

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

ORDER

Under sections 11 and 11B of the Securities and Exchange Board of India Act, 1992 read with Regulation 11(1) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, in respect of the proceedings

Sr. No.	Noticees	PAN
1	Mr. Rajesh Jayantilal Shah	AFDPS6216A
2	Mr. Shailesh Jayantilal Shah	AFDPS6203H
3	Mr. Nirmal Rohitbhai Shah	ANYPS5526J
4	Mr. Devang R Shah	BHDPS2264K
5	Ms. Ritaben Rohitkumar Shah	AFDPS6214C
6	Mr. Jayantilal Ratilal Shah	ADRPS4623H
7	Ms. Binaben Shaileshkumar Shah	ANYPS5527K
8	Ms. Namitaben Sachinkumar Shah	AFDPS6213F
9	Mr. Sachin Jayantilal Shah	AFDPS6208N
10	Ms. Manishaben Rajeshkumar Shah	ANYPS5523P
11	Ms. Jinny Nirmal Shah	BFAPS8153Q

In the matter of Pyramid Saimira Theatre Limited.

Background:

1. On December 21 and 22, 2008, there were media reports that vide a letter dated December 19, 2008, Securities and Exchange Board of India (hereinafter referred to as 'SEBI') directed Mr. P.S. Saminathan, one of the promoters of Pyramid Saimira Theatre Limited (herein after referred as 'PSTL'), to make an open offer within 14 days, for allegedly violating creeping acquisition norms

under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as the "Takeover Regulations"), at a price which is not less than Rs.250/- per share.

2. As a result, the shares of the company shot up on Monday morning i.e. December 22, 2008, when the stock markets opened for the day. On the same day, PSTL first informed Bombay Stock Exchange Limited (herein after referred as 'BSE') and National Stock Exchange Limited (herein after referred as 'NSE') in the morning that the company had not received any such communication from SEBI. Subsequently, PSTL received the said communication at around 10.30 a.m. the same day i.e. December 22, 2008, when the courier company Blue Dart delivered the said letter of SEBI. Mr. P.S. Saminathan informed BSE and NSE on December 23, 2008 about the receipt of the letter from SEBI. On December 23, 2008, SEBI also issued a Press Release clarifying that no order or letter has been issued by SEBI against PSTL.
3. Preliminary enquiries revealed that SEBI had not issued any such direction and that the purported SEBI letter was forged. An investigation was ordered for the purpose of examination of trading in the scrip of PSTL. Based on the investigation, SEBI vide an *ad interim ex parte* order dated April 23, 2009 (hereinafter referred to as '*interim* order') issued under Sections 11, 11B and 11(4) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act'), *inter alia* directed:
 - Rajesh Jayantilal Shah, Shailesh Jayantilal Shah, Nirmal Rohitbhai Shah, Binaben Shaileshkumar shah, Ritaben Rohitkumar Shah and Manishaben Rajeshkumar Shah not

to buy, sell or deal in the securities market including IPOs, in any manner, either directly or indirectly, till further directions.

4. Investigation revealed that besides the aforesaid six entities, several others were also involved. Accordingly, a common Show Cause Notice (hereinafter referred to as 'SCN') dated January 16, 2014 was issued to 20 entities in total, including the Noticees herein. This order is limited to the eleven entities named herein, called the Shah Group Entities. In this connection, it is relevant to state that the Shah Group had filed Appeal No. 132 of 2017 before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as SAT) against the confirmatory order dated December 14, 2009 in which SEBI had confirmed the directions given in the ex-parte interim order dated April 23, 2009 *qua* the entities mentioned at paragraph 3 above. In the said appeal, the Hon'ble SAT vide order dated December 21, 2017 had directed SEBI to conclude the proceedings against the Appellants by passing a final order within three months from the date of its order. Accordingly, the present matter is taken up for consideration. Incidentally, I note that the allegations in the common SCN against the 11 Noticees and 9 others are slightly different from each other, though they all fall within the broad category of 'Net Sellers' as per the investigation report (i.e. those sellers who sold on 22 December, 2008 upto 10.30am and had accumulated the shares during December 16 to 19, 2008 for this purpose).

