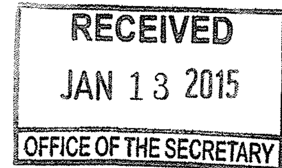
HARD COPY

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.

THE DIVISION OF ENFORCEMENT'S PREHEARING BRIEF

DIVISION OF ENFORCEMENT
Alexander Janghorbani
Eric Schmidt
New York Regional Office
Securities and Exchange Commission
Brookfield Place
200 Vesey Street, Suite 400
New York, New York 10281
(212) 336-0177 (Janghorbani)
(703) 813-9504 (fax)

TABLE OF CONTENTS

I. PRELIMINARY STATEMENT 1

II. CONTENTIONS OF FACT 3

A. Respondents 3

B. E. Page's Deal with Uccellini and UGOC 4

1. UGOC Asked E. Page and PageOne to Raise Capital from their Clients for the Funds 4

2. Uccellini Offers to Acquire PageOne 5

3. The Promissory Notes 6

4. The Acquisition Price Increases 7

5. E. Page and UGOC Discuss—and Reject—UGOC Paying E. Page Referral Fees on Client Investments in the Funds 7

6. E. Page Walks Away From the Next Offer 8

C. E. Page Recommends the UGOC Funds to PageOne's Advisory Clients 8

D. UGOC Pays E. Page Approximately $2.7 Million in Acquisition Down Payments From March 2009 through September 2011 9

E. UGOC's Acquisition of PageOne Collapses 10

F. Respondents Fail to Tell Their Advisory Clients the Truth About UGOC's Proposed Acquisition of PageOne Shares 12

1. PageOne's July 31, 2009 Form ADV 13

a. False and Misleading Disclosure 13

b. National Regulatory Services 15

c. E. Page Knew or Recklessly Disregarded that the July 31, 2009 Form ADV's Disclosure Was Inaccurate 16

2. PageOne's September 14, 2010 Form ADV 16

3. PageOne's March 1, 2011 Form ADV 17

III. CONTENTIONS OF LAW 18

A. Respondents Violated Sections 206(1) and 206(2) of the Advisers Act 18

1. Respondents Are Investment Advisers 18

2. Respondents Made Materially False and Misleading Statements and Omissions 19

3. Section 206(1): Respondents Made the False and Misleading Statements and Omissions with Scienter 24

4. 206(2): Respondents Were Negligent in Failing to Disclose the Truth About the UGOC Acquisition 26

B. Respondents Willfully Violated Advisers Act Section 207 27

C. E. Page Willfully Aided and Abetted and Caused PageOne's Violations of Sections 206(1), 206(2), and 207 28

IV. REMEDIES REQUESTED 29

V. CONCLUSION 30

TABLE OF AUTHORITIES

Cases

Abrahamson v. Fleschner,
568 F.2d 862 (2d Cir. 1977)....19

Ernst & Ernst v. Hochfelder,
425 U.S. 185 (1976)....24-25

In the Matter of Gregory O. Trautman,
SEC Rel. No. 9088A, 2009 WL 6761741 (Dec. 15, 2009)....28

In the Matter of J.S. Oliver Capital Management, L.P.,
ID Rel. No. 649, 2014 WL 3834038 (Aug. 5, 2014)....27, 28

In the Matter of Kingsley, Jennison, McNulty & Morse, Inc.,
IA Rel. No. 1396, 1993 WL 538935 (Dec. 23, 1993)....20-21

In the Matter of Lisa B. Premo,
ID Rel. No. 476, 2012 WL 6705813 (Dec. 26, 2012)....19

In the Matter of Montford and Company, Inc.,
ID Rel. No. 457, 2012 WL 1377372 (Apr. 20, 2012)....19, 21

In the Matter of Montford and Co.,
IA Rel. No. 3829, 2014 WL 1744140 (May 2, 2014)....21, 23

In the Matter of ZPR Investment Mgmt. Inc.,
ID SEC Rel. No. 602, 2014 WL 2191006 (May 27, 2014)....28, 29

In re Fuller,
Rel. No. 33-8273, Rel. No. 34-48406, 2003 WL 22016309 (Aug. 25, 2003)....29

In re Stein,
IA Rel. No. 2114, 2003 WL 1125746 (Mar. 14, 2003)....20

Novak v. Kasaks,
216 F.3d 300 (2d Cir. 2000)....25

SEC v. Blavin,
557 F. Supp. 1304 (E.D. Mich. 1983)....18

SEC v. Bolla,
401 F. Supp. 2d 43 (D.D.C. 2005)....26

SEC v. Capital Gains Research Bureau, Inc.,
375 U.S. 180 (1963) ..... Passim

SEC v. DiBella,
587 F.3d 553 (2d Cir. 2009) 20, 28

SEC v. K.W. Brown and Co.,
555 F. Supp. 2d 1275 (S.D. Fla. 2007) 18, 27, 28

SEC v. Pimco Advisors Fund Management LLC,
341 F. Supp. 2d 454 (S.D.N.Y. 2004) 26

SEC v. Slocum, Gordon, & Co.,
334 F. Supp. 2d 144 (D.R.I. 2004) 20, 26, 27-28

SEC v. Tecumseh Holdings Corp.,
765 F. Supp. 2d 340 (S.D.N.Y. 2011) 25-26

South Cherry Street, LLC v. Hennessee Group LLC,
573 F.3d 98 (2d Cir. 2009) 26

Vernazza v. SEC,
327 F.3d 851 (9th Cir. 2003) 20

Wonsover v. SEC,
205 F.3d 408 (D.C. Cir. 2000) 27

Statutes

Investment Advisers Act of 9140

Section 202(a)(11) [15 U.S.C. § 80b-2(a)(11)] 18, 19

Section 203 [15 U.S.C. § 80b-3] 29

Sections 206(1), (2) [15 U.S.C. § 80b-6(1), (2)] ..... Passim

Section 207 [15 U.S.C. § 80b-7] 27, 28, 29

Investment Company Act of 1940

Section 9(b) [15 U.S.C. § 80a-9(b)] 29

Other Authorities

Amendments to Form ADV
IA Rel. No. 3060, 2010 WL 2957506 (Aug. 12, 2010) 27

I.
PRELIMINARY STATEMENT

This case reflects a straightforward application of the long-established rule that investment advisers, trusted with a fiduciary obligation to their clients, must "expose . . . all conflicts of interest which might incline a[n] investment adviser—consciously or unconsciously—to render advice which was not disinterested." SEC v. Capital Gains Research Bureau, Inc., 375 U.S. 180, 191-92 (1963) ("Capital Gains").

