

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. \_\_\_\_\_

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
PAR THREE FINANCIAL, INC., and )  
MELVIN D. RUTH, )  
 )  
Defendants. )  
 )  
\_\_\_\_\_ )

**COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS**

Plaintiff Securities and Exchange Commission (the "Commission") alleges that:

**INTRODUCTION**

1. This case involves the ongoing fraudulent and unregistered offering of securities by Par Three Financial, Inc. ("Par Three") and its undisclosed principal, Melvin D. Ruth ("Ruth"). Ruth pled guilty to criminal felony charges of conspiracy to commit mail and wire fraud on November 16, 2000. The conspiracy involved a scheme in which Ruth represented that he would use investor funds to invest in a foreign currency trading program but instead misappropriated the funds. He was sentenced to 33 months imprisonment on January 25, 2001.

2. In November 2003, shortly after being released from prison, Ruth began perpetrating the Par Three investment scheme, which is substantially similar to the investment scheme that resulted in Ruth's 2000 felony conviction.

3. From approximately November 2003 through the present, Par Three and Ruth have raised at least \$8 million from more than 120 investors nationwide by offering investments in a purported lending program. Par Three continues to offer the investment through its Internet website. The Defendants raise funds from investors and purport to lend investor monies to check cashing/payday loan stores across the country. The Defendants represent that they will generate for investors a monthly return of at least 2%.

4. The Defendants are making numerous material misrepresentations and omissions in connection with the sale of Par Three's securities. Contrary to their representations to investors, Par Three's business does not generate the promised rate of return, and the Defendants are instead operating a Ponzi scheme. Par Three is dependent upon the influx of new investor monies in order to meet its current financial obligations, including guaranteed interest payments to investors.

5. Moreover, it appears that the Ponzi scheme is on the verge of collapse. Par Three has not made the last two monthly payments to investors, and its recorded telephone message states that Par Three is experiencing "a temporary problem with our liquid funds" and asks investors to be patient while it purportedly takes steps to repay them.

6. The Defendants are also misappropriating investor funds. Contrary to the disclosures to investors, the Defendants have used investor funds to purchase real property in southern Florida at a total cost of at least \$1 million, to purchase a yacht at a cost of more than \$170,000, to make monthly payments of \$5,300 on two luxury automobiles, and for jewelry purchases totaling more than \$4,500. The Defendants have also paid Par Three's sales agents at least \$385,000 in undisclosed payments.

7. The Defendants have also omitted to disclose that Ruth is a control person of Par Three and that Ruth was convicted of a felony in connection with an investment scheme substantially similar to the Par Three scheme.

8. The Defendants, by engaging in the conduct described in this complaint, have violated, and unless enjoined will continue to violate, the securities registration and antifraud provisions of the federal securities laws. By this complaint, the Commission seeks emergency relief against the Defendants, including a temporary restraining order, an order freezing assets, the appointment of a receiver, accountings, an order prohibiting the destruction of documents and an order expediting discovery, as well as preliminary and permanent injunctions, disgorgement with prejudgment interest, and civil penalties.

#### **THE DEFENDANTS**

9. Par Three Financial, Inc. is a Nevada corporation purportedly headquartered in Las Vegas, Nevada, although its principal office is in Boca Raton, Florida. Par Three purportedly is in the business of generating returns to investors by loaning money to check cashing/payday loan stores across the country.

10. Melvin D. Ruth, age 64, resides in Boca Raton, Florida. Ruth controls all aspects of Par Three's operations.

### **JURISDICTION AND VENUE**

11. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77t(b), 77t(d), and 77v(a); and Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78u(d), 78u(e), and 78aa. The Defendants, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, the means and instruments of transportation and communication in interstate commerce, and the mails, in connection with the acts, practices, and courses of business set forth in this complaint.

12. Venue is proper in the Southern District of Florida because many of the Defendants' acts and transactions constituting violations of the Securities Act and the Exchange Act occurred in the Southern District of Florida. In addition, the principal place of business of Par Three is in the Southern District of Florida, and Ruth resides in the Southern District of Florida.

### **THE DEFENDANTS' FRAUDULENT OFFERING**

#### **Overview of the Investment**

13. From at least November 2003 to the present, Par Three has offered and sold investments in "Accounts Receivable Purchase Notes" (the "Notes"). From November 2003 through May 2005, Par Three sold at least \$8 million in Notes to more than 120 investors nationwide. The Notes have a nine-month term with the option to renew on the same basis for an additional nine months. Par Three also promises to redeem all principal and accrued interest on 90 days' written notice.

14. The Notes promise to pay investors a return of at least 2% per month. Par Three, however, has also issued to certain larger investors Notes that promise to pay 3% or 4% per month. In addition, Par Three promises to pay a referral fee of ½% per month on any new investments referred to Par Three. As a result, Par Three's total debt obligation ranges from 24% to 30% per year with respect to most investors and up to 54% per year with respect to some larger investors.

