

**Part 2A of Form ADV: *Firm Brochure***



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This brochure provides information about the qualifications and business practices of Horter Investment Management, LLC ("Horter," "we," or the "Firm"). If you have any questions about the contents of this brochure, please contact us at 513-984-9933 or [jason@him-ria.com](mailto:jason@him-ria.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

Registration with the SEC or with any state securities authority does not imply a certain level of skill or training.

Additional information about Horter also is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). You can search this site by a unique identifying number, known as a CRD number. Our firm's CRD number is 119880.

## Item 2    Material Changes

This Firm Brochure, dated **3/29/2018**, provides you with a summary of Horter's advisory services and fees, professionals, certain business practices and policies, as well as actual or potential conflicts of interest, among other things. This Item is used to provide our clients with a summary of new and/or updated information; we will inform of the revision(s) based on the nature of the information as follows.

1. Annual Update: We are required to update certain information at least annually, within 90 days of our firm's fiscal year end (FYE) of **December 31**. We will provide you with either a summary of the revised information with an offer to deliver the full revised Brochure within 120 days of our FYE or we will provide you with our revised Brochure that will include a summary of those changes in this Item.
2. Material Changes: Should a material change in our operations occur, depending on its nature we will promptly communicate this change to clients (and it will be summarized in this Item). "Material changes" requiring prompt notification will include changes of ownership or control; location; disciplinary proceedings; significant changes to our advisory services or advisory affiliates – any information that is critical to a client's full understanding of who we are, how to find us, and how we do business.

The following summarizes new or revised disclosures based on information previously provided in our Firm Brochure dated **1/8/2018**:

### **Material Changes:**

- None

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## **Item 4      Advisory Business**

The Firm is an SEC-registered investment adviser with its principal place of business located in Cincinnati, Ohio. Drew Horter founded the business in 1991 as Horter Asset Management. In 2006 Mr. Horter modified its name with the creation of Horter Investment Management, LLC.

Listed below are the Firm's principal shareholders (i.e. those individuals and/or entities controlling 25% or more of this company):

- Drew K Horter, Owner

We offer the following advisory services to our clients:

### **INVESTMENT ADVISORY SERVICES**

The Firm provides continuous and regular investment advice to its clients based on the individual needs of each client. During our data-gathering process, we determine the client's individual goals and objectives, time horizon, risk tolerance, liquidity needs, net worth, total income and other various suitability factors. As appropriate, we also review and discuss a client's prior investment history, as well as family composition and background. Based on the information collected, we recommend an investment portfolio appropriate to the client. Horter Investment Advisor Representatives ("IAR's") meet with clients at least annually and, if needed, on a more frequent basis, to review changes to the client's financial condition, including their goals and objectives, time horizon and risk profile, as well as review client accounts.

We manage these advisory accounts on a discretionary or non-discretionary basis. Investment advice is guided by the client's stated objectives (i.e., maximum capital appreciation, growth, income, or growth and income), as well as tax considerations.

The Firm has formed an Investment Committee which consists of employees with investment knowledge and experience. The Committee has overall responsibility for the selection of new investment opportunities as well as evaluating the performance of the current investment portfolio. This includes the ongoing due diligence of approved investments and the initial due diligence of potential new investments. The Committee is also responsible for creating and maintaining portfolio "sleeves", which are groupings of two or more third party manager strategies and mutual funds. The Committee is supported by Capital Markets Consultants, LLC ("CMC"), an investment research and consulting firm. The IAR is ultimately responsible for meeting with clients and recommending investment portfolios that are consistent with their client's goals and objectives, risk profile, time horizon and other suitability factors.

The majority of client accounts are invested in the portfolio management programs offered by unaffiliated asset managers selected by Horter ("Third-Party Money Managers") as described below under PORTFOLIO MANAGEMENT PROGRAMS.

Because some types of investments involve certain additional degrees of risk, they will only be implemented/recommended when consistent with the client's stated investment objectives, tolerance for risk, liquidity needs and suitability.

The Firm will make available quarterly performance evaluation reports. These reports are intended to inform clients as to the performance of their investments.

## **PORTFOLIO MANAGEMENT PROGRAMS**

The Firm's primary portfolio management offerings consist of Third-Party Money Manager Programs, which can include the RIA-based variable annuities issued by Nationwide Advisory Solutions that are described below. Other offerings include tactical institutional mutual funds and Retirement Plan Asset Management Services. Some portfolio management offerings are no longer available to new advisory clients. Each program is described below.

### **Third-Party Money Manager Programs**

Horter makes extensive use of Third-Party Money Manager Programs that are made available to Horter clients. Approximately two thirds of assets under management are invested on behalf of Horter clients in these programs. All Third-Party Money Managers that we recommend to clients must either be registered as investment advisers with the Securities and Exchange Commission or with the appropriate state authority(ies). We will continuously monitor the performance of any accounts managed by the Third-Party Money Managers and will assume discretionary authority to hire or fire the Third-Party Money Managers where such action is deemed appropriate and in the best interest of the client.

Clients should refer to the selected Third-Party Money Manager's Firm Brochure or other disclosure document(s) for a full description of the services offered and the investment philosophy employed.

Once we determine the most suitable Third-Party Money Manager(s) for the client, we establish the client's account and invest according to the Third-Party Money Manager's model. In some circumstances, Horter has delegated trading authority to the Third-Party Money Manager. In other circumstances, Horter will place trades in the client's account according to trading instructions received from the Third-Party Money Manager.

