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Par Funding: A Fabulous Fraud Founded in Philly

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Abstract. This case describes a recent iteration of the Ponzi scheme originated in 1920 by Charles Ponzi: creating a plausible investment, attracting investors, using the money from more recent investors to pay off earlier investors, and earning a substantial profit, estimated to be \$15 million (worth \$220 million today).¹ While not as big as Bernie Madoff's Ponzi scheme, as a result of which he was sentenced to 150 years in prison and ordered to pay restitution of \$170 billion to his victims,² the Federal district court in Miami was asked to order Par Funding's cofounders, Joseph W. LaForte and his wife, Lisa McElhone, to pay \$337 million to Par Funding investors and to declare they engaged in a Ponzi scheme in defrauding those investors.³ Ultimately the Federal district court in Miami ordered Par cofounders to pay "\$219 million in 'ill-gotten gains,' fines and interest so the funds can be used to help reimburse 1,200 investors who were duped into buying the risky, unregistered securities used to finance the high-fee loan company."⁴ How LaForte and McElhone executed their scheme is an intriguing story which provides helpful insight into ethical and U.S. securities law principles.

Keywords: financial pitchman, merchant cash advances, outside receiver, ponzi scheme, promissory notes, Securities Exchange Commission, state securities regulators, unregistered securities offerings, views of corporate social responsibility: narrow, moderate, and broad.

1. Introduction

Complete Business Solutions Group, Inc. d/b/a Par Funding (hereinafter "Par Funding") had a very simple business model: hire highly successful sales personnel to convince investors to purchase almost \$500 million in Par Funding

1. Jim Probasco, *Who Was Charles Ponzi? What Did He Create?*, INVESTOPEDIA, February 28, 2023, accessed on May 13, 2023, at <https://www.investopedia.com/who-is-charles-ponzi-5216783#:~:text=Charles%20Ponzi%20is%20the%20namesake,new%20investors%20can%20be%20attracted>
2. Sean P. Melvin and F.E. Guerra-Pujol, *THE LEGAL ENVIRONMENT OF BUSINESS: A MANAGERIAL APPROACH*, at 563 (2021)
3. Craig R. McCoy, *SEC seeks \$630M in fraud lawsuit*, THE PHILADELPHIA INQUIRER, April 19, 2022, p. A1, accessed on April 20, 2022, at <https://eedition.inquirer.com/html5/reader/production/default.aspx?pubname=&edid=90b24b63-1770-469a-ab2d-dab05ad98885>
4. Joseph N. DiStefano, *Par Funding founders ordered to pay \$219M*, THE PHILADELPHIA INQUIRER, October 27, 2022, p. A18, accessed on October 29, 2022, at https://eedition.inquirer.com/infinity/article_popover_share.aspx?guid=1eb275ff-504e-45b7-a481-0691cb555357

promissory notes, lend that money to merchants in the form of merchant cash advances (MCA) at interest rates averaging 50% with some as high as 400%, and pay the promissory notes back at interest rates of 10% or more.⁵ Unfortunately, both for themselves and their investors, Joseph W. LaForte and his wife, Lisa McElhone, Par Funding's cofounders, abandoned the MCA business plan and embarked on their own, enormous Ponzi scheme.

In a civil lawsuit filed in July 2020, the Securities and Exchange Commission (SEC) accused McElhone and LaForte of fraud by (1) failing to warn investors how risky the MCA investments were, (2) failing to collect the balances owed on the MCA because those loans had constantly escalating balances the borrowers could never pay off, (3) permitting the ten largest MCA borrowers to account for half of Par Funding's business, and (4) paying themselves "millions" before ending payments on Par Funding's promissory notes in April 2020.⁶

Notably, Par Funding's finances were audited by the accounting firm Friedman LLP, which in its initial review, determined Par Funding lost \$6.7 million in 2017 after taking into account its credit losses.⁷ LaForte insisted Friedman LLP prepare a second audit showing a \$1.2 million profit, and Friedman LLP attached an "adverse opinion" to the audit saying that Par Funding had "not accounted for its provision for credit losses, in accordance with accounting principles generally accepted in the United States of America" and that the second report's results "do not present fairly" Par's financial position.⁸ SEC senior trial counsel, Amie Riggle Berlin, commented that the swapping out of the audit report was emblematic of an operation shot through with deception.⁹

