UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16037

In the Matter of

EDGAR R. PAGE and
PAGEONE FINANCIAL INC.,

Respondents.

DIVISION OF ENFORCEMENT'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

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Pursuant to Rule 340 of the Securities and Exchange Commission's ("Commission") Rules of Practice and the Court's May 5, 2015 Post-Hearing Order, the Division of Enforcement ("Division") respectfully submits its Proposed Findings of Fact and Conclusions of Law in support of its claims against Respondents Edgar R. Page ("Page") and PageOne Financial, Inc. ("PageOne," and together with Page, "Respondents")

PROPOSED FINDINGS OF FACT

I. Procedural Background

1. On August 26, 2014, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 and Section 9(b) of the Investment Company Act of 1940 ("OIP").

2. On October 28, 2014, the Court granted the Division's motion to amend the OIP. (Order Amending OIP and Permitting Filing of Second Answer, Oct. 28, 2014.)

3. On September 29, 2014, the Court scheduled a hearing to commence in New York City on February 2, 2015. (Order Setting Prehearing Schedule, Sept. 29, 2014.)

4. On January 31, 2015, the parties informed the Court that they had reached a settlement-in-principle to settle liability. (Stay Order, Feb. 2, 2015, at 1.) On February 2, 2015, the Court issued an order staying the hearing to allow the Commission to consider the settlement. (Id.)

5. On February 5, 2015, Respondents submitted a signed Offer of Settlement ("Offer", attached as Exhibit A hereto) to the Commission evidencing their consent to the entry of an Order Making Findings, Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of

1940 and Section 9(b) of the Investment Company Act of 1940, and Ordering Continuation of Proceedings.

6. On March 10, 2015, the Commission instituted an Order Making Findings, Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 and Section 9(b) of the Investment Company Act of 1940, and Ordering Continuation of Proceedings ("Consent Order").

7. In the Consent Order, the Commission: (a) found that Respondents willfully violated Advisers Act Sections 206(1), 206(2), and 207; (b) found that Page—in addition to his own primary violations—willfully aided-and-abetted and caused PageOne's violations of Advisers Act 206(1), 206(2), and 207; and (c) entered cease-and-desist orders and censures against Respondents. (Consent Order, ¶¶ III (D) 40-42, VI (A)-(B).)

8. The Commission also ordered additional proceedings "to determine what, if any, disgorgement, prejudgment interest, civil penalties and/or other remedial actions is appropriate in the public interest against Respondents." (Consent Order, ¶ IV.)

9. For the purpose of the additional proceedings: (a) the Consent Order's factual findings "shall be accepted and deemed true by the hearing officer"; and (b) Respondents are precluded from arguing that they did not violate the federal securities laws described in the Consent Order. (Consent Order, ¶ IV.)

10. In addition, Respondents agreed, as part of the entry of the Consent Order:

> not to take any action or make or permit to be made any public statement denying, directly or indirectly, any finding in the [Consent] Order or creating the impression that the [Consent] Order is without factual basis.

(Offer, ¶ IX(i), at 3.)

11. Respondents further agreed to "withdraw any papers previously filed in this proceeding to the extent that they deny, directly or indirectly, any finding in the Order." (Offer, ¶ IX(iii), at 4.)

12. The Court held a hearing concerning the appropriate relief on April 20, 2015 (the "Hearing"). (Transcript of April 20, 2015 hearing ("Hearing Tr.").)

THE ADMITTED FACTS

13. For purposes of these proceedings, the Respondents have admitted the facts set forth in paragraphs 14 through 55, below. (See Consent Order, ¶ IV(c); see also Div. Ex. 183 (the parties' stipulated facts).)

II. The Violations

14. Each of Page and PageOne—in "hid[ing] serious conflicts of interest from their advisory clients in connection with recommending investments in three private investment funds"—willfully committed primary violations of Advisers Act Sections 206(1), 206(2), and 206(7). (Consent Order, ¶¶ III (A) 1, (D) 40, 41.)

15. In addition, Page aided and abetted and caused PageOne's violations of Advisers Act Section 206(1), 206(2), and 207. (Consent Order, ¶ III (D) 42.)

III. The Parties

16. PageOne is an investment adviser registered with the Commission. (Consent Order, ¶ III (B) 7.)[1] At all relevant times, PageOne issued Forms ADV describing its business. (Id., ¶ III (D) 34.)[2] PageOne published these forms on its website and delivered them to prospective clients. (Id.)

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[1] "PageOne has been registered with the Commission as an investment adviser since December 31, 1986."

[2] "PageOne published its Forms ADV on its website and delivered them to prospective clients during the relevant time period."

17. Page owns more than 95% of PageOne and is the Company's Chairman, Chief Executive Officer, Chief Operating Officer, Lead Portfolio Manager, and Chairman of its Investment Committee. (Consent Order, ¶ III (B) 6.)[3] At all relevant times, Page was also PageOne's Chief Compliance Officer. (Id.)[4] Page was responsible for authorizing any changes to PageOne's client disclosures, including its Forms ADV. (Id.)

IV. The Acquisition Agreement

18. Page met Walter Uccellini—the founder, Chairman, CEO, and principal owner of the United Group of Companies, Inc. ("UGOC")—in mid-to-late 2008. (Div. Ex. 183, ¶¶ 6,[5] 12[6] (stipulated facts).)

19. UGOC had established two private investment funds, DCG/UGOC Equity Fund, LLC ("Equity Fund I") and DCG/UGOC Income Fund, LLC ("Income Fund I," and together with the Equity Fund I, the "UGOC Funds" or the "Funds"), in July and August 2008, respectively. The purpose of the Funds was to raise money from individual investors, which UGOC used to fund its real estate projects. (Div. Ex. 183, ¶ 7.)[7]

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[3] "E. Page owns more than 95% of PageOne and is the company's Chairman, Chief Executive Officer, Chief Operating Officer, Chief Compliance Officer, Lead Portfolio Manager, and Chairman of its Investment Committee."

[4] "In addition, as PageOne's Chief Compliance Officer, E. Page was responsible for authorizing any changes to PageOne's client disclosures, including its Forms ADV."

[5] "United was founded in 1972 by Walter Uccellini, who was the Chairman, Chief Executive Officer and principal owner of United until he died in an airplane crash in August 2012 . . . ."

[6] "In mid-to-late 2008, Mr. James Quinn introduced Mr. Page to Mr. Uccellini."

[7] "United established two private investment funds DCG/UGOC Equity Fund, LLC . . . and DCG/UGOC Income Fund, LLC . . . in July and August 2008, respectively. The purpose of the Funds was to raise money from individual investors, which United used to fund its real estate projects."

20. Sometime in late 2008, Page agreed that UGOC (or an affiliate of UGOC) would acquire PageOne, either directly or indirectly through an affiliated entity. (Order, ¶ III (D) 10;[8] see also Div. Ex. 183, ¶ 29[9].)

21. Specifically, the parties agreed that UGOC would pay Page approximately $3 million. (Consent Order, ¶ III (D) 10(a).)[10] Sometime prior to April 2010 this agreement was revised to have UGOC acquire 49% of PageOne for approximately $2.4 million (an amount that was subsequently increased to approximately $3 million). (Id., ¶ III (D) 11.)[11] The parties further agreed that:

- The acquisition would not close—and UGOC would not make the final payments of the purchase price—unless Page was able to raise $20 million for the UGOC Funds from his clients (Id., ¶ III (D) 10(b));[12]
- Instead of one lump sum, UGOC would pay for the acquisition by making periodic down payments on the purchase price to Page (Id., ¶ 2(c));[13] and
- Each down payment would be memorialized by a promissory note. (Id., ¶ 16.)[14] In the event that Page was unable to raise the promised $20 million,

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8 "Sometime in late 2008, E. Page agreed that the [UGOC] Fund Manager would acquire PageOne."

9 "Several iterations of the business plan were circulated, including a proposal that [UGOC affiliate] MCM would acquire PageOne . . . ."

10 "The Fund Manager would pay the acquisition price of approximately $3 million in installments over time."

11 "Sometime before April 2010, the Fund Manager and E. Page revised the acquisition terms to have the Fund Manager acquire 49% of PageOne for approximately $2.4 million, which was later increased by agreement to approximately $3 million."

12 "The acquisition would not close—and the Fund Manager would not make the final payments of the purchase price—until E. Page raised approximately $20 million for the Private Funds."

13 "The Fund Manager was paying for the acquisition by making a series of installment payments over time, the timing and amounts of which were, at least partially, tied to Respondents' ability to direct client money into the Private Funds."

14 "The acquisition payments were memorialized as promissory notes from E. Page to the Fund Manager."

or the acquisition otherwise did not close, Page was liable to repay all of the acquisition down payments. (Id.)[15]

V. Respondents Recommend the UGOC Funds to their Advisory Clients

22. Per their agreement with UGOC and Uccellini, Respondents began recommending that their clients invest in the UGOC Funds beginning in early 2009. (Consent Order, ¶ III (D) 12.)[16]

23. From March 2009 through September 2011, Respondents' clients invested approximately $15 million into the UGOC Funds. (Consent Order, ¶ III (D) 12;[17] see also Div. Ex. 183, ¶¶ 46-48, Exhibit A (table showing investments by Respondents' clients into the Funds).)

24. Respondents (a) could view their advisory clients' accounts; and (b) executed at least certain of the transfers of client funds from their existing investment into the UGOC Funds. (Consent Order, ¶ III (D) 12.)[18] Respondents, therefore, either knew or recklessly disregarded how much their clients had invested into the UGOC Funds at Respondents' recommendation. (Id.)[19]

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15 "E. Page understood, from the Chairman, that—in the event that the acquisition was consummated—the Fund Manager would cancel the notes. However, he likewise understood that until the acquisition closed and the Fund Manager cancelled the notes, E. Page was personally liable for the notes."

16 "Beginning in early 2009, Respondents began recommending that their clients invest in the Private Funds."

17 "From March 2009 through September 2011, Respondents' clients invested approximately between $13 and $15 million in the Private Funds as Respondents knew or recklessly disregarded."

18 "Respondents (a) could view their client's accounts; and (b) executed at least certain of the transfers of client funds from their existing investments into the Private Funds."

19 "From March 2009 through September 2011, Respondents' clients invested approximately between $13 and $15 million in the Private Funds as Respondents knew or recklessly disregarded."

VI. UGOC Pays Page $2.7 Million in Acquisition Down Payments

25. From April 2009 through September 12, 2011, UGOC made approximately $2.7 million in down payments to Page and to entities controlled or affiliated with Page, including PageOne, MAGS, N.V., and Ronno, N.V. (Consent Order, ¶ III (D) 13;[20] Div. Ex. 183, ¶¶ 49-50, Exhibit B (stipulated table showing UGOC's payments to Page).)

26. The down payments were memorialized as promissory notes from Page to UGOC. (Consent Order, ¶ III (D) 16;[21] Div. Ex. 183, ¶ 49.[22]) Page understood from conversations with Uccellini that—in the event the acquisition was closed—UGOC would cancel the notes. (Consent Order, ¶ III (D) 16.)[23] Page likewise understood, however, that until the acquisition closed and UGOC cancelled the notes, Page was personally liable for the notes. (Id.)[24]

27. The size and timing of UGOC's down payments to Page were determined, at least partially, by when PageOne clients made investment into the UGOC Funds. (Consent Order, ¶ III (D) 14.)[25] Page knew or recklessly disregarded that UGOC's

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20 "Over roughly the same time, the Fund Manager made installment payments on the acquisition of approximately $2.7 million, an amount equal to approximately 18% of PageOne clients' investments in the Private Funds. The Fund Manager made these payments directly to E. Page, or to PageOne and other entities and persons, at E. Page's direction."

21 "The acquisition payments were memorialized as promissory notes from E. Page to the Fund Manager."

22 "From April 2009 through September 12, 2011, United made down payments to Mr. Page and to entities controlled or affiliated with Mr. Page, including PageOne, MAGS, N.V., and Ronno, N.V. Those payments were memorialized by promissory notes."

23 "E. Page understood, from the Chairman, that—in the event that the acquisition was consummated—the Fund Manager would cancel the notes."

24 "However, he likewise understood that until the acquisition closed and the Fund Manager cancelled the notes, E. Page was personally liable for the notes."

25 "The size and timing of the Fund Manager's payments was determined, at least partially, by when PageOne clients made investments into the Private Funds."

payments to him were linked to his ability to raise money for the Funds for a number of reasons. (Id., ¶ III (D) 15.)[26]

28. First, Page had explicitly agreed to raise $20 million for the Funds as part of the acquisition. (Consent Order, ¶¶ III (D) 14,[27] 15.[28]) Indeed, on at least one occasion, Page emailed Uccellini to notify him that a PageOne client had invested in the UGOC Funds and to ask for an acquisition down payment. (Id., ¶ III (D) 15.)[29]

29. Second, Page understood that UGOC and Uccellini did not have sufficient liquidity to complete the acquisition. (Consent Order, ¶ III (D) 15)[30] In fact, Page knew that Uccellini was—at the time of acquisition—selling personal assets in order to keep UGOC's business going. (Id.)[31] In other words, UGOC needed to receive investments from Respondents' clients to free up cash to make the acquisition down payments to Page. (Id., ¶ III (D) 14.)[32]

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[26] "Respondents knew (or recklessly disregarded) that the timing of the Fund Manager's acquisition payments—which often followed very closely in time behind PageOne clients' investments in the Private Funds—was linked to those investments."

[27] "This reflected . . . E. Page's explicit agreement to raise money for the Private Funds as part of the acquisition . . . ."

[28] "First, Respondents had explicitly agreed to raise money for the Private Funds as a term of the acquisition."

[29] "Thus, on at least one occasion, E. Page emailed the Fund Manager's founder and Chairman (the "Chairman") to notify him that a PageOne client had invested in the Private Funds and to ask for an acquisition payment."

[30] "Moreover, E. Page understood that the Chairman and the Fund Manager did not have sufficient liquidity of their own to complete the acquisition of PageOne."

[31] "Indeed, E. Page understood that the Chairman was, at the time, selling certain personal assets to keep the Fund Manager's business going."

[32] "In other words, the Fund Manager needed to receive investments from PageOne clients to free up cash to make the periodic acquisition payments."

30. Third, UGOC often made down payments to Page shortly after Respondents' clients made investments in the Funds. (Consent Order, ¶ III (D) 15.)[33]

VII. UGOC's Acquisition of PageOne Collapses

31. Over the course of 2010 and 2011, Page became increasingly concerned that the acquisition would not close. (Consent Order, ¶ III (D) 36.)[34] He understood that he had not been able to raise $20 million for the UGOC Funds, a condition precedent for the acquisition. (Id.)[35] He further understood that that UGOC was becoming increasingly desperate for cash. (Id.)[36] In both 2010 and 2011, Uccellini made urgent appeals to Page to assist UGOC in fund-raising. (Id.) For example, Uccellini told Page of his "need" to raise money and that he "[d]esperately need[ed]" Page's help in doing so. (Id.)

32. Page expressed his concern to Uccellini that until the acquisition closed, Page was personally liable—under the terms of the promissory notes—to repay all of the down payments. (Consent Order, ¶ III (D) 16.)[37] Thus, in January 2010, Page wrote, in an email to Uccellini, that as a result of the acquisition not closing, "I have a large loan 'lliability' [sic] and no assets." (Id.)

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33 "Moreover, Respondents knew (or recklessly disregarded) that the timing of the Fund Manager's acquisition payments—which often followed very closely in time behind PageOne clients' investments in the Private Funds—was linked to those investments."

34 "Over the course of 2010 and 2011, E. Page became increasingly concerned that the acquisition would not close."

35 "He understood that he had not been able to raise the $20 million, a condition precedent for the acquisition."

36 "And, he knew or recklessly disregarded that the Fund Manager had not been able to otherwise raise sufficient funds to pay the balance on the acquisition price. In both 2010 and 2011, the Chairman made increasingly urgent appeals to E. Page to assist the Fund Manager in fund-raising, for example, telling him of his "need" to raise money and saying that he "[d]esperately need[ed]" E. Page's help in doing so."

37 "However, he likewise understood that until the acquisition closed and the Fund Manager cancelled the notes, E. Page was personally liable for the notes. Indeed, E. Page expressed just this concern to the Chairman, writing in an email in January 2010 that, as a result of the acquisition not closing, 'I have a large loan 'lliability' [sic] and no assets.'"

33. Despite paying approximately $2.7 million to Respondents, UGOC did not, ultimately, consummate its acquisition of PageOne stock. (Consent Order, ¶ III (D) 38.)[38] Consistent with the terms of the acquisition, in April 2013, UGOC wrote to Page seeking repayment of the promissory notes on the grounds that the acquisition had not closed. (Id., ¶ III (D) 39.)[39]

VIII. Respondents Made False and Misleading Statements and Omissions to Their Clients Concerning UGOC and the Acquisition

34. Respondents hid the serious conflicts of interest between the acquisition agreement and their recommendations to invest in the UGOC Funds from their clients. (Consent Order, ¶ III (A) 1.)[40] Respondents did not tell their clients about the acquisition, its terms, or the true nature and amounts of UGOC's payments to Respondents. (Id., ¶¶ III (A) 2,[41] III (D) 17.[42])

35. Page refused to tell the truth because, as he testified under oath: "It's too dangerous. It would cause thousands of clients to get extremely nervous if I was selling my

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[38] "Despite paying approximately $2.7 million to Respondents, the Fund Manager never consummated its acquisition of 49% of PageOne"

[39] "In April 2013, the Fund Manager wrote to E. Page seeking repayment of the promissory notes of $2,751,345 in principal and $933,486.32 in interest on the grounds that the acquisition had not closed."

[40] "PageOne, a registered investment adviser, and E. Page, its sole owner and principal, hid serious conflicts of interest from their advisory clients in connection with recommending investments in three private investment funds."

[41] "Specifically, from early 2009 through approximately September 2011, Respondents knowingly or recklessly failed to tell their clients that: a. One of the Private Funds' managers (the "Fund Manager") was in the process of acquiring at least 49% of PageOne for approximately $2.7 million; b. As part of that acquisition, E. Page had agreed to raise millions of dollars for the Private Funds from his advisory clients"; c. The Fund Manager was paying for the acquisition by making a series of installment payments over time, the timing and amounts of which were, at least partially, tied to Respondents' ability to direct client money into the Private Funds."

[42] "Respondents knowingly or recklessly failed to disclose accurately the acquisition agreement as well as the true nature and amounts of the Fund Manager's payments to Respondents."

firm." (Consent Order, ¶ III (D) 17)[43] In other words, E. Page did not tell his clients the truth because he was concerned that the true nature of his interest in UGOC—and, in turn, in the UGOC Funds he was recommending—would be important information for his clients. (Id.)[44]

A. March to July 31, 2009: Respondents Make No Disclosure

36. From March through July 2009, Respondents omitted to make any disclosure at all to their clients. (Consent Order, ¶ III (D) 18.)[45]

37. During this time: (1) Respondents' clients invested over $4 million in the UGOC Funds; and (2) UGOC paid Respondents approximately $300,000. (Consent Order, ¶ III (D) 18.)[46]

38. Thereafter, Respondents made affirmatively false and misleading statements to their clients concerning their relationship with UGOC in PageOne's Form ADV's. (Consent Order, ¶ III (D) 19.)[47]

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[43] "E. Page refused to do so because, as he testified, "It's too dangerous. It would cause thousands of clients to get extremely nervous if I was selling my firm."

[44] "In other words, E. Page was concerned that the true nature of his interest in the Fund Manager—and, in turn, in the Private Funds he was recommending—would be important information to investors."

[45] "Initially, Respondents knowingly or recklessly omitted to make any disclosure at all to their clients. Thus, from March through July 2009, Respondents remained entirely silent concerning their relationship to the Fund Manager and the Private Funds."

[46] During this time (a) Respondents' clients invested over $4 million in the Private Funds; and (b) the Fund Manager paid Respondents approximately $300,000, equivalent to approximately 7% of the total invested."

[47] "Thereafter, E. Page—who was PageOne's Chief Compliance Officer, Chairman and CEO, as well as controlling person, at all relevant times—knowingly or recklessly had PageOne make a series of false and misleading disclosures concerning the Fund Manager's acquisition in its Forms ADV."

B. PageOne's False and Misleading Forms ADV: July 31, 2009 to September 14, 2010

39. On July 31, 2009, PageOne revised its Form ADV, Part II to include in the section relating to advisory services and fees disclosure concerning UGOC and the Funds:

> *Fee Schedule*: PageOne Financial does not directly charge the client a fee for this service. PageOne Financial is compensated by a referral fee paid by the [Fund] Manager of the Private Fund(s) in which its clients invest. The management and other fees the client pays to the Private Funds are not increased as a result of Registrant's referral of clients to the Private Funds. PageOne Financial will typically receive, on an annual basis, a referral fee of between 7.0% and 0.75% of the amount invested by the client in the applicable Private Fund(s).

(Consent Order, ¶¶ III (D) 20-21.)

40. This disclosure was materially false and misleading for a number of reasons. (Consent Order, ¶ III (D) 22.)[48]

41. First, UGOC's payments to Respondents were simply not referral fees; rather they were acquisition down payments. (Consent Order, ¶ III (D) 22.)[49]

42. Second, Respondents did not tell their clients that they had agreed to raise $20 million from their clients in order to complete the acquisition. (Consent Order, ¶ III (D) 22.)[50]

43. Third, Respondents did not tell clients that—unless the acquisition actually closed—Page was responsible to repay all the down payments UGOC paid him. (Consent

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[48] "This disclosure was materially false and misleading."

[49] "[T]he Fund Manager's payments to Respondents were simply not fees for referring investments to the Private Funds—rather they were down payments on the acquisition of at least 49% of PageOne."

[50] "Because of the false disclosure, investors did not know that . . . Respondents had agreed to raise millions of dollars for the Private Funds as a condition to closing the acquisition."

