BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. EAD/BJD /NJMR/154-155/2017-18

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

In respect of:

1. J V Stock Broking Pvt., Ltd., *(PAN: AABCJ1783D)* 121, Padam Towers II 14/113, Civil Lines Kanpur – 200801.	**2. SPFL Securities Ltd.,** (*PAN: AABCS2452C)* Registered Office 3/4267, Ansari Road Darya Ganj New Delhi – 110002.

In the matter of Mindvision Capital Ltd.,

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as **"SEBI"**) conducted an investigation in the scrip of Mindvision Capital Ltd., *(formerly known as Kailash Ficom Ltd.,) (hereinafter referred to as **"MCL")n***to ascertain any possible violation of the provisions of SEBI Act, 1992 and SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 by certain connected entities during the period June 17, 2009 to February 08, 2010 *(hereinafter referred to as **"Investigation Period"***). During the course of investigation, it was inter-alia observed by SEBI that J V Stock Broking Private Ltd., *(hereinafter referred to as **"*Noticee 1" / "JVSL"***)* had executed self-trades through SPFL Securities Ltd., *(hereinafter referred to as* **"Noticee 2" / SPFL**) and thereby created false and misleading appearance of trading and violated the provisions of Regulation 3 (a) (b) (c) (d) read with Regulation 4 (1) 4 (2) (a) and (g) of SEBI (Prohibition of Fraudulent Trade Practices Relating to Securities Market) Regulations, 2003 *(hereinafter referred to* **"PFUTP Regulations"***).* It was also observed that JVSL had aided and abetted in execution of self-trades of its client JVSL and thus failed to

exercise due diligence as a Stock Broker, which resulted in execution of self-trades resulting in no change of beneficial ownership in respect of such trades and thereby violated the provisions of Clause A (2) of the Code of conduct for Stock Brokers as specified in Schedule II read with Regulation 7 *(Regulation 9 – post amendment)* of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992.

APPOINTMENT OF ADJUDICATION OFFICER

2. Based on the findings of the investigation, SEBI initiated Adjudication proceedings against the Noticees and appointed the undersigned as Adjudicating Officer vide Order dated July 17, 2017 under Section 19 of SEBI Act read with Sub-section (1) of Section 15-I of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as ***"Adjudicating Rules")*** to inquire into and adjudge under Section 15HA and 15HB of SEBI Act for the alleged violation of the provisions of SEBI (PFUTP) Regulations and SEBI (Stock Brokers and Sub-broker Regulations) respectively, by the Noticees.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. Show Cause Notices (SCN) bearing ref. no., EAD/BJD/NJMR/28911/2017 dated November 21, 2017 and EAD/BJD/NJMR/28913/2017 dated November 21, 2017 was issued to the Noticee 1 and Noticee 2 respectively, under Rule 4(1) of the Adjudicating Rules to show cause as to why an inquiry should not be held and penalty be not imposed under Section 15 HA and 15HB of the SEBI Act, for the violations alleged to have been committed by them.

4. It was alleged in the SCN that the Noticee 1 had executed self-trades in the scrip of MCL, the details of which are furnished hereunder.

Entity Name	Broker On Both Buy & Sell Side	Total Self-Trade Volume	Total Self-Trade Count	No of days on which self-trades done	% Of Self-Traded Qty. To Market Vol.	Net LTP contribution by self-trades
J V Stock Broking Pvt Ltd	SPFL Securities Ltd.	7323	19	12	0.12%	6.80

It was observed from the above table that JVSL had dealt in 7,323 shares through self-trades in 19 trades in 12 days. The volume of self-trades executed by JVSL was 0.12% of the total market volume during the period of investigation, which contributed to net Last Traded Price (LTP) of ₹ 6.80. It was alleged that JVSL by executing repeated self-trades in the scrip of MCL, created false and misleading appearance of trading in the scrip of MCL without the intention of change of ownership of shares. Therefore, it was alleged that JVSL had violated the provisions of Regulation 3 (a) (b) (c) (d) read with Regulation 4 (1) 4 (2) (a) and (g) of SEBI (Prohibition of Fraudulent Trade Practices Relating to Securities Market) Regulations, 2003. It was also observed that broker and counter party broker in respect of self-trades executed by JVSL was Noticee 2 i.e., SPFL. It was alleged that SPFL had failed to exercise due diligence as stock broker which resulted in execution of self-trades by JVSL, resulting in no change of beneficial ownership in respect of such trades. Therefore, it was alleged that SPFL had violated the provisions of Clause A (2) of the Code of Conduct for Stock Brokers as specified in Schedule II read with Regulation 7 *(Regulation 9 amended)* of Stock Broker Regulations.

5. **Reply of Noticee-1:** JVSL vide its letter dated December 21, 2017 submitted its reply to the SCN. The Noticee denied each and every allegation and / or contention made in the SCN. The reply of the Noticee is summarized hereunder:

(a) We were / are into trading / jobbing / arbitrage of shares business for long. We have VSATs of NSE & BSE installed in our Office provided by the broker SPFL. We are having more than 90 trades / jobbers / arbitragers

doing share business on our behalf. From the enclosed details of trading done in the scrip of MCL during the period of investigation, it is quite clear that traders / jobbers / arbitragers of ours have purely done trading / jobbing / arbitrage in the scrip of MCL and that we did not had any malafied intention whatsoever while trading / jobbing / arbitrage in the scrip of MCL.

(b) We submit that we have been trading / jobbing / arbitrage on daily basis in shares of more than 350 – 400 companies listed in NSE and BSE with total turnover ranging approximately from ₹ 45 to ₹ 55 crores resulting in delivery volume of approximately from ₹ 5 to ₹ 7 crores on daily basis in Capital Market Segment.

