SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. MELISSA A. CRANE** **PART** **60M**

Justice

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ERINDALE HOLDINGS, LLC

Plaintiff,

- v -

Y ENERGY, LLC,

Defendant.

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INDEX NO. 650167/2025

MOTION DATE 01/10/2025

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59

were read on this motion to/for JUDGMENT - SUMMARY IN LIEU OF COMPLAINT .

Upon the foregoing documents, it is

In Motion Sequence No. 1, plaintiff— Erindale Holdings, LLC "Erindale"—moved for summary judgment in lieu of complain pursuant to CPLR § 3213. Defendant, Y Energy, LLC, ("Y Energy") opposed the motion alleging, inter alia, that the court lacks personal jurisdiction over it. Plaintiffs motion is granted.

CPLR 3213 provides for accelerated judgment where the instrument sued upon is for the payment of money only and the right to payment can be ascertained from the face of the document without regard to extrinsic evidence, "other than simple proof of nonpayment or a similar de minimis deviation from the face of the document" (*Weissman v Sinorm Deli, Inc.*, 88 NY2d 437, 444 [1996]; see *Arbor-Myrtle Beach PE LLC v Frydman*, 2021 NY Slip Op. 30223[U], 2 [Sup Ct, NY County 2021], *aff'd*, 2022 NY Slip Op. 00806 [1st Dept 2022]). "A [promissory] note qualifies as such an instrument for this purpose, provided the plaintiff can establish a prima facie case [']via proof of the note and a failure to make the payments called for

by its terms[']" (*Bonds Fin., Inc. v. Kestrel Techs., LLC*, 48 A.D.3d 230, 231 [1st Dep't 2008])(citations omitted).

The same standards that apply to motions for summary judgment under CPLR 3212 apply to CPLR 3213 motions. Movant must make a prima facie case by submitting the instrument and evidence of the defendant's failure to make payments in accordance with the instrument's terms (see *Weissman*, 88 NY2d at 444; *Matas v Alpargatas S.A.I.C.*, 274 AD2d 327, 328 [1st Dep't 2000]).

A plaintiff establishes a prima facie case by submitting the promissory note together with evidence that the defendant has not paid it. See *Alard, L.L.C. v. Weiss*, 1 A.D.3d 131, 131 (1st Dep't 2003) ("Having established defendant's execution of the note and default in payment, plaintiff made out a prima facie case . . . ."); *German Am. Cap. Corp. v. Oxley Dev. Co., LLC*, 102 A.D.3d 408, 408 (1st Dep't 2013) (finding that plaintiff established its entitlement to judgment as a matter of law where plaintiff "submitted evidence, including the note, the loan agreement and guaranty, and an affidavit of plaintiff's principal who attested to [defendant's] failure to make payment on the loan at its maturity date").

Here, plaintiff submitted two promissory notes—the April 20, 2023, Senior Promissory Note (the "April Note") and October 4, 2023 Note (the "October Note" but together with the April Note, "the Notes") (EDOCS 4-5). It is undisputed that the Notes were instruments for the payment of money only. It is also uncontested that defendant has made no payments on either Note, and that both Maturity dates have passed. This non-payment constitutes default under section eight of the Notes. Therefore, plaintiff has established prima facie entitlement to summary judgement pursuant to CPLR § 3213.

Upon plaintiff establishing its prima facie case, "the burden shifts to the Defendant to establish, by admissible evidence, the existence of a triable issue with respect to a bona fide defense." (*Cooperatieve Centrale Raiffeisen-Boerenleenbank, B.A. v. Navarro*, 25 N.Y.3d 485, 492 [2015]; *Boland v. Indah Kiat Fin. (IV) Mauritius Ltd*., 291 A.D.2d 342, 343 [1st Dep't 2002] (granting summary judgment in lieu of complaint where plaintiff established prima facie case and "defendants raised no issue of fact as to defenses to the note").

As noted, defendant does not contest the validity of the Notes, nor its default thereunder. Rather, defendant contends that plaintiff's motion should be denied because the court lacks personal jurisdiction over it.

Defendant is incorrect. To exercise personal jurisdiction pursuant to CPLR 302(a)(1), the court must determine "whether defendant conducted sufficient activities to have transacted business within the state" and "whether plaintiff's claims arise from the transactions." (*Matter of New York City Asbestos Litig*., 206 A.D.3d 442, 443 [1st Dep't 2022]) (internal citations omitted). "Only if the lawsuit arises out of or relates to the defendants contacts with New York, and there is an affiliation between New York and the underlying controversy, can a New York court then exercise specific jurisdiction over the defendant." (*id*., (internal citation omitted).

At the onset, while defendant contends that it was not transacting business in New York sufficient to establish jurisdiction, its conduct belies that position. For example, Y Energy: (1) received a notice of apparent violation from the New York Public Service Commission's Uniform Business practices for Distributed Energy Resource Suppliers (EDOC. 44); (2) submitted the New York Public Service Commission's Distributed Energy Resource Supplier Registration Form (EDOC 45); and (3) sent a letter to the New York Public Service Commission regarding an order to show cause for non-Compliance (EDOC 46.)