Here, Respondents—a registered investment adviser, PageOne Financial, Inc. ("PageOne"), and its sole owner Edgar R. Page ("E. Page")—recommended that their clients invest in three real estate investment funds (the "Funds"), managed by The United Group of Companies, Inc. ("UGOC"). Respondents' clients invested approximately $15 million in the Funds from March 2009 through September 2011. What Respondents failed to tell their clients, however, was that UGOC's owner, Walter Uccellini—working through UGOC and another entity he owned—was in the process of acquiring approximately 49% of PageOne from E. Page for between $2.49 and $3 million. Respondents likewise failed to tell their clients (and prospective clients) about other features of the acquisition that presented obvious conflicts of interest: (i) Respondents committed to UGOC to raise $18 to 20 million dollars for the Funds from their clients; (ii) UGOC was in the process of paying for the acquisition by making periodic down payments to E. Page; (iii) those down payments were documented as loans and, if the acquisition fell through, E. Page was personally liable to repay that money; and (iv) UGOC was using PageOne client's investments in the Funds to fund the acquisition down payments to E. Page.

Under oath in investigative testimony, E. Page explained why he did not tell clients the truth about the acquisition: "It's too dangerous. It would cause thousands of clients to

get extremely nervous if I was selling my firm." (Div. Ex. 166 at 118:17-19 (Transcript of Edgar R. Page investigative testimony).) In other words, Respondents knowingly hid the truth about the actual conflicts they faced because they were concerned that their clients would care about the information. This is exactly the opposite of what the law requires of investment advisers—to make "full and fair disclosure of all material facts," including the advisers' "personal interest in [their] recommendations to clients," Capital Gains, 375 U.S. 194, 201.

Now, instead of acknowledging their wrongdoing, Respondents have raised a host of excuses. For example, Respondents argue that, while they did not disclose the actual conflicts they faced, they attempted to put their clients on notice that there was some relationship between Respondents and UGOC by disclosing other, non-existent, conflicts. (Div. Ex. 94 at 5, 9-11, 12-13 (Respondents' Wells Submission).) Thus, Respondents argue that, at various points from July 31, 2009 to March 1, 2011, they stated in their Forms ADV that UGOC paid PageOne a 7% referral fee and that E. Page was a UGOC consultant. (Div. Ex. 14 at Schedule F, Page 10; Div. Ex. 48 at Schedule F, Page 13.) However, the Investment Advisers Act of 1940 ("Advisers Act") does not allow an investment adviser to avoid disclosing their true conflicts by describing conflicts that do not exist.

Moreover, Respondents' argument is both contradicted by the facts and, in any event, did not apprise their clients of the severity of the actual conflicts presented by the UGOC relationship. First, as Respondents knew, these disclosures were untrue; UGOC did not pay PageOne referral fees and E. Page was not a consultant. Second, during the period PageOne's ADV contained that disclosure, UGOC paid E. Page approximately 15% of his

clients' investments in the Funds, double the amounts disclosed. Third—contrary to their current argument that these statements, while untrue, were attempts to "over-disclose"—E. Page testified under oath (i) that he did not want his clients to know about the acquisition arrangement (as discussed above); (ii) that the referral fee had nothing to do with "over-disclosure," but was something that he had considered separate and apart from the acquisition and determined not to pursue because he did not have the required securities license; and (iii) that, not only was he never a consultant to UGOC, but that the disclosure in the ADV on that point was "not accurate" and should have been "redact[ed]." (Div. Ex. 166 at 82:16-83:21.)

Thus, Respondents understood, at the time, that their disclosures did not apprise their clients of the actual conflicts of interest presented by UGOC and the Funds. In doing so, Respondents entirely failed to satisfy their ongoing obligation to ensure that clients (and prospective clients) were apprised of all potential and actual conflicts faced while in the advisers' care. And, in failing to do so, Respondents violated Advisers Act Sections 206(1), (2), and (7) of the Investment Advisers Act of 1940 and E. Page aided and abetted and caused PageOne's violations of those same provisions.

II.
CONTENTIONS OF FACT

A. Respondents

PageOne Financial, Inc. ("PageOne"), is an investment adviser and has been registered with the Securities and Exchange Commission ("Commission") since December 31, 1986. Initially PageOne was called North American Capital Timing, Inc. In 2002, Edgar R. Page purchased 100% of North American Capital Timing, Inc. and changed its name to PageOne Financial, Inc. in March 2003. As of September 2014, PageOne reported

approximately $215 million in assets under management. PageOne charges advisory fees for its services. PageOne files its Forms ADV with the Commission, posts them on its website, and provides them to clients when the client enters into an advisory agreement with PageOne and annually thereafter.

Edgar R. Page ("E. Page"), age 62, is PageOne's sole owner, Chairman, and Chief Executive Officer. E. Page—who also serves as PageOne's Lead Portfolio Manager and Chairman of its Investment Committee—is primarily responsible for managing the firm's investment programs. E. Page has been actively managing investors' money since approximately 1982. E. Page held a Series 6 (Investment Company and Variable Contracts Products Representative) license from 1981 until approximately 2006. E. Page also served as PageOne's Chief Compliance Officer until approximately Spring 2012. In that role, E. Page was responsible for administering PageOne's policies and approving its Forms ADV.

B. E. Page's Deal with Uccellini and UGOC

In approximately Summer or Fall 2008, E. Page met Walter Uccellini and James Quinn. Uccellini was the Chairman and principal owner of UGOC, a real estate management company "specializing in development, finance, management and acquisition of real estate." (Div. Ex. 1 at 13.) Quinn was UGOC's in-house counsel and Vice Chairman. UGOC co-managed two real estate investment funds, the DCG/UGOC Equity Fund, LLC ("Equity Fund I") and the DCG/UGOC Income Fund, LLC ("Income Fund I", and together with the United Group Equity Fund II, the "Funds").

