do you have how many there are now? Q. Do you have how many there are now? A. All but one. Q. Oxay. And so the branch office group will be expresenting the supervision of all of those 44 off-site IARs, is that right? A. Not now. Q. Do you have any role currently in supervising IARS? Q. Do you have any role currently in supervising IARS? Q. Okay. Now, during the 2014 to 2017 time frame, so it that right? A. Not now. Q. And that continued up until this Calfee firm was retained in October 2021? A. Hint on they actually formed the committee. Q. And that continued up until this Calfee firm was retained in October 2021? A. When they actually formed the committee. Q. And that continued up until this Calfee firm was retained in October 2021? A. When they acually formed the co			-
4 needed. 4 5 Q. And are there – in their review of all of 4 6 Horter's existing policies and procedures, how are 5 7 Q. And in 20 – and now well, withdraw 6 8 A. I guess as a group, they're deciding that. 7 9 A. Not of the process or the priority. 9 11 A. Not of the process or the priority. 9 12 A. Not of the process or the priority. 9 13 A. So now with the existence of this group, 9 14 you have stepped away from all compliance-related 16 15 Innet subtry to the fire, and discipline 16 14 A. Trait would be Lesile Green with her 17 15 A. Correct. 17 18 16 A. Correct. 17 20 17 Q. And from the 2014 to 2017 time frame, you 18 21 Q. And fut think in your answer, I think you 20 22 31 1 Q. Let's go with compliance. 23 and the committee. 20 20 24 Do you know how many there are now?<			
 G. And are there – in their review of all of Horters existing policies and procedures, how are first? Horter's existing policies and procedures, how are first? A. I guess as a group, they're deciding that. G. Okay. So you don't have any knowledge of functions; is that right? A. Not of the process or the priority. G. So now with the existence of this group, you have stepped away from all compliance-related functions; is that right? A. Not of the process or the priority. G. So now with the existence of this group, you have stepped away from all compliance-related functions; is that right? A. Not of the the vace to the committee. G. And you don't have a vote on the committee. G. And out don't have a vote on the committee. G. And I think in your answer, I think you said here were 55 IARs currently at Horter; is that right? A. Yes. G. Is that still true today? I A. Slightly less than that now. Q. Do you know how many there are now? A. How dub experoximating. About 45. G. Add what percentage of those are off-site? A. All but one. G. Okay. And so the branch office group will be overseeing the supervision of all of those 44 off-site IARs, is that right? A. Not now. G. Okay. Mod so the branch office group will be overseeing the supervision of all of those 44 off-site IARs, is that right? A. Not now. G. Okay. Now, during the 2014 to 2017 time frame, so it there investment's daily operations? A. Not now. G. Okay. Now, during the 2014 to 2017 time frame, is it that right? A. Not now. G. Okay. Now, during the 2014 to 2017 time frame, is it that right? A. For compliance would be lessife Green, it supervising IARS? G. Nok now has ensy role currently in supervising IARS? G. Okay. Now, during the 2014 to 2017 time frame, is it that righ			
 6 Horter's existing policies and procedures, how are they principalizing what which ones to look at first? 6 A. Correct. 7 Q. And in 20 and now well, withdraw 4 that. 9 Who currently has the overall supervisory 10 authority for Horter Investments' IARs? 11 that? 12 A. Not of the process or the priority. 13 Q. So now with the existence of this group, they're deciding that. 14 the tensile Green with her 12 committee. 14 A. So now with the existence of this group, they're deciding that. 15 functions; is that right? 14 A. So now with the existence of this group, they we stepped away from all compliance-related the committee. 15 A. Yes. 16 A. Correct. 17 Q. And how currently, who at Horter 18 Insta still true today? 29 20 A. That would be Leslie Green with Jason Long 21 A. Slightly less than that now. 22 Q. Do you know how many there are now? 24 A. Yes. 25 Q. Is that still true today? 29 21 A. Slightly less than that now. 22 Correct. 23 24 25 A. All but one. 26 O. Kay. And so the branch office group will be expersion of all of those 44 27 O. Kay. And so the branch office group will be expersion of all of those 44 29 A. That would be Leslie Green, 13 Jason Long Becky Hartsuck, and Kevin Hetzer. For 10 operations with Kevin Hetzer as his 1 assistant. 32 O. And what percentage of those and frame the day to day perations, and they report to me on a 2 weekly basis, if not daily. But on a regular basis were the day to day to day to day to day to day to day operations, it what day to thay to day. 30 And that			