We monitor the performance of the selected Third-Party Money Manager(s). If we are not satisfied with the performance of the Third-Party Money Manager, the Firm may assist the client in selecting a new Third-Party Money Manager. However, we reserve the right to assume discretionary authority to hire or fire Third-Party Money Managers when in the best interest of the client.

Horter has ceased recommending certain Third-Party Money Manager programs to new clients, although certain existing clients may continue to participate in the Third-Party Money Manager programs shown below:

- Bond Asset Allocation Program (“BAAP”) managed by BTS Asset Management, Inc.

### **Tactical Institutional Mutual Funds**

The Firm offers tactical institutional mutual funds as an alternative to third-party managed strategies. In some cases, Third-Party Money Managers may offer an Institutional Mutual Fund as an alternative to their managed strategies. In these instances, clients will not have individual mutual fund, ETF or stock positions in their accounts, but instead will hold the Institutional Mutual Fund position offered by that Third-Party Money Manager. While investors will pay a lower advisory fee and typically will pay lower transaction and trading costs, the overall fees under this option are frequently higher than the managed option due to higher expense ratios of the institutional mutual funds.

The IAR may recommend a portfolio consisting of sleeves, or a portfolio consisting of individually selected third-party managers, or individually selected third-party managers and institutional mutual funds, or a portfolio consisting solely of institutional mutual funds, depending on the client’s individual circumstances and needs.

### **Nationwide Advisory Solutions**

- Nationwide Advisory Solutions is a No Load Fee-based RIA Variable Annuity whereby certain Third-Party Money Manager strategies associated with Horter are accessible to Horter clients based on the relevant facts and circumstances of the client.
- There are no surrender charges and any policy can be liquidated at any time.
- The annual contract charges, regardless of the investment amount, are \$20/month.
- Variable Annuity clients pay advisory fees according to the following fee schedule:
  - 1.99 – 2.75% Annual Advisory Fee, payable at .4975 - .6875% per quarter based on assets under management as of the last business day of the quarter.

## **Retirement Plan Asset Management Services**

We offer investment management services to tax-qualified retirement plans, hereafter referred to as “Plan Clients”. Most Plan Clients are defined contribution plans that allow participants to direct the investment of their plan accounts among investment options selected by a responsible fiduciary of the Plan Client (“Responsible Fiduciary”). Other Plan Clients do not off participant investment direction, in which case the Responsible Fiduciary selects the Plan Client’s investment funds. Plan Clients are generally subject to the provisions of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). All Plan Client assets are held by Trust Company of America or TD Ameritrade as custodian. Under no circumstances do we hold custody of Plan Client assets.

If the Plan Client's responsible fiduciary selects us to offer actively managed investment options, we make available the Third-Party Money Manager programs approved for use in tax-qualified retirement plans. Please note that not all Third-Party Money Managers or strategies utilized by Horter Investment Managed are approved for use under this section. In some circumstances, Horter has delegated trading authority to the Third-Party Money Manager. In other circumstances, Horter will place trades according to trading instructions received from the Third-Party Money Manager.

The responsible fiduciary may also select various index funds as investment options.

## **PEAK Fund Management**

- Effective December 1, 2011 the Firm no longer offers PEAK Fund Management (“PEAK”) to new clients. Existing client accounts invested in PEAK will be managed on an ongoing basis. The Firm will give the client the option to remain in PEAK or transition to other programs.
- PEAK Fund Management is a mutual fund portfolio strategy managed by the Firm comprised of no-load, low expense equity mutual funds. The Firm employs a quantitative and rigid screening process when selecting mutual funds for the portfolio. Asset class diversification is a key component of the strategy. Sector momentum and cyclical opportunities to enhance portfolio value are integrated as well for a portion of assets.
- PEAK seeks long-term capital appreciation and has a minimum investment time horizon of 7-8 years.
- PEAK diversifies among several asset classes: large cap value and growth; mid cap value and growth; small cap value and growth; international funds. PEAK also invests in sector and “specialty” funds that perform well based on the economic cycle (e.g., real estate, energy), funds with low valuations, or specific country or region opportunities.

- Different funds offered in the PEAK Fund Management Portfolio may have minimum investment amounts; therefore, accounts with a balance of less than \$25,000 will not be invested in all funds that make up the PEAK Fund Management Portfolio. Investors can lose money with these funds or any future funds added to the portfolio. Past performance is no guarantee of future results.

## **FINANCIAL PLANNING SERVICES**

We provide financial planning services. Financial planning is a comprehensive evaluation of a client's current and future financial state by using currently known variables to predict future cash flows, asset values and withdrawal plans. Through the financial planning process, all questions, information and analysis are considered as they impact and are impacted by the entire financial and life situation of the client. Clients electing this service receive a written report which provides the client with a detailed financial plan designed to assist the client achieve his or her financial goals and objectives.

