BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. PKB/ AO-145 /2010]

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

Piyush Prafulchandra Avlani
PAN: AABPA1996N

In the matter of Alka Securities Ltd.

I. BACKGROUND

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

2. SEBI conducted detailed investigation into the alleged price manipulation in the scrip of the Company during the period from September, 2008 to July, 2009. It was observed that large number of entities including Piyush Prafulchandra Avlani(hereinafter referred to as "Noticee") had received the shares of the Company in the off market from the promoters.

3. To examine the role of the Noticee, summons dated December 9, 2009 was issued to the Noticee vide hand delivery, requiring the Noticee to submit the information required in the enclosed Annexure to the summons latest by December 18, 2009 which returned undelivered.

4. Therefore, subsequently, Notice was published in the Hindustan Times and Hindustan (Hindi) on March 21, 2010 mentioning that summons were issued in relation to the investigation into the dealings in the scrip of the Company and that SEBI had either not received the responses or received incomplete replies from the entities, whose names were mentioned in the Notice. The Notice mentioned that copies of the relevant summons were available on SEBI website and advised the entities to ensure that their reply to the summons reach SEBI by 23-03-2010. The Noticee did not reply to the aforesaid Notice.

5. Therefore, Adjudication Proceedings under Chapter VI A of the SEBI Act, 1992 (hereinafter referred to as "Act") were initiated, *inter alia,* in respect of Noticee and the undersigned was appointed as the Adjudicating Officer vide Order dated March 31, 2010 to inquire into and adjudge the alleged non-compliance with summons by the Noticee in the scrip of the Company.

II. SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

6. Show Cause Notice (hereinafter referred to as "SCN") dated June 17, 2010 was issued to the Noticee vide hand delivery under Rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as "Adjudication Rules") calling upon the Noticee to show cause why inquiry should not be held against the Noticee in terms of Rule 4 of the Adjudication Rules for the alleged violation of provisions of sections 11C(2) and 11C(3) of the Act. The SCN alleged that the Noticee did not comply with the summons and the same has hampered the investigations into the scrip of the Company. The SCN could not be delivered and hence was sent again vide speed post and was received by the Noticee.

7. The Noticee replied to the SCN vide letter dated August 6, 2010. On examination of the reply, Notice of Inquiry dated August 13, 2010 was issued to the Noticee vide which the Inquiry was scheduled to be held on September 2, 2010. Mr. Piyush P Avlani alongwith Mr. Jayant M Thakur CA, attended the hearing. Letter of Authority dated 1.09.2010 was taken on record and the minutes of the hearing are extracted below:

"1. The SCN alleged that summons dated December 9, 2009 was issued to you which returned undelivered.
Therefore, Notice was published in the Hindustan Times and Hindustan (Hindi) on March 20, 2010 mentioning that summons were issued in relation to the investigation into the dealings in the scrip of the Company and that SEBI had either not received the responses or received incomplete replies from the entities, whose names were mentioned in the Notice wherein your name appeared at S.No. 315 and you did not reply to the Notice. Please offer your comments on the same?

Ans. We were not aware about any such summons as we have not received the same. As far as newspaper notice is concerned I do not subscribe to those newspapers , hence the same escaped my attention. In the meantime we have already submitted the information vide letter dated 06.08.2010 to Investigating Authority a copy of which was enclosed with our reply dated August 06. 2010.

2. Would you like to make any submissions in addition to your reply dated August 6, 2010?

Ans. We want to reemphasise on our reply dated August 06, 2010."

III. ISSUES FOR CONSIDERATION AND FINDINGS:

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

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

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

"Section 11 C: Investigation

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

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing

of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation."

10. The SCN alleged that summons dated December 9, 2009 was issued to the Noticee vide hand delivery, requiring the Noticee to submit the information required in the enclosed Annexure to the summons latest by December 18, 2009 which returned undelivered. The copy of summons and Annexure was enclosed as "Annexure-2" to the SCN.

11. Therefore, subsequently, Notice was published in the Hindustan Times and Hindustan (Hindi) on March 21, 2010 mentioning that summons were issued in relation to the investigation into the dealings in the scrip of the Company and that SEBI had either not received the responses or received incomplete replies from the entities, whose names were mentioned in the Notice. The Notice mentioned that copies of the relevant summons were available on SEBI website and advised the entities to ensure that their reply to the summons reach SEBI by 23-03-2010. The Copy of the Notice was enclosed as "Annexure-3" to the SCN and the Noticee's name was mentioned at S.No. 315 of the Advertisement. The SCN alleged that the Noticee did not reply to the aforesaid Notice.

