

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S K MOHANTY, WHOLE TIME MEMBER

ORDER

Under Sections 11 and 11B of the Securities and Exchange Board of India Act, 1992

In the matter of Polytex India Ltd.

In respect of:

S.No.	Names of the Noticees	PAN
1.	Shri Prem Mohanlal Parikh	ALHPP3489N
2.	Shree Shagun Financial Services	ABTFS0353F
3.	Shri Bhavesh Prakash Pabari	AKGPP8679N
4.	Shri Ankit R Sanchaniya	BLNPS3316L
5.	Shri Chirag Rajnikant Jariwala	AFMPJ7543L
6.	Rajnandi Yarns Pvt. Ltd.	AADCR0099J
7.	H. Bhavesh Securities and	AAACB1655R

	Commodities Pvt. Ltd	
8.	Shri Hemant Madhusudan Sheth	ANOPS8607E
9.	Shri Bharat Shantilal Thakkar	AAZPT9542R
10.	Shri Bipin Jayant Thaker	ABYPT4984H

BACKGROUND

1. M/s. Polytex India Ltd. (hereinafter referred to as “Polytex/Company”) is a Mumbai based company, incorporated on January 05, 1987. It came out with an Initial Public Offer in the month of February 1987 and is listed at Bombay Stock Exchange (hereinafter referred to as “BSE”). Its main business was to trade in various consumer products including clothes and providing finance by the way of loans / advances, etc. Presently, the Company is engaged in non-banking financial activities (non-public deposit accepting NBFC).
2. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) conducted an investigation into the manipulation in the scrip of Polytex. It was observed that during the period from October 12, 2010 to December 30, 2011 (hereinafter referred to as “Investigation Period”), the price of the scrip of Polytex witnessed an abnormal movement. It was observed that the price of the scrip increased from Rs.5.85 to Rs.265.10 on September 2, 2011 along with spurt in trading volume leading to prima facie suspicion of artificial volume creation and/or price rise caused by certain entities.
3. It was further observed that the abnormal movement in scrip of Polytex was not backed by any major shift in the policy/management of the Company. Further, no major corporate announcements were made by the Company during the

Investigation Period. It is also observed that the movement in the price of the Polytex was not in line with the movement in index. During the Investigation Period BSE Sensex decreased from 20,203.34 to 15,454.92 registering a decrease of 4,748.42 points (23.5%), whereas price of the scrip in BSE increased from Rs. 5.85 to Rs. 265.10 on September 2, 2011 and then closed at Rs. 129.05.

4. In the course of investigation, it was observed that a group of fourteen entities (hereinafter referred to as “Jigar Group/trading entities”) had directly traded in the scrip while another group of eleven entities (hereinafter referred to as “Pabari group/restrained entities”) indirectly traded in the scrip by directly funding the trading transactions of the Jigar group, although they (Pabari group entities) had been restrained by SEBI vide order dated February 02, 2011 from accessing the securities market and prohibited from buying, selling or dealing in securities in any manner whatsoever till further direction.
5. It may be noted here that vide the aforesaid order passed in the case of Spectacle Infotek Ltd., Goldstone Technologies Ltd., Gemstone Investments Ltd., LGS Global Ltd. and Well Pack Papers and Containers Ltd., SEBI has passed restraint orders against 39 entities which included the Noticees in the instant case. It was found that out of 11 entities of Pabari group that traded indirectly through the Jigar group in the scrip of Polytex & others, one of the entity is a partnership firm viz. Shree Shagun Financial Services where two such restrained persons are partners. Investigation also revealed that the fourteen entities pertaining to Jigar group which traded directly in the scrip allegedly on behalf of Pabari group of entities are connected entities and the said connection amongst the 14 entities were found on the basis of commonalities in KYC documents, bank transactions, inter-se fund movement etc. Similarly, 11 entities of Pabari group were found to be connected to the entities of Jigar group on the basis of their bank transactions,

fund movement etc. with the Jigar group. Out of the 11 entities of Pabari group, 10 entities/persons were already restrained from dealing in securities market vide SEBI Order dated February 02, 2011, referred to above. Prima facie, I find the entities/persons of Jigar group and the Pabari group have not controverted their inter-se relationships brought out in the investigation report, nor have they disputed the nexus found between the Jigar group and Pabari group entities in terms of fund transfers between the entities/persons of the two groups in connection with the trading done in the scrip of Polytex and other scrips.

6. From the details of trades executed during the period of investigation, it is also observed that there were self-trades, and circular/reversal of trades executed by and amongst the trading entities of Jigar group. Details of such trades are dealt in the later part of the order.
7. During the course of investigation, it is also observed that there were continuous movement of funds from the bank account/s of restrained entities i.e. Pabari group to the bank account/s of the trading entities i.e Jigar group. It is also observed that the funds so transferred by Pabari group have been used by Jigar group entities to meet their pay-in obligations in respect of the trades executed by them in the scrip of Polytex and other scrips.
8. On the basis of facts and evidences collected in the course of investigation to support that Pabari group entities have indirectly dealt in securities in a fraudulent manner in violation of the restraint order dated February 2, 2011, a common Show Cause Notice (hereinafter referred to as “SCN”) dated February 26, 2016 was issued to Shri Prem Mohanlal Parikh, Shree Shagun Financial Services, Shri Bhavesh Prakash Pabari, Shri Ankit R Sanchaniya, Shri Chirag Rajnikant Jariwala, Rajnandi Yarns Pvt. Ltd., H. Bhavesh Securities and Commodities Pvt. Ltd., Shri

Hemant Madhusudan Sheth, Shri Bharat Shantilal Thakkar and Shri Bipin Jayant Thaker (hereinafter collectively referred to as “Noticees”) of Pabari group alleging violation of provisions of SEBI Act, 1992 (hereinafter referred to as “SEBI Act”) and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “PFUTP Regulations”). The SCN called upon the Noticees to show cause as to why action in terms of Section 11B of the SEBI Act should not be initiated against them for the alleged violations. The SCN, *inter-alia*, alleges that the acts of the Pabari group entities by way of providing funds to the trading entities of Jigar group have resulted in violation of Regulations 3 (a), (b), (c), (d), 4 (1) and 4 (2) (d) of PFUTP Regulations read with Section 12A (a), (b) and (c) of SEBI Act apart from violating the directions contained in the restraint order dated February 02, 2011.

