

SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: G. ANANTHARAMAN, WHOLE TIME MEMBER

DIRECTIONS UNDER SECTION 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 11 OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF FRAUDULENT AND UNFAIR PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003 AGAINST SHRI JAYENDRA K. SHUKLA, SHRI SURESH K SHUKLA, SHRI VINOD K SHUKLA, SHRI ALAP SHUKLA, SHRI MILAP SHUKLA AND SMT HANSA J SHUKLA IN THE MATTER OF M/S. OJAS TECHNOCHEM PRODUCTS LIMITED

1.0 BACKGROUND

1.1 Securities and Exchange Board of India (hereinafter referred to as SEBI) noticed substantial increase in the volume and price of the shares of Ojas Technochem Products Limited (hereinafter referred to as OTPL) at the Bombay Stock Exchange Ltd (BSE), during the period November 1999 to February 2000 (between settlement numbers 37 to 46). It was noticed that the volume of the shares of OTPL had increased from 27,500 shares on November 1, 1999 to 33,13,100 shares on February 9, 2000 and the increase in the price of the shares of OTPL during the corresponding period was Rs. 3.55/- to Rs. 23.60/-. It was noticed that

the price of the shares of OTPL had sharply increased (from Rs. 9/- to Rs.18.85) between settlement numbers 44 and 46 (January 17, 2000 to February 4, 2000). The shares of OTPL were also listed on the Vadodara Stock Exchange Ltd. (VSE), Ahmedabad Stock Exchange Ltd. (ASE). In view of the unusual price/ volume increase as stated above, SEBI conducted investigations to find out as to whether there was any manipulation in respect of the said price/volume increase in the shares of OTPL and look into the role of various entities/persons, if any, including the promoters/ directors of OTPL in respect of the said increase.

- 1.2 During the course of investigation, SEBI vide its various summons/ letters, had sought information / documents inter alia from Shri Vinod K Shukla, Shri Alap Shukla, Smt Hansa J Shukla, and Shri Milap J Shukla, promoters / directors of OTPL. As the said persons failed to comply, SEBI appointed an adjudicating officer to adjudge the violations committed by them, under the provisions of Securities and Exchange Board of India Act, 1992 (Act) and the adjudicating officer, thus appointed, after conducting the proceedings under the provisions of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, vide his separate orders dated July 29, 2005 imposed a penalty of Rs.30,000/- each on the aforesaid persons and the said penalty amount had already been remitted.
- 1.3 As the promoters / directors of OTPL had failed to co-operate with SEBI during the course of investigations, as stated above, SEBI requested the stock exchanges (BSE and VSE) to provide information / documents, in respect of shares of OTPL. It was informed that a total of 320 complaints

from various investors were pending with BSE. VSE inter alia informed SEBI that OTPL had made preferential allotment of 60,00,000 equity shares of Rs.10/- on January 13, 2000 to various allottees as per the information given below;

Sr.	Name of Allottees	Share Certificate No. From - To	DNR No. From - To	No. of Shares
1	Nrupesh C. Shah	85001 - 91000	8851051 - 9451050	600000
2	Falguni N. Shah	91001 - 97000	9451051 - 10051050	600000
3	Pratima G. Jhaveri	97001 - 103000	10051051 - 10651050	600000
4	Ankit G. Jhaveri	103001 - 109000	10651051 - 11251050	600000
5	Shailesh S. Jhaveri	109001 - 115000	11251051 - 11851050	600000
6	Harsha M. Shah	115001 - 121000	11851051 - 12451050	600000
7	Annal A. Jhaveri	121001 - 127000	12451051 - 13051050	600000
8	Sheetal A Jhaveri	127001 - 133000	13051051 - 13651050	600000
9	Yogesh K. Bhavnagari	133001 - 139000	13651051 - 14251050	600000
10	Saumil A. Bhavnagari	139001 - 145000	14251051 - 14851050	600000
Total				6000000*

* The shares were listed at VSE on January 17, 2000.