In general, the financial plan can address any or all of the following areas:

- **PERSONAL:** We review family records, budgeting, personal liability, estate information and financial goals.
- **TAX & CASH FLOW:** We analyze the client's income tax and spending and planning for past, current and future years; then illustrate the impact of various investments on the client's current income tax and future tax liability.
- **INVESTMENTS:** We analyze investment alternatives and their effect on the client's portfolio.
- **INSURANCE:** We review existing policies to ensure proper coverage for life, health, disability and long-term care.
- **RETIREMENT:** We analyze current strategies and investment plans to help the client achieve his or her retirement goals.
- **DEATH & DISABILITY:** We review the client's cash needs at death, income needs of surviving dependents and estate planning.
- **ESTATE:** Working with an estate planning attorney, we assist the client in assessing and developing long-term strategies, including as appropriate, living trusts, wills, review estate tax, powers of attorney, asset protection plans, nursing homes, Medicaid and elder law.

We gather required information through in-depth personal interviews. Information gathered includes the client's current financial status, tax status, future goals, returns objectives and attitudes towards risk. We carefully review documents



supplied by the client, including a questionnaire completed by the client, and prepare a written report. Should the client choose to implement the recommendations contained in the plan, we suggest the client work closely with his/her attorney, accountant, insurance agent, and/or financial advisor. Implementation of financial plan recommendations is entirely at the client's discretion.

Typically the financial plan is presented to the client within three months of the contract date, provided that all information needed to prepare the financial plan has been promptly provided.

Financial Planning recommendations are not limited to any specific product or service offered. All recommendations are of a generic nature.

### **DISCLAIMERS**

- We may provide limited tax and legal information as a consequence of providing investment advisory services to our clients. This information is general in nature, is not complete, and may not apply to your specific situation. We make no warranties and are not responsible for your use of this information or for any errors or inaccuracies resulting from your use. Be sure to consult your tax and legal professionals for specific advice related to your situation.

### **AMOUNT OF MANAGED ASSETS**

As of 3/28/2018, Horter was actively managing \$1,275,157,000 of client assets on a discretionary basis plus \$31,009,000 of client assets on a non-discretionary basis for a total of \$1,306,166,000 in assets under management.

## **Item 5 Fees and Compensation**

### **INVESTMENT ADVISORY SERVICES**

Our annual advisory fees for Investment Supervisory Services are based upon a percentage of assets under management and are assessed on a quarterly basis.

Our annual advisory fees for PEAK Fund Management range from 1% to 2%, while our annual fees for Bond Asset Allocation Program (BAAP) are 2.75%. Please note that these programs are no longer being offered to new clients.

Our annual advisory fees for RIA-based variable annuities at Nationwide Advisory Solutions are 1.99 - 2.75%.

Different funds offered in these programs may have minimum investment amounts, therefore accounts with less than \$25,000 may not be invested in all funds that

comprise the various programs.

Horter's annual fee for accounts invested with Third-Party Money Managers generally ranges from 1.99% to 2.75%. These include accounts invested in sleeves, as well as accounts otherwise invested in Third-Party Money Managers and Tactical Institutional Mutual Funds. The fees paid to Third-Party Money Managers are paid by Horter directly based on the total assets under management invested with the Third-Party Money Manager. Clients do not pay a separate advisory fee to the Third-Party Money Manager managing their assets.

Clients investing in a portfolio consisting solely of Tactical Institutional Mutual Funds will be charged an annual fee of 1.85%, assessed at .4625% quarterly.

Retirement Plan Asset Management clients are assessed an annual fee of 1.99%, assessed at .4975% quarterly, for plan assets invested in Horter's Third-Party Money Manager program, and are assessed an annual fee of 0.5%, assessed at 0.125% quarterly, for plan assets invested in index funds.

***Fees Billed in Arrears:*** Our advisory fees are billed in arrears at the end of each calendar quarter based upon the asset value (market or fair market value in the absence of market value) as determined by the custodian on the account, of the client's account at quarter-end.

When authorized by the client, fees are debited from the account in accordance with the terms set forth in the Client Agreement.

***Limited Negotiability of Advisory Fees:*** Although Horter has established the aforementioned fee schedule(s), we retain the discretion to negotiate alternative fees on a client-by-client basis. Client facts, circumstances and needs are considered in determining the negotiated fee charged the client. These include the complexity of the client, assets to be placed under management, anticipated future additional assets; related accounts; portfolio style, account composition, reports, among other factors. The specific annual fee schedule is identified in the Schedule of Services & Fees between Horter and each client.

We may group certain related client accounts for the purposes of achieving the minimum account size requirements and determining the annualized fee.

Discounts, not generally available to our advisory clients, may be offered to family members and friends of associated persons of our firm.

## **NON-MANAGED ACCOUNTS**

Non-managed accounts are accounts that are not actively managed by Horter. Horter does not have discretionary authority to buy or sell positions in these accounts. Clients are charged an annual fee of .001% on the market value of the assets in the account assessed at .00025% quarterly.

## FINANCIAL PLANNING FEES

Horter's Financial Planning fee is determined based on the nature of the services being provided and the complexity of each client's circumstances. All fees are agreed upon prior to entering into a contract with any client.

Our Financial Planning fees are calculated and charged on an hourly basis, ranging from \$150 to \$175 per hour. Although the length of time it will take to provide a Financial Plan will depend on each client's personal situation, we will provide an estimate for the total hours at the start of the advisory relationship. Alternatively, fees may be assessed at a fixed rate of up to \$3,500 per financial planning engagement.

The client is billed upon completion of the Financial Plan. Horter, in its discretion, may choose to waive all or a portion of the financial planning fee.

Clients are not under any obligation to engage these individuals when considering implementation of advisory recommendations. The implementation of any or all recommendations is solely at the discretion of the client.