(c) Thus traders/jobbers'/arbitragers of ours have done trading/jobbing/arbitrage in various scrip and that we did not have any malafied intention to create false and misleading appearance of trading in the scrip of MCL without the intention of change of ownership of shares during the investigation period as alleged in the SCN while trading/jobbing/arbitrage in the scrips.

(d) As regards allegation of self-trade, it is admitted that there are some infrequent, random and insignificant instances of self-trade. However, it may be noted that these instances of self-trades were purely accidental in the ordinary course of business as aforesaid showing details of trading in 1200 scrips and thus not planned to be executed to manipulated trading in the scrip of MCL by creating false and misleading appearance of trading in the scrip of MCL without the intention of change of ownership of shares as alleged in SCN. The random nature of timing, quantity, dealers and partial matching with other market participants substantiate the same. Further there has been no allegation of circular trading, price manipulation etc. against us.

(e) We also submit hereunder the analysis of the internally matched trade's vis-à-vis our volume and the market volume as under:

Date	Self-Trade from same Terminal	Self-Trade from different Terminals	Total Self-Trades as per SEBI	Gross Buy Net Quantity	Self-Trade % as per SEBI	Actual Self-Trade %	Market Volume in BSE	Self-Trade as % of market-Actual	Self-Trade as % of Market-Actual
24-06-2009	0	315	315	999	31.53	0.00	14330	2.20	0.00
25-06-2009	0	0	0	1000	0.00	0.00	8096	0.00	0.00
26-06-2009	0	0	0	1825	0.00	0.00	3979	0.00	0.00
29-06-2009	0	0	0	0	0.00	0.00	2861	0.00	0.00
30-06-2009	0	0	0	45	0.00	0.00	3740	0.00	0.00
06-07-2009	0	5	5	10	50.00	0.00	1283	0.00	0.00
08-07-2009	0	0	0	1007	0.00	0.00	4257	0.00	0.00
09-07-2009	0	1500	1500	5356	28.01	0.00	9266	16.19	0.00
13-07-2009	0	0	0	0	0.00	0.00	13328	0.00	0.00
21-08-2009	0	300	300	1800	16.67	0.00	24005	1.25	0.00
24-08-2009	0	0	0	500	0.00	0.00	1100	0.00	0.00
25-08-2009	0	0	0	4500	0.00	0.00	21400	0.00	0.00
26-08-2009	0	1000	1000	3303	30.28	0.00	18410	5.43	0.00
27-08-2009	0	1600	1600	500	76.15	0.00	2956	54.13	0.00
28-08-2009	0	0	0	4500	0.00	0.00	1312	0.00	0.00
31-08-2009	0	0	0	3303	0.00	0.00	16887	0.00	0.00
01-09-2009	0	50	50	2101	1.23	0.00	15378	0.33	0.00
02-09-2009	0	1000	1000	500	28.57	0.00	6182	16.18	0.00
03-09-2009	0	1	1	415	0.10	0.00	1403	0.07	0.00
04-09-2009	0	0	0	4067	0.00	0.00	1733	0.00	0.00
07-09-2009	0	551	551	3500	51.11	0.00	2538	21.71	0.00
08-09-2009	0	0	0	1003	0.00	0.00	7203	0.00	0.00
11-09-2009	0	0	0	0	0.00	0.00	1521	0.00	0.00
05-10-2009	0	0	0	0	0.00	0.00	7411	0.00	0.00
16-11-2009	0	0	0	1	0.00	0.00	7156	0.00	0.00
17-11-2009	0	1	1	502	0.20	0.00	29366	0.00	0.00
18-11-2009	0	0	0	0	0.00	0.00	6655	0.00	0.00
23-11-2009	0	1000	1000	3103	32.23	0.00	34282	2.92	0.00
25-11-2009	0	0	0	100	0.00	0.00	1136	0.00	0.00
26-11-2009	0	0	0	100	0.00	0.00	18102	0.00	0.00
05-11-2009	0	1	0	1000	0.00	0.00	41110	0.00	0.00
11-01-2010	0	0	0	1000	0.00	0.00	280211	0.00	0.00
08-01-2010	0		0	0	0.00	0.00	135077	0.00	0.00
Total	0	7323	7323	41665		0.00	741694		

(f) That on perusal of the above table, it would be observed that the self-trades from same terminal in BSE in comparison to the self-trades determined in the SCN is much lesser and more importantly do not establish having caused false and misleading appearance of trading in the scrip of MCL without the intention of change of ownership of shares in the scrip of MCL as alleged in the SCN. The details of self-trades as per the Noticee based on terminal ID basis and not based on CTCL / IML ID basis is as under:

Date of Trading	Self-trade as per SEBI based, based on CTCL ID / IML ID in BSE	Self-trade as per Noticee based on terminal ID linked to IML ID in BSE
24-06-2009	0	315
06-07-2009	0	5
09-07-2009	0	1500
21-08-2009	0	300
26-08-2009	0	1000
27-08-2009	0	1600
01-09-2009	0	50
02-09-2009	0	1000
03-09-2009	0	1
07-09-2009	0	551
17-11-2009	0	1
23-11-2009	0	100
Total	0	7323

