BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. PKB/AO-68 /2009]

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

In Respect Of
Shri Shadilal Chopra
(PAN: AAAPC6067F)
In The Matter Of
Atlanta Ltd.

FACTS OF THE CASE

1. Atlanta Ltd. (hereinafter referred to as "the company") came out with an Initial Public Offer (IPO) of 43,00,000 shares of Rs. 10 each for cash at a price band of Rs. 130-150 per equity share through Book Building route (start date: 01/09/2006 and close date: 07/09/2006). Out of these 43, 00,000 equity shares, the net offer to the public was 41, 00,000 equity shares and 2, 00,000 equity shares were reserved for the employees of the company.

2. The shares of the company were listed at NSE and BSE on September 25, 2006.

3. It was observed from the analysis of off-market transactions obtained from the depositories in the scrip of Atlanta Ltd that the employees of Atlanta Ltd had transferred shares through off-market transactions to certain persons connected with the company or with a promoter, immediately upon allotment of shares. It was also observed that employees received funds from the same entities to which the off-market transfers were made, which was then utilized to make payments

towards subscription money in the IPO issue. Findings prima facie indicated that IPO shares reserved under employee quota were cornered by certain entities.

4. The IPO issue of Atlanta Ltd was open for subscription from September 1, 2006 to September 7, 2006 at a price band of Rs. 130-150 per equity share. Out of the total issue of 43 lakh shares, the company had reserved 200000 shares for the employees of Atlanta Ltd. It was observed that 17 employees had applied for subscription of shares under the employee quota by making payment of subscription money at Rs. 150/- per share. They had received allotment of shares by way of credit in their respective demat account on 21/9/2006.

5. It was observed that out of the 17 employees, 12 employees had transferred shares through off-market transactions to certain persons from whom they had received funds for applying IPO shares. The details of said 12 employees and shares received by them by way of allotment under employee quota are as given below:

NAME	**ADDRESS**	**No of shares applied**	**No. of Shares allotted**	**Bank Name (account No.)**	**DP Name (CLEINT ID)**
1. SACHIN JAIN	101 SHREE ANBA SHANTI CHAMBERS OPP HOTEL LEELA ANDHERI-KURLA RD ANDHERI EAST MUMBAI 400059	50985	44467	HDFC Bank (5421050141169)	120177002211 0
2. BHARAMU SIDDAPPA KORIGERI	A 503, ABHIMANYU, N L COMPLEX ANAND NAGAR, DAHISAR EAST MUMBAI 400068	25695	22410	HDFC BANK (0861000034996)	HDFC Bank (15289496)
3. SHASHIK ANT DESAI	CHARKOP SEA VIEW CO OP HSG SOC LTD B 105 SECTOR 8 KANDIVALI WEST	18495	16130	HDFC Bank Andheri Br 0861000035030	HDFC Bank & 18232110

NAME	ADDRESS	No of shares applied	No. of Shares allotted	Bank Name (account No.)	DP Name (CLEINT ID)
	MUMBAI 400067				
4. MINAL LALIT KAKU	25/62 B K CHAWL SHANKAR LANE OPP SHIV TIRTH BLDG KANDIVLI WEST MUMBAI-400067	17595	15345	HDFC BANK 0471300003018	HDFC Bank & 15443737
5. BHARATI S SHETTY	SPRING CO OP HSC PLOT NO 3022ND FLOOR MAROL ANDHERI EAST MUMBAI 400059	16380	14286	HDFC BANK LTD 5431000007516	SSKI & 12728016
6. RAJENDRA KUMAR KHATRI	A-301 RAMDEO PARK NEAR DON BOSCO SCHOOL POST JUCHANDRA TALUKA VASAI NAIGAON (EAST) DIST THANE-401202	16290	14207	HDFC BANK LTD ANDHERI BRANCH 0861050025628	HDFC Bank & 16361042
7. UTTAM KRISHNA SAWANT	A 45 VRINDAVAN MITTAL ENCLAVE NAIGAON E THANE 401202	15840	13815	HDFC BANK LTD ANDHERI BRANCH 0861050152143	HDFC Bank & 21113459
8. LILLY JACOB	108 ASMITA TRILOK MAYEKAR WADI VIRAR WEST THANE 401303	14130	12323	HDFC BANK LTD ANDHERI BRANCH 0861050016344	HDFC Bank & 17044300
9. IDA WILSON PINTO	ALTANTA INFRASTRUCTURE LTD 101 AMBASHANTI CHAMBER OPP LEELA HOTEL ANDHERI KURLA RD ANDHERI E MUMBAI 400059	13905	12127	HDFC BANK LTD ANDHERI BRANCH 0861050016327	HDFC Bank & 19605925

