WTM/SM/IVD/ID2/11354/2021-22

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under section 12(3) of Securities and Exchange Board of India Act, 1992 read with regulations 28(2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008

In respect of

S. No.	Name of the Noticee	SEBI Registration No.
1	Todi Securities Private Limited	INB011400737, and INB231190036

In the matter of Tijaria Polypipes Ltd.

1. Upon observing certain irregularities in the Initial Public Offering (**IPO**) of Tijaria Polypipes Limited (hereinafter referred to as '**TPL**'/'**Company**'), Securities and Exchange Board of India (hereinafter referred to as '**SEBI**'), vide an ad-interim *ex-parte* Order dated December 28, 2011 (hereinafter referred to as '**interim order**'), *inter alia*, issued directions against various entities including Todi Securities Private Limited (hereinafter referred to as '***Noticee***'/'**Todi**'), restraining and further prohibiting the *Noticee* from buying, selling or dealing in any securities, in any manner whatsoever, in its proprietary account. The *Noticee* was also prohibited from entering into any fresh agreements with new clients in its operations as a stock broker till further orders. The said directions issued to the *Noticee* were revoked by SEBI vide Order dated November 02, 2012.

2. After completion of investigation, a proceeding in terms of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 (hereinafter referred to as '**Intermediaries Regulations**') was initiated by SEBI against the *Noticee*, Member, Bombay Stock Exchange ('**BSE**') and National Stock Exchange of India Ltd. ('**NSE**') and a stock broker registered with SEBI. For the said purpose, SEBI, vide an Order dated October 15, 2012, appointed a Designated Authority (hereinafter referred to as '**DA**') under Regulation 24(1) of the Intermediaries Regulations to enquire into the violations alleged to have been committed by the *Noticee* and to submit a report in accordance with the provisions of the Intermediaries Regulations. Upon completion of the enquiry, an Enquiry Report dated September 29, 2017 was submitted by the DA for consideration and taking appropriate measure by the Designated Member (hereinafter referred to as '**DM**').

3. Based on the findings of facts and after considering the explanations offered by the *Noticee*, the DA has noted the following in his Enquiry Report:
   a. The *Noticee*, by placing large buy orders at a price lower than the prevailing market price and cancelling them immediately thereafter, created artificial demand in the exchange system, thereby misleading gullible investors in purchasing shares in the scrip of TPL.
   b. The *Noticee*, by purchasing shares of TPL in large quantities from two Qualified Institutional Buyers (**QIBs**), which the QIBs had subscribed in the IPO of the scrip of TPL, has facilitated the QIBs to exit from the scrip of TPL at a premium to the issue price.

At the same time, DA has further noted that the allegation of funding of the *Noticee* by TPL to bail out the *Noticee* from the losses suffered by it on account of its trading on the listing day was not established.

4. In view of the above, the DA has observed that the *Noticee*'s acts of creating artificial demand by placing large buy orders and immediately deleting them thereafter as well as providing an exit to the two QIBs have been in violation of the provisions of Section 12A(a), (b) and (c) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') read with Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a), (b) & (e) of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**').

5. In the light of the above and in accordance with regulation 27 of the Intermediaries Regulations, vide Enquiry Report dated September 29, 2017, the DA has recommended that the *Noticee*, as a stock broker of BSE and NSE in cash segment (under certificate of Registration ref. INB011400737 and INB231190036) be prohibited from registering fresh/new clients for a period of 3 months.

6. Subsequently, a post-enquiry Show Cause Notice ("**SCN**") dated April 11, 2018 was issued to the *Noticee* in terms of regulation 28(1) of Intermediaries Regulations enclosing therewith a copy of the Enquiry Report and calling upon it to show cause in terms of Regulations 28(1) and 28(2) of the Intermediaries Regulations, as to why necessary action,

including passing of appropriate direction, as the DM considers appropriate, should not be taken against it.

7. Vide letter dated April 18, 2018, the *Noticee* submitted its reply to the SCN wherein it made a limited submission to the effect that it has already been prohibited from buying, selling or dealing in any securities in any manner whatsoever, in proprietary account, and was also prohibited from entering into fresh agreement with new clients in its operations as a stock broker for a period of approximately 10 months during the period of December 28, 2011 to November 02, 2012. Therefore, the *Noticee* requested not to impose any further penalty against it.

8. During the enquiry proceedings, I find that, vide its letters dated November 29, 2012 and April 07, 2016, the *Noticee* had made certain submissions before the DA, which are relevant for the present proceedings and are summarised herein below :

   a) *We had bought the shares of TPL in the ordinary course of business and we were not aware of the counter party brokers or the counter party clients viz. Credo, Sparrow and Shikha Somani Marriage Trust. Its common knowledge that in the screen based mechanism of the stock exchanges, it is not possible to know the counter party. Admittedly, there is no allegation that we are related in any manner to the said counter parties i.e. Credo, Sparrow and Shikha Somani Marriage Trust.*

   b) *It is submitted that the loss incurred by us while trading in the scrip of TPL is a matter of record. Here, it may be appreciated that incurring profit or loss is a part of trading. At the relevant time we were of the bonafide belief that the stock price*

will increase post our purchase, as is normally the trend on the first day of listing. But unfortunately, for us, post our purchases the price tanked and we could not exit fully on the same day. In order to cut our losses, we had sold the shares held by us on October 17, 2011. In the process, we booked losses to the extent of Rs 224.45 lacs. Said losses were incurred by trading in ordinary course of business (excluding intraday loss in 26000 share Rs.5.05 lacs). It is vehemently denied that incurring of losses was by design as insinuated .It is a fact that we had not applied for allotment in the IPO and also that we had traded in our proprietary account. Here we may point out that 99% of our trading is proprietary in nature wherein we do jobbing. It is reiterated that the impugned trades were executed in the ordinary course of business dehors sinister intent or design in our proprietary account.

