BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: DR. K. M. ABRAHAM, WHOLE TIME MEMBER

ORDER

UNDER REGULATION 28 (2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008 AGAINST PINNACLE SHARES REGISTRY PRIVATE LIMITED IN THE MATTER OF PARSOLI CORPORATION LIMITED

Dates of hearing: August 13, 2009 and September 30, 2009

Appearance:

For Pinnacle Shares Registry Private Limited: Mr. Vinay Chauhan, Advocate
Mr. Girish Patel, General Manager
Mr. Heman Joshi, Officer

For Securities and Exchange Board of India: Mr. Suresh B. Menon, Chief General Manager
Mr. Vijayakrishnan G., Deputy Legal Adviser
Mr. Debashis Bandyopadhyay, Assistant General Manager
Mr. T. Vinay Rajneesh, Legal Officer
Mr. Vikash Narnoli, Manager

1. Securities and Exchange Board of India (hereinafter referred to as SEBI), pursuant to the receipt of complaints from the shareholders (including one Javed Sonalkar) of Parsoli Corporation Limited (hereinafter referred to as Parsoli) about the rejection of their dematerialization/share transfer requests, conducted an inspection of the records of Pinnacle Shares Registry Private Limited (hereinafter referred to as the noticee), the Registrar and Share Transfer Agent (hereinafter referred to as STA) of Parsoli. Thereafter, pursuant to a show cause notice and after affording an opportunity of hearing, SEBI, vide order dated February 20, 2009 prohibited the noticee from entering into any fresh agreements with client companies in its operations as registrar to the issue and share transfer agent till further

orders. It was also ordered to initiate enquiry proceedings in terms of the provisions of Securities and Exchange Board of India (Intermediaries) Regulations, 2008 in respect of the alleged violations committed by the noticee. SEBI, vide a separate Order dated February 20, 2009 had restrained Parsoli, its whole time directors namely Mr. Zafar Sareshwala and Mr Uves Sareshwala and its associates/group companies from accessing the securities market, till further orders. They were also prohibited from buying, selling or dealing in securities in any manner directly or indirectly, till further orders. The activities of Parsoli as a stock broker and depository participant were also restricted to the extent of not permitting the addition of any new clients in such capacities, pending further orders. Parsoli was directed to remove the noticee as its Registrar and Transfer Agent and was directed to appoint another Registrar and Transfer Agent within a period of six months from the date of the said Order. Parsoli was also directed to conduct a secretarial audit to establish the identity of the actual shareholders and reconcile the differences between their records of shareholders and the depository accounts, taking into account any pending request for dematerialization and to appoint a qualified company secretary for the purpose.

2. As the quasi-judicial proceedings against Parsoli are under consideration by SEBI, I deliberately refrain from drawing any premature conclusions or making any observations on the culpability of Parsoli itself or its promoters/whole time directors/front entities in respect of the charges leveled against them in the subject matter, in this Order. More specifically, while I would be making references in this order, to the fraud identified in this case through the investigation and inquiry conducted by SEBI, I shall not go beyond the fraud and explore the link if any, between this fraud and Parsoli itself as that is a subject matter of another quasi judicial proceeding. To summarize, I shall therefore strictly restrict the focus in this Order only to the case against the noticee and conclude the enquiry proceedings so initiated against it, vide SEBI Order dated February 20, 2009.

3. In accordance with the aforesaid SEBI Order dated February 20, 2009 in initiating enquiry proceedings against the noticee, SEBI appointed a Designated Authority for the same. Thereafter, the noticee filed an appeal before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as the Hon'ble SAT) against the aforesaid order of SEBI dated February 20, 2009. The Hon'ble SAT, vide order dated May 04, 2009 disposed of the aforesaid appeal with a direction that a final order in the enquiry proceedings shall be passed on or before July 15, 2009. Subsequently, the Designated Authority submitted his report dated July 01, 2009 recommending a penalty of prohibition on the noticee from taking up any new assignment or contract for a period of three years. As the Designated Authority submitted the Report on July 01, 2009 and since the noticee was required to be given a show cause notice followed by a personal hearing, SEBI, filed an application before the Hon'ble SAT to extend the time granted by it, vide order dated May 04, 2009. The Hon'ble SAT, vide order dated July 15, 2009 allowed the said application and directed SEBI to pass a final order on or before August 31, 2009.

4. In the meanwhile, SEBI issued a notice dated July 01, 2009 to the noticee requiring it to show cause as to why action as recommended by the Designated Authority should not be taken against it. The Report of the Designated Authority was also enclosed with the said notice. The noticee, vide letter dated July 24, 2009 replied to the aforesaid notice. The submissions of the noticee in brief are as follows:

a. That it had not taken possession of the records of signature cards in light of the request of Parsoli that the signature records were lying in torn condition and that it is not as if it did not want to take possession of the specimen signature records from Parsoli. That since April, 2003, it had regularly followed up with Parsoli for delivering the relevant signature records to it. That Parsoli had assured that the signature verification was being duly carried out by it, and that in case if any complaint is received with regard to transfer, it will take full

responsibility for the same and will also compensate the holders/transferee/ Registrar and Transfer Agent.

b. That it was not aware about the sinister intent or design of the promoters of Parsoli in not parting with the specimen signature records and in absence of any awareness/knowledge about the oblique motives of the promoters of Parsoli, no adverse inference can be drawn against it for not obtaining the specimen signature records. That it was relying on the signature confirmation given by Parsoli for processing the transfer/ demat requests.

c. That on receipt of the Transfer Deeds/Demat Request Form (DRF) from the investors/Depository Participant (DP) directly, it used to forward the Transfer Deed/DRF to Parsoli for signature verification, as specimen signature records were retained by Parsoli. That Parsoli used to forward the Transfer Deed/DRF as received from the investors/DP, after confirming the signatures for further processing. That based on the confirmation received from Parsoli with regard to signature verification, it used to process the transfer/demat of shares.

d. That, over a period of time, as and when the transfer of shares has taken place, it had captured the signatures of transferees from the share transfer form in their system and had built a database of signatures of the shareholders. That in respect of the said shares, it has been processing further requests for transfer/demat after confirming the signatures in its database, without reverting to Parsoli.

e. That, except the relationship with Parsoli as its Registrar and Transfer Agent, it had no other relationship direct/indirect with Parsoli/its Promoters/alleged front entities. That it was having a strict arms length relationship with Parsoli.

f. That, at the relevant time, there was nothing to indicate that the signatures on the transfer deeds were forged or that share certificates accompanying the transfer deeds were forged/fraudulent as alleged or that the DRF was fraudulent as alleged.

g. That, at the relevant time, the employees who were processing the requests were not aware that transferees in question were promoters belonging to the Sareshwala family.

h. That there is no material on record to demonstrate that it was aware of such relationship between these entities with the promoters of Parsoli and that it had processed the transfer requests based on the confirmation received from Parsoli.

i. That it never suspected that the promoters of Parsoli would be compensating the investors, to cover up the fraudulent transfers as allegedly executed by them. That, it was of a bonafide belief that as a measure of good corporate practice, the promoters were compensating the small investors. Since the investors were being compensated, it never raised any objection with Parsoli and the same also did not alert it.

j. That it had nothing to gain by citing a different reason for rejection as alleged and that the reason for rejection cited by it was based on the understanding of its staff. That its staff had rejected the demat request based on their understanding by *inter alia* stating "*Certificate submitted by investor are those for which duplicate have already been issued*" and informed the DPs/investors accordingly.

k. That at the relevant time, its staff personnel who were processing DRF's, on finding that the particular certificate number had already been dematerialized and was showing in the system of National Securities Depository Limited (NSDL)/Central Depository Services (India) Limited (CDSL) account, presumed that one set of share certificates might have been issued by Parsoli prior to 2003 (i.e before assigning physical registry to the noticee), which was already dematerialized and that another set of certificate has been sent for dematerialization. Based on the said understanding and in light of the fact that NSDL/CDSL Rejection Codes/ Reason did not specifically provide for shares already dematted, its staff cited Rejection Code No. 5 i.e. "Original Certificates present are those for which Duplicates have already been issued". Since the shares were already dematerialized as per its system and that Parsoli had already compensated the investors, its staff did not examine the procedural requirements necessary for rejecting the DRFs based on the duplicate certificate already issued, like obtaining Indemnity Bond, FIR etc.

l. That, the Enquiry Officer had completely ignored and overlooked its detailed submissions with regard to the rejection of demat requests of Mr. Arbab Ahmed Bharuchi and Mr. Javed Sonalkar and had arrived at erroneous findings which were sweeping in nature.

m. That, it denied that on the date of rejection of demat requests, it knew that the shares were earlier transferred and dematerialized and it deliberately rejected the request for dematerialized by the genuine shareholder on the ground of signature mismatch as alleged.

n. That, it denied that it had any complicity in the fraud committed by Parsoli and its promoters as alleged and that the Enquiry Officer had failed to appreciate that the alleged stray transfers had taken place over a period of four years, wherein simultaneously it was processing transfers of various other companies also. That, since Parsoli was compensating the investors, it had thought that the same was a measure of corporate governance and did not find anything amiss.

o. That, with regard to the delay in processing the dematerialization requests, the date of delay in its response had been calculated from the date of demat request filed by the investor with the DP. That, it came to know about such a demat request only when the Electronic Demat Request Number (DRN) was generated by the DP.

p. That, in the case of Parsoli, after generating the electronic DRN, the DPs were forwarding the physical request and documents to Parsoli and not to it. Therefore, it was helpless to process the same without the physical request and the documents. In the interest of investors, it used to follow up with Parsoli to get the same and the signature confirmation at the earliest.

q. That, on receipt of the said documents from Parsoli, it used to process the requests instantly without any delay and whenever the physical request came to it directly, it had to forward the same to Parsoli for signature confirmation and only after receipt of the same, it was able to process the same, as the signature records of the shareholders of Parsoli was not provided to it.

r. That, it had informed Parsoli about the pending objections for the dematerialization requests of the Investors and had time and again sent reminders to the company via phone calls and also mentioned in the statement mentioning the “demat confirmations pending for more than 21 days” sent to Parsoli at the end of every quarter.

s. That, the delay in processing the demat request was not caused by delay on its side but was entirely due to the delay on the part of Parsoli. That during the relevant period, it was having tremendous work load and huge activities were happening in primary market and also secondary market due to better financial condition and booming stock market in India. That when NSDL/CDSL had sought clarification for the delay in processing DRNs, it had specifically informed to NSDL/CDSL that delay was due to non-processing by Parsoli within the stipulated time and that it was consistently following up with Parsoli for expediting the process.

t. That, the sole beneficiary of the entire fraud is the promoters of Parsoli and that neither it nor its promoters/directors/employees have any relationship with the promoters/directors/employees of Parsoli, save and except the relationship between a Registrar and its client.

u. That, except the fees towards rendering its services as RTA amounting to Rs 25,000/- per annum, it had not gained even a single penny.

v. That, it has been in the business for the last 17 years and till date has not received any notice from any regulatory body including SEBI. That, it has 120 companies as its clients which include companies like Adani Enterprises Limited, Sintex Industries Limited, Cadilla Healthcare Limited etc. That, till date, it had handled 58 public issues, 16 rights issues without any complaints.

w. That the penalty recommended by the Enquiry officer is hugely disproportionate to gravity of the alleged violations and drew attention to the judgment of the Hon'ble Supreme Court' in the case of Ex-Naik Sardar Singh V. Union of India [(1991) 3 SCC 212]. That, if imposition of monetary penalty is subject to the guidelines provided in the Securities and Exchange Board of India Act, 1992 (SEBI Act), the same parameter should, if not more, be in equal force be applicable to the cases where prohibition from taking up new assignments is recommended and that the Enquiry Officer has not taken into consideration any of the parameters referred to above while recommending penalty of three years.

x. That, while considering the case, the noticee requested to take into consideration *inter alia* the following factors:

    (i) That it had already severed its relationship with Parsoli.

