

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**CORAM: G. ANANTHARAMAN, WHOLE TIME MEMBER**

**ORDER UNDER REGULATION 13(4) OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST PRAVIN V SHAH STOCK BROKING PVT. LTD. MEMBER, BOMBAY STOCK EXCHANGE LTD. IN RESPECT OF ITS DEALINGS IN THE SHARES OF GLOBAL TELESYSTEMS LIMITED, ADANI EXPORTS LIMITED AND HIMACHAL FUTURISTIC COMMUNICATIONS LIMITED.**

**1.0 BACKGROUND**

1.1 Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted investigations in the wake of excessive volatility in the securities market during the period from October 1999 to March 2001. The said investigation revealed that certain entities namely, Classic Credit Ltd. (CCL), Panther Fincap & Management Services Ltd.(PFMS), Luminant Investment Pvt. Ltd, Sai Mangal Investrade Limited, Chitrakut Computers Private Ltd. etc. prima facie indulged in certain manipulative activities such as, synchronized trades, circular trading and that the said created artificial volume/price in the scrips of certain companies including that of Global Telesystems Ltd. (GTL), Adani Exports Ltd. (AEL) and Himachal Futuristic Communication Ltd. (HFCL) {the shares of which were listed on the Bombay Stock Exchange Ltd. (BSE)}, against the interest of the genuine investors in the securities market. The aforesaid

entities are connected /associated with Shri Ketan Parekh and is hereinafter collectively referred to as KP entities.

- 1.2 It was inter alia found that CCL, PFMS and Luminant Investment Pvt. Ltd. sold shares through stock brokers viz. Credit Suisse First Boston (India) Securities Ltd. (CSFB) or Dresdner Kleinwort Wassertein Securities (India) Private Limited {Formerly Known as Dresdner Kleinwort Benson Securities (India) Limited} (DKB) and that the very same shares were bought either by the same or other KP entity through different stock brokers.
- 1.3 The investigation conducted by SEBI observed that the trades of KP entities were prima facie in the nature of circular and fictitious trades and the same resulted in the creation of artificial volume/price in the shares of certain companies including the aforesaid scrips. The transactions made by the KP entities were inter alia found to be non-genuine as there was no change in the beneficial ownership of shares i.e. the shares were merely rotating from one KP entity to same or other KP entity and were found to be circular trades undertaken to create artificial volumes/ price.
- 1.4 In the facts and circumstances, SEBI found that the KP entities had inter alia violated the provisions of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as the FUTP Regulations) and vide order dated December 12, 2003, SEBI prohibited the aforesaid KP entities including Shri Ketan Parekh from buying, selling or dealing in securities in any manner directly or indirectly and also debarred them from associating with the securities market, for a period of 14 years. The said order dated December 12, 2003 was

challenged by Shri Ketan Parekh and KP entities before the Hon'ble Securities Appellate Tribunal (SAT) and the SAT, vide order dated July 14, 2006 dismissed the appeals filed by all the aforesaid persons/entities inter alia with an observation that *"We have, therefore, no hesitation to hold that if Ketan Parekh and his entities are allowed to continue with their operations they would pose a serious threat to the integrity of the securities market and endanger the interests of the investors."* SAT had also observed *".....the appellants have rigged the market in a big way and the penalty imposed on them in our view is quite reasonable having regard to the gravity of the charges proved. In this view of the matter we find no ground to reduce the period of debarment"*.

- 1.5 The said order of the SAT was challenged by the KP entities before the Hon'ble Supreme Court of India and the Hon'ble Court, vide order dated May 18, 2007 dismissed the said appeals.
- 1.6 The investigation conducted by SEBI also found that Praveen V Shah Stock Broking Private Limited (hereinafter referred to as the Broker), Member, BSE executed synchronized trades in the shares of GTL, AEL and HFCL on behalf of its clients, viz. CCL and PFMS (KP entities). It has been alleged that the trades got matched with select counter party brokers who were also acting on behalf of the same clients (i. e. either CCL or PFMS).
- 1.7 The trade details of the Broker on behalf of its aforesaid clients are mentioned below:

a) In the shares of HFCL.