c) *It is denied that we had provided exit to QIBs at a premium to the issue price by trading in the scrip of TPL as alleged. Further, there is no material to show how that our purchase trades were motivated to provide exit to the QIB allottees, therefore, the allegation is bald, sweeping and devoid of any basis. SEBI has simply jumped to the said inference without any basis, based on mere surmises and conjectures, which is legally untenable.*

d) *Normally persons/entities who subscribe to the shares in an IPO, typically sell their holdings on the first day of listing and exit. Therefore, when we bought the shares on the first day of listing, the shares would normally come from subscribers to the issue only. In the circumstances, when we bought 526,000 shares, if 493907 shares have come from QIB's who were the allottees as alleged, no adverse inference in terms of providing exit can be drawn against us.*

Had there been any such case, entire 526000 shares would have come from the QIB's and the same would not have remained limited to 493907 shares only.

e) *Incurring losses while trading is not something which is abnormal. Volatility in the price of the scrip on the day of listing is also not abnormal. In the circumstances, if while trading bonafide and expecting the price to go up (which did not happen), and we suffered losses, it definitely cannot be alleged that we suffered losses deliberately in order to enable others to make profits or exit at a premium.*

f) *We are not aware about the transfer of Rs 1,01,04,795/- on October 13,2011 between TPL and Balsaria Holdings Pvt Ltd ("Balsaria"), as alleged . We categorically submit that we do not have any link/connection/nexus with TPL or Balsaria .We are not aware about the alleged layering of funds through Tilottama Holdings Pvt Ltd and KBR Township Pvt Ltd, as alleged.*

g) *KBR Township Pvt Ltd is our group company. (A RBI registered NBFC). On a regular basis we have been borrowing funds from KBR Township Pvt Ltd for our trading purposes. It was in this backdrop that we had received Rs 68,00,000/- & 35,00,000/- from KBR Township in the ordinary course of business. The said funds were used by us to meet early pay-in Margin for settlement no-2011196N in NSEIL Along with Rs. 80 Lacs further received from KBR Township Pvt Ltd to meet our short term market capital demand. Since KBR Township Pvt Ltd could not meet our full demand a further Rs.1 crore was arrange from Krishna Trade & Commerce Pvt Ltd directly by the director of the company. Factum of borrowing from KBR Township Pvt Ltd is also evident from our Annual Report.*

h) *In the past also, KBR Township Pvt Ltd had been regularly borrowing and lending funds from/ to various entities in the market. It is in this context , in the course of normal borrowing KBR had borrowed funds from the said entities (viz. M/s*

Balasaria Holding Ltd , M/s Tillotama Holding ltd) in the ordinary course . While borrowing the funds, KBR would not know the source of funds of its lenders including Balasaria Holdings Ltd, which is alleged to be TPL. KBR has already returned the impugned funds borrowed from the said entities with interest.

i) In so far as Balasaria Holdings Ltd is concerned, it is submitted that KBR Township Pvt Ltd had a purely business relationship. There is no cross shareholding or common promoters/ directors etc. between KBR Township Pvt Ltd & Balasaria Holdings Ltd and also between us & Balasaria Holdings Ltd.

j) Here it may also be noted that our purchase of 500,000 shares involved cost of more than Rs 3 crores whereas the quantum of alleged funding is Rs 89 lacs only. Therefore, based on the borrowing transactions carried out with KBR Township Pvt Ltd by us, it cannot be insinuated/ concluded that we had received funds from TPL or that TPL had funded us, as alleged.

9. During the instant proceedings before me, after receipt of a written submission from the *Noticee*, vide letter dated November 04, 2020, the *Noticee* was provided with an opportunity of personal hearing on December 08, 2020. Shri Pawan Kumar Todi, Director appeared as Authorized Representative (**AR**) of the *Noticee* for personal hearing on the scheduled date and reiterated the submissions made by the *Noticee* vide its letters dated November 29, 2012, April 07, 2016 and April 18, 2018. During the course of personal hearing, certain queries were raised before the AR and the *Noticee* was provided with 10 days' time to submit its reply to the said queries along with additional submissions, if any.

10. Subsequently, vide Email dated December 15, 2020, the *Noticee* made the

following additional submissions:

(i) *Our business has never been same after the suspension of our company from trading and prohibition from registering new clients. We slowly closed down our arbitration business, client business was also closed and we also surrendered our depository registration of CDSL. At present we are only doing pro trades and no client business and our daily volume has also very less/negligible in comparison to pre suspension period.*

(ii) *Our trading volumes were large due to arbitration business being done by us during 2005-10 to 2011-12. Business was done by our own money and margin/deposit provided to Exchanges and banks.*

(iii) *We have never applied in IPOs. Since there was no price restriction by SEBI on first day trading of IPO script, there has been huge fluctuation is price on that date, which was never expected by us. We have also been dealing in other scripts and our volumes were no less in other scrips.*

(iv) *KBR Township (P) Ltd is a NBFC Company. Its main business is taking loan and providing loan from loan fund and also out of its own fund. KBR is an associate company of the Todi Securities (P) Ltd.*

(v) *At present, we are doing only proprietory trades and no client business. However, during earlier period prior to suspension of our trading due to trading in Tijaria Polypipes Ltd, we were engaged in arbitration/jobbing business as well as client business.*

Consideration of issues:

11. I have considered the report of the DA, the SCN issued to the *Noticee*, the written as well as the oral submissions made by the *Noticee* and the materials available on record. Having considered the above, the issues which arise for my consideration are:

    a. Whether on the day of listing, trades of the *Noticee were fair and genuine or were placed with an object to* provide exit to QIBs so as to be held liable for the violation of the provisions of section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a), (b) & (e) of PFUTP Regulations?

    b. Whether the *Noticee* has indulged in placing and immediately cancelling large buy orders so as to be held liable for creation of artificial demand in the scrip of TPL in violation of provisions of Section 12A(a), (b) & (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a), (b) & (e) of PFUTP Regulations?

    c. Whether the trades of the *Noticee* alleged to provide exit to QIB were funded by TPL to curtail its opening day losses?

    d. If yes, what would be the appropriate measure(s) that can be taken under regulation 28 of Intermediaries Regulations?