Show Cause Notice, Inspection of Documents, Cross Examination, Reply and Personal Hearing.

5. The SCN issued against the Shah Group *inter alia* alleged that:-
- (i) The Noticees have allegedly benefited from the circulation of the SEBI forged letter;

- (ii) The Noticees have allegedly created artificial interest in the scrip of PSTL by placing large orders during the month of December 2008 and had taken advantage of the price rise in PSTL shares on December 22, 2008 which occurred consequent to the publication of the forged SEBI letter;
 - (iii) During the period from December 15, 2008 to December 19, 2008, SCN alleged that Nirmal Kotecha sold 4,85,276 shares of PSTL on BSE and NSE out of which he had sold more than 4,20,000 shares to persons / entities related / associated with him including the Noticees;
 - (iv) The Noticees had collectively contributed to influence the price of the scrip during the period immediately prior to the circulation of the SEBI forged letter.
 - (v) The Noticees had accumulated PSTL shares between December 16 to 19, 2008 and off-loaded most of their holdings on December 22, 2008 and were amongst the net sellers in PSTL scrip;
 - (vi) The Noticees had made undue profit from the publication of the purportedly alleged forged SEBI letter and the consequent trading interest which got generated enabling them to off-load PSTL shares.
6. Therefore, it is alleged that the Noticee had violated Section 12A (a), (b), (c) of SEBI Act, 1992 and Regulation 3(a),(b),(c),(d), 4(1) 4(2)(a), (b) and (c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003. The legal provisions allegedly violated by the Noticee are reproduced for reference as follows:-

SEBI Act, 1992

"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 recognised 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;

FUTP Regulations, 2003

"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 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.

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;

(c) advancing or agreeing to advance any money to any person thereby inducing any other person to offer to buy any security in any issue only with the intention of securing the minimum subscription to such issue;

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

7. The SCN was served on the Noticees and as requested by them documents sought were made available to the Noticees. In response to the SCN, the Noticees vide letter dated August 29, 2016 *inter alia* submitted that:-

(i) Two of the Noticees namely Mr. Shaliesh Shah and Mr. Jayantilal Shah have expired and hence the proceedings initiated against them may be dropped.

(ii) Shah Family had only a business relationship with Nirmal Kotecha. There is nothing on record to show that the Shah Family Members were acting in concert to do any market manipulation. Further, grave charge of market manipulation cannot rest only on suspicion and surmises.

(iii) Shah Family Members were traders in the market and had traded in many scripts including the scrip of PSTL. They were trading in the scrip of PSTL since its IPO and were also holding substantial stake in PSTL during 2007-2008. All trades of Shah Family Group were genuine and there is no allegation of synchronised/reversal of trades, as compared to other Noticees who have indulged in such trades.

- (iv) Placing order in the stock market above at the Last Traded Price is in itself not illegal or unlawful. Regulator SEBI has to establish that at the relevant time when orders with higher LTP were placed, at that time orders with lower price were pending in the system. SEBI has not mentioned a single such instance in the SCN.*
- (v) Trading of Shah Family Members represent uniform trading pattern. They have been trading regularly in the scrip of PSTL. If they had knowledge of fraud being perpetrated by Nirmal Kotecha, they would not have sold the shares in December and more particularly on December 16 and would not have bought shares on December 22.*
- (vi) While the SCN proceeds on the basis of trading between December 16 and December 19, it has not considered the sale of shares by Shah Family Members on December 16. If this is considered, no actual acquisition will be found during December 16-19, 2008 in the case of some Members of Shah Family.*
- (vii) As per SCN, SEBI has narrowed down on those related or associated parties who sold 15000 or more shares on December 22 before 10.30 AM. But unfortunately, similar criteria is not adopted in relation to some of the Shah Family Members whose sale of PSTL Shares was less than 15000 shares after 10.30 AM on December 22.*
- (viii) It is observed from the trading history that one of the Shah Family Members namely Ms. Jinny Nirmal Shah has incurred a loss of Rs. 11360/- and the number of shares sold by her was merely 2500 shares. Hence no case is made out against Ms. Jinny Shah.*
- (ix) There are five ladies out of which four are housewives and they had no active role in trading in the scrip of PSTL. They deserve a lenient view in the matter.*
- (x) It is clear from the above submissions that the Noticees had no knowledge of any fraud perpetrated by Nirmal Kotecha and they had not violated any provision of SEBI PFUTP Regulations. It is therefore prayed that the proceedings initiated against the Noticees be dropped and directions issued against some of the Noticees be also lifted/vacated.*

