

**STATE OF NEBRASKA**  
**Department of Banking & Finance**

In the Matter of	)	
	)	
Horizon Technologies, L.L.C.	)	FINDINGS OF FACT
2741 West Southern Avenue, Suite 6	)	CONCLUSIONS OF LAW
Tempe, Arizona,	)	AND
	)	CONSENT ORDER
RESPONDENT.	)	

THIS MATTER comes before the Nebraska Department of Banking and Finance ("DEPARTMENT"), by and through its Director, pursuant to its authority under the Seller-Assisted Marketing Plan Act, Neb. Rev. Stat. §§ 59-1701 to 59-1762 (Reissue 2004) (the "Act"). Pursuant to Neb. Rev. Stat. § 59-1725 (Reissue 2004), the DEPARTMENT has investigated the acts of Horizon Technologies, L.L.C., 2741 West Southern Avenue, Suite 6, Tempe, Arizona. As a result of such investigation, and being fully advised and informed in the matter, the Director and Horizon Technologies, L.L.C. enter into the following Findings of Fact, Conclusions of Law and Consent Order ("Order"):

**FINDINGS OF FACT**

1. Horizon Technologies, L.L.C. ("HORIZON"), is a limited liability company organized under the laws of the state of Arizona, with its principal place of business located at 2741 West Southern Avenue, Suite 6, Tempe, Arizona.

2. HORIZON offered a business opportunity to sell GPS tracking systems called Millennium Plus, which HORIZON refers to as a Reseller Membership, to Nebraska residents.

3. A purchaser of a Reseller Membership received a website, marketing materials including postcards and brochures, an Independent Business Operator kit, and a GPS tracking system. HORIZON represented to purchasers that it provided ongoing support.

4. HORIZON provided information to the DEPARTMENT showing it had sold thirty (30) Reseller Memberships in Nebraska. The purchasers paid in excess of five hundred dollars (\$500) for the Reseller Memberships.

5. At all times relevant to this Order, HORIZON had not filed a disclosure document or notice of exemption with the DEPARTMENT as required by Neb. Rev. Stat. § 59-1724 (Reissue 2004).

6. HORIZON did not provide purchasers with a disclosure document pursuant to Neb. Rev. Stat. § 59-1732 (Reissue 2004). The information provided by HORIZON to Reseller Membership purchasers did not contain (a) a full and detailed description of the actual services HORIZON would or may perform for the purchaser; (b) the legend required when a seller makes any statement concerning earnings or range of earnings that may be made through the seller-assisted marketing plan; (c) the total number of Reseller Memberships set up or organized by HORIZON; (d) the number of Reseller Memberships in existence at the end of the year preceding the sale; (e) the names, addresses, and telephone numbers of the ten Reseller Membership purchasers nearest the prospective purchaser's intended location; (f) the total number of Reseller

Memberships that HORIZON intended to set up in Nebraska and across the nation within the next twelve months; (g) the names and offices held by HORIZON's officers, directors and limited liability company members and background information on such persons; and (h) a copy of a financial statement of HORIZON.

7. The contract used by HORIZON to sell its Reseller Membership did not include (a) a full and detailed description of the acts or services HORIZON would undertake to perform for the purchaser; (b) HORIZON's principal business address and the name and address of its agent in Nebraska authorized to receive service of process; (c) HORIZON's business form; (d) the delivery date of the products, equipment, or supplies HORIZON was to deliver to the purchaser to enable the purchaser to begin or maintain his/her business; or (e) the statement of the purchaser's right to cancel the contract.

8. HORIZON has represented to the DEPARTMENT that it has ceased offering the Reseller Memberships described in this Order in the State of Nebraska. HORIZON has further represented that future business opportunities will not be offered in violation of the Act.

9. On September 30, 2008, the DEPARTMENT issued Findings of Fact, Conclusions of Law and Order to Show Cause ("Order to Show Cause"), ordering HORIZON to appear before the Director or his designate on November 18, 2008, to show cause why a fine not to exceed \$5,000 per violation, together with the costs of investigation, should not be imposed under Act based upon the above facts. On November 10, 2008, the hearing on the Order to Show Cause was postponed until December 18, 2008.