12. Before moving ahead, I find it appropriate to refer to the relevant provisions of the law allegedly violated by the *Noticee*. The said relevant legal provisions are reproduced below:

SEBI Act

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. *No person shall directly or indirectly—*

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

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

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

PFUTP Regulations

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

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

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

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

(a) indulging in an act which creates false or misleading appearance of trading in the securities market;

(b) dealing in a security not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in the price of such security for wrongful gain or avoidance of loss;

(e) any act or omission amounting to manipulation of the price of a security;

13. Based on the above, I proceed to examine the findings recorded by DA as to whether the actions of the *Noticee* are in contravention to the provisions of Section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a), (b) & (e) of PFUTP Regulations.

14. It is noted that SEBI, after observing large scale price fluctuation in the scrip of TPL on the listing day, conducted an Investigation into the matter of IPO of TPL and trading in the scrip of TPL on the day of its listing on BSE and NSE. The open, high, low and closing price of the scrip of TPL on the listing day were as following:

Table 1: Price-Volume data of the scrip of TPL for the listing day

Tijaria Polypipes Limited: Listing date: October 14, 2011					
Exchange	Open Price	High Price	Low Price	Closing Price	Volume
BSE	62.00	67.80	16.05	18.10	4,74,75,546
NSE	61.00	67.75	16.50	18.60	5,99,65,008

15. From the material made available, I observe that the *Noticee* had purchased a total number of 5,26,000 shares of TPL on the listing day and sold only 26,000 shares on the same day. These trades were executed on NSE and there was no trade of the *Noticee* on BSE on the listing day.

Further, I note that, out of the 5,26,000 shares purchased by the *Noticee* on the listing day, 5,00,000 shares were purchased by way of a single order.

16. The analysis of the buy orders placed by the *Noticee* on NSE, also mentioned in Annexure 29 to the interim order, show that it had started placing orders in the scrip at 9:17:44 AM on October 14, 2011 with its first order for purchase of 100 shares of TPL at a price of Rs. 63.25. The details of the buy Orders placed by the *Noticee* are as under:

Table 2: Placement of buy Orders by the *Noticee* on NSE

Order No.	**Order Price**	**Order Qty**	**Order time**	**Counterparty Order Time Range**	**Trade Time Range**	**Trade Qty.**	**Observations**
2011101475089591	63.25	100	9:17:44	9:17:44	9:17:44	100	
2011101475759427	40	100000	10:44:49				No trade was executed
2011101475760690	50	200000	10:45:10				No trade and deleted at 10:45:20
2011101475761162	50	200000	10:45:17				No trade and deleted at 10:45:39
2011101475762119	50	200000	10:45:31				No trade and deleted at 10:45:41
2011101475762547	50	200000	10:45:37				No trade and deleted at 10:45:43
2011101475773653	50	400000	10:47:49				No trade and deleted at 10:47:51
2011101475775588	61.5	200	10:48:19	10:47:59 to 10:48:17	10:48:19	200	
2011101475803409	50	500000	10:55:38				No trade and deleted at 10:55:40
2011101475842585	62	500000	11:04:45/ 11:16:52	10:02:47 to 11:16:50	11:16:52	500000	The buy order was entered at 11:04:45 at `61.55. The said order was modified at 11:04:56 to a price of `61.5. No trade was executed till 11:16:51. Todi Securities modified the buy order to price of `62 per share at 11:16:52. This resulted in trades for the whole 5 lacs

							shares with trades of 188001 shares with Credo, trades of 168056 shares with Sparrow and trades of 137850 shares with Shikha Somani Marriage Trust.
20111014 76094795	56.45	250	12:05:01	12:05:02	12:05:02	250	
20111014 76097123	54.45	250	12:05:20	12:05:19	12:05:20	250	
20111014 76122078	52.6	250	12:08:21	12:08:20 to 12:08:58	12:08:21 12:08:58	250	
20111014 76124182	52.7	250	12:08:42	12:08:41	12:08:42	250	
20111014 76285505	44.05	100	12:32:37	12:32:57	12:32:57	100	
20111014 76496031	44.05	100	13:10:48	13:29:51	13:29:51	100	
20111014 76547805	52.9	15000	13:18:19	12:23:26 to 13:18:39	13:18:40	15000	
20111014 76550599	52.75/ 53	10000	13:18:48	12:21:14 to 13:19:02	13:18:48 to 13:19:00	10000	
20111014 76667238	41	300	13:36:07	13:36:07 to 13:36:06	13:36:07	300	