Settlement No.	Trade Date	Trade No	Trade Time	Trade Qty	Trade Price	Order Number	Member Name	Counter Party member Name	Buy /Sell	Order Rate	Order Qty	Order time	Client Name
1999032	26-Oct-99	8866	14:29:23	80000	317.75	85040070	C J Dalal	Pravin V Shah	S	317.75	80000	14:29:23	CCL
	26-Oct-99	8866	14:29:23	80000	317.75	558010119	Pravin V Shah	C J Dalal	B	317.75	80000	14:29:23	CCL
1999034	12-Nov-99	21149	12:52:52	30000	327.25	248030025	Hem Sec	Pravin V Shah	B	327.25	30000	12:52:50	CCL
	12-Nov-99	21149	12:52:52	30000	327.25	558010026	Pravin V Shah	Hem Securities	S	327.25	30000	12:52:51	CCL
1999035	17-Nov-99	31875	13:40:12	20000	351.50	85040071	C J Dalal	Pravin V Shah	S	351.5	20000	13:40:12	CCL
	17-Nov-99	31875	13:40:12	20000	351.50	558010160	Pravin V Shah	C J Dalal	B	351.5	25000	13:39:44	CCL
1999035	19-Nov-99	44018	10:37:18	50000	358.25	85040100	C J Dalal	Pravin V Shah	B	358.25	50000	10:37:18	CCL
	19-Nov-99	44018	10:37:18	50000	358.25	558010204	Pravin V Shah	C J Dalal	S	358.25	50000	10:37:18	CCL
1999036	22-Nov-99	8604	13:29:23	57900	389.50	248030010	Hem Securities	Pravin V Shah	S	389.5	58000	13:29:21	CCL
	22-Nov-99	8604	13:29:23	57900	389.50	558010001	Pravin V Shah	Hem Securities	B	389.5	58000	13:29:23	CCL
1999036	22-Nov-99	10625	14:40:48	40000	387.70	248030012	Hem Securities	Pravin V Shah	S	387.7	40000	14:40:48	CCL
	22-Nov-99	10625	14:40:48	40000	387.70	558010005	Pravin V Shah	Hem Securities	B	387.7	40000	14:40:48	CCL
2000001	27-Mar-00	13087	13:15:24	29496	2149.00	248030021	Hem Securities	Pravin V Shah	S	2149	29500	13:15:24	CCL
	27-Mar-00	13087	13:15:24	29496	2149.00	558010023	Pravin V Shah	Hem Securities	B	2149	29500	13:15:24	CCL
2000029	09-Oct-00	17041	15:14:05	68435	1258	850040001 0002475	C J Dalal	Pravin V Shah	S	1258	70000	15:14:05	PFMS
	09-Oct-00	17041	15:14:05	68435	1258	558001000 10003007	Pravin V Shah	C J Dalal	B	1258	70000	15:14:05	PFMS
2000035	21-Nov-00	32835	10:31:02	11231	1289	405046000 00001252	Latin Manharlal	Pravin V Shah	S	1299	12000	10:30:27	PFMS
	21-Nov-00	32835	10:31:02	11231	1289	558001000 10003745	Pravin V Shah	Latin Manharlal	B	1289	12000	10:31:02	PFMS
1999044	19-Jan-00	56336	12:24:09	33319	868.5	248030047	Hem Securities	Pravin V Shah	S	868.5	33319	12:24:09	CCL
	19-Jan-00	56336	12:24:09	33319	868.5	558010103	Pravin V Shah	Hem Securities	B	868.5	33319	12:24:09	CCL
2000015	04-Jul-00	21964	11:07:30	11880	1457.00	248003000 00000417	Hem Securities	Pravin V Shah	S	1457	12000	11:07:29	CCL
	04-Jul-00	21964	11:07:30	11880	1457.00	558001000 00000861	Pravin V Shah	Hem Securities	B	1457	12000	11:07:30	CCL
2000016	10-Jul-00	8540	12:35:34	15000	1342.00	850040000 0000970	C J Dalal	Pravin V Shah	S	1342	15000	12:35:34	PFMS
	10-Jul-00	8540	12:35:34	15000	1342.00	558001000 00000965	Pravin V Shah	C J Dalal	B	1342	15000	12:35:34	CCL/P FMS
2000017	21-Jul-00	116791	13:46:15	19535	1408.50	850040000 0001151	C J Dalal	Pravin V Shah	B	1408.5	20000	13:46:15	PFMS
	21-Jul-00	116791	13:46:15	19535	1408.50	558001000 00001243	Pravin V Shah	C J Dalal	S	1408.5	20000	13:46:15	CCL
2000017	21-Jul-00	118243	14:26:15	17391	1398.50	850040000 0001162	C J Dalal	Pravin V Shah	B	1398.5	18000	14:26:15	PFMS
	21-Jul-00	118243	14:26:15	17391	1398.50	558001000 00001244	Pravin V Shah	C J Dalal	S	1398.5	18000	14:26:15	CCL
2000022	25-Aug-00	137964	15:08:37	48116	1537.00	248003000 10000808	Hem Securities	Pravin V Shah	B	1537	55500	15:08:37	CCL
	25-Aug-00	137964	15:08:37	48116	1537.00	558001000 10002215	Pravin V Shah	Hem Securities	S	1537	55500	15:08:37	CCL
2000026	22-Sep-00	193080	10:22:25	15000	1377.00	850040001 0002193	C J Dalal	Pravin V Shah	B	1377	15000	10:22:25	PFMS
	22-Sep-00	193080	10:22:25	15000	1377.00	558001000 10002789	Pravin V Shah	C J Dalal	S	1377	15000	10:22:25	PFMS

2000043	16-Jan-01	68710	11:11:59	39925	1141.5	248003000 10002812	Hem Securities	Pravin V Shah	S	1141.5	40000	11:11:59	PFMS
	16-Jan-01	68710	11:11:59	39925	1141.5	558001000 10004831	Pravin V Shah	Hem Securities	B	1141.5	40000	11:11:59	PFMS
2000044	25-Jan-01	138316	15:14:10	20890	1259.5	248003000 10003015	Hem Securities	Pravin V Shah	B	1259.5	22000	15:14:10	PFMS
	25-Jan-01	138316	15:14:10	20890	1259.5	558001000 10005079	Pravin V Shah	Hem Securities	S	1259.5	22000	15:14:10	PFMS
2000049	28-Feb-01	91903	10:21:44	59570	585	850040001 0004146	C J Dalal	Pravin V Shah	S	585	60000	10:21:43	PFMS
	28-Feb-01	91903	10:21:44	59570	585	558001000 10005614	Pravin V Shah	C J Dalal	B	585	60000	10:21:44	PFMS

b) In the shares of GTL

Settlement No.	Trade Date	Trade Time	Trade No	Trade Qty	Trade Price	Order No	Member name	Counter member name	Client Name
1999030	15-Oct-99	11:49:37	35442	18900	620.50	248030033	Hem Securities	Pravin V Shah	CCL
	15-Oct-99	11:49:37	35442	18900	620.50	558010131	Pravin V Shah	Hem Securities	CCL
2000028	3-Oct-00	15:56:29	27748	39925	1116.00	2480030000000700	Hem Securities	Pravin V Shah	PFMS
	3-Oct-00	15:56:29	27748	39925	1116.00	5580010000003000	Pravin V Shah	Hem Securities	CCL
2000043	15-Jan-01	15:18:03	40570	25298	671.75	8500400000002930	C J Dalal	Pravin V Shah	PFMS
	15-Jan-01	15:18:03	40570	25298	671.75	5580010000004900	Pravin V Shah	C J Dalal	CCL
2000043	19-Jan-01	10:13:06	163839	12064	680.00	8500400000002960	C J Dalal	Pravin V Shah	PFMS
	19-Jan-01	10:13:06	163839	12064	680.00	5580010000005000	Pravin V Shah	C J Dalal	CCL
2000045	30-Jan-01	15:15:05	60734	49450	734.25	2480030000001900	Hem Securities	Pravin V Shah	PFMS
	30-Jan-01	15:15:05	60734	49450	734.25	5580010000005100	Pravin V Shah	Hem Securities	CCL
2000045	1-Feb-01	12:48:56	118642	45000	684.00	2480030000002000	Hem Securities	Pravin V Shah	PFMS
	1-Feb-01	12:48:56	118642	45000	684.00	5580010000005100	Pravin V Shah	Hem Securities	CCL