NAME	ADDRESS	No of shares applied	No. of Shares allotted	Bank Name (account No.)	DP Name (CLEINT ID)
10. BRINDA VISHAL SHAH	ATLANTA INFRASTRUCTURE LTD101 SHREE AMBA SHANTI CHAMBERS AK RD OPP LEELA HOTEL ANDHERI E MUMBAI 400059	10395	9066	HDFC BANK LTD ANDHERI BRANCH 0861050164931	HDFC Bank & 20844404
11. ULHAS NATHU BHOLE	ATLANTA INFRA STRUCTURE LTD SHREE AMBA SHANTI CHAMBERS OPP HOTEL LEELA, KURLA ROAD ANDHERI E MUMBAI 400059	9315	8124	HDFC BANK 0861050019453	KOTAK SEC & 12410929
12. SIDHU RAJARAM SABLE	ATLANTA INFRASTRUCTURE LTD101 AMBASHANTI CHAMBERS ANDHERI EAST, MUMBAI- 400059	2835	2473	HDFC BANK LTD ANDHERI BRANCH 0861000096825	HDFC Bank & 18304638
	Total no of shares		**184773**		

6. From the above table, it is observed that the above 12 employees had collectively received an allotment of 184773 shares at the price of Rs. 150/- per shares under the employee quota, out of which 149982 shares were transferred through off-market transactions to certain persons from whom they had received funds for applying IPO shares. The details of off-market transfers are as given below:

Date of transfer	Employee Name	Name of the person to whom shares were transferred	Group	Qty
26-Sep-06	BHARAMU SIDDAPPA KORIGERI	KISHORE PITAMBERDAS	Partner in a JV of Atlanta	1071

Date of transfer	Employee Name	Name of the person to whom shares were transferred	Group	Qty
		THAKUREL		
26-Sep-06	BHARAMU SIDDAPPA KORIGERI	MITUL MUKUND DOSHI	Promoter group person	765
26-Sep-06	BHARAMU SIDDAPPA KORIGERI	MUKUND DOSHI	Connected to Mitul Doshi	1950
26-Sep-06	BHARAMU SIDDAPPA KORIGERI	SHADILAL CHOPRA	Director of promoter group Co of Altanta	5929
25-Sep-06	BHARAMU SIDDAPPA KORIGERI	DINESH N PATEL	Others	1688
25-Sep-06	BHARAMU SIDDAPPA KORIGERI	NEERU M KHANNA	Relative of Mahesh Khanna, Finance broker for Atlanta	360
25-Sep-06	BHARAMU SIDDAPPA KORIGERI	PUSHPA J PATEL	Others	400
6-Oct-06	BHARAMU SIDDAPPA KORIGERI	SEEMA CHANDERMOHAN SINGLA	Other	425
12-Oct-06	BHARAMU SIDDAPPA KORIGERI	VIJAYKUMAR GUPTA	Others	1700
	BHARAMU SIDDAPPA KORIGERI Total			**14288**
26-Sep-06	BHARATI SHETTY	KISHORE PITAMBERDAS THAKUREL	Partner in a JV of Atlanta	1092
26-Sep-06	BHARATI SHETTY	MITUL MUKUND DOSHI	Promoter group person	3746
26-Sep-06	BHARATI SHETTY	SHADILAL CHOPRA	Director of promoter group Co of Atlanta	5189
25-Sep-06	BHARATI SHETTY	DAKSHA D PATEL	Others	858
25-Sep-06	BHARATI SHETTY	MITA ANIL SHAH	Others	897
26-Sep-06	BHARATI SHETTY	RAJESH NAVINCHANDRA	Others	429

