

**EGS**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**PAUL Z. SINGER, and  
SINGER FINANCIAL CORP.,**

**Defendants.**

**17 5053**

**Civil Action No.**

**Jury Trial Demanded**

**A TRUE COPY CERTIFIED TO FROM THE RECORD**

**DATED: NOV -9 2017**

**ATTEST: Steve Tomas**

**DEPUTY CLERK, UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

**COMPLAINT**

Plaintiff Securities and Exchange Commission (“the Commission”) alleges the following against defendants Paul Z. Singer and Singer Financial Corp. (“Defendants”):

**SUMMARY**

1. This action involves violations of the registration provisions of the Securities Act of 1933 (“Securities Act”) by Paul Z. Singer (“Singer”), founder and owner of Singer Financial Corp. (“SFC”), a “hard money” lending business based in Philadelphia, Pennsylvania.

2. From October 2012 through July 2015, Singer, by and through SFC, raised \$4.5 million from at least 70 investors through an illegal and unregistered offering of securities in the form of promissory notes. At the time of Defendants’ offering, no registration statement was filed with the Commission or in effect as to the promissory notes, and the offering did not otherwise qualify for an exemption from the Securities Act’s registration provisions.

3. Singer commenced the unregistered offer and sale of promissory notes at a time when SFC’s business was beginning to struggle due in part to sizeable non-interest bearing related-party loans that SFC made to Singer and other companies owned by him. These interest-

free related-party loans totaled over \$2 million, approximately 20% of SFC's assets, when Singer sold the first promissory note, and the balance grew to nearly \$3 million during the relevant period.

4. Having previously conducted securities offerings, Singer was familiar with the registration requirements of the Securities Act. Before conducting the unregistered offering of promissory notes, Singer initially sought an exemption from registration for an offering of nearly identical securities. The Commission's staff questioned, among other things, the size and scope of the interest-free related-party loans, and Singer abandoned the attempt to obtain an exemption and embarked upon the unregistered offering.

5. Singer not only obtained investor funds through the unregistered offer and sale of promissory notes, but also caused investors in a prior offering to exchange their securities for promissory notes with terms more favorable to Defendants. By doing so, Singer generally extended the repayment obligations and reduced SFC's interest expense.

6. By engaging in the foregoing conduct, Singer and SFC violated Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§77e(a) and (c)].

#### **JURISDICTION AND VENUE**

7. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. §§ 77t(b) and 77t(d)], to enjoin such acts, practices, and courses of business, and to obtain disgorgement, civil monetary penalties, and such other and further relief as the Court may deem just and appropriate.

8. The Court has jurisdiction over this action pursuant to Sections 20(d) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(d) and 77v(a)].

9. Venue is proper in the Eastern District of Pennsylvania pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)]. Singer resides within the Eastern District of Pennsylvania and SFC's principal place of business is located in this District. Defendants also transact business in this District, and several of Defendants' offers and sales of the relevant securities took place within this District.

### DEFENDANTS

10. **Paul Z. Singer**, age 54, is a resident of Mohnton, Pennsylvania. Singer is the sole officer, director, and shareholder of SFC, which is described more fully below. In addition to SFC, Singer operates several other real estate holding companies (collectively, "Affiliates").

11. **Singer Financial Corp.** is a private Pennsylvania corporation formed by Singer in 1992 with its principal place of business in Philadelphia, Pennsylvania. SFC is in the business of issuing "hard money" commercial real estate and business loans to borrowers located in Pennsylvania, New Jersey, and Delaware. Singer is the president of SFC and its sole officer, director, and shareholder.

12. Defendants have been the subject of prior state regulatory actions for offering and selling unregistered securities. The Pennsylvania Securities Commission sanctioned SFC first in 1997 and then Singer and SFC in 2007 for violating the registration provisions of Pennsylvania's securities laws in connection with SFC's unregistered offer and sale of securities. In 2010, the New Jersey Bureau of Securities fined SFC \$5,000 for selling unregistered securities in violation of the registration provisions of New Jersey's securities laws.

13. At all times relevant to the facts alleged in this Complaint, SFC acted by and through Singer, who exercised complete control over the operations of the company, including the offer and sale of securities and the use of investor proceeds.