c) In the shares of AEL

Buy Member Name	Sell Client	Buy Client	Trade date	Sell Order No	Buy Order No	Sell Order Time	Buy Order Time	Sell Order Qty	Buy Order Qty	Sell Order Rate	Buy Order Rate
Pravin V Shah	LIPL	PFMS	01-01-2001	49700500010016774	55800100010004678	12:42:25	12:42:29	50000	50000	609.00	609.00
Pravin V Shah	LIPL	PFMS	29-01-2001	49700500010019243	55800100010005116	13:47:41	13:47:41	200000	100000	740.00	740.00
Pravin V Shah	LIPL	PFMS	05-02-2001	49700500010020079	55800100010005258	12:43:27	12:43:28	100000	100000	820.00	820.00

1.8 In addition to the above synchronized trades, the Broker was found to have involved in circular trade in the shares of GTL wherein the counter party broker was either CSFB or DKB and the counter party clients (buy or sell) were KP entities. The details of such trades are mentioned below:

Sell Order date	Sell Order Time	Sell Order Qty	Sell Order Price	Buy Order date	Buy Order Time	Buy Order Qty	Buy Order Price	Remarks
2001-01-09	13:55:15	12000	754.5	2001-01-09	13:55:15	60000	754.5	KP entities are selling through CSFB and buying through the Broker

1.9 Further, it has been alleged that the Broker facilitated KP entities to receive finance against the delivery of shares without waiting for pay-out at the exchange and that the same were so structured to give them a semblance of actual sale and purchase of shares at the stock exchange. The said transactions were alleged to be non-genuine as it did not involve any change in the beneficial ownership of shares as such i.e. the shares were merely rotating from one KP entity to same or other KP entities.

1.10 In view of the above, it has been alleged that the Broker has prima facie violated the provisions of regulation 4(b), (c) and (d) of the FUTP

Regulations and Clause A (1) and (2) of the Code of Conduct specified in Schedule II of Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as the Broker Regulations).

## **2.0 APPOINTMENT OF THE ENQUIRY OFFICER**

2.1 On completion of investigations, SEBI appointed an Enquiry officer vide order dated October 14, 2004 under regulation 5(1) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as the Enquiry Regulations) to enquire into the alleged violations committed by the Broker as mentioned above while dealing in the shares of GTL, AEL and HFCL.

2.2 Accordingly, a notice dated November 8, 2004 was issued to the Broker under the provisions of the Enquiry Regulations. The Broker filed its reply and made its submissions before the Enquiry Officer. The Enquiry Officer, vide report dated May 31, 2005 recommended for a minor penalty of censure on the certificate of registration of the Broker.

## **3.0 SHOW CAUSE NOTICE, REPLY AND HEARING:**

3.1 Pursuant to the Enquiry Report, a notice dated June 7, 2005 under the provisions of the Enquiry Regulations was issued to the Broker asking it to show cause as to why appropriate action should not be taken against it, as recommended by the Enquiry Officer. The Broker was also advised to explain why consequential action under Securities and Exchange Board of India (Criteria for Fit and Proper Person) Regulations, 2004

should not be taken against it. The Broker vide letter dated June 22, 2005 had requested SEBI to grant further time of 15 days from the said date to file its reply.

3.2 The Broker vide letter dated July 7, 2005 inter alia stated that it had huge number of transactions in all the alleged scrips and that its referred trades worked out to be only 3.6% in HFCL, 4.7% in GTL and 6% in AEL and the same could be just a coincidence and without any pre arranged transactions. The Broker added that it was not aware of the counter party client while concluding the trades for its clients and that it had not indulged in any dealings which had resulting in the inflation of the prices of the said scrips. The Broker further urged that it was not having any relationship whatsoever with the counter parties who were alleged to have done the synchronized deals to create false or misleading appearance of trading. The Broker claimed that it had not violated regulation 4(b), (c) and (d) of the FUTP Regulations and regulation 7 of the Broker Regulations. In the said reply, the Broker had also inter alia relied upon its earlier reply (to the Enquiry Officer) dated December 15, 2004. The Broker vehemently contended that the penalty should emerge only out of proved and substantiated guilt and not out of any surmises and conjecture. It was the case of the Broker that the entire transactions were executed in the regular course of its business. The Broker added that it had complied with the rules and regulations of SEBI and the stock exchange that it had never defaulted either in payment or in delivery to the stock exchange as well as to its clients.

3.3 The Broker was also granted an opportunity of hearing on January 19, 2006. Shri Dhitesh Shah, Director of the Broker appeared before me and made submissions on the lines of the aforesaid reply of the Broker.