    (ii) That it has not made any gains or derived any unfair advantage as a result of alleged fraudulent transfers by the promoters of Parsoli and that till date it had received a sum of Rs. 2,29,502/- from Parsoli as fees.

5. Pursuant to its reply, the noticee was granted an opportunity of hearing on August 13, 2009. In the hearing, the noticee was represented by Mr. Vinay Chauhan, learned counsel, who made his submissions in the matter. Thereafter, SEBI filed an application before the Hon'ble SAT seeking further extension of time to conclude the enquiry proceedings. The Hon'ble SAT, vide order dated September 10, 2009 granted liberty to SEBI to

conclude the proceedings against the noticee on or before October 15, 2009. *Prima facie*, as the recommended penalty did not seem to be commensurate with the gravity of the violations, a supplementary show cause notice dated September 16, 2009 was issued to the noticee. The noticee filed a reply dated September 23, 2009 to the aforesaid show cause notice. Thereafter, the noticee appeared for a hearing before me on September 30, 2009 through Mr. Girish Patel, General Manager of the noticee along with Mr. Heman Joshi (Officer) and made submissions. The authorized representatives submitted that their replies/submissions be considered and requested that no harsh penalty be imposed against the noticee.

6. I have considered the Enquiry Report, the show cause notices issued to the noticee, the oral as well as written submissions made on behalf of the noticee and other material available on record. After having examined the same, I take up the following issues for consideration:

i. Whether the noticee had committed fraud/irregularities while handling the share transfer activities of Parsoli, which facilitated the fraudulent transfer of physical shares of various genuine shareholders of Parsoli to the promoter group of Parsoli and persons termed as “front entities to the promoter group” by using transfer deeds containing forged signatures or without signatures?
ii. Whether the noticee had committed any violation by delaying the dematerialization requests of the shareholders of Parsoli and improperly rejecting the requests for dematerialization made by the shareholders?
iii. Whether the noticee had by commission or omission, contravened the relevant provisions of Securities and Exchange Board of India (Registrars to an Issue and Share Transfer Agents) Regulations, 1993 (hereinafter referred to as the Regulations), Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices

Relating to Securities Market) Regulations, 2003 (hereinafter referred to as PFUTP Regulations), Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 (hereinafter referred to as DP Regulations) and SEBI Circular dated December 27, 2002?

7. My finding in respect of the aforesaid issues is as under:

Issue I - Whether the noticee had committed fraud/irregularities while handling the share transfer activities of Parsoli, which facilitated the fraudulent transfer of physical shares of various genuine shareholders of Parsoli to the promoter group of Parsoli and persons termed as "front entities to the promoter group" by using transfer deeds containing forged signatures or without signatures?

8. On this issue, I note that the SEBI inspection had noticed approximately 450 instances where the shares of genuine holders of Parsoli were fraudulently transferred to the individuals belonging to the promoter group of Parsoli/front entities. The transfer of the shares of the genuine shareholders to the promoters of Parsoli and its front entities had been effected on the basis of forged signatures on the transfer deeds. The table below would show the details of some persons to whom shares were fraudulently transferred, along with their relationship with the directors/promoters of Parsoli:

Sr No	Name	Relationship with Parsoli /promoters
1	Mr. Zafar Yunus Sareshwala/ Mr. Talha Yunus Sareshwala/ Mr. Uves Yunus Sareshwala	Brothers and promoter of Parsoli
2	Mr. Mohammed Yunus Sareshwala	Belong to promoter group of the company and father of persons at Sr. No.1
3	Smt Saleha Y Sareshwala	Belong to promoter group of Parsoli and mother of persons at Sr. No.1

4	Master Habib Zafar Sareshwala, Master Ahmed Zafar Sareshwala and Miss Khadija Zafar Sareshwala (Minors)	Belong to Promoter group of Parsoli and the children of Mr. Zafar Yunus Sareshwala –
5	Master Umar Uves Sareshwala, Miss Fatema Uves Sareshwala and Miss Asma Uves Sareshwala (minors)	Belong to the promoter group of Parsoli and children of Mr. Uves Yunus Sareshwala – Minor
6	Miss Sumaiya Talha Sareshwala and Miss Qudsiya Talha Sareshwala	Belong to the promoter group of Parsoli and daughters of Mr. Talha Yunus Sareshwala – Minor
7	Mr. Mansuri Iftekar M Yusuf	Admittedly, an ex - employee of Parsoli
8	Mr. Aslamkhan R Pathan	Admittedly, an ex - employee of Parsoli
9	Mr. Mohammed Alibhai Kothawala	Admittedly, Ex–Munim of Parsoli. He has also compensated genuine investor wherein the fraudulent transfer had taken place in the name of Mr. Talha Sareshwala
10	Mr. A Hameed Gaffar Memon	Compensated by Mr. Mohammad Alibhai Kothawala
11	Miss Fatema M Kothawala	Compensated by Mr. Mohammed Alibhai Kothawala
12	Mr. Mukhtar Y Kothawala	Compensated by Mr. Mohammed Alibhai Kothawala
13	Mr. Maksud Y Kothawala	Compensated by Mr. Mohammed Alibhai Kothawala
14	Mrs Amena M Kothawala	Compensated by Mr. Mohammed Alibhai Kothawala
15	Mr. Yusuf U Kothawala	Compensated by Mr. Mohammed Alibha Kothawala
16	Miss Mariyam Y Kothawala	Related to Mr. Yusuf U Kothawala and having the same address as Mr. Yusuf U Kothawala; Compensated by Mr. Mohammad Alibhai Kothawala
17	Mr. Nasir Malik	Neighbor of Mr. Zafar Sareshwala
18	Mr. Gulam Rasul Bombaywala	Compensated by Mr. Mohammad Alibhai Kothawala
19	Ms. Shirin T Sareshwala	Shares transferred jointly with Ms. Mariyam Y Kothawala

9. The following are some of the instances where the shares of the genuine shareholders had been transferred to the promoters/front entities without their consent.

a. In the case of Mr. Bipinchandra G. Patel (a genuine shareholder of Parsoli), one Mr. Zafar Sareshwala had signed as guardian on behalf of his

minor son (Master Habib Zafar Sareshwala) and transferred 100 shares (Transfer Deed No. 130127) of Mr. Bipinchandra G. Patel on or around August 4, 2005 and dematerialised the same on September 21, 2005 [DRN-370579]. When Mr. Bipinchandra G. Patel (who was not aware of the fraudulent transfer) had applied for dematerialization of his shares, his demat request (DRN 9571) was rejected by the noticee on October 17, 2006. The said shareholder was later compensated by Parsoli through an off-market transfer from the account of one Mohammed Alibhai Kothawala (an ex–employee of Parsoli).

b. In the case of Mr. Hajimohammed M Rinchniwala (another genuine shareholder of Parsoli), one Mr. Talha Yunus Sareshwala transferred 600 shares (Transfer Deed No. 129917) of Mr. Hajimohammed M Rinchniwala on or around July 19, 2005 and dematerialized the same on August 13, 2005. When Mr. Hajimohammed M Rinchniwala (who was not aware of the fraudulent transfer) applied for dematerialization of his shares, his demat request (DRN 1780942) was rejected by the noticee on March 09, 2007. Mr. Hajimohammed M Rinchniwala was later compensated by Parsoli through an off-market transfer from the account of one Mohammed Alibhai Kothawala.

c. In the case of Mr. Hasmukh Rasiklal Gandhi (another shareholder of Parsoli), one Mr. Uves Sareshwala had signed as guardian on behalf of his minor son (Master Umar Uves Sareshwala) and transferred 300 shares (Transfer Deed No. 129905) of Mr. Hasmukh Rasiklal Gandhi on or around July 19, 2005 and dematerialized the same on August 26, 2005 (DRN 367123). When Mr. Hasmukh Rasiklal Gandhi (who was not aware of the fraudulent transfer) applied for dematerialization of his shares, his demat request (DRN 279345) was rejected by the noticee on June 4, 2008. The said genuine shareholder was later compensated by Parsoli through an off-market transfer from the account of Mr. Mohammed Alibhai Kothawala.

d. In the case of Mrs. Urmila M Kachhapatel and Mr. Madhusudan M Kachhapatel (joint shareholders of Parsoli), Mr. Mohammed Alibhai Kothawala transferred 100 shares (Transfer Deed No. 304620) of Mrs. Urmila M Kachhapatel and Mr. Madhusudan M. Kachhapatel on or around August 30, 2005 and dematerialized the same (DRN 236298) on October 13, 2005. When Mrs. Urmila M Kachhapatel and Mr. Madhusudan M Kachhapatel (who were not aware of the fraudulent transfer) applied for dematerialization of their shares, their demat request (DRN 266978) was rejected by the noticee on March 23, 2006. They were later compensated through an off-market transfer from the account of Mr. Talha Yunus Sareshwala (promoter of Parsoli).

e. In the case of Mr. Paresh S. Barot (another genuine shareholder of Parsoli), one Mr. A Hameed A Gaffar Memon transferred (Transfer Deed No. 372328) 100 shares on or around September 20, 2005 belonging to Mr. Paresh S Barot and dematerialized (DRN 239198) the same on October 22, 2005. When the said shareholder (who was not aware of the fraudulent transfer) applied for dematerialization (DRN 1118832) of his shares, the said request was rejected by the noticee on October 17, 2006. Mr. Paresh S Barot was later compensated by Parsoli through an off-market transfer from the account of Mr. Mohammad Alibhai Kothawala.

f. In the case of Mr. Vikas Shah (a genuine shareholder of Parsoli), Ms. Fatema M Kothawala and Mr. Mukhtar Y Kothawala transferred 200 shares (Transfer Deed No. 105723) belonging to Mr. Vikas Shah on or around July 19, 2005 and dematerialized (DRN. 228641) the same on August 20, 2005. When the shareholder (who was not aware of the fraudulent transfer) applied for dematerialization (DRN 3867826) of his shares, the said request was rejected by the noticee on March 09, 2007. Mr. Vikas Shah was later compensated by Parsoli through an off-market transfer from the account of Mr. Mohammad Alibhai Kothawala.