8. Considering the reply of the Noticees, an opportunity of personal hearing was granted to them on November 27, 2017. During the personal hearing, Advocate Shri R S Loona, Advocate Abhishek Borgikar appeared as Authorized Representatives of the Noticees along with Rajesh Shah and Nirmal Shah on behalf of all the Noticees and made oral submissions based on their reply dated August 29, 2016. After the personal hearing, written submissions were filed by the Noticees vide letter dated December 4, 2017.

Issues for consideration.

- A. Whether the Noticees, who traded in PSTL shares, were connected to Nirmal Kotecha, who had planned and executed the fraudulent scheme involving the forged SEBI letter?
- B. Whether the trades of the Noticees in general and their trades between December 16 to 19 in particular, would show that they had knowledge of the aforesaid fraudulent scheme of NK?
- If so, what is the extent of illegal gains made by them?

CONSIDERATION OF ISSUES AND FINDINGS

- A. Whether the Noticees, who traded in PSTL shares, were connected to Nirmal Kotecha, who had planned and executed the fraudulent scheme involving the forged SEBI letter?**

Allegations in the SCN on Issue A:-

9. In the SCN, it is alleged that Nirmal Kotecha was a registered client of JM Financials through its sub-broker Shailesh Jayantilal Shah, who is one amongst the Noticees. SCN has also brought out the fact that Nirmal Shah (another Noticee), nephew of Shailesh Jayantilal Shah and brother of Devang R. Shah, used to look after the entire business dealings including the sub-brokership of Shailesh J Shah with J.M. Financial Services Private Limited. From the Call Data Records of Nirmal Shah, it is alleged that Nirmal Kotecha (through his mobile number 9819988816) was in close touch with Nirmal Shah's mobile number 9879018555, registered in the name of Rohitkumar Jayantilal Shah. It is further alleged, on the basis of Call Data Records, that during the period December 15-19 and on the morning of December 22, 2008, Nirmal Kotecha was in close touch with Nirmal Shah. Further the Noticees had several financial transactions with Nirmal Kotecha before the circulation of the forged letter. In the financial transactions that the Noticees had with Nirmal Kotecha, money was transferred by NK without levying any interest.

10. In reply to the aforesaid allegations, the Noticees submitted that :-

- (i) Nirmal Shah who was handling the sub-broking business was found to be in close touch with Nirmal Kotecha because of the broker client-relationship. Since Nirmal Kotecha was a client of the sub-broking firm which was being managed by Nirmal Shah, it was quite natural for Kotecha to contact Nirmal Shah for executing the trades. Even on December 22, 2008, Nirmal Kotecha had contacted Nirmal Shah for executing trades on his behalf. Thus, it is submitted that such contact / relationship between them was purely a broker-client relationship.
- (ii) With regard to the financial transactions with Nirmal Kotecha, the Noticees submitted that Nirman Management Services Private Limited where Nirmal Kotecha was a director had paid a sum of Rupees ten lakhs to Man Viral Constructions Limited (Shah Group Entity) and the said transaction was informed/disclosed to SEBI by Rajesh Shah voluntarily, vide letter dated July 27, 2009, so as to put on record in totality the banking transactions carried out by Shah Group with Nirmal Kotecha, either directly or indirectly, through his relatives/associate firms, during the investigation. Rajesh Shah in his letter dated July 27, 2009 to SEBI has clarified that the said amount was received as advance payment for booking a flat by Nirman Management Services Private Limited. However, on cancellation of the aforesaid booking of flat, the amount was returned to them in full. The transactions were routed through Kotak Mahindra Bank in the account of Man Viraj Construction.
- (iii) The amount of Rupees Ten lakhs was received by late Mr. Shailesh Shah from Viral Doshi's (Nirmal Kotecha's wife) account on September 25, 2008. Late Shailesh Shah, met