## CONCLUSIONS OF LAW

1. The DEPARTMENT has jurisdiction over this matter pursuant to the Act.
2. The Reseller Membership offered by HORIZON is a seller-assisted marketing plan as defined by Neb. Rev. Stat. § 59-1703 (Reissue 2004).
3. Neb. Rev. Stat. § 59-1724 (Reissue 2004) requires the seller of a seller-assisted marketing plan to file a copy of a disclosure document prepared pursuant to Neb. Rev. Stat. §§ 59-1733 to 59-1740 (Reissue 2004) with the DEPARTMENT before placing any advertisement, making any other solicitation, making any sale, or making any representations to any prospective purchaser in Nebraska.
4. The actions described in Findings of Fact Nos. 2 through 5 constitute selling a seller-assisted marketing plan without filing a copy of a disclosure document with the DEPARTMENT, in violation of Neb. Rev. Stat. § 59-1724.
5. Neb. Rev. Stat. § 59-1732 (Reissue 2004) requires the seller of a seller-assisted marketing plan to provide a prospective purchaser with a copy of a disclosure document prepared pursuant to Neb. Rev. Stat. §§ 59-1733 to 59-1740 (Reissue 2004) at the first in-person communication or in the first written response to an inquiry by a potential purchaser wherein the seller-assisted marketing plan is described. Section 59-1732 further provides that the disclosure document must be given to the potential purchaser at least forty-eight hours prior to the execution of a seller-assisted marketing contract or at least forty-eight hours prior to the receipt of any consideration.
6. The actions described in Findings of Fact Nos. 2 through 6 constitute selling a seller-assisted marketing plan without providing the required disclosure document to the purchaser, in violation of Neb. Rev. Stat. § 59-1732.

7. Neb. Rev. Stat. §§ 59-1742 to 59-1744 (Reissue 2004) specify the required contents for a written contract to sell a seller-assisted marketing plan act in Nebraska and set forth the purchaser's right to cancel the contract within three (3) business days.

8. The actions described in Findings of Fact Nos. 2 through 7 constitute selling a seller-assisted marketing plan by use of a contract which does not comply with the provisions of the Act, in violation of Neb. Rev. Stat. §§ 59-1742 to 59-1744.

9. Neb. Rev. Stat. § 59-1725.01(2) (Reissue 2004) authorizes the Director, after giving reasonable notice and an opportunity for a hearing, to impose a fine not exceeding five thousand dollars (\$5,000.00) per violation, in addition to costs of the investigation, upon any person found to have engaged in any act or practice which would constitute a violation of the Act or any rule, regulation, or order issued under the Act.

### **CONSENT ORDER**

NOW THEREFORE, the parties to this Order agree as follows:

Stipulations: In connection with this Order, HORIZON and the Director stipulate to the following:

- a. The DEPARTMENT has jurisdiction as to all matters herein.
- b. An Order should be entered in this matter, which shall be in lieu of all other proceedings by the DEPARTMENT, except as specifically referenced in this Order.

HORIZON further represents as follows:

1. HORIZON is aware of its right to a hearing on this Order at which it may be represented by counsel, present evidence, and cross-examine witnesses. The right to

such a hearing and any related appeal on all matters covered by this Order, is irrevocably waived.

2. HORIZON is acting free from any duress or coercion of any kind or nature.

3. This Order is executed to avoid further proceedings and constitutes an admission of violations of the Act solely for purposes of this Order and for no other purposes.

FURTHER, HORIZON agrees to take whatever action is necessary to ensure compliance with all provisions of the Act in the future. If, at any time, the DEPARTMENT determines that HORIZON has committed any other violations of the Act from and after the date of this Order, the DEPARTMENT may take any action available to it under the Act.

IT IS THEREFORE ORDERED as follows:

1. Horizon Technologies, L.L.C, shall offer to rescind the purchase of each Nebraska resident who purchased a Reseller Membership from HORIZON as follows:

a. Each purchaser shall be offered the opportunity to affirm or rescind his/her purchase through a certified letter from HORIZON in the form attached hereto as Exhibit "A" to the purchaser's last known address.

b. The rescission amount paid to a purchaser electing to rescind his/her purchase shall be determined pursuant to the terms of Neb. Rev. Stat. § 59-1753 (Reissue 2004). Payment to purchasers electing to rescind purchases shall be made within fifteen (15) days of the date that HORIZON receives notice of the election to rescind.

c. HORIZON shall provide the DEPARTMENT with a copy of the rescission offer and a list of the individuals to whom the rescission offer was made, proof of delivery of such offer or, if returned undeliverable, a copy of the returned offer; a copy of each form signed and returned by purchasers, and proof of payment to each purchaser electing to rescind his/her purchase. Such documentation shall be provided to the DEPARTMENT within forty-five (45) days of the effective date of this Order.

2. Horizon Technologies, L.L.C. shall pay a fine in the amount of five thousand dollars (\$5,000.00), to be paid by a check payable to the Nebraska Department of Banking and Finance within thirty (30) days of the effective date of this Order.

3. The hearing on the Order to Show Cause scheduled for December 18, 2008, is hereby continued until further order of the DEPARTMENT.

4. The Findings of Fact, Conclusions of Law and Order to Show Cause, dated September 30, 2008, will be within vacated, and the hearing set therein cancelled, within ten (10) business days of HORIZON providing the notification required by paragraph 1(c) above to the DEPARTMENT and otherwise complying with the requirements of this Order.

DATED this 4 day of Dec, 2008.

**HORIZON TECHNOLOGIES, L.L.C.**

By: 

Printed Name: MICHAEL ANGEL

Title: OWNER

DATED this 15<sup>th</sup> day of December, 2008.

**STATE OF NEBRASKA  
DEPARTMENT OF BANKING AND FINANCE**



By: *John Munn*  
John Munn, Director

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