12. The Noticee replied to the SCN vide letter dated August 6, 2010 and the relevant extract of the Noticee's submissions are as follows:

"I am stunned on receiving the above Notice. I am wholly surprised on reading the allegation that I have not provided the information required as per the Summons referred to therein when the fact is that I have never received any such Summons at all. Even the Notice acknowledges that the Summons was not served on me.

While I will go into more detail later on, I would like to emphatically state that in respect of each and every of earlier letters or other communications of SEBI seeking information in person or otherwise, I have responded immediately and fully. I am sure my track record with your office shows this.

I am also a little surprised that the said Summons sent to me remained undelivered to me since this is my residential address where every other communication of SEBI was duly sent to me. And every such other communication has always been duly responded to as so required.

It is possible though that this being my residential address, in a very exceptional situation, no one may be at home and hence the Summons could not be received. With due respect, and only in the interests of compliance with the law and due moving forward of the proceedings, I have to state that had an attempt been made to serve it again, it is very likely that someone would have been at home to receive it.

I also note from the Notice that the reason for non-service of notice was not because that acceptance was refused but that (though more details are not stated) it was undelivered.

I may also add that my other details including phone numbers are already on record with SEBI. The Summons is obviously an important document having great implications not only for the investigations but also in terms of consequences of non-compliances. With due respect, had a call been made to me on my telephone number of the fact that the Summons remained undelivered, I would have surely come and collected the Summons from office of SEBI.

I note that the Notice states that the Summons was also published even in 2 newspapers. However, while at this stage I do not want to go into the legalities of it, I have to only state that since I do not subscribe to or buy these newspapers, I have not come across the said published Summons. Had I come to even know about them through this or other source, I would have surely responded to the same.

In the light of the above, I have to respectfully state that there was no question of I having non-responded to the Summons in any manner and otherwise not having complied with the same. Accordingly, I have to submit and pray that the proposal initiate enquiry against me be kindly dropped.

In the meantime, I have compiled all the information desired of me as per the copy of the said Summons enclosed with the Notice and shall forthwith file the same with the concerned department and mark copy also to you. With due respect, I have also to state that I am not carrying out a belated compliance but in fact coming forward to provide the required information forthwith on coming to know of the same.

I also enclose copies of my earlier replies to SEBI on the current matter which will show that at every stage, on desired from SEBI, I have promptly and completed provided all information desired and otherwise wholly cooperated with SEBI.

At end, I do trust that you will agree that there is no violation at all involved in the form of non-compliance with the Summons. However, if it is still felt that an enquiry is required, I request that a personal hearing be granted to me where I can present my case in person. I also reserve my right to file supplemental submissions thereafter."

13. I find that the SCN itself alleges that the summons dated December 9, 2009 issued to the Noticee vide hand delivery was returned undelivered and hence the Newspaper Advertisement was published and that the Noticee did not reply to it.

14. I find that in the instant case, the summons dated December 9, 2009 issued through hand delivery in question was returned undelivered, therefore, the only question of non compliance with summons would be the alleged non compliance of the summons issued through the Newspaper Advertisement. In this regard, considering the Noticee's submissions that "*I note that the Notice states that the Summons was also published even in 2 newspapers. However, while at this stage I do not want to go into the legalities of it, I have to only state that since I do not subscribe to or buy these newspapers, I have not come across the said published Summons. Had I come to even know about them through this or other source, I would have surely responded to the same*", I find that benefit of doubt can be given to the Noticee in this regard. In

view of the above, I am of the opinion that the charge of non compliance with the summons is not established.

15. In view of the aforesaid, I find that the Noticee has not violated the provisions of sections 11C(2) and 11C(3) of the Act.

IV. ORDER

16. In view of my findings noted in the preceding paragraphs, I dispose of the Adjudication Proceedings accordingly.

17. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this Order are being sent to Piyush Prafulchandra Avlani and to SEBI.

DATE: NOVEMBER 3, 2010 **P. K. BINDLISH**

PLACE: MUMBAI **ADJUDICATING OFFICER**