Moreover, the Notes in contention were issued in New York, under New York law (see EDOC. 36 [Affirmation of Aiden Hallett, sworn to on March 21st, 2025] (the "Hallet Affirmation) ¶ 4; EDOCS. 4-5). Erindale negotiated both Notes and the two extensions of the April Note with defendant by email and by telephone from Manhattan and executed the Notes and two extensions to the April Note in Manhattan. (Hallet Aff. ¶ 9). Further, one of defendant's principals, Stefan Forker, frequently met with plaintiff's managing member, Aiden Hallett, **in Manhattan** to discuss Y Energy's solar projects. *(id*. ¶ 7). It was these same projects that a portion of the proceeds from the Notes were to be used to fund (*id*.) (cf. *Bros. Pac Four, LLC v. War Ent., LLC,* 173 A.D.3d 617 [1st Dep't 2019] ["The court correctly concluded that California had long-arm jurisdiction over the non-resident defendants, based upon their soliciting plaintiff in California by phone, exchanging drafts of the investor agreement by email, emailing status reports of the proposed venture, and flying to California to meet with plaintiff"]); (see also *Great Lakes Ins. SE v. Am. Steamship Owners Mut. Prot. & Indem. Ass'n Inc*., 228 A.D.3d 429, 429 [1st Dep't 2024]).

Even the more, on October 29, 2024, another one of defendant's principals, Tim Kubes, met with Mr. Hallet in New York, wherein he attempted to resolve ongoing disputes—including discourse surrounding the Notes (*id*. ¶8).

Also, defendant received the Note proceeds from plaintiff's bank account in Manhattan. (*id*. ¶ 10-11, Exhibits D, E, G). (see *Skutnik v Messina*, 178 A.D.3d 744, 746 (2d Dep't 2019) [finding that defendant "purposefully availed himself to the privilege of conducting business in New York, and . . . purposefully used that [New York bank] account to conduct the very transactions that are the subject of this action."]). Consequently, defendant purposefully availed itself to the privilege of conducting business in New York. (see *Humitech Dev. Corp. v. Comu*,

16 Misc. 3d 1109(A), at *7 [Sup. Ct. N.Y. Co. 2007]; see also *Wilson v. Dantas*, 128 A.D.3d 176, 184 [1st Dep't 2015]). Therefore, the Court has personal jurisdiction over defendant, Y Energy.

Defendant's contention that plaintiff's motion should be denied because there are purported issues of fact is self-defeating. While defendant contends that there is an issue of fact as to whether plaintiff allegedly agreed to "net off" its obligations under a separate Membership Interest and Purchase Agreement (the "MIPA"), the documentary evidence defendant proffered in support of its contention falls flat when viewed in its entirety. Defendant argues that it was under the impression that "any obligations Y Energy may have owed to Erindale under the Notes would be deducted from the amounts due by Erindale under the MIPA." However, in the same email thread Erindale's principal wrote "[I] can not net off anything related to Westmoreland against the Y Energy loan that was provided by Erindale Holdings." (Hallet Affirmation ¶¶ 17, 51, Exhibit K). As a result, defendant's contention is baseless.

Finally, the court denies that part of the motion to recover attorneys' fees as plaintiff proffered no invoices by which the Court can determine the reasonability of those fees.

The court has considered the parties' remaining contentions and finds them unavailing.

Accordingly, it is

ORDERED that the motion for summary judgment in lieu of complaint is granted in part, and the Clerk is directed to enter judgment in favor of plaintiff and against defendant in the amount of $845,110.21, together with post-judgment interest at the statutory rate, as calculated by the Clerk, together with costs and disbursements to be taxed by the Clerk upon submission of an appropriate bill of costs; and it is further

ORDERED that that part of the motion seeking attorneys' fees is denied without prejudice; and it is further

ORDERED that defendant's cross motion to dismiss or in the alternative deny plaintiff's motion is denied; and it is further

ORDERED that there shall be no motions to renew or reargue without a pre-motion conference pursuant to Part Rule 10 (a).

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9/26/2025
DATE

MELISSA A. CRANE, J.S.C.

CHECK ONE:	[X]	**CASE DISPOSED**		[ ]	**NON-FINAL DISPOSITION**		
	[X]	**GRANTED**	[ ] **DENIED**	[ ]	**GRANTED IN PART**	[ ]	**OTHER**
APPLICATION:	[ ]	**SETTLE ORDER**		[ ]	**SUBMIT ORDER**		
CHECK IF APPROPRIATE:	[ ]	**INCLUDES TRANSFER/REASSIGN**		[ ]	**FIDUCIARY APPOINTMENT**	[ ]	**REFERENCE**