## GENERAL INFORMATION

***Termination of the Advisory Relationship and Withdrawal of Assets:*** The Client Agreement may be canceled at any time, by either party, for any reason by notifying the other party by registered or certified mail. When a client terminates their advisory agreement, Horter may charge pro-rated advisory fees, on or about the date of termination, calculated based on the number of days in the quarter for which investment supervisory services were provided. Clients may also be charged pro-rated advisory fees for assets greater than \$5,000 transferred out. Such pro-rated fees are assessed on or about the date of the withdrawal, calculated based on the number of days in the quarter for which investment supervisory services were provided. Pro-rated fees are also assessed when a client changes third party managers during the quarter.

***Mutual Fund & ETF Fees:*** All fees paid to Horter for investment advisory services are separate and distinct from the fees and expenses charged by mutual funds and/or ETFs to their shareholders. These fees and expenses are described in each fund's prospectus, and typically include annual ongoing expenses and transaction fees paid when you buy or sell shares in a fund. The ongoing expenses of a fund are summarized by the expense ratio, which generally include a management fee, other fund expenses, and a possible distribution (12b-1) fee. These expenses are paid for out of fund assets and not billed to investors directly. If the fund also imposes sales charges, a client may directly pay an initial or deferred sales charge when buying or selling the fund. A client could invest in a mutual fund directly, without our services. In that case, the client would not receive the services provided by our firm which are designed, among other things, to assist the client in determining which mutual fund or funds are most appropriate to each client's financial condition and objectives. Accordingly, the client should review both the fees charged by the funds and our fees to fully understand the total amount of fees

to be paid by the client and to thereby evaluate the advisory services being provided.

**Capital Gains & Surrender Fees:** As with any investment, a client may incur certain costs, such as capital gains taxes or surrender fees when selling or redeeming securities or other holdings to invest in the portfolio managed by the Firm. Such costs vary on a case-by-case basis. The Firm, IAR's or Solicitors of the Firm are required to discuss any such costs that may pertain to a specific client prior to the client investing any funds. The client should consider such costs before making any changes to their portfolio.

**Custodian Expenses:** In addition to our advisory fees, clients are also responsible for the fees and expenses charged by custodians including, but not limited to, account maintenance fees and any trading fees or transaction charges that may be assessed for transactions in the client's account(s). Clients should refer to the custodian fee schedule provided at account opening for a description of custodial fees that may apply to their account. Please refer to the "Brokerage Practices" section (Item 12) of this Form ADV for additional information.

**Grandfathering of Minimum Account Requirements:** Investment advisory clients are subject to Horter's minimum account requirements and advisory fees in effect at the time the client entered into the advisory relationship. Therefore, our firm's minimum account requirements will differ among clients.

**ERISA Accounts:** Horter is deemed to be a fiduciary to advisory clients that are employee benefit plans or individual retirement accounts (IRAs) pursuant to the Employee Retirement Income and Securities Act ("ERISA"), and regulations under the Internal Revenue Code of 1986 (the "Code"), respectively. As such, our firm is subject to specific duties and obligations under ERISA and the Internal Revenue Code that include among other things, restrictions concerning certain forms of compensation. To avoid engaging in prohibited transactions, Horter may only charge fees for investment advice about products for which our firm and/or our related persons do not receive any commissions or 12b-1 fees, or conversely, investment advice about products for which our firm and/or our related persons receive commissions or 12b-1 fees, however, only when such fees are used to offset Horter's advisory fees.

**Advisory Fees in General:** Clients should note that similar advisory services may (or may not) be available from other registered (or unregistered) investment advisers for similar or lower fees.

## **Item 6      Performance-Based Fees and Side-By-Side Management**

### **PERFORMANCE-BASED FEES**

Performance based fees are based on a share of capital gains on or capital appreciation of the client's assets. Performance fees may only be charged to qualified clients, as such term is defined under Rule 205-3 of the Advisers Act. Horter does not accept performance-based fees.

## **Item 7      Types of Clients**

Horter provides advisory services to the following types of clients:

- Individuals (other than high net worth individuals), primarily age 50 and over.
- High net worth individuals
- Pension and profit sharing plans (other than plan participants)

## **Item 8      Methods of Analysis, Investment Strategies and Risk of Loss**

### **METHODS OF ANALYSIS**

We use the following methods of analysis in formulating our investment advice and/or managing client assets:

**Charting.** In this type of technical analysis, we review charts of market and security activity in an attempt to identify when the market is moving up or down and to predict how long the trend may last and when that trend might reverse.

**Mutual Fund and/or ETF Analysis.** We look at the experience and track record of the manager of the mutual fund or ETF in an attempt to determine if that manager has demonstrated an ability to invest over a period of time and in different economic conditions. We also look at the underlying assets in a mutual fund or ETF in an attempt to determine if there is significant overlap in the underlying investments held in another fund(s) in the client's portfolio. We also monitor the funds or ETFs in an attempt to determine if they are continuing to follow their stated investment strategy.

A risk of mutual fund and/or ETF analysis is that, as in all securities investments, past performance does not guarantee future results. A manager who has been successful may not be able to replicate that success in the future. In addition, as we do not control the underlying investments in a fund or ETF, managers of different funds held by the client may purchase the same security, increasing the

risk to the client if that security were to fall in value. There is also a risk that a manager may deviate from the stated investment mandate or strategy of the fund or ETF, which could make the holding(s) less suitable for the client's portfolio.