## FACTS

### **I. BACKGROUND**

#### **A. SFC's Profits Decline and Singer's Related-Party Loans Increase**

14. SFC is in the business of issuing "hard money" commercial real estate loans. "Hard money" lending is an alternative to traditional bank financing typically marketed to high-risk borrowers. A "hard money" lender typically charges high interest rates and underwrites loans secured by real property with a low loan-to-value ratio.

15. SFC generates interest income on its commercial loan portfolio and, conversely, incurs interest expense on amounts borrowed from investors or financial institutions to fund new commercial loans. SFC primarily funded its commercial real estate loans through the sale of investment certificates and promissory notes to investors. As with all lenders, SFC's profitability largely depends on its ability to earn greater interest income from its commercial real estate loans than the interest expense it incurs to fund these loans.

16. SFC was profitable through the early and mid-2000s and grew its commercial loan portfolio from \$3.2 million in 2001 to its peak of over \$9 million in 2006. Over the next several years, however, SFC funded fewer high interest and income-generating commercial loans, Singer took more than \$1 million in interest-free loans from SFC on behalf of himself and the Affiliates (the "related-party loans"), and SFC's profitability declined.

17. By year-end 2011, SFC recorded net income of only \$23,000, and reported assets of \$9,757,778, including a commercial loan portfolio of \$5,196,697, and interest-free related-party loans of \$1,893,176.

18. By year-end 2015, SFC incurred a net loss of \$367,758. SFC's total assets decreased to \$8,700,866, with its commercial loan portfolio decreasing to \$2,415,418, and interest-free related-party loans growing to \$2,982,389, an increase of nearly 58%.

**B. SFC Funds its Loan Portfolio in Part through the Sale of Investment Certificates**

19. From at least 1998 through June 2010, SFC raised capital to fund its commercial loan business through the offer and sale of fixed-rate investment certificates (“Certificates”) to investors. The offerings were exempt from the Securities Act’s registration requirements pursuant to Regulation A.

20. Provided that an issuer met certain eligibility requirements, Regulation A, at the time, allowed “for public offers and sales of securities up to \$5 million during any 12 month period by an issuer.” An issuer seeking an exemption from registration under Regulation A was required to file a Form 1-A offering statement with the Commission. Offerings under Regulation A became qualified, or effective, upon the issuance of an order by the Commission.

21. SFC’s Certificates were unsecured, had contractual annual interest rates of between 7% and 12%, and had terms ranging from one to 15 years. Investors could elect to receive interest payments monthly, quarterly, or annually, or to accrue and compound interest for the life of the investment, with both principal and accrued interest payable when the Certificate matured.

22. SFC’s last effective offering statement qualified under Regulation A expired on June 29, 2010. Nevertheless, Defendants continued to offer the Certificates after that date without requalifying the offering or otherwise satisfying the Securities Act’s registration requirements.

23. On August 1, 2011, the Commission’s staff informed Singer that SFC was engaged in an unregistered offering, but Defendants continued the Certificate offering, illegally raising more than \$1.1 million through October 2011.

## **II. DEFENDANTS ENGAGE IN THE UNREGISTERED OFFERING OF PROMISSORY NOTES**

### **A. The Commission's Staff Questions the Related-Party Loans when Defendants Attempt to Qualify a New Certificate Offering**

24. In June 2012, Defendants attempted to qualify a new Regulation A offering by filing a Form 1-A offering statement with the Commission for the issuance of Certificates. As part of its filing, SFC included audited financial statements for year-end 2011.

25. The financial statements disclosed, among other things, the interest-free related-party loans that Singer and the Affiliates had taken from SFC.

26. By year-end 2011, SFC had loaned Singer and the Affiliates \$1,893,176. Unlike SFC's commercial loan portfolio, the interest-free related party loans earned no interest income for SFC. By year-end 2012, the related party loans grew to a combined \$2,053,660, approximately 20% of SFC's total assets.

27. On June 29, 2012, the Commission's staff issued a comment letter to SFC requesting, among other things, information concerning SFC's business model and clarification as to how SFC could charge interest rates of between 12% and 16% at a time when interest rates were at historic lows.

28. Additionally, the Commission's staff asked pointed questions regarding SFC's related-party loans to Singer and the Affiliates. Specifically, the staff requested that SFC provide:

- The purpose, number, and total dollar amount of the interest-free related-party loans;
- The status of the related-party loans as to performance relative to their original terms;
- Specific details, including the amount and due date, of each interest-free loan made to Singer; and
- The repayment terms of the related-party loans.