Nirmal Kotecha at a religious ceremony in Rajkot, Gujarat and subsequently, Kotecha became his client. Devang R. Shah, a nephew of late Shailesh Shah, got admission in University of Exeter, UK for a course in Master of Science and Finance and Management and to meet the expenses in relation to his admission fee, accommodation, etc. late Shailesh Shah had requested Mr. Kotecha for a temporary loan of Rupees ten lakhs which was duly utilised for that purpose and repaid in December 2008. No part of the loan was utilised by the Noticees for the trading purpose. Since the loan given by Nirmal Kotecha was for education purpose and was to be repaid in short time, he voluntarily decided not to charge any interest thereon. It was submitted that the loan was taken on September 25, 2008 and fully repaid in a period of about three months on December 29, 2008.

Consideration on Issue A:-

11. I have considered the allegations made in the SCN and the defense submitted by the Noticees.

In the letter dated August 29, 2016, the Noticees have admitted the fact that out of the Rs. Ten Lacs interest free loan, given to them by Nirmal Kotecha, for the education expense of Devang R Shah, an amount of Rs. 2,67,584 was utilized for the purposes of business of Shailesh Shah. In the normal course, it is highly unlikely that a sub broker would receive a loan from his client for the purpose of business. The timing of the loan, the person from whom it is taken, the period of availing the loan and the non-levy of interest on the loan are relevant factors that need to be considered for ascertaining the veracity of the claims of the Noticees. I note that the loan was taken on September 25, 2008, the period just prior to NK's off-loading of PSTL shares in the market. The loan was not taken from Nirmal Kotecha directly but it was routed through his wife Viral Doshi. The loan was taken only for a short period of 3 months, i.e. till December 2008 and then the same was refunded. It is interesting to note that Nirmal Kotecha also off-loaded shares

of PSTL substantially till December 2008. Though the Noticees claim that they had no relationship with Nirmal Kotecha apart from the business relationship, the interest free loan granted without any agreement or collateral leads to an inference that there was some connection / relationship between the Noticees and Nirmal Kotecha, that extended beyond a normal broker client relationship.

B. Whether the trades of the Noticees in general and their trades between December 16 to 19 in particular, would show that they had knowledge of the aforesaid fraudulent scheme of NK? If so, what is the extent of illegal gains made by them?

Allegations in the SCN:-

12. In the SCN, it is primarily alleged that during the period December 15, 2008 to December 19, 2008, Nirmal Kotecha sold 4,85,276 shares of PSTL on BSE and NSE, out of which he had sold more than 4,20,000 shares to persons / entities related / associated with him, which included the Noticees herein. It is further alleged that the Noticees have created artificial interest in the scrip of PSTL by placing large orders during the month of December 2008.
13. The SCN also alleged that the Noticees were amongst the 'net sellers' (i.e. those entities who accumulated PSTL shares between December 16 to 19 and off-loaded the shares on December 22, 2008 before 10.30am) and took advantage of the price rise in PSTL, which occurred consequent to the publication of the forged SEBI letter.
14. In response to the aforesaid allegations, the Noticees submitted that :-