9. I note that pursuant to the issuance of SCN dated February 26, 2016, two Noticees, Shri Bhavesh Prakash Pabari and Shri Bharat Shantilal Thakkar had sought inspection of documents in the instant matter and the same was granted to them on March 28, 2016. Further, as requested by them, trade and order log was also furnished to them vide letter dated June 22, 2017. The other Noticees (other than Shri Bhavesh Prakash Pabari and Shri Bharat Shantilal Thakkar) vide letters dated October 27, 2017 stated that they had not received the SCN/do not remember to have received the SCN and requested for a copy of the same. They also requested for inspection of documents relied upon by SEBI while issuing SCN and authorized Shri Vikas Bengani to take inspection of the documents, appear for hearing and to make submissions on their behalf. Accordingly, inspection of all documents relied upon in the SCN was granted to the Noticees and copies of documents referred to/relied upon in the SCN have also been made

available to the Noticees.

10. After allowing inspection of documents, the Noticees were granted opportunity of hearing on October 10, 2018. All the Noticees appeared through one Authorized Representative viz:- Shri Vikas Bengani on October 10, 2018 who presented his arguments and made written submissions dated October 9, 2018 to support his arguments on behalf of the Noticees. During the course of hearing the Authorized Representative was requested to provide certain documents in support of his submission, including copy of the Income Tax details of the Noticees. The Authorized Representative sought 15 days' time to provide these documents and the hearing was concluded on merits qua all the Noticees subject to production of the said documents as called for during the hearing. However till date, no further submissions or information have been received from the Noticees nor the documents as called for have been received so far. I also note that no request for seeking further time to provide the documents as desired during the course of the hearing has been received from any of the Noticees. Under the circumstances, I find no reason to keep the Proceedings pending further and am proceeding to decide the matter on merit of the case.

11. I have gone through the replies of the Noticees and have considered the arguments/submissions advanced on behalf of them. The collective submissions of the Noticees are summarized as under:

- SEBI has initiated multiple proceedings in the scrip of Polytex and issued two separate SCNs under Section 11B for two different investigation periods and further, two separate Adjudication Proceedings have been initiated. The Noticees have requested SEBI to consider issue of one common SCN and drop the multiple proceedings for same/similar

violations.

- Denied violation of provisions of PFUTP regulations. Noticees have submitted that they have not traded in the scrip of Polytex and despite that, violation of provision of PFUTP Regulations and SEBI Act have been alleged against them without any basis in the SCN.
- The Noticees cannot be alleged for any violations committed by the Jigar group by trading in the scrips of Polytex. The SCN is silent on how the Noticees helped the Jigar group in executing the alleged trades.
- Allegation made at para 16 of the SCN stating that funds transferred by the debarred entities of Pabari group were further transferred to the brokers and vice-versa, is not supported by the figures in the table given under para 14 and 15 of SCN which shows that funds received by Mr. Jigar Ghoghari from the alleged debarred entities was approx. Rs. 38.43 crores, while funds actually transferred to the brokers was approx. Rs. 22 crores.
- There is no certainty that the fund received from alleged debarred entities by Jigar group entities were directly transferred to brokers for purchase of Polytex shares. It is claimed that funds transferred by the group entities to the Jigar group entities were purely in the nature of other financial transaction and have nothing to do with the trades executed in the scrip of Polytex and others.
- SEBI has arbitrarily levelled the allegations of price manipulation against the Noticees.
- Investigation Period in this case was from October 12, 2010 to December 31, 2011, however, the Noticees were debarred from Securities Market by ex-parte order dated February 2, 2011. Thus the whole foundation of the

SCN is misconceived as no entities were debarred before February 2, 2011.

- In the SCN, funds transferred by the said alleged debarred entities of Pabari group have not been provided in detail and during the Inspection also, SEBI denied to provide certain documents.

12. Before adverting to consider the allegations on merit, I need to deal with certain preliminary objections raised by the Noticees with respect to multiple proceedings initiated pertaining to trading in the scrip of Polytex . The Noticees state that two separate SCNs under Section 11B have been issued to them for two different investigation periods and additionally two separate Adjudication Proceedings have also been initiated in respect of the said two separate investigation periods. Noticees contend that SEBI should issue one common SCN and drop the multiple proceedings. In this regard, I find that the two proceedings under Section 11B referred to by the Noticees pertain to two different investigation periods which is also admitted by the Noticees in their submissions. The instant proceeding before me has been initiated pursuant to the investigation undertaken for the relevant period and finding of facts and allegations made are based on the finding of the investigation for the said specified period. The findings of each investigation require scrutiny on its own merits and facts. There may be similarity in facts and allegations between the two investigation periods or there may be allegations having similar contours, but the facts and circumstances, the trade data, price trend, trading pattern etc. and the exact outcome of such investigations may not be identical. Therefore some similarity in events between two investigation periods which have been separately investigated in order of time, could not be a reason for dropping of separate proceedings. For the sake of clarity & transparency the Noticees have to be confronted with the facts & finding of the two separate

investigations separately under two separate proceedings. Moreover, it would not be fair for the first investigation report to wait for the outcome of the second investigation which commenced subsequently, so as to be put into enforcement action which would mean that the first investigating authority has already anticipated the outcome of the second investigation. No prejudice can be caused when, findings of the each investigation is to be tested on their own facts and merits. Noticees have also not been able to demonstrate prejudice, if any, has been caused to them on this count.

13. Further, Adjudication Proceedings and proceedings under Section 11B are two different quasi-judicial proceedings/actions envisaged under the provisions of SEBI Act. It is trite law that provisions under SEBI Act permits for initiation of multiple proceedings and provisions of the SEBI Act, does not bar initiation of multiple proceedings. I further note that the two separate proceedings aim to achieve two distinct and different objective/results. While Section 11B proceedings may be used to issue directions like restraining a Noticee from accessing securities market, for making open offer etc. in the interest of securities market and investors, adjudication proceedings are initiated with a view to levy monetary penalties for violation of relevant provisions of SEBI Act and rules and regulations made thereunder. In this regard, I note that the *Hon'ble SAT in the matter of Sunita Gupta vs SEBI (DOD- 21.04.2017)* has held that “SEBI Act itself contemplates that where a person violates SEBI Act and the regulations made thereunder, then apart from imposing penalty under Chapter VIA, it would be open to the Board to issue such directions at it deems fit under Chapter IV of SEBI Act.”

14. The provisions of SEBI Act empower SEBI to initiate separate proceedings under Chapter IV as well as under Chapter VIA of SEBI Act. The two proceedings are

independent from each other and SEBI may initiate one or both of the proceeding concurrently in the interest of investors and securities market as may be warranted under the facts and circumstances of a case. Therefore, I do not find any merit in the submissions advanced on behalf of the Noticees against initiation of separate proceeding under chapter IV and Chapter VIA respectively against them

ISSUES FOR CONSIDERATION AND FINDINGS

15. The Noticees have been heard on merits and all principles of natural justice have been complied with. After carefully considering the allegations in the SCN and the submissions made by the Noticees I find the issues that require consideration in this case are as under:

(a) Whether the Noticees have indirectly dealt/traded in securities by funding the trades of the trading entities.