(g) *Thus, self-trade if considered as per terminal ID basis instead of the CTCL / IML ID as per SEBI, self-trades are much lesser than that has been determined. In fact, SEBI in its notice has determined the self-trade on 12 days based on CTCL terminal ID basis and not on the individual terminal IDs i.e., sub IDs under CTCL / IML IDs. It is submitted that the individual terminal IDs or dealer IDs are linked to the CTCL terminal ID which is the server and the said server through CTCL ID is linked to NEAT / BOLT ID of the BSE and that the orders are put at the individual terminal ID level and many individual terminal IDs are linked to one CTCL ID / IML ID of NSE / BSE. Therefore, on perusal of the table above in respect of self-trades of ours and that of self-trades determined by SEBI are much higher while actual self-trades are much lower as there is no material matching of order with another order on the same individual terminal. Balance trades are not self-trades pointed out by SEBI as they have done mistakenly matched on other individual terminal IDs which is very normal trading / jobbing / arbitrage practice.*

(h) *In fact, is one of the responsibilities of the Stock Exchange, being provider of trading facility, to develop a mechanism for prevention of self-trades at the pre trading level so as to rule out the possibility of any self-trade in*

the interest of securities market. It is important to mention here that during the period of investigation, no technological system was promoted and / or installed or advised by stock exchanges which could had prevented occurrence of such trades and the alleged event.

(i) *Presently BSE & NSE have introduced a system to prevent occurrence of self-trades in March 2015 and June 2015 respectively, much after the period of investigation.*

(j) *In view of the above, the contention of the notice that we by entering self-trades repeatedly created net LTP of ₹ 6.80, leading to a false and misleading appearance of trading of the scrip in the securities market and thereby violated the provisions of Regulation 3 (a) (b) (c) (d) read with Regulation 4 (1), 4 (2) (a) & (g) of SEBI (PFUTP) Regulations is vehemently opposed and denied and SCN of SEBI be put to strict proof thereof, particularly in view of the self-trade prevention mechanism introduced by BSE & NSE in 2015 only.*

(k) *Further, in the matter of Networth Stock Broking ltd., Vs. SEBI (SAT appeal no. 5 of 2012 decided on June 19, 2012), SAT has been consistently holding that violation FUTP Regulations involves commission of fraud which is indeed a serious market offence and a high degree of probability is required to establish such a charge. There has to be enough material on record to show that the broker had knowledge of the game plan at the time of executing the trade or the trading pattern of the client gives rise to some suspicion about the mischief. Merely because the appellant acted as a broker of one of the parties, it does not follow that he was a party to the game plan of the client in executing matching trades. The foundation of enquiry under enquiry regulations is a valid notice and also that the charge levelled therein has to be clear, precise and unambiguous so that the delinquent knows what exactly he is charged with. The Whole Time Member appears to have jumped to the conclusion that merely because circular trades were executed on 38 days by the appellant, his intention was manipulative. This finding is based on*

no material on record and it appears that the Whole Time Member has not appreciated the concept of circular / synchronized trades. Admittedly, the trades in question were executed by the client and the appellant was acting only as a broker. It has not entered into any proprietary trades. If there is some evidence or material available on record that the appellant knew that the trades were fictitious then there would be no hesitation in upholding the finding of the Board. However, there is no such link available either on the record or any finding to this effect has been recorded by the Whole Time Member. There is no material on record to show that the appellant, as a broker knew, that the trades were circular / synchronized. There are no findings that either the broker or their clients were connected persons or they were acting in concert". "There can be a variety of reasons for the trades matching on the screen of the exchange. Merely because a trade has matched both in regard to price and quantity and that the buy and sell orders were placed at the same time, it cannot lead to the conclusion that the broker had knowledge of fictitious trades being executed between the buyer and the seller. It has been observed by this Tribunal in a number of cases that on a screen based trading system, it is not possible for a broker to know who the counter party is at the time when the trades are executed".

(l) *Thus, FUTP Regulations cannot be invoked in such alleged self-trades as mentioned in SCN, without findings about the fraud having been committed, especially when the objective of FUTP Regulations is to prevent fraudulent and unfair trade practices, to establish the same involvement of fraud is sine-qua-non.*

(m) *It is submitted that in the instant case, SCN failed to establish any motive of ours to indulge in self-trade to manipulate the market and commit fraud. In fact, we are not part of the main investigation concerning the scrip of neither MCL nor SCN claim that we have any relationship with the main accused as mentioned.*

(n) *It is submitted that self-trade is not per-se illegal contrary to the Law and Regulations. There are some kinds of self-trades which do not constitute market abuse and are genuine market transactions. There can be instances where genuine trading intentions within the same firm may result in self-trades. Therefore, each case of self-trades has to be judged and examined on merits.*

(o) *The said SCN does not establish any linkage between the random / infrequent self-trades of us to that of the price of the scrip of MCL during the said period. So on this ground also the allegation about attracting of PFUTP Regulations committed by JV under Section 15HA of SEBI Act for dealings in the share of MCL cannot sustain being without merits.*

(p) *In view of the above, we therefore request you to withdraw all the charges of the alleged violations of the PFUTP Regulations committed by JV under Section 15HA of SEBI Act for dealings in the shares of MCL and so Section 15HA of SEBI Act does not stand attracted and no penalty be imposed upon us.*

6. **Reply of Noticee-2:** SPFL vide letter dated December 23, 2017 had submitted its reply, which inter-alia reiterated the submissions made by JVSL *supra. The Noticee in its submission had denied violating the provisions of Clause A (2) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 7 (Regulation 9 – amended) of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992. The Noticee further submitted that it has never indulged in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with view to distorting the market equilibrium or making personal gains. It is pertinent to note that we have never traded in MCL on our proprietary account. This fact itself establishes beyond doubt that we as brokers always maintained high standards of integrity. In view of the above, the Noticee requested to withdraw all the charges of the alleged violation of the SEBI (Stock Brokers and Sub-brokers) Regulations.*

7. In the interest of natural justice, the Noticees were provided with an opportunity of personal hearing which was scheduled on January 24, 2018, which was communicated to the Noticees through email on January 17, 2018. The Noticees vide letter dated January 24, 2018 submitted an authorization letter duly authorizing Mr. Amit Agarwal, Compliance Officer, SPFL Securities Ltd., *(Authorized Representative - AR)* to appear on their behalf. The AR reiterated the submissions made by the Noticees vide their letters dated December 21 and 23, 2017.

