



\$257,000 in loans that United made to Edgar Page.

The pleadings in these two lawsuits filed by United provide further evidence for the Respondents' argument that the money Edgar Page received from United were loans that have to be repaid -- and were not ill-gotten gains subject to disgorgement, as the Initial Decision in this matter erroneously held. (*See Respondents' Memorandum in Support of Petition for Review* dated September 4, 2015 pages 15-17). Allowing the Initial Decision's award of disgorgement to stand would very likely result in Edgar Page being legally required to repay the same borrowed money twice – once in this Administrative Proceeding and again in the two United lawsuits. This result is clearly inequitable and a further reason why the Commission should vacate the Initial Decision in this matter.

Dated: March 14, 2016



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*Attorney for Petitioners Edgar R.  
Page and PageOne Financial, Inc.*



The Honorable Jason S. Patil  
Administrative Law Judge  
U.S. Securities and Exchange Commission  
100 F Street, N.E. Mail Stop 20549  
Washington, DC 20549  
(By overnight delivery)



Robert Heim

**EXHIBIT A**

STATE OF NEW YORK  
SUPREME COUNTY OF SARATOGA COUNTY

X

THE UNITED GROUP OF COMPANIES, INC.

Plaintiff :

:

against

: SUMMONS

2016212013657

**20153672** FILED  
12/18/2015 01:09:01 PM

INDEX NUMBERS  
Saratoga County Clerk

EDGAR R. PAGE :

Defendant :

X

TO THE ABOVE-NAMED DEFENDANT:

You are hereby summoned and required to submit to plaintiff's attorney your answering papers on this motion within the time provided in the notice of motion annexed hereto. In the event you fail to submit answering papers, summary judgment will be taken against you by default for the relief demanded in the notice of motion.

The basis of the venue designated is Saratoga County, New York, as it is the county of residence of the defendant.

Dated: December 17, 2016

By:   
Linda Riefberg  
Cozen O'Connor  
277 Park Avenue  
New York, New York 10172  
Attorneys for Plaintiff  
212 883 2248  
[L.Riefberg@cozen.com](mailto:L.Riefberg@cozen.com)

To:  
Edgar Page

██████████  
██████████, NY ██████████

THE UNITED GROUP OF COMPANIES, INC.,

INDEX NUMBERS  
Saratoga County Clerk

Plaintiff.  
against

**NOTICE OF MOTION  
FOR SUMMARY  
JUDGMENT**

EDGAR R. PAGE,

Defendant.

**IN LIEU OF COMPLAINT**

\_\_\_\_\_  
**TO THE ABOVE NAMED DEFENDANT:**



20153672 RECEIVED  
12/18/2015 01:09:02 PM  
1 \$45.00  
RECEIPT FOR MOTION FEE PAID  
Saratoga County Clerk

**PLEASE TAKE NOTICE** that upon the summons, dated December 17, 2015, and the affidavit of Michael Uccellini, sworn to on December 17, 2015 the Plaintiff The United Group of Companies, Inc. will move this court CPLR Rule 3212 and in IAS term at the New York Supreme Court, County of Saratoga, 30 McMaster Street, Building 3, Ballston Spa, NY 12020 on January 15, 2016 at 9:30 am or as soon as counsel may be heard for an order directing the entry of judgment for the plaintiff and against the defendant in the amount of \$2,551,345 with interest thereon at 12% due on the notes and 9% as the statutory interest rate and for such other and further relief as to the court may seem just and proper, plus the costs of this motion upon the ground that this action is based upon unconditional promissory notes which have matured, upon which demand has been made and remain unsatisfied.

**PLEASE TAKE FURTHER NOTICE**, that pursuant to CPLR Rule 2214, answering Affidavits, if any are to be served by mail upon the undersigned at least two (7) days before the return date of this motion.

Dated: New York, New York  
December 17, 2015

COZEN O'CONNOR

By: Linda Riefberg

Linda Riefberg  
277 Park Avenue  
New York, New York 10172  
212 883 2248  
[LRiefberg@cozen.com](mailto:LRiefberg@cozen.com)

*Attorneys for Plaintiff*

TO:

Edgar R. Page

[REDACTED]  
[REDACTED], New York [REDACTED]



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SARATOGA

x

THE UNITED GROUP OF COMPANIES, INC.