- i. The trading pattern of Shah Family does not reflect anything which would show that Shah Family Members and Nirmal Kotecha were acting in concert or that the Shah Family Members had any prior knowledge about the fraud perpetrated by Nirmal Kotecha;
- ii. There is no charge of synchronized or reversal trading against Shah Family in the SCN;
- iii. Shah Family Members were not buyers of PSTL Shares from Nirmal Kotecha during the period December 01-19, 2008;
- iv. From the trading data provided in the SCN, it is observed that 10 out of 11 Members of Shah Family had in fact sold PSTL Shares on December 16. The trading pattern of Shah Family has been uniform all throughout. They have been trading in the scrip of PSTL since the company came out with an IPO in 2006 and they have been regularly buying and selling the shares of PSTL while dealing in a large number of other scrips, as well.
- v. SEBI has failed to analyse the trades where the Noticees had placed orders below the Last Traded Price (LTP) and conspicuously focused only on those orders which were higher than LTP.
- vi. It is a normal trading practice that the buyer first tries to buy at LTP or price lower than the LTP. But in certain circumstances when there are lesser sellers in the market than buyers (one can get such information on screen) or non-response from sellers, the buyer either places orders above LTP or modifies and increases its earlier offer (buy) price to attract the sellers. In the instant case, there were many instances where the Noticees had placed the orders at LTP or below LTP which is a normal trading practice. It is surprising to see that such instances have also been considered as manipulative trades.
- vii. There were a few instances where the Noticees had placed the orders above LTP but such orders can be viewed as genuine or manipulative, when at that relevant time sell orders at LTP

or below LTP were pending and depending on how many buyers and sellers were trading in the market. In instant case, despite repeated requests, SEBI has not provided any data which could show that there were pending sell orders at LTP or below LTP in the system when orders above LTP were placed by the Noticees.

Consideration with respect to issue No. B

15. I have carefully considered the allegations in the SCN and the submission of the Noticees. I note that the allegation of synchronized trade and reversal of trade as alleged in the common SCN is limited to the nine Noticees who are outside the scope of consideration of this order and hence the contention of the Noticees that they have not entered into synchronized or reverse trades appears to be correct. The SCN has alleged that the Noticees have resorted to LTP manipulation, artificial volume creation and generation of illegal profit by the sale of a substantial part of their holdings on December 22, 2008. As far as the allegation of Last Traded Price (LTP) variation is concerned, it is noted from the investigation report that during the period December 15-19, 2008 the price of PSTL scrip increased from Rs. 45.80 to Rs. 75.40. The price volume data of PSTL scrip as obtained from BSE website is given below:-

Date	Open Price	High Price	Low Price	Close Price	No. of Shares	No. of Trades	Total Turnover (Rs.)	Spread High-Low	Spread Close-Open
15-Dec-08	45.80	53.90	45.50	52.10	311,257	2,712	15,487,172	8.40	6.30
16-Dec-08	52.25	61.00	52.25	59.95	1,019,838	4,476	59,214,125	8.75	7.70
17-Dec-	59.90	65.80	58.00	61.30	603,687	4,000	37,089,496	7.80 '	1.40
18-Dec-08	60.00	67.80	60.00	64.80	422,517	3,280	27,080,228	7.80	4.80
19-Dec-08	66.00	77.75	66.00	75.40	1,008,097	6,852	74,106,169	11.75	9.40

16. From the above table, it is seen, that during the period December 15-19, 2008, there was significant rise in the price of the scrip of PSTL on three trading dates namely December 19, 2008 (Price rise

of Rs. 9.40), December 16, 2008 (Rs.7.70) and December 15, 2008 (Rs. 6.30). The LTP analysis of the orders and trades in PSTL shares on December 19, 16 and 15, 2008 was carried out. For the purpose of LTP analysis, the buy orders which resulted in the cumulative traded quantity of 5,000 shares or more along with a cumulative positive price impact of 25 paise or more revealed that on December 19, 2008 on BSE, only two members belonging to the Shah Group were observed to have caused a positive LTP impact. The details of such trades are shown below:

DEVANG R SHAH	Added		Updated		Deleted	Trade
Order No	Qty	LTP Diff	Qty	LTP	Qty	Qty
32520800000250617	5,000	0.45	0	0.05		5,000
32520500000487920	5,000	1.20	0	0.30		5,000

SHAILESH J SHAH	Added		Updated		Deleted	Trade
Order No	Qty	LTP Diff	Qty	LTP	Qty	Qty
44620500030037910	5,000	0	0	0.35		5,000

17. From the above two tables, it is noted that on December 19, 2008

- i. Devang R Shah placed two buy orders above LTP for 5,000 shares each. Initially, the orders were put for Re 0.45 and Re 1.20 and later revised and updated to Re 0.50 and Re.1.50. Both the orders got fully executed and these trades caused a positive impact on the price movement of PSTL shares on BSE.
- ii. Likewise, Shailesh J Shah placed a buy order for 5,000 shares without any variance from the LTP, but subsequently revised the price above LTP by Rs. 0.35 per share. The buy order got executed after the upward revision of price.