CONSIDERATION OF ISSUES

8. I have taken into consideration the facts and material available on record. I observe that the allegation levelled against the Noticee 1 is that it had executed self-trades repeatedly and created artificial volume in the scrip of MCL leading to false and misleading appearance of trading in the scrip in the securities market, thereby violated the provisions of SEBI (PFUTP) Regulations. I also observe that the Noticee 2 being a stock broker had failed to exercise due diligence under the relevant provisions of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992. After perusal of the material available on record, I have the following issues for consideration, viz.,

   a. *Whether the Noticee 1 has violated the provisions of Regulation 3 (a) (b) (c) (d) read with Regulation 4 (1) 4 (2) (a) and (g) of SEBI (Prohibition of Fraudulent Trade Practices Relating to Securities Market) Regulations, 2003 and Noticee 2 has violated the provisions of Clause A (2) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 7 (Regulation 9 – post amendment) of SEBI (Stock Brokers and Sub-brokers) Regulations?*

   b. *Does the violation, if any, attract monetary penalty under Section 15HA and 15HB of SEBI Act.?*

c. *If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?*

ISSUE-1: Whether the Noticee 1 has violated the provisions of Regulation 3 (a) (b) (c) (d) read with Regulation 4 (1) 4 (2) (a) and (g) of SEBI (Prohibition of Fraudulent Trade Practices Relating to Securities Market) Regulations, 2003 and Noticee 2 has violated the provisions of Clause A (2) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 7 (Regulation 9 – post amendment) of SEBI (Stock Brokers and Sub-brokers) Regulations?

9. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI (PFUTP Regulations) and SEBI (Stock Brokers and Sub-brokers) Regulations, 1992, which reads as under:

Regulation 3 of SEBI (PFUTP) Regulations: - Prohibition of certain dealings in securities

3. 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 thereunder;

(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 thereunder.

Regulation 4 of SEBI (PFUTP) Regulations: - 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;

(g) entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security

Clause A (2) of Code of Conduct specified in Schedule II read with Regulation 7 (Regulation 9 – post amendment) of SEBI (Stock Brokers and Sub-brokers) Regulations:

Exercise of due skill and care: A stock-broker shall act with due skill, care and diligence in the conduct of all his business

10. Self-trades are executed on the stock market in which the same entity is both the buyer and the seller. As such these trades do not represent a real change in beneficial ownership of the security.

11. In this connection, I would like to refer to the judgements of Hon'ble SAT pertaining to self-trades.

(i) Hon'ble Securities Appellate Tribunal (SAT) in the matter of Balwinder Singh v. SEBI (2013), observed that that self-trades (or wash-trades) are per se not allowed under SEBI Act and regulations made thereunder.

(ii) In Chirag Tanna v. The Adjudicating Officer (2013), Hon'ble SAT held that self - trades are, admittedly, fictitious and create artificial volumes in the traded scrip.

(iii) In Triumph International Finance Ltd v. SEBI (2007), Hon'ble SAT observed that self-trades were fictitious because the buyer and the seller were the same.

(iv) Further, in Systematix Shares & Stocks India Limited v. SEBI (2012), Hon'ble SAT observed that trades, "where beneficial ownership is not transferred, are admittedly manipulative in nature."

(v) *In HJ Securities Pvt Ltd v. SEBI (2012), Hon'ble SAT even made the observation that simply because the number of such self-trades is not large by itself cannot justify execution of self-trades*

12. Considering the observations of Hon'ble SAT in various matters, though self-trades by the face of it implies no transfer of beneficial ownership, it is necessary to look into the attending circumstances of the case.

13. The Hon'be SAT in case of Ketan Parekh v. SEBI (Appeal No. 2 of 2004) decided on July 14, 2006, had categorically held that in order to find out 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 of the cases, because direct evidence in such cases may not be available.

14. Considering that the attending circumstances have to be looked into for the purpose of determining the intention of the Noticee, I have examined the trading pattern of the self-trades on the basis of the following factors/ yardsticks:

    i. Whether the buy and sell Orders for the alleged self-trades were also structured in terms of time, Order quantity and Price when self-trades were executed?

    ii. Whether the alleged self-trades have resulted in New High Price and thereby contributed to price manipulation?

    iii. Whether self-trades have resulted in creation of artificial volumes in terms of higher contribution to either total volumes or substantial volume for the days the alleged trades took place?

    iv. Whether the buy and sell Orders for the alleged self-trades have been placed from same terminal or different terminal?