Date of transfer	Employee Name	Name of the person to whom shares were transferred	Group	Qty
		DOSHI		
26-Sep-06	BHARATI SHETTY	Ramesh Bajaj	Others	429
25-Sep-06	BHARATI SHETTY	RAJESHKUMAR SARDARBHAI PATEL	Others	429
	BHARATI SHETTY Total			**13069**
26-Sep-06	BRINDA VISHAL SHAH	MUKUND CHIMANLAL DOSHI	Connected to Mitul Doshi	3172
26-Sep-06	BRINDA VISHAL SHAH	SHADILAL CHOPRA	Director of promoter group Co of Atlanta	5229
	BRINDA VISHAL SHAH Total			**8401**
26-Sep-06	IDA WILSON PINTO	JAY THAKURAL	Partner in a JV of Atlanta	1084
26-Sep-06	IDA WILSON PINTO	KUBER CAPITAL SERVICES PVT LTD	Connected to Mitul Doshi	1432
26-Sep-06	IDA WILSON PINTO	SHADILAL CHOPRA	Director of promoter group Co of Atlanta	5160
28-Sep-06	IDA WILSON PINTO	BHAVNA DHARIA	Others	580
25-Sep-06	IDA WILSON PINTO	Jayant Mansukhlal Shah	Others	426
25-Sep-06	IDA WILSON PINTO	Jayant Mansukhlal Shah	Others	387
25-Sep-06	IDA WILSON PINTO	JAYSHREE D PATEL	Others	851
25-Sep-06	IDA WILSON PINTO	JESHINGBHAI S PATEL	Others	426
26-Sep-06	IDA WILSON PINTO	PRAKASH MODI	Others	851
25-Sep-06	IDA WILSON PINTO	RAJESHKUMAR SARDARBHAI PATEL	Others	426
	IDA WILSON PINTO Total			**11623**
26-Sep-06	LILLY JACOB	KUBER CAPITAL SERVICES PVT LTD	Connected to Mitul Doshi	2864
26-Sep-06	LILLY JACOB	MUKUND CHIMANLAL DOSHI	Connected to Mitul Doshi	580
26-Sep-06	LILLY JACOB	SHADILAL CHOPRA	Company connected	5160
25-Sep-06	LILLY JACOB	Jayant Mansukhlal Shah	Others	387

Date of transfer	Employee Name	Name of the person to whom shares were transferred	Group	Qty
25-Sep-06	LILLY JACOB	MANOJKUMAR MOHANLAL SHAH	Others	1548
25-Sep-06	LILLY JACOB	POOJABEN RAJESHKUMAR PATEL	Others	426
25-Sep-06	LILLY JACOB	SHAILESH J PATEL	Others	426
25-Sep-06	LILLY JACOB	VINOD J PATEL	Others	426
	LILLY JACOB Total			**11817**
26-Sep-06	MINAL LALIT KAKU	KISHORE PITAMBERDAS THAKUREL	Partner in a JV of Atlanta	1097
26-Sep-06	MINAL LALIT KAKU	MUKUND DOSHI	Connected to Mitul Doshi	3762
26-Sep-06	MINAL LALIT KAKU	SHADILAL CHOPRA	Director of promoter group Co of Atlanta	5225
25-Sep-06	MINAL LALIT KAKU	HARPREET SINGH SABLOK	Others	565
25-Sep-06	MINAL LALIT KAKU	MAHESH B KHANNA	Finance broker for Atlanta	1620
4-Oct-06	MINAL LALIT KAKU	PREMLATA B. SINGHANIA	Others	871
25-Sep-06	MINAL LALIT KAKU	SUNITA B KHANNA	Relative of Mahesh Khanna, Finance broker for Atlanta	990
6-Oct-06	MINAL LALIT KAKU	Seema Singla	Others	435
	MINAL LALIT KAKU Total			**14565**
29-Sep-06	RAJENDRA KUMAR KHATRI	JAY THAKURAL	Partner in a JV of Atlanta	1084
29-Sep-06	RAJENDRA KUMAR KHATRI	MUKUND CHIMANLAL DOSHI	Connected to Mitul Doshi	1974
29-Sep-06	RAJENDRA KUMAR KHATRI	SHADILAL CHOPRA	Director of promoter group Co of	5147

Date of transfer	Employee Name	Name of the person to whom shares were transferred	Group	Qty
			Atlanta	
29-Sep-06	RAJENDRA KUMAR KHATRI	SMITA DOSHI	Connected to Mitul Doshi	1974
25-Sep-06	RAJENDRA KUMAR KHATRI	ASHABEN MANOJKUMAR SHAH	Others	232
29-Sep-06	RAJENDRA KUMAR KHATRI	BHAVNA DHARIA	Others	581
25-Sep-06	RAJENDRA KUMAR KHATRI	Jayant Mansukhlal Shah	Others	310
25-Sep-06	RAJENDRA KUMAR KHATRI	KODIBEN SARDARBHAI PATEL	Others	1703
	RAJENDRA KUMAR KHATRI Total			**13005**
29-Sep-06	SACHIN JAIN	SHADILAL CHOPRA	Director of promoter group Co of Atlanta	5136
25-Sep-06	SACHIN JAIN	PINE TREE CONSULTANTS PVT LTD.	Finance broker for Atlanta	8725
25-Sep-06	SACHIN JAIN	VIKRAM KUMAR JAIN	Others	17440
	SACHIN JAIN Total			**31301**
27-Sep-06	SHASHIKANT DESAI	KISHORE PITAMBERDAS THAKUREL	Partner in a JV of Atlanta	1054
27-Sep-06	SHASHIKANT DESAI	MITUL MUKUND DOSHI	Promoter group person	1920
27-Sep-06	SHASHIKANT DESAI	SHADILAL CHOPRA	Director of promoter group Co of Atlanta	5008
25-Sep-06	SHASHIKANT DESAI	AMIT KEWAL JUNEJA	Others	1356
27-Sep-06	SHASHIKANT DESAI	BHAVNA DHARIA	Others	565
27-Sep-06	SHASHIKANT DESAI	KALPANA AGENCIES PVT. LTD.	Connected to Mitul Doshi	1393
25-Sep-06	SHASHIKANT DESAI	NARSINH BHAI M PATEL	Others	828
	SHASHIKANT DESAI Total			**12124**