#### **4.0 CONSIDERATION OF ISSUES AND FINDINGS**

- 4.1 I have considered the Enquiry report, the show cause notice dated June 7, 2005, the reply of the Broker dated July 7, 2005, the oral submissions made by Shri Dhitesh Shah on behalf of the Broker during the course of hearing and other materials available on record. I observed that the large number of the alleged synchronized trades executed by the Broker in the shares of GTL, AEL and HFCL and the nature and pattern of the said synchronized trades on behalf of its clients, who were none other than KP entities, prima facie called for a higher penalty. Accordingly, a notice dated February 8, 2007 was issued to the Broker asking it to show cause as to why higher penalty as considered appropriate should not be imposed on it. In the said notice, the Broker was specifically advised to indicate whether it wanted to avail the opportunity of personal hearing.
- 4.2 The Broker vide letter (dated nil) received by SEBI on February 23, 2007 inter alia stated that it had not entered into, either directly or indirectly, any transactions in securities with the intention of artificially raising or depressing the prices of securities in the shares of any of the alleged scrips. It added that, in the shares of HFCL, its trades accounted for only 3.68% of the total volume. The Broker urged that it was not aware of the counter party clients, when it executed the alleged trades. The Broker contended that the impugned alleged synchronized trades in GTL and AEL accounted for 4.7% and 6% respectively of the total trades. The Broker further added that the matching, if any, as alleged, could be

accidental but definitely not with any intention or knowledge or concurrence on its part. The Broker further pointed out that it never involved or engaged in transactions in the said shares for the purpose of financing its clients.

- 4.3 The Broker claimed that, it had never indulged in any act during the entire transactions which can be calculated to create a false or misleading appearance of trading in the securities market and that it had taken and exercised complete care and skill in its dealing with its clients and that it had not violated the provisions of the FUTP Regulations and the Broker Regulations, as alleged. The Broker also relied upon its reply dated December 15, 2004 and the submissions made before the Enquiry Officer.
- 4.4 Though the Broker was specifically advised by SEBI (vide show cause notice dated February 8, 2007) to indicate whether it wanted to avail the opportunity of hearing, it had not done so. In the facts and circumstances, I proceed in the matter, considering the Enquiry Report, show cause notices dated June 7, 2005 and February 8, 2007, the replies of the Broker dated July 7, 2005 and reply dated nil (received by SEBI on February 23, 2007), the oral submissions made by the Broker during the course of hearing on January 19, 2006 and other materials available on record.
- 4.5 The Broker, at the outset, has not disputed the synchronized trades executed by it on behalf of its clients viz. CCL and PFMS in the shares of GTL, AEL and HFCL. However, the Broker vehemently contended that the said trades were executed in the normal course of its business without any intention to manipulate the price or volume of the said shares. Further, I note that the Broker, vide letter dated December 15,

2004 (to the Enquiry Officer) admitted that, it had executed several trades on behalf of its aforesaid clients in the aforesaid scrips. In the said letter, the Broker had enclosed the transaction details as mentioned below:

- a) Details of transaction in other scrips along with transactions in HFCL (from October 26, 1999 to February 01, 2001).
- b) Details of transaction in other scrips along with transactions in AEL (from March 15, 1999 to February 01, 2001).
- c) Details of transaction in other scrips along with transactions in GTL. (from January 01, 2001 to February 05, 2001)

4.6 On a perusal of the aforesaid transaction details as provided by the Broker (in the case of HFCL and GTL), I note that it had executed number of trades in the shares of AEL, HFCL, GTL, Zee Telefilms Ltd., Shonkh Technologies Ltd. etc. on various dates. The said transactions were executed on behalf of PFMS and CCL. In addition to the above trades, the Broker had also executed trades on behalf of PFMS, in the shares of AEL. In addition to the above, the Broker had also enclosed its transaction details for the period January 15, 1999 to February 1, 2001 (in the case of GTL) and the transaction details from January 15, 1999 to March 5, 2001 in the case of HFCL. Majority of the said trades were executed on behalf of CCL and PFMS. From the said details, it can be seen that the Broker was executing substantial trades in the shares of HFCL, GTL and AEL and that the majority of such trades were executed on behalf its clients, CCL or PFMS (KP entities).

4.7 I note that during the course of investigations, Shri Mulraj V. Shah and Shri Dhitesh M Shah (directors of the Broker) had given their statements

to SEBI on April 26, 2001 and July 15, 2003. Shri Mulraj V. Shah in his statement had inter alia stated :

“Q. 2. I am showing you the trade log and order log for transactions of scrips as shown in annexure A for the period January – March, 2001 put by you on behalf of your client Panther Fincap & Mang. Serv Ltd. which is Ketan Parekh group company. it appears from the time/ quantity/rate of the buy order and sell order that there was a prior understanding so that your buy order is matched with the sell order of CSFB. On Jan 01, 2001 for trade of 50000 shares of Adani Exports made by you on BSE on behalf of Panther Fincap & Mang. Serv Ltd, it is observed that your buy order at 12:42:29 for quantity 50000 @ Rs.609 has been matched with CSFB's sell order put at 12:42:25 for the quantity 50000 @ Rs.609. The client of CSFB was Luminant Investment, a company belonging to Ketan Parekh. Please explain the true state of affairs, how there can be such proximity of timing in putting large buy and sell orders, followed by quick matching of the same in generally illiquid scrip.

A.2. I have seen the order log and trade log for transactions of scrips as shown in annexure A for the period January-March, 2001 put by us on behalf of my client Panther Fincap & Mang. Serv Ltd. The order for purchase of shares of Adani Exports @ Rs.609 was given by Mr.Bipin Joshi of Panther Fincap. Shri Bipin Joshi used to call us and instruct us to put the order immediately at the specific quantity and rate. After seeing the transactions, I feel that Sh Bipinbhai must have told us/our dealer and seller broker to put the buy and sell order simultaneously, so that it matches. In my

opinion, as the scrip was generally illiquid, such buy and sell orders in large quantities would get matched in such short time only when there is prior understanding between buying clients and selling client.