(b) Whether such indirect dealing/trading in securities by the Noticees result in violation of SEBI Act and PFUTP Regulations, more particularly when the directions under the restraining order dated February 02, 2011 against the Noticees were in force.

Issue No. 1: Whether the Noticees have indirectly dealt/traded in securities by funding the trades of the trading entities.

16. The Noticees have been alleged to have violated Regulations 3 (a), (b), (c), (d), 4 (1) and 4 (2) (d) of PFUTP Regulations read with section 12A (a), (b) and (c) of SEBI Act. The relevant alleged provisions are produced as under so as to examine

as to in the facts of the matter, the allegation of the alleged violation would stand or not.

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;*

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)

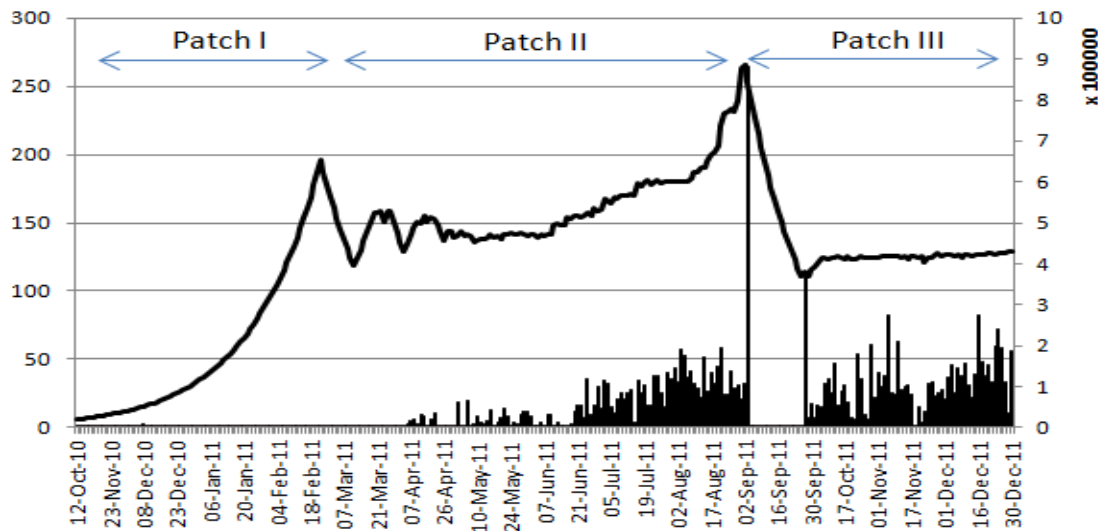
(b)

(c)

(d) paying, offering or agreeing to pay or offer, directly or indirectly, to any person any money or money's worth for inducing such person for dealing in any security with the object of inflating, depressing, maintaining or causing fluctuation in the price of such security;

17. Before addressing the issue no.1 as outlined above, it is necessary to deal with the gravity of the offense and violations that have been caused by the trading in the scrip of Polytex by the Jigar group entities /persons during the Investigation Period. This will help us appreciate the gravity of the offense & violations that the Pabari group entities/persons (i.e. the Noticees) are alleged to have committed by providing finances to the entities of Jigar group to trade in the said scrip. As discussed in the SCN, the Investigation has revealed that there was unusual price movement in the scrip of Polytex, and such abnormal price movement was not supported by any corporate announcements made by the Company during the Investigation Period. The price movement was rather contrary to the movement of

index during the Investigation Period. Trade data showed that there was a price rise in the scrip of Polytex from October 12, 2010 to February 23, 2011, after which there was a fall in its price and again price rose till September 2, 2011. Thereafter the price of the scrip fell down with effect from September 5, 2011 till December 30, 2011. The price-volume chart during the Investigation Period is depicted as under:



18. I note that during the Investigation Period, BSE Sensex decreased from 20,203.34 to 15,454.92 registering a decrease of 4,748.42 points (i.e. 23.50%) whereas during the same period, price of the Polytex scrip in BSE increased from Rs. 5.85 to a high of Rs. 265.10 on September 2, 2011 and then closed at Rs. 129.05. As already noted earlier, the fluctuation in the price of the scrip was not supported by any fundamental changes, or corporate announcement or any other positive factors that could have allured/enticed the investors for investment in the scrip. In order to better appreciate the reason for such unusual movement in the price of the Polytex, the entire Investigation Period was divided into three parts and the price-

volume details of the scrip of Polytex during the three parts of the Investigation Period is shown below:

Period	Dates		Opening Price (volume) on first day of the period (₹)	Closing price (volume) on last day of the period (₹)	Low price(volume) during the period (₹)	High Price(volume) during the period (₹)	Avg. no. of (shares) traded daily during the period
Pre Investigation period	(01-Jun-10 - 11-Oct-10)	Price	There was no trading in the scrip during the period 26-Jun-07 to 11-Oct-10.				
		Vol					
Investigation Period (Period I)	12-Oct-10 -23-Feb-11)	Price	₹5.85 (12-Oct-10)	₹195.85 (23-Feb-11)	₹5.85 (12-Oct-10)	₹195.85 (23-Feb-11)	434
		Vol	500	1,08,110	500	1,08,110	
Investigation Period (Period II)	24-Feb-11 - 02-Sep-11)	Price	₹205.60 (24-Feb-10)	₹265.10 (02-Sep-11)	₹112.50 (11-Mar-11)	₹269.30 (02-Sep-11)	45,327
		Vol	500	1,08,110	500	1,08,110	
Investigation Period (Period III)	(05-Sep-11 - 30-Dec-11)	Price	₹266.00 (05-Sep-11)	₹129.05 (30-Dec-11)	₹105.60 (28-Sep-11)	₹266.25 (05-Sep-11)	97,792
		Vol	8,79,951	1,88,218	3,67,216	8,79,951	
Post investigation period	(02-Jan-12 - 30-Mar-12)	Price	₹130.50 (02-Jan-12)	₹138.40 (30-Mar-12)	₹127.00 (03-Jan-12)	₹150.95 (30-Mar-12)	1,40,390
		Vol	1,66,942	1,78,753	2,14,319	1,78,753	

19. It was observed that during the period from October 12, 2010 to February 23, 2011 (hereinafter referred to as “Investigation Period phase– I”), the volume in the shares of Polytex was meagre, whereas during the period from February 24, 2011 to September 02, 2011 (hereinafter referred to as “Investigation Period phase– II”), and the period from September 05, 2011 to December 30, 2011(hereinafter referred to as “Investigation Period phase–III”), there was significant rise in the volumes in the trades of the scrip of the Company. The volume of trade rose from 434 from the Investigation Period phase-I to 45,327 during the Investigation Period phase-II and 97,792 in the Investigation Period phase- III, although the fundamentals of the Company underwent no such change during these periods to trigger such rise in trade volumes.