***Third-Party Money Manager Analysis.*** We examine the experience, expertise, investment philosophies, and past performance of independent third-party investment managers in an attempt to determine if that manager has demonstrated an ability to invest over a period of time and in different economic conditions. We monitor the manager's underlying holdings, strategies, concentrations and leverage as part of our overall periodic risk assessment.

A risk of investing with a third-party manager who has been successful in the past is that he/she may not be able to replicate that success in the future. In addition, as we do not control the underlying investments in a third-party manager's portfolio, there is also a risk that a manager may deviate from the stated investment mandate or strategy of the portfolio, making it a less suitable investment for our clients. Moreover, as we do not control the manager's daily business and compliance operations, we may be unaware of the lack of internal controls necessary to prevent business, regulatory or reputational deficiencies.

## **INVESTMENT STRATEGIES**

The IAR may recommend the use of third-party managers in a portfolio sleeve or as stand alone investments. A sleeve is a portfolio composed of two or more third party manager strategies and institutional mutual funds. The use of sleeves is intended to smooth out volatility and returns over time through enhanced diversification of portfolio assets. The Investment Committee is responsible for creating and monitoring the performance of sleeves. These sleeves are made available to the IAR's for use in client accounts.

The IAR may otherwise recommend third party managers and institutional mutual funds based on the client's individual circumstances and needs. Portfolios recommended by the IAR may perform better or worse than the sleeve portfolios created by the Investment Committee.

## **RISK OF LOSS**

Securities investments are not guaranteed and you may lose money on your investments, even in lower risk strategies. Clients should understand that investing in any securities, including mutual funds, involves a risk of loss of both income and principal.

Some managers may engage in hedging. The manager's use of inverse securities or other transactions to reduce risk involves costs and are subject to the manager's ability to predict correctly changes in the relationships of such hedge instruments to the strategy's portfolio holdings or other factors. No assurance can be given that

the manager's judgment in this respect will be correct. In addition, no assurance can be given that the manager will enter into hedging or other transactions at times or under circumstances in which it may be advisable to do so. Given the potential risk involved, strategies employing hedging may not be suitable for the conservative investor.

Some managers may utilize leverage. Leverage involves the use of various financial instruments or borrowed capital, such as margin, to increase the potential return of an investment. Conversely, leverage can magnify the losses of an investment during a down market. Given the potential risk involved, strategies employing leverage may not be suitable for the conservative investor.

## **Item 9 Disciplinary Information**

We are required to disclose any legal or disciplinary events that are material to a client's or prospective client's evaluation of our advisory business or the integrity of our management.

In a December 2014 settlement with the SEC, F-Squared Investments ("F-Squared"), an unaffiliated former signal provider to Horter Investment Management, admitted that it had violated federal securities laws related to inaccurate performance information for the period April 2001 through September 2008.

The SEC conducted a sweep of investment advisers that had relied on F-Squared's inaccurate performance information, and on December 8, 2017, the SEC announced a settlement with Horter Investment Management in an order containing findings, which Horter neither admitted nor denied, that Horter violated Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-1(a)(5) thereunder, by distributing to clients and prospective clients performance advertising materials provided by F-Squared which contained false or misleading information, and that Horter violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, by failing to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules, and that Horter violated Section 204(a) of the Advisers Act and Rule 204-2(a)(16) thereunder, by failing to maintain records substantiating the performance in the advertisements created by F-Squared.

Horter consented to the entry of an order providing that it cease and desist from committing or causing any violations and future violations and agreed to a censure, and to pay \$778,804, which included a civil money penalty of \$250,000, disgorgement of \$482,595 and prejudgment interest of \$46,209.

<https://www.sec.gov/litigation/admin/2017/ia-4823.pdf>

## **Item 10 Other Financial Industry Activities and Affiliations**

Some Horter IAR's, in their individual capacities, are agents for various insurance companies. As such, these individuals are able to receive separate, yet customary commission compensation resulting from implementing product transactions on behalf of advisory clients. Insurance product transactions are not done through Horter Investment Management LLC. Insurance transactions are regulated by the appropriate state insurance regulations. Clients, however, are not under any obligation to engage these individuals when considering implementation of advisory recommendations. The implementation of any or all recommendations is solely at the discretion of the client.

Clients should be aware that the receipt of additional compensation by Horter and its IAR's creates a conflict of interest that may impair the objectivity of our firm and these individuals when making advisory recommendations. Horter endeavors at all times to put the interest of its clients first as part of our fiduciary duty as a registered investment adviser; we take the following steps to address this conflict:

- we disclose to clients the existence of all material conflicts of interest, including the potential for the Firm and its IAR's to earn compensation from advisory clients in addition to our firm's advisory fees;
- we disclose to clients that they are not obligated to purchase recommended investment products from Horter or its IAR's;
- we collect, maintain and document accurate, complete and relevant client background information, including the client's financial goals, objectives and risk tolerance;
- our firm's management conducts regular reviews of each client account to verify that all recommendations made to a client are suitable to the client's needs and circumstances;
- we require that our IAR's seek prior approval of any outside employment activity so that we may ensure that any conflicts of interests in such activities are properly addressed;
- we periodically monitor these outside employment activities to verify that any conflicts of interest continue to be properly addressed by our firm; and
- we educate our IAR's regarding the responsibilities of a fiduciary, including the need for having a reasonable and independent basis for the investment advice provided to clients.