18. From this I note that the allegation in the SCN that the trades of the aforesaid two notices had contributed to the inflate the price of the scrip does not appear to be sustainable and hence the charge is dropped.

19. Similarly, on NSE on December 19, 2008 the following two Noticees belonging to the Shah group were found to be involved in positive LTP variation:-

Rajesh J Shah	Added		Updated		Deleted	Traded
Order No	Qty	LTP Diff	Qty	LTP Diff	Qty	Qty
2008121966701343	5,000	-0.25		1.25	-	5,000
<u>2008121966701000</u> -	5,000	-1.00	-	1.00	-	5,000

Ritaben Rohitkumar Shah	Added		Updated		Deleted	Traded
Order No	Qty	LTP Diff	Qty.	LTP.Diff	Qty.	Qty
2008121969939112	5,000	0.65				5,000
2008121968424714	5,000	-0.15	0	-0.75		5,000
2008121968431148	5,000	-0.45	0	-0.65		5,000
2008121968677584	<u>5,000</u>	<u>-0.70</u>	(1,000)	-0.55		4,000

20. On NSE also, I note that Rajesh Shah had to update the price in order to purchase the shares. Ritaben Shah had placed one order above LTP and three orders below LTP. In view of the same, I find the charge of LTP manipulation unjustified and hence drop the same.

21. For the trades executed on December 16, 2008, Rajesh J Shah is seen to impact the LTP with a volume of 5,000 shares, as extracted below from the SCN.

RAJESH JAYANTILAL SHAH		Add		Updated	Deleted	Traded
Order No	Qty	LTP	Qty	, LTP Diff -	Qty	Qty

		Diff				
32520500000485281	10,000	0.75				10,000
32S20400000486980	5,000	0.25				5,000
32520800000247381	5,000	-0.05	0	-1.00	4,522	478

22. Out of the five instances of LTP manipulation charged against the Noticees in the SCN, it is noted that only on December 16, 2008, Rajesh J. Shah placed two buy orders above LTP for 15,000 shares. It is seen that one of the buy orders was placed for 10,000 shares at a price of Rs.0.75 more than the LTP and this order got fully executed. The other order above LTP was also fully executed and these orders caused a positive impact on the traded price of PSTL shares on BSE on December 16, 2008. Further, as regards the order for 5,000 shares below LTP, it is seen that Rajesh J. Shah deleted 4,522 shares and only 478 shares got traded below LTP. Thus out of the five instances of LTP manipulation, there is only one instance of variance from LTP. However, I find that from the facts, the allegation of LTP manipulation cannot be attributed to the Noticees in isolation.

23. The next allegation in the SCN is against one of the Noticees, Rajesh Jayantilal Shah on December 05, 2008, who bought 52,638 shares on NSE and his purchase constituted 16.59% of the market net traded quantity of 317233 shares on NSE. Thus, it was alleged in the SCN that on NSE, Rajesh Jayantilal Shah was the single largest trading client who contributed about 17% of the traded quantity in PSTL on December 05, 2008, thereby manipulating the market volume.

24. Against the said allegation, Noticees have submitted that SEBI should consider and compare the total shares brought by Rajesh Jayantilal Shah with the total traded quantity of 32,87,655 during the period December 1-12, 2008 rather than for a single day and for a particular

exchange. The Noticees submitted that if the same is compared, the percentage drops down to 1.59% of the total traded quantity during the period.

25. In this connection, I note that on December 5, 2008 there was a sudden increase in volume on both the exchanges. Considering the same, the purchase of 52,638 shares on NSE by Rajesh Jayantilal Shah on December 05, 2008, constituting 16.59% is significant and cannot be treated as an ordinary transaction. In this regard, it is also noted from June 2008 onwards, Rajesh J Shah had not executed such a huge purchase of PSTL shares and most of his trades during the period were day trading with nil or negligible obligation. Thus, Rajesh Shah appears to have had a role in the volume creation in the scrip during the relevant time.