g. In the case of Mr. Kamlesh Ambalal Patel (a shareholder of Parsoli), Mr. Mukhtar Y Kothawala transferred 500 shares (Transfer Deed No. 130035) of Mr. Kamlesh Ambalal Patel on or around July 29, 2005 and dematerialized (DRN 231777) the same on September 14, 2005. When Mr. Kamlesh Ambalal Patel (who was not aware of the fraudulent transfer) applied for dematerialization (DRN 22948) of his shares, his demat request was rejected by the noticee on June 9, 2006 and was later compensated by Parsoli through an off-market transfer from the account of Mr. Mohammad Alibhai Kothawala.

h. In the case of Mr. Sachin Arvindbhai Soni (a genuine shareholder of Parsoli), one Mr. Maksud Y Kothawala transferred 300 shares (Transfer Deed No. 130106) of Mr. Sachin Arvindbhai Soni on or around August 04, 2005 and dematerialized (DRN 233352) the same on September 21, 2005. When Mr. Sachin Arvindbhai Soni (who was not aware of the fraudulent transfer) applied for dematerialization (DRN 14996) of his shares, his demat request was rejected by the noticee on October 17, 2006 and was compensated later by Parsoli through an off-market transfer from the account of Mr. Mohammad Alibhai Kothawala.

i. In the case of Mr. Mool Singh (a genuine shareholder of Parsoli), Mrs. Amena M Kothawala and Mr. Maksud Y Kothawala transferred 400 shares (Transfer Deed No. 105744) of Mr. Mool Singh on or around July 19, 2005 and dematerialized (DRN 228640) the same on August 20, 2005. When Mr. Mool Singh (who was not aware of the fraudulent transfer) applied for dematerialization (DRN 985939) of his shares, his demat request was rejected by the noticee on October 17, 2006 and he was compensated through an off-market transfer from the account of Mr. Mohammad Alibhai Kothawala.

j. In the case of Mr. Bhavesh Vasantlal Dalal (a genuine shareholder of Parsoli), Mr. Yusuf U Kothawala and Mrs. Mariyam Y Kothawala transferred

600 shares (Transfer Deed No. 130046) belonging to Mr. Bhavesh Vasantlal Dalal on or around July 29, 2005 and dematerialized (DRN 231780) the same on September 14, 2005. When Mr. Bhavesh Vasantlal Dalal (who was not aware of the fraudulent transfer) applied for dematerialization (DRN 759) of his shares, the request was rejected by the noticee on February 09, 2007 and was later compensated through an off-market transfer from the account of Mr. Mohammad Alibhai Kothawala.

k. In the case of Mr. Roopkumar Issrani (a genuine shareholder of Parsoli), Mrs. Mariyam Y Kothawala and Ms. Shirin T. Sareshwala transferred (Transfer Deed No. 105705) 200 shares of Mr. Roopkumar Issrani on or around July 19, 2005 and dematerialized (DRN 228642) them on August 20, 2005. When Mr. Roopkumar Issrani (who was not aware of the fraudulent transfer) applied for dematerialization (DRN 3807081) of his shares, the said request was rejected by the noticee on February 17, 2007 and was later compensated through an off-market transfer from the account of Mr. Mohammad Alibhai Kothawala.

l. In the case of Mr. B.J. Patel (a genuine shareholder of Parsoli), one Mr. Nasir Malik fraudulently transferred 1000 shares (Transfer Deed No. 449130) of Mr. B.J. Patel on or around June 6, 2005. The shares which were transferred were then dematerialized by Mr. Nasir Malik vide DRN. 223643 on July 14, 2005. It was found that, as per the transfer register, Mr. Nasir Malik's address was 11 - A Faize Mohammedi Society, Narayannagar Road Paldi, Ahmedabad–380007, which was the address of Mr. Zafar Sareshwala, a promoter of Parsoli.

m. In the case of Mr. Dipak Kumar Rashiklal Shah (a genuine shareholder of Parsoli), Mr. Gulamrasul M Bombaywala transferred 200 shares (Transfer Deed No. 105667) of Mr. Dipak Kumar Rashiklal Shah on or around June 28, 2005 and dematerialized (DRN 224618) the same on July 22, 2005. When Mr. Dipak Kumar Rashiklal Shah (who was not aware of the fraudulent

transfer) applied for dematerlisation (DRN 3650988) of his shares, the request was rejected by the noticee on February 17, 2007 and was later compensated through an off-market transfer from the account of Mr. Mohammad Alibhai Kothawala.

10. The fraudulent transfer of shares belonging to the genuine shareholders to the promoters of Parsoli or their front entities as discussed above have been tabulated herein below for ease of reference:

Sr. No	**Date of receipt of transfer requests (effected fraudulently)**	**No. of shares**	**Name of the genuine shareholder**	**Name of the persons to whom shares transferred based on forged signature.**	**Date of dematerializing the so transferred shares**
1.	04-08-2005	100	Bipinchandra G. Patel	Habib Zafar Sareshwala [Zafar Sareshwala signed as the guardian of Habib Zafar Sareshwala (minor son)]	21-09-2005
2.	19-07-2005	600	Hajimohammed M Rinchniwala	Talha Yunus Sareshwala	13-08-2005
3.	19-07-2005	300	Hasmukh Rasiklal Gandhi	Umar Uvesh Sareshwala [Uvesh Sareshwala signed as the guardian of Umar Uvesh Sareshwala (minor son)]	26-08-2005
4.	30-08-2005	100	Urmila M Kachhapatel and Madhusudhan M Kachhapatel	Mohammed A kothawal	13-10-2005
5.	20-09-2005	100	Paresh s Barot	Hameed A Gaffar Memon	22-10-2005
6.	19-07-2005	200	Vikas shah	Fatema M Kothawala and Mukhtar Y Kothawala	20-08-2005
7.	29-07-2005	500	Kamlesh Ambalal Patel	Mukhtar Y Kothawala	14-09-2005

8.	04-08-2005	300	Sachin Arvindbhai Soni	Maksud Y Kothawala	21-09-2005
9.	19-07-2005	400	Mool Singh	Amena M Kothawala and Maksud Y Kothawala	20-08-2005
10.	29-07-2005	600	Bhavesh Vasantlal Dalal	Yusuf U Kothawala and Mariyam Y Kothawala	14-09-2005
11.	19-07-2005	200	Roopkumar Issrani	Mariyam Y Kothawala and Shirin T Sareshwala	20-08-2005
12.	06-06-2005	1000	B. J. Patel	Nasir Malik	14-07-2005
13.	28-06-2005	200	Deepak kumar Rashiklal Shah	Gulamrasul M Bombaywala	22-07-2005

11. One of the main contentions of the noticee is that it had to rely upon Parsoli for signature verification as it had not received the records of signature cards since Parsoli had intimated that the signature records were lying in a torn condition. The noticee also submitted that it had regularly followed up with Parsoli for delivering the relevant signature records to it. I find that in terms of Regulation 53A of the DP Regulations, all matters relating to transfer of securities, maintenance of records of holders of securities, handling of physical securities and establishing connectivity with the depositories shall be handled and maintained at a single point either in-house by the company or by share transfer agent registered with SEBI. Further, SEBI, vide Circular dated December 27, 2002 had mandated that all work related to share registry in terms of both physical and electronic should be maintained at a single point i.e. either in-house by the company or by a SEBI registered R & T Agent. In the present case, admittedly, the noticee was handling the share transfer and registry work for Parsoli from 2001 (in respect of electronic registry activities and from 2003, in respect of physical share registry work also). Therefore, it becomes a legal obligation on the part

of the noticee, as the share transfer agent of Parsoli to receive all data/records/documents in connection with the share transfer and registry work and to have maintained them with it. The noticee could have only discharged its duties to the shareholders properly only if it had all the relevant records in its custody. It cannot contend that it had taken steps to obtain the possession of the relevant records from Parsoli, when it was duty bound to obtain the required documents from Parsoli before starting to function as its share transfer agent. If Parsoli was reluctant in parting with the signature records, the noticee could have brought the matter to the notice of SEBI or the depositories. If it was unable to persuade Parsoli to make the records available, at the least, as any prudent intermediary exercising fiduciary functions ought to have done, disengaged itself from its responsibilities as the share transfer agent of Parsoli and requested the said company to make alternate arrangements. But it had failed to do any of these in this case. For the aforesaid reasons, its submissions that not taking possession of the signature for the reason that *'they were torn'* and relying upon Parsoli for signature verification on the transfer deeds and dematerialization requests, militates against the aforesaid provisions. It also needs to be noted that the 'Share Transfer Committee' of Parsoli consisted of promoters also. The Designated Authority had also observed that as per the Agreement dated April 25, 2003, entered into between the noticee and Parsoli, the latter would ensure that all records were handed over to the noticee after its appointment. Though, it is the duty of Parsoli to hand over the records to the noticee, I find that the noticee cannot escape from its liability as it was statutorily mandated to obtain records from Parsoli. In terms of the agreement (prescribed under the Regulations), specific activities have been spelt out for the concerned parties. Accordingly, it was the duty of a share transfer agent and registrar to scrutinize all transfer deeds and verify the date of presentation, transfer particulars, certificates enclosed, to tally the transferor's signature with the specimen signature on record, verify the value of stamps, attestation of the thumb impressions, and to check whether all the columns including address of transferees provided in the transfer

deeds have been duly filled up. It is the duty of the share transfer agent to verify the transfers and prepare transfer registers in duplicate and submit the transfer register well in advance to the transfer committee of the company for approval. After receipt of approval of the share transfer proposals by the transfer committee, the transfer agent shall endorse it at the back of the certificate authenticating the transfer of shares in the name of the transferees. Thus, the noticee obviously had many responsibilities to fulfill as a share transfer agent and registrar. But in stark deviation and blatant disregard for the same, the noticee had failed to discharge its duties and legal obligations. Because of these lapses on the part of the noticee, the shares originally belonging to the genuine shareholders of Parsoli were fraudulently transferred to the promoters and their front entities/associates including the minor children of promoters by forging signatures in the transfer deeds. The noticee, as already observed above, had carried on functions as a share transfer agent without fulfilling the statutory obligations cast on it. The noticee without having the specimen signature records carried on the share transfer and registry work based only on the confirmation from Parsoli. This clearly has proved perniciously disastrous to the shareholders in particular. Therefore, the noticee is liable for having contravened the provisions of Regulation 53 A of the DP Regulations and SEBI Circular dated December 27, 2002.