**B. Defendants Fail to Respond to the Commission Staff's Questions Concerning the Proposed Offering**

29. With the interest-free related-party loans facing regulatory scrutiny, Singer and SFC did not respond to the Commission's staff's inquiry, and the 2012 Certificate offering, was never qualified.

30. Instead, Defendants began to illegally offer and sell promissory notes (the "Notes") to investors, without disclosing the offering to the Commission, seeking to register the offering with the Commission, or otherwise complying with the Securities Act's registration requirements.

31. Despite renaming the investments, the Notes were essentially the same as the Certificates. The Notes were unsecured, had contractual annual interest rates of between 6% and 7.75%, and had terms ranging from three to 15 years. Like the Certificates, investors could elect to receive interest payments monthly, quarterly, or annually, or could accrue and compound interest for the life of the investment, with both principal and accrued interest payable when the Notes matured.

**C. Defendants Market the Notes to Investors in Various States Through General Solicitation**

32. Defendants offered and sold the Notes to individual members of the general public, not to commercial investors. Beginning in October 2012, Defendants broadly marketed the Notes to new investors and existing Certificate holders through letters, interstate mailings, and phone calls.

33. In July 2013, Defendants, through means of general solicitation, advertised the Notes in a newsletter mailed interstate to over 500 individuals, most of whom were not current SFC investors.

34. The newsletter stated, in pertinent part:

Since our last newsletter, SFC terminated its fifth offering of Investment Certificates in Delaware, Pennsylvania and New Jersey, and in 2012, began the process of registering a sixth offering of Investment Certificates with the SEC. Due to the oppressive regulatory environment, SFC chose to discontinue that process. SFC may, in the future, reinstate its popular Investment Certificate Program should the current regulatory environment become more business-friendly. To meet the needs of current investors whose Investment Certificates matured, rolled over or who simply wanted to increase the amount of their financial position, SFC made available the opportunity to participate in SFC's Promissory Note Program. Participants in the SFC Promissory Note Program receive high fixed interest rates of 6% or 7% for ten (10) or fifteen (15) year periods with a minimum commitment of \$5,000.

35. Singer did not attach to the newsletter any offering materials, financial statements, information normally provided in a prospectus for a registered securities offering, or other documents describing SFC's business operations, performance, or use of investor proceeds. As a result, investors were not afforded sufficient disclosure regarding the material risks of, among other things, investing in SFC and investing in unsecured promissory notes generally.

**D. Singer Causes Existing Certificate Holders to Exchange their Certificates and Purchase Notes with Terms More Favorable to SFC**

36. Defendants also marketed the Notes through letters mailed to existing SFC Certificate holders in various states, including Pennsylvania, New Jersey, and Delaware.

37. Between 2012 and 2015, Singer sent two versions of letters to current SFC Certificate holders to solicit their participation in the Note program. One version of the letter varied in form, but typically touted the Note program's "higher interest" rates and urged immediate investment since others "already have taken advantage of this program" and locked into high rates "for longer terms for a secured future."

38. In the fall of 2014, Singer sent a different letter to Certificate holders whose contractual interest rates were 9% or greater, requesting that they convert their Certificates into Notes with interest rates ranging between 6% and 7%. Singer did not give investors the option to



redeem their Certificates. Rather, he told that investors to purchase one of only two new investment products.

39. In this letter, Singer stated:

It has become more challenging for [SFC] to find solid investment opportunities that pay over 12.00% interest in the last few years. As a result, we are calling our lenders/investors with accounts/notes earning 9.00% or higher, and working with them to develop a solution to allow them to continue to earn good interest without jeopardizing [SFC's] ability to be profitable.

40. Defendants did not disseminate to investors in the Note program any written offering materials, financial statements, information normally provided in a prospectus for a registered securities offering, or other documents describing SFC's business operations, performance, or use of investor proceeds. As a result, investors were not afforded disclosure regarding the material risks of, among other things, investing in SFC and investing in unsecured promissory notes generally.

41. In total, between October 30, 2012 and July 16, 2015, Defendants sold more than \$3.6 million in Notes by calling a Certificate or Note at or prior to maturity, and immediately issuing a new Note, typically with different terms more favorable to SFC. During the same time period, Defendants sold nearly \$900,000 in Notes for cash. In the aggregate, Defendants sold \$4.5 million in Notes to at least 70 investors.