1.4 In addition to the said preferential allotment, as per the information received from VSE, it has been noted that, OTPL had further allotted 1,00,00,000 shares, 78,80,000 shares and 3,00,00,000 on August 1, 2000, August 3, 2000 and November 23, 2000 respectively, on preferential basis. It has been prima facie found that, the allotment of 60,00,000 preferential shares on January 13, 2000 by OTPL was without

the actual receipt of consideration from the allottees. As per the information provided by VSE, it has been found that OTPL had maintained a bank account (Account No. CD 315) with the Punjab National Bank, Ashram Road Branch, Ahmedabad (erstwhile M/s. Nedungadi Bank Ltd.) which inter alia showed that the consideration received in respect of the preferential allotment was credited back to the account of the respective allottees on the same date. The entries in the aforesaid bank account of OTPL prima facie revealed that no genuine flow of funds took place in respect of the preferential allotment of the company made on January 13, 2000 and that the said account was used as a conduit to transfer funds among entities. In respect of allottees viz. Smt. Pratima G Jhaveri and Shri Saumil A Bhavanagri, it was observed that there were no transfer entries in the bank account of OTPL. As OTPL had not received consideration in respect of the preferential allotment, it was inferred that the allottees were connected with OTPL. Further, it was felt that such an arrangement of allotment of shares without consideration to various allottees facilitated the promoters/directors of OTPL to exercise control over the allotted shares which enabled them to offload the shares of OTPL in the securities market when the prices were jacked up.

- 1.5 In view of the above, it was alleged that Shri Jayendra K Shukla, Shri Suresh K. Shukla, Shri Vinod K Shukla, Shri Alap Shukla, Smt Hansa J Shukla, Shri Milap J Shukla, promoters/ directors of OTPL (hereinafter collectively referred to as the noticees) have prima facie violated the provisions of Regulations 3, 4(b) and (d) 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).

2.0 SHOW CAUSE NOTICE AND REPLIES

2.1 In the facts and circumstances, a show cause notice dated September 30, 2004 was issued to the noticees asking them to show cause as to why suitable directions including directions debarring them from accessing the capital market and dealing in securities should not be issued against them. SEBI had also annexed the copy of the price volume data of the shares of OTPL and the bank account details of OTPL (as received from VSE) with the said show cause notice.

2.2 Shri Jayendra Shukla, vide letter dated November 2, 2004, filed his reply (on behalf of all the noticees) to the said show cause notice. The reply, inter alia, seeks to inform :

a) that he was the Managing Director of OTPL till April 5, 2001 and that Smt Hansa Shukla, Shri Alap Shukla, Shri Suresh Shukla and Shri Vinod Shukla were directors till September 15, 1994, November 3, 2000, September 27, 2000 and October 5, 2000, respectively. He further that Shri Milap Shukla was a director between the period April 3, 1997 and June 23, 1998.

b) that the directors of OTPL neither subscribed to any shares offered by OTPL through the preferential allotment nor acquired any shares through market dealer. He contended that that fire at the premises of OTPL on April 17, 2001 has destroyed all the records. He added that

no applications were made or allotments done to Shri Saumil Bhavnagari and Smt Pratima Jhaveri.

- c) that all the payments for the preferential allotment was received by way of cheques and the allotment were through proper book entries only.
- d) that OTPL went into compulsory liquidation and the High Court of Gujarat vide an order dated March 5, 2003 appointed an Official Liquidator to act as the Provisional Liquidator who has taken possession of the entire records of OTPL and in that view requested SEBI not to take any action against them. He stated that none of the allottees to whom the shares were allotted on preferential basis on January 13, 2000 were related to the promoter / director of OTPL. He added that its relatives sold only 26,44,400 shares of OTPL and not 94,67,000 shares as alleged in the show cause notice.

2.3 An opportunity of hearing was granted to the noticees on February 16, 2005. Shri Jayendra K. Shukla appeared before me through his representative and made submissions on behalf of him on the lines of the aforesaid reply. The request of the said representative to make submissions also on behalf of other persons mentioned was turned down for want of specific authorization. Thereafter, Shri Vinod K Shukla, Shri Suresh Shukla, Smt Alap Shukla and Smt Hansa Shukla vide separate letters dated February 24, 2005 took a similar stand as Shri Jayendra K Shukla following suit with his letter dated November 2, 2004.