 7 d. And in 20 – and now – well, withdraw 4 first? 9 A. I guess as a group, they're deciding that. 10 Q. Okay. So you don't have any knowledge of that? 11 A. Not of the process or the priority. 12 A. Not of the process or the priority. 13 Q. So now with the existence of this group. 14 Yes. Except for when they need any group and you have stepped away from all compliance-related functions; is that right? 16 A. Yes. Except for when they need any group and the day to don't have a vote on the final authority to hire, fire, and discipline IARs? 16 A. Correct. 17 Q. And this in your answer, I think you said there were 55 IARs currently at Horter; is that right? 18 A. Slightly less than that now. 19 Q. Okay. And so the branch office group will be overseeing the supervision of all of those 44 off site IARs; is that right? 19 A. Correct. 20 Okay. And so the branch office group will be overseeing the supervision of all of those 44 off site IARs; is that right? 21 A. Slightly less than that now. 22 20 31 23 A. Ven they formed that committee, that program. 24 A. Yes. 25 A. All but one. 26 Okay. And so the branch office group will be overseeing the supervision of all of those 44 off site IARs; is that right? 32 A. Not now. 33 A. Not now. 34 A. When they formed that committee, that program. 34 A. When they normed the 2014 to 2017 time frame, is it true that you had the utimate authority over Horer's investments policies and procedures; is that right? 35 A. I work off the state off free frames is that right? 35 A. When they actually formed the committee and the branch office supervisory orgam is when they report to me on a weekly basis, find taily. But on a regular basis 2 we have meetings. manager meetings. 34 A. Correct. 35 A. When they actually formed the committee and the br	-		
 a firsi? b that. c Okay. So you don't have any knowledge of that? c Okay. So you don't have any knowledge of that? c A ves. Except for when they need any you have stepped away from all compliance-related for uncitors; is that right? c A ves. Except for when they need any questions of me. c A ves. Except for when they need any questions of me. c A ves. Except for when they need any questions of me. c A ves. Except for when they need any questions of me. c A not you don't have a vote on the committee. d A do you don't have a vote on the committee. d A do you don't have a vote on the committee. d A do you don't have a vote on the committee. d A for think in your answer, I think you asid there were 55 IARs currently at Horter; is that right? d A Slightly less than that now. g D sou know how many there are now? A libut one. g Do you know how many there are now? A All but one. g O Kay. And so the branch office group will be overseeing the supervision of all of those 44 off site IARs; is that right? d A ves. g O Kay. Now, during the 2014 to 2017 time farme, is it true that uph 24 d So what is your current to at supervising IARs? d A when did you step away from that? A When they formed that committee, that program. g O Kay. Now, during the 2014 to 2017 time farme, is it thue that uph 24 d A ves. g And that continued up unit lib Calfee firm was retained in October 2021? A When they scalally formed the committee and the branch office supervisory program is when farme, is that right? A When they scalally formed the committee firm was retained in October 2021? A When they scalally formed the committee and the stranchings, supervisors, and they report to me on a weekly basis, if not daily. But on a regular basis weekly basis, if not daily. But on a r			
