

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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**SECURITIES AND EXCHANGE COMMISSION**  
**100 F Street, N.E.**  
**Washington, DC 20549,**

**Plaintiff,**

**vs.**

**Civil No.**

**ONE OR MORE UNKNOWN TRADERS**  
**IN THE COMMON STOCK OF CERTAIN**  
**ISSUERS,**

**Defendants,**

**and**

**JSC PAREX BANK,**

**Relief Defendant.**

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CASE NUMBER 1:07CV00431

JUDGE: Ricardo M. Urbina

DECK TYPE: TRO/Preliminary Injunction

DATE STAMP: 03/06/2007

**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

Plaintiff the United States Securities and Exchange Commission ("Commission")

alleges:

**SUMMARY**

1. This action stems from a modern-day, technological version of the traditional "pump-and-dump" market manipulation scheme. From at least December 2005 through December 2006, the defendants engaged in a scheme to fraudulently use the Internet to intrude into the online brokerage accounts of unsuspecting customers at U.S. broker dealers and place unauthorized trades in the accounts for the defendants' own

pecuniary benefit. The scheme worked like this. First, the defendants purchased in their own accounts shares of stock in a thinly traded company. Shortly thereafter, the defendants, directly or indirectly, intruded into the online brokerage accounts of investors at U.S. broker-dealers, liquidated existing equity positions and, using the resulting proceeds, purchased and sold thousands, and in one instance millions, of shares of the same thinly traded stocks purchased by the defendants in their own accounts. The unauthorized trading in the third-party accounts created the appearance of trading activity and pumped up the price of the stocks. Then, at the height of the price surge, the defendants sold in their own accounts their previously-purchased shares of the same stocks at the inflated prices.

2. In perpetrating their scheme, the defendants masked their identities by intruding into the online accounts using the Internet Protocol addresses of innocent third parties and by trading anonymously through the domestic brokerage accounts of Latvian-based Relief Defendant JSC Parex Bank.

3. As a result of their fraudulent scheme, the defendants realized profits totaling at least \$732,941 from trading in their accounts. In addition, the broker-dealers whose customers' accounts were compromised suffered in excess of \$2 million in losses in their efforts to make their customers whole. All of the defendants' ill-gotten proceeds are held in domestic accounts titled in the name of Relief Defendant JSC Parex Bank.

4. By virtue of their conduct, the defendants have engaged, and unless enjoined will continue to engage, in violations of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] and Section 10(b) of the Securities

Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5].

### **JURISDICTION AND VENUE**

5. The Commission brings this action, and this Court has jurisdiction over this action, pursuant to authority conferred by Sections 20(b), 20(d) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(a) and 77v(a)] and Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 77u(e) and 78aa].

6. This Court has personal jurisdiction over the defendants and venue is proper in the District of Columbia pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa] because some of the transactions, acts, practices, and courses of business constituting the violations alleged herein occurred within this District. In addition, at least one of the victims whose accounts were illegally accessed by the defendants resides within this District.

7. The defendants, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, and the means and instruments of transportation and communication in interstate commerce, in connection with the transactions, acts, practices, and courses of business alleged in this Complaint.

### **DEFENDANTS**

8. The defendants (hereinafter “Unknown Trader Defendants”) are one or more individuals or entities whose identities and addresses are unknown to the Commission at this time because each anonymously traded in securities through one or more brokerage accounts titled in the name of JSC Parex Bank. Between December 2005 and December 2006, the Unknown Trader Defendants purchased and sold, or caused to

be purchased and sold, shares of the common stock of fifteen issuers, each of which was the subject of unauthorized trading in compromised accounts of customers at various U.S. broker-dealers on the same days that the Unknown Trader Defendants traded the stocks.