12. It was noticed that, in certain cases, the noticee had assigned the reason "*signature mismatch*" for rejecting the dematerialization request of the genuine shareholders of Parsoli, at the time when their shares were already transferred in favour of the promoters of Parsoli or their front entities. This gains much significance and assumes greater gravity given that, it was also from those very same shareholders, that the shares were fraudulently transferred to the accounts of the promoters/front entities. More so, all such prior transfers were within the knowledge of the noticee. When the genuine shareholders lodged their request for dematerialization, the noticee was already aware that such shares were transferred to third parties, as it was

only the noticee who was involved in effecting the transfers and dematerialization requests. Given this scenario, the noticee need not have sent such applications for signature verification when the same could have been rejected by it forthwith for the reason that the shares contained in such certificates have already been transferred to third parties (promoters and their front entities). The instances of such dematerialization requests and their rejections for the reason "*signature mismatch*" are tabulated below for reference:

Sl. No.	**Date of Demat Request Recd.**	**DRN No.**	**Qty. of Shares**	**1st Holder Name (genuine investor)**	**2nd Holder Name**	**Date of receipt of transfer requests (effected fraudulently)**	**No. of shares**	**Name of the promoter of the company/ front entity**	**Date of Confirma-tion of dematerializ ation by transferee (promoter/ front entity)**	**Date of dematera lization Request Rejected (genuine investor)**	**Demat Rejection Reason**
1.	15-Jul-2005	276369	500	Vinod bhai Ramji bhai Parmar		21-June-2005	500	Aslamkhan R Pathan	7-July-2005	17-Aug-2005	Signature Mismatch
2.	14-Jul-2005	109283	1500	Arbab Ahmed Bharuchi		19-July-2005	1500	Talha Sareshwala	13-Aug-2005	17-Aug-2005	Signature Mismatch
3.	20-Jun-2005	26693	300	Gulam Rasul Abdul Latif Shaikh		14-June-2005	300	Mohammed Alibhai Kothawala	07- July-2005	06-Aug-2005	Signature Mismatch
4.	01-July-2005	60240	300	ManishK Bhavsar	Nayana Manish Bhavsar	28-June-2005	300	Mohammed Alibhai Kothawala	14-July 2005	17-Aug-2005	Signature Mismatch
5.	14-July-2005	2618801	300	Maimuna Mohd Siddiq Chaus		14-June 2005	300	Mohammed Alibhai Kothawala	07-July-2005	20-Aug-2005	Signature Mismatch
6.	08-Aug-2005	21960	100	Dipak Shankarlal Shah		30-Aug-2005	100	Mohammed Alibhai Kothawala	13-Oct-2005	07-Sept-2005	Signature Mismatch

13. From the table above, the manner of fraudulent transfer of the shares of one of the genuine shareholders, Mr. Arbab Ahmed Bharuchi (serial no. 2**)** is illustrated below:

On July 14, 2005**,** the noticee had received the electronic DRF (physical DRF was received on August 04, 2005) from Mr. Arbab Ahmed Bharuchi in respect of his 1,500 shares, and the same was rejected by it on August 17, 2005 for the reason "*signature mismatch*". However, the said shares had already been fraudulently transferred to Mr. Talha Sareshwala (a promoter of Parsoli) on or around July 19, 2005 and the said shares were subsequently dematerialized on August 13, 2005. Therefore, from the said facts, it is seen that as on August 17, 2005 (when the request for dematerialization of Mr. Arbab Ahmed Bharuchi was rejected on the ground of 'signature mismatch'), the noticee had already transferred the shares of Mr. Arbab Ahmed Bharuchi in favour of Mr. Talha Sareshwala and the said shares were subsequently dematerialized on August 13, 2005, prior to rejecting the request of Mr. Arbab Ahmed Bharuchi. It is seen that when the noticee had dematerialized 1,500 shares in the name of Mr. Talha Sareshwala on August 13, 2005, the physical DRF of the genuine shareholder (Mr. Arbab Ahmed Bharuchi) was already with the noticee (same was received on August 04, 2005).

14. With regard to the transfer of shares of Mr. Arbab Ahmad Bharuchi, the noticee *inter alia* submitted that:

a) it had on or around July 29, 2005, processed the transfer request and effected the transfer request in favour of Mr. Talha Sareshwala on the basis of the share transfer deed along with share certificate and signature confirmation from Parsoli.
b) the transfer deed contained the details of distinctive nos., folio nos. and share certificate nos. and since the said details matched with the database maintained by it from the details provided by Parsoli, it had effected the transfer.

c) it had processed the dematerialization request of Mr. Talha Sareshwala on the basis of his physical DRF and share certificates received from Parsoli and dematerialized 19,300 shares on August 13, 2005.

d) it had rejected the DRF of Mr. Arbab Ahmad Bharuchi based on the confirmation from Parsoli, that the signatures were not matching, on or around August 16, 2005, and that his DRF was rejected at the threshold and it did not subject it to any further scrutiny.

e) even if it had subjected the said DRF to further scrutiny, it would have not been in a position to reject the same on the ground of "*shares being already dematted*", since the distinctive nos. and certificate no. of the share certificates of Mr. Arbab Ahmad Bharuchi as received from Parsoli were different from the distinctive nos. and certificate no. of the share certificates of Mr. Talha Sareshwala, as contained in its database.

f) the Enquiry officer had completely ignored that there was no way it could have correlated (since with regard to DRF received by it on July 19, 2005, it had only the name of the shareholder and the number of shares and nothing else viz. Distinctive no, Folio no etc) that the DRF was for the shares which had already been dematerialized.

g) the Enquiry Officer has also failed to appreciate that at any particular point of time, many DRNs are pending in the system and in the absence of any suspicion, the RTA will not normally trace back the history of a particular shareholder.

15. I am unable to accept the submissions made by the noticee in this regard. I note that the electronic DRF was generated in the name of Mr. Arbab Ahmad Bharuchi on July 14, 2005. Subsequently, on August 04, 2005, the noticee had received the dematerialization request form (in physical form) of Mr. Arbab Ahmad Bharuchi bearing the same distinctive numbers as those that had been transferred to Mr. Talha Sareshwala.

Nevertheless, the noticee had dematerialized the shares in question, in the name of Mr. Talha Sareshwala and thereafter rejected the dematerialization request of Mr. Arbab Ahmad Bharuchi on the ground of “signature mismatch”. The evidence before me indicates that the noticee had in its possession, as on August 04, 2005, records to show that the shares in question had already been transferred in the name of Mr. Talha Sareshwala. The shares so transferred to Mr. Talha Sareshwala were subsequently dematerialized on August 13, 2005. Yet the noticee rejected the request of the genuine shareholder, Mr. Arbab Ahmad Bharuchi citing the reason ‘signature mismatch’ when it could have rejected the said application with the reason that the shares were already transferred. By giving a different reason, the noticee had given a false and misleading reason for the rejection. From the aforesaid conduct, it is to be only inferred that the act was ‘malafide’. As stated above, as on August 04, 2005 (the date of receipt of physical DRF from Mr. Arbab Ahmed Bharuchi), the noticee had in its possession, records indicating that the shares in the name of Mr. Arbab Ahmed Bharuchi were already transferred in the name of Mr. Talha Sareshwalawa. Thus, the facts of the case would clearly illustrate that, when the noticee was in the process of dematerializing the request of Mr. Talha Sareshwala, it was also in possession of similar request from Mr. Arbab Ahmed Bharuchi in respect of the same set of shares. In such a situation, the noticee was not at all justified in allowing one request, overlooking the other, particularly when both the requests pertain to the same share certificates and that too when one of the parties (Mr. Arbab Ahmed Bharuchi) figured in both the aforesaid requests. The noticee should have thoroughly inquired into the bonafides of both the requests from the concerned parties or atleast from Mr. Arbab Ahmed Bharuchi before allowing one of the requests. Without doing any such basic and elementary exercise that is required from any reasonably diligent intermediary, the noticee had arbitrarily rejected the dematerialization request of Mr. Arbab Ahmed Bharuchi by giving a false and misleading reason that the signatures were not matching and instead allowed the dematerialization request of Mr. Talha Sareshwala.

From the facts of this case, I can only draw an inference that the request received from Mr. Arbab Ahmed Bharuchi on August 04, 2005, was rejected on August 17, 2005 to ensure that the fraudulent transfer of shares and its subsequent dematerialization went through without any hindrance and undetected by the genuine shareholder. The conduct of the noticee is nothing short of misrepresentation as, it gave rise to a belief that Mr. Arbab Ahmed Bharuchi continued to hold the said shares, when the same have already been transferred and dematerialized in favour of Mr. Talha Sareshwala. Any prudent market participant would have conducted an inquiry in such circumstances to avoid complications arising out of such multiple requests in respect of the same set of shares from two different parties, to find out the genuiness of such claims. This was the least expected from a prudent intermediary. Had only the noticee conducted an inquiry, the genuine shareholder would have come out to justify his or her claim with proper documents, and thereby the fraud would have come to light. This would have prevented the continuance of such fraudulent activities.

16. The noticee submitted that, even if it had subjected the DRF to further scrutiny, it would have not been in a position to reject the same on the ground that the shares have been already dematerialized as the distinctive numbers and certificate number in respect of the shares of Mr. Arbab Ahmad Bharuchi were different from the distinctive numbers and certificate number of Mr. Talha Sareshwala. The said submission is false for the reason that the certificate numbers and the distinctive numbers on the DRF of both Mr. Arbab Ahmad Bharuchi and Mr. Talha Sareshwala, when compared, are the same. The details as to the certificate numbers, distinctive numbers as seen in the DRF of Mr. Arbab Ahmad Bharuchi and the DRF of Mr. Talha Sareshwala, are as below:

Sr. No.	Certificate No	Distinctive No		No of Shares
		From	To	
1	00011192	0002349101	0002349200	100
2	00007864	0002013301	0002016400	100

3	00007865	0002016401	0002016500	100
4	00011974	0002427301	0002427400	100
5	00011975	0002427401	0002427500	100
6	00011979	0002427801	0002427900	100
7	00011980	0002427901	0002428000	100
8	00011981	0002428001	0002428100	100
9	00008371	0002067001	0002067100	100
10	00000414	0001271301	0001271400	100
11	00007198	0001949701	0001949800	100
12	00005372	0001767101	0001767200	100
13	00005637	0001793601	0001793700	100
14	00011973	0002427201	'0002427300	100
15	00011191	0002349001	0002349100	100
			Total	1,500

It was only in respect of the above mentioned 1,500 shares, Mr. Arbab Ahmad Bharuchi had made the request for dematerialization on July 14, 2005.

17. Thus, the submission of the noticee that the distinctive numbers and certificate numbers in respect of the shares of Mr. Arbab Ahmad Bharuchi were different from the distinctive numbers and certificate number of Mr. Talha Sareshwala are not only false but obviously intended to mislead the Regulator too. Such a conduct from the noticee who is duty bound to ensure that the interest of the shareholders are protected, is highly reprehensible. As a market regulator, SEBI cannot encourage such practices and perforce has to deal with them sternly. In view of the above, the contention that the noticee had processed the transfer request of Mr. Talha Sareshwala on the basis of the share transfer deed, share certificate and signature confirmation from Parsoli, is not justifiable.