17. From the above table, I observe that the first order placed by the *Noticee* at 9:17:44 AM for 100 shares at Rs 63.25 got executed immediately. Subsequent to that, the *Noticee* placed a series of 7 large buy orders in the scrip of TPL ranging from 1,00,000 to 5,00,000 shares between 10:44:49 AM and 10:55:38 AM, but all these orders were interestingly placed and thereafter were deleted by the *Noticee* within seconds of placement of those orders. I observe that all the above mentioned cancelled orders were of substantial size and were placed at a price of Rs. 40-Rs. 50 per share only which were substantially below the prevailing market price of the scrip of TPL at that time. To illustrate the *modus operandi* of the *Noticee*, it was

noticed that the *Noticee* placed a buy order for 2 lakh shares of TPL at Rs 50 on the listing day at 10:45:17 AM and the same order was deleted by it at 10:45:39 AM. Subsequently, the *Noticee* placed some more orders and cancelled the same within seconds of placement of the said orders, the details of which have been illustrated in Table 3 above. In between the acts of placing and deleting many buy orders at a very low price, it is seen that the *Noticee* has also placed a small buy order for merely 200 shares for Rs 61.5 at 10:48:19 AM, which got executed as trade immediately, as the said buy order for 200 shares was placed at the prevailing market price of Rs. 61.50. However, immediately thereafter, the *Noticee*, for the reasons best known to it, placed another large buy order for 5,00,000 shares for Rs 50 per share at 10:55:38 AM which it deleted within 2 seconds. The above pattern followed by the *Noticee* by repeatedly placing large buy orders at a price substantially below the prevailing market price in the scrip of TPL and deleting these orders immediately thereafter cannot be viewed as an genuine attempt to purchase shares in the scrip of TPL by a genuine investor, especially in the light of the fact that the *Noticee* itself had executed trades a few seconds ago in miniscule quantity at the prevailing price in between its activities of placing those large buy orders, for a price far below the prevailing market price and immediately thereafter cancelling those buy orders.

18. I find it important to mention here that, in 'market depth-order book' on NSE trading terminals, along with the best five available buy and sell orders

based on price, the total depth of the order book, on both buy and sell side, is also disclosed to general investors so as to help them to take an informed call on a particular scrip for the purpose of their investment or trading. The said disclosure of total market depth in a scrip is one of the major determining factors to gauze the total demand and supply status of shares in any scrip at any given point of time. The said demand-supply equilibrium assumes importance from a genuine investors' point of view for making an investment decision in the scrip of a particular company. I am of the view that the said demand-supply equilibrium in this case was of a pivotal importance with respect to the scrip of TPL since due to its first time listing, the past performance of scrip on exchange platform, another important criteria to make an informed investment decision, was not available for public consumption. Therefore, in my view, by placing large buy orders at prices far away from the prevailing market price and deleting these orders within seconds thereafter, the *Noticee* has clearly displayed its lack of intent to enter into trades by placing those outlier orders. On the other hand, by placing the said orders, which were only meant to crowd the order book of the Exchange, the *Noticee* would have artificially raised the demand depth i.e. buy side orders available on exchange platform which *in-turn* were bound to create an artificial demand in the scrip of TPL leading to inducement to the lay investors in making an investment decision in the said scrip. I find it relevant here to refer to the definition of 'fraud' as given under PFUTP Regulations:

"fraud" includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include—

(1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;

(2) a suggestion as to a fact which is not true by one who does not believe it to be true;

(3) an active concealment of a fact by a person having knowledge or belief of the fact;

(4) a promise made without any intention of performing it;

(5) a representation made in a reckless and careless manner whether it be true or false;

(6) any such act or omission as any other law specifically declares to be fraudulent,

(7) deceptive behaviour by a person depriving another of informed consent or full participation,

(8) a false statement made without reasonable ground for believing it to be true.

(9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself or anything derived from it other than the market price.

And "fraudulent" shall be construed accordingly; (emphasis supplied)

Further, in the matter of Ketan Parekh vs. SEBI, one of the contentions raised by the appellant therein before Hon'ble SAT that along with establishing manipulation in a scrip, SEBI must further establish that such manipulations have led to inducing some other person to buy or sell those

shares. However, while rejecting such contention of the appellant therein, Hon'ble SAT made the following observations in its order dated July 14, 2006:

"*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.*"

The aforesaid observations of Hon'ble SAT squarely apply to the actions of the *Noticee* in the present matter. As already narrated above, by way of placing large amounts of buy orders and cancelling them subsequently, the *Noticee* had created artificial demands in the scrip of TPL by manipulation of the order book thereby inducing genuine investors to invest in the scrip of TPL. Therefore, keeping in view the definition of fraud as provided in PFUTP Regulations read with the above quoted observations of Hon'ble SAT in its order in the matter of Ketan Parekh vs SEBI, I hold that the *Noticee*, by placing such manipulative orders, has committed frauds on the genuine investors by inducing them to purchase the shares of TPL. In view of the aforesaid observations, I hold that the *Noticee* has indeed violated the provisions of section 12A (a), (b) and (c) of the SEBI Act and also the provisions of Regulations 3(a), 3(b), 3(c),3(d) 4(1), 4(2)(a), 4(2)(b) and 4(2)(e) of the PFUTP Regulations.

19. It was observed during the course of investigation that three entities

namely, Sparrow Asia Diversified Opportunities Fund (hereinafter referred to as "Sparrow"), IPRO Funds Ltd. (hereinafter referred to as "Ipro") and Credo India Thematic Fund Limited (hereinafter referred to as "Credo") had applied for the shares of TPL in QIB category in the IPO of TPL. Accordingly, shares were allotted to Sparrow, Ipro and Credo in the IPO.