1. *UGOC Asked E. Page and PageOne to Raise Capital from their Clients for the Funds*

Uccellini and Quinn initially approached E. Page to assist UGOC in raising capital for the Funds from PageOne's clients. While the parties discussed this option, E. Page

ultimately informed Quinn that he was not in the business of "asset gathering"—i.e., simply raising assets for someone else's fund—and that he had his "hands full" as a full-time asset manager. (Div. Ex. 166 at 38:18-21.)

2. *Uccellini Offers to Acquire PageOne*

At around the same time, Next Financial Group, Inc. ("Next") offered to purchase 100% of PageOne. Upon learning of Next's offer, Uccellini expressed interest in acquiring a portion of PageOne and UGOC and E. Page began negotiations. E. Page understood that—because of the Financial Crisis—Uccellini was having trouble finding bank funding for his real estate development projects and was, thus, interested in acquiring PageOne as an alternate source of funds for UGOC's projects.

Although the exact terms of the deal evolved over time, Uccellini and E. Page had agreed to the basic terms of the acquisition by early 2009. First, Uccellini would establish a limited liability company, Millennium-Page, LLC, to acquire PageOne shares. Second, Uccellini would cause UGOC to pay E. Page approximately $3 million (that amount was later raised to $2.49 million for 49% of PageOne, and then to $3 million for 49%).

Third, E. Page committed to raise approximately $18 million (later increased to $20 million) for the Funds from PageOne's clients. The parties discussed E. Page's commitment to raise investment for the Funds on multiple occasions. For example, starting as early as December 15, 2008, E. Page wrote to Quinn:

> This letter shall constitute a commitment by PageOne Financial, Inc. ("PageOne") 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 Advisor.

(Div.Ex.128 at PG0626SUPP0008931.) And—at least until March 2011—Page had his employees maintain a spreadsheet showing the amounts he believed he had raised for UGOC to date and noting that the "Agreement was to raise $20 million." (Div.Ex. 62 at PG06260001521.) Fourth, rather than paying the acquisition fee for PageOne outright, Uccellini and E. Page agreed that UGOC would make periodic down payments on the purchase price to E. Page while a definitive written agreement was completed and the acquisition finalized.

3. The Promissory Notes

In order to give UGOC and Uccellini some security that E. Page would complete the acquisition after the down payments had already been made, each down payment was memorialized by a promissory note. The promissory notes, by their terms, obligated E. Page to repay the down-payment amounts to UGOC at some point in the future. E. Page believed that once UGOC's acquisition of PageOne was finalized the promissory notes would be forgiven, but, until that happened, understood that the down payments constituted loans from UGOC to him. Thus, E. Page understood that if UGOC did not complete its acquisition of PageOne shares, E. Page would be personally liable to repay the down payments. Indeed, in January 2010, E. Page wrote to Uccellini to expressing his concerning that the acquisition was not moving quickly enough. In that email, E. Page noted that "I have a large loan 'lliability' [sic] and no assets." (Div.Ex.30.) In other words—until the acquisition actually closed, and the notes were forgiven—E. Page was liable for the money UGOC had paid him to date.

4. *The Acquisition Price Increases*

PageOne's assets under management continued to grow before the acquisition could be finalized. To reflect this increase in value, Uccellini repeatedly increased his offer price for PageOne. On April 14, 2010, Uccellini and E. Page entered into a letter agreement providing that UGOC would pay approximately $2.5 million for 49% of PageOne.[1] According to E. Page, the parties later increased that amount to $3 million for 49%.

5. *E. Page and UGOC Discuss—and Reject—UGOC Paying E. Page Referral Fees on Client Investments in the Funds*

When Quinn first approached E. Page about the possibility of PageOne's clients investing in the Funds in 2008, they also discussed whether UGOC could pay PageOne a referral fee for introducing investors. Specifically, E. Page and Quinn discussed UGOC paying PageOne a one-time referral fee of 7% of the amounts PageOne's clients invested in the Funds. The parties went as far as to draft a Solicitor's Agreement in August 2009 reflecting that UGOC would pay PageOne 7% of "the amount invested by" PageOne's clients in the Funds. (Div. Ex. 19 at PG00001974.) However, E. Page dropped this idea—and the Solicitor's Agreement was never executed and no referral fees were paid—because he understood that in order to receive referral fees he would need to re-activate his Series 6 license, possibly obtain a Series 7 license, and become associated with a registered broker-dealer. E. Page decided that he did not want to obtain securities licenses or associate with a registered broker-dealer because he believed that it would increase his risk of being sued by

---

[1] Formally, the proposed transaction was structured so that E. Page would sell his stock in PageOne to a newly-created entity, affiliated with UGOC, called Millenium-Page, LLC.

his clients. Thus, all of UGOC's payments to PageOne were in anticipation of the acquisition.

6. *E. Page Walks Away from the Next Offer*

E. Page walked away from Next's offer because Uccellini offered $2.49 million (later raised to $3 million) for only 49% of PageOne, allowing E. Page to retain control.

C. E. Page Recommends the UGOC Funds to PageOne's Advisory Clients

From early 2009 through September 2011, in compliance with his agreement with UGOC, E. Page recommended investments in the UGOC Funds to PageOne's advisory clients.[2] Respondents called these investments the "Alternative Investment Program." (Div. Ex. 14 at Schedule F, Page 10.) During that same period, PageOne's clients invested approximately $15 million in the UGOC Funds.[3] Investors in the Funds were also generally provided with Private Placement Memoranda prepared by UGOC, describing the Funds.[4]

---

[2] Prior to the clients' investments into the Funds, each client and PageOne entered into an advisory agreement, indicating that PageOne was their advisor.

[3] In about January 2011, UGOC opened two new investment funds, United Group Income Fund II and United Group Equity Fund II. PageOne clients also invested in the United Group Income Fund II on E.Page's recommendation. No PageOne client invested in the United Group Equity Fund II.