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5. J.D., Professor of Management, Rohrer College of Business, Rowan University, Glassboro, New Jersey 08028
 6. SEC vs. Complete Business Solutions Group Inc. d/b/a/ Par Funding et al., No. 9:20-Cv-81205 (S.D.FI Filed Jul 31, 2020), Litigation Release no. 24860 / July 31, 2020. Joseph N. DiStefano and Erin Arvedlund, *From nail salon to near billionaire: How Par Funding owner amassed a fortune* THE PHILADELPHIA INQUIRER, October 8, 2020, accessed on December 21, 2020, at <https://www.inquirer.com/business/par-funding-sec-lisa-mcelhone-porsche-dean-vagnozzi-forte-prison-fraud-20201008.html>. Erin Arvedlund, *How Philly investors were drawn into what SEC alleges is \$500 million fraud*, THE PHILADELPHIA INQUIRER, August 12, 2020, accessed on December 21, 2020, at <https://www.inquirer.com/business/par-funding-a-better-financial-plan-dean-vagnozzi-joseph-laforte-lisa-mcelhone-lacquer-lounge-sec-complaint-20200812.html>. SEC Complaint filed in *SEC v. Complete Business Solutions Group, Inc. d/b/a Par Funding* ¶ 1-3.
 7. DiStefano and Arvedlund *supra* note 5.
 8. Joseph N. DiStefano, *SEC lays out its fraud case against Philly-based firm, calling it a 'sham' with 'no respect for the law'*, THE PHILADELPHIA INQUIRER, August 18, 2020, accessed on October 9, 2020, at <https://www.inquirer.com/business/law/sec-fraud-philadelphia-par-funding-vagnozzi-retirement--20200818.html>
 9. *Id.*

2. Par Funding's Operations

LaForte and McElhone created Par Funding, a Delaware corporation, in 2011. Par Funding had its main office in Philadelphia until 2017, when LaForte and McElhone relocated the business headquarters to Palm Beach Gardens, Florida.¹⁰ McElhone was Par Funding's President, CEO, and sole employee, and had ultimate decision-making authority for Par Funding.¹¹ McElhone was also the Grantor of the L.M.E. 2017 Family Trust (hereinafter "Family Trust"), to which she transferred the shares of Par Funding and which she controlled as the Grantor of the Family Trust.¹²

In phase 1 of Par Funding's operations, Par Funding directly issued its promissory notes to investors.¹³ In 2018, the Commonwealth of Pennsylvania, acting through the Department of Banking and Securities, Bureau of Securities Compliance and Examinations, conducted an investigation of Par Funding's securities activities and concluded Par Funding violated the Pennsylvania Securities Act of 1972, 70 P.S. § 1-301 (hereinafter "Pennsylvania Securities Act").¹⁴ On November 28, 2018, Par Funding consented to an order by the Pennsylvania Department of Banking and Securities imposing a \$499,000 administrative assessment for violations of the Pennsylvania Securities Act through the use of an unregistered agent to offer and sell Par Funding promissory notes in Pennsylvania.¹⁵ Similarly on December 27, 2018, the New Jersey Bureau of Securities issued a Cease and Desist Order against Par Funding, based on Par Funding's sale of unregistered securities in New Jersey and use of unregistered agents, in violation of the New Jersey securities laws.¹⁶ Likewise, in February 2020, the Texas State Securities Board issued an Emergency Cease and Desist Order against Par Funding, alleging fraud and registration violations, based largely on Par Funding's failure to disclose the Pennsylvania and New Jersey orders against Par Funding and court actions filed against Par Funding based on its lending practices.¹⁷

When McElhone and LaForte learned of the Pennsylvania Department of Banking and Securities' investigation into Par Funding's sale of securities through unregistered agents, they implemented a new way to sell its promissory notes: "selling the notes to the investing public through unregistered securities offerings, and funneling investor funds to Par Funding."¹⁸ This permitted McElhone and LaForte to tell the Pennsylvania Securities Regulators that they

10. *Id.*

11. SEC Complaint ¶ 11.

12. SEC Complaint ¶ 11.

13. SEC Complaint ¶ 11.

14. SEC Complaint ¶¶ 3, 49-50.

15. SEC Complaint ¶ 12.

16. SEC Complaint ¶ 12, citing Pennsylvania Dep't of Banking and Securities v. Complete Business Solutions Group, Inc. d/b/a Par Funding (18-0098-SEC-CAO).