20. Upon analysis of the trade data on the listing day, it is observed that Sparrow and Credo sold their entire allotted quota on the listing day whereas Ipro sold majority of allotted shares on the listing day. As noted in the begining, based on the preliminary findings of the investigation, an *ex parte* ad-interim order was passed by SEBI restraining and prohibiting certain entities including the *Noticee* herein from buying, selling or dealing in securities in any manner, till the said restriction was revoked vide order dated November 02, 2012. I further note from the above mentioned interim order that the said shares were allotted to the QIBs at a price of Rs. 60 per share and were sold by the QIBs at an average price of Rs. 62 per share i.e. at a premium to IPO allotment price and, despite huge fall in the price of scrip on the listing day, the said QIBs were successful in offloading the allotted shares at a price higher than the allotment price and thereby, have booked profit in their accounts. I note from Annexure 3 to the said interim order that the *Noticee* was one of the counterparties to the sale trades of Sparrow and Credo which had purchased shares from them at a price higher than the allotment price in IPO on the listing day. The data regarding allotment and sale of shares by the said QIBs is as below:

Table 3: Allotment and Sale of shares by QIBs

Name of QIB	Shares allotted in IPO	Shares sold on the listing day	Shares bought by the *Noticee*
Sparrow	9,74,739	9,74,739	1,68,056
Ipro	9,30,631	8,13,131	0
Credo	9,30,631	9,30,631	1,88,001

I note from page 9 of the interim order that, the sale of majority of shares was executed by the above noted QIBs till 11.46 AM. I also note from the trades of the QIBs that they had sold the shares of TPL at a premium to allotment price of Rs. 60 per share. It is seen that the last trade of the said QIBs was executed at 11:46:01 AM by which time the price of scrip had moved above the allotment price. However, subsequently after the QIBs exited, the price of the scrip of TPL went down and closed at a price of Rs. 18.10 on NSE and at Rs. 18.60 on BSE after touching a low of Rs. 16.05 on BSE and Rs. 16.50 on NSE. This clearly shows that there was a huge fall in the price of the scrip of TPL on the listing day itself. Further, the said steep price fall in the scrip happened only subsequent to the successful sale of shares by the QIBs i.e. by the time QIBs were trading in the scrip of TPL, the scrip price of TPL was holding above the allotment price.

21. It has also been noticed that the QIBs sold their shares on both the exchanges viz. BSE and NSE on the day of the listing of the scrip of TPL and the *Noticee* was a counterparty to their trades only on NSE. Further, the *Noticee* has purchased 3,56,057 shares out of a total 12,75,631 shares sold by the QIBs on NSE on that day, which is 27.91% of the total shares

sold by all the QIBs on NSE and 38.26% of the shares sold by Credo and Sparrow on NSE. Details of the shares bought by the *Noticee* and sold by the QIBs are as below:

Table 4: Purchase of shares of TPL by the *Noticee* from QIBs

QIB	NSE	Purchased by the *Noticee*	% of total sale of NSE
Sparrow	4,60,000	1,68,056	36.53
Credo	4,70,631	1,88,001	39.95
Ipro	3,45,000	0	0

22. In this regard, I note that the total volume of shares traded in the scrip of TPL on NSE on the listing day was 5,99,65,008 whereas, on the said day, volume of shares traded by the *Noticee* in the scrip of TPL was 5,52,000 shares. The above, clearly depicts that though the volume of the *Noticee* in the scrip on the day of listing was merely 0.92% of the total volume traded on NSE in the scrip of TPL on the listing day, the volume of shares traded by the *Noticee* which matched with the trades of the two QIBs viz. Sparrow and Credo, as counterparties, amounted to 27.91% of the total shares sold by all the QIBs on NSE and 38.26% shares of shares sold by Sparrow and Credo on NSE. The above data ostensibly showing an unusual increased matching of trades of the *Noticee* with the trades of the QIBs cannot be seen as a mere coincidence of order matching. Further, the submission of the *Noticee* that it had anticipated rise in the price of the scrip, has not been supported by any cogent reason and document to substantiate the reason for having such an anticipation, which constrains me to observe that the trades of the *Noticee* cannot be strictly looked as trades executed in the

ordinary course of dealing in the said scrip on the day of its listing.

23. I further note from the material available on record that the 3 QIBs mentioned above namely Sparrow, Ipro and Credo had offloaded a total of 27,31,501 shares of TPL on the listing day on both the exchanges viz. BSE and NSE at a premium to the issue price of TPL. Out of the said sale of shares, the aforesaid QIBs sold a total of 12,75,631 shares of TPL on NSE. The sell orders by these QIBs were primarily placed between 10:00:00 am to 11:46:01 am. The following table depicts the order entries in terms of the time slots w.r.t the orders in the scrip of TPL placed by the QIBs on NSE:

Table 5: Placement of orders by QIBs on NSE

Sl. No.	**Time Period**	**No. of sell orders placed by QIBs**	**Volume of Sell orders**	**Price Range of Sell orders Rs**	**Traded Qty by QIB during the time period**
1.	10:00:00-10:10:59	5	4,60,000	62	0
2.	10:11:00-10:29:59	1	1,15,000	62	0
3.	10:30:00-10:55:59	2	1,00,000	62	0
4.	10:56:00-11:00:00	2	1,30,000	62	0
5.	11:00:01:11:20:00	2	1,25,631	62	7,71,170
6.	11:20:01-11:25:59	6	3,45,000	62-62.50	3,78,824
7.	11:26:00-11:44:00	0	N.A.	N.A.	N.A.
8	11:44:01 to 11:46:01	0	0	0	1,25,637

24. From the above, it is noted that during the time slot i.e.10:00:00 AM to 11:00:00 AM, the three QIBs had placed a total of 10 sell orders for 8,05,000 shares at a limit price of Rs 62 per share. However, none of these said orders was executed on NSE during the above mentioned period. The first trade w.r.t the orders of QIBs was executed at 11:03:37 AM and thereafter, between 11:03:37 AM and 11:25:59 AM, trades for a total number of 11,49,994 shares were executed and the remaining 1,25,637 shares were

executed between 11:44:01 AM to 11:46:01 AM. This shows that 100% of the sell trades of the QIBs amounting to 12,75,631 shares of TPL were executed in the time slot between 11:03:37 AM and 11:46:01 AM, out of which, trades for 90.15% of their total sale i.e. 11,49,994 shares were executed between 11:03:37 AM and 11:25:59 AM within 22 minutes.