18. A share transfer agent who intermediates between the shareholder and a company shall at the very least ensure that no injustice is perpetrated on the genuine shareholders. That is the basic tenet that serves as the

foundation of the functioning of a market intermediary. The facts of the case clearly establish that the noticee had failed in achieving this primary goal. If an intermediary has failed to protect the interest of investors and has played mischief and misused the market mechanism to the detriment of the genuine shareholders, SEBI as a market regulator is duty bound to administer an appropriate penalty that is both deterrent in nature and would effectively discourage any person associated with the market to get away with any machination or deviant behaviour that hurts investors. The concealment of the material fact that the shares were already transferred and dematerialized in favour of Mr. Talha Sareshwala, to Mr. Arbab Ahmed Bharuchi (the genuine shareholder) is a fraud as defined under the PFUTP Regulations. Assuming for a moment that the argument of the noticee that it was not involved in the fraud is correct; the entire fraud that has been perpetrated on the shareholders could have been exposed, had the noticee acted diligently and cross checked the details of DRF submitted by the genuine shareholders, with the details available in its system. This did not happen. Hence, the fraud could not have been perpetrated but for the active connivance of the noticee. Thus, the aforesaid submission is without any merit. In my view, the aforesaid conduct of the noticee would indicate that it was a necessary party having played a definite role in effecting the share transfers in favour of the promoter group and their front entities through a scheme of systematically counterfeiting share certificates and forging of signatures. The said conduct from a registered share transfer agent, on whom is cast a primary and sacrosanct duty to function in the interest of the shareholders of Parsoli is simply unacceptable and deserves no condonation. Similar modus operandi was seen in several instances.

19. In respect of the transfer of shares of Ms. Maimuna Mohd. Siddiq Chaus (**mentioned at serial no. 5 in the table in Para 12 above**) and rejection of her dematerialization request, the noticee *inter alia* submitted that:

a. that, on June 14, 2005, Parsoli had sent the Share Transfer Deed along with Share Certificate with duly verified signature of Ms. Maimuna Mohd. Siddiq Chaus (hereinafter referred to as Ms. Maimuna) for transfer of 300 shares in favour of Mr. Mohammed A. Kothawala. That, at the relevant time, the officials (of the noticee) who processed the request were not aware that the transferee is related to the promoter group of Parsoli;
b. that on or around June 22, 2005, based on the Share Transfer Deed along with Share Certificate and signature confirmation from Parsoli, it had processed the same and effected transfer in favour of Mr. Mohammed A. Kothawala as the details of Distinctive Nos, Folio Nos and Share Certificate Nos. contained in the Transfer Deed matched with the details in the database;
c. that on or around June 28, 2005, the depository participant of Mr. Mohammed A. Kothawala had generated a request for dematerialization on the system of NSDL for 33,100 shares which included the aforesaid 300 shares; that the Electronic DRF was automatically forwarded to it by NSDL;
d. that on or around July 02, 2005, it received the physical DRF and the Physical Share Certificates from Parsoli pertaining to Mr. Mohammed A Kothawala and that based on the said documents, it processed the DRF of Mr. Mohammed A. Kothawala and dematerialized 33,100 shares on July 07, 2005;
e. that on July 05, 2005, the depository participant of Ms. Maimuna had generated a request for dematerialization on the system of NSDL in respect of 300 shares; that the Electronic DRF was automatically forwarded to it on August 04, 2005;
f. that Parsoli had forwarded the physical DRF and the Share Certificates together with the communication dated February 12, 2006 compensating Ms. Maimuna with regard to the DRF in respect of 300 shares and the same was rejected; that on April 27, 2006, it rejected

the DRF and forwarded the documents to the concerned participant;

g. that the request of Ms. Maimuna was rejected based on Parsoli's confirmation.

20. In the above case also, I am unable to accept the submissions made by the noticee. I note that the electronic DRF was generated in the name of Ms. Maimuna on July 14, 2005 (and not on July 05, 2005 as stated by the noticee, as is evident from the data received from depositories). However, on a perusal of the DRF form, I find that the same was received by the noticee on July 16, 2005 and again on August 04, 2005. This indicates that the DRF form of Ms. Maimuna was actually received by the noticee as early as on July 16, 2005 and the same would have been forwarded by the noticee to Parsoli. The said form was again received by the noticee on August 04, 2005 from Parsoli. However, it is noted that the shares had already been fraudulently transferred in the name of Mr. Mohamed Alibhai Kothawala in June 2005 *i.e*. prior to the receipt of the request for dematerialization from Ms. Maimuna. These shares were also dematerialized by Mr. Mohammed Alibhai Kothawala on July 07, 2005. From the sequence of events as stated above, I note that, as on the date of receipt of dematerialization request from Ms. Maimuna on July 16, 2005, the noticee had in its possession data to indicate that the shares in question had already been transferred to and dematerialized by one Mohammed Alibhai Kothawala. Hence, there was no need for the noticee to forward the dematerialization request form to Parsoli for signature verification. If the intention of the noticee was bonafide, it could have informed Ms. Maimuna that the shares had already been transferred and dematerialized, and that it stood in the name of Mr. Mohammed Alibhai Kothawala. However, instead of doing so, the noticee forwarded the dematerialization request form of Ms. Maimuna to Parsoli. This clearly was a futile exercise. The noticee thereafter rejected the said dematerialization request of Ms. Maimuna on the ground '*signature mismatch*' which is totally wrong and misleading.

21. In the cases of Mr. Vinodbhai Ramjibhai Parmar, Mr. Gulam Rasul Abdul Latif Shaikh, Mr. Manish K Bhavsar & Mrs. Nayana Manish Bhavsar and Mr. Dipak Shankarlal Shah (as mentioned in **Table at para 12)**, the noticee had made similar submissions that on the basis of the transfer deeds, share certificates and the signature confirmation by Parsoli, their shares were transferred in favour of the transferees and also dematerialized later. Subsequently, when the original shareholders lodged their demat requests; the same were rejected as Parsoli had informed that the signatures did not match. For the reasons stated in the discussion of other similar cases above, I am unable to accept the submissions of the noticee. As on the date of the rejection of the dematerialization request of the genuine shareholders, the noticee had records in its possession to indicate that the said shares had already been transferred to promoters of Parsoli/their front entities. Yet the noticee had furnished an incorrect and misleading reason of "signature mismatch" while rejecting the demat requests of the aforesaid shareholders. Clearly, the genuine shareholders of Parsoli have suffered on account of the callous failure and connivance of the noticee. The conduct of the noticee is highly irregular and improper and paved the way for effecting fraudulent transfer of shares as happened in the present case. Had the noticee been bonafide in its intentions, it would have alerted itself when subsequent dematerialization requests came for those genuine shareholders whose shares had already been transferred and dematerialized and would have initiated an inquiry to assess the circumstances which led to such events. Evidently this was not done by the noticee. Had the noticee been vigilant enough and had lived up to its duties as a trustee handling the property of investors, as was expected of it, such fraudulent transfers would not have taken place or would have been detected at an earlier stage.

22. I further note that the interim Order dated February 20, 2009 (against the noticee) had brought out glaring deficiencies on the part of the noticee when:

i. it registered the transfer of shares in cases where the transfer deeds were without the signatures of the buyers;

ii. it transferred shares of joint holders (folio belonged to joint holders) when the transfer deed contained the signature of one holder;

iii. it transferred shares in the absence of the addresses, details of the witnesses etc. in the transfer deeds

In respect of certain genuine shareholders namely, Mr. Prabhudas P. Prajapathi, Mr. Himmatlal Gafoorbhai Ruparelia, etc., the noticee had effected the share transfers even when the transfer deeds were without their signatures. Further, there are also instances where the shares held jointly, were transferred to third parties when the transfer deed contained only one signature in place of all the signatures of all the holders.In some cases, the noticee was also found to have dematerialized the shares of Parsoli even when the signature on the DRF was not tallying with that on the transfer deed. For example, against the name of Mr. Mohammed A Kothawala, the signature of Mr. Gulam Rasul Bombaywalla appeared on the physical transfer deed. Not withstanding such discrepancies in the transfer deed, the shares were dematerialized by the noticee under the name and signature of Mr. Mohammed A Kothawala. Instances of transfers/demat requests processed by the noticee ignoring infirmities in the documents are as under:

Deficiency observed	**TD details**
Transfer deed without signature of the buyer	TD no.105794 of seller Mr. Prabhudas P Prajapati– Buyer – Mr. Mohammad Alibhai Kothawala TD no.251129 of seller Mr. Himatlal Gafurbhai Ruparelia- Buyer Mr. Ghulam Rasool Bombaywala
The folio belongs to joint holders, whereas TD bearing forged signature shows name and signature of one holder.	Folio no – V00223 TD no. 304572 of seller Mr. Vijaykumar T Shah.- Buyer Mr. Aslam Khan R Pathan
TD does not have signature and / or address details of witness	TD no.251138 of seller Mr. Hitesh N Shah.- Buyer Mr. Mansoori Iftekar Yusuf TD no.105708 of seller Rajudevi H Jain – Buyer Mariam Y Kothawala and Shirin T Sareshwala. TD no.105709 of seller Mr. Ramesh A Patel.- Buyer – Ms Mariam Y Kothawala and Shirin Sareshwala
Different Signature – Against the name of	TD no. 304888 (not clearly visible) of seller Mr. A D

Mr. Mohammed A Kothawala , the sign of Mr. Gulam Rasul Bombaywalla appears on the physical transfer deed. However the same has been dematerialized under the name and signature of Mr. Mohammed A Kothawala.	Mistry – Buyer Mr. Mohammad Kothawala TD no. 304534 of seller Mr. Bhavin M Khamar

In the light of the instances mentioned above, I am constrained to observe here that the noticee rejected the dematerialization requests of the genuine shareholders on rather tenuous grounds, but it zealously and with great alacrity has gone about the transfer/dematerialization request from the promoters/their front entities, despite the gross and obvious deficiencies/infirmities in such requests. When the noticee's responses expressly reveals a dichotomy in its treatment of the requests that resulted in fraudulent transfer of shares and requests of the genuine holders, I cannot accept by any stretch of imagination, its submission that it had forwarded such request for "**signature verification**". What would be the need for sending such incomplete/deficient applications to the company when such applications did not even contain the signatures of the necessary parties? The said submission of the noticee is nothing short of making a mockery of the processes and systems in place. Such conduct of the noticee in differential treatment of the transfer/demat requests from the genuine holders would be sufficient basis for me to dismiss outright the argument of the noticee that it sent the applications to the company for 'signature verification' at the threshold itself. This further clearly indicates a definite involvement of the noticee in the fraudulent transfer of shares from the genuine stakeholders.