Order, ¶¶ III (D) 22,[51] 33[52]) Respondents, thus, had an undisclosed interest in recommending the Funds—i.e., to ensure that UGOC was able to complete the acquisition—that went beyond simply determining what investments were in the best interest of their advisory clients. (Id., ¶ III (D) 23.)[53] In addition, at the moment of recommendation, Respondents had an expectation that they would receive future streams of payment from UGOC, which would only be made if Respondents continued to raise funds for the UGOC Funds. (Id., ¶ III (D) 22.)[54]

44. Fourth, it was not true that UGOC's payments to Page were limited to "between 7.0% and 0.75% of the amount invested" on an annual basis. (Consent Order, ¶ III (D) 24.)[55] In the approximately one year—from July 31, 2009 to September 13, 2010—that this disclosure existed, UGOC paid Respondents over $1.3 million, an amount in excess of 15% of the nearly $8 million that Respondents' clients invested in the UGOC Funds during that same time. (Id.;[56] see also Div. Ex. 183, Exhibits A-B).)

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51 "Because of the false disclosure, investors did not know that . . . if the acquisition did not close, E. Page was personally liable for the promissory notes."

52 "In addition to the above false and misleading statements and omissions, Respondents also intentionally or recklessly omitted to tell their clients about the promissory notes at all relevant times."

53 "Respondents, thus, had an undisclosed interest in ensuring the ongoing success of the Private Funds and the Fund Manager—i.e., to ensure that Respondents received the entire acquisition price."

54 "Because of the false disclosure, investors did not know that . . . as opposed to a 'referral fee,' Respondents had an expectation of future payments from the Fund Manager in the form of the full acquisition price, future payments that would only be made if the Fund Manager could afford to acquire PageOne and Respondents were able to raise the promised funds . . . ."

55 "[I]t was not true that the Fund Manager's payments to Respondents were limited to 'between 7.0% and 0.75% of the amount invested' on an annual basis in the Private Funds."

56 "Indeed, in the approximately one year from July 31, 2009 to September 14, 2010—when PageOne again changed its disclosure concerning the Fund Manager . . . —the Fund Manager paid Respondents $1,312,755, an amount in excess of 15% of the approximately $6.5 to $8 million that Respondents' clients invested into the Private Funds during that time."

45. In addition, Respondents further revised the Form ADV, Part II to state that Respondents may recommend investments in the UGOC Funds, which it referred to as "unaffiliated private funds." (Consent Order, ¶ III (D) 20.)[57] This latter statement was misleading because it suggested no relationship between Respondents and the Private Funds. (Id.)[58] By this point in time the Fund Manager was in the process of acquiring at least 49% of PageOne and had paid Page $300,000. (Id.)[59]

46. Moreover, Respondents actually knew that their disclosures during this period were false and misleading. Page instructed his Assistant Compliance Officer that he did not want to disclose the true nature of his relationship with UGOC. (Consent Order, ¶ III (D) 25.)[60] Page did not want to disclose the truth because he was concerned that the truth would make his investors "extremely nervous." (Id., ¶ III (D) 17.)[61]

47. In addition, Page knew that the false disclosures were being made. He reviewed and approved the July 31, 2009 Form ADV, Part II and—as PageOne's Chief Compliance Officer, Chairman, and CEO—was responsible for the company's disclosures. (Consent Order, ¶ III (D) 25.)[62]

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57 "That Form ADV stated that Respondents may recommend investments in the Private Funds, calling them "unaffiliated private funds."

58 "This latter statement was misleading as it suggested no relationship between Respondents and the Private Funds."

59 "By this point in time, however, the Fund Manager had agreed in principal to acquire at least 49% of PageOne and had made a $300,000 down payment on that acquisition."

60 "E. Page told his Assistant Compliance Officer that he did not want to disclose the true nature of the arrangement with the Fund Manager."

61 "E. Page refused to do so because, as he testified, "It's too dangerous. It would cause thousands of clients to get extremely nervous if I was selling my firm."

62 "Moreover, as PageOne's Chief Compliance Officer, Chairman and CEO, E. Page was ultimately responsible for PageOne's disclosures, including its Forms ADV. Indeed, he reviewed and approved the July 31, 2009 Form ADV, Part II."

C. *PageOne's False and Misleading Forms ADV: September 14, 2010 to March 1, 2011*

48. On September 14, 2010, PageOne again amended the disclosure in its Form ADV, Part II concerning UGOC and the Funds. (Consent Order, ¶ III (D) 26.)[63] Respondents removed the language concerning referral fees of up to 7%. (Id., ¶ III (D) 27.)[64] Instead, PageOne Form ADV, Part II stated that PageOne would charge its clients a 1% annual management fee on money invested in the UGOC Funds. (Id.)[65]

49. The Form ADV, Part II went on to state:

> Edgar R. Page . . . is also employed as a consultant to [UGOC]. [UGOC] is a real estate investment and development firm. Mr. Page is compensated for the consulting services he provides to [UGOC]. As disclosed above, PageOne Financial recommends private funds that are managed by [UGOC] to PageOne Financial's advisory clients for which PageOne Financial receives an advisory fee. Advisory clients are under no obligation to participate in such investments.

(Consent Order, ¶ III (D) 27.)

50. These disclosures were also false. (Consent Order, ¶ III (D) 30.)[66] As Page knew, he was never a consultant to UGOC, provided no consulting services, and was never compensated for such. (Id.)[67] Page understood the true terms of the acquisition. (Id.)[68]

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[63] "On September 14, 2010, PageOne again amended the disclosure in its Form ADV, Part II concerning the Fund Manager and the Private Funds."

[64] "The September 14, 2010 Form ADV, Part II section concerning advisory services and fees was amended to remove the descriptions of the purported 'referral fee' discussed above, as well as the amounts of that fee."

[65] "In its place, the revised Form ADV stated that PageOne would charge its clients a 1% annual management fee on money invested in the Private Funds."

[66] "As with the prior false statements and omissions, Respondents knew or recklessly disregarded that the September 14, 2010 Form ADV, Part II was false and misleading."

[67] "As E. Page knew, he was never a consultant to the Fund Manager, provided no consulting services, and, thus, was never compensated for any such services."

[68] "E. Page understood the true terms of the acquisition."

Moreover, Page authorized the September 14th amendments and was, thus, aware of their wording. (Id.)[69]

51. As with the July 31, 2009 Form ADV, the amended ADV continued to stated that "[a]ll private investment funds recommended by [PageOne] are managed by unaffiliated investment advisers." (Consent Order, ¶ III (D) 29.)[70] This statement was misleading. (Id.)[71] Indeed, by September 14, 2010, UGOC had paid Page $1.6 million, or more than 50% of the agreed-upon $3 million acquisition price. (Id.)

52. During the period this disclosure was extant—September 14, 2010 to March 1, 2011—UGOC paid Page approximately $460,000, equivalent to about 70% of the more-than $650,000 that Respondents' clients invested in the UGOC Funds. (Consent Order, ¶ III (D) 28.)[72]

D. PageOne's False and Misleading Forms ADV: March 1, 2011 to September 29, 2011

53. On March 1, 2011, Respondents amended PageOne's Form ADV, Part 2A, this time removing all references to UGOC and the UGOC Funds. (Consent Order, ¶ III (D) 31.)[73]

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69 "E. Page authorized the amendments and was, thus, aware of their wording."

70 "In addition—as with the July 31, 2009 Form ADV—the amended Form ADV continued to state that '[a]ll private investment funds recommended by [PageOne] are managed by unaffiliated investment advisors.'"

71 "This statement was misleading. Despite its suggestion that the Private Funds were entirely unaffiliated with PageOne, by September 14, 2010, the Fund Manager had paid E. Page $1.6 million, or more than 50% of the agreed-upon $3 million acquisition price."

72 "Between September 14, 2010 and March 1, 2011 (when PageOne again changed its ADV disclosure), the Fund Manager paid Respondents approximately $460,000, equivalent to about 70% of the more-than $650,000 that Respondents' clients invested into the Private Funds during that time."

73 "On March 1, 2011, PageOne again amended its Form ADV, Part 2A, this time deleting all references to the Fund Manager and the Private Funds."

54. However, Respondents' conflicts of interest arising from the UGOC Funds did not disappear. (Consent Order, ¶ III (D) 31.)[74] From March 1, 2011 through September 29, 2011, Respondents' clients invested approximately $1.9 million in the UGOC Funds. (Id.;[75] see also Div. Ex. 183, Exhibits A and B.) In return, UGOC paid Respondents $700,000 (equal to 36% of client investments) during the same period. (Id.)[76]

55. Respondents knew or recklessly disregarded that the Form ADV was inaccurate because it omitted to disclose the acquisition agreement. (Consent Order, ¶ III (D) 32.)[77] Page obviously understood that UGOC was continuing to pay him. (See Div. Ex. 183, Exhibit B (payments from UGOC to Page).) Moreover, as PageOne's Chief Compliance Officer, Page was responsible for any amendments to the Form ADV. (Consent Order, ¶ III (D) 32.)[78]

OTHER FACTS

56. These facts are drawn from Page's live testimony and the exhibits the Court has admitted, which include Division Exhibits ("Div. Ex.") 1-186 and Respondents' Exhibits ("Resp. Ex.") 1-217.

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74 "Despite the deletions, Respondents' undisclosed conflict of interest did not disappear."

75 "Between March 1, 2011 and September 29, 2011, PageOne clients invested as much as $1.9 million in the Private Funds."

76 "At the same time, the Fund Manager made installment payments to E. Page during this period of approximately $700,000, equivalent to more than 35% of PageOne clients' investment in the Private Funds during that time."

77 "Respondents knew or were reckless in not knowing that the March 1, 2011 Form ADV, Part 2A omitted to disclose the acquisition agreement."

78 "E. Page was the Chief Compliance Officer, Chairman and CEO at the time and, as such, it was his responsibility to approve any changes to the Form ADV."

IX. Page is a Sophisticated Investment Adviser

57. Page is a sophisticated investment adviser and securities industry participant. Page has nearly 40 years of experience providing investment advice. (Hearing Tr. at 50:11-14.)[79] Page formed his own investment advisory business in 1984. (Respondents Prehearing Brief, Jan. 12, 2015, at 8.)[80]

58. Page is also vastly experienced in other facets of the securities industry. Page received his Series 6 license—allowing him to sell mutual funds—in 1982. (Hearing Tr. at 50:15-23.)[81] Indeed, Mr. Page taught courses in preparing for the Series 6 exam. (Hearing Tr. at 50:24-51:8.)[82]

59. In addition, Page was a registered representative at five broker-dealers. (See Div. Ex. 115 (BrokerCheck Report for Edgar R. Page, Aug. 28, 2013, at 4 (listing broker-dealer associations).)

60. Page gave up his Series 6 securities license in 2006 because he wanted to focus on managing his clients' investments. (See Div. Ex. 115 (Page's sworn background questionnaire at 5); see also Div. Ex. 166 (Page Investigative Transcript) at 20:9-17, 23:1-

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79 "Q. You have been in the investment advisory business for over 30 years; is that right? A. 39."

80 "Mr. Page has been in the investment advisory business since 1984, when he formed his own registered advisory firm."

81 "Q And you received a Series 6 license in 1982, correct? A. Yes, sir. Q. And the Series 6 license, can you tell us briefly what that is? A. It encompasses the ability to convey mutual funds. At the time, that was the crux of every product that was offered with the Series 6 at the time."

82 "Q. And you actually taught clauses in Series 6? A. Yes. Q. When was that? A. 1980, '81 while I was awaiting the birth of my first daughter. Q. Where did you do that? A. First Investors in Wappingers Falls, New York."

8.)[83] In addition, Page believed that maintaining his Series 6 license exposed his advisory firm to additional liability. (Div. Ex. 166 at 20:18-21:4.)[84]

61. In 1989, Page was disciplined for selling unregistered securities and for transacting business in general securities without a Series 7 license. (Div. Ex. 115 at 7-8 of FINRA BrokerCheck Report).)[85]

X. Page Acquired PageOne in 2002

62. Page acquired a registered investment advisory firm called North American Capital Timing Inc. in 2002. (Hearing Tr. at 51:18-20,[86] 53:15-18.[87]) Page renamed that firm PageOne Financial, Inc. in March 2003. (Hearing Tr. at 52:14-53:14;[88] Div. Ex. 152 (screenshot from PageOne's IARD entry showing name change on March 18, 2003).)

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[83] "Q. So, we were in 2006. Just take me through to the present. A. In 2006 I had resigned from NEXT Financial. I had found it impossible to, if you will, gather assets and manage them at the same time and, of course, I had paid off Gordon D'Angelo for the balance of his firm. So, I'm now strictly a money manager . . . ." (Emphasis added).

[84] "Q. What was the purpose of your being registered with a broker-dealer during that time? A. I had always been a registered rep. I had clients still who never wanted me to let them go. They had known for all my years that I had protected their capital. So, I stayed registered. I had decided to de-list, if you will, because, I didn't want to expose my firm to any liability from clients. If anyone had decided, as I had previously people who, for whatever reason, chose to target me, I didn't want to subject my firm to any liability as an asset manager."

[85] "THE REP WAS DISCIPLINED BY THE FIRM FOR THIS AND FOR TRANSACTING BUSINESS IN GENERAL SECURITIES WITHOUT A SERIES 7 LICENSE."

[86] "Q. And you acquired PageOne in 2002? A. I actually acquired North American Capital Timing in 2002 and renamed it PageOne."

[87] "Q. And PageOne -- well, sorry, North American Capital Timing was registered with the SEC? A Yes, it was, sir."

[88] "Q. And you see it says 'IARD name change history'? A. Yes, sir. Q. And you see it says "full legal name, PageOne"? A. Yes, sir. Q. And you see below that it says 'primary business name change, name North American Capital Timing'? A. Yes, sir. Q. And North American Capital Timing was the prior name of PageOne, correct? A. It was a company owned prior to my acquiring it. Q. Right. And you see it has a date of March 18, 2003? A. Yes. Q. Does that refresh your recollection as to when you changed PageOne's name? A. It could be I purchased the firm in '02. Q. Any reason to believe that's not accurate? A. I would believe it is pretty accurate."

After Page's acquisition and the name change, PageOne continued to be an investment advisory firm registered with the Commission. (Hearing Tr. at 53:19-22.)[89]

63. Since the acquisition, Page has always controlled PageOne. (Hearing Tr. at 53:23-54:5;[90] see also Div. Ex. 4 at 22 (PageOne Form ADV, Nov. 5, 2008 (listing Page as the sole control person).)

64. Page is also the sole owner, Chairman, Chief Executive Officer, Chief Operating Officer, Lead Portfolio Manager, and Chairman of PageOne's Investment Committee. (Hearing Tr. 54:6-24.)[91] Page was "really the guy in charge at PageOne." (Hearing Tr. at 55:23-25.)[92]

65. At all relevant times, PageOne had ten or fewer employees. (Div. Ex. 4 at 6; Div. Ex. 8 at 6; Div. Ex. 10 at 6; Div. Ex. 66 at 6; Div. Ex. 159 at 6 (various Forms ADV listing employee numbers as "1-5" or "6-10").)

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89 "A Yes, it was, sir. Q. And PageOne continued to be registered with the SEC after you acquired it and changed the name? A. Yes, sir."

90 "Q. Now, since you have bought first North American Capital Timing and then later PageOne, you always controlled that company, correct? A. So it was North American Capital Timing not first, and yes, I always controlled PageOne Financial."

91 "Q. You were the sole owner of PageOne? A. Yes, sir. Q. And you have always been the chairman of PageOne? A. Yes, sir. Q. And you have always been the chief operating officer of PageOne? A. Yes, sir. Q. And you are responsible for PageOne's investment decisions, correct? A. I'm part of the team. Q. You're the head of that team? A. Yes, sir. Q. You're PageOne's lead portfolio manager? A. Yes, sir. Q. And you're chairman of PageOne's investment committee? A. Yes, sir."

92 "Q. Well, it is fair to say you were really the guy in charge at PageOne, correct? A. Yes, sir."

XI. It was Page's Job to Ensure that PageOne's Forms ADV Disclosed All Potential and Actual Conflicts of Interest

66. In addition to his other titles, Page was PageOne's Chief Compliance Officer from his acquisition of PageOne until May 2012. (Hearing Tr. at 56:2-11.)[93] He was also PageOne's chief point of contact for clients' questions concerning disclosure issues. (Div. Ex. 14, Schedule F at Page 1.);[94] see also Div. Ex. 48, Schedule F at Page 1 (Form ADV Part II, Sept. 14, 2010 showing the same).)

67. As Page understood, PageOne's Form ADV is a disclosure document that, among other things, "is to state any types of conflicts of interest," in order to, in part, allow clients "to be on a fair footing before making an investment." (Hearing Tr. at 61:23-62:7.)[95] He further understood that PageOne's ADV needed to be accurate. (Hearing Tr. at 62:8-10.)

68. Page also understood that it was his duty—as the Chief Compliance Officer—to make sure that PageOne's clients were aware of any potential and/or actual conflicts of interest. (Hearing Tr. at 56:15-20;[96] 60:23-61:3.[97])

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[93] "Q. And in addition to all of the titles we've just gone through, you were PageOne's chief compliance officer until May 2012, right? A. Yes, sir. Q. And PageOne told its clients or disclosed to its clients in various forms that you were the chief compliance officer, correct? A. Yes, sir."

[94] "Please contact Edgar R. Page, Chairman, Chief Financial Officers, and Chief Compliance Officer of PageOne, if you have any questions about the contents of this brochure."

[95] "Q. Can you tell us what that is? A. The ADV is a disclosure of the company policy. It is to state any types of conflicts of interest. It is to give our advisory fees, it is to state the policies of the company, and anything that should be disclosed should be fair and usual for a client in any way to be on fair footing before making an investment."

[96] "Q Wasn't it your job, sir, both as chief compliance officer and all of the other titles that we looked at, wasn't it your job to make sure PageOne properly disclosed all conflicts of interest to its clients? A. Yes, sir."

[97] "Q. But, again, this policy and procedure explicitly says it is the chief compliance officer's duty to make sure the clients are aware of any potential and/or actual conflict of interest;

69. Indeed, that responsibility was explicitly set out in PageOne's Investment Adviser Policies and Procedures, which stated that:

> As a registered investment adviser, and as a fiduciary to our advisory clients, our firm has a duty of loyalty and to always act in utmost good faith, place out clients' interests first and foremost and to make full and fair disclosure of all material facts and in particular, information as to any potential and/or actual conflicts of interest.
>
> [. . .]
>
> PageOne Financial, Inc.'s Chief Compliance Officer is responsible for administering our IA Policies and Procedures.

(Div. Ex. 154 at SEC-PageOne-E-95025 (emphasis added); Div. Ex. 78 at NRS-000614 (emphasis added).)

70. Page read and understood PageOne's Policies and Procedures. (Hearing Tr. at 58:7-14,[98] 58:20-59:15.[99])

71. As the Chief Compliance Officer it was Page's job to administer PageOne's policies and procedures. (See Div. Ex. 78 at NRS-000614;[100] Div. Ex. 154 at SEC-PageOne-E-0095025 (same); see also Hearing Tr. at 56:21-24.[101])

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isn't that accurate? A. To the extent of the law, yes, that I had advice of counsel on, yes, absolutely."

98 "Q. So it is fair to say that this is the version of the policies and procedures that existed at least as of June 13, 2011? A. Yes. Q. And you read this manual, correct? A. I did. Q. You understood it? A. Yes, sir. Q. In fact, you signed a certification that you had received and read it and understood it? A. Yes, sir.");

99 "Q. And this is also a copy of PageOne's policies and procedures, correct? A. Correct. Q. This is another version, right? A. Yes. Q. And if you flip to the second page, you see it says March 12, 2010 to current? A. Yes, sir. Q. So this was the policies and procedures that existed at PageOne at least as of March 12, 2010, correct? A. Yes, sir. Q. And you understood, didn't you, that PageOne had a duty to make full and fair disclosure of all material facts to its clients? A. Yes, sir. Q. And, again, that is enshrined in the policy, correct? A. Correct."

100 "PageOne Financial, Inc.'s Chief Compliance Officer is responsible for administering our IA Policies and Procedures".

72. As Page understood, PageOne's Investment Adviser Policies and Procedures also stated that (a) disclosure of "any actual and potential conflicts of interest" are to be disclosed in the firm's Forms ADV" and (b) Page was responsible for ensuring that the Forms ADV were maintained "on a current and accurate basis," were appropriately amended, and were delivered to clients. (Div. Ex. 154 at SEC-PageOne-E-0095042; see also Hearing Tr. at 65:5-22,[102] 66:2-13,[103] 66:20-24.[104])

73. Changes to PageOne's Forms ADV could not be made without Page's approval. (Hearing Tr. at 62:16-63:9;[105] 63:19-23.[106]) Thus, Page reviewed the firm's Forms ADV when amendments were made. (Hearing Tr. 63:10-12.)[107]

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101 "Q. And you were also responsible for administering PageOne's policies and procedures, correct? A. Yes, sir."

102 "Q. This part of the policies and procedures manual assigns responsibility for maintaining the form ADV, correct? A. Yes, I always directly supervised it. Q. And it assigns that responsibility to you, correct? A. That's correct. Q. And wasn't it also PageOne's policy that its form ADV would provide clients with information about any actual and potential conflicts of interest? A. Yes. Q. And, again, that wasn't an informal policy, was it? A. No. Q. That was enshrined in this document, correct? A. Correct."

103 "Q. You see it says, 'PageOne Financial as a matter of policy', and there is some other language. And then it says, 'Our firm's disclosure document provides information about the firm's advisory services business practices, professionals policies, and any actual and potential conflicts of interest.' Do you see that? A. Yes, I do, sir. Q. And you were responsible for maintaining that disclosure document? A. Yes, sir."

104 "Q. But ultimately you were the one who had explicit responsibility for that role under PageOne's responsibility? A. Ultimately I was the one that signed off on it, yes."

105 "Q. And it was your job to approve any changes made to the forms ADV at PageOne? A. I would approve post the counselor as well as the compliance officer interfacing National Regulatory Services with language from what I believe was experts. NRS had housed former SEC attorneys that helped with the language. Q. But a change couldn't make it into an ADV without you approving that change, correct? A. Once I trusted what it said was what it was supposed to say, yes. Q. Was your expectation that any changes made to the ADV would have your signoff before that ADV was given to clients or posted on the website? A. Yes, completely."