Date of transfer	Employee Name	Name of the person to whom shares were transferred	Group	Qty
25-Sep-06	SIDHU RAJARAM SABLE	SARDARBHAI SHAMALBHAI PATEL	Others	1295
25-Sep-06	SIDHU RAJARAM SABLE	SHAH KAUSHIK MOHANLAL	Others	1178
	SIDHU RAJARAM SABLE Total			**2473**
4-Oct-06	ULHAS NATHU BHOLE	SHADILAL CHOPRA	Director of promoter group Co of Atlanta	4794
	ULHAS NATHU BHOLE Total			**4794**
26-Sep-06	UTTAM KRISHNA SAWANT	SHADILAL CHOPRA	Director of promoter group Co of Atlanta	5195
26-Sep-06	UTTAM KRISHNA SAWANT	SMITA DOSHI	Connected to Mitul Doshi	3740
25-Sep-06	UTTAM KRISHNA SAWANT	BHARTI P PESWANI	Others	1560
25-Sep-06	UTTAM KRISHNA SAWANT	Jayant Mansukhlal Shah	Others	312
25-Sep-06	UTTAM KRISHNA SAWANT	NARSINHBHAI M PATEL	Others	1326
25-Sep-06	UTTAM KRISHNA SAWANT	TUSHAR KIRIT PATEL	Others	389
	UTTAM KRISHNA SAWANT Total			**12522**
	Grand Total			**149982**

7. It was observed that the above persons had made payment of funds to the employees, which was utilized for making payments towards subscription money. Analysis of funds received by the employees and number of shares transferred by the employees shows that certain persons had received shares whose transfer value works out to be Rs. 150/- per share which is same as the issue price.

8. It was alleged that Shri Shadilal Chopra (hereinafter referred to as 'the noticee') was a director of Shrikant Studios Pvt Ltd., which was part of promoter group of Atlanta Ltd. as mentioned in the prospectus of Atlanta Ltd. He had allegedly provided funds to eleven employees of Atlanta Ltd. The details of funds provided to the employees and shares received from them are given in the table below:

Name of employee to whom funds were given	**Amount Given to Emp**		**Amount received back from Emp**		**Net Amount Given to Emp**	**Details of Share received from Emp in his DP A/c**		
	Date	**Amount**	**Date**	**Amount**		**No of Shares**	**transfer value**	**Date**
I	**II**	**III**	**IV**	**V**	**VI**	**VII**	**VI/VII**	
B.S. Korigeri	1/9/2006	1050000	11/10/2006	160650	889350	5929	150	26/9/2006
R.K.Khatri	1/9/2006	900000	11/10/2006	127950	772050	5147	150	29/9/2006
Sachin Jain	1/9/2006	900000	11/10/2006	129600	770400	5136	150	29/9/2006
Uttam Krishna Sawant	1/9/2006	900000	11/10/2006	120750	779250	5195	150	26/9/2006
Minal L. Kaku	1/9/2006	900000	11/10/2006	116250	783750	5225	150	26/9/2006
Mr.S.C.Desai	1/9/2006	900000	11/10/2006	148800	751200	5008	150	27/9/2006
Bharati Shetty	1/9/2006	900000	11/10/2006	121650	778350	5189	150	26/9/2006
Brinda Vishal Shah	1/9/2006	900000	11/10/2006	115650	784350	5229	150	26/9/2006
Ida W Pinto	1/9/2006	900000	11/10/2006	126000	774000	5160	150	26/9/2006
Lilly Omen Jacob	1/9/2006	900000	11/10/2006	126000	774000	5160	150	26/9/2006
Ulhash Bhole	1/9/2006	900000	11/10/2006	180900	719100	4794	150	4/10/2006
	Total	**10050000**		**1474200**	**8575800**	**57172**		

9. It was observed that the noticee had paid Rs. 1, 00, 50,000 to eleven employees on September 1, 2006 through successive cheque numbers on the same date. It was seen that the above employees had paid back to him an amount of Rs. 14, 74,200 on October 11, 2006. Accordingly, it was seen that the noticee had paid a net amount of Rs. 85, 75,800 for receiving 57172 shares. It was therefore seen that the valuation of

shares which were transferred works out to be Rs. 150 per share, even though the closing price of the scrip on the date of transfer of shares of Atlanta Ltd. was around Rs. 188, Rs. 189 and Rs. 206 on 26/9/2006, 27/9/2006 and 4/10/2006 respectively.