15. Based on above parameters, after examination of the alleged self-trades and corresponding orders, following are my observations:

i. During the period of investigation i.e., June 17, 2009 to February 8, 2010 *(158 trading days)*, price of the scrip of MCL opened at ₹ 24.85 with a low price of ₹ 21.60 on the first day of investigation i.e., June 17, 2009 and closed at ₹ 64.60 on the last day of investigation i.e., February 8, 2010 after touching a high price of ₹ 83.45 on January 5, 2010. Thus, the scrip registered an increase of ₹ 39.75 (159.95%).

ii. I note that during the period of investigation, on an average 38,095 shares were traded in 33 trades, in the range of minimum 1 trade to maximum 242 trades. I note from the quarterly shareholding during the period of investigation that number of public shareholders were 2028, holding 1,04,95,600 shares. From the historical data, traded quantity and volume and shareholding pattern, I find that the MCL scrip was illiquid and it is with this perspective the matter is being dealt.

iii. During the period of investigation, total traded quantity in the scrip of MCL was 60,18,993 shares in 5,275 trades. It was observed that during the period of investigation, JVSL had bought 41,665 shares and sold 39,165 shares. Out of these 7,323 shares were executed through 19 self-trades in 12 days, which constitutes 17.57% of the total buy volume and 18.70% of total sell volume of JVSL. The contribution of self-trades by the Noticee 1 constitutes 0.12% of the total market volume during the period of investigation, which is minuscule. However, the intention of the Noticee in execution of self-trades has to be brought out and accordingly day-wise analysis is carried out.

iv. The breakup of 7,323 shares executed through self-trades are furnished hereunder.

Trade Date	Traded Qty.,	Traded Price in ₹	Buy / Sell	Order Time	Order Qty.,	Price quoted in ₹	Whether trades Synchronized (YES / NO)	No., of shares synchronized	Remarks
26/06/2009	315	32.8	Buy	15:44:54	315	32.8	**YES**	**315**	
			Sell	15:40:09	315	32.8			

06/07/2009	5	40.1	Buy	11:24:51	1000	40.1	**NO**	**-**	
			Sell	11:26:42	5	43.3			
09/07/2009	471	43.45	Buy	15:22:16	500	43.45	**YES**	**471**	***Sell order for 29 shares were deleted @ 15:22:23, pursuant to anonymous buy order for 29 shares by other trader.***
			Sell	15:22:15	500	43.45			
09/07/2009	1000	43.45	Buy	15:22:51	1000	43.45	**YES**	**1000**	
			Sell	15:22:50	1000	43.45			
09/07/2009	29	43.45	Buy	15:23:00	29	43.45	**YES**	**29**	
			Sell	15:22:50	29	43.45			
21/08/2009	300	35.5	Buy	10:35:47	500	35.25	**NO**	**-**	
			Sell	13:27:19	300	35.50			
26/08/2009	1000	35.75	Buy	15:11:04	1000	35.75	**YES**	**1000**	
			Sell	15:11:03	1000	35.75			
27/08/2009	500	33.55	Buy	15:11:38	1000	33.55	**Partly synchronized**	**500**	
			Sell	15:19:22	1000	33.50			
27/08/2009	100	33.5	Buy	15:19:37	500	33.50	**NO**	**-**	
			Sell	15:19:22	1000	33.50			
27/08/2009	1000	34.45	Buy	15:20:36	1000	34.50	**Partly synchronized**	**1000**	
			Sell	15:20:33	1000	34.45			
01/09/2009	50	34.7	Buy	15:16:16	50	34.70	**NO**	**-**	
			Sell	15:16:04	100	34.75			
02/09/2009	500	33.6	Buy	15:06:18	500	33.60	**YES**	**500**	
			Sell	15:06:19	500	33.60			
02/09/2009	500	33.7	Buy	15:06:31	500	33.70	**YES**	**500**	
			Sell	15:06:30	500	33.70			
03/09/2009	1	33.7	Buy	12:30:21	1	34.00	**NO**	**-**	
			Sell	12:22:00	1	32.10			
07/09/2009	1	33.3	Buy	10:34:00	1	33.30	**NO**	**-**	

			Sell	10:12:21	2301	33.30			
07/09/2009	550	27.65	Buy	15:29:06	500	27.50	**NO**	**-**	
			Sell	10:12:21	2301	33.30			
17/11/2009	1	38.5	Buy	14:41:08	500	38.30	**NO**	**-**	
			Sell	14:41:15	1	38.50			
23/11/2009	500	41.4	Buy	15:28:17	500	41.40	**YES**	**500**	
			Sell	15:28:20	500	41.40			
23/11/2009	500	41.45	Buy	15:28:30	500	41.45	**YES**	**500**	
			Sell	15:28:27	500	41.45			

v. From the above table, it is noted that the buy and sell orders for the aforesaid self-trades were structured in terms of order quantity, price and time *(in respect of 9 trades out of 19 trades).* Out of the 7,323 shares executed through 19 self-trades in 12 days, 4,815 shares executed in 9 self-trades on 5 days were synchronized i.e., trades where the difference between buy and sell order quantity as well as buy and sell order price is NIL and time difference between the buy and sell orders is less than one minute in most of the instances. I note that 65.75% self-trades were synchronized. I note from the submissions made by the Noticee 1 that these Orders were placed from different terminals by the dealers / jobbers. I note that there is startling proximity in the time of entering of orders at the identical price and quantity resulting into the matching of the trades. This clearly indicates synchronization while entering the orders, even as these were executed on the screen of the exchange. A large number of trades got matched regularly. I further find that the Noticee has claimed that the basic nature of its trading activity was jobbing / arbitrage through a network of dealers and any self-trades were only a coincidence, not with an intention to commit self-trades. However, I note that around 66% of self-trades are synchronized among the jobbers / dealers of the Noticee and therefore I consider it beyond reasonable doubt that these trades were executed with meeting of minds with an intention to create artificial volume in the scrip of MCL. It is a known fact that persons who are unknown to each other cannot trade

continuously by entering orders in such a pattern. It is difficult to accept that several different orders placed on various days always matched. I observe that the Noticee had indulged in the trading pattern as discussed above which also projected volumes in the scrip in a way that was not market determined, rather with a hidden motive to induce innocent investors to enter the market. Such transactions are clearly not genuine and have been entered by the Noticee for creating misleading appearance of trading in the scrip. Therefore, I consider the self-trades executed by the Noticee 1 which were synchronized in terms of time, order quantity and price, were with manipulative intent to artificially create volume in the scrip of MCL.