106 "Q. But it was your job specifically, you personally, it was your job to maintain form ADV on an accurate basis; isn't that true? A. As a chief compliance officer, it was my job to sign off on the final version."

107 "Q. And it was your practice to review PageOne's form ADV, wasn't it? A. Yes, sir."

74. Page understood that he was ultimately responsible for ensuring that PageOne's Forms ADV accurately disclosed "any actual and potential conflicts of interest." (Hearing Tr. at 66:2-13,[108] 66:20-24.[109])

XII. Page Considers Selling PageOne to NEXT Financial, Inc.

75. In mid-2008, Page considered an acquisition offer of PageOne by a company called NEXT Financial, Inc. ("NEXT"). (Div. Ex. 183, ¶ 23.)[110] In considering the acquisition, Page entered into a non-disclosure agreement ("NDA") with NEXT. (Hearing Tr. at 75:7-14.)[111]

76. NEXT offered to purchase PageOne from Page for $3.2 million. (Div. Ex. 94 at 2 (Respondents Wells Submission, Apr. 15, 2014).)[112]

XIII. Walter Uccellini and UGOC Asked Page to Recommend the Funds to Respondents' Clients

77. In Fall 2008, Page met Walter Uccellini. (Hearing Tr. at 67:15-19.)[113]

78. UGOC is a real estate development and management company headquartered in Troy, New York. (Div. Ex. 183, ¶ 5.)[114]

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[108] "Q. You see it says, 'PageOne Financial as a matter of policy', and there is some other language. And then it says, 'Our firm's disclosure document provides information about the firm's advisory services business practices, professionals policies, and any actual and potential conflicts of interest.' Do you see that? A. Yes, I do, sir. Q. And you were responsible for maintaining that disclosure document? A. Yes, sir."

[109] "Q. But ultimately you were the one who had explicit responsibility for that role under PageOne's responsibility? A. Ultimately I was the one that signed off on it, yes."

[110] "In mid-2008, Mr. Page considered the possible acquisition of PageOne by NEXT Financial Group, Inc. ("NEXT"), a SEC-registered broker-dealer."

[111] "Q. An NDA is a non-disclosure agreement? A. Yes, sir. Q. And you had a non-disclosure agreement with Next Financial? A. Yes, I did. Q. About a possible acquisition of PageOne? A Yes, sir."

[112] "Next offered to purchase PageOne for $3.2 million."

[113] "Q. When did you meet Mr. Uccellini? A. In the fall of 2008. Q. Sometime before the end of October 2008 fair to say? A. Yes."

79. UGOC established two private investment funds, DCG/UGOC Equity Fund, LLC ("Equity Fund I") and DCG/UGOC Income Fund, LLC ("Income Fund I") in July and August 2008, respectively. (Div. Ex. 183, ¶ 7.)[115] On or about January 4, 2011, United started another fund, the United Group Income Fund II ("Income Fund II," and together with Income Fund I and Equity Fund I, the "Funds" or "UGOC Funds"). (Id., ¶ 41).[116] The purpose of the Funds was to raise money from individual investors, which UGOC then used to fund its real estate projects. (Id., ¶ 7.)[117]

80. Uccellini initially approached Page to see whether Respondents would be willing to raise money for the UGOC Funds from their client base. (Hearing Tr. 67:20-68:13.)[118]

81. UGOC gave Page a private placement memorandum ("PPM") for each of the Funds. (Div. Exs. 1-2 (private placement memoranda); see also Hearing Tr. at 69:16-24.)[119] Page read both PPMs. (Hearing Tr. 69:19-24.)[120]

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114 "The United Group of Companies, Inc. ("United") is a real estate developer and management company that is headquartered in Troy, New York."

115 "United established two private investment funds DCG/UGOC Equity Fund, LLC ("Equity Fund I") and DCG/UGOC Income Fund, LLC ("Income Fund I, and together with the Equity Funds, the "United Funds" or the "Funds") in July and August 2008, respectively."

116 "On or about January 4, 2011, United started another fund, the United Group Income Fund II, LLC . . . ."

117 "The purpose of the Funds was to raise money from individual investors, which United used to fund its real estate projects."

118 "Q. And you understood that United was looking for an investment advisor to assist it in marketing two investment funds? A. I understood that Mr. Uccellini was looking throughout the entire area for investment advisory firms that may have accredited investors that could support his sale and marketing of private placement memorandums to construct suites on campuses in Albany. Q. And those two funds were the income fund and equity fund? A. Yes, sir. Q. And you understood that Mr. Uccellini was approaching you, maybe among others, but you about the possibility of assisting United and marketing those two investment funds? A. Yes, sir."

119 "Q. Does it look generally like the PPM that you received? A. Yes. Q. Did you read the PPM that you received? A. Yes. Q. Both for the equity fund and the income fund? A. Yes, sir."

82. After reading them, Page did not believe that there were any inaccuracies in either PPM. (Hearing Tr. at 69:25-70:4.)[121]

83. Page also understood—from reading the PPM's—that an investment in either Fund was highly risky. Indeed, each PPM stated prominently on its front cover that "INVESTMENT IN THE SECURITIES OFFERED HEREBY ENTAILS A HIGH DEGREE OF RISK." (Div. Ex. 1 at cover page; Div. Ex. 2 at cover page; see also Hearing Tr. at 71:21-72:2.[122])

84. Nonetheless, Page concluded that he might recommend the Funds to certain of his clients. (Div. Ex. 183, ¶ 13.)[123]

XIV. Uccellini Offered to Buy a Portion of PageOne from Page

85. Almost immediately after meeting Uccellini, Page began discussing the possibility of Uccellini—either through UGOC or an affiliate—acquiring PageOne. (Div. Ex. 166 at 99:22-100:2.)[124]

86. Page told Uccellini and Quinn that he was under an NDA with the man from whom he had purchased PageOne (who happened to be Chairman of NEXT). (Hearing Tr. at 75:24-76:9.)[125]

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120 "Q Did you read the PPM that you received? A. Yes. Q. Both for the equity fund and the income fund? A. Yes, sir."

121 Q Did you think anything in those documents, in either of those PPMs, was inaccurate at the time that you read them? A. No."

122 "Q. Thank you for that. Again, all I want to know is: You would agree with me that the United Group in writing was telling prospective investors that investments in its funds were risky? A. Pursuant to an accredited investment program, yes, sir."

123 "Mr. Page concluded that he might recommend the United Funds to certain of PageOne's clients."

124 "Q. Let me just stop you. When did you first start having conversations with Mr. Uccellini about his acquiring PageOne? A. Almost immediately. I can't tell you if it was the first or second, but, it was within the first few meetings, within the first month or so."

87. Page also told Uccellini what the terms of NEXT's offer were. Thus, in 2008, Uccellini offered to purchase PageOne "on the same terms NEXT was offering, and offered to hire Mr. Page as a manager of the new entity's assets." (Div. Ex. 183, ¶ 25.)

88. To make his offer more attractive, Uccellini also told Page that Michael Del Guidice, a close associate of Uccellini's, would use his political influence and business connections to introduce Page to large State, municipal, and corporate pension funds. (Div. Ex. 183, ¶ 26.)[126] The intention of these introductions was to bring an additional $1 billion in assets under Page's management. (Id.)

89. Page agreed to withdraw his NDA with NEXT and to pursue an acquisition by Uccellini and UGOC. (Div. Ex. 183, ¶ 27;[127] Hearing Tr. at 76:14-18.[128])

90. On November 24, 2008, Page entered into an NDA with Uccellini, UGOC, and Millennium Credit Markets LLC ("MCM"). (Div. Ex. 5 (NDA).) MCM was controlled by Uccellini and, in turn, owned a registered broker-dealer, MCM Securities, LLC. (Div. Ex. 183, ¶¶ 8,[129] 9.[130])

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125 "Q. And you disclosed that you had a non-disclosure agreement to sell your firm entirely to the individual that you had originally bought it from, correct? A. That's correct. Q. And the individual you had originally brought your firm from was who? A. That was the chairman of Next Financial."

126 "To distinguish the United acquisition proposal from NEXT's proposal, Mr. Uccellini told Mr. Page that Mr. Del Guidice, a close business associate of Mr. Uccellini's, would use his political and business connections to introduce Mr. Page to large State, municipal, and corporate pension funds, with the intent of bringing $1 billion of assets under the new entity's (and therefore Mr. Page's) management."

127 "Mr. Page agreed to negotiate with Mr. Uccellini."

128 "Q. And you withdrew your NDA with Next and you entered -- you began talking to Mr. Uccellini about his acquiring a portion of PageOne? A Yes, sir."

129 "MCM Securities, LLC ("MCM") is an SEC-registered broker-dealer that is headquartered in New York City."

130 "MCM was at all relevant time majority-owned by Millennium Credit Markets, LLC, which, in turn, was controlled by Mr. Uccellini."

91. Per its terms, the NDA did not apply to any information that Respondents were required by law to disclose. (Div. Ex. 5 at PGSUPP0000217-18.)[131] Moreover, none of Respondents' clients were party to the NDA. (Div. Ex. 5.)

XV. Uccellini's and UGOC's Acquisition of PageOne

A. UGOC Needed Access to Respondents' Client Funds

92. Uccellini was motivated to acquire PageOne because he wanted access to its advisory client money to fund his real estate development projects. Indeed, the parties were discussing the acquisition during the 2008 Financial Crises, and Uccellini was concerned that UGOC's access to bank lending was in danger. As Page testified:

> And Mr. Uccellini has the idea that it would be wise to have a financial service firm and in the frame of time the banks are collapsing, how will he go forward and fund his projects.

(Div. Ex. 166 at 102:4-8.)

93. Page understood—as early as October 2008—that UGOC was motivated to pursue an acquisition in order to enable it to gain access to advisory clients' money to fund UGOC's real estate project. Thus, on October 28, 2008, Page sent a letter to Uccellini, Quinn, and John Peterson (UGOC's Senior Vice President). (Div. Ex. 3 at PGSUPP0000223.) In it, Page wrote that he was responding to UGOC's request to discuss an "alliance" between PageOne and UGOC. (Id.)[132] Page proposed that he would "fold in via a sale of PageOne Financial, [I]nc. to United." (Id. at PGSUPP0000225.)

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131 "The obligations contained in Section 2 and 3 shall not apply to any information which . . . is disclosed by the Receiving Party pursuant to the law . . . ."

132 "A proposal was requested from the Chairman of PageOne Financial, [I]nc. To gauge how or what if any an alliance would render synergism".

94. Page further wrote that PageOne—as a UGOC subsidiary—would become "the financial sourcing" for UGOC. (Div. Ex. 3 at PGSUPP0000224.) In other words—PageOne would be able to raise funds from its client base for UGOC's projects.

95. On January 22, 2009, Page wrote to Sam Kuka at TD Ameritrade—PageOne's custodian[133]—to inform him about the prospective merger. (Div. Ex. 7.) Page wrote that he was attaching (1) a "Business Plan"; (2) that "[a] stock swap and cash will ensure prior to the Ides of March" (e.g., March 15th); and (3) stated that he was "proud to have these individuals as partners." (Id. at PG00001565.) Page then went on—in the attached "Business Plan"—to describe the terms of the "alliance" between PageOne and MCM (an Uccellini affiliate). (Id. at PGPG00001566-1569.)

96. Neither Sam Kuka nor TD Ameritrade were parties to Page's NDA with UGOC. (Div. Ex. 7 at PG00001565.)[134] Nonetheless, Page provided them information about the terms and timing of the acquisition and invited them to make their own inquiries about the parties. (Id.)[135]

97. In this email, Page again made clear that UGOC was looking to PageOne to raise client money for the Funds, stating that:

- MCM will pay PageOne Financial, Inc. $2.1 million "for the merger of the two companies." (Div. Ex. 7 at PG00001566.);
- A "[g]oal[]" of the "alliance" was to "[c]reate a vehicle to source equity, mezzanine, bridge and/or other financing to enable United to develop student housing and senior multi-family housing." (Id.); and

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133 Div. Ex. 183, ¶ 22 ("[T]D Ameritrade, the firm that acted as custodian for PageOne's clients . . . .").

134 "Again you are in possession of highly confidential information and short of an NDA trusted".

135 "I trust TD has some political advantage and carefully your [sic] are free to inquire discreetly in regard to Mr. Del Guidice and United which are now PageOne partners."

- A "[s]trateg[y]" for meeting that goal was to "secure equity investment" in the UGOC Funds." (Id. at PG00001567.)

B. Uccellini and UGOC Pay for the Acquisition Over Time by Making Down Payments to Page

98. Page agreed with Uccellini that—instead of paying for PageOne outright—UGOC would pay for the PageOne acquisition by making down payments to Page over time as it could afford to do so. (Hearing Tr. at 79:8-22.)[136]

99. United began making acquisition down payments to Page in April 2009. (Div. Ex. 183, ¶ 32.)[137] Between April 10, 2009 and September 12, 2011, UGOC paid Page over $2.7 million. (Id., ¶¶ 40-50, Exhibit B (showing timing and amounts of down payments).)

100. UGOC made those payments both directly to Page and to entities controlled or affiliated with Page, including PageOne, RONNO, N.V., and MAGS, N.V. (Div. Ex. 183, ¶ 49,[138] Exhibit B (table showing payments to Page and his entities).)

101. Page instructed Uccellini and his employees where to send each down payment. (Hearing Tr. at 80:8-11;[139] 81:23-25.[140]) Page understood that the down payments were his to do with as he pleased. (Hearing Tr. at 80:12-17.)[141]

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136 "Q. Now, earlier you talked about how the United Group didn't pay you a lump sum for the acquisition of your firm, correct? A. Correct. Q. United paid you down payments over time, correct? A. Correct. Q. And United paid you the down payments over time because Mr. Uccellini could not afford to the pay the whole purchase price at once, correct? A. Yes. Q. Didn't he tell you that he would make down payments as he could afford to do so? A. He did."

137 "United began making down payments on the anticipate acquisition to Mr. Page in April 2009."

138 "From April 2009 through September 12, 2011, United made down payments to Mr. Page and to entities controlled or affiliated with Mr. Page, including PageOne, MAGS, N.V., and Ronno, N.A."

139 "Q. You would instruct Mr. Uccellini and one of his employees where to have the down payment sent? A Correct."

102. All of UGOC's payments to Respondents were down payments on the purchase of PageOne. (Hearing Tr. at 106:15-107:14.)[142]

C. The Down Payments Were Memorialized by Promissory Notes

103. UGOC's down payments were memorialized and secured by promissory notes. (Hearing Tr. at 82:2-5;[143] 84:18-24.[144]) Thus, when UGOC made a down payment to Page, Page signed a promissory note for the amount of that down payment. (Hearing Tr. at 82:15-19.)[145] According to the terms of the notes, Page was required to repay the down payment plus interest within 12 months. (Hearing Tr. at 84:11-17.)[146]

104. Page understood that the promissory notes were to give Uccellini "some security until I closed my firm" (Div. Ex. 166 at 140:24-141:1), but that Uccellini would forgive the promissory notes in the event that the acquisition closed. (Hearing Tr. at 86:15-

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140 "Q. And you personally instructed the United Group where to send the down payments? A. That's correct, sir."

141 "Q. This was your money, your personal money? A. That's correct. Q. And you understood you were free to place that money where you wanted? A. That's correct at the time."

142 "Q. Again, that's not quite answering the question that I asked, so let me try to focus it again. Just focusing on the down payment, and the down payments, that's the only money that United ever paid to you, correct? A. The down payments are the only money. Q. The down payments on the acquisition that we have been talking about? A. That's correct. Q. That's the only money they ever paid to you? A. Correct. Q. You never received a 7 percent referral fee? A. No. Q. You never received a consulting fee? A. No. Q. In fact, you weren't ever a consultant? A. No. Q. You weren't entitled to a referral fee, correct? A. That's correct."

143 "Q. Now, the down payments were memorialized and secured by promissory notes, correct? A. Yes, sir."

144 "Q. Now, you understood that these notes would be forgiven once the acquisition closed? A. That's correct. Q. And, in fact, didn't Mr. Uccellini tell you that these notes were to give him some security until the acquisition closed? A. That's correct."

145 "Q. Again, all I'm asking for right now is you signed a promissory note for each of the down payments that the United Group made to you? A. Yes, sir."

146 "Q. 'According to the terms of the notes, Mr. Page was required to repay the amount advanced plus interest at 12 percent per annum after a year." A. Yes, sir. Q. That's an accurate statement? A. Yes."

18.)[147] However, Page also understood that—in the event that Uccellini and UGOC did not complete their acquisition of PageOne—Page was liable, under the terms of the notes, to repay the entire amount of the down payments. (See Hearing Tr. at 87:11-16;[148] see also Div. Ex. 102 (collection of promissory notes signed by Page stating that "The entire principal and interest balance shall be due and payable" and a set future date).) Page repeatedly expressed to Uccellini—starting before any down payments were made or notes signed—that he was concerned that if Uccellini did not complete the acquisition, Page would be liable to repay all of the down payments. (Hearing Tr. at 88:15-89:2.)[149]

105. Page put that concern into writing. (Hearing Tr. at 89:3-8.)[150] On January 29, 2010, page emailed Uccellini that:

> I am anxiety struck. It is now 15 months and I can not close a loose end . . . . I have a large loan "lliability" [sic] and no assets.

(Div. Ex. 30.)

106. Page testified (a) that he was "expressing [his] angst that [he] hadn't been able to close the sale"; (b) that "if the United acquisition didn't close, [he] may be liable to

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147 "Q. And you understood again that Mr. Uccellini would forgive them in the event that the closing happened? A. Correct."

148 "Q. And at the time that he made each deposit and you signed a promissory note, you understood by at least the terms of those notes you may be called upon to repay that? A. Absolutely, that 12 percent was 16 rolling."

149 "Q. And didn't you express that concern to him though, the concern that if the firm wasn't closed on, you would be the one ending up owing him money? Didn't you express that concern to Mr. Uccellini before you ever signed a promissory note? A. Well, I was concerned that I would sign a promissory note in order to repay back somebody who was buying my firm. Q. You expressed that before you signed the first note in time? A. Yes."

150 "Q. Okay. Thank you. And you expressed that same concern, didn't you, if the acquisition didn't close, you would be on the hook for this liability? You expressed that later to Mr. Uccellini in writing, correct? A. Yes, sir."

repay all of the down payments" UGOC had made to him; and (c) the acquisition was "[c]onstantly" on his mind . (Hearing Tr. at 90:11-91:6.)[151]

107. Page further understood that the need to avoid repaying the down payments gave him a "real incentive to get this deal closed." (Hearing Tr. at 91:7-9.)

D. Page Agreed to the Down Payments Because He Knew That Uccellini and UGOC Could Not Afford to Acquire PageOne Otherwise

108. Page understood that—as a result of the 2008 financial crisis—Uccellini's financial condition was poor. As Page knew, Uccellini (a) had given personal guarantees to get financing on multiple real estate projects; and (b) that, as a result of the financial crisis, the banks were collapsing and, therefore, had called in Uccellini's guarantees. (Hearing Tr. at 93:2-20.)[152] Indeed, Uccellini was forced to sell his $2 million personal interest in his country club—his "own asset" in Page's words—"to make sure that everybody was paid." (Div. Ex. 166 at 108:16-109:7.)[153] In Page's own words, under

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151 "Q. So this acquisition, this was on your mind a lot, right? A. Constantly. Q. And you go on to say, 'It is now months and I can't close a loose end', correct? A. Correct, sir. Q. And when you wrote that, you were expressing your angst that you hadn't been able to close the sale of PageOne? A. Correct, sir. Q. And you write that you have a large loan liability and no assets. Do you see that? A. Correct, sir. Q. And this is a reference to the fact again that if the United acquisition didn't close, you may be liable to repay all of the down payments that you've gotten? A. Correct."

152 "Q. I want to unpack that a little bit. You say that Mr. Uccellini had a number of projects under construction? A. Yes, sir. Q. And he had given personal guarantees on the corporate notes? A. Yes, sir. Q. That helped finance those constructions? A. Yes, sir. Q. Personal guarantees to the banks that had loaned him the money? A. Yes, sir. Q. And the banks were collapsing because it was the 2008 financial crisis? A. Yes, sir. Q. So the banks started calling his personal guarantees? A. Yes, sir."

153 "Q. What is your understanding of why it took so long to come to an agreement after he made the initial proposal? A. My understanding is an assumption, but, fairly stated, Mr. Uccellini has five projects under construction. He has given personal guarantees to all his corporate notes through all of his banks. The banks have collapsed, they've called him with personal guarantees. This man is trying to find ways to raise money to survive his empire fairly. Mr. Uccellini was literally making sure that his staff, those projects never failed. People were paid waiting for closing of lands. He is, at that time, selling a, I understand, a $2 million net equity country club, his own assets, to make sure that everybody's paid. He doesn't have the discretionary assets and he never expected that to happen." (emphasis added).

oath, Uccellini (a) was "trying to find ways to raise money to survive his empire"; and (b) Uccellini did not "have the discretionary assets and he never expected that to happen." (Id.)

109. Page, therefore, understood that Uccellini could not afford to pay the full purchase price at one time. (See also Hearing Tr. at 79:15-19.)[154] As he testified:

> Q. Now, the reason Mr. Uccellini couldn't close the acquisition back when you originally started talking about it or over time when you started the down payments was we already talked about, because he couldn't afford to pay the full purchase price in one lump sum?
> A. That's correct.

(Hearing Tr. at 91:10-16.) Indeed—because of Uccellini's and UGOC's poor financial condition—the parties agreed that UGOC would pay for the PageOne acquisition by making down payments to Page over time as it could afford to do so. (Hearing Tr. at 79:15-22.)[155]

110. Indeed, in Spring 2009—before any down payments were made—Page expressed frustration to Uccellini at the slow pace of the acquisition and the concern that the "transaction . . . had little hope of closing." (Div. Ex. 183, ¶ 31.)