10. It was alleged that the noticee, *inter alia*, had provided funds to employees of the company specifically to apply shares on their behalf, which was corroborated by the precise arithmetical calculations of number of shares received by them and the corresponding net funds paid by him to the employees. Further, there was no interest amount charged to/or paid by the employee and the said transactions between the noticee and the employees did not appear to have any element of commercial value. Hence, it was alleged that the noticee had used employees as a conduit in order to corner the IPO shares reserved in employee quota. This was more plausible as the percentage of shares allotted vis-à-vis shares applied in employee quota was high as compared to the application made in other category viz. HNI quota or Retail quota. The same seemed evident from the subscription details of Atlanta Ltd. that the retail part of IPO issue was subscribed by 12 times and Non-institutional investors was subscribed by 17 times whereas employee part was subscribed by only 1.14 times only. Therefore, it was alleged that the gains accrued to the noticee were made fraudulently by cornering the shares reserved for the employees of the Atlanta Ltd. To arrive at the notional gains accrued by the financiers (including the noticee), the number of shares received from employees was multiplied by the difference between the closing price on NSE on the first day of listing of Atlanta Ltd. and the issue price of Rs. 150/-. This can be restated with the following formula:

Gains accrued **=** No. of shares received from the employee **X** (closing price on the date of listing – allotment price in IPO)

Name of persons/Financiers	**No of Shares received from the employees**	**Transfer Value of shares**	**Closing Price at NSE on the first day of listing**	**Profit**
Mitul M. Doshi	6431	150	192.3	272031
Smita M. Doshi	5714	150	192.3	241702

Name of persons/Financiers	No of Shares received from the employees	Transfer Value of shares	Closing Price at NSE on the first day of listing	Profit
Mukund C. Doshi	5712	150	192.3	241618
Mukund C. Doshi HUF	5726	150	192.3	242210
Kuber Capital Services Pvt Ltd	4296	150	192.3	181721
Kalpana Agencies Pvt Ltd	1393	150	192.3	58924
Shadilal Chopra	57172	150	192.3	2418376
Kishore Thakural	4314	150	192.3	182482
Jay Thakural	2168	150	192.3	91706
Pine Tree Consultant Pvt Ltd	8725	150	192.3	369068
Vikram K. Jain	17440	150	192.3	737712
Mahesh B. Khanna	1620	150	192.3	68526
Sunita B. Khanna	990	150	192.3	41877
Neeru M. Khanna	360	150	192.3	15228
Vijaykumar Gupta	1700	150	192.3	71910
Prakash Modi	851	150	192.3	35997
Rajesh Navinchandra Doshi	429	150	192.3	18147
			Total	**5289234**

11. Using the above methodology, the notional gains made by above persons worked out to be Rs. 52, 89,234/-. The noticee had thus made a notional profit of Rs. 24,18,376/-. Further, the above financiers (except Smita M. Doshi and Kalpana Agencies Pvt. Ltd) had subsequently sold the shares. The noticee had sold all these shares subsequently for a consideration of Rs. 1,51,96.008/- thus making an actual gain of Rs. 66,20,209/-. Hence it was alleged that the noticee had violated the provisions of Regulation 3 (c) and 4 (1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.

APPOINTMENT OF ADJUDICATING OFFICER

12. Shri D. Sura Reddy was appointed as Adjudicating Officer vide order dated February 8, 2008 under Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred as 'said Rules') to enquire into and adjudge upon, under Section 15 HA of the SEBI Act, the alleged violations committed by Shri Shadilal Chopra. Pursuant to the transfer of D. Sura Reddy, I was appointed as Adjudicating Officer vides order dated December 10, 2008.

SHOW CAUSE NOTICE, REPLY AND HEARING

13. A show cause notice dated July 15, 2008 was issued to the noticee. The noticee did not furnish a reply and submitted an application under the consent scheme of SEBI. The noticee also requested to keep the proceedings under abeyance till a view was taken on his application under the consent proceedings. The consent application of the noticee was not accepted by SEBI and the proceedings were initiated again. Accordingly, a hearing was fixed on April 20, 2009. The noticee did not appear for it and requested to be granted an extension. Thereafter another hearing was fixed on May 26, 2009, which was attended by Mr. Prakash Shah, Advocate and Mr. Sanjay Parekh, the authorised representatives of the noticee. During the course of the hearing, they filed written submissions dated May 25, 2009. The gist of the submission contained in the reply dated May 25, 2009 are as below:

(i) Subsequent to the receipt of that show cause notice under present proceedings, SEBI had issued another show cause notice dated March 9, 2009, calling upon the noticee to show cause as to why suitable directions under Section 11B of the SEBI Act, 1992, read with Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as 'the FUTP Regulations'), including directions to disgorge the amount/profit made by him on account of the sale of shares of Atlanta Ltd., should not be issued against him. Hence the noticee submitted that such a show cause notice was unfair and undermined the impartiality of the current proceedings.