### **Par Three's Offer and Sale of the Notes**

15. Par Three has offered and sold its Notes through newspaper ads (including ads in the Los Angeles Times, the San Francisco Chronicle, and the Seattle Times), ads in various online publications, a password-protected website ([www.parthreefinancial.com](http://www.parthreefinancial.com)), word-of-mouth from investors compensated with referral fees, and sales agents. The sales agents solicit prospective investors by contacting people who have responded to Par Three's newspaper ads or who have been referred by another investor.

16. Par Three's offering of the Notes is not registered with the Commission.

### **Par Three's Representations to Investors**

17. Par Three provides written and oral representations to prospective investors. Par Three's written representations are contained in its website and oral representations are made by its sales agents. The written and oral representations are substantially similar. Specifically, Par Three represents that:

- (a) Par Three lends the investors' funds to check cashing/payday loan stores throughout the United States;
- (b) Par Three earns from 5% to 10% a month on the money it lends to the stores;
- (c) Par Three secures its loans through liens on the stores' receivables (i.e., the checks presented to the stores for cashing); and
- (d) Par Three will pay investors 2% per month on their investments.

18. Par Three's sales representatives do not disclose that Par Three is engaged in any business other than financing the check cashing/payday loan businesses.

### **PAR THREE'S OPERATIONS**

#### **Par Three's Business of Funding Check Cashing/Payday Loan Stores**

19. Although the Defendants have used some investor monies to fund check cashing/payday operations, Par Three's business is not profitable. From November 2003 through May 2005, Par Three has lost at least \$3 million from its business operations. Even excluding ordinary business expenses, Par Three has incurred losses of more than \$155,000, and likely more than \$486,000, during the same period.

20. Par Three transfers money to Cash Plus Financial, Inc. ("Cash Plus"), a single check cashing/payday loan operation with ten stores in south Florida. Par Three's and Cash Plus' businesses are inextricably intertwined. Cash Plus is heavily dependent upon Par Three to

finance its check cashing/payday loan operations. Ruth, Par Three's control person, has signatory authority over Cash Plus' bank accounts. Par Three and Cash Plus also share the same office space in Boca Raton, Florida.

21. Par Three has incurred a loss from its financing of check cashing/payday loan operations. Specifically, from November 2003 through May 2005, Par Three transferred at least \$13.47 million in investor monies to check cashing/payday loan operations. During that same period, Par Three received a total of more than \$13.31 million from those same operations, while incurring expenses totaling more than \$2.87 million, including payments to sales agents, overhead, delivery services, insurance, and other miscellaneous expenses.

#### **Par Three's Operation of a Ponzi Scheme**

22. From November 2003 through May 2005, Par Three has sustained losses of at least \$3 million from its lending operations, and it has sustained a loss of at least \$155,000, and likely more than \$486,000, even when ordinary business expenses are disregarded. Despite these losses, during the same period, Par Three paid investors returns of nearly \$1.9 million in interest payments. Because of Par Three's operating losses, Par Three had to use money from new investors to make the interest payments to existing investors. This use of new investor funds to repay earlier investors in Par Three, which was not disclosed to investors, constitutes a Ponzi scheme.

#### **The Defendants' Misuse of Investor Funds**

23. From November 2003 through May 2005, the Defendants have used substantial amounts of investor monies for undisclosed and improper purposes. For example, the Defendants purchased a yacht for more than \$170,000. The Defendants make regularly monthly payments of \$5,300 on two Porsche and Mercedes Benz automobiles, and they have spent at least \$4,500 on jewelry. The Defendants have spent at least \$1 million in purchasing real property in Southern Florida, and currently holds title on at least five parcels. The Defendants have also paid Par Three's sales agents undisclosed payments totaling more than \$385,000. None of these uses of investor funds has been disclosed to investors.

#### **RUTH'S CRIMINAL RECORD AND HIS CONTROL OF PAR THREE AND CASH PLUS**

24. Ruth pled guilty to criminal charges of conspiracy to commit mail and wire fraud on November 16, 2000, and was sentenced to 33 months imprisonment on January 25, 2001.

The criminal charge arose from a scheme in which Ruth raised money by telling investors that he would use their funds to trade in foreign currencies. Ruth provided sales agents with lead lists of prospective investors. He instructed the agents to tell prospects that his company had been successful in investing money for people in foreign currency markets, that their funds would be placed in active trading accounts, and that they could always close out their accounts. Contrary to his representations to investors, Ruth either only partially invested the funds, or did not invest them at all, in foreign currency trading. In reality, Ruth used the uninvested funds to pay sales agents and operating expenses, and Ruth and his co-conspirators kept the remainder.

25. Ruth maintains extensive control over the activities of Par Three, and also of Cash Plus. Ruth provides Par Three's sales agents with the names and telephone numbers of prospective investors. Ruth instructs Par Three's sales agents regarding what to say to prospective investors, either through oral instructions or a sales script he provides them. In addition, at Ruth's instruction, the sales agents direct prospective investors to Par Three's website and provide them with a password to access the entire website.

26. Ruth is intimately involved in the finances of Par Three and Cash Plus. Ruth has signatory authority over both Par Three's and Cash Plus' bank accounts and has signed virtually all of the checks on Par Three's accounts. From March 2004 through May 2005, he signed hundreds of checks drawn on Par Three's account for millions of dollars that were made payable to cash. Ruth has personally endorsed a number of these checks totaling more than \$1 million.

