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 MOTION AND MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION IN LIMINE NO. 3 TO PRECLUDE IRRELEVANT EVIDENCE OF TRANSACTIONS NOT AT ISSUE IN THIS CASE

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)

The Division of Enforcement ("Division") respectfully moves the Court, and submits this memorandum of law in support of its motion, to preclude Respondents Edgar Page ("E. Page") and PageOne Financial, Inc. ("PageOne") from offering at trial irrelevant evidence of transactions not at issue in this case.

INTRODUCTION

This matter is about whether PageOne, a registered investment adviser, and its sole owner and principal, E. Page, hid conflicts of interest concerning PageOne's acquisition by the United Group of Companies, Inc. ("UGOC") from their advisory clients while at the same time recommending that their clients invest in three funds managed by UGOC. Respondents admit that they began recommending the Private Funds to PageOne clients only in early 2009 (Amended OIP ¶ 12; Answer to Amended OIP ¶ 12) and that from early 2009 through approximately September 2011, UGOC made payments to E. Page as deposits or installment payments towards the acquisition by UGOC of an interest in PageOne. (Amended OIP ¶ 13; Answer to Amended OIP ¶ 13).

Respondents now seek to introduce 31 irrelevant documents concerning unsuccessful efforts in late 2008 by UGOC and E. Page to obtain financing from a Swiss firm called HOPE Finance S.A. ("HOPE").[1] However, such evidence is irrelevant and cannot be probative of any of these issues in this case because the HOPE transaction had been considered, and rejected, well before any investment in the Funds by a PageOne client and, thus, had no connection to those investments or the recommendation that led to those investments.

---

[1] The Division objects to the following Resp. Exs. 51-73, 77-79, 81, 87, 88, 95.

ARGUMENT

Rule 320 of the Commission's Rules of Practice provides that "the hearing officer . . . shall exclude all evidence that is irrelevant . . . ." Rule 401 of the Federal Rules of Evidence provides that evidence is relevant if (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.[2]

The documents concerning the discussion with HOPE Finance cannot be relevant to the issue of whether Respondents adequately disclosed to their advisory clients the arrangement they reached with UGOC after the discussions with HOPE Finance had ended. The discussions with HOPE ended on or about December 9, 2009 (Resp. Ex. 51 (email dated December 9, 2009 is latest concerning HOPE)), four months before Page's clients made any investments in the funds. Moreover, not only did those discussions never come to fruition, they are totally irrelevant to this case. They played no part in Page's recommendations to his clients to invest in the Funds (indeed, HOPE had passed from the scene before Page started recommending the Funds to his clients). Moreover, HOPE and any potential transaction related to it, had zero bearing on whether Respondents adequately disclosed UGOC acquisition of PageOne, the issues in this case.

In seeking to introduce these exhibits, Respondents appear to be attempting to confuse the very straightforward issues in this case. However, the Commission did not charge Respondents with any conduct relating to the HOPE transaction.[3] The only charged conduct here is whether Respondents adequately disclosed conflicts (and potential conflicts) that existed when the recommendations were made and thereafter. None of Respondent's proffered documents imbue

---

[2] "[T]he Federal Rules of Evidence do not govern Commission proceedings, however, they are often used as a reference point." Miguel A. Ferrer and Carlos J. Ortiz, AP Release No. 730, 2012 WL 8751437, at *5 at n. 1 (Nov. 2, 2012).

[3] See, e.g., Heckler v. Chaney, 470 U.S. 821, 831 (1985) ("an agency's decision not to prosecute or enforce . . . is general committed to an agency's absolute discretion.").

the HOPE transaction with any relevance to that charged conduct and should, therefore, be precluded.

At a minimum, the Court should require Respondents to provide it with an offer of proof as to why such evidence is relevant, similar to that envisioned in Rule of Practice 321 (b). Rule 321(b) ("Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the record").

CONCLUSION

For the foregoing reasons, the Division respectfully requests that its Motion in Limine be granted.

Dated: January 12, 2015
New York, New York

DIVISION OF ENFORCEMENT

By: _____

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 (fax)
JanghorbaniA@sec.gov

Attorneys for the Division of Enforcement