(ii) that the noticee had not been furnished with a copy of the Investigation Report; hence he was handicapped in filing a reply because he was not in a position to understand the complete purport and aim of investigation.

(iii) that SEBI had relied upon the statements recorded of various persons in the course of the investigation proceedings and copies of the same had not been provided to him and sought the opportunity of cross examining Mr. B. S. Korigeri to unearth the truth.

(iv) that transactions had been executed on the stock market (BSE) in the scrip of Atlanta for which pre trade, trade and post trade activities were carried on through the official mechanism of the stock exchange. No grievance or objection was raised at the relevant time and transactions were properly settled by way of pay-in of shares and pay-out of money. Hence it was not justifiable and unsustainable to unsettle the transactions that had already been settled inter se the stock exchange and the member of the stock exchange and thereafter between member of the exchange and the noticee.

(v) that there were no investor's complaint against him in the matter of his dealing in Atlanta and that even the employees of Atlanta had no grievance against him. Hence there was no aggrieved party who rights had been prejudiced through the noticee' impugned trades necessitating initiation of penal proceedings against him.

(vi) that a few employees including Mr. Sachin Jain had approached him to make financial arrangement for short term period. They had also informed the noticee about the then forthcoming IPO of Atlanta and their entitlement under Employee Reservation portion. They also informed him that they had also independently inquired with the banks and other financial institutions for their fund requirements for the aforesaid purpose. They further informed the noticee that they were assured by some of the banks and financial institutions for grant of short term loans for the purpose of share application money under employees' reservation portion on certain terms and conditions. However, they expressed their reluctance, mainly because they were very much apprehensive about the inherent risk involved in

making an application in IPO. The factors which were hovering in their mind were interest cost and losses, if any, that they have had to incur/bear on their application, in case the Atlanta shares got listed below the issue price. Their risk bearing capacity appeared very low; however they were enthusiastic to subscribe to the IPO under employee reservation portion.

(vii) that the noticee had his own surplus funds available for a short period and therefore he took interest in their proposal. They decided to find a solution to the problem by arriving at a mutually acceptable proposition and discussed the matter at length, and also sought legal advice. They did not find anything adverse (illegal) in entering into such a joint venture. Thereafter they decided to go ahead and agreed upon certain terms and conditions as stated below:

- The application in employee reservation portion should be made in the employees' name as statutorily required.
- Employees would transfer shares to the noticee's demat account on allotment.
- After listing of the Atlanta shares, the noticee would sell the shares within a period of three months at his discretion.
- Employees would be entitled to 25% of the profit after deduction of interest @ 9% per annum for the actual number of days of investment. However, in the case of loss, the noticee would not be entitled to any interest.

(viii) that the investment made by him was basically under the aforesaid terms and that they fell within the four corners of the law. In the noticee's understanding of business and capital market, providing funds/ finance i.e. borrowing and lending activity in any market including capital market in the legitimate way in the normal course of business activity or as an investment opportunity, which is otherwise not in violation of any statutory provision, could not be treated as a manipulative, fraudulent or unfair trade practice by any regulatory authority.

(ix) that the employees who had subscribed under the employees' reservation portion were actually the permanent employees of Atlanta as statutorily required and that the funds provided to them by the noticee were from his

own sources of funds and was properly disclosed to the relevant authority. The off market transfer of shares to the noticee's demat account was in an official manner as per mutual understanding between them. The sale of shares by him were through the recognized stock exchange (BSE) in the normal and ordinary course of trading in the market and no manipulation was found or even made out in the show cause notice on those sale transactions.

(x) that there was no abnormality in making an application in IPO since the application was genuinely made by permanent employees of the company and that the sale of shares by him was in compliance with all the procedures and norms of the stock exchange.

(xi) that he was neither a director nor a promoter of the company. His only connection with the company and its promoter was that he was a director and shareholder in one of the company's group companies, M/s Shrikant Studios Pvt. Ltd. (SSPL) wherein he was holding on 1,132 shares. SSPL was incorporated on May 28, 1946 under the Companies Act VII of 1913 and was engaged in the entertainment business.

