

**BEFORE THE ADJUDICATING OFFICER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**[ADJUDICATION ORDER NO. PKB/AO- 4/ 2011]**

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**UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995**

**In respect of**

**Virendra S Pandey  
PAN: APZPP8875L**

**AND**

**Virendra Pandey  
PAN AACPP5316L**

**In the matter of Alka Securities Ltd.**

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**I. BACKGROUND**

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") observed spurt in the price and trading volumes in the shares of Alka Securities Ltd. (hereinafter referred to as "Company"). It was observed that large volume of off market transfers in the shares of the Company were executed and on many occasions the Promoters of the Company were also involved in the off market transfers and these shares were subsequently traded at BSE. Therefore, an immediate examination was carried out by SEBI into the dealings in the scrip of the Company and Interim Order was passed by the Whole Time Member of SEBI on July 28, 2009. This Interim Order was confirmed vide SEBI Orders dated October 16, 2009 and October 30, 2009.
2. SEBI conducted detailed investigation into the alleged price manipulation in the scrip of the Company during the period from September, 2008 to

July, 2009. It was observed that large number of entities including Virendra Pandey having PAN AACPP5316L and Virendra S Pandey having PAN APZPP8875L had received the shares of the Company in the off market from the promoters.

3. On conclusion of the investigations, Adjudication Proceedings were initiated in respect of Virendra S Pandey and Virendra Pandey for the alleged non compliance with summons in the scrip of the Company and the undersigned was appointed as the Adjudicating Officer vide Order dated March 31, 2010.
4. Subsequently, SCN bearing reference no. EAD-04/ADJ/PKB/EIF-131/9115/2010 dated June 18, 2010 was issued to Virendra S Pandey and SCN bearing reference no. EAD-04/ADJ/PKB/EIF-113/9006/2010 dated June 17, 2010 was issued to Virendra Pandey.
5. I note that Mr. Virendra S Pandey himself collected both the Show Cause Notice (hereinafter referred to as "SCN") from our office on October 20, 2010 in Mumbai and also appeared for the hearings conducted in both the Proceedings. During the hearing, he submitted the copy of his PAN Card bearing No. APZPP8875L and also stated that earlier he was having another PAN No. issued in Banaras, which got cancelled later on.
6. From the above, I note that Virendra Pandey and Virendra S Pandey is the same person and the aforesaid two Adjudication Proceedings pertain to the same person, *i.e.* Mr. Virendra S Pandey (hereinafter referred to as the "Noticee"). In view of the above, I proceed to dispose of both the Proceedings by this Order.

## **II. SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING**

7. Both the SCN, each dated June 17, 2010 and dated June 18, 2010 were issued to the Noticee vide hand delivery under Rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as "Adjudication Rules") calling upon the Noticee to show cause why inquiry should not be held against the Noticee in terms of Rule 4 of the Adjudication Rules for the

alleged violation of provisions of sections 11C(2) and 11C(3) of the Act. The SCN alleged that the Noticee did not comply with the summons and the same has hampered the investigations into the scrip of the Company. The SCN could not be delivered and hence was sent again on other address which also could not be delivered. Subsequently, the Noticee himself collected the SCN on October 20, 2010 at our office in Mumbai and also gave us a new address for correspondence.

8. We were not in receipt of any reply from the Noticee and hence, subsequently, Notice of Inquiry dated November 4, 2010 was issued to the Noticee vide which the Inquiry was scheduled to be held on November 18, 2010. The Notice was sent at the new address as given by the Noticee and the same was duly received by him. The Noticee nor his authorized Representative attended the hearing. Yet, in the interest of principles of natural justice, one last opportunity of hearing was accorded to the Noticee vide Notice of Inquiry dated November 22, 2010 vide which the hearing was scheduled to be held on December 6, 2010. The Noticee himself attended the hearing.

### III. ISSUES FOR CONSIDERATION AND FINDINGS:

9. On perusal of the material available on record, I find that the Issue for Consideration and my Findings are as follows:

*Whether the Noticee has violated provisions of sections 11C(2) and 11C(3) of the Act?*