vi. It is also observed that the Noticee 1, by executing self-trades, had contributed to Last Traded Price of ₹ 6.80. It may be seen that during the period of investigation, the price of MCL had increased from ₹ 24.85 to ₹ 64.60, registering an increase of ₹ 39.75, which is 159.95%. The Noticee's contribution of ₹ 6.80 to LTP was around 17.10%. It can be seen from the aforesaid table that out of the 19 self-trades, in respect of 14 trades, the Noticee-1 was carrying out self-trades at the end of the trading day to mark the closing price of the scrip. *Marking The Close" is a technique of purchasing a security at the very end of the trading day often within minutes of the close of trading at a significantly higher price than the security's current traded price. The purpose is to raise the security's closing price, thus making it appear to be of higher value than it actually is.* I note that on June 26, 2009, the first order for sell was placed at ₹ 31.70. On the same day the Noticee 1 had placed buy order for ₹ 32.80 at the end of the trading, prior to which it had placed buy order for ₹ 31.40. Likewise on July 9, 2009, the Noticee placed buy order for ₹ 43.45, whereas prior to that buy order for ₹ 40.80 was placed by the Noticee itself. On August 26, 2009 the Noticee placed buy order for 35.75, prior to which it had been placing orders in the range of ₹ 34.05 to ₹ 35.80. On November 17, 2009 the Noticee had placed buy order for ₹ 39.65, prior to which buy order for ₹ 38.55 was placed. All these Orders

placed by the Noticee 1 were with an intention to mark the closing price of the scrip, which is illiquid. The manipulation of a transaction in order to give a false, misleading or artificial appearance of activity in a stock improperly influences the market price. Therefore, I find that the contribution of Noticee's self-trades had impacted the share price of MCL by establishing New High Price.

vii. The total details dealings of the Noticee 1, during the period when self-trades were executed between June 26, 2009 to November 23, 2009 are furnished in the table below

Trade date	**Self-trades volume *(no., of shares)***	**Total market volume *(no., of shares)***	**% of self-trades to market volume *(no., of shares)***	**Trades executed by JVSL *(no., of shares)***		**% of self-trades to total trades executed by JVSL**	
				Buy	**Sell**	**Buy**	**Sell**
26/06/2009	315	3979	7.92	1825	720	17.26	43.75
06/07/2009	5	1283	0.39	10	10	50.00	50
09/07/2009	1500	9266	16.19	5356	3428	28.01	43.76
21/08/2009	300	24005	1.25	1800	1800	16.67	16.67
26/08/2009	1000	18410	5.43	3303	3508	30.28	28.51
27/08/2009	1600	2956	54.13	2101	2105	76.15	76.01
01/09/2009	50	15378	0.33	4067	1460	1.23	3.42
02/09/2009	1000	6182	16.18	3500	1599	28.57	62.54
03/09/2009	1	1403	0.07	1003	301	0.10	0.33
07/09/2009	551	2538	21.71	1078	1761	51.11	31.29
17/11/2009	1	29366	0.00	502	3	0.20	33.33
23/11/2009	1000	34282	2.92	3103	1003	32.23	99.70
Total	**7322**	**149048**	**4.91**	**27648**	**17698**	**26.48**	**41.37**

viii. It is seen from the above table that during the period when the self-trades to the tune of 7,322 shares executed by the Noticee 1 on 12 days, total number of shares traded in the market were 1,49,048. The contribution of self-trades to the total market volume during the period of self-trades i.e., aforesaid 12 days was 4.91%. The Noticee had contributed more than 15% to the market volume by way of self-trades on four days i.e., on 09/07/2009, 27/08/2009, 02/09/2009 and 07/09/2009. On August 27, 2009 the Noticee had contributed more than 54% to the market volume by way of self-trades. During the period of self-trades, the Noticee had bought 27,648 shares and sold 17,698 shares, which includes shares executed through self-trades. The contribution of Noticee by way of self-trades to the total shares bought and sold by it is 26.48% and 41.37% respectively, which is substantial. The contribution of self-trades to the total buy & sell volume on the aforesaid 12 days was in the range of 0.10% to 99.70%. Therefore, I am of the view that the self-trades have resulted in creation of artificial volumes in terms of higher contribution to either total volumes or substantial volume for the days the alleged trades took place

ix. I have taken note of the submission made by the Noticee that the orders were placed by different dealers employed by it from different terminals. However, on perusal of the trade log, it is observed that buy & sell orders for the alleged self-trades were placed by same user from same terminal id on 5 days out of the 12 days, the details of which are furnished hereunder.

Trade Date	**Terminal No.,**	**Buy quantity**	**Sell quantity**
21/08/2009	215	300	300
06/07/2009	211	5	5
09/07/2009	211	29	29

17/11/2009	206	1	1
23/11/2019	215	500	500
Total		835	835

I note that around 11.40% shares by way of self-trades were executed from same terminals. I find here that the Noticee 1 has submitted that since traders/ jobbers/ arbitragers had been allotted sub-ids out of the main CTCL, there is a possibility that some trades ordered from different sub-ids may have been traded among the traders/ jobbers/ arbitragers of JV Stock, but, without any malafied intention. Accordingly the Noticees stated self-trades from same terminal were NIL, whereas upon examination it is observed that 11.40% of shares were executed by way of self-trades from same terminal. I note here that the different CTCL ids belong to the same legal entity i.e. SPFL, and matching of trade between them, constitutes 'self-trades'. Therefore, I am not inclined to take into account the submission of the Noticees that self-trades were executed from different terminals.