20. It is noted that during the phase II & III of the investigation periods, trading in the scrip was substantially done by the 14 Jigar group entities, who are connected to each other as ascertained on the basis of their commonalities in KYC documents,

bank transactions and combination of the both. It is also acknowledged that the Jigar group entities received funds during the period from the 11 Pabari group entities, who were restrained by SEBI vide order dated February 02, 2011 from dealing in securities in any manner till further direction. Based on the above, the Jigar and Pabari group of entities are found to be connected.

21. Summary of trading executed in the scrip of Polytex by the trading entities of Jigar group during Investigation Period phase – II& III respectively are placed below:

Trading summary during Investigation Period phase -II:

Client Name	Gross Buy	Gross Sell	Net Qty.	% of Gross Buy to Mkt. Vol.	% of Gross Sell to Mkt. Vol.	% of Net Qty. to Mkt. Vol.
Kiran Bhiku Bhanaes	18,12,923	13,96,811	4,16,112	31.49	24.27	7.23
Jigar Prafulchandra Ghoghari	17,17,682	11,63,524	5,54,158	29.84	20.21	9.63
Jinal Apurva Rawal	7,23,236	5,75,325	1,47,911	12.56	9.99	2.57
Jatin Shantilal Shah	3,42,500	1,55,500	1,87,000	5.95	2.70	3.25
Animesh Kanjibhai Patel	2,97,630	1,88,525	1,09,105	5.17	3.28	1.90
Dilipkumar Pukhraj Jain	1,31,972	1,03,778	28,194	2.29	1.80	0.49
Janak Chimanlal Dave	1,11,058	76,200	34,858	1.93	1.32	0.61
Leena Bharat Thakkar	40,505	40,505	-	0.70	0.70	0.00
Prasad Vitthal Dighe	18,000	-	18,000	0.31	0.00	0.31
Kiran Madhusudan Sheth	8,200	2,650	5,550	0.14	0.05	0.10
Bharat Nanji Vora	152	205	(53)	0.00	0.00	0.00
Bharat Gangasingh Vaghela	-	1,900	(1,900)	0.00	0.03	-0.03
Total of the group	52,03,858	37,04,923	14,98,935	90.40	64.36	26.04

Trading summary during Investigation Period phase -III:

Client Name	Gross	Gross	Net Qty.	% of Gross	% of	% of
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	Buy	Sell		Buy to Mkt. Vol.	Gross Sell to Mkt. Vol.	Net Qty. to Mkt. Vol.
Jigar Ghoghari	20,22,191	20,72,965	(50,774)	25.85	26.50	-0.65
Kiran Bhanaes	15,62,005	17,28,212	(1,66,207)	19.97	22.09	-2.12
Jinal Rawal	11,86,833	12,81,526	(94,693)	15.17	16.38	-1.21
Jatin Shah	4,86,600	4,12,658	73,942	6.22	5.28	0.95
Animesh Patel	2,95,383	3,43,407	(48,024)	3.78	4.39	-0.61
Janak Dave	2,60,010	1,55,999	1,04,011	3.32	1.99	1.33
Kiran Sheth	96,123	-	96,123	1.23	0.00	1.23
Leena Thakkar	36,000	36,000	-	0.46	0.46	0.00
Dilipkumar Jain	28,152	56,346	(28,194)	0.36	0.72	-0.36
Bharat Vora	106	106	-	0.00	0.00	0.00
Total of the group	59,73,403	60,87,219	(1,13,816)	76.35	77.81	-1.45

22. As may be noted from the above two tables, the Investigation Period phase-II witnessed massive rise in the trade in the scrip and the Jigar group entities have bought 52,03,858 shares and sold 37,04,923 shares accounting for 90.40% and 64.36% to the total market buy and sell volumes respectively. The investigation report also reveals that out of the total 52,03,858 shares bought and 37,04,923 shares sold, 34,98,973 shares were transacted (bought and sold) inter se amongst themselves which constituted 67.24% of the total buy and 94.44% of the total sell made by them meaning thereby, no actual/real beneficial ownership were intended to be transferred qua the above trades done by the group entities amongst themselves during this period.

23. I also note from the record that the trading entities during Investigation Period, phase- III, have bought 59,73,403 shares and sold 60,87,219 shares accounting for 76.35% and 77.81% to the total market buy and sell volumes respectively and out

of the said buy and sell volumes, 51,52,411 shares (i.e. constituting 86.26% of total buy and 84.64% of total sell) were bought and sold amongst themselves within the group. From the above, I find that these trading entities of Jigar group have on a continuous basis contributed to the entire trading volume in the scrip during these periods and a majority of such trades comprised trades within the group-members. Under the circumstances, it can be observed that the trades in the scrip of the Company by the Jigar group entities were not executed with an intention to effect actual transfer of beneficial ownership, hence, cannot be called as trades executed in the normal course of trading/dealing in securities. In the absence of actual transfer of actual/real ownership in majority of the trades which were executed amongst the members of the Jigar group, I cannot consider them as genuine trades executed in the normal course of trading on the platform of an exchange. Therefore, the executed trades, contain elements to generate artificial volumes in the scrip on the exchange platform.

24. I also note from the investigation report that some of the trading entities belonging to the Jigar group are involved in reversal/self-trades. The details of such reversal executed by this group entities during the Investigation Period phase-II & III are as under;

Reversal of trades during the Investigation Period phase-II

Client Name	Client Name	Sum of Reversal Qty.	% of Reversal Qty. to mkt vol.	No. of reversal trades	No. of days of reversal trades	% of reversal Qty to day's mkt. vol.
Kiran Bhanaes	Jigar Ghoghari	3,68,962	6.38	1,127	37	0.07 - 43.63
Jigar Ghoghari	Jinal Rawal	89,129	1.54	424	14	0.16 - 17.94
Kiran	Jinal Rawal	64,787	1.12	370	14	0.02 - 17.28

Bhanaes						
Animesh Patel	Kiran Bhanaes	2,965	0.05	15	1	13.02
Total		5,25,843	9.09	1,936	66	