Q.3. I am showing you the trade log and order log for transactions of 100000 shares of Adani Exports made by you on January 29, 2001 on BSE on behalf of your client Panther Fincap & Mang. Serv Ltd as per annexure A. It is observed that your buy order for qty 100000 @ Rs.740 put at time 13:47:11 has been matched with the CSFB's sell order put at 13:47:41 for the quantity 200000 @ Rs.740. The client of CSFB was Luminant Investment, a company belonging to Ketan Parekh. It appears that the orders were placed at the same time with prior understanding so that your buy order is matched with the sell order of CSFB. Please explain the true state of affairs, how there can be such proximity of timing in putting large buy and sell orders followed by quick matching of the same in generally illiquid scrip.

A.3. I have seen the order log and trade log for transactions of scrips as shown in annexure A. The above referred order for the purchase of 100000 shares of Adani Exports were given by Mr. Bipin Joshi of Panther Fincap. Shri Bipin Joshi used to call us and instruct me to put the order immediately at the specific quantity and rate. This may have been done so that my buy order on behalf of Panther Fincap is matched with the sell order put with other broker.”

4.8 The above statement of Shri Mulraj V Shah categorically establishes that the Broker used to put trade orders immediately as per the instructions

(telephonic) of its clients which proves that the Broker is a necessary party in executing the trades which in turn turns out to be a part of a well crafted design of the clients (KP entities on both sides) for the purpose of manipulating the shares of the said scrips. He also knew as gathered from his statement that as the scrip (AEL) was illiquid, the buy and sell orders in large quantities would get matched only when there was prior understanding between the buying client and selling client.

4.9 Further, Shri Dhitesh M Shah in his statement inter alia stated the following :

“Q2. Whether you have traded on behalf of any of Ketan Parekh group of Companies or firms as mentioned in the annexure to the summons dated June 24, 2003?

A.2 Yes. On behalf of Classic Credit Ltd. and Panther Fincap & Management Services Ltd. We had a margin account with Panther Investrade Ltd. of Rs.10 lacs and we had no dealings with them during this period.

Q.3. Who used to place orders for these clients? If so, furnish details?

A.3. Mostly Mr. Bipin Joshi, one of their employees used to place the orders.

Q4. Whether you are aware that Shri Kartik Parekh was related to Shri Ketan Parekh and that they have their own broking firms and were members of BSE and NSE?

A.4 Yes. We were aware that they had their own broking firms N H Securities Ltd. and Triumph Securities Ltd.

Q6. Please state whether you insist on collecting sufficient margins while executing trades for these clients?

A.6. At times, we collected and at time, we did not collect.

Q7. What is the profile of your clients and trading volume? Whether any entity or person related to or connected to Ketan Parekh is dealing with you at present?

A.7 We have institutional clients and high net worth clients. Our daily turnover will be roughly around Rs.1 crore to Rs.2 crores. We had a turnover of Rs.10 crores to Rs.15 crores during the period from January to March 2001. Around 90% of the trades were done by two of Ketan Parekh entities. At present, no entity or person related to Ketan Parekh are dealing with us.”

4.10 The following positions emerge from the above statements:

- i) The Broker was aware (at the time of the impugned synchronized trades) that its clients belonged to Shri Ketan Parekh group of companies and that they had their own broking firm.
- ii) One of the employees of KP entities used to instruct the Broker over phone to place orders (on behalf of the clients) and the same were executed immediately at the specific quantity and rate, as instructed.
- iii) The Broker had not collected margin in respect of certain trades.

4.11 The above statements would establish the close business relationship that existed between the Broker and the KP entities. The Broker, admittedly, had allowed its clients to trade substantially in various shares as stated above, even without collecting margin in certain trades. The Broker, while admitting the trades executed by it, vehemently contended that it was not aware of the counterparty client. The above contention will not pass muster as it has been not disputed that most of the referred trades were executed almost on the same time with the price and quantity matching, as per the telephonic instructions of Shri Bipin Joshi, the employee of its clients. It was not a solitary incident of its kind and that the Broker was executing various synchronized trades in the similar manner as can be seen from the trade details as mentioned above. Further, I also note from the admission of the Broker that its clients (KP entities) were known to it for a longer period and that Shri Ketan Parekh was having his own broking firms at the time of the impugned trades. The very fact that orders were placed by the Broker immediately as per the telephonic instructions of the client would indicate that the intention of the Broker was to facilitate the matching of the said orders with a specific client/broker. In the stock exchange trading mechanism, generally, no buyer can insist that he must buy shares from a particular seller and nor can a seller insist that he must sell his shares to a particular buyer. In addition to the above, in the present case, clients on both sides (on majority of the trades) were found to be one and the same i.e either CCL or PFMS.

4.12 In the facts and circumstances, as set out above, coupled with the statements of the representatives of the Broker, I am unable to accept the contention that the Broker was not aware of the counterparty client. Assuming for argument sake, that the Broker was unaware of its counter

party clients, the very act of putting orders, immediately, as per the instructions of the clients demonstrate the active involvement and participation of the Broker in the said trades. Without the assistance of the Broker the plan of the clients would not have been executed. It is the broker who executes the trades on behalf of his clients and without his active participation and involvement, it is highly impossible that a trade gets executed in a synchronized manner (with the time, price and quantity matching in most of the trades), as planned by the clients. This would further exemplify the fact that the Broker was aware of the manipulative intent of its clients. If the Broker was not a party to synchronization, the trades as enumerated would have failed and the buy orders placed by its clients (KP entities) could have matched with the sell orders of some other parties through the mechanism of the stock exchange.