16. Self-trades are those trades executed on the stock market in which the same entity is both the buyer and the seller. I am of the view that such trades do not represent a real change in beneficial ownership of the security, which is akin to creation of artificial volume. Since it does not make business sense to buy and sell to self, it would be a potent tool in the hands of client to create artificial volumes on stock exchange platform. In the instant case, the Notice had structured 65% of self-trades in terms of time, quantity and price, with an intention to create artificial volume, so as to give a misleading appearance of the scrip. The fact cannot be ignored that the Noticee had significantly contributed to LTP of ₹ 6.80 (17.10%), 11% of self-trades were carried out from same terminals and the volume of self-trades vis-à-vis the total volume on days of self-trades was substantial. If the Noticee 1 had been a genuine investor and was not having any manipulative intent, then it could not have adopted such mechanism of selling/purchasing shares of

same scrip. I note that the quantum of self-trades and synchronized self-trades have created artificial volumes impacting the market, as the percentage of its self-trades to the total market volume and its own trades are significant. Therefore, it cannot be said that these self-trades executed by the Noticee were sheer coincidence, accidental, unintentional and not by design. The Noticee was fully aware of the trading pattern, which can be seen in synchronization of orders, placement of orders from same terminal, contribution to LTP and increase in volume artificially.

17. I note that self-trades executed by the Noticee 1 portrayed a misleading appearance of trading, as it does not make any sense to buy and sell to itself. The Noticee 1 carried out self-trades with the intention not to change the beneficial ownership of the shares of MCL, but with an intention to operate only as a device to create false, misleading appearance of trading which had mislead the investors. Therefore, I consider self-trades executed by the Noticee as 'wrongful' with a manipulative intent.

18. Therefore, I have no hesitation in concluding that artificial volumes created by the Noticee 1 through self-trades had attracted gullible investors to deal in the scrip. Thus, I conclude that intent of the Noticee was to create artificial volumes in the relatively illiquid scrip of MCL through execution of self-trades. From the foregoing, it is established beyond doubt that the Noticee had indulged into self-trades which are manipulative/unfair/fraudulent in nature as discussed above. Therefore, I conclude that the Noticee has violated the provisions of Regulation 3 (a) (b) (c) (d) read with Regulation 4 (1) 4 (2) (a) and (g) of SEBI (Prohibition of Fraudulent Trade Practices Relating to Securities Market) Regulations, 2003.

19. I note that the Noticee 2 i.e., SPFL Securities Ltd., was charged in the capacity of stock broker for its failure to carry out proper due diligence, which resulted in execution of self-trades by Noticee 1 i.e., J V Stock Broking Pvt., Ltd., I note that the Noticee 1 had structured its self-trades, as discussed in pre paragraphs, where the buy and sell quantity as well as price and time, in respect of the orders were synchronized. However, the Noticee 2 failed to

observe the trading pattern of the Noticee 1, which could have been averted, as the Noticee had exercised proper due care and caution in dealing with the trades of the Noticee 1. I note that there are no record to suggest that Noticee 2 had generated alerts for alleged self-trades as part of due diligence required to be exercised by stock brokers. I am of the view that the Noticee 2 could have alerted the particular jobber / dealer who had been consistently placing buy and sell order to itself, had it acted upon with proper care and diligence. I also note that the Noticee 2 had failed to monitor the transactions of the Noticee 1 which were marking the closing price of the scrip of MCL.

20. In HJ Securities Pvt Ltd v. SEBI (2012), Hon'ble SAT even made the observation that simply because the number of such self-trades is not large by itself cannot justify execution of self-trades. I am of the view that monitoring of such trades only beyond threshold limits, indirectly justifies execution of self-trades and concomitant artificial volumes created by such trades. In the instant case, I note that there are no record to suggest that Noticee had generated alerts for alleged self-trades executed by it through various jobbers / dealers as part of due diligence required to be exercised by brokers.

21. Had the Noticee, in the capacity of stock broker, monitored self-trades executed by Noticee 1, it would not have resulted in creation of artificial volumes. Therefore, I conclude that the Noticee 2 had failed to exercise adequate due diligence as expected of a Stock Broker under Clause A (2) of the Code of Conduct for Stock Brokers r/w Regulation 7 *(Regulation 9 – post amendment)* of the SEBI(Stock Brokers and Sub-brokers) Regulations,1992.

22. It is observed from the submissions made by Noticee 1 that it had dealt in more than 1200 scrips other than MCL during the investigation period and the percentage of trades carried for MCL is 0.005%, which is very minuscule to its total trades. I note that the instant proceedings are confined to the dealings of the Noticee 1 & 2 in the scrip of MCL during the investigation period and therefore the dealings of the Noticees and its turnover in other scrips is not material in the instant proceedings.

23. The Noticees placed reliance on the case law of Networth Stock Broking Ltd., Vs. SEBI (SAT appeal no. 5 of 2012 decided on June 19, 2012). I have carefully perused the said judgment and observed that it is not related to the facts and circumstances of the present case, and hence, are not applicable towards the present proceedings.