## **OTHER BUSINESS ACTIVITIES**

The Firm has relationships with IAR's and Solicitors (which may include other investment Advisors, broker dealers, financial planning firms, insurance agencies or CPA firms) who are duly licensed to receive a portion of the advisory fees earned by Firm with respect to client portfolios the Firm manages. Each IAR or Solicitor may also spend a significant portion of their time engaged in other business activities that are not affiliated in any way with the Firm or the portfolios it manages. Such outside business activities may include selling insurance products, including fixed indexed annuities (also known as equity-index annuities), for which an IAR or Solicitor may earn commissions. The Firm receives no compensation relating to any outside business activities of its IARs or Solicitors and does not receive any commissions for insurance or annuity products sold by IARs or Solicitors. In certain cases, Horter Financial Strategies, an entity related to Horter Investment Management through common ownership and control, may receive an override on commissions for insurance and annuity products sold by IARs or Solicitors. The Firm assumes no fiduciary or other legal duty, or any supervisory responsibility, with respect to any outside business activities of its IARs or Solicitors, including the sale of insurance or annuity products. [Clients are encouraged to contact Horter's compliance office at 513-984-9933 if they have questions regarding any recommendations being proposed by IARs or Solicitors relating to strategies or investment products that are not described in this Brochure.]

## **SOLICITATION OF OUTSIDE MONEY MANAGERS**

The Firm will enter into agreements with various non-affiliated investment advisors ("NIA's") to offer asset allocation and asset management services to certain Firm clients. Such clients will be given the following documents, in addition to this Form ADV Part 2A: a Solicitor's Disclosure document, and a copy of the NIA's Form ADV Part 2A. The Solicitor's Disclosure document provides details with regard to specific referral arrangements between the NIA and the Firm. The NIA's Form ADV Part 2A provides details with regard to their advisory services and fees. The Firm will maintain its relationship with a client by providing services that include assisting the client in choosing investment objectives and appropriate investment managers, setting restrictions or limitations on the management account, explaining portfolio strategies and transactions, and answering client questions. Also, the Firm will review the performance of the NIA on an ongoing basis prior to introducing clients to the NIA. The relationship between the Firm and the NIA will be clearly communicated and disclosed to all the clients in the Solicitor's Disclosure document.

Compensation is usually received by the Firm after services are rendered. Fees paid in advance will be refunded to the client prorated to the number of days in the quarter in which the client received the services. Generally, an agreement may be terminated within thirty (30) days with written notice. However, compensation

arrangements and termination provisions will also be disclosed in the non-affiliated Advisor's disclosure brochure and/or and the Firm's disclosure brochure. Fees, payments and refund policies will vary depending upon the non-affiliated investment Advisor's fee schedule and terms. The Firm will make all reasonable efforts to determine that any non-affiliated investment Advisor, with which the Firm contracts, is properly registered in those states where investment advice or securities are provided to residents of that state.

Horter receives payments from certain third party money managers for marketing related support. These payments are not contingent on any level of assets under management placed with the managers.

## **Item 11 Code of Ethics, Participation or Interest in Client Transactions and Personal Trading**

Our firm has adopted a Code of Ethics which sets forth high ethical standards of business conduct that we require of our employees, including compliance with applicable federal securities laws.

Horter and our personnel owe a duty of loyalty, fairness and good faith towards our clients, and have an obligation to adhere not only to the specific provisions of the Code of Ethics but to the general principles that guide the Code.

Our Code of Ethics includes policies and procedures for the review of quarterly securities transactions reports as well as initial and annual securities holdings reports that must be submitted by the firm's access persons. Among other things, our Code of Ethics also requires the prior approval of any acquisition of securities in a limited offering (e.g., private placement) or an initial public offering. Our code also provides for oversight, enforcement and recordkeeping provisions.

Horter's Code of Ethics further includes the firm's policy prohibiting the use of material non-public information. While we do not believe that we have any particular access to non-public information, all employees are reminded that such information may not be used in a personal or professional capacity.

A copy of our Code of Ethics is available to our advisory clients and prospective clients. You may request a copy by email sent to [jason@him-ria.com](mailto:jason@him-ria.com), or by calling us at 513-984-9933.

Horter and individuals associated with our firm are prohibited from engaging in principal transactions.

Horter and individuals associated with our firm are prohibited from engaging in agency cross transactions.

Our Code of Ethics is designed to assure that the personal securities transactions,

activities and interests of our employees will not interfere with (i) making decisions in the best interest of advisory clients and (ii) implementing such decisions while, at the same time, allowing employees to invest for their own accounts.

Our firm and/or individuals associated with our firm may buy or sell for their personal accounts securities identical to or different from those recommended to our clients. In addition, any related person(s) may have an interest or position in a certain security(ies) which may also be recommended to a client.

It is the expressed policy of our firm that no person employed by us may purchase or sell any security prior to a transaction(s) being implemented for an advisory account, thereby preventing such employee(s) from benefiting from transactions placed on behalf of advisory accounts.

We may aggregate our employee trades with client transactions where possible and when compliant with our duty to seek best execution for our clients. In these instances, participating clients will receive an average share price and transaction costs will be shared equally and on a pro-rata basis. In the instances where there is a partial fill of a particular batched order, we will allocate all purchases pro-rata, with each account paying the average price. Our employee accounts will be included in the pro-rata allocation.