Reversal of trades during the Investigation Period phase-III

Client Name	Client Name	Sum of Reversal Qty.	% of Reversal Qty. to mkt vol.	No. of Reversal trades	No. of days of Reversal trades	% of reversal Qty to day's mkt. vol.
Kiran Bhanaes	Jigar Ghoghari	2,30,953	2.95	402	16	0.03 – 26.75
Jigar Ghoghari	Jinal Rawal	1,27,728	1.63	319	18	0.02 – 24.81
Kiran Bhanaes	Jinal Rawal	1,07,255	1.37	153	9	1.44 – 14.73
Janak Dave	Jigar Ghoghari	18,098	0.23	27	3	1.62 – 3.84
Animesh Patel	Jinal Rawal	3,000	0.04	4	1	4.37
Dilipkumar Jain	Jigar Ghoghari	2,000	0.03	5	1	0.55
Animesh Patel	Kiran Bhanaes	850	0.01	11	1	1.56
Animesh Patel	Jigar Ghoghari	352	0.01	17	2	0.03 – 0.31
Total		4,90,236	6.27	938	51	

25. The above tables show that some of the Jigar group of entities have indulged in reversal of trades in the scrip of Polytex involving large quantities of shares. I further observe that some of the entities have executed reverse trades repeatedly, wherein a quantity of more than 10,000 shares have been reversed on more than 10 counts in a period of two or more days, which have created artificial volumes of 9.04 % and 6.18% in the scrip in the phase II & III respectively during the Investigation Period. I further note that these acts of reversal/circular trades are found to be not confined to few accidental trades but are spread over a number of

days in several trades on a continuous basis, giving rise to a bonafide belief that the same have been executed only to generate artificial volume in the scrip.

26. Apart from reverse trades amongst group members, investigation has also revealed that some entities from the trading group have also engaged in self-trades. The details of such self-trades wherein the same clients appeared on both buy and sell side of the trades are summarized as under:

(i) Self-trades executed during Investigation Period phase-II

Client Name	Self Trade Qty.	No. of Self Trades	No. of trading days	Sum of LTP diff. (₹)	% of Self Traded Qty. to Market Vol.	% of Self Traded Qty. to Clients Buy Vol.	% of Self Traded Qty. to Clients Sell Vol.
Jigar Ghoghari	7,324	10	3	0.20	0.13	0.43	0.63
Kiran Bhanaes	5,116	14	12	-1.15	0.09	0.28	0.37
Jinal Rawal	469	1	1	0.00	0.01	0.07	0.08
Grand Total	12,909	25	16	-0.95	0.23	0.78	1.08

(ii) Self-trades executed during Investigation Period phase -III

Client Name	Self Trade Qty.	No. of Self Trades	No. of trading days	Sum of LTP diff. (₹)	% of Self Traded Qty. to Market Vol.	% of Self Traded Qty. to Clients Buy Vol.	% of Self Traded Qty. to Clients Sell Vol.
Kiran Bhanaes	23,215	20	6	2.20	0.30	1.49	1.34
Jigar Ghoghari	11,808	27	18	-4.60	0.15	0.58	0.57
Jinal Rawal	10,019	3	3	-1.45	0.13	0.84	0.78
Bharat Vora	2	2	1	-0.25	0.00	1.89	1.89

Grand Total	45,044	52	28	-4.10	0.58	4.80	4.58
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27. As may be observed from above, the entities of the Jigar group have executed more than 75 self-trades during the Investigation Period phases-II and III out of which 52 self-trades were executed only during the Investigation Period phase-III, wherein, it is found that three clients, viz:- Kiran Bhanaes, Jigar Ghoghari and Jinal Rawal have executed self-trades repeatedly involving quantity of more than 10,000 shares. Needless to state that such repeated self-trades contributed in creation of artificial volumes in the scrip during the period of investigation.

28. Having discussed above the trading activities of the Jigar group of entities who have directly traded in the scrip of Polytex in a manner to artificially raise the volumes of trade. I am adverting to the Noticees who belong to the Pabari group and the role played by them in the trades executed by the Jigar group entities. It is noted from the SCN and the records placed before me that there was continuous movement of funds from the bank/s account of the restrained entities of Pabari group to the bank account/s of the trading entities. Summary of funds received by the trading entities from the restrained entities and subsequent onward transfer of funds to the broker are tabulated as under:-

From (restrained entities) of Pabari Group	Amount (₹)	To Trading Entities of Jigar Group	Amount (Rs.)	To (Stock Brokers)
Bhavesb Prakash Pabari & Shree Shagun Financial Services	1,28,40,624	Animesh Kanjibhai Patel	1,13,40,624	S.P. Jain Securities P. Ltd.
Rajnandi Yarns Pvt. Ltd.	5,20,000		-	-
Hemant Madhusudan Sheth	6,00,000		6,00,000	S.P. Jain Securities P. Ltd.

Bhavesh Prakash Pabari & Shree Shagun Financial Services	1,76,90,090	Janak Chimanlal Dave	1,67,40,090	PRL Stock & Share Brokers P. Ltd.
			8,00,000	Fortune Equity Brokers (India) Ltd.
Bhavesh Prakash Pabari & Shree Shagun Financial Services	16,09,39,116	Jigar Praful Ghoghari	89,43,000	Bhavik Rajesh Khandhar Share & Stock Brokers P. Ltd.
			49,24,482	Comfort Securities Ltd.
			5,00,000	Fortune Equity Brokers (India) Ltd.
			1,22,89,564	IFCI Financial Services Ltd.
			1,21,50,000	Inventure Growth & Securities Ltd.
			51,90,000	Investmentor Securities Ltd.
			26,25,000	MR Share Broking P. Ltd.
			4,00,000	Nirmal Bang Securities Ltd.
			27,75,000	PRL Stock & Share Brokers P. Ltd.
			95,00,000	SPA Securities Ltd.
			6,32,82,024	S.P. Jain Securities P. Ltd.
			21,11,282	Sunidhi Securities & Finance Ltd.
Hemant Madhusudan Sheth	1,35,95,553		18,58,000	PRL Stock & Share Brokers P. Ltd.
			9,00,000	SPA Securities Ltd.
			79,09,500	S.P. Jain Securities P. Ltd.
Chirag Rajnikant Jariwala	42,64,833		18,00,000	S.P. Jain Securities P. Ltd.
			24,61,865	PRL Stock & Share Brokers P. Ltd.
Ankit R Sanchaniya	17,39,99,015		5,00,000	Asian Fintrade Services P. Ltd.
			50,00,000	Fortune Equity Brokers (India) Ltd.
			86,59,900	PRL Stock & Share Brokers P. Ltd.
			1,29,76,000	SPA Securities Ltd.
			4,03,40,434	S.P. Jain Securities P. Ltd.
Bharat Shantilal Thakkar	2,02,00,000		29,00,000	S.P. Jain Securities P. Ltd.
			9,00,000	Investmentor Securities Ltd.
Bipin Jayant Thaker	18,00,900		18,00,000	S.P. Jain Securities P. Ltd.
Kishore Balubhai Chauhan	27,00,000		9,00,000	S.P. Jain Securities P. Ltd.
Prem Mohanlal Parikh	24,28,108		18,00,000	S.P. Jain Securities P. Ltd.
H Bhavesh Securities and	16,85,980		9,00,090	S.P. Jain Securities P. Ltd.