26. The last allegation against the Noticees is that they had accumulated PSTL shares between December 16 to 19, 2008 and off-loaded most of their holdings on December 22, 2008 and were amongst the net sellers in the PSTL scrip. In response to the said allegation, the Noticees have submitted that the trading pattern of Shah Group Members represent a uniform trading pattern. They have been trading regularly in the scrip of PSTL. If they had knowledge of the fraud being perpetrated by Nirmal Kotecha, they would not have sold the shares on December 16 and would not have bought shares on December 22. I have carefully perused the trading details of Noticees from June 10, 2008 till December 22, 2008. I have noted that before December 17, 2008 all the Noticees were mainly carrying out day trading in the scrip of PSTL with nil or negligible net position. However, it is noted that suddenly from December 17 to 19, 2008 all the Noticees started purchasing/accumulating the shares of PSTL with net long position. The number of shares accumulated by the noticees between December 17-19, 2008, is as under :-

Sr. No.	Name	No. of shares during on Dec 17-19, 2008
1.	RAJESH JAYANTILAL SHAH	49,216
2.	SHAILESH JAYANTILAL SHAH	8,336
3.	NIRMAL ROHITBHAI SHAH	24,723
4.	DEVANG R SHAH	30,044
5.	RITABEN ROHITKUMAR SHAH	22,000
6.	JAYANTILAL RATILAL SHAH	5,000
7.	BINABEN SHAILESHKUMAR SHAH	10,002
8.	NAMITABEN SACHINKUMAR SHAH	3,500
9.	SACHIN JAYANTILAL SHAH	10,000
10.	MANISHABEN RAJESHKUMAR SHAH	5,000
11.	JINNY NIRMAL SHAH	2,500
	Total	1,70,321

27. From the above table, it is noted that the noticees together purchased 1,70,321 shares of PSTL between December 17 – 19, 2008. This coupled with the fact that there are Call Data Records evidencing Nirmal Shah's calls made to Nirmal Kotecha, (which the Noticees have attempted to play down by stating that those are normal broker-client calls) and the placing of orders by Nirmal Shah on behalf of most of the Noticees would lead to the conclusion that the Noticees had prior knowledge of the fraud perpetrated by Nirmal Kotecha. The Noticees have failed to explain this sudden and noticeable change in their trading pattern in the scrip and in view of the same, I am inclined to infer that the Noticees had, in fact, accumulated PSTL shares between December 17 to 19, 2008 and off-loaded most of their holdings on December 22, 2008, solely with a view to make profits.

28. As regards the quantum of profits made, it is alleged in the SCN that the noticees made a profit of Rs. 24,39,602.91 as follows:-

Sr. No.	Name	No. of Shares Bought on Dec 17-19, 2008	Buy rate	Sale rate	Difference in Buy and Sell rate	Undue Profit made (Rs.)
1.	RAJESH JAYANTILAL SHAH	49,216	63.34	82.52	19.18	943,851.96
2.	SHAILESH JAYANTILAL SHAH	8,336	69.67	80.98	11.31	94,261.81
3.	NIRMAL ROHITBHAI SHAH	24,723	63.25	79.09	15.84	391,518.03
4.	DEVANG R SHAH	30,044	65.59	77.52	11.93	358,548.39
5.	RITABEN ROHITKUMAR SHAH	22,000	73.30	79.45	6.15	135,400.00
6.	JAYANTILAL RATILAL SHAH	5,000	61.00	76.18	15.18	75,879.72
7.	BINABEN SHAILESHKUMAR SHAH	10,002	61.25	75.92	14.67	146,692.11
8.	NAMITABEN SACHINKUMAR SHAH	3,500	60.63	75.71	15.08	52,776.79
9.	SACHIN JAYANTILAL SHAH	10,000	61.05	77.30	16.25	162,500.00
10.	MANISHABEN RAJESHKUMAR SHAH	5,000	63.07	78.70	15.63	78,174.10
11.	JINNY NIRMAL SHAH	2,500	75.00	70.46	-4.54	-
	Total	1,70,521				24,39,602.91

29. In response to the said allegation, the noticees submitted that SEBI has narrowed down on those related or associated parties who sold 15000 or more shares on December 22 before 10.30 AM. But unfortunately, similar criteria is not adopted in relation to some of the Shah Family Members

whose sale of PSTL Shares was less than 15000 shares after 10.30 AM on December 22. They further submitted that six entities out of eleven had traded for less than 15,000 shares.