### **RELIEF DEFENDANT**

9. JSC Parex Bank ("Parex") is a foreign entity whose address is 3 Smilshu Street, Riga, Latvia, LV-1522. Its registered agent for domestic service of process is CT Corporation Systems, 111 8<sup>th</sup> Avenue, 13<sup>th</sup> Floor, New York, NY 10011. Parex maintains an omnibus trading account, with seventy-five (75) sub-accounts titled in the name of JSC Parex Bank, at Pinnacle Capital Markets, LLC ("Pinnacle"), a North Carolina-based registered broker-dealer.

### **FACTS**

#### **Background**

10. Parex opened an omnibus brokerage account at Pinnacle in June 2002. Since then, and until as recently as December 2006, Parex has opened a total of seventy-five (75) sub-accounts all titled in Parex's corporate name. According to account opening documents, there are a total of twenty (20) beneficial owners of the omnibus account, all residents of Russia, Latvia, Lithuania or the British Virgin Islands. The documents do not, however, identify the individual owners of the sub-accounts. Moreover, according to the account opening documents, the sub-accounts shall not be treated as separate accounts for any purpose except to separate securities into separate groups for the convenience of the customer to view the sub-accounts. The Corporate Account Agreement executed on behalf of Parex list the bank's president, vice president and chairman of the board as the individuals authorized to open accounts and trade in the

omnibus account and the sub-accounts. Parex appears is routinely commingling funds between its omnibus account and its sub-accounts.

11. Parex allows its customers to access their accounts online via the website www.parex.lv by entering a username and password directly onto the website. Once logged in, customers can access their Parex accounts and request that trades be placed in the Parex accounts at Pinnacle for stocks and options traded via a number of foreign exchanges, including major U.S. exchanges and markets such as the New York Stock Exchange and the National Association of Securities Dealers Automated Quotation (“Nasdaq”) Service. Parex charges its customers a commission for trades executed in their Parex accounts.

#### **The Unknown Trader Defendants’ Account Intrusion Scheme**

12. Between December 21, 2005, and December 4, 2006, the Unknown Trader Defendants, using a number of sub-accounts at Pinnacle titled in the name of Relief Defendant Parex, traded in issuers whose share prices were manipulated through online intrusions and unauthorized trading in investors’ accounts at E\*Trade Securities, LLC (“E\*Trade”), Scottrade, Inc. (“Scottrade”), TD Ameritrade, Inc. (“TD Ameritrade”), Vanguard Brokerage Services (“Vanguard”), Fidelity Investments (“Fidelity”), Merrill Lynch & Co., Inc. (“Merrill Lynch”) and Charles Schwab & Co., Inc. (“Schwab”).

13. In each of these instances, the trading pattern was the same. First, the Unknown Trader Defendants accumulated in their own accounts at Pinnacle a position in a thinly traded issuer. Next, a series of unauthorized electronic intrusions involving that issuer occurred at one or more broker-dealers whereby the intruders liquidated existing positions in the accounts and used the resulting proceeds to buy thousands of shares of

the same thinly-traded stocks previously purchased by the Unknown Trader Defendants in their own account. Then, at the height of the pump, the Unknown Trader Defendants sold their shares at the inflated prices for a profit.

14. The online broker-dealers whose customer accounts were hijacked and used by the Unknown Trader Defendants to effectuate the unauthorized trades suffered losses in excess of \$2 million in their efforts to make their customers whole. In addition, the Unknown Trader Defendants' manipulative trading caused damage to market participants who purchased at the inflated prices the stocks of the following fifteen companies that were subject to intrusions: Remote Dynamics, Inc., DepoMed, Inc., Orchid Cellmark, Inc., Repligen Corp., Dura Automotive Systems, Inc., Valentis, Inc., WTS Dime Bankcorp., Inc., Bluefly, Inc., Netwolves Corp., Netguru, Inc., Integrated Alarm Services Group, Inc., I-Many, Inc., Tapestry Pharmaceuticals, Inc., Onvia, Inc. and BriteSmile, Inc.