111. Over the 2.5 years that UGOC was making the down payments, Uccellini repeatedly stressed to Page his desperation for additional money for his real estate project. Thus, Uccellini emailed Page:

- February 18, 2009: "if we can not have several millions of dollars collected (in our hands to be spent) by next week it might very well

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154 "Q. And United paid you the down payments over time because Mr. Uccellini could not afford to the pay the whole purchase price at once, correct? A. Yes."

155 "Q. And United paid you the down payments over time because Mr. Uccellini could not afford to the pay the whole purchase price at once, correct? A. Yes. Q. Didn't he tell you that he would make down payments as he could afford to do so? A. He did."

be necessary to shut down the student housing jobs and then this whole undertaking will have been for naught." (Div. Ex. 129.)

- May 5, 2009: "need to do everything humanly possible to get the money in this week." (Div. Ex. 133.)
- June 7, 2009: "Ed desperately [sic] need money this week – earlier the better . . . . Need you to do it- you are the only one that can." (Div. Ex. 134.)
- June 16, 2009: "Desperately need some new subscriptions. Please advise." (Div. Ex. 135.)
- October 27, 2009: "Subject: $$$$," "Need $ - can you help?" (Div. Ex. 143.)
- November 4, 2009: "I really could use MONEY and lots of it – please help get it in," (Div. Ex. 145.)
- November 5, 2009: "Have you identified any money to be garnered? We are in an intense period of time and greatly need your assistance." (Div. Ex. 146.)
- January 26, 2010: "[UGOC CFO] Tim Quinn tells me we need $$$$'s quickly – how are things progressing." (Div. Ex. 149.)
- March 14, 2011: "Ed – how are we coming with the collection of funds for this week? Really need the funding this week. Getting desperate." (Div. Ex. 64.)
- April 6, 2011: "Subject: $$$$$$$$$$$," "Ed—what are our prospects for investments—I need to bring in over a million dollars within two weeks—I really need your help with this." (Div. Ex. 67.)
- April 20, 2011: "We need money desperately for this month—do you have anything pending?" (Div. Ex. 158.)
- June 6, 2011: "Ed—I need $4,000,000.00 for City Station this week—prospects???? Desperately need your help!" (Div. Ex. 77.)

112. Page understood that Uccellini was asking Page to try and raise money from Respondents' clients for the UGOC Funds. (Hearing Tr. at 100:11-14,[156] 103:9-11.[157])

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[156] "Q. When he told you he was desperate for cash, he was asking you to help find investors in his funds? A. I assume, yes."

113. Page responded to Uccellini's entreaties by trying to raise money for the UGOC Funds. For example, in April 2009, Page assured Uccellini that he would "move all else aside to close the sales" of $5 million in Fund investments. (Div. Ex. 132.)

E. Page Agreed to Raise Approximately $20 Million for the UGOC Funds as Part of the Acquisition

114. Page agreed that—as part of the acquisition—Respondents would raise approximately $20 million from their own clients for the Funds.

115. Initially Page attempted to raise this money—without his clients' permission—by investing their money into the Income Fund at his own discretion. Thus, on December 15, 2008, Page wrote a letter to UGOC Vice Chairman James F. Quinn:

> [C]onstitut[ing] a commitment by PageOne Financial, Inc. . . . to acquire 36.6 units in the DCG/UGOC Income Fund, LLC equal to $18,300,000. This will be accomplished by the acquisition of the units of the Fund by clients of PageOne for which it acts as a Registered Investment Adviser.

(Div. Ex. 128.)

116. However, TD Ameritrade—PageOne's custodian—would not allow Page to make such an investment on his clients' behalf without "obtain[ing] written consent from each investor before investing in private placements' such as United's." (Div. Ex. 183, ¶ 22.)

117. Despite being told by UGOC that it was a "long shot," Page initially sought to obtain a waiver from TD Ameritrade of this policy. (See Div. Ex. 170 at PG0626SUPP0006620 (email between Page and UGOC employees discussing draft presentation to TD Ameritrade to obtain a waiver); see also Div. Ex. 169 (email chain

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157 "A. He expressed his need desperate for cash at all times so he could complete his projects."

attaching earlier draft of waiver presentation).) Page and UGOC drafted—for Page's signature—presentations to TD Ameritrade seeking just such a waiver noting because "time is of the essence" TD Ameritrade should not require Respondents to actually seek their clients' permission to invest in the Income Fund. (Div. Ex. 170 at PG0626SUPP0006623.)[158]

118. TD Ameritrade did not agree to waive the requirement that Respondents' clients sign-off on investments in the UGOC Funds. (Div. Ex. 183, ¶ 22.)[159]

119. However, this was not the end of Page's agreement to raise millions of dollars for the UGOC Funds. Indeed, Page increased his agreement to raise $20 million for the Funds.

120. On October 2, 2010, Uccellini reminded Page that UGOC would not complete the acquisition until Page hit the promised $20 million threshold. (Div. Ex. 53.) Thus, on October 2, 2010, Uccellini emailed Page, and others, about status of the acquisition. (Id.) In that email Uccellini wrote:

> Finally I would like to complete the acquisition of the entity as soon as Ed is able to raise the necessary funds to finalize it - this ideally results in complete payment to Ed before the end of the year, maybe as early as next week, for the 49% interest that we are acquiring.
>
> Ed please advise me of what you think you paid out to date in the form of commissions – coordinate this info with Tim Q so that he can complete the accounting picture for this transaction. To date John P's [Peterson's] data shows you

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158 Page threatened TD Ameritrade with moving his business to another custodian if the waiver was not granted. (Div. Ex. 170 at PG0626SUPP0006623 ("In summary, due to the 'time is of the essence' nature of the transaction, if PageOne is unable to effectuate the purchase of the Fund units through TD Ameritrade, it will unfortunately be necessary that I examine other options to do so, including . . . transfer of more than four hundred (400) accounts from the TD Ameritrade platform to another, more flexible venue.").)

159 "TD Ameritrade did not waive that requirement."

> have been paid $1.6+ million in payments toward the $2.4+ million purchase price – and that you have raised for us 14+ million of the 20 million targeted goal for the student housing. If that is the case we should have credits against future raises.

(Id. (emphasis added).)

121. By this email, Uccellini confirmed (1) that Page needed to raise the funds necessary to close the transaction, (2) that he had to date raised $14 million of the $20 million, and (3) once he raised the remaining $6 million, UGOC would pay him the difference between the $1.6 million already paid and the $2.4 million acquisition price. Page did not respond to Uccellini indicating that this email was in any way inaccurate.

122. Page also instructed his employees to prepare and maintain a spreadsheet tracking how much money he had raised for the Funds to date and how much of the $20 million Page still had to raise. (See Div. Exs. 62, 104 (versions of the spreadsheet).)

123. On March 7, 2011, Patricia Milkiewicz, Page's assistant,[160] sent an email, attaching a version of that spreadsheet. (Div. Ex. 62.) Milkiewicz wrote:

> Ed: The attached form is updated to the best of my ability. I spoke with John Peterson . . . . John said that he cannot tell me what PageOne has not been paid on and said that you need to speak with Walter [Uccellini] directly regarding that topic . . . . Let me know if you need anything additional from me!

(Div. Ex. 62 at PG06260001520.)

124. The "form" Milkiewicz attached to her email was a table (a) showing how much Respondents' clients had invested in the Funds (Id. at PG06260001521); and (b) stating:

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[160] Div. Ex. 62 at PG06260001520 (Milkiewicz's email signature block "Executive Assistant PageOne Financial, Inc."); Div. Ex. 166 at 180 ("Q. Okay. Who's Tricia Milkowich (phonetic)? A. She was a short-term secretary that went to work for the State, got a greater salary.").

> Ed Page has raised $17 million thus far. Agreement was to raise $20 Million . . . Additional assets will be added in next few months."

(Id. (emphasis added).)

XVI. Page's Clients Invest Over $15 Million in the UGOC Funds

125. Per his agreement with UGOC, Page began recommending that his clients invest in the UGOC Funds in February 2009. (Hearing Tr. 73:5-9;[161] see also Div. Ex. 183, ¶ 46.[162])

126. Between March 2009 and September 2011, Respondents' clients invested over $15 million in the UGOC Funds. (Div. Ex. 183, ¶¶ 47-48, Exhibit A (showing clients' investments into the three Funds).)

127. Respondents knew when their clients made investments into the Funds. (Hearing Tr. at 73:19-21.)[163] Indeed, Page asked TD Ameritrade—PageOne's custodian—to hold his clients' investment in the Funds on its platform so that Page "could monitor and keep control and watch out for the clients." (Hearing Tr. at 74:2-5,[164] 74:6-11.[165])

128. Each time a client invested in one of the Funds paperwork demonstrating that investment was filed with PageOne. (See Div. Ex. 176(a) at, for example,

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161 "Q. So it is fair to say that you began recommending investments in the United funds to certain of your clients in February of 2009? A. Yes, sir."

162 "In February 2009, Respondents began recommending investments in the United Funds to certain of their investor clients."

163 "Q. Now, you knew your clients were making investments in the United funds, correct? A. Correct."

164 "I asked the head of TD to sponsor these investments on TD's platform so I could monitor and keep control and watch out for the clients."

165 "Q. So you would know when they made investments in the United funds? A. And watch through dividends and keep control. Q. Keep control, and part of keeping control is being aware of when they invested? A. Being aware of their due diligence for safety."

PG06260005403-48 (documentation of Alexis Rutnik's $200,000 investment in the Income Fund I).

129. Also, as discussed above, Page's employees tracked his clients' investments into the Funds. (Div. Exs. 62, 104 (tables showing how much clients had invested in the UGOC Funds).)

XVII. UGOC's Down Payments to Page Were Connected to Client Investments Into the Funds

130. Page understood that the amounts and timing of UGOC's down payments to him were often directly connected to when and how much his clients invested into the Funds. As he testified:

> Q. And you say "Each one million I raise for the closing", you mean for every time you raise a million dollars for his funds, that's what you mean, correct?
> A. Every time I raise any money for his funds, he is supposed to be paying me out of the monies that he is allowed to pay me out of the particular assets, whatever they are.

(Hearing Tr. 139:22-140:5 (emphasis added).)

131. Indeed, Page was perplexed as to why it was taking Uccellini so long to acquire PageOne given the amount of money Page had raised for the UGOC Funds. As Page testified:

> Q. But you're tying the money that you raise for the United Funds to Mr. Uccellini's ability to close on your firm, correct?
> A. I'm tying the money that I'm raising for Mr. Uccellini for his financial emancipation. I don't understand why he doesn't have the money to close my firm.

(Hearing Tr. at 138:10-16.)

132. On February 3, 2010, Page expressed this frustration—that Uccellini was not using enough of Respondents' client funds to pay for the PageOne buyout—to Uccellini in an email. (See Div. Ex. 31.)

> I can not, in good spirit, continue to raise funds for my buyout every time I try to close. Each one million I raise for the closing, as it arrives, is spent. Jim [Quinn] is busy compiling a step program to creatively buy PageOne out with 10/ 20/ 30 cents on each dollar I further raise. It infers that I am not respected for the nearly 10 million I have raised as I have not closed my firm's deal.
>
> [. . .]
>
> To contract a buyout in the manner in which Jim is doing so makes me feel foolish and compromises my business judgment to my counselors. I am constantly raising money for my own closing and watching it get moved in a cavalier manner. You are doing what is best for you and I can not fault that. But I can no longer entertain it. The closing was to be in November then December the January 30th, now who know when?? The more creative the stalls, the more forsaken I feel.

(Div. Ex. 31 (emphasis added).)

133. Moreover, Page—either directly or through his employees—told UGOC on multiple occasions to direct monies his clients were investing in the Funds back to him in the form of down payments.

134. For example, Tom and Sue [redacted] invested $134,000 into the Equity Fund and $55,000 into the Income Funds on October 13, 2009. (Div. Ex. 183, Exhibit A (showing timing and amounts of the [redacted] investments into the Funds).)

135. Page instructed PageOne Assistant Compliance Officer Sean Burke to write to Uccellini, among others, four days before the Slovic's made their investments reminding UGOC that the $55,000 was to be sent back to Page as a down payment. (Div. Ex. 142.) On October 9, 2009, Burke sent an email from Page's email account:

> Ed asked me to send you an e-mil [sic] regarding the accounts for Tom and Sue Slovic . . . . There is $134,000 going into the Equity Fund and $55,000 going into the Income Fund. Ed asked me to remind you the $55,000 should go toward what is due to him. The money should be wired to TD Mon or Tues. of next week. If you have any questions please let me know.

(Div. Ex. 142; see also Hearing Tr. at 111:4-6 ("Q. So that's coming from your e-mail account, correct? A. In 2009, yes.").)

136. Over the course of October 14-15, 2009, UGOC paid the $55,000 over to Respondents. (See Div. Ex. 183, Exhibit B (showing $50,000 and $5,000 paid to PageOne on October 14 and 15, respectively).) Page executed a promissory note for the $55,000 on October 14, 2009. (See Div. Ex. 102 at UGOC002642 (promissory note for $55,000).)

137. On December 2, 2009, Page wrote to Timothy Quinn and Peterson telling them that the assets for PageOne clients "[redacted] should have been wired to you today" and stating that he wanted "$58,100 to be wired" to MAGS NV's Well Fargo account. (Div. Ex. 25; see also Hearing Tr. 124:20-25 (Page testifying that he sent Div. Ex. 25 to Quinn and Peterson).)

138. Janice [redacted] invested $230,000 and Kevin [redacted] invested $600,000 in the Income Fund that same day, December 2, 2009. (Div. Ex. 183, Exhibit A (showing Wossowski's and Kearney's investments).)

139. As requested, UGOC made a down payment to MAGS NV of $58,100 two days later on December 4. (See Div. Ex. 183, Exhibit B.) Page executed a promissory note for $58,100 on December 4, 2009. (Div. Ex. 102 at UGOC002646.)

140. Page understood that the $58,100 was coming to him from the money that Wossowski and Kearney invested in the Funds:

Q. So he was allowed to take a portion of the money that [Wossowski] and [Kearney] invested in United funds?
A. My understanding, I read the PPM and all others, yes.

(Hearing Tr. at 126:11-15; see also id. at 127:21-128:3.[166])

141. PageOne client Mary Ellen [redacted] invested $231,770 in the Income Fund on December 28, 2010. (See Div. Ex. 183, Exhibit A.) On December 29, 2010, UGOC made three payments—$13,000, $61,930, and $156,840—totaling $231,700 to PageOne and Ronno NV. (Id., Exhibit B.) Page then executed a promissory note for the full $231,770 on December 29, 2010. (Div. Ex. 102 at UGOC002664.)

XVIII. The Acquisition Collapses

142. UGOC made its last down payment—of $200,000—to Page on September 22, 2011. (Div. Ex. 183, Exhibit B.)

143. UGOC never completed the acquisition of PageOne shares. (Div. Ex. 183, ¶ 42.)[167]

144. Uccellini was killed in a plane crash in August 2012. (Div. Ex. 183, ¶ 42.)

145. Because the acquisition did not close, Uccellini's estate asked Page to repay the $2.7 million in down payments (as well as interest accrued thereon). (See Div. Ex. 91 (letter from Uccellini's estate's counsel requesting repayment of the down payments); Div. Ex. 93 (same).)

146. Page has refused to repay the down payments. (Hearing Tr. at 141:7-15;[168] see also Div. Ex. 94 at 8 (Well Submission).[169])

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166 "Q. So as he took in assets in this particular case from Ms. [Wossowski] and Mr. [Kearney], Mr. Uccellini was allowed to take money out of the firm, correct? A. And any other way. Q. But that's the case here? A. Yes."

167 "Messrs. Uccellini and James Quinn died following the August 15, 2012 plane crash and the acquisition was not finalized".

XIX. Respondents Did Not Tell Their Clients the Truth About the Acquisition

147. At no point did Respondents tell their clients the truth about the UGOC acquisition.

148. Initially, Page acknowledged this. In response to an Information Request from the SEC's exam staff seeking "all disclosure made to PageOne clients," regarding his arrangement with UGOC, Page responded "No disclosures were ever made." (Div. Ex. 87 at 1, question # 6, and Respondents' response to Information Request No. 18, response # 6).

149. On August 29, 2013, Page testified before the SEC staff, under oath, as part of the investigation that led to this action. (Div. Ex. 166 (transcript).) There, Page again confirmed that he had not shared the truth of his arrangement with UGOC with his clients:

> Q. Okay. Did you ever consider disclosing your receipt of over $1.3 million from UGOC to customers who were considering investing in UGOC funds after having been introduced by you?
> A. I never felt that was a necessity. If I had closed or sold my firm, I certainly would have disclosed that I had sold to Millennium-Page a partnership, and the partnership was certainly, I felt, always in the best interest of clients.
>
> There were a handful of clients in United's products. I wouldn't disclose to thousands of people that I am about to convey my firm.

(Div. Ex. 166 at 121:20-122:6.)

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168 "Q. So the deal never closed? A. No. Q. And united Group has asked you to pay back all of the money it paid to you as down payments? A. He placed his notes in the trust and the trustees are demanding repayment. Q. And you haven't paid that money? A. It is still an ongoing litigious event."

169 "Thus, Mr. Page has kept the disputed money because he believes the payments were necessary to fairly compensate him for the injury he suffered from the long and ultimately unsuccessful negotiations with United . . . ."

150. He explained that he did not want to tell his clients because he was concerned that the sale would make them nervous:

> Q. And why wouldn't you disclose it?
> A. That's confidential. I'm not going to tell the public what my civil contract is in negotiating a sale for my firm. I'm an SEC-regulated firm. I'm not going to tell Macy's what Gimbels is doing, nor am I going to announce it. It's too dangerous. It would cause thousands of clients to get extremely nervous if I was selling my firm.

(Id. at 118:12-19.)

151. Page testified, in August 2013, that he could not recall telling anyone except for one client, Peter [redacted], with whom he "may" have discussing some aspects of the UGOC transaction:

> Q. Do you know if any of your clients knew about these negotiations you were having considering the possible sale of PageOne?
> A. I do believe some did.
> Q. How did they know that?
> A. I don't recall.
> Q. Did you inform any of them?
> A. I don't recall how they knew.
> Q. Do you have any recollection of informing anybody?
> A. I recall a personal friend by the name of Peter Crowley, Saratoga Springs, New York, and Peter was a very close friend. We may have discussed the fact that I was going to do a partnership with UGOC.

(Div. Ex. 166:122:7-21 (emphasis added).)[170]

152. Mr. [redacted] in an under-oath declaration, stated that "Page never told me (a) anything about UGOC purchasing an interest in PageOne; or (b) that UGOC had made payments to Page." (Div. Ex. 185, ¶ 7.)

153. Mr. [redacted] was not the only investor to swear that Page told them nothing about the UGOC transaction. Robert [redacted]—who invested approximately $600,000 in the

[170] Page has known Crowley for "[p]robably ten years" (Hearing Tr. at 152:11), and believes that Crowley "is a very honest man." (Hearing Tr. at 152:4-5.)

Funds—also submitted a declaration stating that Page did not tell him anything about the UGOC acquisition. (Div. Ex. 99, ¶ 7.)[171]

154. At the April 20 hearing, Page confirmed that when he initially testified under oath he "could not recall any clients that" he "had told about the acquisition with the exception of Mr. [redacted]. (Hearing Tr. at 151:5-8.)

155. Page also acknowledged that he did not tell any of his clients at PageOne all of the details about the acquisition by UGOC because of Respondents' NDA with Uccellini and UGOC. (Hearing Tr. at 142:11-16.)[172]

156. However—in his pre-hearing brief concerning remedies, dated April 17, 2015—Page claimed that he "orally advise[d] certain client who invested in the Private Funds about the preliminary and ongoing negotiations between himself and United." (Resp. Pre-hearing Br. at 5.) Page also testified, at the Hearing, that he told "certain friends"—including John [redacted], Ira [redacted], Steven [redacted] William [redacted] and Peter [redacted]y—that Page "was going to enter into a partnership, but I could not speak of the details". (Hearing Tr. at 142:17-23,[173] 148:13-23,[174] 149:25-150:7.[175])

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171 "At the time I invested in the United Fund, E. Page did not tell us that Uccellini, UGOC or any affiliated entity (i) had an interest in PageOne; (ii) was negotiating with Page to acquire such an interest, or (iii) had paid any monies to E. Page or PageOne in connection with such acquisition."

172 "Q. Did you tell the clients at PageOne that invested in the United funds the details about the acquisition of PageOne by the United Group? A. I could not under the non-disclosure agreement legally."

173 "Q. So you did not tell them? A. I told certain friends that I was going to enter into a partnership, but I could not speak of the details. And Mr. Xaferas [sic] of NRS told us it was not necessary to disclose at this time because we were only in talks and that is of record."

174 "THE WITNESS: Yes. But first one was my accountant and the next two were my best friends, John [Rutnik] was my accountant, [Benson] did my lawn, St[i]er was my dentist. The Crowleys were my closest friends. St[i]er was my dentist again. Expanded Options was my dentist. M&M was Mr. St[i]er. Steve [Chaissan] was a 40 year friend. Most all of these people

157. Page further testified that he chose to provide more information about the UGOC transaction to clients who were his friends than to clients he did not have a social relationship with:

> Q. So you told your clients who were your friends?
> A. Yes.
> Q. But you didn't tell your other clients?
> A. I did not want to go out and disclose to all of these over people down below that I was in the NDA.
> Q. So you gave your friends more information than you gave your clients who weren't your friends?
> A. If you want to put it that way, yes.

(Hearing Tr. at 150:8-19.)

158. Page's current position—that he told some of the truth to some of his clients if they were his friends—is in any event not credible. First, it is directly contradicted by the Commission's findings in the Consent Order that prior to issuing the July 31, 2014 Form ADV, "Respondents remained entirely silent concerning their relationship to [UGOC] and the [UGOC Funds].[176] (Consent Order, ¶ III (D) 18.) Second, it is contradicted by his earlier statement, made before the Commission instituted an action against him, that "No disclosures were ever made." (Div. Ex. 87.) Third, it is contrary to Page's stated rationale for not telling his other (non-friend) clients the truth about the UGOC acquisition because he did not wish to disclose the existence of the NDA. Fourth, Page chose not to call any of the investors that he now claims to have told. Instead, he chose simply to testify about

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were very close to me. I shared with them I was going to do a partnership and I moved into the United building at the same time."