4.13 I also note that the impugned trades were executed without any time difference (in most of the trades) with the quantity and price matching. The clients of the Broker were either CCL or PFMS and the counter party clients were also found to be either CCL or PFMS. I note that the Broker had executed 19 trades in the shares of HFCL from July 2000 to February 2001. The details of such trades are already mentioned in the table at para 1.5. In respect of the trades of the Broker in the shares of HFCL, I note that 13 trades were executed at the same time, 3 trades were executed with a time difference of 1 second and the time difference in one trade was 2 seconds. The Broker had executed similar synchronized trades in the shares of AEL (3 trades) and GTL (6 trades) on behalf of its clients, wherein the difference of time was negligible with the same price and quantity. The concerted level of activity and that too continuously as seen in the present case is only compatible with the

purposes of manipulating the securities market with the active participation and involvement on the part of the Broker. Considering the facts of the case, it can not be said that the aforesaid synchronized trades were executed without a pre determined plan or it is a mere coincidence as claimed by the Broker. I note that, in respect of the trades of the Broker in the shares of AEL, Shri Mulraj V Shah (director of the Broker) had stated that as the said scrip (AEL) was generally illiquid the buy and sell orders in large quantities would get matched in such short time only when there was prior understanding between the buying and selling client. The synchronized trades as cited, in the facts and circumstances, can not be a matter of coincidence, considering its nature (the price, quantity and time) and its recurrence in a row. It is highly unbelievable that such trades were executed without the Broker being a party to the said trades without the prior understanding.

4.14 In the facts and circumstances of the present case, I am unable to accept the contention (made in its reply) of the Broker that it was not aware of the counter party client. It is true that in a normal trade executed through the stock exchange mechanism, it might not be possible for a Broker to know the counter party broker. But in respect of the trades in question, considering its nature (both buying and selling clients were the same) and the close connection of the Broker with the clients (90% of the total turnover of the Broker was in respect of the said clients), I have no doubt to hold that the Broker facilitated the clients in executing the synchronized trades. The matching of large number of trades cannot be a coincidence and it would only reveal that there was a prior meeting of the minds before the trades was executed. As every trade establishes the price of the scrip, the execution of the trades pursuant to a game plan would interfere with the fair price discovery

process of the exchange and thereby it would disturb the exchange mechanism. Further I note that the clients on both sides (buy / sell) were same or of the same group and thereby it can be said that there was no change in beneficial ownership of shares and thus the trade executed between the same client/group is considered to be a fictitious one.

4.15 I note that during the relevant period, the shares of HFCL and GTL were highly liquid and that the liquidity in trading implies amount of activity in such shares wherein a considerably large number of buyers and sellers execute trades. In such a situation where the participants are numerous, it is almost improbable to get a stock broker's trades executed always with the same counter party stock broker, unless, the said stock broker is in collusion with the counter-party stock broker and the client. Further, a higher volatility means that a security's value can potentially be spread out over a larger range of values. This means that the price of the security can change dramatically over a short time period in either direction. In such a scenario where the price fluctuates in each second, it is almost impossible for the client to give a price range which would only match with a particular counter-party stock broker at a particular quantity. In most of the transactions, both the buying and selling clients were one and the same (KP entities) which coupled with the longer period of association between the clients and the Broker and the statement of the Broker clearly establishes that the Broker was a party to the ongoing market manipulation. The Broker had misused the screen based trading by executing such fictitious trades on the stock exchange.

4.16 The series of aforesaid synchronized trades would only lead to the finding that the said trades executed by the Broker were done with the purpose of manipulating the volume in the shares of the said scrips to the detriment of the genuine investors. In the above facts and

circumstances and considering the nature of the synchronized trades, it could not be said that the Broker was innocent and such synchronized trades could have been possible without its knowledge and involvement. In this context, I note the following observation of SAT in the matter of Triumph International Finance Ltd. Vs. SEBI: "It is the broker who plays a pivotal role in synchronizing the trades with the counter broker and match the same through the exchange mechanism by punching the buy and sell orders simultaneously. It is true that the brokers act on the advice of their clients but it is they who actually implement the game plan. In the trades now in question the buyer, the seller and CSFB as the seller's broker have already been found guilty. It is inconceivable that such large number of trades could have matched on the screen without the appellant as the buyer's broker being a party to the game plan. Since the buy and sell orders were punched into the system simultaneously in such large numbers and they all matched, we cannot believe that it was a coincidence and the only inference that can be drawn is that there was a prior meeting of the minds before the trades were executed and this disturbs the true price discovery mechanism of the exchange. The appellant is only feigning innocence which plea in the circumstances cannot be accepted."

- 4.17 The argument of the Broker that its trades in the shares of the said scrips for its clients was minuscule as compared to its total trades, cannot pass muster in the facts and circumstances. The said argument can not be viewed in isolation. The trades of the Broker have to be seen in the overall situation as existed at the relevant time. It required various persons/entities/stock brokers etc. to execute the game plan. The role of the each individual player would be different from each other. Accordingly, the nature/ concentration of the involvement of the

individual player would vary. However inconsequential it might be, the individual involvement can not be ignored, especially when it was borne out that the Broker was very much in the thick of the entire game plan executed by the client. In this context, I also note the observation of SAT in the case cited supra "It must not be forgotten that every trade establishes the price of the scrip and when two brokers punch in the buy and sell orders simultaneously at a pre determined price which they fix and match the trades on the screen of the system they are obviously interfering with the fair price discovery process of the exchange and this would amount to manipulation and bench marking the price. Such trades are prohibited by the unfair trade practices regulations framed by the Board".

- 4.18 The peculiar nature of the trades executed by the Broker and the modus operandi by which the said trades were executed would demonstrate that the said transactions were the outcome of a predetermined action as borne out from the facts and the statements made by directors of the Broker as explained above. The Broker allowed its clients (KP entities), to trade in the shares of HFCL, AEL and GTL, thereby enabling them to create misleading appearance of trading in the said shares and artificial volume. The series of trades in the form of synchronized deals, considering its numbers, quantity etc. would only lead to the finding that all the deals were done with the purpose of manipulating the price / volume in the shares of aforesaid companies and thereby, the securities market to the detriment of the genuine investors. The said concerted level of activity for its clients is only compatible with the purposes of manipulating the securities market on the part of the Broker. I also note that the clients for which the Broker had traded in the shares of HFCL, AEL and GTL were already prohibited by SEBI from dealing in securities

and the said order was upheld by SAT and the Hon'ble Supreme Court as mentioned earlier in this order.