Index Number \_\_\_\_\_

Plaintiff

2016212013657

**20153672** FILED  
12/18/2015 01:09:01 PM

against

INDEX NUMBERS  
Saratoga County Clerk

EDGAR R. PAGE,

Defendant

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**MEMORANDUM OF LAW IN SUPPORT OF MOTION  
FOR SUMMARY JUDGMENT IN LIEU OF COMPLAINT**

Attorney for Plaintiff

COZEN & O'CONNOR  
277 PARK AVENUE  
NEW YORK, NEW YORK 10172  
212 883 2248  
Linda Riefberg  
LRiefberg@Cozen.com



Plaintiff The United Group of Companies, Inc. ("United") submits this Memorandum of Law in support of its Motion for Summary Judgment in Lieu of Complaint pursuant to CPLR Section 3213. This action against Defendant Edgar R. Page ("Page") is to recover money on a series of promissory notes that were executed by Page during a two year period from April 2009 to April 2011. <sup>1</sup>

### STATEMENT OF FACTS

This matter is a straightforward breach of contract case based on Defendant's failure to repay loans to the Plaintiff that were evidenced by promissory notes. As set forth fully in the accompanying affidavit of Michael Uccellini, the CEO and sole shareholder of United, ("Uccellini Aff.") Page received from United \$2,551,345 in payment over the course of the period of April 10, 2009 through April 12, 2011 in 18 separate promissory notes.

Beginning in the Spring of 2009, Page and the former CEO and sole shareholder of United, Walter Uccellini, entered into discussions for Page to sell a 49% of his company stock to United. (Uccellini Aff. ¶ 2).

The steps taken to begin the phase of buying the stock of the company involved entering into a series of promissory notes, where funds were paid immediately to Page upon his execution of the notes. As set forth in the Uccellini Aff., if the shares in this business were sold pursuant to a purchase agreement, these loans would be forgiven and become the purchase price for the stock. If the sale was never finalized, then the loans would be repaid. (Uccellini Aff. ¶ 3). The terms of the loans thus make clear they were unconditional, to be paid at a rate of 12%, as of the maturity date on the loans. (Id.)

The sale of the stock of Page One was never finalized. (Uccellini Aff. ¶ 4).

Accordingly, by the unconditional and unambiguous terms of the note, the loans are now due and accordingly, Defendant owes Plaintiff the value of the notes. Page received from United \$2,551,345 in payment over the course of the period of April 10, 2009 through April 12, 2011, which funds were all documented with promissory notes. (Uccellini Aff at 5). Page has acknowledged that the promissory notes were loans from United that he is expected to repay. (Uccellini Aff at 6).

Page was a Respondent in an SEC administrative proceeding, and he appealed the sanction imposed. In the Memorandum of Law in Support of Petition for Review of Initial Decision, Page's counsel explained that "Page has merely become indebted to United. The payments received by Page from United are not subject to repayment, together with accrued interest at a rate that exceeds the IRS penalty rate." (Uccellini AFF. FN. 1)

The promissory notes, the maturity dates and interest rate on the note, as set forth in the Uccellini Aff., are as follows:

<b>Date Issued</b>	<b>Principal Amount</b>	<b>Maturity Date</b>	<b>Interest Rate Per Annum</b>	<b>Calculated Interest Rate</b>	<b>Total</b>
April 10, 2009	\$300,000.00	June 30, 2011	12%	\$242,000.00	\$542,000
September 1, 2009	\$19,740.00	June 30, 2011	12%	\$14,976.00	\$34,716.08
September 14, 2009	\$14,840.00	June 30, 2011	12%	\$11,194.31	\$26,034.31
September 23, 2009	\$280,000.00	December 23, 2009	12%	\$210,373.33	\$490,373.33

October 14, 2009	\$55,000.00	October 14, 2010	12%	\$40,938.33	\$95,938.33
November 20, 2009	\$94,500.00	November 20, 2010	12%	\$69,174.00	\$163,674.00
December 4, 2009	\$58,100.00	December 4, 2010	12%	\$42,258.07	\$100,358.07
February 5, 2010	\$14,575.00	February 5, 2011	12%	\$10,294.81	\$24,869.81
February 22, 2010	\$500,000.00	August 22, 2010	12%	\$350,333.33	\$850,333.33
June 30, 2010	\$133,000.00	June 30, 2011	12%	\$87,514.00	\$220,514.00
July 14, 2010	\$93,000.00	June 30, 2011	12%	\$60,760.00	\$153,760.00
September 15, 2010	\$20,000.00	June 30, 2011	12%	\$12,646.67	\$32,646.67
September 16, 2010	\$92,260.00	June 30, 2011	12%	\$58,308.32	\$150,568.32
December 17, 2010	\$50,000.00	June 30, 2011	12%	\$30,066.67	\$80,066.67
December 29, 2010	\$231,770.00	June 30, 2011	12%	\$138,443.95	\$370,213.95
January 6, 2011	\$25,000.00	June 30, 2011	12%	\$14,866.67	\$39,866.67
January 18, 2011	\$46,560.00	June 30, 2011	12%	\$27,501.44	\$74,061.44
January 20, 2011	\$16,000.00	June 30, 2011	12%	\$9,440.00	\$25,440.00
March 23, 2011	\$400,000.00	March 23, 2012	12%	\$227,733.33	\$627,733.33
April 12, 2011	\$100,000.00	April 12, 2012	12%	\$56,266.67	\$156,266.67

The promissory notes are attached to the Uccellini Aff. as Exhibit A.