Commodities P. Ltd.				
Rajnandi Yarns Pvt. Ltd.	30,11,643		14,53,438	PRL Stock & Share Brokers P. Ltd.
			12,50,000	IFCI Financial Services Ltd.
			1,50,000	Sunidhi Securities & Finance Ltd.
Bhavesh Prakash Pabari, Shree Shagun Financial Services	1,20,84,672	Jinal Apurva Rawal	5,00,000	Arihant Capital Markets Ltd.
			4,00,000	IFCI Financial Services Ltd.
			58,00,000	Investmentor Securities Ltd.
			9,00,000	Religare Securities Ltd.
			3,00,000	S.P. Jain Securities P. Ltd.
			10,00,000	Transparent Shares & Securities P. Ltd.
Bhavesh Prakash Pabari, Shree Shagun Financial Services	3,33,83,423	Kiran Bhiku Bhanaes	23,80,442	Comfort Securities Ltd.
			20,50,000	Fortune Equity Brokers (India) Ltd.
			95,00,000	IFCI Financial Services Ltd.
			16,82,881	MR Share Broking P. Ltd.
			11,00,000	PRL Stock & Share Brokers P. Ltd.
			53,50,100	S.P. Jain Securities P. Ltd.
			36,90,000	Sunidhi Securities & Finance Ltd.
Hemant Madhusudan Sheth	9,00,000		9,00,000	PRL Stock & Share Brokers P. Ltd.
Shree Shagun Financial Services	50,08,000	Kiran Madhusudan Sheth	50,00,000	Fortune Equity Brokers (India) Ltd.

29. During the course of investigation a no. of instances have also been found where the trading entities have transferred back the funds to the restrained entities (Pabari Group) after receipt of pay-outs from the brokers in respect of their trade in the scrip of Polytext as well as other scrips. A summary of such fund transfers from the trading entities back to the restrained entities are tabulated as under:

To (Stock Brokers)	Amount (Rs.)	From (Trading Entity)	Amount (Rs.)	To (Restrained Entity) of Pabari Group
S.P. Jain Securities P. Ltd.	1,02,00,000	Animesh Kanjibhai	1,08,00,000	Bhavesh Prakash Pabari & Shree Shagun Financial Services
-	-	Patel	2,00,000	Rajnandi Yarns Pvt. Ltd.
-	-	Janak Chimanlal Dave	1,78,620	Shree Shagun Financial Services
S.P. Jain Securities P. Ltd.	8,58,47,000	Jigar Praful Ghoghari	12,37,99,52	Bhavesh Prakash Pabari & Shree Shagun Financial Services
Bhavik Rajesh Khandhar Share & Stock Brokers P. Ltd.	15,85,000		4	
Fortune Equity Brokers (India) Ltd.	5,50,000			
-	-		1,41,83,124	Hemant Madhusudan Sheth
-	-		64,23,949	Chirag Rajnikant Jariwala
-	-		26,08,887	Ankit R Sanchaniya
-	-		6,000	Bharat Shantilal Thakkar
Bhavik Rajesh Khandhar Share & Stock Brokers P. Ltd.	19,90,000		41,41,962	Bipin Jayant Thaker
S.P. Jain Securities P. Ltd.	8,00,000		13,51,120	Prem Mohanlal Parikh
-	-		8,42,347	H Bhavesh Securities and Commodities Pvt. Ltd.
S.P. Jain Securities P. Ltd.	1,97,516	Jinal Apurva Rawal	50,38,659	Rajnandi Yarns Pvt. Ltd.
S.P. Jain Securities P. Ltd.	1,85,69,170		3,96,77,066	Bhavesh Prakash Pabari & Shree Shagun Financial Services
Fortune Equity Brokers (India) Ltd.	79,559			
-	-		9,00,000	Ankit R Sanchaniya
-	-		18,00,000	Bharat Shantilal Thakkar

-	-		6,50,000	Chirag Rajnikant Jariwala
-	-		29,21,000	Hemant Madhusudan Sheth
S.P. Jain Securities P. Ltd.	3,96,05,036		4,26,73,926	Bhavesh Prakash Pabari & Shree Shagun Financial Services
Sunidhi Securities & Finance Ltd.	25,82,285	Kiran Bhiku Bhanaes		
Fortune Equity Brokers (India) Ltd.	53,25,096			
S.P. Jain Securities P. Ltd.	21,70,384		1,00,000	Chirag Rajnikant Jariwala

30. From the transfer of funds as highlighted in the above tables, it becomes clear that the restrained entities (Noticees) have made funds available on a continuous basis to the trading entities of Jigar Group during the Investigation Period and the latter have re-paid the funds back to the restrained entities from time to time. It is also noted that the funds so transferred from the restrained entities have been transferred onwards from the bank accounts of the trading entities to the accounts of the brokers, apparently for the purpose of meeting the pay-in obligation of the trading entities. The submission advanced on behalf of the Noticees that these alleged funds transfer are purely financial transaction and have nothing to do with the trades executed by the trading entities. However, the Noticees have not submitted any document to substantiate their arguments and to explain the exact nature of these funds that were transferred to the trading entities. I note that cumulatively, more than Rs 45 Crore have been transferred by the restrained entities to the trading entities without executing any document to secure the repayment thereof.

31. I also find that the Noticees are contending that whole of the amount transferred to the Jigar group entities have not been transferred to the brokers hence, there is a mismatch in the amounts of money transfers shown in the SCN between the

Noticees and the trading entities on the one hand and between trading entities and the brokers on the other. However such an argument does not advance the case of Noticees, as it is not the case of these Noticees that none of the amount transferred by them to the Jigar group entities have been transferred to the brokers. It is also not the case of Noticees that they have not transferred funds to the trading entities. They are merely stating that the whole of the funds transferred have not been transferred onward to the brokers. Hence, Noticees deserve to be exonerated on this count alone. There is no dispute to the fact that funds have been received by the trading entities from the restrained entities. Similarly there is no dispute that funds have been transferred by the trading entities to the brokers to meet their pay-in obligation in the scrip of Polytex and also for trading in other scrips. The bank statements also clearly suggest that the trading entities have transferred back funds to the restrained entities from time to time, apparently on receipt of pay-outs from the brokers as demonstrated in the above table. In view of the above, in the absence of any evidence to the contrary, the only reasonable conclusion that can be drawn is that the Noticees have funded the trading clients to execute trades in shares including the share of Polytex, during the Investigation Period.