(xii) that he, in his individual capacity, had not been categorized by Atlanta Ltd. as 'promoter' or 'person acting in concert' in the shareholding pattern submitted by it to the relevant authorities. Even his name had not been disclosed as promoter or a person acting in concert in the prospectus issued by the company at the time of IPO. He reiterated that he should not be considered as a person connected with the company or its promoters, inter alia, on the ground that he was in no way connected with the regular business activities of the company.

(xiii) that the prima facie findings as to cornering of IPO shares reserved under employee quota by certain entities were not supported by anything adverse -wrong doings in the secondary market, did not mean anything. He emphasised on the genuineness of his transactions and declared that his dealings in the shares of the company were bonafide, transparent and absolutely legitimate.

(xiv) that he had advanced money to the employees of Atlanta and received back the amount from them as per mutually agreed terms between them and the noticee. He contended that the calculation of profit was to be worked out on the issue/cost price of the shares as predetermined and not on the closing price of the scrip on the date of transfer of Atlanta shares to his demat account. He further clarified that the said off market transactions were not pursuant to or on account of shares purchased by him but for the intended sale in the market under legally contractual terms.

(xv) that he had provided funds to the employees of Atlanta Ltd. specifically to apply for shares on their behalf and since there was profit sharing arrangement, no interest was charged to/or paid by the employees. These were commercial transactions as normally entered into in the capital market particularly when finance is made available at the risk of capital loss. The noticee stated that his dealing with employees was not intended to corner the IPO shares of any category, leave alone the employee quota shares.

(xvi) that at the time of arriving under the mutual understanding with the employees, he had no idea or any information that the retail part of Atlanta IPO would get over subscribed by 12 times and non institutional investors would get over subscribed by 17 times. If there has been over subscription in the IPO, it may have been because of generalized interest in the scrip rather than due to any cornering of employee quota shares.

(xvii) that the investigation had been done on the presumption that I am connected to the Atlanta Company or its promoters. Therefore treating him as a promoter or a person acting in concert with the promoters would show a distorted picture, which was different from the facts.

(xviii) that in the SCN issued to him, the gains accrued to him were arrived at by calculating the number of shares received from the employees, multiplied by the difference between the closing price on NSE on the first day of listing of the Atlanta shares and the allotment price of Rs. 150/-. He vehemently denied that the aforesaid gains made by him were illegitimately and fraudulently obtained by cornering shares reserved for employees. He also

pointed out that the profit accrued to him was also at a loss of opportunity cost to him in other areas of investment.

(xix) The noticee stressed upon his innocence and that all financial transactions undertaken by him were *bonafide* ones and that he did not aid or abet anyone in the cornering of shares reserved for the employee quota and that he had not violated any provision of law.

ISSUES FOR CONSIDERATION AND FINDINGS THEREOF

15. The allegation against the noticee was that he had violated Regulation 3(c) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.

16. The issues under consideration are:
    - Whether the noticee has violated the provisions of Regulation 3 (c) and 4 (1) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.
    - If yes, whether the noticee is liable to be penalised under Section 15 HA of the SEBI Act, and
    - If so, what should be the quantum of penalty imposed?

17. I have carefully examined the show cause notice and the noticee's contentions vide letter dated May 25, 2009 and my findings are contained in the succeeding paragraphs.

18. With regard to the submission of the noticee that multiples proceedings had been initiated against him, I find that both the proceedings are separate proceedings and their initiation does not constitute double jeopardy.

19. With regard to the noticee's preliminary objection that a copy of the investigation report was not provided to him, it is held that since the show cause notice contained details from the investigation report relevant to the noticee, the entire investigation report was not required to be provided to him. The show cause notice was based only on the relevant part of the report that was already provided to him.

20. Regarding his submission that of cross examination of Mr. B. S. Korigeri, I find that the SCN does not make any mention about the statement of Mr. Korigeri, hence there arises no question about his cross examination.

21. From the submission of the noticee, I find that there is no dispute about the fact that the noticee has given the funds to the employees of Atlanta Ltd., to make application for the shares reserved for the employees. There is also no dispute about the fact that the shares so allotted were transferred by these eleven employees to the noticee. The arithmetical calculations clearly show that the price of such transfer, across all the eleven employees has been @150/- per share, i.e. the issue price.