4.19 The Broker further vehemently contended that the decision in the case of Nirmal Bang Securities Pvt. Ltd. Vs. SEBI referred to in the Enquiry Report would favour it as there was no intention on its part to synchronise the impugned transactions. I am unable to accept the said contention, as from the facts of the present case it is established that the Broker was very much in the thick of the entire gamut of transactions which were synchronized by the clients with the assistance from the Broker. I note that, SAT in the said case had inter alia observed:

*“.....The argument that the parties had no means of knowing whether any entity controlled by the client is simultaneously entering any contra order elsewhere for the reason that in the online trading system, confidentiality of counter parties is ensured, is untenable. It was submitted by the Appellants that it was not possible for the broker to know who the counter party broker is and that trades were not synchronized but it was only a coincidence in some cases. Theoretically this is OK. **But when parties decide to synchronize the transaction the story is different.** There are many transactions giving an impression that these were all synchronized, otherwise there was no possibility of such perfect matching of quantity price etc. As the Respondent rightly stated it is too much of a coincidence over too long a period in too many transactions when both parties to the transaction had entered buy and sell orders for the same quantity of shares almost simultaneously. The data furnished in the show cause*

*notice certainly goes to prove the synchronized nature of the transaction which is in violation of regulation 4 of the FUTP Regulations..... In a synchronized trading intention is implicit.” (Emphasis supplied).*

4.20 In the present case, I note that the director of the Broker Shri Mulraj V. Shah had stated that he executed the order immediately as per the telephonic instruction of its client. This would show its direct involvement in the synchronized transactions of its clients. In the facts and circumstances, the contention that the dictum laid down by the SAT in the case of Nirmal Bang cited supra is not applicable in the present case is not correct or unacceptable.

4.21 Further, I also note the following observation of SAT in respect of synchronized trades

In the matter of Ketan Parekh Vs SEBI:

“The word ‘synchronise’ according to the Oxford dictionary means “cause to occur at the same time; be simultaneous”. A synchronized trade is one where the buyer and seller enter the quantity and price of the shares they wish to transact at substantially the same time. This could be done through the same broker (termed a cross deal) or through two different brokers. Every buy and sell order has to match before the deal can go through. This matching may take place through the stock exchange mechanism or off market. When it matches through the stock exchange, it may or may not be a synchronised deal depending on the time when the buy and sell orders are placed. .... As already observed ‘synchronisation’

or a negotiated deal ipso facto is not illegal. A synchronised transaction will, however, be illegal or violative of the Regulations if it is executed with a view to manipulate the market or if it results in circular trading or is dubious in nature and is executed with a view to avoid regulatory detection or does not involve change of beneficial ownership or is executed to create false volumes resulting in upsetting the market equilibrium..... Any transaction executed with the intention to defeat the market mechanism whether negotiated or not would be illegal. Whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances because direct evidence in such cases may not be available. ....The nature of the transaction executed, the frequency with which such transactions are undertaken, the value of the transactions, whether they involve circular trading and whether there is real change of beneficial ownership, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn.”

4.22 Synchronized deals involving interplay of market forces, pre suppose the active participation of the Broker. In the present case, the Broker was directly involved in executing the trades as per the specific instructions of the authorized person of the client. The same would prove the direct participation of the Broker in the entire transactions that took place in the shares of the companies as mentioned above for the purpose of giving a

misleading appearance of trading in the said shares and thereby artificially increasing the volume/ price.

4.23 Undoubtedly, the trades executed by the Broker inter alia created artificial volume and price in the aforesaid shares. Artificial increase in the volumes of scrip attracts the innocent investors in the market who are trapped in buying such shares otherwise useless and such misrepresentation, besides cheating investors, create financial loss to them. In this context, SAT in the matter of Ketan Parekh vs. SEBI has inter alia observed :

*“When a person takes part in or enters into transactions in securities with the intention to artificially raise or depress the price he thereby automatically induces the innocent investors in the market to buy / sell their stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is being manipulated the person doing so is necessarily influencing the decision of the buyer / seller thereby inducing him to buy or sell depending upon how the market has been manipulated. We are therefore of the view that inducement to any person to buy or sell securities is the necessary consequence of manipulation and flows therefrom. In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged.”*

4.24 A cumulative analysis of the facts of the case, clearly indicate that the Broker did not act in a bonafide manner. On the contrary, the above facts

highlight its complete involvement in the creation of misleading market in the shares of the company and the creation of artificial volume and price in the said shares.

4.25 I note that the trades of the Broker undoubtedly created an artificial market to mislead the genuine investors and the said transactions created false volumes. It is too much of a coincidence over too long a period in too many transactions when the same stock broker had entered into synchronized trades with other stock brokers for the same quantity of shares almost simultaneously. The Broker failed to exercise due skill, care and diligence which was expected from a prudent stock broker who had a duty not only towards its client but also towards the securities market. On the other hand the Broker continued to execute such trades. When the Broker was executing trades on behalf of its clients (KP entities), the price of the scrip (HFCL) increased from Rs. 317- to Rs. 2149/- . I note that the Broker was a necessary party to the transactions giving rise to artificiality in the market. Instead of exercising caution, the Broker had executed large number of synchronized trades with prior knowledge and specific instructions and thereby, the Broker was instrumental in creating artificial volumes and price in the shares of the said scrips.

4.26 The provisions of Regulation 4 of the said Regulations is reproduced hereinbelow for the sake of reference.

“No person shall -

(a) effect, take part in, or enter into, either directly or indirectly, transactions in securities, with the intention of artificially raising or depressing the prices of

securities and thereby inducing the sale or purchase of securities by any person;

- (b) indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities market;
- (c) indulge in any act which results in reflection of prices of securities based on transactions that are not genuine trade transactions;
- (d) enter into a purchase or sale of any securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress , or cause fluctuations in the market price of securities.
- (e) pay, offer or agree to pay or offer, directly or indirectly, to any person any money or money's worth for inducing another person to purchase or sell any security with the sole object of inflating, depressing, or causing fluctuations in the market price of securities".