17. SEC Complaint ¶ 13, citing In re the Matter of Complete Business Solutions Group, Inc. and Complete Business Solutions Group, Inc. d/b/a Par Funding.

terminated their agreements with the unregistered sales agents. They did not, however, tell the Pennsylvania Securities Regulators of their Phase 2 operation in which they created more than 40 so-called “Agent Funds” which issued their own promissory notes, sold the notes to the investing public through unregistered securities offerings, and funneling investor funds to Par Funding.¹⁹ Par Funding compensates the Agent Funds by issuing Par Funding promissory notes to the Agent Funds offering higher rates of return than the Agent Funds are obligated to pay investors on the Agent Fund’s notes.²⁰

3. Founders Lisa McElhone and Joseph LaForte

Lisa McElhone, who resided in Florida and described herself as a “serial entrepreneur, adviser, and investor,” opened the Lacquer Lounge in 2012 as “a socially conscious nail and beauty destination practicing ethical employment, along with high standards for health and sanitation.”²¹ McElhone had a blemished record. On August 1, 2012, the Director for the Department of Consumer and Business Services for the State of Oregon issued a Cease and Desist Order against McElhone for providing debt management services without registering as a debt management services provider, in violation of the Oregon Mortgage Lender Law and Oregon statutes. McElhone consented to a permanent Cease-and-Desist Order on October 13, 2013.²²

In 2016, Lisa McElhone created Full Spectrum Processing, Inc. (hereinafter “Full Spectrum”), a Pennsylvania corporation, with a primary place of business in Philadelphia, Pennsylvania.²³ McElhone was the sole owner of Full Spectrum, which since 2017, McElhone used to operate Par Funding and which had no employees other than McElhone.²⁴ Between July 2015 and October 2019, McElhone received approximately \$11.3 million from Par Funding via checks and wire transfers.²⁵ In a financial statement McElhone filed in federal district court, she claimed ownership of assets worth almost \$800 million, including an \$8 million jet, a Porsche, a Bentley, a Mercedes and a Chevy Tahoe worth a total of \$790,000 and dozens of properties worth \$59 million.²⁶ She also reported

18. SEC Complaint ¶ 14, citing *In the Matter of Senior Asset Protection, Inc. dba Encore Financial Solutions, Merchant Growth & Income Funding, LLC, ABetterFinancialPlan.com, LLC aka BetterFinancialPlan, Complete Business Solutions Group, Inc. dba Par Funding, Gary Neal Beasley and Perry Abbonizio* (ENF-CDO-20-1798).

19. SEC Complaint ¶¶ 4, 62, 63-65.

20. SEC Complaint 65-67, 69, 70.

21. *Id.* The creation and utilization of “Agent funds” enabled LaForte and McElhone to significantly expand the sales of promissory notes to investors by appointing agents (like Dean Vagnozzi, whose operation is described more fully below) to sell Par Funding’s promissory notes, and to disguise their role in promoting Par Funding promissory notes. These agents were compensated for their sales of promissory notes by receiving a higher rate of interest on the Par Funding promissory notes than those sold by the agent to investors.

22. Lacquer Lounge website, http://lacquerlounge.com/?page_id=106, accessed on February 3, 2022.

23. SEC Complaint ¶ 16.

24. SEC Complaint ¶¶ 15-16

25. SEC Complaint ¶ 15.

26. SEC Complaint ¶ 16.

ownership of multiple businesses, including Par Funding, which she estimated to be worth \$250 million, and a Colorado marijuana growing and processing operations, Wyoming coal mines and other private companies worth more than \$300 million acquired with Par Funding proceeds.