- 2.4 Pursuant to the receipt of the aforesaid reply, an opportunity of hearing was granted to the noticees on February 10, 2006 and the noticees made submissions on the basis of the aforesaid replies filed by them. The noticees had reiterated their inability to furnish the details. In the meantime, SEBI, in connection with investigation in another case learned that, the material information, in respect of the consideration of the preferential allotment was available with Punjab National Bank, Ashram Road Branch (erstwhile Nedungadi Bank) where the bank accounts of OTPL and various other persons including the allottees were maintained, SEBI collected details from the said bank.
- 2.5 It was noted that there was fund flow inter alia between the accounts of OTPL and the allottees viz. Shri Nrupesh C. Shah (a/c no.390), Ankit G. Jhaveri (a/c no.389), Falguni N Shah (a/c no.399) Shri Shailesh Jhaveri (a/c no. 400) Smt Sheetal Jhaveri (a/c no. 402) Shri Annal Jhaveri (a/c no.395) etc. It was revealed that the above allottees paid Rs.60,00,000 lacs each on January 11, 2000/ January 12, 2000 to OTPL and the same amount was credited back to their respective accounts on the same date.
- 2.6 On a perusal of the said bank accounts, it was revealed that OTPL had not received actual consideration from the allottees and the account of OTPL was used as conduit to transfer funds among various entities to create a make believe that the consideration was already received by OTPL. Accordingly, a notice dated November 17, 2006 was issued to the noticees, asking them to show cause as to why suitable directions including directions debarring them from dealing in securities should not be issued against them. The copies of various bank statements (including that of allottees) received by SEBI along with a chart showing

the fund flow which took place on January 11, 2000 and January 12, 2000 were also sent to the noticees along with the said show cause notice.

- 2.7 The noticees vide separate letters dated December 25, 2006 took a common stand that they were not in possession of relevant information because of the destruction of records due to short circuit which broke out at the administrative building of OTPL and that they were unable to recollect the events in detail and defend themselves. Thereafter, as requested by the noticees, an opportunity of hearing was granted to them on March 15, 2007. Shri Jayesh Vyas practicing company secretary represented the noticees on the said date and made submissions on the lines of the replies of the noticees as stated above.