22. I further note that the noticee has contended that these financial transactions were in the ordinary course of business by lending money to the employees of Atlanta Ltd. so that they could invest in shares of the company that had been reserved for the employee quota. It is been noted that the noticee paid Rs. 1,00,50,000/- to eleven employees on September 1, 2006 and the same employees paid back to him an amount of Rs. 14,74,200/- on October 11, 2006. Accordingly, it was seen that the noticee had paid a net amount of Rs. 85,75,800/- and received 57172 shares in return. Therefore it can be seen that the valuation of the shares transferred works out to be exactly Rs. 150 per share, even though the closing price of the scrip on the date of transfer of shares of Atlanta Ltd. was around Rs. 188/-, Rs. 189/- and Rs. 206/- on 26/9/2006, 27/9/2006 and 4/10/2006 respectively. Therefore it is apparent that the noticee provided funds to the employees specifically to apply shares on his behalf and this is corroborated by precise arithmetical calculations of number of shares received by him and the corresponding net funds paid by the noticee. Had this transaction been an ordinary business transaction, the noticee would have recovered the loan amount along with the interest accrued thereon from the employees to whom he had extended credit instead of a dubious scheme as being claimed by him now. Moreover, if the employees meant to sell the shares to the noticee in the ordinary course of business, there is no reason why they would be sold at the issue price and not at the prevailing market price, which was much higher than the issue price.

23. It is evident from the nature of the transaction that the shares transferred by the employees to the noticee were not in the nature of an ordinary commercial

transaction because the noticee provided funds to the employees for which no interest was paid by them and the shares were transferred to the noticee at the price of the shares at the date of allotment. Therefore it is apparent that the noticee employed a device to obtain shares to which he was not entitled. The noticee's contention that his transactions were fair and within the four corners of the law, cannot be accepted.

24. With reference to the noticee's contention that he was in no way connected to the promoters/directors of the company also cannot be accepted because he was the director and promoter of one of Atlanta's group companies, namely, M/s. Shrikant Studios Pvt. Ltd. and this has been clearly stated in Atlanta's prospectus.

25. The noticee has contended that he had entered into a contract with the employees whereby they were to transfer their shares to him on the date of allotment while he was to sell them at his discretion and hand over 25% of the profit to them after deducting an interest of 9%. This itself is an admission of the fact that the notice had indirectly employed a device whereby he could gain access to shares to which he was not legally entitled and the fact that he offered a portion of his ill-gotten gains to the employees does not, in any way, change the fact that his dealings in the shares of the company were fraudulent in nature.

26. In view of the above, I find that the submissions of the noticee are not tenable and that he has also clearly admitted his violation and therefore I hold that the allegation of violation of provisions of regulations 3 (c) and 4 (1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, stands established.

27. Regulations 3 (c) and 4 (1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, read as follows:

Regulation 3(c) Prohibition of certain dealings in securities: No person shall directly or indirectly 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.

Regulation 4(1) Prohibition of manipulative, fraudulent and unfair trade practices: Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

28. At his juncture, I note that Section 15HA of the SEBI Act, 1992 read as follows:

"Penalty for fraudulent and unfair trade practices.
15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher."

29. While deciding the quantum of penalty, the factors laid down under Section 15J of SEBI Act have to be given due regard, which are as follows –
    - The amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of default,
    - The amount of loss caused to an investor or group of investors as a result of the default and
    - The repetitive nature of default.

30. The amount of disproportionate gain made by the noticee has been calculated by taking into account the amount paid for acquiring 57,127 shares, i.e. Rs. 85,75,800 and deducting the same from the value of the shares sold, i.e. Rs. 1,51,96,009/-. This amounts to a total profit of Rs. 66,20,209. The amount of loss caused to investors cannot be calculated definitively from the matter available on record but it is to be noted that such fraudulent deals erode the confidence of investors in the securities market and distorts the level playing field that regulators seek to provide to all investors. There is no material to suggest the repetitive nature of the offence committed by the noticee.

31. In view of the findings mentioned hereinabove and after taking into account the facts and circumstances of the case, I find that a monetary penalty of Rs. 70,00,000/- (Rupees Seventy Lakh only) on the noticee viz. Shri Shadilal Chopra, would be commensurate with the violations.

ORDER

32. In exercise of the powers conferred upon me under section 15-I (2), and 15HA of SEBI Act, 1992 read with Rule 5 of Adjudication Rules, I hereby impose a monetary penalty of Rs. 70, 00,000/- (Rs. Seventy Lakh Only) under Section 15 HA of the SEBI Act on the noticee, Shri Shadilal Chopra.

33. The Noticee shall pay the said amount of penalty by way of demand draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, within 45 days of receipt of this order. The said demand draft should be forwarded to Mr. S. Ramann, OSD, Integrated Surveillance Department, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai–400 051.

34. In terms of rule 6 of the Rules, copies of this order are sent to the noticee, i.e. Shri Shadilal Chopra and also to the Securities and Exchange Board of India.

Date: 10/06/2009 **P. K. Bindlish**

Place: Mumbai **Adjudicating Officer**