42. Singer personally reviewed, approved, and issued each Note purchase. In doing so, Defendants did not take reasonable steps to verify that investors were accredited. In fact, many investors had modest incomes and were financially unsophisticated. Defendants did not provide unaccredited investors with audited financial statements.

43. Singer required investors interested in participating in the Note program to submit a check payable to SFC, along with a written indication of the amount and duration of their

investment.

44. Singer deposited investor checks into SFC's corporate bank accounts under Singer's sole control. In turn, Singer caused a Note to be mailed to each investor and required investors to present the Note to SFC at maturity for repayment.

45. Singer pooled investor funds and deposited them into SFC's bank account for the purported purpose of making commercial mortgage loans which, in turn, funded SFC's ability to make interest and redemption payments to investors.

46. Investors considered the Notes to be investments, and expected that the Notes would generate a profit in the form of interest payments. Singer and SFC referred to the Notes as investments.

47. Investors understood that proceeds from the Note offering would be used to finance SFC's commercial loan business, and purchased the Notes because of their high interest rates.

48. Investors' returns were tied to and dependent upon the efforts of Singer, who was responsible for all aspects of SFC's business and had exclusive control over all of SFC's bank accounts and the use of investor proceeds.

49. Singer and SFC never registered the Note offering with the Commission and no exemption from registration was available.

50. The Notes were not subject to another regulatory scheme, other than the securities laws that significantly reduced the risks inherent in investing in the Notes.

### **III. TOLLING OF THE STATUTE OF LIMITATIONS**

51. Defendants agreed to toll any statute of limitations applicable to the claims alleged herein during the period from September 6, 2017 through December 6, 2017.

#### **IV. SINGER AND SFC VIOLATED THE SECURITIES ACT**

52. During the relevant period, Singer owned, operated, and controlled SFC.

53. The Notes offered and sold to investors are securities within the meaning of the Securities Act.

54. Defendants offered to sell and sold the Notes when no registration statement was on file with the Commission and the Notes were not exempt from the registration requirements of the Securities Act.

55. In connection with these sales or offers to sell, Defendants made use of the means and instruments of transportation or communication in interstate commerce or of the mails, including the use of the internet, interstate phone calls, and the United States mail.

56. In connection with these sales or offers to sell, Defendants carried or caused to be carried through the mails or in interstate commerce, by the means or instruments of transportation, securities for the purpose of sale or for delivery after sale when no registration statement was filed or was in effect as to the securities.

57. During the period from October 2012 through at least July 2015, Defendants continuously offered and sold the Notes.

58. Defendants offered and sold the Notes to investors in multiple states, and the offering exceeded \$1 million.

59. The Notes were sold to many unaccredited investors.

60. Many of the investors in the Notes were financially unsophisticated and did not have access to the kind of information that would have been available in a registration statement.

61. Defendants did not distribute audited financial statements to investors before the sale of the Notes.

**CLAIM FOR RELIEF**  
**Violation of Section 5(a) and 5(c) of the Securities Act**  
**(Against All Defendants)**

62. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 61 of the Complaint, inclusive, as if they were fully set forth herein.

63. Defendants, by engaging in the conduct described above, directly or indirectly, with respect to a security for which no registration statement was filed or in effect, and in the absence of any applicable exemption from registration:

- a. carried or caused to be carried through the mails or in interstate commerce, by means or instruments of transportation, such security for the purpose of sale and/or for delivery after sale; and
- b. made use of a means or instrument of transportation or communication in interstate commerce or of the mails to offer to sell such security through the use or medium of a prospectus or otherwise.

64. By engaging in the foregoing conduct, Defendants violated, and unless restrained and enjoined will continue to violate, Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§77e(a) and (c)].

**PRAAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court enter a final judgment;

**I.**

Permanently restraining and enjoining Defendants Singer and SFC from violating Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§77e(a) and (c)];

II.

Permanently restraining and enjoining Defendant Singer from directly or indirectly, including, but not limited to, through any entity owned or controlled by Singer, participating in the issuance, purchase, offer, or sale of any security in an unregistered offering by an issuer.

III.

Ordering Defendants Singer and SFC, jointly and severally, to disgorge any and all ill-gotten gains, together with prejudgment interest, derived from the activities set forth in this Complaint;

IV.

Ordering Defendants Singer and SFC to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. §§ 77t(d)];

V.

Granting such other and further relief as this Court may determine to be just and necessary.

Respectfully submitted,



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Dated: November 9, 2017