[175] "Q. I thought a few minutes ago you said that you couldn't tell your clients about the acquisition because of the non-disclosure agreement? A. I could not go into the details, but I did tell some friends that I was going to go into a partnership.

[176] Each client Page purports to have told about the UGOC acquisition—John Rutnik, Ira Stier, Steven Chaissan, William Benson, and Peter Crowley—invested prior to July 31, 2009. (See Div. Ex. 183, Exhibit A).

those clients' purported out of court statements. (See, e.g., Hearing Tr. at 149:12-17.)[177] Fifth, it is contrary to Crowley's declaration. (Div. Ex. 185, ¶ 7.)[178]

159. In any event, Page does not claim to have told any of his clients the whole truth about his relationship to UGOC. Page does not claim to have told his clients, who were not his friends, anything about the UGOC acquisition. (Hearing Tr. at 142:11-16.)[179] Even the clients Page claims to have given some information to were—according to Page—only told about a potential partnership with UGOC. (Hearing Tr. at 142:18-20,[180] 148:24-149.[181])

160. Page also does not dispute that there was no disclosure concerning UGOC or the acquisition in PageOne's Forms ADV prior to July 31, 2009. (Hearing Tr. at 146:13-17,[182] 147:7-148:4.[183])

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177 "I recall Mr. Benson coming to my house one day for pancakes, and he said, I knew everything you were going to do, I knew everything about Walter Uccellini".

178 "Page never told me (a) anything about UGOC purchasing an interest in PageOne; or (b) that UGOC had made payments to Page."

179 "Q. Did you tell the clients at PageOne that invested in the United funds the details about the acquisition of PageOne by the United Group? A. I could not under the non-disclosure agreement legally."

180 "Q. So you did not tell them? A. I told certain friends that I was going to enter into a partnership, but I could not speak of the details."

181 "Q. What did you tell them about this partnership? A. That Mr. Uccellini had arrived in my office along with Mr. del Guidice from New York. We had decided that we were going to merge together with a 49/51 partnership. I was going to handle state and federal pensions if I qualified under request for participation."

182 "Q. This is the first document that this language appears in, correct? A. I would assume, sir. Q. It is dated July 31, 2009, correct? A. Yes."

183 "Q. So you see on Exhibit A, you see the lists of your clients' investments on the funds? A. Yes. Q. And you see those investments started on March 5, 2009, correct? A. Yes. Q. And you see you go down to July 8, 2009, there is a whole lot of people who you would agree with me who invested money in the United funds before July 2009, correct? A. Yes. Q. And they didn't receive this ADV because it didn't exist yet, correct? A. If that didn't exist, then you are correct. Q. So those people, they were never told anything about your relationship with the United

A. July 31, 2009 Form ADV, Part II

161. On July 31, 2009, PageOne issued an amended Form ADV Part II to disclose certain information about UGOC and the UGOC Funds. (Div. Ex. 14 at Schedule F, Page 10.)

162. It was Page's job to approve any amendments. (Hearing Tr. at 62:16-63:12.)[184] Page admits that he reviewed the changes to this Form ADV. (Hearing Tr. at 160:2-8.)[185]

163. This new Form ADV contained some disclosure concerning Page's relationship to UGOC:

> *Fee Schedule*: PageOne Financial does not directly charge the client a fee for this service. PageOne Financial is compensated by a referral fee paid by the [Fund] Manager of the Private Fund(s) in which its clients invest. The management and other fees the client pays to the Private Funds are not increased as a result of Registrant's referral of clients to the Private Funds. PageOne Financial will typically receive, on an annual basis, a referral fee of between 7.0% and 0.75% of the amount invested by the client in the applicable Private Fund(s).

(Div. Ex. 14 at Schedule F, Page 10 (emphasis added).)

164. This disclosure was false and misleading.

Group, correct? A. I'm looking at a lot of people that I did tell, but there is no ADV disclosure at the time."

[184] "Q. And it was your job to approve any changes made to the forms ADV at PageOne? A. I would approve post the counselor as well as the compliance officer interfacing National Regulatory Services with language from what I believe was experts. NRS had housed former SEC attorneys that helped with the language. Q. But a change couldn't make it into an ADV without you approving that change, correct? A. Once I trusted what it said was what it was supposed to say, yes. Q. Was your expectation that any changes made to the ADV would have your signoff before that ADV was given to clients or posted on the website? A. Yes, completely. Q. And it was your practice to review PageOne's form ADV, wasn't it? A. Yes, sir."

[185] "Q. You already testified that you reviewed this document, correct? A. Correct. Q. And you reviewed this section of it, correct? A. Yes, I'm not the lawyer that created it, sir."

165. First, the Form ADV says nothing about Respondents' true relationship with UGOC, about the acquisition, or any of the terms of that acquisition.

166. Second, UGOC simply did not pay any "referral fee[s]" to Respondents, as Page acknowledges. (Hearing Tr. at 106:15-107:14.)[186]

167. Third—during the one year and two weeks that this disclosure existed—UGOC paid Page an amount equivalent 15.79% of his clients' investments into the Funds. (Div. Ex. 179 (table showing amount UGOC paid to Page as a percentage of Page's client investment into the Funds during different disclosure periods).) In other words, Page received more than twice the amount that he told his clients would be the upper range for the "referral fee[s]".

168. Page understood when his clients invested in the UGOC Funds as well as when UGOC made payments to him. (See Sections XVI-XVII, supra.) Thus, he was well aware that such payments greatly exceeded 7% during the relevant period. Page's defense to this is that he never attempted to calculate this percentage because he thought it would be "presumptuous of me to conflate the two amounts." (Hearing Tr. 166:24-167:2.)

169. Fourth, as Page has repeatedly admitted, he never intended the July 31 Form ADV disclosure to notify clients of the true nature of Respondents' relationship to UGOC. Instead, the above disclosure referred to two entirely separate and additional fees—a referral fee and an annual advisory fee—that Page was considering charging. Indeed, as he both testified and instructed Burke, he did not want to tell his clients the truth about his

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[186] "Q. Again, that's not quite answering the question that I asked, so let me try to focus it again. Just focusing on the down payment, and the down payments, that's the only money that United ever paid to you, correct? A. The down payments are the only money. Q. The down payments on the acquisition that we have been talking about? A. That's correct. Q. That's the only money they ever paid to you? A. Correct. Q. You never received a 7 percent referral fee? A. No. Q. You never received a consulting fee? A. No. Q. In fact, you weren't ever a consultant? A. No. Q. You weren't entitled to a referral fee, correct? A. That's correct."

relationship with UGOC, the Funds, and Uccellini. (See ¶ 46 supra; see also Consent Order, ¶ III (D) 25 ("E. Page told his Assistant Compliance Officer that he did not want to disclose the true nature of the arrangements with the Fund Manager").)

170. Page admitted that the July 31, 2009 ADV disclosures concerning "referral fees" were not an attempt to put his clients on notice of the true conflicts. (Hearing Tr. at 158:3-6.)[187]

171. Instead—as Page testified at both the hearing and during investigative testimony—the UGOC fee disclosures were an attempt to disclose two entirely different fees: (a) a one-time referral fee of 7% paid by UGOC to Page; and (b) an annual advisory fee of 0.75% paid to Page by his clients. (Div. Ex. 166 at 73:2-13,[188] see also Hearing Tr. at 158:16-19.[189])

172. Specifically, Page had planned that he would receive the purported 7% referral—not on an annualized basis—but one time at when his clients invested into the Funds:

> In 2008, when Mr. Quinn first approached Mr. Page about the possibility of PageOne's clients investing in the Funds, they also discussed whether United could pay PageOne a referral fee for introducing investors. Specifically, Mr. Page and Mr. Quinn discuss United paying Page a one-time referral fee of 7% of the amounts that PageOne's clients invested in the Funds.

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187 "Q. And you never intended this disclosure to have anything to do with the acquisition, correct? A. That's correct."

188 "Q. So, your recollection is, this actually refers to two distinct charges or two distinct flows of income to [PageOne]; one is seven percent being paid by the manager of the private fund, the three quarters of a percent would be paid by the client as an advisory fee; is that correct? A. Right. Q. And just to be clear, the seven percent was just a payment upon investment whereas the three-quarters of a percent is an annual advisory fee. Is that accurate? A. Yes."

189 "Q. This 7 percent, this referred to the referral fee that you had intended to charge at some point in time, correct? A. Well, if we charged it, yes."

(Div. Ex. 183, ¶ 44 (stipulations of fact); see also Div. Ex. 166 at 70:6-13.[190])

173. However, Page dropped the idea of charging a referral fee when he realized that in order to do so he would need to re-new his securities licenses. (Hearing Tr. at 107:12-22[191], see also Div. Ex. 166 at 80:4-81:4.[192])

174. Indeed, Page thought that the 7% "referral fee" language had been removed from the Form ADV because it was not accurate. (Div. Ex. 166 at 69:24-70:8.)[193]

175. Likewise, the reference to "0.75" in the July 31, 2009 ADV referred to an annual advisory fee Respondents were considering charging their clients on investments in the UGOC Funds. (Div. Ex. 166 at 72:18-73:1.)[194]

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190 "Q. And was it your understanding you were going to get 7 percent of the amount invested? A. Yes. Q. Now was that just in the year of the investment or was that annually over the term of the investment, how did that work? A. That was at the inception of the actual investment."

191 "Q. You weren't entitled to a referral fee, correct? A. That's correct. Q. That's because you didn't have the necessary securities licenses to be paid a referral fee? A. I had delisted as a securities broker and did not want to re-enlist. Q. You understood that you had to re-enlist in order to be paid a referral fee? A. Correct."

192 "Q. So, without disclosing the source of your understanding, at some point you came to an understanding that, in order to charge the referral fees that had been previously discussed, you would have to reactivate your securities license; is that correct? A. Correct. Q. And you would have to then be associated with a broker-dealer? Was that part of it? A. Yes. Q. And you decided that you didn't want to do that; is that correct? A. Correct. It would have been easy, but, we decided not to. Q. Were there any other reasons you decided not to? A. No other reason. I didn't want to bring liability to my firm by reactivating my license. Q. Just explain what your concern was, how reactivating your license would threaten your firm. A. As you've asked me questions regarding the U4 and reporting history, any time you are an asset gatherer in with a client, you run the risk of being sued for something someone's disgruntled over. I'm an asset manager and I don't want to risk my firm by being an asset gatherer again."

193 "Q. So, when you were discussing referral fees, how were those going to be calculated? A. Well, if I had disclosed this and not redacted it, as I recall we had done, I would have, of course, in this announcement notified the client that they would be or I would be receiving this compensation. Q. And was it your understanding you were going to get seven percent of the amount invested? A. Yes." (Emphasis added.)

194 "It appears that we're trying to disclose the seven percent as the intent in the inception of receiving our fee for this particular investment as a brokerage fee, if you will, and it appears that three quarters of a percent of the amount invested by the client in the applicable private funds.

176. In addition, Page knew the July 31, 2009 Form ADV disclosure was false. He knew all of the terms of his dealings with UGOC and Uccellini. (Hearing Tr. at 49:17-50:6.)[195] He knew what had been disclosed in the Forms ADV. (See ¶¶ 46-47 supra.) Indeed, Page made an affirmative decision not to tell the truth to his clients. (See ¶ 46 supra.)

B. National Regulatory Services, Inc.

177. Although Page read and approved the changes to the July 31, 2009 Form ADV, he did not personally draft the disclosure. Rather, PageOne hired a compliance consulting firm, National Regulatory Services, Inc. ("NRS"), in July 2008. (Hearing. Tr. at 167:10-15,[196] id. at 168:11 ("A. It looks like a standard agreement").) According to the terms of the PageOne's contract with NRS, NRS was to "work with client to include additional language for a new product offering to their ADV and Agreements." (Div. Ex. 11 at Exhibit A.)

178. Page's signature is on the agreement and he testified that it was his practice to review it. (See Div. Ex. 11 at 3, Exhibit A; see also Hearing Tr. at 169:15-170:3.[197])

So, we would charge annually for servicing the client three quarters of a percent." (Emphasis added.)

[195] "Q. You were the one who was negotiating with Mr. Uccellini about what the terms of the acquisition between the United Group and PageOne would be? A. With counsel, yes. Q. You took the lead from a business standpoint in your company? A. Yes, I did. Q. Okay. And so you weren't in the dark about what the terms of the acquisition were, were you? A. No."

[196] "Q. You hired NRS to help with amendments to PageOne's ADV? A. For the last 15 years. Q. And you hired them -- one time you hired them was in July of 2009, correct? A. Yes."

[197] "Q. And then is your signature the signature directly above PageOne Financial, Inc.? A. It is a stamp, sir. Q. Who placed that stamp on this document? A. There is only one person with authorization to find that stamp and it would be Mr. Sean Burke. Q. And you said it was your practice to review these documents before your signature stamp was placed on them? A. That's correct."

179. The NRS agreement made it clear that NRS was not providing any legal advice to PageOne: (Div. Ex. 11 at 1, ¶ 4.)[198]

180. NRS again told PageOne that it was not providing legal advice on August 3, 2009. (Div. Ex. 15 (Email from Xifaras to Burke).)[199]

181. NRS also made it clear, in the agreement, that PageOne—not NRS—was solely responsible for ensuring that any information in the Form ADV was accurate. (Div. Ex. 11 at 2, ¶ 7(b).[200]

182. Page understood that NRS was not responsible for the accuracy of PageOne's Forms ADV. Rather, Page understood that he was solely responsible—as the Chief Compliance Officer—for the accuracy of the information in PageOne's Forms ADV:

> Q. And, in fact, you understand, don't you, in your agreement -- in PageOne's agreement with NRS that PageOne was solely responsible for the accuracy of the information contained in the Forms?
> A. I would rather change the word PageOne to chief compliance officer.

(Hearing Tr. at 172:23-173:5 (emphasis added).)

183. In addition, Page's contention that he and Burke provided NRS with all information about the UGOC acquisition is not supported by the documentary evidence. (See Div. Exs. 13, 17.)

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198 "NRS does not render any legal or financial advice relating to incorporation, the securities laws, or any other advice of a legal or financial nature".

199 "NRS is not a law firm and thus cannot provide legal advice. While I am a lawyer, I am not acting as your firm's lawyer. The recommendations I make are strictly from a regulatory/compliance perspective and should not be interpreted as legal advice".

200 "NRS is responsible only for preparing the application documents and any supplementary forms for review and signature by Client and filing the documents or supplementary forms with the appropriate agencies. Client will be solely responsible for the accuracy of the information and representations contained in any application document(s) or any other form(s) prepared and filed by NRS . . . ." (Emphasis added.)

184. On July 28, 2009, Xifaras wrote to Burke to ask, among other things, "How exactly will PageOne be compensated for the referral to the private fund?" (Div. Ex. 13 at PGNRS0000574, ¶ 4 under "Part II, Item 1D".) Xifaras would not need to ask this question if he understood the truth—that there were no referral fees, but rather acquisition down payments.

185. Burke wrote back "Let me get back to you on this one. Still need to discuss further with Ed Page." (Div. Ex. 13)

186. Later that same day, Burke wrote back to Xifaras that "As for #4 regarding the compensation for the private funds. Mr. Page has informed me that PageOne will be paid 7% the first year by United and after the first year we will be paid our ongoing adviser fees as set out in the Adviser Fee Scheduled . . . ." (Div. Ex. 13 at PGNRS0000573.)

187. Thus, PageOne—through Burke, at Page's direction—told Xifaras that PageOne would be a paid a 7% fee and an annual advisory fee, but said nothing about an acquisition. This is consistent both with (a) Page's testimony that the language that ultimately appeared in the July 31, 2009 Form ADV had nothing to do with the acquisition, but instead described the abandoned referral fee; and (b) Page's instruction to Burke not to disclose the truth. (Consent Order, ¶ III (D) 25 ("E. Page told his Assistant Compliance Officer that he did not want to disclose the true nature of the arrangement with" UGOC).)

188. In addition—even after the July 31, 2009 Form ADV was published—Xifaras again expressed his (mistaken) belief to Burke that PageOne was really being paid a "referral fee," as disclosed in the July 31, 2009 Form ADV, not acquisition down payments. Thus, on August 18, 2010, Xifaras wrote to Burke asking "[h]as the referral fee arrangement been settled yet with the Fund Manager? If so, please forward the details.

Have you further refined the fee arrangement? Do you know the details of when PageOne get paid after the referral?" (Div. Ex. 17 at PGNRS0000373.)

C. PageOne's September 14, 2010 Form ADV

189. PageOne again amended its Form ADV on September 14, 2010. (Div. Ex. 48.) The new Form ADV deleted the reference to "a referral fee of between 7.0% and 0.75%." (See Div. Ex. 48 at Schedule F, Pages 10-11.)[201] In its place, PageOne now disclosed that:

> Edgar R. Page, Chairman and Chief Financial Officer of PageOne Financial, is also employed as a consultant to the United Group of Companies, Inc. ("UGOC"). UGOC is a real estate investment and development firm. Mr. Page is compensated for the consulting services he provides to UGOC. As disclosed above, PageOne Financial recommends private funds that are managed by the UGOC to PageOne Financial's advisory clients for which PageOne Financial receives an advisory fee.

(Div. Ex. 48 at Schedule F, Page 13.)

190. As Page knew, however, he was never an employee or a consultant to UGOC. (Hearing Tr. at 107:7-11;[202] see also Div. Ex. 166 at 82:13-15.[203])

191. Page admitted under oath that "[t]his paragraph is not accurate." (Div. Ex. 166 at 83:20-21) and should have been "redact[ed]" from the Form ADV. (Id. at 82:16-21.)

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[201] The September 14, 20104 Form ADV continued to disclose that "Registrant is compensated in the Alternative Investment Program by a referral fee paid by the private investment fund in which the client is invested." (Id. at Schedule F, Page 3.)

[202] "Q. You never received a consulting fee? A. No. Q. In fact, you weren't ever a consultant? A. No."

[203] "Q. Let's turn back to page 13. Were you employed at this point as a consultant to UGOC? A. Never."

D. NRS' Involvement with the September 14, 2010 Form ADV

192. Respondents again hired NRS to assist in preparing the amended Form ADV. (See Div. Ex. 51 (email from Burke to Michael Xifaras, "I need help updating our ADV Part II.")

193. Again, Respondents did not tell NRS the truth about their relationship with UGOC and the Funds. Thus, Burke wrote to Xifaras on September 14, 2010:

> I need your help updating our ADV Part II . . . . In regards to our Alternative Investment Program, we will now be charging 1% annually going forward to new clients . . . . I also need to list that Ed [P]age will be compensated as a consultant to the United Group. Was not sure how to word it. Can you help me with this?

(Div. Ex. 51 at PGNRS0000213-14.) Burke does not mention the down payments (that were happening), but only the consulting fees (that were not).

194. NRS then suggested consulting fee language nearly identical to what ultimately made its way into the September 14, 2010 Form ADV. (Id. at PGNRS0000213.)[204]

195. At the same time, however, Xifaras demonstrated that he did not fully understand Page's true arrangement with UGOC, writing to Burke that:

> This is the best I could do without further information re: Ed's arrangement with UGOC. Please let me know if there is any other information is relevant and I can help you add it into the disclosure.

(Id.)

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[204] "Edgar R. Page, Chairman and Chief Financial Officer of PageOne Financial, is also employed as a consultant to [UGOC] . . . . Mr. Page is compensated for the consulting services he provides to UGOC."

E. PageOne's March 1, 2011 Form ADV

196. On March 1, 2011, PageOne again amended its Form ADV. (Div. Ex. 61 (Form ADV, Part 2A, Mar. 1, 2011.) This document deleted any discussion of Respondents' relationship to UGOC, the Fund, or Uccellini. (Id.; see also Div. Ex. 183, ¶ 67.[205])

197. The March 1, 2011 Form ADV stated, in part:

> We disclose to clients the existence of all material conflicts of interest, including the potential for our firm and our employees to earn compensation from advisory clients in addition to our firm's advisory fees.

(Div. Ex. 61, at Item 10, ¶ 1.)

198. Between March 1, 2011 and September 28, 2011, Respondents' clients invested $1,936,000 in the Funds. (See Div. Ex. 179 (summary exhibit comparing UGOC's down payments to timing of client investments in the Funds); see also Div. Ex. 183, Exhibits A-B.)

199. During that same period, UGOC paid Page down payments of $700,000, equivalent to 36.16% of the amounts their clients invested during the same period. (Div. Exs. 179; 183, Exhibits A-B.)

200. Of the eight clients that invested into the Funds following the issuance of the March 1, 2011 Form ADV, six of them—Wayne [redacted], Frances and Robert [redacted] Heather [redacted] and John and Cathy [redacted]—had not previously invested in the UGOC Funds. (See Div. Ex. 183, Exhibit A.)

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[205] "On March 1, 2011, PageOne Financial amended its Form ADV to remove all references to United and the United Funds."

201. Each of those clients listed PageOne as their investment adviser on their paperwork making their respective investments into the Funds and PageOne collected and sent the relevant paperwork to TD Ameritrade to get the investments executed.[206]

202. In addition, UGOC copied Respondents on their communications confirming the clients' investments in the Funds.[207]

XX. The UGOC Funds Face Collapse

203. On December 16, 2014, UGOC informed investors in the Equity Fund that $7.35 million of the Equity Fund's investments had been lost. (Div. Ex. 182 at attached letter from UGOC.)[208] This loss represented approximately 93% of the Fund's total assets under management of approximately $7.9 million. (Id. (percentage of loss versus remaining $460,000 and $133,888 in assets letters say remain).)