23. In the case of Mr. Javed Sonalkar (another genuine shareholder from whose account, shares were fraudulently transferred), I note that when the inspecting team perused the relevant records of said shareholder, it was observed that, he was holding 1,000 shares of Parsoli under folio no. J00287. Subsequently, when these shares were submitted for dematerialization by him, the same was rejected by the noticee on various grounds. The details of

such dematerialization requests and reasons for its rejection are summarized as under:

DRF No.	Details of Rejection Memo (No.)	Reason for Rejection	Compliance by Share Holder
No. 1003811 dated 19.07.2006	PINNACLE/PAR/2006 /113 dated 17.02.2007	Specimen Signature differs	Signature verified Branch Manager of Central Bank
No. 1027563 dated 27.06.2007	PINNACLE/PAR/2007 /15 dated 31.12.2007	DRF late receipt from NSDL	Fresh DRF generated
No. 838661 dated 29.01.2008	PINNACLE/PAR/2007 /77 dated 25.03.2008	Duplicate shares issued	Never applied for

From the above table, I find that the said shareholder was made to apply thrice for getting his shares dematerialized, when his shares were already transferred on or around August 04, 2005 and dematerialized on September 15, 2005 in favour of Mr. Talha Sareshwala. Despite having all the details in its possession, the shareholder's request was not properly and justly acted upon by the noticee. Indeed the noticee has done little less than mocking a genuine investor and violating his rights of ownership of assets. This conduct of the noticee indicates as to how the noticee was conducting its business as a share transfer agent much to the detriment of the genuine shareholders of Parsoli.

24. The noticee had *inter alia* submitted the following in respect of the transfer of shares of Mr. Javed Sonalkar:

a. it effected the transfer of shares in favour of Mr. Talha Sareshwala on the basis of the share transfer deed, the share certificate and signature confirmation from Parsoli;
b. on receiving the physical DRF and the physical share certificates from Parsoli pertaining to Mr. Talha Sareshwala, the demat request was processed on September 09, 2005, and had dematted 16,300 shares on September 14, 2005;

c. on July 20, 2006, Mr. Javed Sonalkar had through his DP generated electronic DRF and the same was received by it through NSDL. Subsequently, Parsoli had forwarded the physical DRF (as received by it from Mr. Javed Sonalkar's DP) vide its letter dated February 13, 2007 with the confirmation that there was a signature mismatch, due to which the noticee had on February 17, 2007, rejected the DRF and returned the documents;

d. it could not have correlated the shares which were earlier dematted with the subsequent electronic DRF received from the genuine holder since the same lacked material particulars with regard to the shares viz. distinctive number etc .

e. it was not aware that the transferors in question were fraudulent, therefore there was no way its suspicion could have been aroused as to something amiss; and

f. It is denied that it was grossly negligent or that there was lack of due diligence on its part or that there was any complicity on its part as alleged. That the findings were based on incomplete appreciation of facts and circumstances.

25. I note that the shares of Mr. Javed Sonalkar were fraudulently transferred in the name of Mr. Talha Sareshwala (one of the promoters of Parsoli) on or around August 04, 2005 and were dematerialized on September 14, 2005. When Mr. Javed Sonalkar requested dematerialization in respect of his shares vide DRN 1003811 on July 19, 2006 (after a gap of almost ten months after the shares were transferred and dematerialized in favour of Mr. Talha Sareshwala), the said request was rejected by the noticee on the ground "*signature mismatch*". Despite having transferred the shares of Mr. Javed Sonalkar on or around August 04, 2005 in favour of Mr. Talha Sareshwala and also dematerializing them on September 14, 2005, the noticee having with it, all the records of the said transfer, still continued to reject the demat request of Mr. Javed Sonalkar and issued a rejection memo citing 'signature mismatch'. When Mr. Javed Sonalkar again made a

demat request along with the share certificates, the same was again rejected by the noticee on September 28, 2007, on the ground that the certificates were not received within 30 days. Finally, on a third attempt, when Mr. Javed Sonalkar requested for dematerialization on January 31, 2008, the said request was again rejected on March 26, 2008 on the ground that duplicate certificate was already issued. The noticee had assigned false and misleading reasons for rejecting the dematerialization request of Mr. Javed Sonalkar as done in the case of Mr. Arbab Ahmed Bharuchi and others, when in fact the said shares had already been fraudulently transferred to the promoters of Parsoli and/or their front entities. I also note that the noticee, during the personal hearing (on August 13, 2009), submitted (with respect to the case of Mr. Javed Sonalkar) that it might at worst have been '*recklessly negligent*'. Mr. Javed Sonalkar had tried thrice to get his shares dematerialized and each time the noticee assigned different reasons for rejection. In the first instance, the noticee rejected the demat request as the 'signatures did not match', in the second instance, the request was turned down on the ground that the certificates were not received within 30 days. On his third attempt, the request was rejected for the reason that duplicate certificate was already issued on March 26, 2008. The rejection had happened against the backdrop that the noticee had already transferred the shares of Mr. Javed Sonalkar in favour of Mr. Talha Sareshwala, one of the promoters of Parsoli, as early as 2005. In view of the above, I am unable to accept the submissions made by the noticee in this regard. I note that in addition to the delay in processing of the dematerialization request of Mr. Javed Sonalkar and finally rejecting the said request, the genuine shareholder was put to hardship and had to bear additional cost for his repeated dematerialization requests generated by him for no fault of his. Further, the said shareholder had also lost the opportunity to liquidate his holding, adding to the losses inflicted on him. Thus, the noticee by its conduct could only have been shielding and camouflaging the fraudulent transfer of the shares.

26. In respect of the fraudulent transfers of shares of Mr. Bipinchandra G. Patel, Mr. Hajimohammed M Rinchniwala, Mr. Hasmukh Rasiklal Gandhi, Mrs. Urmila M Kachhapatel & Mr. Madhusudhan M Kachhapatel, Mr. Paresh S Barot, Mr. Vikas Shah, Mr. Kamlesh Ambalal Patel, Mr. Sachin Arvindbhai Soni, Mr. Mool Singh, Mr. Bhavesh Vasantlal Dalal, Mr. Roopkumar Issrani, Mr. B. J. Patel and Mr. Deepak kumar Rashiklal Shah **(mentioned in the Table at Para 10)**, I note that the Designated Authority has held thus -

"*In all the aforesaid instances, the genuine investors mentioned in column no. 4 of the above table had submitted dematerialization forms (DRF) subsequently for dematerialization and the company rejected the same on the ground of that the shares in question were already dematted in their system and the RTA communicated that they were rejected since the duplicate shares were already issued by the company. As already discussed earlier, there was no cogent explanation from the RTA for citing a different reason than what is stated by the company for rejecting the transfers. Since the issuance of duplicate certificates involves a lengthy procedure like obtaining indemnity bond which was not the case here, the RTA submits that this was done only to inform NSDL as per the standard codes set for rejection and to dispose of the pending DRN which are to be disposed off in a time bound manner. It was submitted that there was no real issuance of duplicate shares for which the procedure needs to be followed. However, as discussed earlier, the RTA failed to exercise due care and caution and not satisfactorily explained as to why it did what it did and did not question the series of transactions in which the shareholders were given off market credits while simultaneously rejecting their request for dematerialization. More importantly, the RTA did not ascertain as to why in a number of cases where the shares were transferred and dematted, subsequent requests for these shares were coming for dematerialization and did not probe the matter further which shows the complicity of the RTA in the fraud committed by the company and its promoters on its unsuspecting shareholders.*"

27. In respect of the dematerialization rejections of the genuine shareholders observed by SEBI Officials in their inspection, I note that Parsoli had rejected the said requests on the ground that the shares were

already dematerialized in their system, whereas the noticee had informed them (the genuine shareholders) that the reason for rejecting their requests was that duplicate shares were already issued by Parsoli. Affording a different reason than that was cited by Parsoli would prove that the noticee was actively facilitating the fraudulent transfer of shares of the genuine shareholders and also concealing the fact that the physical shares of the genuine share holders had already been fraudulently transferred and dematerialized. Clearly, the intended purport of this could only have been to not alarm the shareholders and prevent them from being vigilant enough to take appropriate steps.

28. The Designated Authority had found that the noticee had effected the transfer of shares after verifying the details like folio number, distinctive number and validity of the transfer deed and that the fraudulent transfers have taken place in favour of the promoters belonging to the Sareshwala family/front entities. It is also noted that after getting the shares transferred to themselves or their associates, the promoter group/front entities had dematerialized the shares and introduced them into the system.

29. I note that only when some of the genuine shareholders including Mr. Vinodbhai Ramjibhai Parmar, Mr. Gulam Rasul Abdul Latif Shaikh, Mr. Manish K Bhavsar & Mrs. Nayana Manish Bhavsar, Mr. Maimuna Mohd. Siddiq Chaus, Mr. Dipak Shankarlal Shah, Mr. Bipinchandra G. Patel, Mr. Hajimohammed M Rinchniwala, Mr. Hasmukh Rasiklal Gandhi, Mrs. Urmila M Kachhapatel & Mr. Madhusudhan M Kachhapatel, Mr. Paresh S Barot, Mr. Vikas Shah, Mr. Kamlesh Ambalal Patel, Mr. Sachin Arvindbhai Soni, Mr. Mool Singh, Mr. Bhavesh Vasantlal Dalal, Mr. Roopkumar Issrani, Mr. B. J. Patel and Mr. Deepak Kumar Rashiklal Shah approached the noticee for dematerializing their shares, they were compensated by Parsoli by making off-market transfer of shares from individuals related to Parsoli and the promoter group. Even on being aware of the unusual and clearly strange repeated acts of Parsoli in compensating the shareholders (around 250 such

instances) from whom the shares were fraudulently transferred by its promoters against the backdrop that it never parted with the signature records, the noticee remained passively silent without seeking any explanation/verification from Parsoli. That such inexplicable responses from Parsoli had not alerted the noticee which is none other than Parsoli's share transfer agent, leads me to believe that there was a criminal complicity on the part of the noticee.

30. I also find that the noticee had rejected demat requests of many investors on a number of occasions based on a copy of a letter from Parsoli stating inter alia that *"Certificate received is already stands dematted in our system. Please contact company for further details".* But the noticee had informed the genuine shareholders, the reason for rejection of demat as *"the certificate submitted by the investors are those for which the duplicates have already been issued".* Thus, the reason cited by the noticee for rejecting the demat request was totally different from the reason conveyed by Parsoli. Further, no records were available with the noticee to suggest that duplicate certificates had been issued to them after complying with procedural requirements like obtaining indemnity bond, copies of FIR etc. While issuing duplicate certificates, a fresh certificate has to be issued and the same is issued under a new certificate number. However, the noticee had records to indicate that the certificate numbers mentioned in the DRF (of the genuine shareholders) and the certificate numbers on the transfer deed used for fraudulent transfer were the same in many cases, implying that no duplicate certificate in the normal course were issued at all. Several such instances have been brought out by the SEBI inspection team. A few of such instances are tabulated below:

Name of Genuine investor	DRF No of the genuine investor	Certificate No as indicated on the corresponding DRF No of the genuine investor	Name of the the transferee(through fraudulent transfer)	DRF No of the transferee	Certificate No as indicated on the corresponding DRF No of the transferee(through fraudulent transfer)
Jatin	62889	8913	GulamRasul M	458283	8913

Jhaverchand Bhimani			Bombaywalla		
Maniaar Shaukatali Abdulkarim	22785	7138 13613 5940	Fatema Uves Sareshwala	00283022	7138 13613 5940
Rajnikant N Shah	388621	4162	Aslamkhan R Pathan	458287	4162
Kuverben B Patel	170281	2466 2467 2468 12248 12249 12250	Maksud Y Kothawala	428923	2466 2467 2468 12248 12249 12250
Dipesh Agarwal	320654	7676 7677 7678 7679	Umar Uves Sareshwala	283016	7676 7677 7678 7679
Paresh Sankarprasad Vyas	5411	4098	GulamRasul M Bombaywalla	458283	4098

31. This leads to a well founded conclusion that even though the noticee had records to indicate no duplicates had actually been issued, yet it cited incorrect and false reasons for rejecting dematerialization requests of the genuine investors. I find that the noticee had acted to the detriment of the genuine shareholders.