As these situations represent actual or potential conflicts of interest to our clients, we have established the following policies and procedures for implementing our firm's Code of Ethics, to ensure our firm complies with its regulatory obligations and provides our clients and potential clients with full and fair disclosure of such conflicts of interest:

1. No principal, employee, agent or Investment Adviser Representative of our firm may put his or her own interest above the interest of an advisory client.
2. No principal, employee, agent or Investment Adviser Representative of our firm may buy or sell securities for their personal portfolio(s) where their decision is a result of information received as a result of his or her employment unless the information is also available to the investing public.
3. It is the expressed policy of our firm that no principal, employee, agent or Investment Adviser Representative may purchase or sell any security prior to a transaction(s) being implemented for an advisory account. This prevents such persons from benefiting from transactions placed on behalf of advisory accounts.
4. Our firm requires prior approval for any IPO or private placement investments by related persons of the firm.
5. We maintain a list of all reportable securities holdings for our firm and anyone associated with this advisory practice that has access to advisory recommendations ("access person"). These holdings are reviewed on a regular basis by our firm's Chief Compliance Officer or his/her designee.

6. We have established procedures for the maintenance of all required books and records.
7. All of our principals, employees, agents and Investment Adviser Representatives must act in accordance with all applicable Federal and State regulations governing registered investment advisory practices.
8. We require delivery and acknowledgement of the Code of Ethics by each supervised person of our firm.
9. We have established policies requiring the reporting of Code of Ethics violations to our senior management.
10. Any individual who violates any of the above restrictions may be subject to termination.

The Firm has adopted a Code of Ethics expressing the firm's commitment to ethical conduct. The Firm's Code of Ethics describes the firm's fiduciary duties and responsibilities to clients, and sets forth, among other things, the Firm's practice of supervising the personal securities transactions of access persons, as defined at Rule 204A-1(e)(1). To supervise compliance with its Code of Ethics, the Firm requires that access persons provide detailed annual holdings reports and quarterly transaction reports showing any transactions in reportable securities. Transactions in securities that the SEC has deemed to be not reportable (e.g., direct obligations of the U.S. government; shares issued by unaffiliated open-end mutual funds) do not need to be reported. Access persons are required to obtain the Firm's approval prior to investing in any IPO's or private placements (limited offerings). Files of securities transactions for access persons of the Firm are maintained and reviewed for any conflict of interest by the Firm's Chief Compliance Officer, or other designated official.

The Firm requires that all supervised persons must act in accordance with all applicable Federal and State regulations governing registered investment advisory practices. The Firm's Code of Ethics includes the Firm's policy prohibiting the use of material non-public information. Any individual not in observance of the above may be subject to discipline.

The Firm will provide a complete copy of its Code of Ethics to any client or prospective client upon request.

## **Item 12 Brokerage Practices**

Horter does not have any soft-dollar arrangements and does not receive any soft-dollar benefits.

Horter will block trades where possible and when advantageous to clients. This blocking of trades permits the trading of aggregate blocks of securities composed

of assets from multiple client accounts, so long as transaction costs are shared equally and on a pro-rated basis between all accounts included in any such block.

Block trading may allow us to execute equity trades in a timelier, more equitable manner, at an average share price. Horter will typically aggregate trades among clients whose accounts can be traded at a given broker, and generally will rotate or vary the order of brokers through which it places trades for clients on any particular day. Horter's block trading policy and procedures are as follows:

- 1) Transactions for any client account may not be aggregated for execution if the practice is prohibited by or inconsistent with the client's advisory agreement with Horter, or our firm's order allocation policy.
- 2) The trading desk in concert with the portfolio manager must determine that the purchase or sale of the particular security involved is appropriate for the client and consistent with the client's investment objectives and with any investment guidelines or restrictions applicable to the client's account.
- 3) The portfolio manager must reasonably believe that the order aggregation will benefit, and will enable Horter to seek best execution for each client participating in the aggregated order. This requires a good faith judgment at the time the order is placed for the execution. It does not mean that the determination made in advance of the transaction must always prove to have been correct in the light of a "20-20 hindsight" perspective. Best execution includes the duty to seek the best quality of execution, as well as the best net price.
- 4) Prior to entry of an aggregated order, a written order ticket must be completed which identifies each client account participating in the order and the proposed allocation of the order, upon completion, to those clients.
- 5) If the order cannot be executed in full at the same price or time, the securities actually purchased or sold by the close of each business day must be allocated pro rata among the participating client accounts in accordance with the initial order ticket or other written statement of allocation. However, adjustments to this pro rata allocation may be made to participating client accounts in accordance with the initial order ticket or other written statement of allocation. Furthermore, adjustments to this pro rata allocation may be made to avoid having odd amounts of shares held in any client account, or to avoid excessive ticket charges in smaller accounts.
- 6) Generally, each client that participates in the aggregated order must do so at the average price for all separate transactions made to fill the order, and must share in the commissions on a pro rata basis in proportion to the client's participation. Under the client's agreement with the custodian/broker, transaction costs may be based on the number of shares traded for each client.
- 7) If the order will be allocated in a manner other than that stated in the initial statement of allocation, a written explanation of the change must be provided to and approved by the Chief Compliance Officer no later than the morning following the execution of the aggregate trade.