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206 See Ex. 176(a) at PG062600011938 (letter of authorization from Wayne McDaniel authorizing TD Ameritrade to make a $500,000 investment into the Income Fund II and listing "PageOne Financial, Inc." as "Advisor"); id. at PG06260011978 (facsimile from PageOne to TD Ameritrade, dated March 17, 2011, enclosing [redacted]'s paperwork to purchase the Income Fund II); id. at PG06260006894 (letter of authorization, dated March 17, 2011, for Francis Tobia to invest $50,000 into the Income Fund II and listing "PageOne Financial, Inc." as "Advisor"); id. at SEC-PageOne-E-0043458 (same for Mattice's $198,000 investment in Income Fund II); id. at PG06260007096 (same for Madigan's $100,000 investment in Income Fund II); id. at PG06260007091 (facsimile from PageOne to TD Ameritrade attaching paperwork for Madigan's $100,000 investment in Income Fund II); id. at PG06260007031 (PageOne's solicitor disclosure statement for Tobia's $200,000 investment in Income Fund II, listing PageOne as "Advisor"); id. at PG06260011137 (facsimile from PageOne to TD Ameritrade, dated September 16, 2011, and enclosing purchase documents for Tobia's $175,000 investment in Income Fund II); id. at PG06260006938 (facsimile from PageOne to TD Ameritrade enclosing purchase documents for Tobia's $227,000 investment in Income Fund II).

207 See Div. Ex. 176(a) at PG06260011933 (letter from UGOC to Wayne [redacted] confirming $500,000 investment in the Income Fund II); id. at PG06260006899 (same concerning Francis Tobia's $50,000 investment into the Income Fund II); id. at PG06260007088 (same concerning Heather Madigan's $100,000 investment in the Income Fund II); id. at PG06260011929 (same concerning McDaniel's $100,000 investment in Income Fund II); id. at PG06260006936 (same concerning Tobia's $227,000 investment in Income Fund II).

208 "The Fund's investment in these two properties [College Suites at Brockport and College Suites at Cortland] has been lost . . . The Fund invested $3,850,000 in Brockport Suites, LLC and $3,500,000 in Cortland Suites, LLC."

204. UGOC also informed Equity Fund investors that the remaining assets—valued at less than $600,000—either faced foreclosure or had, to date, been unable to sell any real estate. (Div. Ex. 182.)[209]

205. On January 20, 2015, UGOC further informed Equity Fund investors that another asset, Plattsburgh Suites, LLC ("Plattsburgh Suites")—in which the Equity Fund has invested $460,000—had filed for bankruptcy protection. (Div. Ex. 184 at attached UGOC letter.)[210]

206. Also on January 20, 2015, UGOC informed investors in the Income Fund that the Income Fund had invested over $6.8 million in the-now bankrupt Plattsburgh Suites. (Div. Ex. 186.)

XXI. Page Has Not Accepted Responsibility for His Fraud

207. Since the entry of the Consent Order, Page has continued to maintain that he acted at all times in "good faith" and was "reasonable":

- "Mr. Page erroneously, but in good faith, concluded that disclosure of neither the preliminary and confidential transactional negotiations nor the earnest money deposits was appropriate . . . ." (Resp. Remedies Br. at 19.)
- Page's decision not to disclose the truth reflected his "reasonable, good faith belief regarding the applicable disclosure requirements." (Id. at 20.)
- Page believed that PageOne's disclosures "appeared to be reasonable." (Id. at 21.)
- "Mr. Page believed that the disclosure language was sufficient to meet PageOne's disclosure obligations." (Id.)

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209 "Plattsburgh Suites, LLC is facing foreclosure . . . and Kinderkill Development has been unable to sell housing lots and return capital."

210 "On Friday January 16, 2015, Plattsburgh Suites, LLC filed for Chapter 11 bankruptcy protection."

208. Page also placed the blamed on Burke, his Assistant Compliance Officer, and NRS:

- "Looking back, Mr. Page knows that he should have relied less upon Mr. Burke and NRS and should have been more involved in developing the disclosure language." (Id. at 17.)

- "Rather than Respondents' alleged intent to defraud, it was Respondents' unfortunate decision to rely upon Mr. Burke and NRS that resulted in the Adviser Act violations here at issue." (Id. at 19.)

209. Page also denied hiding the truth about his relationship with UGOC from, at least some, of his clients. (Id. at 5;[211] Hearing Tr. at 149:25-150:7,[212] 150:8-19.[213])

210. Page denied that—in connection with agreeing to the entry of the Consent Order—he agreed to "not take any action or make or permit to be made any public statements denying directly or indirectly any finding in the Order or creating the impression that the Order is without factual basis" (Compare Offer, ¶ IX(i)[214] with Hearing Tr. at 44:8-22.[215])

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[211] "Mr. Page did, however, orally advise certain clients who invested in the Private Funds about the preliminary and ongoing negotiations between himself and United."

[212] "Q. I thought a few minutes ago you said that you couldn't tell your clients about the acquisition because of the non-disclosure agreement? A. I could not go into the details, but I did tell some friends that I was going to go into a partnership."

[213] "Q. So you told your clients who were your friends? A. Yes. Q. But you didn't tell your other clients? A. I did not want to go out and disclose to all of these over people down below that I was in the NDA. Q. So you gave your friends more information than you gave your clients who weren't your friends? A. If you want to put it that way, yes."

[214] Respondents "not take any action or make or permit to be made any public statements denying directly or indirectly any finding in the Order or creating the impression that the Order is without factual basis."

[215] "Q. And it says, 'As part of respondents' agreement to comply with the terms of Sections 202.5(e), respondents (i) will not take any action or make or permit to be made any public statement denying directly or indirectly any finding in the order or creating the impression that the order is without factual basis.' Do you see that? A. Yes, I do. Q. And you agreed to that when you signed this offer, correct? A. No, I agreed that I was neither admitting or denying, so that paragraph was below the first paragraph of my statement."

XXII. Page's Financial Condition

211. Respondents offered Statements of Financial Condition for Page and for PageOne to attempt to establish that they are unable to pay the monetary sanctions sought by the Division. (Resp. Exs. 214-215.)

212. These Statements of Financial Condition did not reflect Respondents' complete financial information from 2009. Among other things, they do not reflect how the $2.7 million paid by UGOC to Page was spent and they do not contain Respondents' tax returns for any year before 2014.

213. The Court permitted the Respondents to seek additional bank records after the remedies hearing. (Hearing Tr. at 205-207). The supplemental records obtained by Respondents have been admitted as Resp. Exs. 216 (a)-(i).

214. In 2014, Page was paid [redacted] in salary. (Resp. Ex. 214, Page 2014 Income Tax Return, Form 1040, line 7.)

215. In 2014, Page was paid [redacted] as a director's fee. (Resp. Ex. 214, Page 2014 Income Tax Return, Form 1040, Schedule C, line 7.)

216. In 2014, Page received officer loans amounting to [redacted] from PageOne. (Resp. Ex. 215, "PageOne Financial, Inc. - Consolidated Financial Statements 2014-12-31 at 7 n2.)

217. In his Statement of Financial Condition, Page listed the value of his real estate at [redacted]. (Resp. Ex. 214, SEC Financial Condition of Edgar Page at 1.) In a Personal Financial Statement prepared for Trustco Bank in August 2014, Page lists his "Residence Market Value" as [redacted]. (Id., Personal Financial Statement (For Trustco-8-26-14 at 1.)

218. In July 2014, shortly after the submission of his final Wells response in June 2014 (Div. Ex. 97, dated June 20, 2014), Page purchased an Audi S9 for over [redacted]. (Resp. Ex. 214, Contract with Rt. 9 Autoworld, Inc. 214-07-23 for purchase of 2013 Audi S9 Car).

219. In his Statement of Financial Condition, Page indicates that his average monthly expenditures in 2014 were [redacted]. (Resp. Ex. 214, Statement of Financial Condition, Section II.B.) Part of this amount included monthly "household expenses" of [redacted]. (Id.) The components of these "household expenses" are not detailed in the Statement, but the "household expenses" category does not include expenses for mortgage, food, utilities, automobiles and household maintenance, all of which are listed separately. (Id.)

220. On March 30, 2011, [redacted] was paid from a RONNO NV, Inc. Bank of America account to "N4605J, LLC." The check was signed by Cheryl Page. The memo line indicated that the check was for "Loan to purchase plane." (Resp. Ex. 216(a), Bank of America RONNO NV, INC.-Account [redacted] at 1). On April 4, 2011, [redacted] was paid from the Bank of America account of N4605J, LLC to David Leckonby. The check was signed by Cheryl Page. The memo line indicated that the check was for "Piper Arrow Purchase." (Resp. Ex. 216(a), Bank of America N4605J, LLC at 1.)

221. On July 7, 2010 and July 20, 2010, Edgar Page wrote checks to his daughter Deborah Ecklund for [redacted] and [redacted] respectively from his accounts at First Niagara Bank. The memo lines on the checks indicate that they were gifts. (Resp. Ex. 216(c), PageOne Docs_REDACTED_FINAL at 1578-79.)

222. On February 23, 2010, Edgar Page wrote a [redacted] check from his bank of America account to the Living Water Church of God. (Resp. Ex. 216(a), Bank of America – EDGAR R. PAGE-Account. [redacted] at 13.)

223. On September 26, 2009, [redacted] was paid from PageOne's account at Berkshire Band to "Route 9 AutoWorld." The check appears to have been signed by Edgar Page. The memo line indicates that the check was for [redacted]." (Resp. Ex. 216(b), Berkshire bank – additional bank records – CHECKS at 172).

224. Records from PageOne's account at Berkshire Bank show that in October 2009, Page wrote checks on PageOne's account aggregating over [redacted] to pay for floor lamps and table lamps. (Resp. Ex. 216(b), PageOne Docs_REDACTED_FINAL at 111, 114.)

225. On December 18, 2009, [redacted] was paid from PageOne's account at Berkshire Band to "Route 9 AutoWorld." The check appears to have been signed by Edgar Page. The memo line indicates that the check was for [redacted] – [redacted]." (Resp. Ex. 216(b), Berkshire bank – additional bank records – CHECKS at 277).

226. On December 18, 2009, [redacted] was paid from PageOne's account at Berkshire Band to "Route 9 AutoWorld." The check appears to have been signed by Edgar Page. The memo line indicates that the check was for [redacted] (Resp. Ex. 216(b), Berkshire bank – additional bank records – CHECKS at 281).

227. On April 11, 2011, a check for [redacted] was written on the Bank of America account of RONNO NV, Inc. and made payable to "Edgar Page." The check was signed by Chery[redacted] The memorandum line indicated that the check was a "Loan for

Taxes." (Resp. Ex. 216(a), Bank of America – RONNO NV, INC-Account. [redacted] at 7-8).

228. On April 14, 2011, [redacted] was paid from a RONNO NV, Inc. Bank of America account to "Edgar R. Page." The check was signed by Cheryl [redacted]. The memo line indicated that the check was for "Transfer to Personal Acct. for OIC." (Resp. Ex. 216(a), Bank of America RONNO NV, INC.-Account [redacted] at 1). On April 14, 2011, Page wrote a check to himself from his Bank of America account for [redacted]. The memo line indicated that the check was for "Certified Check for OIC." (Resp. Ex. 216(a), Bank of America N4605J, LLC at 1.)

229. In December 2013, the Internal Revenue Service accepted an "Offer in Compromise" from Page that stated" "Within 45 days of notification of acceptance, [redacted] will be paid. Beginning in the 1st month after notification of acceptance, [redacted] will be sent in for a total of [redacted] months." (Resp. Ex. 2014, LF T. Devine 2013-12-03 re Amended offer to IRS enc. Copy of Offer in Compromise – AMENDED.)

PROPOSED FINDINGS OF LAW

I. The Court Should Disregard All Statements Contrary to the Commission's Findings in the Consent Order

1. The only question before the Court is what remedies are appropriate against Respondents. (Consent Order, ¶ IV ("Additional proceedings shall be conducted to determine what, if any, disgorgement, prejudgment interest, civil penalties and/or other remedial action is appropriate in the public interest against Respondents pursuant to Section 203 of the Advisers Act and Section 9 of the Investment Company Act").)

2. In addition, in determining the appropriate remedies, the Court is bound to accept the Commission's finding set out in the Consent Order as true. (Consent Order, ¶

IV(c) ("solely for the purposes of such additional proceedings, the findings of this Order shall be accepted as and deemed true by the hearing officer").)

3. It is appropriate for the Court to preclude facts that are contrary to its findings in consent judgments. See Siris v. SEC, 773 F.3d 89, 96 (D.C. Cir. Dec. 2014) ("the Commission's application of factual preclusion in the follow-on proceeding was appropriate because the judgment unambiguously barred Siris from making any future challenge to the allegations in the complaint".)

4. It is also appropriate for the Court to reject any purported mitigation evidence that constitutes a collateral attack on the Commission's findings in the Consent Order. (Id. ("It was also permissible for the Commission to reject Siris' purported mitigation evidence that, in reality, constituted a collateral attack on the consent judgment").)

II. Permanent Associational Bars

5. Advisers Act Section 203(f) authorizes the Commission to permanently bar Page from associating with an investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or national recognized rating organization if he (1) willfully violated, or aided and abetted any violation of, any provision of the Advisers Act (Advisers Act, § 203(e)(5)-(6)); (2) a bar is in the public interest (id., § 203(f)); and (3) Page was associated with an investment adviser at the time of the conduct. (Id.)

6. An individual is an investment adviser where they control an investment advisory firm's investment decisions. See Abrahamson v. Fleschner, 568 F.2d 862, 871 (2d Cir. 1977) (in holding that the individual general partners "are investment advisers within the meaning of Section 202(a)(11)," the Court found that the "plain language" of that section covers "any person who 'advises' others with respect to investments"); see also

In the Matter of Lisa B. Premo, ID Rel. No. 476, 2012 WL 6705813, at *19 (Dec. 26, 2012) (finding individual met definition of "investment adviser" where they controlled the advisory firm in question).

7. Investment Company Act Section 9(b)(2)- (3) allows the Court to bar Page,

> permanently or for such period of time as it in its discretion shall deem appropriate in the public interest, any person from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter if such person has willfully violated or willfully aided and abetted violations of certain provisions of the securities laws.

In the Matter of Dennis J. Malouf, ID Rel. No. 766, 2015 WL 1534396, at *39 (Apr. 7, 2015) (citing 15 U.S.C. § 80a- 9(b)(2), (3)) ("Malouf").

8. The purpose of associational bars is to protect the investing public from harm, not to punish Respondents. In the Matter of Francis V. Lorenzo, Securities Act Rel. No. 9762, 2015 WL 1927763, at *14 (Apr. 29, 2015) ("Lorenzo") ("Our intent in ordering that Lorenzo be barred from the industry is to protect the investing public from further harm, not to punish Lorenzo"); see also McCarthy v. SEC, 406 F.3d 179, 188 (2d Cir. 2005) ("It is familiar law that the purpose of expulsion or suspension from trading is to protect investors, not to penalize brokers").

A. Public Interest Factors

9. In determining whether bars are in the public interest, the Commission considers a number of factors: (1) the egregiousness of the respondent's actions; (2) the isolated or recurrent nature of the infraction; (3) the degree of scienter involved; (4) the sincerity of the respondent's assurances against future violations; (5) respondent's recognition of the wrongful nature of his conduct; (6) the likelihood that respondent's

occupation will present opportunities for future violations; (7) the age of the violations; (8) the degree of harm to investors and the marketplace resulting from the violations; and (9) the extent to which a bar will have a deterrent effect. Malouf, 2015 WL 1534396, at *39 (collecting cases).

10. "[I]nquiry into the appropriate sanction to protect the public interest is a flexible one, and no one factor is dispositive." Id. (citation omitted).

11. However, violation of the "antifraud provisions of the federal securities laws is especially serious and subject to the severest sanctions." In the Matter of Jose P. Zollino, Advisors Act Rel. No. 2579, 2007 WL 98919, at *5 (Jan. 16, 2007).

12. "Although the bare fact of a past violation is not enough, by itself, to warrant imposing a bar, past fraudulent conduct is relevant because 'the existence of a violation raises an inference that' the acts in question will recur." In the Matter of Julieann Palmer Martin, ID Rel. No. 751, 2015 WL 1004876, at *23 (Mar. 9, 2015) (citations omitted).

13. Moreover, the Commission considers the extent to which a respondent's "conduct demonstrates his inability to observe investor protections and market integrity principles that apply throughout the securities industry." In the Matter of Ross Mandell, Exchange Act Rel. No. 71668, 2014 WL 907416, at *2 (Mar. 7, 2014).

B. Scienter

14. Section 206(1) and 206(2) are anti-fraud provisions of the Advisers Act. See Malouf, 2015 WL 1534396, at *26 (noting that Advisers Act Sections 206(1) and 206(2) are "antifraud provisions"); see also SEC v. Rana Research, Inc., 8 F.3d 1358, 1363 n.4 (9th Cir. 1993) ("Section 206 parallels section 10(b) of the Exchange Act in prohibiting 'any act, practice, or course of business which is fraudulent, deceptive or manipulative'");

SEC v. Thibeault, -- F. Supp. 3d --, 2015 WL 260515, at *4 (D. Mass. Jan. 21, 2015) ("The same conduct that violates the antifraud provisions of the Exchange Act may also violate Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent conduct by investment advisers").

15. Advisers Act Section 206(1) "prohibits an investment adviser from employing 'any device, scheme, or artifice to defraud any client or prospective client.'" In re Zion Capital Management, IA Rel. No. 2200, 2003 WL 22926822, at *5 (Dec. 11, 2003) (quoting 15 U.S.C. § 80b-6(1)).

16. "It is undisputed that scienter is a required element for violations of . . . Advisers Act § 206(1)." Vernazza v. SEC, 327 F.3d 851, 859-60 (9th Cir. 2003); see also SEC v. Steadman, 967 F.2d 636, 641 n.3 (D.C. Cir. 1992) ("We therefore believe that Aaron obliges us to interpret § 206(1) the same way and agree with the Fifth Circuit that scienter is required under that section as well").

17. Scienter is "a mental state embracing intent to deceive, manipulate, or defraud." Lorenzo, 2015 WL 1927763, at *6, quoting Ernst & Ernst v. Hochfelder, 425 U.S. 185, 193 n.12 (1976).

18. A respondent acts with a high degree of scienter when they know they are misstating or omitting facts in a communication to clients. Lorenzo, 2015 WL 1927763, at *13 (finding that respondent "acted with a high degree of scienter" because he "knew, when he sent his emails to customers, that he was misstating critical facts . . . ."); see also In the Matter of Johnny Clifton, Securities Act Rel. No. 9417, 2013 WL 3487076, at *10 (July 12, 2013) (finding that respondent acted with a "a high degree of scienter" because "[h]e made statement to prospective investors that he knew were false" and he "knowingly

omitted information about the Osage project that made his statements about the project materially misleading"); In the Matter of Jeffrey L. Gibson, IA Rel. No. 57266, 2008 WL 294717, at *3 (Feb. 4, 2008) (respondent's conduct "evince[d] a high degree of scienter" because "he knew [the private placement memorandum]'s representations with respect to the use of proceeds were misleading").

19. A high degree of scienter "exacerbates the egregiousness of" Respondents' misconduct. In the Matter of Daniel Imperato, Exchange Act Rel. No. 74596, 2015 WL 1389046, at *5 (Mar. 27, 2015) (Respondents "acted with a high degree of scienter, which exacerbates the egregiousness of his misconduct"), quoting In the Matter of James C. Dawson, IA Rel. No. 3057, 2010 WL 2886183, at *5 (July 23, 2010).

20. Scienter may also be shown through "a heightened showing of recklessness." Lorenzo, 2015 WL 1927763, at *6 n.17; see also In the Matter of John P. Flannery, IA Rel. No. 3981, 2014 WL 7145625, at *10 n.24 (Dec. 15, 2015) ("Flannery") (same).

21. Recklessness can be demonstrated by showing that Respondents' conduct presented a "danger [of misleading that] was either known to the defendant or so obvious that the defendant must have been aware of it." Novak v. Kasaks, 216 F.3d 300, 308 (2d Cir. 2000). Under this recklessness standard, "securities fraud claims typically have sufficed to state a claim based on recklessness when they have specifically alleged defendants' knowledge of facts or access to information contradicting their public statements." Id.[216]

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[216] Advisers Act Section 206(2) and 207 require only a showing of negligence. SEC v. Pimco Advisors Fund Management LLC, 341 F. Supp. 2d 454, 470 (S.D.N.Y. 2004) ("Section 206(2) simply requires proof of negligence."); see also In the Matter of J.S. Oliver Capital Management, L.P., ID Rel. No. 649, 2014 WL 3834038, at *46 (Aug. 5, 2014) (under Section

22. Reckless behavior does not constitute good faith. See Rolf v. Blyth, Eastman Dillon & Co., Inc., 570 F.2d 38, 46 n.15 (2d Cir. 1978) ("Reckless behavior hardly constitutes good faith."); see also SEC v. Todd, 642 F.3d 1207, 1224 (9th Cir. 2011) (evidence that defendant "acted with at least recklessness . . . precludes his ability to rely on the good-faith defense to defeat summary judgment"); SEC v. Rubera, 350 F.3d 1084, 1094 (9th Cir. 2003) ("Reckless conduct must be something more egregious than even 'white/heart empty head' good faith and represents an extreme departure from the standards of ordinary care such that the defendant must have been aware of it . . . . Recklessness satisfies the scienter requirement only 'to the extent that it reflects some degree of intentional or conscious misconduct.'") (citation omitted); SEC v. Shanahan, 646 F.3d 536, 543 (8th Cir. 2011) ("This definition of recklessness is the functional equivalent for intent, requiring proof of something more egregious that even white heart/empty head good faith.") (internal quotation marks and citation omitted).

23. Company officers cannot lessen their own scienter by claiming that they relied on others where they knew that the statements at issue were untrue. See Graham v. SEC, 222 F.3d 994, 1005-6 (D.C. Cir. 2000) (D.C. Circuit upheld Commission's rejection of a respondent's claim that she could not have scienter because she ran all of the violative trades by her firm's compliance officer); see also Wonsover v. SEC, 205 F.3d 408, 415 (D.C. Cir. 2000) ("Precedent will not suffer [respondent's] argument that he justifiably relied on the clearance of sale by [the clearing firm], the transfer agent, and counsel").

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207 "[t]he failure to make a required report, even if inadvertent, constitutes a willful violation.") Negligence is "[t]he omission to do something which a reasonable man . . .would do . . . ." Black's Law Dictionary, 1032 (6th ed. 1991).