3.0 CONSIDERATION OF ISSUES AND FINDINGS

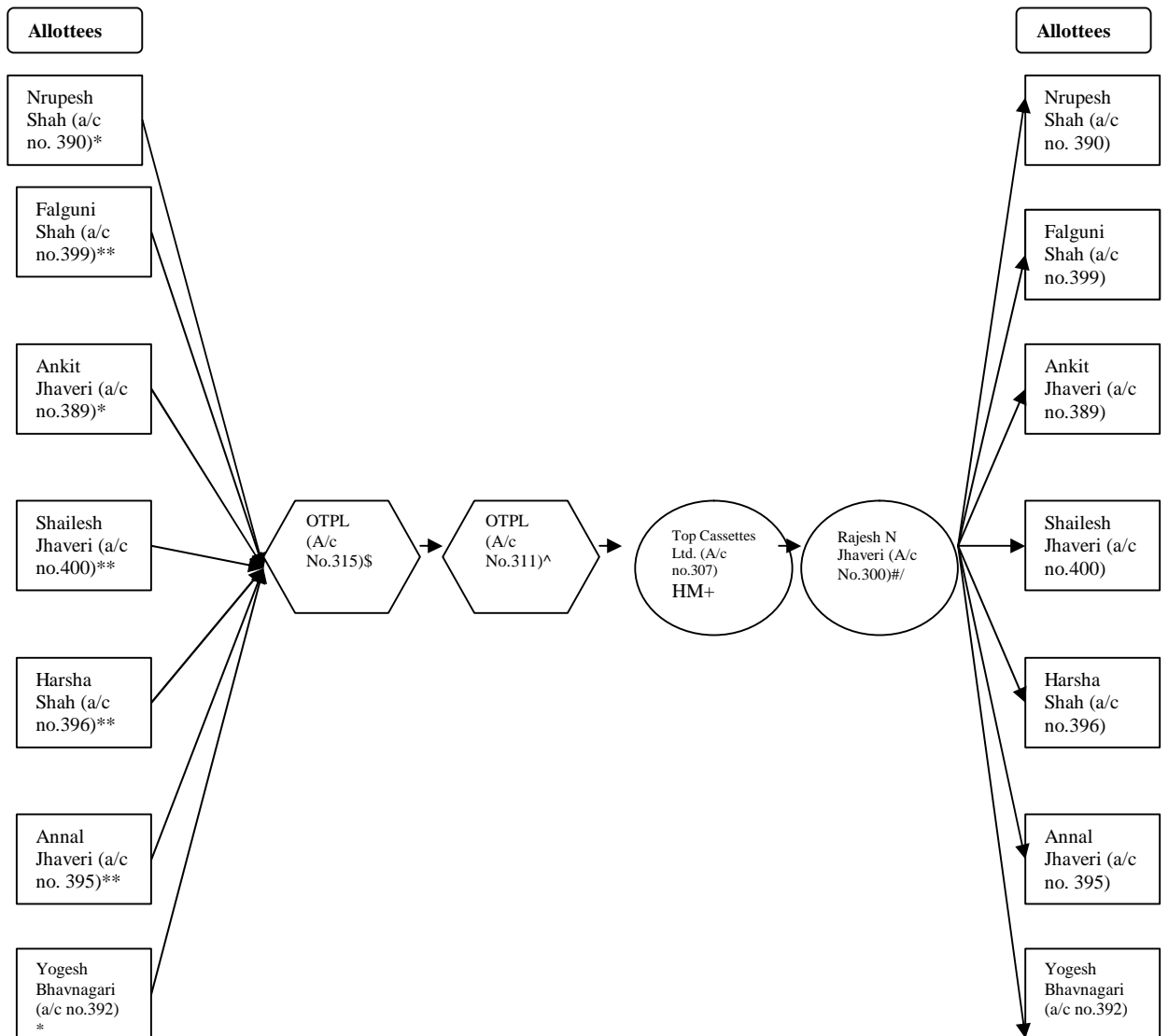
- 3.1 I have considered the investigation report, the show cause notices sent to the noticees, the reply received from the noticees, the submissions made on behalf of them and other materials available on record. In the facts and circumstances, the issue for consideration is whether OTPL had allotted shares on preferential basis on January 13, 2000 to various allottees without the actual receipt of consideration.
- 3.2 It is an admitted fact that OTPL had allotted shares on January 13, 2000 to various allottees on preferential basis. The details of the said allotment has been mentioned in the table at para 1.3. The entries in the bank account (account no. CD 315) of OTPL maintained with the Ashram Road Branch of Punjab National Bank (erstwhile Nedungadi

Bank) prima facie indicate that the consideration for the said preferential allotment was received from/ on behalf of the said allottees, as mentioned below :

Date	Voucher Particulars	Debit	Credit	Balance
	Opening Balance	0	0	0
10/1/2000	By Cash, Self	0	5000	5000
10/1/2000	To transfer CHQ Book Issue Charge	50	0	4950
11/1/2000	By Transfer ANKIT SB 389		3000000	3004950
	By Transfer ANKIT SB 389		3000000	6004950
	To TRANSFER OTPL	3000000		3004950
	To TRANSFER OTPL	3000000		4950
	By Transfer Yogesh SB 392		6000000	6004950
	To TRANSFER OTPL	3000000		3004950
	To TRANSFER OTPL	3000000		4950
	By Transfer N. C. Shah		3000000	3004950
	By Transfer N. C. Shah		3000000	6004950
	To TRANSFER OTPL	3000000		3004950
	To TRANSFER OTPL	3000000		4950
12/1/2000	By Transfer Manoj T. Shah		6000000	6004950
	To TRANSFER OTPL	6000000		4950
	By Transfer Annal A. Jhaveri		6000000	6004950
	To TRANSFER OTPL	6000000		4950
	By Transfer Falguni N. Shah		6000000	6004950
	To TRANSFER OTPL	6000000		4950
	By Transfer Harsha M. Shah		6000000	6004950
	To TRANSFER OTPL	6000000		4950
	By Transfer Fenil Shah		6000000	6004950
	To TRANSFER OTPL	6000000		4950
	By Transfer Shailesh Jhaveri		6000000	6004950
	To TRANSFER OTPL	6000000		4950
13/1/2000	By Transfer Shital Jhaveri		6000000	6004950
	To TRANSFER OTPL	6000000		4950