[4] Those memoranda disclosed that an affiliate of UGOC may "retain placement agents . . . to assist in the private placement of Interests in the Fund. The Fund will be responsible for paying the placement agent fees . . . . Investors solicited by such persons will be advised of, and asked to consent to, any such compensation arrangement." (Div. Ex. 1 at 18; Div. Ex. 2 at 14.) These memoranda did not, however, disclose that E. Page or PageOne would receive any compensation from UGOC nor did they discussed the acquisition.

D. UGOC Pays E. Page Approximately \$2.7 Million in Acquisition Down Payments from March 2009 through September 2011

During the same period that E. Page and PageOne were recommending that their clients invest in the UGOC Funds, UGOC paid approximately \$2.7 million in down payments to E. Page, PageOne, and two companies that E. Page controlled, MAGS NV and RONNO NV. UGOC funded many of its payments to E. Page with the money that PageOne's clients invested in the Funds. E. Page knew (or recklessly disregarded) that the down payments often came out of money his clients had invested in the Funds for a number of reasons.

First, as discussed in greater detail in Section II.E below, E. Page understood that UGOC was short of cash. He thus knew, or ignored, that UGOC was using his clients' money to make acquisition payments to Page. Indeed, UGOC's down payments to E. Page often followed PageOne client investments in the Funds very closely in time. For example:

- December 16, 2007: PageOne client invests \$50,000 in Income Fund I. That same day, UGOC pays E. Page \$50,000.
- December 28, 2010: PageOne client invests \$231,770 in Income Fund I. The next day, December 29, UGOC pays the exact same amount, \$231,770, to E. Page.
- April 11, 2011: PageOne client invests \$198,000 into Income Fund II. On April 12, UGOC pays E. Page \$100,000.

E. Page understood this. E. Page was the only person at PageOne recommending the Funds to its clients, he had access to their accounts, and, was aware of when his clients invested in the Funds.

Second, E. Page drew an explicit connection between his clients' investments in the Funds and UGOC owing him down payments. For example, on December 2, 2009, E. Page emailed two UGOC employees that "the assets of Wossowski & Kearney should have

been wired to you today. I would like the $58,100 to be wired to the following account at Wells Fargo Bank . . . ." (Div. Ex. 25.) Wossowski and Kearney were both PageOne clients, who invested $230,000 and $600,000 , respectively, into the Income Fund on December 2, 2009. On December 4, 2009, UGOC wired the $58,100 E. Page had asked for to MAGS NV, a company E. Page controlled.

On February 3, 2010, E. Page emailed Uccellini and Quinn to complain that UGOC was not moving quickly enough on paying him the full acquisition price. Again, he noted that UGOC's down payments were coming out of PageOne clients' investments in the Funds:

> [I] can not [sic], 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. Honestly, I am feeling used and abused.
>
> [. . .]
>
> To contract a buyout in the manner in which Jim is doing so makes me feel foolish . . . . I am constantly raising money for my own closing . . . .

(Div. Ex. 31.) Thus, E. Page understood that PageOne clients' investment in the Funds were being used to funds UGOC acquisition payments to him.

E. UGOC's Acquisition of PageOne Collapses

UGOC's acquisition proved long and difficult, in part because UGOC did not have sufficient liquidity to close the transaction. E. Page knew that Uccellini was having difficulty raising capital. From the very early days of their partnership, Uccellini routinely emailed E. Page to tell him of UGOC's desperate need for capital. For example, as early as

February 2009, Uccellini emailed E. Page that without additional funding UGOC would need to stop construction on one of its develop projects:

> Ed—today, for the first time I got the impression your were not going to be able to perform—if we can not have several millions of dollars collected (in our hands to be spent) by next week it might very well be necessary to shut down the student housing jobs and then this whole undertaking will have been for naught.

(Div. Ex. 129.) Uccellini continued to express to E. Page that UGOC was desperate for more capital throughout the acquisition process.

UGOC's liquidity problem was exacerbated by Respondents' inability to raise the promised $18-20 million for the Funds. In October 2, 2010, Uccellini made this connection—between Respondent's raising investment for the Funds and closing the acquisition—explicit, emailing E. Page and others that:

> [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.
>
> [. . .]
>
> To date John P[eterson's, UGOC Senior Vice President] data shows you 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 student housing."

(Div. Ex. 53 (emphasis added).)

Even as early as January 2010, E. Page was becoming increasingly concerned about the likelihood that the deal would not close and the possible consequences for him, including having to repay all the down payments made to date. Thus, on January 29, 2010, E. Page wrote to Uccellini:

> I am anxiety struck. It is now 15 months and I can not close a loose end. It is leading to tax consequences, matrimonial discontent (Carol) . . . . On the surface I have a personal issue stringing me out (stress factor) and on a Business Front, collectively, something is wrong with the manner of how I close issues or am I just too nice. I have a large loan "lliability" [sic] and no assets.

(Div. Ex. 30 (emphasis added).)

As E. Page feared—despite paying him $2.7 million in down payments—UGOC did not complete its acquisition of 49% of PageOne. UGOC made its last payment to E. Page (of $200,000) on September 12, 2011. In August 2012, both Uccellini and Quinn were killed in a plane crash. In April 2013, UGOC—through its counsel—wrote to E. Page demanding that he repay the down payments memorialized by the promissory notes. To date, E. Page has not repaid any of the notes.

F. Respondents Fail to Tell their Advisory Clients the Truth About UGOC's Proposed Acquisition of PageOne Shares

E. Page determined not to tell his and PageOne's clients—even those clients that he was advising to invest in the Funds—about the acquisition, its terms, or the many conflicts of interest they created. In early 2009, E. Page instructed Sean Burke, PageOne's Chief Operations Officer and Assistant Compliance Officer, not to disclose the acquisition transaction truthfully in PageOne's Forms ADV. E. Page acknowledged under oath his reasons for not disclosing the acquisition:

> 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.

(Div. Ex. 166 at 118:12-19 (emphasis added).) Thus, from March to July 2009, Respondents issued no disclosure concerning UGOC's agreement to acquire a portion of PageOne or the terms of the acquisition. During this same time, however, PageOne clients invested over $4 million in the Funds and UGOC paid E. Page approximately $300,000.

Moreover, what disclosure Respondents ultimately did include in PageOne's Forms ADV created a materially misleading impression of Respondents' relationship to UGOC and the conflicts presented by that relationship.