A resident of Philadelphia, Pennsylvania, LaForte, acted as the *de facto* CEO of Par Funding and Full Spectrum, served as Par Funding's Director of Sales, and conducted his work for Par Funding primarily within the Full Spectrum office space in Philadelphia.²⁷ La Forte also possessed a criminal record. On October 4, 2006, LaForte was convicted of state charges in New York for grand larceny and money laundering, and on November 8, 2007, he was sentenced to three to ten years in prison and ordered to pay restitution in the amount of \$14.1 million.²⁸ In 2009, LaForte pled guilty to federal criminal charges in the District of New Jersey for conspiracy to operate an illegal gambling business. He was released from jail in February 2011 and founded Par Funding with his wife, Lisa McElhone, shortly thereafter while on supervised release.²⁹

4. FBI Investigation

Sometime in July 2020, FBI agents searched three properties McElhone owned in Pennsylvania and Florida: \$2.4 million house in Lower Merion (an affluent Philadelphia suburb), a \$2 million five-bedroom cabin on Lake Wallenpaupack, outside of Scranton, Pennsylvania, and a \$5.8 million vacation home on the Florida coast.³⁰ The agents seized LaForte's private plane and found \$2.5 million in cash bundles and a \$10 million bank account controlled by him and McElhone.³¹ The agents also found guns in the Lower Merion property: an AR-15 military style rifle under his bed, two shotguns in a closet, and handguns in each drawer of his nightstand and in a desk drawer on the first floor.³² As a convicted felon, LaForte was prohibited from possessing firearms, an offense for which he was arrested and, considered a flight risk, held in jail.³³ While LaForte claimed the guns were owned by his wife, that claim was undermined by conversations he had with undercover agents in which he bragged about the

27. DiStefano and Arvedlund *supra* note 5.

28. SEC Complaint ¶ 17.

29. SEC Complaint ¶ 18.

30. Jeremy Roebuck, *Guns, cash, a private plane: Feds reveal more on probe of Philly financier at center of alleged \$500M fraud*, THE PHILADELPHIA INQUIRER, August 11, 2020, accessed on January 29, 2022, at <https://www.inquirer.com/news/par-funding-joseph-laforte-sec-investigation-fbi-philadelphia-arrest-prison-20200811.html>. Erin Arvedlund and Jeremy Roebuck, *Par Funding cofounder Joseph LaForte released on \$2.5 million bond, placed under house arrest*, THE PHILADELPHIA INQUIRER, October 8, 2020, accessed on December 21, 2020, at <https://www.inquirer.com/news/par-funding-joseph-laforte-guns-fraud-civil-sec-bail-20201008.html>

31. Roebuck *supra* note 30.

32. *Id.*

arsenal of weapons he kept in his lake house and invited them to go shooting with him.³⁴ Two months later, LaForte was released from prison on a \$2.5 million bond secured by his relatives' and friends' homes to await his trial on firearms charges for which, if convicted, he could face up to ten years in prison.³⁵ LaForte was ordered to remain under house arrest with electronic monitoring.³⁶

5. Appointment of Outside Receiver

In July 2020, Par Funding was placed under the control of an outside receiver, Miami lawyer Ryan Stumphauzer, with the power to “take custody and control” of records and data and hire lawyers, accountants, and other staff to preserve assets pending further court action, under the terms of a temporary restraining order issued by Federal District Court Judge Rodolfo Ruiz sitting in Florida.³⁷ Stumphauzer rehired a few Full Spectrum employees to collect loan money owed by hundreds of small businesses and announced that Full Spectrum would no longer accept new investors or make new merchant loans.³⁸ Stumphauzer subsequently complained to Judge Ruiz that LaForte and McElhone had declined to meet with his staff and refused to answer questions, and that the many lawyers who had helped Par Funding manage its business had been told not to cooperate with the receiver, citing attorney-client privilege.³⁹ To counter these difficulties in obtaining information needed to preserve the receivership entities' assets and to protect investor funds, Judge Ruiz enhanced Stumphauzer's authority as receiver by ordering that all “trustees, directors, officers, managers, employees, investment advisers, accountants, attorneys, and other agents” of the companies “are hereby dismissed,” by expressly providing Stumphauzer “all powers, authorities, rights, and privileges heretofore possessed by the officers, directors, managers,” by “instructing all attorneys who have worked for the companies to cooperate with the receiver, and by directing the defendants not to “hinder or