4.27 I note that the trades executed by the Broker on behalf of KP entities in the shares of the aforesaid scrips created artificial price and resulted in the reflection of prices of securities of the company based on transactions which were not genuine and which affected the unsuspecting investors. As the clients of the Broker and the counter party clients ( in various trades) were the same or of the same group, it can be said that they did not intend to effect the transfer of the beneficial ownership but only intended to operate only as a device to inflate, depress, or cause fluctuations in the market price of securities.

4.28 In the facts and circumstances, I note the following:

- i) Majority of the trades of the Broker (90%) were on behalf of its clients (KP entities).
- ii) The Broker knew Shri. Bipin Joshi (employee of KP entities) and immediately executed orders as per his telephonic instructions.

- iii) There existed close business relationship between the Broker and the clients.
- iv) The sell orders and the buy orders got executed at the same time (in majority of the cases) i.e. in the case of HFCL, 13 trades (out of 19) were executed at the same time. The time difference of majority of the other trades was very less.
- v) The Broker had not collected margin in some instances.
- vi) The clients on both sides were the same (KP entities).
- vii) There was no change in beneficial ownership of the shares.

4.29 Even as per the statements of the directors of the Broker, it emerges that in an illiquid scrip, the buy and sell order would get matched in large quantities in such short time only when there is prior understanding between the buying clients and the selling client. Given the enormity of the irregularities in the KP scrips in those time as has been established and upheld, it would be naïve to assume that the whole manipulation in the market was solely driven by KP entities alone without involving the intermediaries in varying degrees. Further, there can not be direct evidence to the intention of the parties in the market place, in the form of documentary evidence and the fact whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances. Also the nature of the transactions executed, the frequency with which such transactions are undertaken, the value of the transactions, whether they involve circular trading and whether there is real change of beneficial ownership, the conditions then prevailing in the market are some of the factors which go

to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn.

4.30 Proof of manipulation almost always depends on inferences drawn from a mass of factual details. Findings must be gathered from patterns of trading data and the nature of the transactions etc. Several circumstances of a determinative character coupled with the inference arising from the conduct of the parties in a major market manipulation could reasonably lead to conclusion that the Broker was responsible in the manipulation. Presumption plays a critical role in coming to a finding as to the involvement or otherwise of a market participant in any manipulation. The evidence, direct or circumstantial, should be sufficient to raise a presumption in its favour with regard to the existence of a fact sought to be proved. As pointed out by Best in "Law of Evidence", the presumption of innocence is no doubt *presumptio juris*; but everyday practice shows that it may be successfully encountered by the presumption of guilt arising from circumstances, though it may be a presumption of fact. Since it is exceedingly difficult to prove facts which are especially within the knowledge of parties concerned, the legal proof in such circumstances partakes the character of a prudent man's estimate as to the probabilities of the case. Also any suggestion attributing innocence to the parties involved in such transactions would give rise to an untenable situation wherein KP entities alone would be responsible for the manipulation and none else. In a quasi judicial proceeding like this turning on preponderance of probability, the standard of proof is prudent man's estimate as to the probabilities of the case. Therefore, the hackneyed plea based on intentions in the market place

can not pass muster in all circumstances, more so when such intentions are in the special / peculiar knowledge of the parties to the transactions. In this context, SAT has observed in the matter of Ketan Parekh Vs. SEBI :

“..... Whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances because direct evidence in such cases may not be available. ....”

- 4.31 Accordingly, in the facts and circumstances, it is fairly established that the Broker has violated the provisions of Regulations 4(b), (c) and (d) of the FUTP Regulations.
- 4.32 The natural corollary to this issue is whether the Broker had maintained high standards of integrity, promptitude, fairness and exercised due skill, care and diligence in the conduct of its business as mentioned in the Code of Conduct specified in Schedule II of the Broker Regulations. Admittedly, the Broker had not collected margin from its clients in respect of certain trades. Even in the absence of the margin, the Broker had allowed its clients to trade in the shares of GTL, AEL and HFCL. The non collection of margin (for certain trades) coupled with the execution of series of synchronized trade for its clients in the scrips when the share price was high, would establish that the Broker had not exercised due skill, care and diligence and not maintained high standards of integrity, promptitude, fairness in the conduct of its business. In view of the above, it is established that the Broker had violated Clauses A (1) and (2) of the Code of Conduct as specified in Schedule II of the Broker Regulations.

4.33 In the facts and circumstances, it is fairly established that the Broker had violated the provisions Regulation 4 (b), (c) and (d) of FUTP Regulations and clauses A (1) and (2) of the Code of Conduct specified in the Broker Regulations. The nature of the execution of the trades by the Broker in the shares of PCML in total disregard to the provisions of the FUTP Regulations and the Broker Regulations as set out above, call for a higher penalty than that recommended by the Enquiry Officer. In view of the above, I, impose a penalty of suspension of the certificate of registration of the Broker, as ordered herein under.

## **5.0 ORDER**

5.1 Therefore, in exercise of the powers conferred upon me under Section 19 of Securities and Exchange Board of India Act, 1992 read with regulation 13 (4) of the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I, hereby impose a minor penalty of suspension of the certificate of registration of M/s Pravin V Shah Stock Broking Pvt. Ltd., (Registration No. INB 010018412), Member, The Bombay Stock Exchange Ltd. for a period of one month.

5.2 This order will come into effect immediately after the expiry of 21 days from the date of this order.

**G. ANANTHARAMAN**  
**WHOLE TIME MEMBER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**

**Place: Mumbai**  
**Date: 6/09/2007**