1. *PageOne's July 31, 2009 Form ADV*

On July 31, 2009, PageOne issued an amended Form ADV, which, for the first time, included disclosure concerning the UGOC Funds. That document contained a number of false and misleading statements concerning the relationship between Respondents and UGOC.

(a) *False and Misleading Disclosure*

The Form ADV described the compensation arrangement with UGOC thusly:

- "Registrant is compensated in the Alternative Investment Program by a referral fee paid by the private investment fund in which the client is invested." (Div. Ex. 14 at Schedule F, Page 3); and

- "PageOne Financial does not directly charge the client a fee for this service. PageOne Financial is compensated by a referral fee paid by the Manager of the Private Fund(s) in which its clients invest. The management and other fees the client pays to the Private Fund 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.)

Neither of these statements was true, however. First, and most basically, UGOC payments to PageOne were simply not referral fees, but rather down payments on UGOC's eventual acquisition of at least 49% the company. Respondents have acknowledged this

repeatedly.[5] Indeed, according to E. Page, the language concerning the referral fee was never intended to reference UGOC's acquisition of PageOne. (See Section II.B.5 supra.) Instead, Respondents made this disclosure because they and UGOC had been discussing whether UGOC would also pay Respondents a 7% referral fee. (See id.) As discussed above, however, E. Page ultimately determined not to seek a referral fee from UGOC because it would mean obtaining securities licenses and associating with a registered broker-dealer. (See id.)

Second, Respondents' disclosure did not inform their clients of other conflicts presented by the UGOC acquisition agreement: (a) that Respondents had committed to raise $18 to 20 million for the Funds; (b) that Respondents had an expectation of future payments that would only be made if UGOC could actually afford to acquire PageOne; (c) that, because of UGOC's limited liquidity, it was less likely to complete the acquisition if PageOne's clients continued to invest in the Funds; or (d) that E. Page was personally liable to repay the down payments as set out in the promissory notes if the deal did not close. Respondents, thus, had an undisclosed interest in the ongoing success of the Funds and UGOC, i.e., to ensure that Respondents received the entire acquisition price and did not have to repay any (or all) of it.

Third, between July 31, 2009 and September 14, 2010—when PageOne again amended its Form ADV—UGOC paid E. Page over $1.2 million. This constituted approximately 15% of the approximately $8.4 million that Respondents' clients had

[5] See, e.g., Div. Ex. 94 at 5 (Respondents' Wells Submission, stating that "The payments by United were in the nature of a down payment or deposit intended to show United's good faith, to mollify Mr. Page, and to keep him from terminating further consideration of the transaction").

invested in the Funds during the same period. In other words, UGOC paid Respondents nearly double the 7% "referral fee" disclosed in the Form ADV.

In addition to the above, the Form ADV stated that PageOne only recommended funds managed by "unaffiliated investment advisers" and stated that the UGOC Funds were "unaffiliated" funds. (Div. Ex. 14 at Schedule F, Page 2.) These statements were, at least, misleading to PageOne's clients as they created the impression that PageOne had no control relationship UGOC. However, Uccellini and UGOC were in the process of acquiring PageOne and had—by that point in time—already begun making down payments.

(b) *National Regulatory Services*

PageOne hired a company called National Regulatory Services ("NRS") to assist with preparing and filing amendments to their July 31, 2009 Form ADV. Per their contract, NRS agreed to "work with [PageOne] to include additional language for a new product offering to their ADV and Agreements." (Div. Ex. 11 at Exhibit A.) Practically, this involved Burke providing information to an NRS employee about the UGOC Funds offering, who then assisted in drafting proposed language for PageOne's approval. At no point did PageOne or E. Page seek (or obtain) legal advice from NRS concerning the sufficiency of PageOne's ADV disclosures. Indeed, PageOne's agreement with NRS explicitly disavowed that NRS would provide legal advice or have any responsibility for the accuracy or sufficiency of the disclosure.[6]

---

[6] See Div. Ex. 11, ¶ 4 ("NRS does not render any legal . . . advice relating to incorporation, the securities laws, or any other advice of a legal or financial nature."); see also id., ¶ 7(b) ("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").

(c) E. Page Knew or Recklessly Disregarded that the July 31, 2009 Form ADV's Disclosure Was Inaccurate

As discussed above, E. Page testified that he did not want to disclose the true nature of Respondents' relationship with UGOC and, indeed, he instructed Burke not to do so. In addition, as PageOne's Chief Compliance Officer it was E. Page's responsibility to review and approve the July 31, 2009 Form ADV disclosure concerning UGOC. Indeed, E. Page had final say on any changes to his firm's disclosure documents. Consistent with this practice, Burke showed a draft of the July 31, 2009 ADV disclosures concerning UGOC to E. Page and received E. Page's approval. E. Page was thus well aware that the disclosure in the Form ADV did not accurately disclose the conflicts presented by Respondents' agreement with UGOC.

2. PageOne's September 14, 2010 Form ADV

On or about September 14, 2010, PageOne again amended the disclosure in its Form ADV concerning UGOC. The new Form ADV continued to describe UGOC and the Funds as unaffiliated (despite, by that point, UGOC's having paid E. Page over $1.5 million, or approximately 50% of the entire acquisition price). In addition, the new Form ADV continued to state that PageOne was "compensated in the Alternative Investment Program by a referral fee paid by the private investment fund in which the client is invested." (Div. Ex. 48 at Schedule F, Page 3.) The new disclosure omitted any discussion of the 7% "referral fee." Instead, the new Form ADV stated that:

> Edgar R. Page . . . is also employed as a consultant to The United Group of Companies . . . . 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.

(Id. at Schedule F, Page 13.)

E. Page authorized the amended Form ADV and was, thus, aware of these changes. And again, these disclosures failed to accurately disclose PageOne's relationship with UGOC for the same reasons discussed above. As E. Page admitted under oath, he was "[n]ever" a consultant to UGOC and "[t]his paragraph is not accurate." (Div. Ex. 166 at 82:15, 83:20-21.) E. Page further testified that this disclosure should have been "redact[ed]" from the Form ADV. (Id. at 82:16-21.) During the period this disclosure was extant, PageOne clients invested approximately $650,000 and UGOC paid E. Page approximately $480,000.