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 10 authority for Hotre Investments IARs? 11 that? 12 A. Not of the process or the priority. 13 G. So now with the existence of this group, 14 A. That would be Leslie Green with her 15 Committee. 16 A. Ves. Except for when they need any 17 questions of me. 18 C. Correct. 19 A. That would be Leslie Green with a state final authority to hire, fire, and discipline 14 A. That would be Leslie Green with a state final authority to hire, fire, and discipline 14 A. Torrect. 10 authority for Horter Investment's IARs? 10 C. Kay. And back in 2014 to 2017, you had 14 A. Correct. 14 A. Correct. 14 A. Correct. 15 A. Ald there were 55 IARs currently at Horter; is that 16 A. Yes. 27 A. Yes. 28 A. Yes. 29 31 1 A. Slightly less than that now. 29 31 1 A. Slightly less than that now. 20 O. Kay. And so the branch office group will 20 bo you know how many there are now? 3 A. Houd be approximating. About 45. 3 C. Okay. And so the branch office group will 20 C. Kay. And so the branch office group will 21 be overseeing the supervision of all of those 44 30 off-site IARs; is that right? 31 A. Stightly less than that? 4 When they formed that committee, that 3 G. When did you step away from that? 4 A. When they formed that committee, that 3 G. Okay. Now, during the 2014 to 2017 time frame, solutions; is that right? 3 A. When they actually formed the committee, that 3 G. Okay. Now, during the 2014 to 2017 time frame, solut appendixed. 3 G. Okay. Now, during the 2014 to 2017 time frame, solut appendixed. 3 G. Not now. 3 G. Okay. Now, during the 2014 to 2017 time frame. 4 G. Charet investment's dialy operations? 5 A. The twould be Leslie Green, 11 Jason			
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12 A. Not of the process or the priority. 13 Q. So now with the existence of this group, 14 You have stepped away from all compliance-related 15 functions; is that right? 16 A. Pes. Except for when they need any 17 questions of me. 18 A. M you don't have a vote on the 19 own with the existence of this group, 17 questions of me. 18 A. Correct. 20 A. Correct. 21 a. Main think in your answer, I think you 22 said there were 55 IARs currently at Horter; is that 23 G. Is that still true today? 24 A. Yes. 25 Q. Is that still true today? 26 A. Slightly less than that now. 29 29 20 X. Wen due perorizing in Ama percentage of those are off-site? A. All but one. Q. Do you know how many there are now? 3 A. Vesuid be approximating. About 45. 4 G. Stay, And so the branch office group will 16 O. Correct. 3 A. Correct. 4 Off-site IARs; is that			
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 18 Q. And you don't have a vote on the committee. 20 A. Correct. 21 Q. And I think in your answer, I think you said there were 55 IARs currently at Horter; is that right? 23 A. Yes. 24 A. Yes. 25 Q. Is that still true today? 29 21 A. Slightly less than that now. 20 Do you know how many there are now? 3 A. I would be approximating. About 45. 4 Q. Okay. And so the branch office group will be everseeing the supervision of all of those 44 off-site IARs; is that right? 3 A. Correct. 4 O. Okay. And so the branch office group will be everseeing the supervision of all of those 44 off-site IARs; is that right? 5 A. All but one. 6 Q. Okay. And so the branch office group will be everseeing the supervision of all of those 44 off-site IARs; is that right? 5 A. Not now. 3 Q. When they formed that committee, that program. 6 Q. Okay. Now, during the 2014 to 2017 time frame, is it true that you had the ultimate authority over Horter's investments policies and procedures; is that right? 5 A. When they formed that committee, that program. 7 A. When they formed that committee, that program. 7 A. When they formed that committee, that program. 7 A. When they formed that committee, that program. 7 A. When they formed that committee, that program. 7 A. Much they formed that committee, that program. 9 A. Much at about operations with Kevin Hetzer. For operations, it would be Kevin Hetzer. 9 A. Much at about operations and the vary on that continued up until this Calfee firm was retained in October 2021? 9 A. When they actually formed the committee and the branch office supervisory program is when 25 they removed me from those responsibilities. 9 A. When they actually formed the committee and the branch office supervisory program is when 26 they removed me from those responsibilites.			
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