27. The Defendants have not merely failed to disclose Ruth's criminal past and his control over Par Three's finances, but all traces of his affiliation with Par Three as well. Public filings with the Nevada Secretary of State identify Michael L. Potter as Par Three's CEO and Donald D. Merritt as its president; they do not identify Ruth in any capacity. Par Three's sales agents do not mention Ruth's name to investors.

**THE DEFENDANTS' MISREPRESENTATIONS AND OMISSIONS OF  
MATERIAL FACTS IN THE OFFER AND SALE OF PAR THREE NOTES**

28. The Defendants, through Par Three's sales agents, who are directed by Ruth, make numerous material misrepresentations and omissions regarding Par Three's business operations and investments in the Notes. Specifically, the proposed defendants misrepresent that:

- (a) Par Three will lend the investors' funds to check cashing/payday loan stores throughout the United States -- in fact, Par Three lends the vast majority of funds to one entity, Cash Plus, over which Ruth has extensive control;
- (b) Par Three earns from 5% to 10% a month on the money it lends to the stores -- in fact, Par Three has lost at least \$3 million from its lending operations; and
- (c) Par Three's business activity is financing the stores' check cashing/payday loan businesses -- in fact, Par Three has used investor funds for many improper and undisclosed purposes, including to purchase a yacht, to make luxury car payments, to purchase jewelry and real estate, and to make payments to Par Three's sales agents.

29. The Defendants have failed to disclose to investors that Par Three is making interest payments to existing investors from money raised from new investors, and is therefore operating as a Ponzi scheme. The Defendants have also omitted to disclose that Ruth is a control person of Par Three and Cash Plus and was convicted of a felony in connection with an investment scheme substantially similar to the Par Three scheme.

### **FIRST CLAIM FOR RELIEF**

#### **Unregistered Offer and Sale of Securities**

#### **Violations of Sections 5(a) and 5(c) of the Securities Act**

#### **(Against All Defendants)**

30. The Commission realleges and incorporates by reference paragraphs 1 through 29 above.

31. The Defendants, and each of them, by engaging in the conduct described above, directly or indirectly, made use of means or instruments of transportation or communication in interstate commerce or the mails, to offer to sell or to sell securities, or to carry or cause such securities to be carried through the mails or in interstate commerce for the purpose of sale or for delivery after sale.

32. No registration statement has been filed with the Commission or has been in effect with respect to the offering alleged herein.

33. By engaging in the conduct described above, each of the 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 77e(c).

**SECOND CLAIM FOR RELIEF**

**Fraud in the Offer or Sale of Securities**

**Violation of Section 17(a) of the Securities Act**

**(Against all Defendants)**

34. The Commission realleges and incorporates by reference paragraphs 1 through 29 above.

35. The Defendants, and each of them, by engaging in the conduct described above, directly or indirectly, in the offer or sale of securities by the use of means or instruments of transportation or communication in interstate commerce or by use of the mails:

- a. with scienter, employed devices, schemes, or artifices to defraud;
- b. obtained money or property by means of untrue statements of a material fact or by omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- c. engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

36. By engaging in the conduct described above, the Defendants, and each of them, violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

**THIRD CLAIM FOR RELIEF**

**Fraud In Connection With the Purchase or Sale of Securities**

**Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**

**(Against all Defendants)**

37. The Commission realleges and incorporates by reference paragraphs 1 through 29 above.

38. The Defendants, and each of them, by engaging in the conduct described above, directly or indirectly, in connection with the purchase or sale of a security, by the use of means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, with scienter:

- a. employed devices, schemes, or artifices to defraud;



- b. made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- c. engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

39. By engaging in the conduct described above, the Defendants, and each of them, violated, and unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 77j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Commission respectfully requests that the Court:

**I.**

Issue findings of fact and conclusions of law that the Defendants committed the alleged violations.

**II.**

Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d), temporarily, preliminarily and permanently enjoining the Defendants and their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, who receive actual notice of the judgment by personal service or otherwise, and each of them, from violating Sections 5(a), 5(c), and 17(a) of the Securities Act, 15 U.S.C. §§ 77e(a), 77e(c) and 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

**III.**

Issue in a form consistent with Fed. R. Civ. P. 65, a temporary restraining order and a preliminary injunction freezing the assets of each of the Defendants, including all bank accounts controlled by each of them; appointing a receiver over defendant Par Three; prohibiting each of the Defendants from destroying document; and ordering expedited discovery and accountings from each of the Defendants.

**IV.**

Order each Defendant to disgorge all ill-gotten gains from their illegal conduct, together with prejudgment interest thereon.

V.

Order each Defendant to pay civil money penalties pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d) and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

VI.

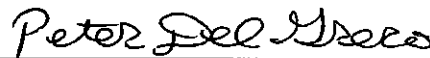
Retain jurisdiction over this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VII.

Grant such other and further relief as this Court may determine to be just and necessary:

Signed this 23 day of August, 2005.

Respectfully submitted,



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