**Remote Dynamics, Inc.**

15. Remote Dynamics, Inc. is a Richardson, Texas-based purported developer and owner of mobile resource management technologies. Until February 21, 2006, the company traded on the Nasdaq Capital Market under the ticker symbol REDI. On February 9, 2006, REDI was the subject of online intrusions at TD Ameritrade, Scottrade and E\*Trade. On that day, REDI opened at \$.29 per share and increased to an intra-day and 52-week high of \$1.10 per share on volume of 3,943,257 shares compared to its prior 15-day historical average trading volume of 132,882 shares.

16. In the days leading up to the intrusions, from February 3, 2006, until February 8, 2006, the Unknown Trader Defendants accumulated in their own

accounts 580,240 shares of REDI at prices ranging from \$.24 to \$.29 per share, and sold 68,040 shares at \$.23 to \$.25 per share.

17. On February 9, 2006, from 12:29 p.m. to 12:51 p.m., one or more of the Unknown Trader Defendants intruded into an account at TD Ameritrade and placed orders to buy 243,900 shares of REDI.<sup>1</sup> Similarly, from 12:22 p.m. to 1:21 p.m., the Unknown Trader Defendants intruded into two Scottrade accounts and purchased a total of 241,000 shares of REDI. Also on February 9, from 1:35 p.m. to 2:05 p.m., one or more of the Unknown Trader Defendants intruded into an E\*Trade account and placed orders to purchase 215,000 shares of REDI. At 2:08 p.m., the intruders placed an order to sell these 215,000 shares at market prices.

18. Concurrently with the intrusions, on February 9, 2006, between 2:38 p.m. and 3:06 p.m., the Unknown Trader Defendants sold their 512,200 REDI shares, as well an additional 9,800 shares they previously purchased in their accounts, at prices ranging from \$.36 to \$.54 per share.

19. As a result of their scheme to manipulate the price of REDI, the Unknown Trader Defendants realized a profit of at least \$75,720.

**DepoMed, Inc.**

20. DepoMed, Inc. is a Menlo Park, California-based company that purports to develop proprietary oral drug delivery technologies. The company trades on the Nasdaq Global Market under the symbol DEPO. On December 4, 2006, REDI was the subject of online intrusions at TD Ameritrade, Scottrade,

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<sup>1</sup> All times set forth herein are in the Eastern Time Zone.

Fidelity and Schwab. On that day, DEPO opened at \$3.62 per share and increased to an intra-day high of \$3.79 per share on volume of 2,356,336 shares, compared to its prior 15-day historical average trading volume of 347,627 shares.

21. Prior to the intrusions, on December 1, 2006, the Unknown Trader Defendants bought in their own accounts 389,461 shares of DEPO at prices ranging from \$3.35 to \$3.75 per share, and sold 2,739 shares at \$3.37 to \$3.41 per share.

22. On December 4, 2006, between 1:27 p.m. and 2:21 p.m., one or more of the Unknown Trader Defendants intruded into five accounts at TD Ameritrade and purchased a total of 246,600 shares of DEPO stock. During this period, the intruders also sold 119,400 shares of DEPO in two of the accounts. Similarly, from 1:27 p.m. to 1:57 p.m. on December 4, the Unknown Trader Defendants intruded into two Scottrade accounts and purchased 7,050 shares of DEPO. Between 1:27 p.m. and 2:20 p.m., the Unknown Trader Defendants intruded into four accounts at Fidelity, purchased 59,200 shares in two of the accounts and attempted to purchase another 11,000 shares in the other two accounts. Finally, between 1:27 p.m. and 2:19 p.m., the Unknown Trader Defendants intruded into five accounts at Schwab and purchased 163,100 shares of DEPO. The intruders also attempted to purchase another 34,500 shares in the accounts but the orders were cancelled by Schwab prior to execution.

23. At the height of the price surge, on December 4, 2006, between 2:40 p.m. and 3:44 p.m., the Unknown Trader Defendants sold 251,254 shares of

DEPO in their own accounts at prices ranging from \$3.17 per share to \$3.99 per share.