3. PageOne's March 1, 2011 Form ADV

On or about March 1, 2011, PageOne again issued an amended Form ADV. This new form omitted any discussion of UGOC, the Funds, or the acquisition. (Div. Ex. 61.) In addition, the amended Form ADV stated that:

> 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, Item 10.) Again, as Chief Compliance Officer and sole owner of PageOne, E. Page was responsible for approving changes to the Form ADV. He, thus, knew or recklessly disregarded these changes. Despite the deletion of any discussion of UGOC, the undisclosed acquisition payments continued apace. From March 1, 2011 through September 2011 (when UGOC stopped paying the acquisition fees), UGOC paid E. Page approximately $700,000. During the same period, PageOne clients invested as much as $1.9 million into the Funds via PageOne's platform on TD Ameritrade.

Following the collapse of UGOC's acquisition of PageOne, E. Page continued to manage funds for many of the clients he had recommended invest in the Funds, including providing advice about the Funds themselves.

III.
CONTENTIONS OF LAW

A. Respondents Violated Sections 206(1) and 206(2) of the Advisers Act

To establish violations of the antifraud provisions of Sections 206(1) and 206(2) of the Investment Advisers Act, the Division must show that Respondents (1) were investment advisers, (2) made materially false or misleading statements or omissions, (3) to clients or prospective clients, and (4) did so at least recklessly (for 206(1)) or negligently (for 206(2)). See SEC v. K.W. Brown and Co., 555 F. Supp. 2d 1275, 1308 (S.D. Fla. 2007) (discussing elements of 206(1) and 206(2)); SEC v. Blavin, 557 F. Supp. 1304, 1315 (E.D. Mich. 1983) aff'd, 760 F.2d 706 (6th Cir. 1985).[7]

1. Respondents Are Investment Advisers

An Investment Adviser is

> any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities . . . .

Investment Advisers Act, § 202(a)(11).

Respondents admit that PageOne, which has been registered with the Commission as an investment adviser since 1986, satisfies that definition. (See Amended OIP, § 7 and Amended Answer, § 7.) In addition, there can be no real dispute that E. Page is also an investment adviser within the meaning of the Act. First, E. Page—as PageOne's Lead

---

[7] The Division need not, however, demonstrate "proof of intent to injure" or "actual injury to clients." Capital Gains, 375 U.S. 180, 192 (1963).

Portfolio Manager and Chairman of its Investment Committee—had final say over all of the firm's investment decisions and, thus, "engage[d] in the business of advising . . . as to the value of securities." Investment Advisers Act, § 202(a)(11); see also 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"). Indeed, E. Page advised the clients and prospective clients here at issue as to the advisability on investing in the Funds. Third, as sole owner of PageOne, E. Page is compensated—as a result of the profit from the advisory fees the firm charges—for advising his clients. Fourth, in addition to actually providing investment advice for compensation, E. Page is an investment adviser by dint of his control over PageOne. As the Court discussed in In the Matter of Lisa B. Premo,

> [a] person who was not registered as an investment adviser has been found liable pursuant to Advisers Act Section 206 based on compensation received for services provided to clients . . . . This situation often occurs where the investment adviser is deemed to be the alter ego of the associated person or the investment adviser is controlled by the associated person.

ID Rel. No. 476, 2012 WL 6705813, at *19 (Dec. 26, 2012) (emphasis added and citations omitted) (collecting cases).[8]

2. *Respondents Made Materially False and Misleading Statements and Omissions*

It is blackletter law that investment advisers, such as Respondents, are fiduciaries to their clients and, thus, have:

[8] See also, e.g., In the Matter of Montford and Company, Inc., ID Rel. No. 457, 2012 WL 1377372 (Apr. 20, 2012) (Montford was investment adviser because he was 100 percent owner of the adviser, its president, CEO, and chief compliance officer).

> [A]n 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.

Capital Gains, 375 U.S. at 194 (citations omitted). This duty required Respondents to disclose (1) all actual and potential conflicts of interest, id., 375 U.S. at 191-92 (investment advisers must "at least . . . expose . . . all conflicts of interest which might incline a[n] investment adviser—consciously or unconsciously—to render advice which was not disinterested."); as well as (2) their "personal interests in [their] recommendations to clients." Capital Gains, 375 U.S. at 201.

Omitted information is considered material if "there is a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the total mix of information available." SEC v. DiBella, 587 F.3d 553, 565 (2d Cir. 2009) (citation and quotation marks omitted). While materiality is generally a "mixed question of law and fact," SEC v. Mayhew, 121 F.3d 44, 51 (2d Cir. 1997), under the Advisers Act, omission of potential and actual conflicts of interest is material per se. See Vernazza v. SEC, 327 F.3d 851, 859 (9th Cir. 2003) ("It is indisputable that potential conflicts of interest are 'material' facts with respect to clients and the Commission") (emphasis added); SEC v. Slocum, Gordon, & Co., 334 F. Supp. 2d 144, 182 (D.R.I. 2004) ("Potential conflicts of interest are always material"); In re Stein, IA Rel. No. 2114, 2003 WL 1125746, at *7 (Mar. 14, 2003) (Commission Op.) ("for a fiduciary . . . the disclosure of potential conflicts of interest is fundamental to preserving the integrity of the relationship with the client"). The Commission has held that:

> 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."

In the Matter of Kingsley, Jennison, McNulty & Morse, Inc., IA Rel. No. 1396, 1993 WL 538935, at *3 (Dec. 23, 1993) (emphasis added).

Moreover—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 totally irrelevant. In the Matter of Montford and Co., IA Rel. No. 3829, 2014 WL 1744140, at *16 (May 2, 2014) (Commission Op.). As the Commission reiterated in Montford:

> 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.

Id. (citations and quotation marks omitted).[9]

In addition, under the Advisers Act, a conflict is present where a relationship "might incline a[n] investment adviser—consciously or unconsciously—to render advice which was not disinterested" to his clients. Capital Gains, 375 U.S. at 191-92 (1963). Put another way: "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). Thus, all that matters is whether Respondents faced a conflict or potential conflict, whether they failed to disclose that conflict to their clients

9 In Montford, respondents also failed to tell their clients about compensation they were receiving from an investment manager, whose investment firms respondents were recommending. Id., 2014 WL 1744140, at *2.

fully and openly, and whether they did so knowingly, recklessly, or negligently (as discussed infra).