24. It is not out of place to mention that for the similar kinds of self-trades, the Hon'ble Securities Appellate Tribunal in the matter of Shankar Sharma Vs. SEBI (Appeal No. 14/2009 decided on October 28, 2009), observed as follows-

" .... It is thus clear that the appellant was on both sides. He was the buyer as well as the seller. The buy and sell orders were put into the system at almost the same time. Such trades have been executed in large quantities while dealing with the shares of different companies. We have no hesitation to hold that these trades were fictitious as there was no change in the beneficial ownership of the shares traded and it was the appellant on both sides of the trades. How can a person buy from himself and sell to himself. Such trades are only meant to create artificial volumes and they disturb the market equilibrium".

ISSUE -2: Does the violation, if any, attract monetary penalty under Section 15HA and 15HB of SEBI Act.?

25. Pursuant to detailed analysis as brought out above, it is established that self-trades executed by JVSL are not normal transactions and it clearly demonstrates beyond doubt the Noticee had intentionally executed self-trades and manipulated the volume by artificial trading pattern, which had mislead the investors in taking an informed decision in dealing in the scrip of MCL. I also note that the Noticee 2 i.e., SPFL in the capacity of Stock Broker failed to exercise necessary due diligence by generating the alerts and processing them to identify trading pattern of jobbers / dealers. Therefore, I find that the Noticee 1 by creating artificial volume with the intention of no

change in beneficial ownership, leading to false and misleading appearance of trading in the scrip of MCL had violated the provisions of Regulation 3 (a) (b) (c) (d) read with Regulation 4 (1), 4 (2) (A) and (g) of SEBI (PFUTP) Regulations. The Noticee 2 in the capacity of stock broker by not exercising due diligence has violated the provisions of Clause A (2) of code of conduct for Stock Brokers specified in Schedule II read with Regulation 7 *(Regulation 9 – post amendment)* of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992. Thus, I held the Noticee 1 and Noticee 2 liable for monetary penalty under Section 15HA and 15HB of SEBI Act respectively, the provisions of which are furnished hereunder.

Section 15HA of SEBI Act - Penalty for fraudulent and unfair trade practices

"If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty five crore rupees or three times the amount of profits made out of such practices, whichever is higher".

Section 15HB of SEBI Act - Penalty for contravention where no separate penalty has been provided.

"Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees".

ISSUE – 3: If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

26. While determining the quantum of monetary penalty under Section 15HB of SEBI Act, I have considered the factors stipulated in Section 15-J of SEBI Act, which reads as under:

Section 15J - Factors to be taken into account by the Adjudicating Officer

While adjudging quantum of penalty under section 15 - I, the Adjudicating Officer shall have due regard to the following factors, namely:

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

27. The material made available on record has not quantified the amount of disproportionate gain or unfair advantage made by the Noticee and the loss suffered by the investors as a result of the Noticee's default. There is also no material made available on record to assess the amount of loss caused to investors or the amount of disproportionate gain or unfair advantage made by the Noticee as a result of default.

28. Vide Order dated October 22, 2013, the Hon'ble Securities Appellate Tribunal (SAT) while upholding the Order passed by the Whole Time Member in the matter of Angel Broking Pvt. Ltd., has held that the *"argument that the turnover in Sun Infoway Ltd. scrip was miniscule compared to the large turnover of the appellant and hence penalty need not be imposed against ABL cannot be accepted, because imposition of penalty for violating provisions of SEBI Act and regulations made thereunder are not dependent upon total turnover of person violating the provisions of SEBI Act/ regulations made thereunder. The Hon'ble SAT has opined that one who has violated the provisions of SEBI Act and regulations made thereunder, must suffer even if turnover in the scrip in which violations are found is miniscule compared to the total turnover of that person"*.

29. The trading pattern of the Noticee 1 by structuring 65% of self-trades, executing 11% of self-trades from same terminal, contribution of ₹ 6.80 to LTP and that self-trades volume is substantial, is not only against its own investment rationale but of the nature which created false and misleading

positive impression among investors that there was huge demand for the scrip. Further, the Noticee 2 being a stock broker failed to monitor the trading pattern of the Noticee 1 and had not generated any alerts on the self-trades. Therefore, the acts and deeds committed by the Noticee were not in the interest of securities market and it warrants a strict imposition of monetary penalty on the Noticee.

ORDER

30. After taking into consideration the nature and gravity of the charges established against the Noticee as discussed in the preceding paragraphs and in exercise of the powers conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the Adjudicating Rules, I hereby impose the following penalties on the Noticees as under.

    i. ₹ 20,00,000/- (Rupees Twenty lakhs) on Noticee 1 i.e., J V Stock Broking Pvt., Ltd., for violation of the provisions of Regulations 3 (a), (b), (c), (d) read with Regulation 4 (1), 4 (2) (a), and 4 (2) (g) of SEBI (PFUTP) Regulations, 2003, under Section 15HA of SEBI Act.

    ii. ₹ 5,00,000/- (Rupees Five lakhs) on Noticee 2 i.e., SPFL Securities Ltd., for violation of the provisions of Clause A (2) of code of conduct for Stock Brokers specified in Schedule II read with Regulation 7 *(Regulation 9 – post amendment)* of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992, under Section 15HB of SEBI Act.

31. The Noticee shall remit / pay the penalty as mentioned above, within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through e-payment facility into Bank Account the details of which are given below:

Account No. for remittance of penalties levied by Adjudication Officer

Bank Name	State Bank of India

Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No	31465271959

32. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the General Manager, Enforcement Department, DRA-I, SEBI, in the format as given in table below

Case Name	
Name of Payee	
Date of payment	
Amount Paid	
Transaction No	
Bank Details in which payment is made	
Payment is made for (like penalties/disgorgement/recovery/Settlement amount and legal charges along with order details)	

33. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticees and also to SEBI.

Date: 21 February 2018 **B J DILIP**

Place: Mumbai **ADJUDICATING OFFICER**