25. It is further noted that subsequent to the placement and cancellation of the 7 large buy orders by the *Noticee*, as discussed in paras 20-22 above, the *Noticee* at one stroke placed a large buy order for 5,00,000 shares (order no. 2011101475842585), at 11:04:45 AM at a rate of Rs. 61.55. Subsequently, the *Noticee* modified the said order at 11:04:56 AM and reduced the order price to Rs. 61.5. However, it is observed that no trade was executed against the said order till 11:16:51 AM. Thereafter, the *Noticee* again modified the buy order by increasing order price to Rs. 62 per share at 11:16:52 AM. Subsequent to this modification, the said order of the *Noticee* for a total of 5 lacs shares got executed immediately and was matched with the pending sell orders of the aforementioned QIBs. I also note that out of the said trades, the trades executed for 1,88,001 shares were matched with Credo, 168056 shares matched with Sparrow and 137850 shares with one Shikha Somani Marriage Trust.

26. From the above noted order for 5 Lakh shares placed by the *Noticee* and its subsequent modifications leading to execution of trades with the QIBs, it is evident that the intention of the *Noticee*, who had, a few seconds ago placed an infructuous buy order for 5 lakh shares at a price of only Rs. 50

per share, was only to match its order with the pending sell orders of the said QIBs. The above trades executed by the *Noticee* expose the fraudulent intent of the *Noticee,* since it had deleted all the previous pending buy orders earlier placed by it below the issue/allotment price but went on to modify the later order for the 5 lakh shares mentioned in previous paragraph on two occasions only to ensure that the said order matched with the corresponding sell orders of Credo and Sparrow. The submission of the *Noticee* that it was trading in normal course of action is not at all supported by the unusual trading pattern followed by it on the listing day of the scrip. It seems highly unusual for an entity, whose business model was based on arbitrage and jobbing activity, to place such large orders and ultimately to purchase shares in such a large quantity in one order. The suspicion against the *Noticee* of being involved in fraudulent and unfair trade practices is further strengthened from the facts that all other orders of it which had resulted in trades, were of very small quantities. At the same time, it is completely incomprehensible for an entity to first place orders at a reduced price and cancel those orders, and then increase the said order prices to actually buy large quantities of shares and hold on to those shares (purchased by way of the said order) without selling them even though the price of scrip witnessed continuous fall after 12 PM on the day of listing of the scrip of TPL.

27. I also note that the *Noticee*, in its replies to the DA, has made certain statements which are contradictory to and not in consonance with its trading

patterns. On the one hand, the *Noticee* has submitted to have anticipated a rise in the price of the scrip of the *Company* on the day of its listing, whereas on the other hand, it was placing orders far below the allotment price at the initial stage, despite the fact that the scrip was trading above the allotment price. Further, despite continuous steep correction in the price of the scrip of TPL in the latter half of the listing day, the *Noticee* kept on placing buy orders in small quantities and never sold those 5,00,000 shares purchased from the QIBs. The aforesaid peculiar trading behaviour of the *Noticee* suggests that its acts *vis-à-vis* the scrip of TPL on the listing day, were not that of a genuine investor of the securities market having *bonafide* intent to trade in the scrip on the day of its listing by following a prudent and consistent strategy and rather the unusual way of trading exhibited by it coupled with the facts, where the *Noticee* was seen to be indulging in trades in a manner that assisted the QIBs to successfully offload their respective holdings on the day of listing itself at a premium price, reveal the malicious intent behind those alleged trades executed on the day of listing of the scrip.

28. The investigation has further revealed that the *Noticee* had placed 9 buy orders in the scrip of TPL on NSE during the time slot from 12:05:01 PM to 13:36:07 PM, all of which had resulted into trades within few seconds. From an analysis of the said trades in Table 4 above, it is evident that the *Noticee*, after placing one large buy order for purchase of 5,00,000 shares, which resulted in matching with the pending sell orders of the QIB, has shifted to placing order for smaller quantities in the same scrip for which no justifiable

explanation has been furnished by the *Noticee*. The *Noticee* was advised during the course of personal hearing to provide explanation for placing such a purchase order for a large quantity of 5 Lakh shares of TPL in the light of the fact that it had not applied in the IPO of TPL and if it was so desirous to acquire huge quantity of the shares of the *Company*, it would have certainly applied for the shares in the IPO of the *Company*. However, I find no specific explanation to this query has been offered by the *Noticee*. The *Noticee*, in its submissions before the DA, has stated that it was of bonafide belief that the price of scrip would increase post the purchase of the *Noticee*. However, the *Noticee* continued to hold the shares of TPL despite drastic fall in the price of scrip and sold only 26,000 shares by the end of the listing day. At the same time, I note that there wasn't enough trade volume in the scrip of TPL before the *Noticee* placed its purchase order to absorb such a large volume of shares being offered by the QIBs. Keeping in view the foregoing analysis of the trades executed and the orders placed by the *Noticee*, it is clear that the *Noticee* has failed to come out with a valid explanation for its large buy orders placed below the prevailing market price and immediate cancellation thereof and subsequent abrupt change in its trading pattern leading to trades matching with pending sale orders of QIBs and also simultaneous purchase of minuscule quantities of shares of the *Company*.

29. The *Noticee* has contended that it was not aware of the orders placed by either of the QIBs and there is no direct evidence available to link it to the

QIBs. Merely because some subscribers in the IPO were the counter party sellers to its buy trades, the same cannot be said to be connected with the *Noticee*. It was also the contention of the *Noticee* that a large number of parties who were allotted shares in the IPO of the *Company*, subscribed to the same only with an intention of making quick profits by immediately selling those shares allotted to them on the first day of listing/trading. Therefore, in the absence of any established connection, there is no evidence to establish that the orders have been executed with a prior meeting of mind. In this respect, I note that the issue as to whether there has to be a direct evidence to establish the allegations of indulging into fraudulent trades against a noticee, came up for consideration before the Hon'ble Supreme Court of India in the matter of SEBI vs. Kisore R Ajmera (*AIR 2016 SC 1079*), in which the Hon'ble Supreme Court of India observed that:

"*It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion there from. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion……*

While the screen-based trading system keeps the identity of the parties anonymous it will be too naïve to rest the final conclusions on said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming. The test is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned."