10. The provisions of sections 11C(2) and 11C(3) of the Act read,

***“Section 11 C: Investigation***

*(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.*

*(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or*

*produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation."*

11. The SCN bearing reference no. EAD-04/ADJ/PKB/EIF-113/9006/2010 dated June 17, 2010 alleged that summons dated December 9, 2009 was issued to the Noticee vide hand delivery, requiring the Noticee to submit the information required in the enclosed Annexure to the summons latest by December 18, 2009 which returned undelivered. The copy of summons was enclosed as "Annexure-2" to the SCN.
12. Therefore, subsequently, Notice was published in the Hindustan Times and Hindustan (Hindi) on March 21, 2010 mentioning that summons were issued in relation to the investigation into the dealings in the scrip of the Company and that SEBI had either not received the responses or received incomplete replies from the entities, whose names were mentioned in the Notice. The Notice mentioned that copies of the relevant summons were available on SEBI website and advised the entities to ensure that their reply to the summons reach SEBI by 23-03-2010. The Copy of the Notice was enclosed as "Annexure-3" to the SCN and the Noticee's name was mentioned at S.No. 450 of the Advertisement. The SCN alleged that the Noticee did not reply to the aforesaid Notice.
13. The SCN bearing reference no. EAD-04/ADJ/PKB/EIF-131/9115/2010 dated June 18, 2010 alleged that summons dated December 9, 2009 was issued to the Noticee vide hand delivery, requiring the Noticee to submit the information required in the enclosed Annexure to the summons latest by December 18, 2009 which returned undelivered. The copy of summons was enclosed as "Annexure-2" to the SCN.
14. Therefore, Notice was published in the Hindustan Times and Hindustan (Hindi) on March 21, 2010 mentioning that summons were issued in relation to the investigation into the dealings in the scrip of the Company and that SEBI had either not received the responses or received incomplete replies from the entities, whose names were mentioned in the Notice. The Notice mentioned that copies of the relevant summons were available on

SEBI website and advised the entities to ensure that their reply to the summons reach SEBI by 23-03-2010. The Copy of the Notice was enclosed as "Annexure-3" to the SCN and the Noticee's name was mentioned at S.No. 451 of the Advertisement.

15. The SCN alleged that the Noticee vide letter dated March 25, 2010 submitted that he had given his reply to the summons along with relevant documents and that according to him the reply was a complete reply and if any information was not furnished, the Noticee requested furnishing him with the details of the same to enable him to furnish such details, if available with him. The Copy of the letter was enclosed as "Annexure-4" to the SCN. However, the SCN alleged that the Noticee has not provided the details sought for vide the summons.

16. The Noticee did not reply to the SCN, however, he attended the hearing and the minutes of the hearing are extracted below:

*"Q1. It is noted that you have not submitted your reply to the SCN dated June 17, 2010. Do you have anything to submit in the above proceedings?"*

*Ans: I have not seen the notice in newspaper hence could not submit the information. I have not received any other summons. I have not done any substantial transaction in the scrip of Alka Securities Ltd. Though I have received both the notices and the addresses are mine but I have not traded in account bearing PAN no AACPP5316L.*

*Q2. You are advised to submit a copy of PAN.*

*Ans: A copy of my PAN card is submitted. Earlier I was having another PAN no issued in Banaras, which got cancelled later on."*

17. I find that both the SCNs mention that the summons dated December 9, 2009 issued to the Noticee vide hand delivery were returned undelivered, therefore, the only issue which needs to be examined is regarding the Notice published in the newspaper on March 21, 2010. In this regard, considering the Noticee's letter dated March 25, 2010 on record which was also duly annexed to the SCN dated June 18, 2010 wherein he refers to the Newspaper publication made by SEBI, I find that the submission of the Noticee during the hearing that he had not seen the notice in newspaper and hence has not submitted the information can't be accepted.

18. However, I find that vide the aforesaid letter the Noticee has submitted that he had given his reply to the summons along with relevant documents and that according to him the reply was a complete reply and if any information was not furnished, the Noticee requested furnishing him with the details of the same to enable him to furnish such details, if available with him. I note that summons, the Noticee was referring to have replied to, was never delivered to him. Therefore, the Noticee 's submission that he had replied to the earlier summons cannot be accepted. Further, the Noticee has not submitted any evidence in support of his submissions. However, I note that subsequent to the receipt of this letter from the Noticee, there is nothing on record to suggest that SEBI had further corresponded with the Noticee regarding procurement of information sought in the said summons as the Noticee has claimed that he had submitted all the information and if any information was not furnished, the details of the same may be provided to him. Hence, I tend to give benefit to the Noticee in the present matter and dispose of the Adjudication Proceedings without imposing penalty.

#### **IV. ORDER**

19. In view of my findings noted in the preceding paragraphs, I dispose of the Adjudication Proceedings accordingly.
20. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this Order are being sent to Virendra S Pandey and to SEBI.

**DATE: JANUARY 11, 2011**

**PLACE: MUMBAI**

**P. K. BINDLISH  
ADJUDICATING OFFICER**