Here, as discussed in Section II above, Respondents acknowledge that they did not tell their clients or prospective clients about the true nature of their relationship to UGOC. Moreover, there can be no question that Respondents' true relationship with UGOC and the Funds presented a conflict. Their clients did not know—at the same time that Respondents were recommending that their clients invest in the Funds—that (i) UGOC was in the process of acquiring 49% of PageOne; (ii) UGOC was making down payments on that acquisition; (iii) Respondents had committed to UGOC to raise $18-20 million for the Funds; (iv) UGOC was illiquid and, thus, less likely to be able to complete the acquisition without investment from PageOne clients; and (v) E. Page was personally liable to repay all the down payments he had received to date. A starker conflict between an investment adviser's personal financial interests (to see the acquisition consummated) and his duty to his clients (to provide unbiased advice concerning the Funds implicated in that same deal) is hard to imagine.

In addition, the disclosure that Respondents did make in their Forms ADV—that PageOne received 7% referral fees and, later, that E. Page was UGOC consultant—was simply not true. Respondents do not argue with this. Instead, they have contended that the omissions were immaterial because they "were made carefully for the purpose of notifying potential investors of a possible conflict of interest without revealing preliminary stock purchase negotiations." (Div. Ex. 97 at 1 (Respondents Supplemental Wells Submission).) This argument is without merit for a host of reasons. First, an investment adviser cannot discharge his obligations to disclose all potential and actual conflicts by disclosing conflicts

that do not actually exist (or by shading those that do). The Supreme Court long ago noted that:

> [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

Capital Gains, 375 U.S. at 201. That investment advisers must disclose all conflicts of interest was recently unambiguously reiterated by the Commission: "Capital Gains repeatedly emphasized an adviser's fiduciary duty to disclose 'all conflicts of interest'." In the Matter of Montford and Co., Inc., 2014 WL 1744140, at *15, quoting Capital Gains, 375 U.S. at 191-92. In other words, an investment adviser cannot choose what conflicts to disclose—he must disclose them all, entirely and unreservedly.[10]

Second, contrary to the argument in the Wells Submissions, Respondents never intended to "over-disclose" by informing clients of conflicts (the purported, but non-existent referral fees and consulting arrangements). (See Div. Ex. 94 at 5 (Wells Submission).) E. Page himself has admitted this. E. Page testified that the 7% "referral fee" disclosure was included in the July 31, 2009 Form ADV—not to put clients on notice of a possible conflict arising from the acquisition—but in the event that UGOC was actually able to pay him such fees. (See Section II.B.5 supra.) Once he realized that he

---

[10] That Respondents may have been concerned that disclosure would scupper their deal with UGOC does nothing to lessen their disclosure obligations to their clients. Indeed, that Respondents chose to keep their clients investing in UGOC during the acquisition (indeed, as part of the acquisition) without wanting them to know the truth merely highlights how fraught the conflict between Respondents' interests and those of their clients had become.

could not receive "referral fees" without obtaining securities licenses, he dropped the idea. (See id.) E. Page further testified that the language in the September 14, 2010 Form ADV concerning his "consulting" work for UGOC was included in error and should have been "redacted." (See Section II.F.2 supra.) Thus, the notion that Respondents—in determining not to disclose the true conflict—carefully considered what to say and crafted substantially equivalent disclosure is simply inaccurate.

Third, Respondents' disclosures hardly conveyed qualitatively equivalent information to the truth. For example:

- March 2009 through July 2009: PageOne made no ADV disclosures, during a period when UGOC paid Respondents approximately $300,000 in acquisition payments and PageOne clients invested approximately $4.4 million in the Funds.

- March 2011 through September 2011: PageOne made no disclosures, while UGOC paid Respondents $700,000 in acquisition payments and PageOne clients invested nearly $2 million in the Funds, PageOne provided no information.

- July 31, 2009 to September 14, 2010: Respondents disclosed that they were receiving 7% referral fees. In fact, during the same period UGOC paid Respondents approximately $1.2, or nearly 15% of the approximately $8.5 million their clients invested in the Funds, approximately double the percentage Respondents disclosed they would receive as "referral fees."

Moreover, at no point did Respondents provide other critical information to clients, including: (i) that they had committed to raise $18-20 million for UGOC; (ii) that UGOC might not be able to complete the acquisition without that money; or (iii) that E. Page was personally liable for the down payments if the acquisition did not close.

3. Section 206(1): Respondents Made The False and Misleading Statements and Omissions With Scienter

Scienter, which the Division must establish under Investment Advisers Act Section 206(1), is a mental state embracing intent to deceive, manipulate, or defraud. Ernst & Ernst

v. Hochfelder, 425 U.S. 185, 193 n.13 (1976). Either knowing misconduct or reckless disregard for the truth will establish scienter. Novak v. Kasaks, 216 F.3d 300, 308 (2d Cir. 2000). The Division can demonstrate recklessness 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." Id. 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.

Here, Respondents acted with the requisite scienter. E. Page was aware of the details of the UGOC acquisition, indeed, he was the one negotiating them. In addition, E. page was also aware of the disclosure in PageOne's Forms ADV; it was his custom to the review the Forms, and Burke received his sign-off on at least the July 31, 2009 and September 14, 2010 ADV's. Thus, E. Page knew that PageOne's Forms ADV did not accurately disclose those details to their clients (including clients that were investing in the Funds). Indeed, E. Page admitted under oath that he consciously withheld the truth from clients and prospective clients: "I'm not going to tell the public what my civil contract is in negotiating a sale for my firm . . . . It's too dangerous. It would cause thousands of clients to get extremely nervous if I was selling my firm." (Div. Ex. 166 at 118.)

In addition, as PageOne's sole owner and Chief Compliance Officer, he had a duty to confirm that any amendments to the Form ADV were accurate. Thus, even if he had not approved the amendments (as he did), he acted recklessly in not doing so. See, e.g., SEC v. Tecumseh Holdings Corp., 765 F. Supp. 2d 340, 350 (S.D.N.Y. 2011) ("evidence that the 'defendants failed to review or check information that they had a duty to monitor, or

ignored obvious signs of fraud,' and hence 'should have known that they were misrepresenting material facts'" constitutes a showing of recklessness), quoting South Cherry Street, LLC v. Hennessee Group LLC, 573 F.3d 98, 109 (2d Cir. 2009).