3.3 Though the details of the above bank statement as above, on the face of it shows the receipt of consideration from the allottees of the preferential shares dated January 13, 2000, on a perusal of the bank accounts of the respective allottees (except Pratima G Jhaveri and Saumil Bhavnagri), I note that the consideration received by OTPL in respect of the said preferential allotment from / on behalf of the said allottees was ultimately

credited back in the bank accounts of the respective allottees on the same day. In case of allottees viz. Pratima G Jhaveri and Saumil Bhavnagri, OTPL had never received the consideration though the shares were allotted to them on January 13, 2000. The chart below establishes the fund flow from / to the account of OTPL and the allottees (except Pratima G Jhaveri and Saumil Bhavnagri), maintained with Ashram Road Branch of Punjab National Bank (erstwhile Nedungadi Bank).



* The fund flow took place on January 11, 2000.

** The fund flow took place on January 12, 2000.

Member, ASE who dealt in the securities market on behalf of some of the allottees.

\$ First account of OTPL

^ Second account of OTPL

HM+ HM investments in respect of the transactions of Shri Nrupesh Shah

The above fund flow (in respect of a particular allottee) took place on the same date.

All the above mentioned accounts are maintained with Ashram Road Branch of Punjab National Bank and Rs.60 lacs each was transferred.

- 3.4 The details of the above fund flow, as revealed from the bank statements of OTPL, allottees of the preferential shares etc. indicate that the amount credited into the account of OTPL by the allottees as mentioned above, under the guise of consideration towards the preferential allotment was returned to their own accounts in a similar way on the same date. It fairly establishes that OTPL had not received the actual consideration towards the preferential allotment of its shares made on January 13, 2000 from the respective allottees and the allotment made by OTPL on January 13, 2000 was without the consideration.
- 3.5 I also note from the accounts of OTPL (A/c no 311 and A/c no 315) maintained with Ashram Road Branch, Punjab National Bank that, no subscription amount has been received from Shri Saumil A Bhavnagari and Smt Pratima G Jhaveri for the preferential shares allotted to them. It has been stated that, neither any application nor any allotments were made to them. However, I note as per the information received from VSE that, OTPL had allotted shares bearing distinct nos. 10051051-10651050 and 14251051-14651050 to Shri Saumil A Bhavnagari and Smt Pratima G Jhaveri respectively on January 13, 2000. The web of transfers and retransfers raises a question about the genuineness of the preferential allotment made by OTPL especially when the consideration for the said allotment was never received by OTPL. The noticees contended that they were not in possession of the documents relating to the preferential allotment. I am unable to accept the said contention. The information/ documents pertaining to the preferential allotment should have been in the possession of OTPL/ its promoters and directors. I note that the noticees have desperately failed, despite sufficient opportunities, to

substantiate its case that OTPL had received subscription money towards the preferential allotment made on January 13, 2000. As the noticees had not complied with the summons and withheld certain documents/information which were material in respect of the present proceedings, it can be presumed that the said documents, if produced, be unfavourable to them. It is well settled that if a party fails to disclose material information exclusively in his / its knowledge or possession, the same can be held against the party with an adverse inference viz. that the disclosure of information would be prejudicial to himself. This adverse inference gets further fortified in the context of the present case wherein the preferential allotment took place without receipt of consideration through a web of transfers and retransfers serving to create a make believe of payment which in reality was not. In the facts and circumstances, it is fairly established that OTPL had allotted shares to various people on January 13, 2000 without the actual receipt of consideration.