33. *Id.* Jeremy Roebuck and Erin Arvedlund, *Par Funding founder Joseph LaForte arrested on weapons charges amid ongoing SEC probe of \$500 million fraud*, THE PHILADELPHIA INQUIRER, August 7, 2020, accessed on January 30, 2022, at <https://www.inquirer.com/business/law/par-funding-joseph-laforte-arrested-charged-complete-business-solutions-sec-fbi-20200807.html>

34. *Id.*

35. Arvedlund and Roebuck *supra* note 30.

36. *Id.*

37. Joseph N. DiStefano, *Federal judge fires the leaders and employees of firms at heart of alleged multimillion-dollar fraud*, THE PHILADELPHIA INQUIRER, August 14, 2020, accessed on February 6, 2022, at <https://www.inquirer.com/news/fraud-sec-philadelphia-laforte-vagnozzi-par-funding-a-better-financial-plan-20200814.html>. Joseph N. DiStefano and Jeremy Roebuck, *Par Funding owner seeks release from prison, agrees to SEC control until civil fraud trial*, THE PHILADELPHIA INQUIRER, August 27, 2020, accessed on December 21, 2020, at <https://www.inquirer.com/news/laforte-vagnozzi-par-funding-20200827.html>

38. DiStefano and Roebuck *supra* note 37.

39. DiStefano *supra* note 37.

interfere with the Receiver's efforts to take control" of the companies and preserve their assets.⁴⁰

Stumphauzer's rejuvenated powers helped. The receiver seized Par Funding cash and electronic payments totaling almost \$44 million and collected about \$500,000 a day from the merchant borrowers.⁴¹ In November 2020, Stumphauzer asked a bankruptcy judge to give him control of 29 buildings, which LaForte and McElhone purchased with Par Funding proceeds and many of which were located in the central business district of Philadelphia.⁴² The properties Stumphauzer sought to take over included two additional MCA lenders controlled by McElhone and used by LaForte to locate merchant borrowers; four more firms owned by McElhone and LaForte and purchased with Par Funding proceeds; 19 real estate entities that bought a total of 25 properties (mostly apartment buildings and homes) purchased with nearly \$50 million of Par Funding proceeds; the three homes McElhone owned in Pennsylvania and Florida; and McElhone's family investment trust.⁴³ In addition, upon discovering that about ten Full Spectrum/Par Funding employees continued to access, download, and sometimes alter over 100,000 Par Funding records from its G-Suite-cloud-based account and from the firm's Quickbook accounting software, Stumphauzer obtained an emergency order from Judge Ruiz permitting him to suspend Full Spectrum/Par Funding staff's Google e-mail and document access "for as long as required . . . to ensure that the electronic data . . . is being properly preserved."⁴⁴

Hopes for full recovery of the MCAs were soon deflated. An expert report provided to Judge Ruiz by Par Funding's receiver concluded that just ten of the several thousands of Par Funding borrowers owed a total of \$228 million, more than half the sum owed, and that the ten largest borrowers included a firm run by a convicted bank fraud artist, another led by a man accused of health-care fraud, two companies that were bankrupt, and at least one firm that Par Funding had sued fruitlessly in court.⁴⁵ Judge Ruiz backed away from his earlier hope the receivership could keep Par Funding's operation going, and stated he had become skeptical of Par Funding's claim that it was a profitable company before the coronavirus shutdown slammed small businesses, cutting their sales and their

40. DiStefano *supra* note 37.

41. Joseph N. DiStefano, *Par receiver files to seize Philly properties, release some Vagnozzi funds; defense blames losses on government*, THE PHILADELPHIA INQUIRER, November 3, 2020, accessed on December 21, 2020, at <https://www.inquirer.com/news/par-funding-lafortemcelhone-vagnozzi-receiver-20201103.html>.