There was one repayment by Page to United in April 23, 2010 for a \$50,000 and interest of \$34,033.33, for a total paid back of \$84,033.33. Taking that into consideration, the amount due on the notes is \$2,494,345.00 and interest of \$1,681.056.64, for a total owed to United of \$4,175,401.64 on these notes. (Uccellini Aff. ¶8)

Unfortunately, Walter Uccellini was killed in an airplane crash in August 2012, and the sale of the Page stock was never finalized. Thus, Page was required to repay the loans, since he still owns all the Page stock. Yet, to date, no payment has been made to United on any of these notes. (Uccellini Aff ¶ 9).

In April 2013, United had one of their outside attorneys for United seek collection on those notes. (Uccellini Aff ¶10). By letter dated April 12, 2013, we made demand upon Page for repayment of \$3,684,831.32, comprising principal and interest then accruing (Letter from John Mineaux, Esq. attached as Exhibit B). (Id.). A follow-up letter was sent to counsel for Page on August 6, 2013, reiterating the instruction from United to recover any amounts that are due and owing to United from Page on these notes. (Letter from John Mineaux, Esq. attached as Exhibit C) (Uccellini Aff ¶ 11). To date, Page has not made any payments on any of these notes, despite their maturity dates have all passed, and despite having lawfully received demands for such repayment. (Uccellini Aff ¶ 12).

There is no doubt that the loans are payable, and that there is no defense to the non-payment. Page himself has acknowledged this. There is no justification or basis for Page to receive a windfall simply because the sale of his company was not finalized when Walter Uccellini died. Accordingly, all reasonable efforts have been made for Page to repay those loans. He has been given plenty of time, and notice that United expects repayment. There are no defenses to the payment, and he concedes he owes the money.

## LEGAL ARGUMENT

New York practice provides for a specific, expedited process for a plaintiff to recover upon promissory notes such as those executed here. Under CPLR 3213: “ When an action is based upon an instrument for the payment of money only., the plaintiff may serve with the summons a notice of motion for summary judgment and the supporting papers in lieu of complaint.” N.Y. Civ. P. L. & R. 3213 (McKinney 2015).

Courts in New York recognize that CPLR 3213 provides a “procedure for accelerated judgment...where plaintiff establishes a prima facie case by virtue of a note and a failure to make payments called for therein.” Warburg, Pincus Equity Partners, LP v. O’Neill, 11 A.D.3d 327, 327 (1<sup>st</sup> Dep’t 2004). . Accord Interman Industrial Products Ltd. v. R.S.M. Electron Power Inc., 37 NY2d 151, 155 (1975); and East New York Savings Bank v. Baccaray, 214 AD2d 601 (2nd Dept. 1995). A promissory note is an instrument for the payment of money only for the purposes of CPLR 3213. Davis v. Lanteri, 307 AD2d 947 (2nd Dept. 2003).

It is not a defense to the repayment of the notes that there was a potential sale of the stock. That sale did not occur, and thus the fact that a sale might have occurred “does not alter [the promissory notes] essential character as an instrument for the payment of money only and, accordingly, is immaterial to plaintiff’s right to relief pursuant to CPLR 3213.” Solanki v. Pandya, 269 A.D.2d 189, 189 (1<sup>st</sup> Dep’t 2000).

Accordingly, based on the clear language of 3213, the case law that strongly supports entering summary judgment under this provision where appropriate, and the lack of any factual dispute about the enforceability of the notes, Plaintiff seeks an order granting to it \$2,551,345,

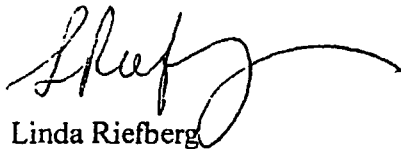
plus the interest on the notes (12%) and the prejudgment interest of 9% pursuant to N.Y. CVP.

Law section 5004.

#### CONCLUSION

For the reasons set forth above and as set forth in the Uccellini Aff., Plaintiff requests that the court enter judgment in favor of the plaintiff in that Page be ordered to pay to Plaintiff the sum of \$2,551.345 plus interest as calculated at the note interest rate of 12%, plus attorney's fees and costs in instituting the action to seek recover on the promissory notes.