- 3.6 I note that the investigation conducted by SEBI revealed that the price of the shares of OTPL had increased from Rs.6.80 to Rs.18.85 between the settlement numbers 37 to 46 (November 1999 to February 2000). M/s Rajesh N Jhaveri (Member ASE), allegedly acted as an unregistered sub broker to stock brokers viz. Shrikant G. Mantri, Prabhudas Liladher Pvt. Ltd. and S S Kantilal Ishwarlal Securities Pvt. Ltd. and inter alia traded in the shares of OTPL during the said period.
- 3.7 I note that substantial trading took place in the shares of OTPL during the said period. It was further observed that the promoters/ director of OTPL had sold substantial number of shares alongwith various other entities. A total of 94,67,000 shares of OTPL were sold during the above

period, out of which 26,44,400 shares were sold by the promoters/ directors of OTPL. The details of the transactions of the promoter/ directors are mentioned below :

NAME OF THE SELLER	RELATION	TOTAL QUANTITY SOLD	BROKER	SUB-BROKER
VINOD SHUKLA	Director	984800	PLPL Shrikant G. Mantri	RAJESH N. JHAVERI
MILAP SHUKLA	Brother of Director, Alap J. Shukla	1143500	PLPL Shrikant G. Mantri	RAJESH N. JHAVERI
HANSA SHUKLA	Ex Promoter/Director and wife of CMD J. K. Shukla	516100	PLPL	RAJESH N. JHAVERI
TOTAL		2644400		

3.8 There was also a sharp increase in the share price (from Rs.11.20 to Rs.18.85) between the settlement numbers 43 to 46 i.e. between January 10, 2000 to February 4, 2000. The details of the aforesaid transactions took place in the shares of OTPL were already communicated to the noticees by SEBI vide show cause notice dated September 30, 2004. I note that the noticees have not disputed the said transactions except making a bald statement that the documents were destroyed in fire. On a perusal of the said trade details, I note that there was a sharp rise in the price / volume of the shares of OTPL during the period of preferential allotment. The share price moved from Rs.11/- from January 20, 2000 to Rs.23/- on February 24, 2000. I note that the total share capital of OTPL eligible for trading in the stock exchange during the period under consideration was 57,50,500 shares only. Further, the preferential allotment was made for 60,00,000 shares in January 2000. The shares allotted on the preferential allotment basis were never listed on BSE wherein the trading took place. Even if, the 60,00,000 shares are considered the total share capital eligible for trading and delivery in the market amounts to 1,17,50,500 and out of

these shares, 94,67,000 shares were offloaded by the promoters and other entities which amounted to 80.56% of the total capital. I note that the preferential shares allotted to Shri Shailesh Jhaveri and Smt Harsha M Shah were also off loaded in the securities market. It is quite likely that the entire preferential shares allotment to allottees without consideration on January 13, 2000, in an arrangement that facilitated the price rigging of the shares of OTPL was meant to create volume and price rigging. Admittedly, Shri. Vinod Shukla, Shri Milap Shukla and Smt. Hansa Shukla had sold 26,44,400 shares of OTPL in the securities market. During the period, a total of 94,67,000 shares of OTPL were sold in the securities market and the price of the said shares moved up substantially.

3.9 In view of the foregoing including the dubious allotment without consideration, OTPL had defrauded its genuine shareholders. It has been submitted that Smt Hansa Shukla and Shri Milap Shukla resigned from the directorship of OTPL in the year 1994 and 1998 respectively. Considering the above, I am inclined to conclude that Shri Jayendra K. Shukla, Shri Alap Shukla, Shri Vinod Shukla and Shri Suresh K. Shukla, directors of OTPL at the time of its preferential allotment in January 2000 are guilty of violating the provisions of Regulations 3 of the FUTP Regulations and in the facts and circumstances, I hereby pass the following directions against them.

4.0 DIRECTIONS

4.1 Therefore, in exercise of the powers conferred upon me by virtue of Section 19 read with Section 11B of the Securities And Exchange Board

of India Act, 1992 read with Regulation 11 of the Securities And Exchange Board of India (Prohibition of Fraudulent and Unfair Practices Relating to Securities Market) Regulation, 2003, I, hereby direct that Shri Jayendra K. Shukla (Permanent Account Number- AFSPS8288M) , Shri Alap Shukla(Permanent Account Number- AKNPS4265N), Shri Vinod Shukla (Permanent Account Number- AFSPS8291N) and Shri Suresh K. Shukla (Permanent Account Number- AFSPS8289L) be restrained from accessing the securities market and also prohibited from buying, selling or dealing in securities either directly or indirectly for a period of two years.

4.2 This order shall come into force with immediate effect.

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

Place: Mumbai.

Date: 27-09-2007