30. Keeping in mind the above observation of Hon'ble Supreme Court of India, I find that in this case, the *Noticee* was initially placing purchase orders in the scrip of TPL at a heavily discounted price to the allotment price and was cancelling immediately thereafter those orders. Thereafter, contrary to its trading pattern, suddenly it placed a large order on NSE at a premium to the allotment price, which was repeatedly modified twice, once with downward revision of price and second time with upward revision, before the same was matched with pending sale orders of the QIBs. Such type of trading pattern displayed by the *Noticee* in the scrip of TPL clearly shows that the trades placed by the *Noticee* were quite unusual and such type of inconsistent and unusual trading pattern would not be followed by a prudent investor unless such orders were placed to achieve some oblique and hidden objective, which seems to have been the case here, as the *Noticee* has placed those orders against the established trading norms of the market.

31. Further, it is also alleged that the *Noticee* has been indirectly funded by the *Company* to compensate it for its losses incurred as a result of its trading in the shares of TPL. In this regard, it is alleged that, from the IPO proceeds

of TPL, an amount of Rs. 1,01,04,795 was transferred by the *Company* to one Balasaria Holdings Pvt. Ltd. **(Balasaria**) on October 13, 2011. Thereafter, Balasaria had layered the funds through Tilottama Holdings Pvt. Ltd. (**Tilottama**) and KBR Township Pvt. Ltd. (**KBR Township**) and finally KBR Township transferred Rs. 68,00,000 and Rs. 35,00,000 to the *Noticee* on October 14, 2011. It is observed that KBR Township is a group/associate company of the *Noticee*, a fact not disputed by the *Noticee*. Hence, it is alleged that the *Company* i.e. TPL had layered the fund transactions through other entities viz. Balasaria, Tilottama and KBR Township to hide the trail/movement of funds from its account to the *Noticee* that was transferred to bail it out from the loss suffered by the *Noticee* on account of its trading in the scrip of TPL.

32. In this regard, I note that the DA has observed that the allegation/ observations regarding diversion of funds from the account of TPL to the *Noticee* through layering of transactions through Balasaria, Tilottama and KBR Township cannot be sustained. The DA, while making the above observations, has relied upon the observation made by the Hon'ble Securities Appellate Tribunal (**SAT**), in its order dated September 19, 2016 pertaining to the matter of *Lopa S Bhavnagari vs. SEBI,* wherein a similar allegation was levelled against the appellant therein, who had also traded in the scrip of TPL on the listing day. In that case, the Hon'ble SAT has held:

"*17. We find merit in the argument made by the learned Senior Counsel for the appellants on the contention that diversion of IPO funds and thereby part funding of the losses made by the appellant cannot be*

sustained following the order of this Tribunal in case of Tijaria Polypipes Ltd. (Appeal No.372 of 2014 decided on 29/6/2016). However, we do not agree with the arguments that the appellant's trading in the TPL scrip on the opening day of IPO was just business as usual."

33. Therefore, in the light of the above observations of Hon'ble SAT and findings recorded by DA, I find that based on materials on record, it is difficult to conclude with conviction that the *Noticee* has been funded by TPL to trade in the scrip, on the day of its listing. However, the same is irrespective of already established fraudulent and unfair trade practices adopted by the *Noticee* in respect of its dealings in the scrip of TPL.

34. The *Noticee* has admittedly suffered a huge loss of Rs. 1,70,86,541 from its trades in the scrip of TPL in one day. This amount becomes highly suspicious in light of the fact that the gross income of the *Noticee* for the assessment years 2009-10, 2010-11 and 2011-12 was Rs. 75,60,888, Rs. 52,71,222 and Rs. 29,77,975 respectively while the above noted loss suffered by the *Noticee* in one particular day is far in excess of the combined profit of the *Noticee* for all the three years mentioned above.

35. Further, I note that the scrip price of TPL was stable from 10.00 AM to 12.00 Noon on the listing day. Thereafter, the price of the scrip was falling continuously till the closing of the market. However, despite noticing a continuous fall in the price of the scrip, the *Noticee* kept on placing orders, both buy and sell, in the market. Any prudent investor, who trades on the basis of risk management system, would have stopped trading at some

point of time to curtail its losses. However, inexplicably, the *Noticee* was active in the scrip till the later part of the day. In this regard, I note that the Hon'ble Supreme Court of India, in its judgment in the matter of SEBI vs. Rakhi Trading Pvt. Ltd. [(2018)13 SCC 753] made the following observations:

"*In the instant case, one party booked gains and the other party booked a loss. Nobody intentionally trades for loss. An intentional trading for loss per se, is not a genuine dealing in securities. The platform of the stock exchange has been used for a non-genuine trade. Trading is always with the aim to make profits. But if one party consistently makes loss and that too in preplanned and rapid reverse trades, it is not genuine; it is an unfair trade practice.*" (emphasis supplied)

Therefore, continuous purchase by the *Noticee* despite incessant fall in the scrip of TPL and minimal attempt to sell shares despite holding large volume in the scrip, clearly shows that the *Noticee*, departing from its principal activities of day trading/arbitrage trades, was intentionally booking loss in the scrip of TPL. Going by the spirit of the above observations of Hon'ble Supreme Court of India, such intentional booking of loss cannot be termed as genuine dealing in securities and therefore, it amounts to indulging in unfair trade practice.