42. *Id.*

43. *Id.*

44. Joseph N. DiStefano, *Federal judge orders Par Funding to stay out of seized accounts after its staff accessed 100,000 records*, THE PHILADELPHIA INQUIRER, August 17, 2020, accessed on January 19, 2021, at <https://www.inquirer.com/business/fraud-pars-funding-sec-dean-vagnozzi-laforte-20200817.html>

45. Joseph N. DiStefano, Erin Arvedlund and Jeremy Roebuck, *Par Funding investors unlikely to get all their money back, federal judge warns*, THE PHILADELPHIA INQUIRER, September 8, 2020, accessed on December 21, 2020, at <https://www.inquirer.com/news/par-funding-investors-judge-raud-sec-civil-suit-dean-vagnozzi-20200908.html>

ability to make loan payments and that COVID may have accelerated an underlying problem.⁴⁶

Those concerns were later confirmed by a subsequent forensic accounting report prepared by a team of CPAs commissioned by Stumphauzer to review Par Funding's books. The CPAs determined that "Par Funding lent more than \$1 billion to small businesses at high interest, and barely collected that much money back, let alone made any money."⁴⁷ "Instead it ran up 'significant' operating losses — while paying insiders \$144 million, relying on new investments to make up the shortfall."⁴⁸ Ultimately, Stumphauzer reported that he found only \$130 million of Par Funding funds to repay Par Funding investors, or about only 52 cents for every \$1 the investors put into Par Funding.⁴⁹

In a more recent lawsuit filed in Federal District Court in Fort Lauderdale, Florida, the SEC asked Judge Ruiz to order LaForte and McElhone to pay \$337 million to Par Funding investors and to declare they engaged in a Ponzi scheme in defrauding those investors.⁵⁰ A finding by Judge Ruiz that Par Funding was a Ponzi would bar LaForte and McElhone from deducting operating costs of the business from the amount they must pay to Par Funding investors.⁵¹

6. Role of "Agent Funds"

Dean Vagnozzi, a veteran financial pitchman in Montgomery County, just outside of Philadelphia, was one of the highly successful salespersons pushing Par

46. *Id.*

47. *Id.*

48. Joseph N. DiStefano, *Report: Par Funding paid insiders \$144M*, THE PHILADELPHIA INQUIRER, December 17, 2020, accessed on December 21, 2020, at <https://www.inquirer.com/columnists/par-funding-bradford-receiver-report-20201217.html>. A likely reason some of the MCA loans went unpaid is that the biggest borrower of Par Funding, Stephen Odzer, who had previously been sentenced to prison for 18 months for a \$16 million New York bank fraud and who subsequently was pardoned by President Donald Trump, allegedly paid \$9 million in kickbacks to La Forte to borrow \$93 million from Par Funding. Craig R. McCoy and Joseph N. DiStefano, *Kickback allegations rock Par case*, THE PHILADELPHIA INQUIRER, May 22, 2022, p. A1, accessed on May 22, 2022, at <https://edition.inquirer.com/html5/reader/production/default.aspx?pubname=&pubid=189ae139-c0d5-4451-9c04-ec77ba08da21>. The existence of the kickback payments came to light in allegations in civil lawsuit filed by the receiver against LaForte and his brother, James LaForte, to recover the kickback payments. In response, LaForte filed a motion with a Philadelphia Common Pleas Court judge to freeze the civil lawsuit for six months, because federal criminal charges (including securities fraud, wire fraud, tax offenses, money laundering, extortion, and obstruction) were imminent, creating two "untenable choices - to reveal information in the civil case useful to federal prosecutors or take the Fifth Amendment and thereby weaken his defense in the civil suit." Craig R. McCoy and Joseph N. DiStefano, *Par founder expects charges*, THE PHILADELPHIA INQUIRER, May 21, 2022, p. A1, accessed on May 22, 2022, at <https://edition.inquirer.com/html5/reader/production/default.aspx?pubname=&edid=24a2fb3e-3532-46cc-9fa7-6c233124c5b0>