24. A company's scienter is imputed from that of individuals controlling it. See SEC v. Manor Nursing Centers, Inc., 458 F.2d 1082, 1096-97 nn. 16-18 (2d Cir. 1972) (finding that a person's knowledge "is imputed to the corporations which he controlled"); In the Matter of Montford and Company, Inc., IA Rel. No. 3829, 2014 WL 1744130, at *14 (May 2, 2014) ("Montford") ("Montford acted with scienter, which is imputed to his firm").

C. Investment Advisers Owe a Duty to Accurately Disclose All Conflicts of Interest to their Clients

25. As fiduciaries, investment Advisers owe their clients and prospective clients "an affirmative duty of utmost good faith, and full and fair disclosure of all material facts, as well as an affirmative obligation to employ reasonable care to avoid misleading [their] clients". SEC v. Capital Gains Research Bureau, Inc., 375 U.S. 180, 194 (1963) (internal quotation marks omitted)("Capital Gains").

26. As part of this duty, investment advisers must disclose all actual and potential conflicts of interest to their clients and prospective clients. Capital Gains, 375 U.S. at 191-92 (investment advisers must "at least . . . expose . . . all conflicts of interest which might incline an investment adviser—consciously or unconsciously—to render advice which was not disinterested."); see also In the Matter of Kingsley, Jennison, McNulty & Morse, Inc., IA Rel. No. 1396, 1993 WL 538935, at *3 (Dec. 23, 1993) ("An adviser has a duty to render disinterested advice to his client and to disclose information that would expose any conflicts of interest. Indeed, disclosure is required even where there is only a potential conflict.").

27. Investment advisers must also inform their clients and prospective clients of their "personal interests in [their] recommendations to clients." Capital Gains, 375 U.S. at 201.

28. "A conflict of interest is a 'real or seeming incompatibility between one's private interests and one's public or fiduciary duties.'" In the Matter of Montford and Company, Inc., ID Rel. No. 457, 2012 WL 1377372, at *13 (Apr. 20, 2012), quoting Black's Law Dictionary 295 (7th ed. 1999); see also Capital Gains, 375 U.S. at 191-92 (1963) (advisers must disclose anything that "might incline an investment adviser—consciously or unconsciously—to render advice which was not disinterested" to his clients).

29. This obligation—to disclose potential and actual conflicts of interest—is fundamental. In the Matter of Russell W. Stein, IA Rel. No. 2114, 2003 WL 1125746, at *7 (Mar. 14, 2003) ("for a fiduciary . . . the disclosure of potential conflicts of interest is fundamental to preserving the integrity of the relationship with the client").

30. Investment advisers must disclose all conflicts of interest fully and accurately. Capital Gains, 375 U.S. at 201 ("[W]hat is required is 'a picture not simply of the sho[p] window, but of the entire store . . . not simply truth in the statements volunteered, but disclosure.' The high standards of business morality exacted by our laws regulating the securities industry do not permit an investment adviser to trade on the market effect of his own recommendations without fully and fairly revealing his personal interests in these recommendations to his clients"); see also Montford, 2014 WL 1744130, at *15, quoting Capital Gains, 375 U.S. at 191-92 ("Capital Gains repeatedly emphasized an adviser's fiduciary duty to disclose 'all conflicts of interest'").

31. Whether or not Respondents believed that the Funds were a sound investment or were motivated by "anything other than reasonable and good-faith investment advice" is irrelevant to their obligation to disclose all conflicts of interest accurately. Montford, 2014 WL 1744130, at *16 ("The soundness of their investment advice is irrelevant to their obligation to be truthful with clients and to disclose a conflict of interest. Whether they consciously believed they could give objective, unbiased advice, despite soliciting and later receiving substantial payments from [an investment manager], that determination was not their choice to make. As we have held, it is the client, not the adviser, who is entitled to make the determination whether to waive the adviser's conflict.") (internal quotation marks and citation omitted).

32. It is essential, in the public interest, that investment advisers completely and accurately disclose all information required by the Form ADV. Montford, 2014 WL 1744130, at *16 ("Form ADV and its amendments embody a 'basic and vital part in our administration of the [Advisers] Act, and it is essential in the public interest that the information required by the application form be supplied completely and accurately'")(citation omitted); see also In the Matter of J.S. Oliver Capital Management, L.P., ID Rel. No. 649, 2014 WL 3834038, at *46 (Aug. 5, 2014) (same).

D. Sincerity of Respondents' Assurances Against Future Violations and Recognition of Wrongdoing

33. Failure to recognize wrongdoing casts doubt on a respondent's assurances against future violations. Geiger v. SEC, 363 F.3d 481, 489 (D.C. Cir. 2004) ("As the Commission noted, [respondent] still thinks he did nothing wrong, which casts doubts on his promise that he will mend his ways"); see also In the Matter of Johnny Clifton, ID Rel. No. 443, 2011 WL 7444649, at *18 (Nov. 29, 2011) ("Clifton does not acknowledge his

wrongdoing and believes he exercised the requisite standard of care, thus failing to recognize his wrongful conduct").

34. Denying that there is a factual basis for the securities laws violations in a consent order does not amount to meaningful recognition of misconduct. In the Matter of Peter Siris, IA Rel. No. 3736, 2013 WL 6528874, at *76 (Dec. 12, 2013) ("Siris") ("Denying that there is a factual basis for most of the securities law violations in the Complaint (something [respondent] agreed not to do) does not amount to a meaningful recognition of his misconduct").[217]

E. Recurrent Nature of the Infraction

35. The Commission has repeatedly found frauds lasting far less than two-and-a-half years to be "recurrent." See, e.g., In the Matter of S.W. Hatfield, AE Rel. No. 3602, 2014 WL 6850921, at *10 (Dec. 5, 2014) (finding that respondents' fraudulent actions were "recurrent" because they lasted "for over one year"); In the Matter of Toby G. Scammell, IA Rel. No. 3961, 2013 WL 5493265, at *6 (Comm. Op. Oct. 29, 2014) (conduct occurring over "a two-week period" was "recurrent"); In the Matter of Donald L. Koch, IA Rel. No. 3836, 2014 WL 1998524, at *20 (May 16, 2014) (marking the close "at least twice in the second half of 2009" was recurrent).

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[217] The D.C. Circuit upheld the Commission's decision not to credit arguments at odds with the consent judgment. Siris v. SEC, 773 F.3d 89, 96 (D.C. Cir. Dec. 2014) ("the Commission's application of factual preclusion in the follow-on proceeding was appropriate because the judgment unambiguously barred Siris from making any future challenge to the allegations in the complaint").) Indeed, the Siris Court confirmed that a respondent may not dress up denials of a consent judgment merely by designating such as "mitigating" evidence. (Id. ("It was also permissible for the Commission to reject Siris' purported mitigation evidence that, in reality, constituted a collateral attack on the consent judgment").)

F. Likelihood that Respondent's Occupation Will Present Opportunities For Future Violations

36. Continued practice as an investment adviser provides "a decided opportunity to commit future violations." Malouf, 2015 WL 1534396, at *38; see also Lorenzo, 2015 WL 1927763, at *14 ("[t]he securities industry presents continual opportunities for dishonesty and abuse, and depends heavily on the integrity of its participants and on investors' confidence.") (internal quotations and citation omitted).

37. A respondent's voluntary measures to avoid future misconduct do not ensure that there is no realistic prospect for future violations. Siris, 2013 WL 6528874, at *6 ("Siris insists that he has taken 'corrective efforts' to avoid future misconduct, such as ceasing to participate in offerings, eliminating consulting services, establishing trading compliance protocols, appointing a chief compliance officer, maintaining a restricted list, and establishing an e-mail backup system. While we acknowledge the steps Siris has taken, we find that such voluntary measures do not ensure, as he suggests, that 'there is no realistic prospect for future violations.' And accepting the sincerity of Siris's assurances against future misconduct does not mean that 'there can be no risk of future misconduct warranting a bar.' As we have held 'such assurances are not an absolute guarantee against misconduct in the future'; we weigh them against the other Steadman factors in assessing the public interest."); id., 2013 WL 6528874, at *7 ("And although Siris represents that he intends to work as a securities analyst and is prepared to agree 'not to serve as a portfolio manager or investment adviser to a managed account,' we agree with the Division that Siris's agreeing not to serve in those capacities 'does not ensure the protection of investors,' because the allegations supporting the injunction involve a broad array of misconduct not unique to service as a portfolio manager or investment adviser. Indeed,

Siris's 'repeated and egregious misconduct evidences an unfitness to participate in the securities industry that goes beyond just the professional capacity in which [he] was acting when he engaged in the misconduct underlying these proceedings.'").

III. Revocation of PageOne's Registration

38. Advisers Act Section 203(e) authorizes the Commission to revoke an investment adviser's registration where (1) revocation is in the public interest; and (2) an associated person has willfully violated the securities laws or the investment adviser "has willfully made or caused to be made in any application for registration or report required to be filed with the Commission . . . any statement that was materially false or misleading." In the Matter of Anthony Fields, IA Rel. No. 4028, 2015 WL 728005, at *23 (Feb. 20, 2015), citing 15 U.S.C. § 80b- 3(e)(1).

39. Forms ADV constitute reports required to be filed with the Commission. SEC v. Slocum, Gordon & Co., 334 F. Supp. 2d 144, 180-81 (D.R.I. 2004) ("an adviser's ADV Form and any amendment thereto is deemed to be a 'report' for purposes of Section 207.").

40. Prior to December 31, 2010, registered investment advisers' Forms ADV, Part II were deemed to be filed with the Commission; after that date registrants were required to file such forms with the Commission electronically. See Amendments to Form ADV, IA Rel. No. 3060, 2010 WL 2957506, at *55 (Aug. 12, 2010) ("Advisers will file their brochures with us electronically, and we will make them available to the public through our website. Today, while advisers' brochures are 'deemed' filed with us . . . .").

IV. Imposition of Civil Penalties

41. Section 203(i) of the Advisers Act authorizes the Commission to impose civil money penalties for willful violations. Malouf, 2015 WL 1534396, at *41-42 ("Based

on the willful violations and conduct set forth above, Respondent should be ordered to pay a civil penalty pursuant to . . . Section 203(i) of the Advisers Act . . . . Securities Act Section 8A(g) . . . authorizes the Commission to impose civil monetary penalties in any cease-and-desist proceeding against any person after notice and opportunity for hearing where penalties are in the public interest and the person has violated or caused the violation of any provision of the Securities Act or its rules and regulations").

42. "A finding of willfulness does not require intent to violate (or scienter), but merely intent to do the act which constitutes a violation." SEC v. K.W. Brown and Co., 555 F. Supp. 2d 1275, 1309 (S.D. Fla. 2007), citing Wonsover v. SEC, 205 F.3d 408, 413-15 (D.C. Cir. 2000).

43. In determining whether a penalty is appropriate in the public interest, the Court considers six factors: (1) fraud; (2) harm to others; (3) unjust enrichment; (4) previous violations; (5) deterrence; and (6) such other matters as justice may require. Flannery, 2014 WL 7145625, at *40 ("To determine whether imposing penalties would be in the public interest, we consider (i) whether the act or omission involved fraud, (ii) whether the act or omission resulted in harm to others, (iii) the extent to which any person was unjustly enriched, (iv) whether the individual has committed previous violations, (v) the need to deter such person and others from committing violations, and (vi) such other matters as justice may require.").

44. The Court may award third-tier penalties—the highest penalty range—of $150,000 for a natural person and $725,000 for an entity "for each" violative "act or omission." See Advisers Act, § 203(i)(2)(C); 17 C.F.R. § 201.1004.

45. A third-tier penalty is appropriate where, inter alia, a respondent's violation involved "fraud," and either, directly or indirectly, "resulted in substantial losses or created a significant risk of substantial losses," or "resulted in substantial pecuniary gain to" respondent. Adviser Act, § 203(i)(2)(C)(i)-(ii).

46. Courts have discretion to determine what constitutes "each" violative act or omission. In the Matter of John A Carley, ID Rel. No. 292, 2005 WL 1750288, at *68 (July 18, 2005) ("[t]he adjusted statutory maximum amount is not an overall limitation, but a limitation per violation.").

47. The Court may impose up to the maximum penalty for each false and misleading statement or omission to each advisory client. See SEC v. Pentagon Capital Management PLC, 725 F.3d 279, 288 n.7 (2d Cir. 2013) (affirming district court's imposition of third-tier penalties by counting each late trade as a separate violation); see also In re the Reserve Fund Sec.'s and Derivative Litig., 09 Civ. 4346 (PGG), 2013 WL 5432334, at *20 (S.D.N.Y. Sept. 30, 2013) ("The penalty sections of the Securities Act and the Investment Advisers Act authorize maximum penalties 'for each violation,' but do not define the term 'violation.' See 15 U.S.C. § 77t(d)(2) (A)-(C); Id. § 80b–9(e)(2)(A)-(C)). Case law indicates, however, that district courts have the discretion to calculate penalties based on each violative act. Courts may look to either the number of violative transactions or the number of investors to whom illegal conduct was directed").

48. Courts also calculate the appropriate penalty number by multiplying the appropriate tier by the number of statutory violations. See, e.g., In re the Reserve Fund Sec.'s and Derivative Litig., 2013 WL 5432334, at *20 (noting that "courts have calculated damages based on the number of statutes a defendant violated"); SEC v. Shehyn, 04 Civ.

2003 (LAP), 2010 WL 3290977, at *2, *8 (S.D.N.Y. Aug. 9, 2010) ("Shehyn") (although defendant made fraudulent representations to a "minimum [of] 700 investors," court found that the defendant "committed 5 [statutory] violations" and awarded "$120,000 for each violation: Section 10(b), Rule 10b–5, Section 17(a), Section 20(a) and Section 15(a)"); SEC v. Johnson, 03 Civ. 177 (JFK), 2006 WL 2053379, at *10 (S.D.N.Y. July 24, 2006) ("Because the jury found Johnson liable for four violations of securities fraud, civil penalties will be ordered for these four violations.").

V. Disgorgement and Prejudgment Interest

49. "The effective enforcement of the federal securities laws requires that the SEC be able to make violations unprofitable. The deterrent effect of an SEC enforcement action would be greatly undermined if securities law violators were not required to disgorge illicit profits." SEC v. First Jersey Sec.'s Litig., 101 F.3d 1450, 1474 (2d Cir. 1996) (citations omitted).

50. "The amount of disgorgement ordered need only be a reasonable approximation of profits causally connected to the violation," and "any risk of uncertainty [in calculating disgorgement] should fall on the wrongdoer whose illegal conduct created the uncertainty." Id. at 1475 (internal quotation marks omitted).

51. "[E]xcept in the most unique and compelling circumstances, prejudgment interest should be awarded on disgorgement, among other things, in order to deny a wrongdoer the equivalent of an interest free loan from the wrongdoer's victims." In the Matter of Ronald S. Bloomfield, Securities Act Rel. No. 9553, 2014 WL 768828, at *21 n.118 (Feb. 27, 2014) ("Bloomfield") (quotation marks and citation omitted), vacated in part on other grounds by In the Matter of Robert Gorgia, Securities Act Rel. No. 9743, 2015 WL 1546302 (Apr. 8, 2015); see also Shehyn, 2010 WL 3290977, at *7

("Prejudgment interest serves the important purpose of deterrence, which is central to securities law").

52. The IRS underpayment rate is the usual—and appropriate—rate to determine prejudgment interest in Commission enforcement actions. See, e.g., Bloomfield, 2014 WL 768829, at *21 n.117 (applying IRS underpayment rate); Shehyn, 2010 WL 3290977, at *7 ("The interest rate generally used to calculate disgorgement interest is the IRS's underpayment rate.").

53. "It is a well settled principal that joint and several liability is appropriate in securities law cases where two or more individuals or entities have close relationships in engaging in illegal conduct." SEC v. Calvo, 378 F.3d 1211, 1215 (11th Cir. 2004) (citing cases). See In the Matter of Alpha Titans, LLC, IA Release No. 4073, 2015 WL 1927183 (April 29, 2015) (imposing joint and several liability on a registered investment adviser and its principal for disgorgement and prejudgment interest arising from violations of the Advisers Act).

VI. Inability to Pay

54. Commission Rule of Practice 630(a) allows a respondent to "to present evidence of inability to pay disgorgement, interest or penalty." [17 C.F.R. § 201.630(a)]

55. Commission Rule of Practice 630(b) provides, in part, that:

> The financial statement shall show the respondent's assets; liabilities; income or other funds received and expenses or other payments, from the date of the first violation alleged against that respondent . . . .

[17 C.F.R. § 201.630(b)].

56. Such a showing—even if satisfactorily made—does not present an automatic right to waiver, however. "[T]he ability to pay may be considered, but it is only

one factor." In the Matter of the Application of Re. Bassie & Co., AE Rel. No. 3354, 2012 WL 90269, at *14 n.53 (Jan. 10, 2012) (citation omitted). As the Commission as held:

> [E]ven when a respondent demonstrates an inability to pay, we have discretion not to waive the penalty, particularly when the misconduct is sufficiently egregious.

In the Matter of David Henry Disraeli, Securities Act Rel. No. 8880, 2007 WL 4481515, at *19, nn. 124-125 (Dec. 21, 2007) (collecting cases) ("Disraeli"); see also In the Matter of Gregory O. Trautman, Rel. No. 9088A, at 2009 WL 6761741, at * 24 (Dec. 15, 2009) ("Trautman") ("Even accepting those statements at face value, we find that the egregiousness of Trautman's conduct outweighs any discretionary waiver of disgorgement, prejudgment interest, and/or penalties"); see also In the Matter of Joseph John VanCook, Exchange Act Rel. No. 61039, 2009 WL 4005083, at *19 (Nov. 20, 2009) (finding that late trading constitutes sufficiently egregious conduct "to outweigh any consideration of [respondent's] inability to pay").

57. Respondents carry the burden of demonstrating an inability to pay. Disraeli, 2007 WL 4481515, at *19 n.118 ("[g]iven the respondent's burden of demonstrating inability to pay . . . .") (citation omitted).

58. Vague and unsubstantiated assertions—including failure to provide all of the information called for by Rule 630 and the Commission's financial disclosures—are insufficient to reduce disgorgement or penalty amounts. Trautman, 2009 WL 6761741, at *24 n.117 ("The financial information that Trautman submitted on appeal is vague, incomplete, and/or unsubstantiated in a number of respects," inter alia, because he did not provide tax returns or financial statements "from the year of the first violation"); Disraeli, 2007 WL 4481515, at *19 ("vague and unsubstantiated nature of [the respondent's]

disclosures render them neither adequate nor credible as a basis for reducing disgorgement or penalty amounts.").

59. For purposes of determining whether Respondents' ability to pay is in the public interest, payments of back taxes should not be considered. A respondent's "failure to file and pay taxes is [the respondent's] own fault; and allowing [the respondent] to profit from his refusal to keep current with his taxes by offsetting any pecuniary remedy would negatively affect the public interest. Malouf, 2015 WL 1534396, at *36.

Dated: May 18, 2015
New York, New York

Respectfully submitted,

Eric Schmidt
Gerald Gross
Alexander Janghorbani
Securities and Exchange Commission
New York Regional Office
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New York, New York 10281
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DIVISION OF ENFORCEMENT

EXHIBIT A

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No.

INVESTMENT COMPANY ACT OF 1940
Release No.

ADMINISTRATIVE PROCEEDING
File No.

In the Matter of EDGAR R. PAGE and PAGEONE FINANCIAL INC., Respondents.	OFFER OF SETTLEMENT OF EDGAR R. PAGE AND PAGEONE FINANCIAL INC.

I.

Edgar R. Page ("Page") and PageOne Financial, Inc. ("PageOne" and, together with Page, "Respondents") pursuant to Rule 240(a) of the Rules of Practice of the Securities and Exchange Commission ("Commission") [17 C.F.R. § 201.240(a)] submits this Offer of Settlement ("Offer") after public administrative and cease-and-desist proceedings were instituted against them by the Commission, pursuant to Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act"), and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act").

II.

This Offer is submitted solely for the purpose of settling these proceedings, with the express understanding that it will not be used in any way in these or any other proceedings, unless the Offer is accepted by the Commission. If the Offer is not accepted by the Commission, the Offer is withdrawn without prejudice to Respondents and shall not become a part of the record in these or any other proceedings, except for the waiver expressed in Section V with respect to Rule 240(c)(5) of the Commission's Rules of Practice [17 C.F.R. § 201.240(c)(5)].

III.

Consistent with the provisions of 17 C.F.R. § 202.5(f), Respondents waive any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein.

IV.

Respondents hereby waive any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Respondents to defend against this action. For these purposes, Respondents agree that Respondents are not the prevailing party in this action since the parties have reached a good faith settlement.

V.

By submitting this Offer, Respondents hereby acknowledge their waiver of those rights specified in Rules 240(c)(4) and (5) [17 C.F.R. §201.240(c)(4) and (5)] of the Commission's Rules of Practice. Respondents also hereby waive service of the Order.

VI.

Respondents undertake to do the following: In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Respondents (i) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (ii) appoint Respondents' undersigned attorney as agent to receive service of such notices and subpoenas; and (iii) consent to personal jurisdiction over Respondents in any United States District Court for purposes of enforcing any such subpoena.

VII.

On the basis of the foregoing, Respondents hereby:

A. Admit the jurisdiction of the Commission over them and over the matters set forth in the Order Making Findings, Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act and Section 9(b) of the Investment Company Act, and Ordering Continuation of the Proceedings ("Order");

B. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission or in which the Commission is a party, without admitting or

denying the findings contained in the Order, except as to the Commission's jurisdiction over them and the subject matter of these proceedings, which are admitted, consents to the entry of an Order, in which the Commission:

1. Finds that Respondents willfully violated Sections 206(1), 206(2), and 207 of the Advisers Act;

2. Respondent Page willfully aided and abetted and caused PageOne's violations of Section 206(1), 206(2), and 207 of the Advisers Act;

3. Orders that Respondents cease and desist from committing or causing any violations and any future violations of Section 206(1), 206(2), and 207 of the Advisers Act; and

4. Respondents are censured.

VIII.