24. As a result of their scheme to manipulate the price of DEPO, the Unknown Trader Defendants realized a profit of at least \$51,078.

**Orchid Cellmark, Inc.**

25. Orchid Cellmark, Inc. is a Princeton, New Jersey based company that purports to offer human and agricultural DNA testing services. The company trades on the Nasdaq Global Market under the symbol ORCH. On November 15, 2006, ORCH was the subject of online intrusions at TD Ameritrade, Scottrade and Schwab. That day, ORCH opened at \$3.65 per share and climbed to an intra-day high of \$4.08 per share on volume of 1,153,767 shares, compared to its prior 15-day historical average of 138,179 shares.

26. Prior to the intrusions, on November 14, 2006, the Unknown Trader Defendants bought 157,466 shares of ORCH in their own accounts at prices ranging from \$3.25 to \$3.70 per share.

27. On November 15, 2006, between 11:01 a.m. and 12:17 p.m., one or more of the Unknown Trader Defendants intruded into an account at Schwab and purchased 171,000 shares of ORCH. Also on November 15, from 11:07 a.m. to 12:02 p.m., the Unknown Trader Defendants intruded into two accounts at TD Ameritrade and purchased 12,500 of ORCH. From 11:02 a.m. until 12:35 p.m., the Unknown Trader Defendants intruded into two accounts at Scottrade and purchased 5,000 shares of ORCH.

28. Concurrently with the intrusions, on November 15, between 12:10 p.m. and 1:52 p.m., the Unknown Trader Defendants sold all 157,466 of their ORCH shares in their own accounts at prices ranging from \$3.51 to \$4.06 per share.

29. As a result of their scheme to manipulate the price of ORCH, the Unknown Trader Defendants realized a profit of approximately \$55,783.

**Repligen Corp.**

30. Repligen Corp. is a Waltham, Massachusetts entity that purports to develop new drugs for autism, organ transplantation and cancer. The company trades on the Nasdaq Global Market under the symbol RGEN. On October 2, 2006, RGEN was the subject of online intrusions at TD Ameritrade, Scottrade, E\*Trade, Fidelity and Schwab. On that day, RGEN opened at \$3.40 per share and increased to an intra-day high of \$4.17 per share on volume of 1,264,748 shares, compared to its prior 15-day historical average trading volume of 52,456 shares.

31. Prior to the intrusions, from September 28, 2006, to October 2, 2006, the Unknown Trader Defendants purchased in their own accounts 41,720 shares of RGEN at prices ranging from \$3.05 to \$3.24 per share.

32. On October 2, 2006, between 11:52 a.m. and 12:28 p.m., one or more of the Unknown Trader Defendants intruded into two accounts at TD Ameritrade and bought 207,500 shares of RGEN. From 11:55 a.m. to 12:45 p.m., the Unknown Trader Defendants intruded into an account at E\*Trade and placed orders to buy 12,800 shares of RGEN. Similarly, at 11:52 a.m., the Unknown Trader Defendants intruded into a Scottrade account and purchased 2,000 shares

of RGEN. Moments later, 11:59 a.m., one or more of the Unknown Trader Defendants intruded into an account at Fidelity and purchased 2,000 shares. Likewise, between 11:52 a.m. and 12:37 p.m., one or more of the Unknown Trader Defendants intruded into three accounts at Schwab and bought 124,500 RGEN shares. The intruders also attempted to purchase an additional 108,000 shares in the accounts, but the orders were cancelled by Schwab prior to execution.

33. Concurrently with the intrusions, on October 2, 2006, between 1:05 p.m. and 1:50 p.m., the Unknown Trader Defendants sold in their own accounts all 41,720 of their RGEN shares at prices ranging from \$3.65 to \$4.00 per share.

34. As a result of their scheme to manipulate the price of RGEN, the Unknown Trader Defendants realized a profit of approximately \$28,057.