49. Joseph N. DiStefano, *Par Funding's repayment funds short*, THE PHILADELPHIA INQUIRER, April 1, 2021, p. A11, accessed on April 1, 2021, at <https://digital.olivesoftware.com/olive/ODN/PhiladelphiaInquirer/Default.aspx>

Funding promissory notes.⁵² In 2010, Vagnozzi formed a company named A Better Financial Plan (ABFP) through which he promoted “alternative” approaches to the stock market, such as life settlements (in which investors paid a discounted rate to the elderly for their life insurance policies, assumed the burden of the premiums, and bet the sellers will die quickly enough to make a profit), investments in real estate, and funds based on the outcome of litigation.⁵³ Advertising heavily on Philadelphia area radio stations, CNN, Fox News, CBS, and CNBC television, Vagnozzi invited potential investors to free dinners at two high-end, expensive restaurants, Ruth’s Chris Steak House and The Capital Grille, and pitched them to pool their money and back emerging entrepreneurs through Par Funding.⁵⁴ One such dinner was secretly filmed by a private detective working for a lawyer preparing a financial lawsuit against Vagnozzi. The dinner opened with Vagnozzi’s sister, Dana, announcing they were handing out a million dollars to investors who had faith in her brother and took a chance investing in him. Next Vagnozzi introduced “his team” including the owners of Par Funding. LaForte called Par Funding “probably the most profitable cash advance company in the United States and maybe in the world” and claimed to have invested \$80 million or \$500,000 himself in the firm when in fact he hadn’t put in a dollar.⁵⁵ Vagnozzi urged all who had invested in Par Funding to stand up and raise their hands if they received double-digit returns on their money.⁵⁶ Attendees were handed a one-page flyer describing investment opportunities and touting the kind of investments made by Par Funding. It said they had only a 2% default rate on their loans to merchants, and offered 10% to 14% returns, with principal returned in as little as a year.⁵⁷ Those quoted default rates were false. Par Funding had brought 2,000 collections lawsuits against borrowers for defaulting, half filed in Philadelphia. The SEC complaint says that half of the firm’s \$600

50. Craig R. McCoy, *SEC seeks \$630M in fraud lawsuit*, The Philadelphia Inquirer, April 19, 2022, p. A1, accessed on April 20, 2022, at <https://eedition.inquirer.com/html5/reader/production/default.aspx?pubname=&edid=90b24b63-1770-469a-ab2d-dab05ad98885>. As noted above at note 4, that amount was subsequently reduced to \$219 million by Federal District Court Judge Rodolfo Ruiz.

51. *Id.*

52. Erin Arvedlund and Joseph N. DiStefano, *With false promises and fancy dinners, Philly-based operation fleeced small investors, SEC charges*, THE PHILADELPHIA INQUIRER, July 31, 2020, accessed on December 21, 2020, at <https://www.inquirer.com/news/par-funding-lisa-micelhone-joe-laforte-cbsg-sec-complaint-20200731.html>

53. Erin Arvedlund, *Building a brand, drawing SEC scrutiny*, THE PHILADELPHIA INQUIRER, November 15, 2020, p. A1, A7, accessed on November 15, 2020, at <https://digital.olivesoftware.com/Olive/ODN/PhiladelphiaInquirer/Default.aspx>. Erin Arvedlund and Joseph N. DiStefano, *With false promises and fancy dinners, Philly-based operation fleeced small investors, SEC charges*, THE PHILADELPHIA INQUIRER, July 31, 2020, accessed on December 21, 2020, at <https://www.inquirer.com/news/par-funding-lisa-micelhone-joe-laforte-cbsg-sec-complaint-20200731.html>

54. Arvedlund *supra* note 53.

55. Arvedlund and DiStefano *supra* note 37.

56. *Id.*

57. *Id.*

million in loans were in default, and that the true default rate was far higher than 2%.⁵⁸ In any event, Vagnozzi's pitch worked well. He reportedly raised at least \$28 million for Par Funding.⁵⁹