36. I find that the *Noticee* has not been consistent in its submission and, at many places, it has contradicted its own statements. As observed from the preceding paragraphs, the *Noticee* was initially placing orders in the scrip of TPL at rates which were significantly lower than the prevailing market rate. I observe that when the prevailing market rate of TPL was hovering in

the region of Rs 62 to Rs 60 on the opening day of listing, *Noticee* was placing large buy orders in the scrip at rates which were significantly lower than the market price and also was deleting these orders immediately. Subsequently, the *Noticee* placed one large buy order in the scrip of TPL at 11:04:45 AM for 5,00,000 shares at a price higher than allotment price. Subsequently, the said order was modified first downwards and then upwards, as a result of which a substantial portion of this Order got matched with the sell orders placed by the QIBs. I find that the sell orders placed by the QIBs remained pending in the system until the *Noticee* had placed its huge buy order for 5 lakh shares at 11:16:52 AM. The fact that this was the only trade of the *Noticee* on the listing day for a huge quantity and all other trades were for very small quantities, indicate that the *Noticee* had consciously placed the said large buy orders only to facilitate easy exit to the QIBs at a premium to the issue price. In the light of the aforementioned facts, I can observe that the *Noticee* had *inter alia* indulged in such a trading deliberately for ensuring an exit to the QIBs and other allottees in TPL's IPO and as a result of the same, ended up in suffering huge losses which were suspected to have been partly borne by TPL (through layered fund transactions). From the afore stated trading pattern of the *Noticee*, one can conclude that the *Noticee* was operating hand in glove with those, who wanted to ensure that the QIBs and other allottees, are given easy exit at a premium to the issue price.

37. To sum up, I observe that even though, the charge of funding from the

Company is not found to be established based on the materials on record, nonetheless, from the consideration of the other evidences available on records and explanations offered by the *Noticee,* I am of the view the that the trading behaviour of the *Noticee* has not been consistent with the established market prudence normally followed by a genuine investor, and the *Noticee* was found to have bought huge quantities of shares of the *Company* happily at a higher price held onto them in the face of falling market price of the scrip, while a few seconds ago it was the *Noticee* only who was placing large buy orders at a heavily discounted price and cancelling those orders immediately without letting those buy orders to be executed. As a result, the *Noticee* was also found to have generated artificial volume in the system by placing large buy orders and cancelling them immediately, and these high volume orders may not be intended to provide exit to the QIB but certainly were placed with fraudulent intent for being held as not fair and genuine practice. It is trite law that orders and trades which have not been found to be fair and genuine are fraudulent in nature, since such orders are laced with the ingredients of artificially inducing investors to deal with the said scrip and such acts of indulging in unfair trades and placing fraudulent orders on the system possess potential to create artificial demand of a scrip. Hence, the acts of the *Noticee* of indulging in acts for creation of artificial volume by placement and then immediate cancellation of large buy orders as well as its motivated trades with the QIBs were succinctly unfair and fraudulent trades which were

executed in violation of Section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a), (b) & (e) of PFUTP Regulations.

38. Without prejudice to the findings and observations in the foregoing paragraphs about the fraudulent and unfair trade practices followed by the *Noticee* while dealing in the scrip of TPL on the listing day, I find that in the instant matter, the *Noticee* has already been put under restraint vide interim order dated December 28, 2011 for the said violations and misconduct and the restraint imposed vide the said interim order remained in force until the same was revoked vide another order dated November 02, 2012. Needless to state that the said restraint was also imposed for the violation of provisions of the SEBI Act, 1992 and the regulations made thereunder. Vide the above mentioned interim order, the *Noticee* has not only been prohibited from buying, selling or dealing in any securities, in any manner whatsoever, in its proprietary account, but was also prohibited from entering into any fresh agreements with new clients in its operations as a stock broker till the restrain so imposed was revoked by the subsequent revocation order. Thus, effectively, the restraint and prohibition order qua the *Noticee* remained in force for a period of 10 months. It has also been submitted before me that no further complaints have been brought on record against the *Noticee* based on which further actions could have been contemplated for initiation against it or to entirely disregard the recommendation made by the DA in his report.

39. I also note that the allegation based on which restraint was imposed vide

the interim order was in exercise of the power under Section 11B of SEBI Act, 1992 and the allegations based on which the instant proceedings have been initiated are in connection with the same underlying violations for which, the restraint was imposed vide the aforesaid interim order dated December 28, 2011 by invoking the provisions of Section 11B of SEBI Act. Hence considering the above, I am inclined to take a view that the present activities of the *Noticee* do not indicate any material event that would adversely affect its status as Stock Broker, when it has submitted that its activities in the securities market is limited to the proprietary trades only. In the absence of any further incriminating evidence to the contrary and the fact that for the same offences and violations, the *Noticee* has already undergone restraint for a period of Ten months vide the interim order dated December 28, 2011 that was revoked by the subsequent order dated November 02, 2012, I am of the view that it would be sufficient to meet the end of justice that this proceeding is disposed of without any further measure being taken against the *Noticee*.

ORDER

40. In view of the above, in exercise of powers conferred on me under Section 12 (3) of the SEBI Act read with regulation 27 and regulation 28 of the SEBI (Intermediaries) Regulations, 2008, and upon consideration of the facts and circumstances as above, I hereby dispose of the extant enquiry proceedings and the SCN dated April 11, 2018 against the *Noticee*, i.e. Todi Securities Private Limited without any further direction.

41. This Order disposes of the enquiry proceedings initiated against the *Noticee* following the investigation conducted by SEBI into the alleged irregularities in the trading in the scrip of Tijaria Polypipes Limited for the period September 29, 2009 to December 31, 2009.

Sd/-

Date: April 19, 2021 **S. K. Mohanty**

Place-Mumbai **Whole Time Member**