8) Horter's client account records separately reflect, for each account in which the aggregated transaction occurred, the securities which are held by, and bought and sold for, that account.

9) Funds and securities for aggregated orders are clearly identified on Horter's records and to the broker-dealers or other intermediaries handling the transactions, by the appropriate account numbers for each participating client.

10) No client or account will be favored over another.

In certain circumstances, the Firm has delegated its trading authority to certain Third-Party Money Managers. Please see the brokerage practices of these Third-Party Money Managers as disclosed in their Firm Brochures.

## **Item 13    Review of Accounts**

### **INVESTMENT ADVISORY SERVICES**

**REVIEWS:** The underlying securities in the third-party manager programs are continuously monitored by the third-party managers. The client accounts are reviewed at least annually by the Investment Adviser Representative who is responsible for the account. Accounts are reviewed in the context of each client's stated investment objectives and guidelines. More frequent reviews may be triggered by material changes in variables such as the client's individual circumstances, or the market, political or economic environment. The client may trigger a review at any time by contacting their Investment Advisor Representative and requesting a review.

**REPORTS:** In addition to the monthly or quarterly statements and confirmations of transactions that clients receive directly from their custodian, we provide quarterly reports summarizing account performance, balances and holdings. Clients must provide the Firm with a valid email address to access the client web portal in order to view the quarterly performance reports. Clients receive an automated email when the quarterly reports have been posted to their client portal. Otherwise, clients may request a copy of the reports from their Investment Adviser Representative.

### **FINANCIAL PLANNING SERVICES**

**REVIEWS:** While reviews may occur at different stages depending on the nature and terms of the specific engagement, typically no formal reviews will be conducted for Financial Planning clients unless otherwise contracted for.

**REPORTS:** Financial Planning clients may receive a completed financial plan. Additional reports will not typically be provided unless otherwise contracted for.

## **ELEMENTS USED FOR REVIEW PROCESS**

The review process contains each of the following elements:

- a. evaluate the strategy which has been employed
- b. monitor the portfolio
- c. address the need to rebalance

Account review may be triggered by any one or more of the following events:

- a. specific client request
- b. change in client's goals and objectives
- c. semi-annually
- d. changes in policy limits

## **Item 14 Client Referrals and Other Compensation**

Our firm may pay referral fees to independent persons or firms ("Solicitors") for introducing clients to us. These referral fees are based upon an agreed upon amount of the fees paid to us by clients solicited by each Solicitor. Whenever we pay a referral fee, we require the Solicitor to provide the prospective client with a copy of this document (our *Firm Brochure*) and a separate disclosure statement that includes the following information:

- the Solicitor's name and relationship with our firm;
- the fact that the Solicitor is being paid a referral fee;
- whether the fee paid to us by the client will be increased above our normal fees in order to compensate the Solicitor.

As a matter of firm practice, the advisory fees paid to us by clients referred by solicitors are not increased as a result of any referral.

It is Horter's policy not to accept or allow our related persons to accept any form of compensation, including cash, sales awards or other prizes, from a non-client in conjunction with the advisory services we provide to our clients.

## **Item 15    Custody**

Our firm does not have actual or constructive custody of client assets. A qualified custodian will maintain custody of client assets and they will send periodic statements and trade confirmations directly to the client.

We previously disclosed in the "Fees and Compensation" section (Item 5) of this Brochure that our firm directly debits advisory fees from client accounts.

As part of this billing process, the client's custodian is advised of the amount of the fee to be deducted from that client's account. On at least a quarterly basis, the custodian is required to send to the client a statement showing all transactions within the account during the reporting period.

Because the custodian does not calculate the amount of the fee to be deducted, it is important for clients to carefully review their custodial statements to verify the accuracy of the calculation, among other things. Clients should contact us directly if they believe that there may be an error in their statement.

The SEC deems us to have custody, but only for the purpose of deducting fees from client accounts.

## **Item 16    Investment Discretion**

Clients may hire us to provide discretionary asset management services, in which case we place trades in a client's account without contacting the client prior to each trade to obtain the client's permission.

Our discretionary authority includes the ability to do the following without contacting the client:

- determine the security to buy or sell; and/or
- determine the amount of the security to buy or sell
- determine which Third-Party Money Manager(s) to hire or fire

Clients give us discretionary authority when they sign a discretionary agreement with our firm. Clients may place reasonable restrictions on this authority by giving us written instructions. Clients may also change/amend such limitations by once again providing us with written instructions.

## **Item 17    Voting Client Securities**

As a matter of firm policy, we do not vote proxies on behalf of clients. Therefore, although our firm may provide investment advisory services relative to client investment assets, clients maintain exclusive responsibility for: (1) directing the manner in which proxies solicited by issuers of securities beneficially owned by the



client shall be voted, and (2) making all elections relative to any mergers, acquisitions, tender offers, bankruptcy proceedings or other type events pertaining to the client's investment assets. Clients are responsible for instructing each custodian of the assets, to forward to the client copies of all proxies and shareholder communications relating to the client's investment assets.

## **Item 18    Financial Information**

As an advisory firm that maintains discretionary authority for clients we are also required to disclose any financial condition that is reasonable likely to impair our ability to meet our contractual obligations. Horter has no such financial circumstances to report.

Horter has not been the subject of a bankruptcy petition at any time during the past ten years.