32. In view of the finding as above, I hold the noticee responsible for having committed serious irregularities while handling the share transfer activities of Parsoli thereby being a necessary party to the fraudulent transfer of shares of genuine shareholders of Parsoli to the promoters of Parsoli and their front entities.

Issue No. 2 - Whether the noticee had committed any violation by delaying the dematerialization requests of the shareholders of Parsoli and improperly rejecting the requests for dematerialization made by the shareholders?

33. In this regard, I note that ten instances were found where the delay in dematerialization was more than fifteen days. The Designated Authority had

mentioned that "*it is not disputed that in all the instances the request of the demat shareholders were beyond a period of 15 days*." In respect of the said finding, the noticee had submitted that it comes to know about a demat request only when the electronic DRN is generated by the DP and that in case of Parsoli, after generating the electronic DRN, the DP had forwarded the physical request and documents to Parsoli and not to them. Therefore, it was helpless to process the same without the physical request and documents and that on receipt of the said documents from Parsoli, it used to process the requests instantly without any delay. In this regard, I note that SEBI had vide circular dated December 27, 2002, made it mandatory that all the work related to share registry in terms of both physical and electronic should be maintained at a single point i.e. either in-house by the company or by a SEBI registered R & T Agent so as to avoid delay in dematerialization, non-reconciliation of shareholding due to lack of proper co-ordination among the concerned agencies or departments. In fact, this framework was put in place by SEBI because the absence of a centralized mechanism had in the past adversely affected the interest of the investors in the securities market. The noticee should have taken over all the work with regard to the share registry and transfer work, so that it need not wait for any 'signature' confirmation from Parsoli. Had only the noticee taken charge of the records, the delay would not have occurred. In view of the same, it is not gainsaying that the delay was on account of Parsoli as it had to forward the physical DRF and the certificates after verification for dematerialization. Though, the noticee in that case could have processed the request quickly, that alone would not in any way detract from the gravity of the charge against the noticee. Therefore, I am of the considered opinion that the noticee was also responsible for delaying the dematerialization requests of the shareholders of Parsoli. Further, I find that the charge of improperly rejecting the 'dematerialization requests' made by genuine shareholders of Parsoli has already been dealt with in greater detail, in the earlier paragraphs of this Order. Thus, I find the noticee guilty of having delayed the dematerialization

request and also for rejecting many such requests on improper, false and misleading reasons.

Issue No. 3 - Whether the noticee had by its commission and omission, contravened the relevant provisions of the Regulations, PFUTP Regulations, DP Regulations and SEBI Circular dated December 27, 2002?

34. The relevant provisions charged against the noticee have been reproduced below for reference:

I) ***Provisions of the DP Regulations****:*

"Manner of handling share registry work.

53A. *All matters relating to transfer of securities, maintenance of records of holders of securities, handling of physical securities and establishing connectivity with the depositories shall be handled and maintained at a single point i.e. either in-house by the issuer or by a Share Transfer Agent registered with the Board.*

Manner of surrender of certificate of security.

54. *(1) Any beneficial owner, who has entered into an agreement with a participant, shall inform the participant of the details of the certificate of security which is to be dematerialised, and shall surrender such certificate to the participant :*

…….

(5) Within 15 days of receipt of the certificate of security from the participant the issuer shall confirm to the depository that securities comprised in the said certificate have been listed on the stock exchange or exchanges where the earlier issued securities are listed and shall also after due verification immediately mutilate and cancel the certificate of security and substitute in its record the name of the depository as the registered owner and shall send a certificate to this effect to the depository and to every stock exchange where the security is listed :

Provided *that in case of unlisted companies the condition of listing on all the stock exchanges where earlier issued shares are listed, shall not be applicable."*

II) ***Provisions of the Registrar and Share Transfer Agents Regulations****:*

"To abide by Code of Conduct.

13. *Every registrar to an issue and share transfer agent holding a certificate shall at all times abide by the Code of Conduct as specified in Schedule III.*

1. *A Registrar to an Issue and share transfer agent shall maintain high standards of integrity in the conduct of its business.*

2. *A Registrar to an Issue and share transfer agent shall fulfil its obligations in a prompt, ethical and professional manner.*

3. *A Registrar to an Issue and share transfer agent shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment.*

……

6. *A Registrar to an Issue and share transfer agent shall make reasonable efforts to avoid misrepresentation and ensure that the information provided to the investors is not misleading.*

7. *A Registrar to an Issue and share transfer agent shall not reject the dematerialisation/rematerialisation requests on flimsy grounds. Such request could be rejected only on valid and proper grounds and supported by relevant documents."*

III) Provisions of the PFUTP Regulations:

"Prohibition of certain dealings in securities

3. *No person shall directly or indirectly—*

…….

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made thereunder.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely :—

…..
…..

(j) an intermediary providing his clients with such information relating to a security as cannot be verified by the clients before their dealing in such security;

……."

IV) ***Relevant extract of the SEBI circular dated December 27, 2002****:*

"Depository and Custodial Division - Circular No. 15 <u>Appointment of common agency for share registry work</u>

In many cases the issuer companies are having an internal department or a division (by whatever name called) for handling of physical share work and an out side agency for handling the work of electronic connectivity. This kind of arrangement is leading to delay in dematerialisation, non-reconciliation of share holding due to lack of proper co-ordination among the concerned agencies or departments, which is adversely affecting the interest of the investors.

It has therefore been decided that all the work related to share registry in terms of both physical and electronic should be maintained at a single point i.e. either in-house by the company or by a SEBI registered R & T Agent.

……..”

35. In view of the foregoing, the violations committed by the noticee are summarized below:

a. The noticee by not maintaining all the records pertaining to the share registry and transfer work had to rely on Parsoli for confirmation. Thus, the noticee had paved the way for the fraudulent transfer of shares of the genuine shareholders. Considering the number of instances in which the shares belonging to unsuspecting shareholders were fraudulently transferred to the promoters (transferee was same in certain instances) of Parsoli and their front entities, the rejection of dematerialization requests by the noticee on the ground of signature mismatch when the shares in question were already dematerialized (as in the cases of Mr. Arbab Ahmed Bharuchi and Mr. Javed Sonalkar discussed earlier), carrying out transfers of shares even in cases where there was no signature on transfer deeds and when there was only one single signature in case of joint shareholders as discussed earlier, suggest the complicity of the noticee in the fraudulent scheme designed for the fraudulent transfer of shares to the promoters/their front entities. The noticee by not obtaining the documents had enabled Parsoli and its promoters to carry out fraudulent acts to the detriment of the genuine shareholders. The noticee, though legally bound to take possession of all the necessary documents as soon as it was appointed the share transfer agent of Parsoli, had never done so. The conduct of the noticee is nothing short of misrepresentation as it had conveyed an impression

to the genuine shareholders, that they continued to hold the shares, when the same had already been transferred to the promoters of Parsoli and their front entities. Thus, the active concealment of material facts of the fraudulent transfer of the shares of the genuine shareholders is a fraud on the shareholders of Parsoli under the PFUTP Regulations. The act of the noticee is fraudulent, highly irregular, and improper. Thus, the fraudulent transfers of shares of the genuine holders are attributable to the noticee and therefore its contentions are without merit. In view of the same, I hold the noticee liable for contravening the provisions of Regulation 3(c) & (d) and Regulation 4(1) & 4(2) (j) of the PFUTP Regulations.

b. By not obtaining the specimen signatures and other relevant records, the noticee has contravened the provisions of Regulation 53A of the DP Regulations and SEBI circular dated December 27, 2002;

c. The noticee by delaying the dematerialization requests had contravened the provisions of Regulation 54(5) of the DP Regulations;

d. By giving false and misleading reasons for rejecting dematerialization requests of genuine shareholders, the noticee failed to exercise independent professional judgment, by misrepresenting and misleading the shareholders of Parsoli, failing to maintain high standards of integrity and fairness in its dealings with the shareholders of Parsoli, failing to fulfill its obligations in a prompt, ethical and professional manner, failing to exercise due diligence, proper care and, rejecting the dematerialization request of the shareholders of Parsoli on false and contrived grounds not supported by valid documents, the noticee has violated the provisions of Regulation 13 read with Clauses 1, 2, 3, 6 & 7 of the Code of Conduct

prescribed for registrars and share transfer agents under the Regulations.

36. Having found the noticee guilty of all the charges discussed above, I now proceed to arrive at the penalty that would be appropriate for violations of this grave nature. I note that the Designated Authority had recommended that a penalty of prohibiting the noticee from taking up any new assignment or contract for a period of three years be considered. In view of the seriousness of the case, a supplementary notice dated September 16, 2009 was issued to the noticee to show cause as to why the imposition of higher penalty that may extend to the cancellation of its certificate of registration as a 'registrar and share transfer agent' granted by SEBI should not be imposed on it. The noticee, vide letter dated September 23, 2009 *inter alia* submitted that there is no justification for the issuance of the supplementary notice in a matter when a detailed hearing was already concluded in the matter and submitted that the supplementary notice was legally untenable and any action taken in furtherance of the said notice would be bad in law. It invited my attention to the SEBI Order dated June 22, 2007 in matter of Karvy Computer Share Private Limited and submitted that their case was far less severe.