32. It is pertinent to note that except for claiming that that the funds transferred by them were purely financial transactions and have nothing to do with the trades executed in the scrip of Polytex, the Noticees have not adduced any specific explanation with respect to the exact purpose for transferring such large sums to various trading entities/persons, with supporting details/evidence. The facts remain that Noticees have not disputed about the transfer of the funds to the trading entities during the same time when the trading entities were indulged in trading in the scrip of Polytex and other securities. The SCN also mentions that

the funds transferred by the trading entities were mostly transferred on the same dates to the brokers for the purpose of meeting the pay in obligation in respect of trading in the scrip of Polytex and others.

33. Another argument of the Noticees that SCN does not provide exact bifurcation as to which specific fund transfers were utilized for trading in the scrip of Polytex, is also not sustainable for the reason of fungibility character of money. It is trite law that those who claim justice must come clean. The onus lies on the Noticees to explain & justify the large scale funds transfers effected from their accounts to the accounts of trading entities/persons on several dates with documentary evidence in support of their explanation with regard to the specific nature of such transfers. Another argument of the Noticees is that Investigation Period in the instant case starts from October 12, 2010 to December 31, 2011 while the order of SEBI restraining them from dealing in securities commenced from the February 02, 2011(the date of passing the order), hence, the whole foundation of the SCN is misconceived. This argument put forth by the Noticees too deserve to be rejected, since the Noticees shall continue to remain liable for the trades executed by them through the trading entities of Jigar group subsequent to the restraint order dated February 02, 2011 referred to above. The attempts being made by the Noticees to escape from the consequences of their violative actions under various technical and procedural grounds as stated above, are untenable.

34. During the course of hearing, Noticees were requested to submit certain documents inter-alia, copies of Income Tax Return, Bank Statements etc. to substantiate their claim of having transferred funds to the trading entities only for other financial transactions. However, no such documents have been filed by the Noticees. Noticees have also not submitted any documents to show that due care, diligence was undertaken before parting with such huge sums of money to the

trading entities. No enquires have been made about the financials of the trading entities before entering into the so called other financial transaction. As Noticees have not placed any credible piece of evidence to support their claim of fund transfer as part of other financial transaction, I am not inclined to accept such an explanation and reject the same.

35. Further, the investigation has revealed that there have been transfers of considerable amounts from the trading entities to the restrained entities on numerous occasions. Majority of such transfers made by the trading entities are found to be immediately after the receipt of the payout obligation from the accounts of the broker pursuant to the sale of securities.
36. To sum up my observations on the basis of the evidence and information available in the investigation report, the SCN and also from a perusal of replies filed by the Noticees, there is no ambiguity in my mind that six Jigar group entities received funds from time to time during different phases of the Investigation Period from the Noticees, who were serving a restraint order passed by SEBI during the said period as mentioned above. These funds so received from Noticees were transferred mostly to the respective stock brokers for the purpose of meeting pay-in obligations with regard to their trading in the scrips of Polytex and others by the trading entities of Jigar group. Apart from this, the funds received from the stock brokers pursuant to the sale of the securities were transferred back by the trading entities of Jigar Group to the restrained entities (Noticees) from time to time. Thus, there were direct, close and immediate nexus between the trades executed by the Jigar group entities and the funds transferred by the Noticees on an ongoing basis. The Noticees have not submitted any documents in support of their claim to prove that the transaction were financial or of any other in nature. They have also not produced any submissions/proof that the trading group of entities were

themselves financially sound and capable of executing trades of such magnitude based on their own financial conditions. Noticees have also not placed any documents to show that they are by occupation in the business of lending and borrowing money. In view of the above, I find that the Noticees, by directly funding the trades executed by the trading entities have indeed indirectly traded in the securities.

Issue No 2: Whether such indirect dealing/trading in securities by the Noticees result in violation of SEBI Act and PFUTP Regulations, more particularly when the directions under the restraining order dated February 02, 2011 against the Noticees were in force.

37. It has already been demonstrated earlier that the trading entities have indulged in large scale circular/reversal trades within their group on numerous instances wherein trades have been executed with no intention to transfer the beneficial ownership. Trading entities have also been found to have executed self-trades during the period of investigation. As has been observed above while dealing with issue no.1, the Noticees are found to be connected with the trading entities in terms of their continuous to & fro fund transfers with them. Consequently, by indirectly trading in the scrip of Polytex in collusion with the trading entities, they are responsible for creation of artificial volume in the scrip by way of circular/reversal and also self-trades in the scrip of Polytex thereby creating and contributing in creation of a false and misleading appearance of genuine trading in the scrip at the exchange. The trading entities did widespread reversal trades by reversing their buy or sell positions with subsequent sell or buy trades on the same day with same counter parties. Execution of such trades cannot be called a mere

coincidence but is outcome of a concerted effort to do so with an intent to create false and artificial volume of the scrip. These trades have deliberately been executed with an intention not to change the beneficial ownership of the shares of Polytex, but with a motive to create a false, misleading appearance of trading and to cause artificial volume so as to give an impression to other clients in the market that the scrip was being actively traded at the prevailing price with genuine buyers and sellers executing genuine trades.

38. In this regard, I note that the Hon'ble SAT in the case of *Chirag Tanna v. The Adjudicating Officer* has held that “*we have on record the trade and order logs from which it has been pointed out by the learned counsel for the Respondent Board that the appellant had executed self trades i.e. trades in which he was both the buyer and the seller. Such trades are, admittedly, fictitious and create artificial volumes in the traded scrip.*” Further, the Hon'ble SAT in the case of *Triumph International Finance Ltd v. SEBI* has observed that “*...the buyer and the seller were also the same. It is obvious that these trades were fictitious to which appellant was a party. They were fictitious because the buyer and the seller were the same...*” The Hon'ble SAT in *HJ Securities Pvt Ltd v. SEBI* (2012), even made the observation that *simply because the number of such self-trades is not large by itself cannot justify execution of self-trades.*

39. Thus, judicial authorities from time to time have held that trades which are primarily not executed in normal course of dealing in securities are bad and contain elements of creating artificial and misleading appearances so as to induce the innocent investors to trade in the scrip. The Hon'ble SAT has held in several cases that such trades call for punitive action since they are not executed in normal or usual course of trading and therefore bad in nature. In *M/s. Jayantilal Khandwala & Sons Pvt. Ltd. v. Securities and Exchange Board of India* (Appeal no. 24 of 2011 decided on June 8, 2011), Hon'ble SAT has held that one cannot buy and sell

shares from himself. Such transactions are obviously fictitious and meant only to create false volumes on the trading screen of the exchange.