Respectfully Submitted,



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212 883 -2248  
[Lriefberg@cozen.com](mailto:Lriefberg@cozen.com)



**EXHIBIT B**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SARATOGA

2016212015903

201683

FILED

01/11/2016 02:17:07 PM

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THE UNITED GROUP OF COMPANIES,  
INC.,

INDEX NUMBERS  
Saratoga County Clerk

Plaintiff,

SUMMONS

-against-

Plaintiff designates Saratoga  
County as the place of trial. The  
basis of venue is the residence of  
the defendant.

EDGAR R. PAGE,

Defendant.  
-----X

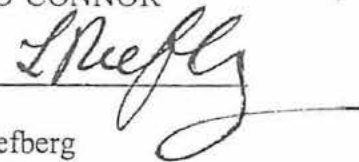
**TO THE ABOVE NAMED DEFENDANT:**

**YOU ARE HEREBY SUMMONED** to answer the Complaint in this action and to serve a copy of your answer upon plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the date of service, or within thirty (30) days after completion of service where service is made in any other manner than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York  
January 7, 2016

COZEN O'CONNOR

By: \_\_\_\_\_



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[LRiefberg@cozen.com](mailto:LRiefberg@cozen.com)

*Attorneys for Plaintiff*

TO:

Edgar R. Page

\_\_\_\_\_  
\_\_\_\_\_, New York \_\_\_\_\_

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SARATOGA

X

THE UNITED GROUP OF COMPANIES, INC. :

Plaintiff :

against :

2016212016903 :

Complaint

201683 FILED  
01/11/2016 02:17:07 PM

INDEX NUMBERS  
Saratoga County Clerk

EDGAR R. PAGE :

Defendant :

X

Plaintiff The United Group of Companies, Inc. ("United") by its attorneys, Cozen O'Connor, make the following Complaint against Edgar R. Page as follows.

1. The plaintiff is a domestic corporation with principal offices at Troy, New York.
2. The defendant Edgar R. Page ("Page"), is a natural person, who, upon information and belief, resides in Saratoga County at [REDACTED], New York [REDACTED]
3. This is an action to recover from the Defendant Page certain monies that were loaned to the Defendant by the Plaintiff. These loans were not contained in any promissory

notes, but the Defendant agreed to pay the Plaintiff back in the face value of the loans along with interest calculated at 12% a year.

Jurisdiction and Venue

4. This Court has jurisdiction over the defendant by virtue of CPLR §301.
5. Venue in the Country of Rensselaer is appropriate because it is the primary place of business of the Plaintiff and the residence of the Defendant.

For its First Cause of Action

6. On or about May 24, 2010, United agreed to loan Page the principal amount of \$50,000 plus interest.
7. Page agreed to pay United the principal amount of \$50,000 with the interest upon demand from United.
8. United has made demand upon Page for the repayment of that loan.
9. To date, the loan has not been repaid.
10. By reason of the foregoing, there is due United from Page on the First Cause of Action the sum of \$50,000 plus interest thereon at the default rate of 12% per annum to date.

For its Second Cause of Action

11. On or about October 19, 2010, United agreed to loan Page the principal amount of \$7,000 plus interest.

12. Page agreed to pay United the principal amount of \$7,000 with the interest upon demand from United.
13. United has made demand upon Page for the repayment of that loan.
14. To date, the loan has not been repaid.
15. By reason of the foregoing, there is due United from Page on the First Cause of Action the sum of \$7,000 plus interest thereon at the default rate of 12% per annum to date.

For its Third Cause of Action

16. On or about September 12, 2011, United agreed to loan Page the principal amount of \$200,000 plus interest.
17. Page agreed to pay United the principal amount of \$200,000 with the interest upon demand from United.
18. United has made demand upon Page for the repayment of that loan.
19. To date, the loan has not been repaid.
20. By reason of the foregoing, there is due United from Page on the First Cause of Action the sum of \$200,000 plus interest thereon at the default rate of 12% per annum to date.

WHEREFORE, Plaintiff United demands judgment against the Defendant Page:

- (a) On the First Cause of Action, Second Cause of Action and Third Cause of Action in the combined principal sum of \$257,000 plus interest thereon at a rate permitted by the Court.
- (b) For attorney fees and costs and disbursements of this action, and such other and further relief as the Court may deem just and reasonable.

Dated: January 6, 2015

By:

  
Linda Riefberg

Cozen O'Connor  
277 Park Avenue  
New York, NY 10172