

ACTION MANAGEMENT, INC., : IN THE COURT OF COMMON PLEAS OF  
 : LYCOMING COUNTY, PENNSYLVANIA  
 Plaintiff :  
 :  
 vs. : NO. 00-00,667  
 :  
 WILLIAM K. NEWCOMER, :  
 :  
 Defendant : MOTION FOR SUMMARY JUDGMENT

**Date: December 12, 2001**

**ORDER and MEMORANDUM OPINION**

It is ORDERED and DIRECTED that Defendant’s Motion for Summary Judgment filed on September 12, 2001, is DENIED.

The Court finds that the document establishing the loan contract between the parties is an instrument that is a note or similar instrument. Accordingly, the case of *Township of Indiana v. Acquisitions and Mergers*, 770 A.2d 364 (Pa. Cmwlth. 2001, at 376) makes it clear that if the instrument is one that is under seal, a 20-year statute of limitation applies under 42 Pa. C.S. §5529(b)(1). If it is not under seal then the 4-year statute of limitation under 42 Pa. C.S. §5525(7) applies. The Court finds that the document is not an instrument under 42 Pa. C.S. §5525(8).

Accordingly, one of the issues remaining to be determined at trial will be whether or not the instrument is or is not one under seal and/or if the “seal” appearing on the instrument is valid and appropriate as an act of Defendant.

A further explanation of the Court's reasoning will be filed of record in another opinion, if necessary.

BY THE COURT:

William S. Kieser, Judge

cc: Gregory A. Stapp, Esquire  
David C. Raker, Esquire  
Judges  
Suzanne R. Lovecchio, Law Clerk  
Gary L. Weber, Esquire (Lycoming Reporter)