Pursuant to this Offer, Respondents agree to additional proceedings to determine what, if any, disgorgement, prejudgment interest, civil penalties and/or other remedial action is appropriate in the public interest against Respondents pursuant to Section 203 of the Advisers Act and Section 9 of the Investment Company Act. In connection with such additional proceedings: (a) Respondents agree that they will be precluded from arguing that they did not violate the federal securities laws described in the Order; (b) Respondents agree that they may not challenge the validity of the Order or of this Offer; (c) solely for the purposes of such additional proceedings, the allegations of the Order shall be accepted as and deemed true by the hearing officer; and (d) the hearing officer may determine the issues raised in the additional proceedings on the basis of the record as it exists on January 31, 2015, including but not limited to any exhibits, affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence; provided that Page may introduce documentary and testimonial evidence concerning his inability to pay or other mitigating factors solely relevant to relief and the Division of Enforcement will have the opportunity to rebut any such evidence.

IX.

Respondents understand and agree to comply with the terms of 17 C.F.R. § 202.5(e) which provides in part that it is the Commission's policy "not to permit a defendant or respondents to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings," and "a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations." As part of Respondents' agreement to comply with the terms of Section 202.5(e), Respondents (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any finding in the Order or creating the impression that the Order is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Respondents do not admit the findings of the Order, or that the Offer contains no admission of the findings, without also stating that Respondents do not deny the findings; and

(iii) upon the filing of this Offer of Settlement, Respondents hereby withdraw any papers previously filed in this proceeding to the extent that they deny, directly or indirectly, any finding in the Order. If either Respondent breaches this agreement, the Division of Enforcement may petition the Commission to vacate the Order and restore this proceeding to its active docket. Nothing in this provision affects Respondents' (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other proceedings in which the Commission is not a party.

X.

Respondents state that they have read and understand the foregoing Offer, that this Offer is made voluntarily, and that no promises, offers, threats, or inducements of any kind or nature whatsoever have been made by the Commission or any member, officer, employee, agent, or representative of the Commission in consideration of this Offer or otherwise to induce him to submit to this Offer.

5th Day of February

Edgar R. Page

STATE OF NEW YORK }
} SS:
COUNTY OF Albany }

The foregoing instrument was acknowledged before me this 5th day of February, 2015, by EDGAR R. PAGE, who X is personally known to me or ___ who has produced a New York driver's license as identification and who did take an oath.

Meghan K. Lohman
Notary Public, State of New York
No. 01LO6272133
Qualified in Albany County
Commission Expires November 13, 2016

Notary Public
State of New York
Commission Number :
Commission Expiration :

5th Day of February

PageOne Financial, Inc.
By: Edgar R. Page
Title: Chairman & CEO

STATE OF NEW YORK }
} SS:
COUNTY OF Albany }

The foregoing instrument was acknowledged before me this 5th day of February 20 15, by EDGAR R. PAGE, who X is personally known to me or ___who has produced a New York driver's license as identification and who did take an oath.

Notary Public
State of New York
Commission Number :
Commission Expiration :

Meghan K. Lohman
Notary Public, State of New York
No. 01LO6272133
Qualified in Albany County
Commission Expires November 13, 2016

CORPORATE RESOLUTION
OF
PAGEONE FINANCIAL, INC.

RESOLVED: That Edgar R. Page, an Officer of this Corporation, be and hereby is authorized to act on behalf of the Corporation, and in his sole discretion, to negotiate, approve, and make the offer of settlement of PageOne, attached hereto, to the United States Securities and Exchange Commission ("Commission") in connection with the Administrative Proceeding In the Matter of Edgar R. Page, et al., Admin. Proc. File No. 3-16037; in this connection, the aforementioned Officer be and hereby is authorized to undertake such actions as he may deem necessary and advisable, including the execution of such documentation as may be required by the Commission, in order to carry out the foregoing, and any actions taken previously by said Officer to carry out the foregoing are hereby ratified.

Effective: January 31, 2015

Edgar R. Page

CERTIFICATION

I, Edgar R. Page, HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution regularly presented to and adopted by the Board of Directors of PageOne Financial, Inc., at a meeting duly called and held at the Corporation's offices, on the 3rd day of February, 2015, at which a quorum was present and voted, and that such resolution is duly recorded in the minute book of this corporation.

Edgar R. Page

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No.

INVESTMENT COMPANY ACT OF 1940
Release No.

ADMINISTRATIVE PROCEEDING
File No. 3-16037

In the Matter of EDGAR R. PAGE and PAGEONE FINANCIAL INC., Respondents.	**ORDER MAKING FINDINGS, IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER PURSUANT TO SECTIONS 203(e), 203(f) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940 AND SECTION 9(b) OF THE INVESTMENT COMPANY ACT OF 1940, AND ORDERING CONTINUATION OF PROCEEDINGS**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest to enter this Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act") and Ordering Continuation of Proceedings against Edgar R. Page ("E. Page") and PageOne Financial, Inc. ("PageOne" and, together with E. Page, "Respondents").[1]

II.

Respondents have submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Making Findings and

[1] On August 26, 2014, the Commission instituted administrative and cease-and-desist proceedings pursuant to Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940 against Respondents.

Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 and Section 9(b) of the Investment Company Act of 1940 and Ordering Continuation of Proceedings ("Order"), as set forth below.

III.

On the basis of this Order and Respondents' Offer, the Commission finds that:

A. SUMMARY

1. PageOne, a registered investment adviser, and E. Page, its sole owner and principal, hid serious conflicts of interest from their advisory clients in connection with recommending investments in three private investment funds (the "Private Funds").

2. Specifically, from early 2009 through approximately September 2011, Respondents knowingly or recklessly failed to tell their clients that:

   a. One of the Private Funds' managers (the "Fund Manager") was in the process of acquiring at least 49% of PageOne for approximately $2.7 million;

   b. As part of that acquisition, E. Page had agreed to raise millions of dollars for the Private Funds from his advisory clients; and

   c. The Fund Manager was paying for the acquisition by making a series of installment payments over time, the timing and amounts of which were, at least partially, tied to Respondents' ability to direct client money into the Private Funds.

3. Indeed, the disclosures that Respondents did make in PageOne's Forms ADV materially misrepresented both the nature and amounts of the Fund Manager's payments to E. Page. For example—from approximately July 2009 to September 2010—PageOne's ADV stated that it received on an "annual basis, a referral fee" from the Fund Manager of "between 7.0% and 0.75% of the amount invested by" Respondents' clients in the Private Funds. However, as both Respondents knew or recklessly disregarded, (a) the Fund Manager's payments were not referral fees, but rather installments on the acquisition of PageOne; and (b) during that same period, those payments exceeded 15% of the PageOne clients' investment in the Private Funds. As set out below, Respondents' other disclosures concerning their interests in the Private Funds and the Fund Manager were similarly misleading.

4. As a result of Respondents' fraud, their clients were unaware of the nature and extent of Respondents' conflicts of interest in recommending the Private Funds. Not least of those conflicts was the fact that the Fund Manager's ability to finalize the acquisition—and, thus, complete its payments to E. Page—was, at least partially dependent

on the Respondents' continuing to raise money from PageOne clients for investment into the Private Funds.

5. From March 2009 through September 2011, Respondents' clients invested approximately between $13 and $15 million in the Private Funds at Respondents' recommendation. During roughly the same period, the Fund Manager paid Respondents (directly or indirectly) over $2.7 million in acquisition payments.

B. RESPONDENTS

6. **E. Page**, age 62, lives in Gansevoort, New York. E. Page owns more than 95% of PageOne and is the company's Chairman, Chief Executive Officer, Chief Operating Officer, Chief Compliance Officer, Lead Portfolio Manager, and Chairman of its Investment Committee. From 1981 to 2009, E. Page was a registered representative of a number of registered broker dealers. In addition, as PageOne's Chief Compliance Officer, E. Page was responsible for authorizing any changes to PageOne's client disclosures, including its Forms ADV. Indeed, PageOne directed all questions concerning its Forms ADV to E. Page.

7. **PageOne** is a New York corporation headquartered in Malta, New York. PageOne has been registered with the Commission as an investment adviser since December 31, 1986. PageOne reported assets under management of about $215 million on its Form ADV of March 31, 2014.

C. OTHER RELEVANT INDIVIDUALS AND ENTITIES

8. **The Fund Manager** is in the business of real estate management, development, and finance.

9. **The Private Funds** are private investment funds, not registered with the Commission. Their assets consist primarily of investments in real estate.

D. FACTS

The Acquisition Agreement

10. Sometime in late 2008, E. Page agreed that the Fund Manager would acquire PageOne. The parties further agreed that:

a. The Fund Manager would pay the acquisition price of approximately $3 million in installments over time; and

b. The acquisition would not close—and the Fund Manager would not make the final payments of the purchase price—until E. Page raised approximately $20 million for the Private Funds.

11. Sometime before April 2010, the Fund Manager and E. Page revised the acquisition terms to have the Fund Manager acquire 49% of PageOne for approximately $2.4 million, which was later increased by agreement to approximately $3 million.

12. Beginning in early 2009, Respondents began recommending that their clients invest in the Private Funds. From March 2009 through September 2011, Respondents' clients invested approximately between $13 and $15 million in the Private Funds as Respondents knew or recklessly disregarded. Respondents (a) could view their client's accounts; and (b) executed at least certain of the transfers of client funds from their existing investments into the Private Funds.

13. Over roughly the same time, the Fund Manager made installment payments on the acquisition of approximately $2.7 million, an amount equal to approximately 18% of PageOne clients' investments in the Private Funds. The Fund Manager made these payments directly to E. Page, or to PageOne and other entities and persons, at E. Page's direction.

14. The size and timing of the Fund Manager's payments was determined, at least partially, by when PageOne clients made investments into the Private Funds. This reflected both (a) E. Page's explicit agreement to raise money for the Private Funds as part of the acquisition; and (b) the fact that the Fund Manager had limited liquidity. In other words, the Fund Manager needed to receive investments from PageOne clients to free up cash to make the periodic acquisition payments.

15. Moreover, Respondents knew (or recklessly disregarded) that the timing of the Fund Manager's acquisition payments—which often followed very closely in time behind PageOne clients' investments in the Private Funds—was linked to those investments. First, Respondents had explicitly agreed to raise money for the Private Funds as a term of the acquisition. Thus, on at least one occasion, E. Page emailed the Fund Manager's founder and Chairman (the "Chairman") to notify him that a PageOne client had invested in the Private Funds and to ask for an acquisition payment. Moreover, E. Page understood that the Chairman and the Fund Manager did not have sufficient liquidity of their own to complete the acquisition of PageOne. Indeed, E. Page understood that the Chairman was, at the time, selling certain personal assets to keep the Fund Manager's business going.

The Promissory Notes

16. The acquisition payments were memorialized as promissory notes from E. Page to the Fund Manager. E. Page understood, from the Chairman, that—in the event that the acquisition was consummated—the Fund Manager would cancel the notes. However, he likewise understood that until the acquisition closed and the Fund Manager cancelled the notes, E. Page was personally liable for the notes. Indeed, E. Page expressed just this concern to the Chairman, writing in an email in January 2010 that, as a result of the acquisition not closing, "I have a large loan 'lliability' [sic] and no assets."

Respondents' Materially False and Misleading Statements and Omissions Concerning their Relationship to the Fund Manager and the Private Funds

17. Respondents knowingly or recklessly failed to disclose accurately the acquisition agreement as well as the true nature and amounts of the Fund Manager's payments to Respondents. E. Page refused to do so because, as he testified, "It's too dangerous. It would cause thousands of clients to get extremely nervous if I was selling my firm." In other words, E. Page was concerned that the true nature of his interest in the Fund Manager—and, in turn, in the Private Funds he was recommending—would be important information to investors.

18. Initially, Respondents knowingly or recklessly omitted to make any disclosure at all to their clients. Thus, from March through July 2009, Respondents remained entirely silent concerning their relationship to the Fund Manager and the Private Funds. During this time (a) Respondents' clients invested over $4 million in the Private Funds; and (b) the Fund Manager paid Respondents approximately $300,000, equivalent to approximately 7% of the total invested.

19. Thereafter, E. Page—who was PageOne's Chief Compliance Officer, Chairman and CEO, as well as controlling person, at all relevant times—knowingly or recklessly had PageOne make a series of false and misleading disclosures concerning the Fund Manager's acquisition in its Forms ADV.

i. PageOne's False and Misleading Forms ADV: July 31, 2009 to September 14, 2010

20. On July 31, 2009, PageOne revised its Form ADV, Part II to include in the section relating to advisory services and fees disclosure concerning the Fund Manager and the Private Funds. That Form ADV stated that Respondents may recommend investments in the Private Funds, calling them "unaffiliated private funds." This latter statement was misleading as it suggested no relationship between Respondents and the Private Funds. By this point in time, however, the Fund Manager had agreed in principal to acquire at least 49% of PageOne and had made a $300,000 down payment on that acquisition.

21. That section of PageOne's Form ADV, Part II also purported to describe the financial relationship between PageOne and the Private Funds:

> *Fee Schedule*: PageOne Financial does not directly charge the client a fee for this service. PageOne Financial is compensated by a referral fee paid by the [Fund] Manager of the Private Fund(s) in which its clients invest. The management and other fees the client pays to the Private Funds are not increased as a result of Registrant's referral of clients to the Private Funds. PageOne Financial will typically receive, on an annual basis, a referral fee of between 7.0% and 0.75% of the amount invested by the client in the applicable Private Fund(s).

22. This disclosure was materially false and misleading. First, the Fund Manager's payments to Respondents were simply not fees for referring investments to the Private Funds—rather they were down payments on the acquisition of at least 49% of PageOne. Because of the false disclosure, investors did not know that: (a) Respondents had agreed to raise millions of dollars for the Private Funds as a condition to closing the acquisition; (b) as opposed to a "referral fee," Respondents had an expectation of future payments from the Fund Manager in the form of the full acquisition price, future payments that would only be made if the Fund Manager could afford to acquire PageOne and Respondents were able to raise the promised funds; and (c) if the acquisition did not close, E. Page was personally liable for the promissory notes.

23. Respondents, thus, had an undisclosed interest in ensuring the ongoing success of the Private Funds and the Fund Manager—i.e., to ensure that Respondents received the entire acquisition price. This interest represented, at least, a potential conflict with the purported objectivity of Respondents' investment advice to their clients.

24. Second, it was not true that the Fund Manager's payments to Respondents were limited to "between 7.0% and 0.75% of the amount invested" on an annual basis in the Private Funds. Indeed, in the approximately one year from July 31, 2009 to September 14, 2010—when PageOne again changed its disclosure concerning the Fund Manager (see below)—the Fund Manager paid Respondents $1,312,755, an amount in excess of 15% of the approximately $6.5 to $8 million that Respondents' clients invested into the Private Funds during that time.

25. Respondents knew or recklessly disregarded the false and misleading statements contained in the Form ADV, Part II. E. Page told his Assistant Compliance Officer that he did not want to disclose the true nature of the arrangement with the Fund Manager. Moreover, as PageOne's Chief Compliance Officer, Chairman and CEO, E. Page was ultimately responsible for PageOne's disclosures, including its Forms ADV. Indeed, he reviewed and approved the July 31, 2009 Form ADV, Part II.

ii. PageOne's False and Misleading Forms ADV: September 14, 2010 to March 1, 2011

26. On September 14, 2010, PageOne again amended the disclosure in its Form ADV, Part II concerning the Fund Manager and the Private Funds. And again, Respondents knew or recklessly disregarded that the new disclosure was materially false and misleading.

27. The September 14, 2010 Form ADV, Part II section concerning advisory services and fees was amended to remove the descriptions of the purported "referral fee" discussed above, as well as the amounts of that fee. In its place, the revised Form ADV stated that PageOne would charge its clients a 1% annual management fee on money invested in the Private Funds. The September 14, 2010 ADV, Part II, in the sections concerning "Other Business Activities" and "Participation or Interest in Client Transactions," went on to state that:

> Edgar R. Page . . . is also employed as a consultant to the [the Fund Manager]. [The Fund Manager] is a real estate investment and development firm. Mr. Page is compensated for the consulting services he provides to [the Fund Manager]. As disclosed above, PageOne Financial recommends private funds that are managed by [the Fund Manager] to PageOne Financial's advisory clients for which PageOne Financial receives an advisory fee. Advisory clients are under no obligation to participate in such investments.

28. Moreover, as had been true since early 2009, the Fund Manager continued to make installment payments on its acquisition of PageOne. Between September 14, 2010 and March 1, 2011 (when PageOne again changed its ADV disclosure), the Fund Manager paid Respondents approximately $460,000, equivalent to about 70% of the more-than $650,000 that Respondents' clients invested into the Private Funds during that time.

29. In addition—as with the July 31, 2009 Form ADV—the amended Form ADV continued to state that "[a]ll private investment funds recommended by [PageOne] are managed by unaffiliated investment advisors." This statement was misleading. Despite its suggestion that the Private Funds were entirely unaffiliated with PageOne, by September 14, 2010, the Fund Manager had paid E. Page $1.6 million, or more than 50% of the agreed-upon $3 million acquisition price.

30. As with the prior false statements and omissions, Respondents knew or recklessly disregarded that the September 14, 2010 Form ADV, Part II was false and misleading.

a. As E. Page knew, he was never a consultant to the Fund Manager, provided no consulting services, and, thus, was never compensated for any such services;

b. E. Page understood the true terms of the acquisition; and

c. E. Page authorized the amendments and was, thus, aware of their wording.

iii. *PageOne's False and Misleading Forms ADV: March 1, 2011 to September 29, 2011*

31. On March 1, 2011, PageOne again amended its Form ADV, Part 2A, this time deleting all references to the Fund Manager and the Private Funds. Despite the deletions, Respondents' undisclosed conflict of interest did not disappear. Between March 1, 2011 and September 29, 2011, PageOne clients invested as much as $1.9 million in the Private Funds. At the same time, the Fund Manager made installment payments to E. Page during this period of approximately $700,000, equivalent to more than 35% of PageOne clients' investment in the Private Funds during that time.

32. Respondents knew or were reckless in not knowing that the March 1, 2011 Form ADV, Part 2A omitted to disclose the acquisition agreement. E. Page was the Chief Compliance Officer, Chairman and CEO at the time and, as such, it was his responsibility to approve any changes to the Form ADV.

33. In addition to the above false and misleading statements and omissions, Respondents also intentionally or recklessly omitted to tell their clients about the promissory notes at all relevant times.

34. PageOne published its Forms ADV on its website and delivered them to prospective clients during the relevant time period.

35. In addition to the above—by failing to tell their clients about the true nature of their relationship to the Fund Manager and the Private Funds and by preparing and disseminating Forms ADV that falsely described those relationships—Respondents failed to act as a reasonably careful person would in similar circumstances.

The Fund Manager's Acquisition Collapses

36. Over the course of 2010 and 2011, E. Page became increasingly concerned that the acquisition would not close. He understood that he had not been able to raise the $20 million, a condition precedent for the acquisition. And, he knew or recklessly disregarded that the Fund Manager had not been able to otherwise raise sufficient funds to pay the balance on the acquisition price. In both 2010 and 2011, the Chairman made increasingly urgent appeals to E. Page to assist the Fund Manager in fund-raising, for example, telling him of his "need" to raise money and saying that he "[d]esperately need[ed]" E. Page's help in doing so.

37. Respondents' clients made their last investments in the Private Funds in September 2011, shortly after the Fund Manager made its last payment to E. Page.

38. Despite paying approximately $2.7 million to Respondents, the Fund Manager never consummated its acquisition of 49% of PageOne.

39. In April 2013, the Fund Manager wrote to E. Page seeking repayment of the promissory notes of $2,751,345 in principal and $933,486.32 in interest on the grounds that the acquisition had not closed.

E. VIOLATIONS

40. As a result of the conduct described above, Respondents willfully violated Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser.

41. As a result of the conduct describe above, Respondents willfully violated Section 207 of the Advisers Act, which makes it "unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed

with the Commission . . . or willfully to omit to state in any such application or report any material fact which is required to be stated therein."

42. As a result of the conduct described above, E. Page willfully aided and abetted and caused PageOne's violations of:

a. Sections 206(1) and 206(2) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser; and

b. Section 207 of the Advisers Act, which makes it "unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed with the Commission . . . or willfully to omit to state in any such application or report any material fact which is required to be stated therein."

III.

Additional proceedings shall be conducted to determine what, if any, disgorgement, prejudgment interest, civil penalties and/or other remedial action is appropriate in the public interest against Respondents pursuant to Section 203 of the Advisers Act and Section 9 of the Investment Company Act. In connection with such additional proceedings: (a) Respondents will be precluded from arguing that they did not violate the federal securities laws described in this Order; (b) Respondents may not challenge the validity of this Order; (c) solely for the purposes of such additional proceedings, the findings of this Order shall be accepted as and deemed true by the hearing officer; and (d) the hearing officer may determine the issues raised in the additional proceedings on the basis of the record as it exists on January 31, 2015, including but not limited to any exhibits, affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence; provided that Page may introduce documentary and testimonial evidence concerning his inability to pay or other mitigating factors solely relevant to relief and the Division of Enforcement will have the opportunity to rebut any such evidence.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offer, and to continue the proceedings to determine what, if any, additional remedial action is appropriate in the public interest against Respondents, including, but not limited to, disgorgement, interest and civil penalties pursuant to Sections 9(d) and (e) of the Investment Company Act, and Sections 203(i) and (j) of the Advisers Act.

V.

Accordingly, pursuant to Sections 203(e), 203(f) and 203(k) of the Advisers Act and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondents' cease and desist from committing or causing violations or any future violations of Sections 206(1), 206(2), and 207 of the Advisers Act.

B. Respondents are censured.

By the Commission.

Brent J. Fields
Secretary

Certificate of Service

I hereby certify that on May 18, 2015, I served the Division of Enforcement's (1) Post-Hearing Brief Seeking Relief Against Respondents; and (2) Proposed Findings of Fact and Conclusions of Law, on the below parties by the means indicated:

By Email and UPS

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