37. In this regard, I find that the violations committed by the noticee have already been established hereinabove. The noticee during the course of hearing had submitted that the present proceeding improper as it was being proceeded upon by SEBI even before Parsoli was found guilty of the allegations against it. The question therefore that arises before me is whether the penalty that has to be imposed on the noticee can stand independent of the guilt *prima facie* attributable to Parsoli. In this regard, I find that the present proceeding against the noticee was in respect of the alleged violations of the Regulations, PFUTP Regulations, DP Regulations and the SEBI Circular dated December 27, 2002, while acting as a registrar and share transfer agent of Parsoli. As already found above, the noticee had

not maintained all the records pertaining to the share registry and transfer work, rejected the dematerialization requests of the genuine shareholders on the ground of signature mismatch when the shares in question were already dematerialized, executed share transfers (in favour of front entities acting in concert with the promoters of Parsoli) even in cases where there was no signature on transfer deeds, carried out share transfers when there was only one signature (in case of joint shareholders) in the transfer deeds, delayed the requests for dematerialization, cited different reasons for rejection of the requests of the shareholders than the one conveyed by Parsoli thereby misrepresenting the truth to the shareholders and concealed the share transfers (of the shares of the genuine shareholders) to the promoters/front entities. All this constitute '*fraudulent*' and '*unfair*' acts by the noticee against the shareholders of Parsoli in terms of the PFUTP Regulations. The signatures in such cases were subsequently found to be forged. Even at the time of rejecting the dematerialization requests of the genuine shareholders, the noticee was at fault for not exercising its own judgment. Furthermore, the aforesaid lapses and violations committed by the noticee as established in this Order are in no way connected or related to the allegations and the case against Parsoli. Also, the act of Parsoli in compensating the genuine shareholders for their shares that had been fraudulently transferred would indicate that there was a mischief committed in respect of such transfers. The compensation cases are not solitary instances but I find a plethora of them. The fact that the aforesaid transfers were fraudulent in the nature was not disputed by the noticee. However, its contention was that it could only be faulted for reckless negligence. My findings above have already established that the acts and conduct of the noticee are 'fraudulent'. I would observe here that this is not at worst a case of 'reckless negligence' as sought to be made out by the noticee. On the other hand, this so clearly is a case of gross criminal negligence on the part of one of the intermediaries registered with SEBI. As a regulator, SEBI can ill afford to brook such grave acts of commissions and omissions, given the sacrosanct duties cast on it under the various Acts and Rules that govern it. Therefore, in my considered view, the

aforesaid submission of the noticee needs only to be dismissed. As brought out in the preceding paragraphs, the grave violations of the provisions of the law, by the noticee had warranted the issuance of the supplementary show cause notice proposing increase in penalties, commensurate with the violations committed. Thus, the supplementary show cause notice cannot be called to be bad in law. Besides, the noticee was also provided with an opportunity of hearing to make its submissions in respect of the proposed higher penalty. Therefore, the contention of the noticee that the supplementary show cause notice is bad in law needs only to be brushed aside. Further, it cannot also be said that no action has been initiated against Parsoli. It is pertinent to recall here that SEBI vide Order dated February 20, 2009 had passed certain directions, including restraining Parsoli, its whole time directors and its associates/group companies from accesing the securities market till further orders. Pursuant to the investigation, SEBI *inter alia* issued a show cause notice to Parsoli and its whole time directors and the quasi judicial proceedings against them are pending.

38. The noticee as a registrar and the share transfer agent of Parsoli was entrusted with the work of maintaining records of holders of securities issued by a company and also to deal with all matters connected with the transfer and redemption of its securities. As soon as a registered intermediary like the noticee takes on the responsibility as a share transfer agent, it becomes a 'trustee', mandated to take care of the interests of the beneficiaries, who in this case are the shareholders of Parsoli. The certificate of registration granted to the noticee as registrar and share transfer agent confers upon it an office of trust and the noticee was invested with a fiduciary responsibility. This trust is at the very core of preserving the integrity of the financial market. When acting as a trustee for the shareholders, the noticee in this case had breached the *'trust'* reposed on it by at the very least turning a blind eye to the fraudulent transfers and dematerialization effected by the promoters/their front entities over the dematerialization requests of the

genuine shareholders. In fact, as discussed above in this order, the overwhelming weight of evidence indicates that the fraud could not have been perpetrated without the active connivance of the noticee. Further, the noticee also indulged in effecting transfer of shares based on unsigned transfer deeds, citing different reasons for rejection of demat requests which are different from the reason given by Parsoli. Its casual rationalization of the rather unusual fact that many genuine shareholders were compensated by Parsoli by attributing it to good governance practices of Parsoli, most certainly borders on the absurd and is undoubtedly a contrived and specious argument put forward by it. All this would indeed make the noticee, on whom shareholders of Parsoli had reposed their trust culpable of having committed fraud on them. Having done all the aforesaid irregularities, the noticee cannot plead that it was not aware of the '*sinister design*' of Parsoli. Further, the noticee's submission that it forwarded the DRF from the investors/depository participants to Parsoli, would also not be a justifiable defence as a share transfer agent, the noticee is not supposed to do its work in a mechanical manner. When such instances are replete, it should never hope to plead innocence by submitting that it was merely negligent, as its complicity in the entire fraud is already established. The conduct of the noticee would clearly show that it was in league with the fraudsters in transferring the shares of the genuine shareholders of Parsoli in favour of the promoters/their front entities and was aiding and abetting the fraudulent intent of such persons allowing them to proceed at will without any impediment.

39. The noticee has tried to draw a comparison of this case with that of Karvy Computer Share Private Limited (referred to as Karvy) covered under the SEBI Order dated June 22, 2007 in matter of '*IPO irregularities*'. It further took recourse to the argument that its case was less severe than that of Karvy and therefore merited a lesser degree of penalty. To explain the background, in the said Order, Karvy was prohibited from acting as a registrar to an issue for a period of nine months. This penalty was adjusted

against the period of prohibition already undergone by the said entity vide a previous Order of SEBI dated April 27, 2006. Karvy and its group entities were found to have been actively involved in the IPOs irregularities. Karvy acting as the RTI was found to have issued consolidated refund orders in respect of the fictitious / benami applicants, which enabled quick and easy encashment of the refund money by the key operators which was recycled for the subsequent IPOs. Karvy was also found to have played an active role in the said irregularities, which enabled the afferent/fictitious accounts to get allotments in the IPOs in the 'retail category' and the shares so obtained were subsequently off-loaded in the market, denying the opportunity to genuine retail investors to receive shares in IPOs floated by various companies and the same was found to be detrimental to interests of the genuine retail investors. Karvy was found to have violated inter alia the provisions of Section 12A of Securities and Exchange Board of India Act, 1992, Regulation 3 and 4 of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, 6 and 13 of Securities and Exchange Board of India (Registrars to an Issue and Share Transfer Agents) Regulations, 1993.

40. In view of the argument of the noticee that its offences are less serious than those in the charges leveled against Karvy and that therefore it deserves a lower penalty, it is only appropriate that I briefly compare the Karvy Case with the facts of this instant case. In the present case, the noticee was instrumental in the transfers of shares of the genuine shareholders to third parties, the promoters/front entities of Parsoli. Instances in galore, have been already outlined in this Order to show that the genuine shareholders of Parsoli were cheated of their shares. In the Karvy case, the retail investors no doubt had lost an opportunity in getting shares allotted to them in the respective IPOs, whereas in the present case, the genuine shareholders have been deprived of their wealth. Their wealth held as shares have been taken away from them. This instant case, which is the subject matter of my order, therefore stands on a different footing. Losing

an opportunity of getting allotment of shares in an IPO on account of mischief and fraud in the market cannot be strictly compared with a case wherein investors have been cheated of their hard earned wealth, held in the form of shares. The direct deprivation or denudation of one's wealth and defrauding the securities market are distinct in their import. Both no doubt, are serious offences affecting the investors and the securities markets in its own way. But the similarity stops there. In the present matter, genuine shareholders have been stripped of their shares, without their consent. Genuine shareholders in this case have actually lost their ownership of their own shares. Though, while it is not within the ambit of SEBI to indict the noticee on the criminal nature of its involvement, beyond what is provided for under the powers of SEBI itself, I cannot help strongly observe here that the deprivation of the property (the shares) of the genuine shareholders has all the ingredients of "theft" as defined under The Indian Penal Code, 1860 [***Section 378 - Whoever intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft***]**.** It is my considered view that the case of Karvy is not in any way identical to the case against the noticee. Therefore, I do not intend to treat the penalty that was meted out to Karvy as an yardstick or a touchstone in deciding the penalty to be imposed on the noticee.

41. The noticee (as a share transfer agent and registrar), being one of the recognized and important market intermediaries clearly did not abide by the conditions of its registration as an intermediary with SEBI. All SEBI registered market intermediaries and other participants have to necessarily abide by the regulations that are laid down, while dealing in securities and the securities market. In case of any lapse or failure in doing so, SEBI as a regulator for the securities market would necessarily have to intervene to restore investor confidence and to regulate the securities market. In view of the established conduct of the noticee and its serious consequences on the genuine shareholders of Parsoli, I am of the considered opinion that the recommended penalty of prohibiting the noticee from taking up any new

assignment or contract for a period of three years is not commensurate with the violations committed by the noticee. Serious cases like the present one, need to be handled in a deterrent manner by the regulator and perpetrators of such violations have to be penalized appropriately. Further more, as observed above, regardless of the status of the quasi judicial proceedings pending in SEBI against Parsoli, the guilt of the noticee stands independently and has to be penalized suitably. The noticee has breached the 'trust' and 'fiduciary responsibility' endowed upon it, and SEBI can ill afford to invest such a responsibility on the noticee anymore. To allow such an entity to continue to handle the wealth and assets of investors would be a travesty of the trust reposed in SEBI by financial markets and investors, and above all by the Legislature of our land which has clothed SEBI with necessary powers to defend investors and guard the integrity of our financial markets. The continuance of the noticee in the securities market is therefore not desirable in the interest of the investors and the securities market. Thus, the only penalty that would meet the ends of justice would be to cancel the certificate of registration granted to the noticee. This alone would be commensurate with the established violations and conduct of the noticee.

42. Therefore, in view of the foregoing, in exercise of powers conferred under Section 19 of the Securities and Exchange Board of India Act, 1992 and Regulation 28 (2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby order that the certificate of registration granted by the Securities and Exchange Board of India to Pinnacle Shares Registry Private Limited [Registration Number–INR 000003787] as registrar to an issue and a share transfer agent shall stand cancelled with effect from February 28, 2010. During the intervening period, the noticee shall not take on new clients in its business under the said certificate of registration.

43. Accordingly, the directions issued to Pinnacle Shares Registry Private Limited vide Securities and Exchange Board of India Order dated February 20, 2009 shall cease to be in effect from February 28, 2010**.**

44. In view of the cancellation of its certificate of registration, Pinnacle Shares Registry Private Limited is directed to wind up its business as registrar to an issue and a share transfer agent within the period February 28, 2010. All client companies of the noticee are also hereby served notice of this order displayed on the website of SEBI and are required to make alternate arrangements to avail the services of other registrars and share transfer agents in respect of their share registry and transfer work registered with the Securities and Exchange Board of India.

45. Pinnacle Shares Registry Private Limited shall also inform its client companies to make arrangements for appointment of another Registrar and Share Transfer Agent.

46. Pinnacle Shares Registry Private Limited shall hand over all the physical records and demat records pertaining to its client companies along with the database, after certifying for its integrity and correctness, under intimation to SEBI. Pinnacle Shares Registry Private Limited shall also issue a certificate to the depositories stating that the transfer of records have been completed satisfactorily and the same shall be done after the physical and electronic records are tallied by it with the share capital of the concerned issuer. Pinnacle Shares Registry Private Limited shall facilitate the smooth transfer from itself to other registered registrars and share transfer agents.

DR. K. M. ABRAHAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

Place: Mumbai
Date: October 14, 2009