30. I do not agree with the submission of the Noticees that the benefit of cut off of 15,000 shares should be given to the six noticees also. All the noticees had traded in a specific pattern and they are a part of family group. Having found the Shah Group of entities to be part of a fraudulent market scheme, I do not find it appropriate to separately apply the criteria of the quantum of shares traded to each individual entity. Instead, as observed earlier, I hold the group as a whole is responsible for the alleged violations.
31. The Noticees submitted that two entities out of eleven, namely Shailesh J. Shah and Jayantilal R Shah had expired during the pendency of this proceedings. The Noticees have submitted death certificate of these two noticees and the same is on record. Accordingly, the proceedings initiated against them stand abated.
32. Taking into consideration my findings with respect to the role of the Noticees in the fraudulent scheme perpetrated in the market and the duration of the debarment already undergone by certain Noticees, namely Rajesh Jayantilal Shah, Shailesh Jayantilal Shah(deceased), Nirmal Rohitbhai Shah, Binaben Shaileshkumar, Ritaben Rohitkumar Shah and Manishaben Rajeshkumar Shah, I am inclined to revoke the directions against them flowing from the interim order dated April 23, 2009, with immediate effect. As regards the remaining Noticees, excluding Jayanthilal Ratilal Shah who is deceased, even though I find them to be a part of the larger fraud perpetrated by Nirmal Kotecha in the scrip of PSTL, I do not find it justified to impose any direction affecting their right to trade in the securities market, at this point of time. I also take note of the fact that adjudication proceedings have been simultaneously initiated against the Noticees in respect of the same violations. However, as the allegation of making illegal profit stands sufficiently established by

the investigation against the Noticees, I am inclined to direct disgorgement of such profits from the Noticees, as per the details shown under the head 'Directions'.

Directions:-

33. Considering the above, I, in order to protect the interest of investors and the integrity of the securities market, in exercise of the powers conferred upon me under section 19 of the SEBI Act, 1992 read with section 11, 11(4) and 11B of the SEBI Act, and regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 do hereby

- (i) Revoke the directions passed against the Noticees namely Rajesh Jayantilal Shah, Nirmal Rohitbhai Shah, Binaben Shaileshkumar, Ritaben Rohitkumar Shah and Manishaben Rajeshkumar Shah, [i.e Noticees 1, 3, 5, 7 and 10], vide interim order dated 23 April, 2009 with immediate effect; and
- (ii) Direct the Noticees, excluding Noticee 2 and 6, to jointly and severally pay an amount of ₹ 22,69,461, as ascertained in paragraph 28 above along with interest calculated at the rate of 12% per annum from December 22, 2008 onwards, within a period of 45 days from the date of the order. The Noticee shall pay the said amount either by way of demand draft drawn in favour of "Securities and Exchange Board of India", payable at Mumbai or by e-payment * to SEBI account as detailed below:

Name of the Bank	Branch Name	RTGS Code	Beneficiary Name	Beneficiary Account No.
Bank of India	Bandra Kurla Branch	BKID 0000122	Securities and Exchange Board of India	012210210000008

*Noticee who are making e- payment are advised to forward the details and confirmation of the payments so made to the Enforcement department of SEBI for their records as per the format provided in Annexure A of Press Release No. 131/2016 dated August 09, 2016 which is reproduced as under:

1. Case Name:	
2. Name of the payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction No:	
6. Bank Details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details:	

5. The above directions shall come into force with immediate effect.
6. A copy of this order shall be served upon the stock exchanges and the depositories for necessary action and compliance.

Date: March 22, 2018

Place: Mumbai

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