**Dura Automotive Systems, Inc.**

35. Dura Automotive Systems, Inc. is a Rochester Hills, Michigan entity purportedly engaged in the design and manufacture of automobile industry systems. Until November 8, 2006, the company traded on the Nasdaq Global Market under the symbol DRRA. On August 28, 2006, DRRA was the subject of online intrusions at TD Ameritrade, Scottrade, E\*Trade and Schwab. That day, DRRA opened at \$.54 per share and increased to an intra-day high of \$.66 per share on volume of 4,759,599 shares, compared to its prior 15-day historical average trading volume of 495,289 shares.

36. Prior to the intrusions, from August 15, 2006 until August 28, 2006, the Unknown Trader Defendants accumulated in their own accounts 355,500 shares of DRRA at prices ranging from \$.39 to \$.45 per share.

37. On August 28, from 12:42 p.m. to 3:39 p.m., one or more of the Unknown Trader Defendants intruded into an account at TD Ameritrade, purchased 363,500 shares of DRRA, and sold 363,500 shares. That same day, between 11:41 a.m. until 12:41 p.m., the Unknown Trader Defendants intruded into four accounts at Scottrade and purchased 337,000 shares of DRRA. Almost simultaneously, between 11:41 a.m. and 1:50 p.m., one or more of the Unknown Trader Defendants intruded into two E\*Trade accounts and purchased 231,000 shares of DRRA. Between 2:33 p.m. and 2:50 p.m., the Unknown Trader Defendants intruded into a Schwab account and purchased 30,000 shares of DRRA. They also attempted to purchase another 25,000 shares in the account, but those orders were cancelled by Schwab prior to execution.

38. Concurrently with the intrusions, on August 28, 2006, between 1:06 p.m. and 2:33 p.m., the Unknown Trader Defendants sold their 355,500 DRRA shares in their own accounts at prices ranging from \$.58 to \$.61 per share.

39. As a result of their scheme to manipulate the price of DRRA, the Unknown Trader Defendants realized a profit of approximately \$51,511.

**Valentis, Inc.**

40. Valentis, Inc. is a Burlingame, California-based purported biotechnology company trading on the Nasdaq Capital Market under the symbol VLTS. On July 28, 2006, VLTS was the subject of unauthorized intrusions at

Scottrade, TD Ameritrade, E\*Trade and Schwab. On that day, VLTS opened at \$.65 per share and increased to an intra-day high of \$.67 per share on volume of 3,723,383 shares, compared to its prior 15-day historical average trading volume of 1,704,102 shares.

41. Prior to the intrusions, between July 25, 2006 and July 27, 2006, the Unknown Trader Defendants accumulated in their own accounts 446,977 shares of VLTS at prices ranging from \$.34 to \$.44 per share, and sold 3,267 shares at \$.35 to \$.40 per share.

42. On July 28, between 9:58 a.m. and 1:01 p.m., one of more of the Unknown Trader Defendants intruded into a TD Ameritrade account and purchased 696,999 shares of VLTS. Between 11:28 a.m. and 11:55 a.m., the Unknown Trader Defendants intruded into an account at Scottrade and purchased 53,500 shares of VLTS. Also on July 28, from 11:41 a.m. to 1:04 p.m., the Unknown Trader Defendants intruded into two accounts at E\*Trade and purchased 240,699 shares of VLTS. Finally, between 12:13 p.m. and 12:17 p.m., one of more of the Unknown Trader Defendants intruded into an account at Schwab and purchased 35,000 shares of VLTS.

43. Contemporaneously with the intrusions, on July 28, 2006, between 11:03 a.m. and 11:05 a.m., the Unknown Trader Defendants bought an additional 210 shares of VLTS in their own accounts at \$.61 to \$.63 per share and, beginning at 12:43 p.m., sold all 443,920 of their VLTS shares at prices ranging from \$.53 to \$.67 per share.