Like LaForte and McElhone, Vagnozzi's career as a financial pitchman was not without blemish. He too became ensnared by the Pennsylvania Department of Banking and Securities' investigation into Par Funding's sale of securities and in 2019 paid Pennsylvania \$490,000 to settle a complaint that he had failed to register with the state to sell securities. In December 2020, Vagnozzi agreed to pay \$500,000 to settle a federal complaint that he was selling unregistered securities backed by proceeds from life insurance policies.⁶⁰ He did not, however, admit wrongdoing in either case.⁶¹

More recently, in February 2022, Vagnozzi reached a settlement with the SEC to resolve the civil lawsuit filed in July 2020. He agreed to "disgorge" \$4.5 million to be paid back to the investors, \$161,000 in interest, and a \$400,000 civil penalty.⁶² His lawyer, George Bochetto, emphasized that Vagnozzi neither admitted nor denied the allegations brought by the SEC.⁶³

7. Conclusion

This case describes a recent iteration of the Ponzi scheme originated in 1920 by Charles Ponzi: creating a plausible investment, attracting investors, using the money from later investors to pay off early investors, and personally pocketing a substantial profit. The Par Funding Ponzi scheme orchestrated by Joseph W. LaForte and his wife, Lisa McElhone, employed the same elements: (1) creating a plausible investment vehicle in the form of Par Funding promissory notes the proceeds of which were loaned to small businesses in the form of merchant cash advances (MCA), (2) attracting investors at first directly and later through the use of Agent Funds and financial pitchmen to purchase Par Funding promissory notes; (3) unable to collect the MCA loans, using the funds invested by newer investors to pay the Par Funding promissory notes held by older investors; and (4) earning the perpetrators a handsome profit to the tune of around \$144 million, almost all of which has been clawed back by the Par Funding receiver. How LaForte and McElhone executed their scheme is an intriguing story which

58. *Id.*

59. *Id.*

60. *Id.* Erin Arvedlund, *Fined by SEC, Dean Vagnozzi keeps his insurance license, says he plans an IPO*, THE PHILADELPHIA INQUIRER, July 18, 2020, accessed on January 29, 2022, at <https://www.inquirer.com/business/dean-vagnozzi-a-better-financial-plan-sec-settlement-insurance-20200718.html>

61. *Id.*

62. Joseph N. DiStefano, *Financial pitchman Vagnozzi settles with SEC*, THE PHILADELPHIA INQUIRER, February 18, 2022, p. A1.

63. *Id.*

provides helpful insight into and applications of ethical and U.S. securities law principles.

Discussion Questions

(1) Are the Par Funding promissory notes and the Agency Fund promissory notes considered securities for the purpose of the 1933 Securities Act? Explain briefly.

(2) Do the sales of the Par Funding promissory notes and the Agent Funds promissory notes qualify for the private placement provisions of the 1933 Securities Act?

(3) Do the actions of LaForte, McElhone, and Vagnozzi violate Section 10(b) and Rule 10b-5(b) of the 1934 Securities and Exchange Act? Explain briefly.

(4) Do the actions of LaForte, McElhone, and Vagnozzi violate Section 17(a)(3) of the 1933 Securities Act? Explain briefly.

(5) Do the actions of LaForte, McElhone, and Vagnozzi violate Sections 5(a) and 5 (c) of the 1933 Securities Act?

(6) Identify the stakeholders who are directly and indirectly affected by the fraudulent sales of Par Funding promissory notes.

(7) Assess the morality of the actions of in their phase 1 and phase 2 sales of Par Funding promissory notes under Act Utilitarianism, Rule Utilitarianism, Kant categorical imperatives, and Rawls' principles of justice?

(8) Do the activities of LaForte and McElhone in promoting the sales of Par Funding securities fit into any of the generally recognized categories of corporate social responsibility?

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Appendix

The author encourages instructors to review the following sources to obtain supplemental background information on the principles of U.S. securities law employed in this case:

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The author encourages instructors to review the following sources to obtain supplemental background information on the application of the moral theories employed in this case:

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