As the Chief Executive Officer and sole owner of PageOne, E. Page's knowledge is imputed to the company. Manor Nursing Centers, Inc., 458 F.2d at 1089 n.3.

4. Section 206(2): Respondents Were Negligent in Failing to Disclose the Truth About the UGOC Acquisition

The elements of Section 206(2) are identical to 206(1) except that "Section 206(2) simply requires proof of negligence." SEC v. Pimco Advisors Fund Management LLC, 341 F. Supp. 2d 454, 470 (S.D.N.Y. 2004). In other words, the Division need only show that Respondents:

> failed to exercise the ordinary care required of an investment adviser in meeting [their] obligations under the Advisers Act and keeping [their] clients and prospective clients informed of all relevant, material information.

SEC v. Bolla, 401 F. Supp. 2d 43, 72 (D.D.C. 2005). Because of their fiduciary obligations, an investment adviser's mere failure to disclose potential or actual conflicts, without more, can constitute a negligent violation of Section 206(2). Thus, in Slocum, Gordan & Co., the Court found that, while defendants did not violate 206(1) because they did not act with scienter, they were liable for violating Section 206(2) because there was an undisclosed conflict that "could have occurred to the detriment of clients." 334 F. Supp. 2d at 183. As that Court acknowledged "[t]he fiduciary duty imposed on Defendants compelled disclosure" of the potential conflict to client. Id., 184.

So it is here. Respondents were aware of actual conflicts between their own interests in UGOC and their clients' investment in the Funds. They were also aware that these conflicts were not accurately or fully disclosed on PageOne's Forms ADV. Thus,

they acted at least negligently in carrying out their obligation of full and accurate disclosure.

B. Respondents Willfully Violated Advisers Act Section 207

Section 207 of the Investment Advisers 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.

15 U.S.C. § 80b-7. Scienter is not required to find a violation of this provision.[11] In the Matter of J.S. Oliver Capital Management, L.P., ID Rel. No. 649, 2014 WL 3834038, at *46 (Aug. 5, 2014). The Commission has "stated that 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." Id. Thus, "[t]he failure to make a required report, even if inadvertent, constitutes a willful violation." Id.

Respondents violated Section 207. First, PageOne's Forms ADV were either filed or deemed filed with the Commission. 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.[12] Second,

---

[11] "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).

[12] 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 . . . ."); see also Slocum, Gordon & Co., 334 F. Supp. 2d at

as described above, PageOne made materially false and misleading statements and omissions concerning its acquisition by UGOC in its Forms ADV. Third, E. Page, as Chief Compliance Officer and sole owner of PageOne, had final approval over any amendments to the Forms ADV. Thus, he is "liable as a primary violator under Advisors Act Section 207, as he had final responsibility over the Form ADV . . . ." In the Matter of J.S. Oliver Capital Management, L.P., 2014 WL 3834038, at *46; see also K.W. Brown and Co., 555 F. Supp. 2d at 1309-10 (holding individuals liable for primary violation of Section 207 where they were responsible for regulatory filings).

C. E. Page Willfully Aided and Abetted and Caused PageOne's Violations of Sections 206(1), 206(2), and 207

Aiding and abetting liability requires the Division to demonstrate:

> (1) the existence of a securities law violation by the primary (as opposed to the aiding and abetting) party; (2) 'knowledge' of this violation on the part of the aider and abettor; and (3) 'substantial assistance' by the aider and abettor in the achievement of the primary violation.

DiBella, 587 F.3d at 566 (quotation marks and citations omitted). "The knowledge or awareness requirement can be satisfied by recklessness when the alleged aider and abettor is a fiduciary or active participant." In the Matter of ZPR Investment Mgmt. Inc., ID SEC Rel. No. 602, 2014 WL 2191006, at *53 (May 27, 2014) (cition omitted); see also In the Matter of Gregory O. Trautman, SEC Rel. No. 9088A, 2009 WL 6761741, at *19 (Dec. 15, 2009) (Commission holding that "recklessness is sufficient to satisfy the scienter requirement for aiding and abetting liability").

180-81 ("an adviser's ADV Form and any amendment thereto is deemed to be a 'report' for purposes of Section 207.").

The elements of a causing violation are substantially similar: (1) a primary violation; (2) an act or omission by the respondent that was a cause of the violation; and (3) the respondent knew, or should have known, that his conduct would contribute to the violation. In re Fuller, Securities Act Rel. No. 8273, Exchange Act Rel. No. 48406, 2003 WL 22016309, at *4 (Aug. 25, 2003), pet. for review denied, 95 F. Appx 361 (D.C. Cir. 2004)). "Negligence is sufficient to establish liability for causing a primary violation that does not require scienter." ZPR Investment Mgmt., 2014 WL 2191006, at *53 (citations omitted). Because E. Page is responsible for PageOne's violative conduct—as detailed above—he is likewise liable for aiding and abetting and causing such conduct.

IV.
REMEDIES REQUESTED

The Division seeks: a cease-and-desist order; civil penalties pursuant to Section 203(i) of the Advisers Act and 9(d) of the Investment Company Act of 1940; advisory and collateral bars pursuant to 203(e) and 203(f) of the Advisers Act and Section 9(b) of the Investment Company Act, and disgorgement of ill-gotten gains.

V.
CONCLUSION

The Division of Enforcement intends to demonstrate that Respondents Edgar R. Page and PageOne Financial, Inc. committed the above-described violations of the Advisers Act and that the requested sanctions are appropriate.

Dated: January 12, 2015
New York, New York

DIVISION OF ENFORCEMENT

Alexander Janghorbani
Eric Schmidt
Securities and Exchange Commission
New York Regional Office
Brookfield Place, 200 Vesey Street, Ste 400
New York, New York 10281
Tel. (212) 336-0177 (Janghorbani)
Fax (703) 813-9504
Email: JanghorbaniA@sec.gov