40. The Hon'ble SAT in *Systematix Shares & Stocks India Limited v. SEBI* (2012), observed that trades, “*where beneficial ownership is not transferred, are admittedly manipulative in nature.*” The execution of trades which have been executed without having intention to transfer the ownership have also been analyzed by the Hon'ble Supreme Court in the matter of *SEBI vs. Rakhi Trading Private Ltd.*, in Civil appeals no., 1969 of 2011 with Civil Appeal Nos., 3174-3177 of 2011 and Civil Appeal No., 3180 of 2011 decided on February 8, 2018, wherein the Hon'ble Supreme Court had observed that the price discovery system itself was affected by synchronization and rapid reverse trade, which also had the impact of excluding other investors from participating in the market. The Supreme Court, therefore found that the traders having engaged in a fraudulent and unfair trade practice while dealing in securities, are hence liable to be proceeded against for violation of PFUTP Regulations.
41. At this juncture it will be correct to turn attention to the challenges involved in gathering direct and conclusive evidence pertaining to fraud perpetrated in the securities market which has engaged the mind of the courts on several instances. Considering the usage of technology and **innovation** of human mind, it has been observed that it would be difficult to prove facts which find birth and takes shape in the mind of an individual. In such cases the intent of the parties concerned can only be gathered from the attending circumstances and, therefore, circumstantial evidence has to be taken into consideration to infer the motive behind the act. In this connection, it would be appropriate to refer to the Order of the Hon'ble Supreme Court of India in *SEBI v. Kishore Ajmera*; Civil Appeal No. 2818 of 2008 (dated February 23, 2016), wherein the following has been observed with respect

to the evidence pertaining to market manipulations:

“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 therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion...”

42. I also like to refer to Section 2(1)(b) of PFUTP Regulations which defined “dealing in securities” to include an act of buying, selling or subscribing pursuant to any issue of any security or agreeing to buy, sell or subscribe to any issue of any security or otherwise transacting in any way in any security by any person as principal, agent or intermediary referred to in section 12 of the Act. Therefore, **dealing includes not just buying, selling or subscribing to securities directly but also includes transacting in any other way in any security as agent or principal.** In the instant case, the facts & circumstances clearly suggest that trading entities of Jigar Group have traded in the scrip of Polytex and other securities as agents & front persons on behalf of the Noticees by directly using their funds on a continuous basis. Thus the Noticees can be ascribed to be the principal who traded indirectly in the securities through the Jigar group entities. Hon’ble Supreme Court in the case of *SEBI v. Shri Kanaiyalal Baldevbhai Patel* has held that *“The definition of ‘dealing in securities’ is broad and inclusive in nature. Under the old regime the usage of term ‘to mean’ has been changed to ‘includes’, which prima facie*

indicates that the definition is broad. Moreover, the inclusion of term 'otherwise transacting' itself provides an internal evidence for being broadly worded so as to include situations such as the present one."

43. Hon'ble Supreme Court in the case of *SEBI v. Rakhi Trading*, observes that Regulation 4(1) of PFUTP Regulations in clear and unmistakable terms has provided that "no person shall indulge in a fraudulent or an unfair trade practice in securities" and referred to their own judgment in *SEBI v. Shri Kanhaiyalal Baldevbhai Patel and Ors* wherein it was held that

"31 Although unfair trade practice has not been defined under the regulation, various other legislations in India have defined the concept of unfair trade practice in different contexts. A clear cut generalized definition of the 'unfair trade practice' may not be possible to be culled out from the aforesaid definitions. Broadly trade practice is unfair if the conduct undermines the ethical standards and good faith dealings between parties engaged in business transactions. It is to be noted that unfair trade practices are not subject to a single definition; rather it requires adjudication on case to case basis. Whether an act or practice is unfair is to be determined by all the facts and circumstances surrounding the transaction. In the context of this regulation a trade practice may be unfair, if the conduct undermines the good faith dealings involved in the transaction. Moreover the concept of 'unfairness' appears to be broader than and includes the concept of 'deception' or 'fraud'."

44. Hon'ble Supreme Court further observes in the case of *Rakhi trading* that

"Having regard to the fact that the dealings in the stock exchange are governed by the principles of fair play and transparency, one does not have to labour much on the meaning of unfair trade practices in securities. Contextually and in simple words, it means a practice which does not conform to the fair and transparent principles of trades in the stock market."

45. Out of the ten Noticees on whom SCNs have been served, I note that Shree Shagun Financial Services is not one of the 39 entities which were restrained by SEBI vide order dated February 02, 2011, however, I find that Shree Shagun Financial Services is a partnership firm of Shri Bhavesh Prakash Pabari and Shri Hemant Madhusudan Sheth who have been restrained by the said SEBI order dated February 02, 2011. Since the partnership firm comprises these two persons as partners who are jointly & severally responsible for the partnerships firm, the Noticee No. 2 (Shree Shagun Financial Services) is also deemed to be covered by the afore-mentioned restraint order issued to its two partners.
46. In the facts and circumstances and on the basis of evidences available, It is clear that the Noticees have dealt in the securities by funding and executing the trades through the trading entities a large portion of which were also in the nature of self-trades & reversal of trades that have consistently been held to be prohibitive and unfair trade practices by various courts of law. The Noticees, by funding the trading activities of Jigar group of entities on a continuous basis, have carried out their trading in the scrip of Polytex and other securities and also have indirectly indulged in unfair & fraudulent trade practices by creating artificial volumes of the scrip through various manipulative trades. I therefore conclude that the Noticees by indulging in such activities in collusion with the trading entities who acted as mere agents on their behalf, during the period when a restraint order by SEBI against them was in force, have made themselves liable for regulatory action under law.
47. Such conduct of the Noticees invite stern action as the restraint order dated February 02, 2011 prohibited them from dealing in securities in whatsoever manner, till further order. The said directions were in force during the

Investigation Period, when the Noticees, in blatant breach of the above directions have resorted to deal in securities. Such highhandedness on the part of the Noticees require to be dealt with strictly as the sanctity of law enacted in SEBI Act and the interest of the investors in the securities market need to be protected from the defiant violators .

48. Hon'ble Supreme Court in the case of Rakhi Trading have appreciated that the SEBI Act, 1992 was enacted to protect the interest of the investors in securities and protection of interest of investors should necessarily include prevention of misuse of the market. If SEBI's directions are allowed to be flouted by persons like the Noticees, its directions and orders will have very little bearing or effect on the market thereby rendering SEBI helpless to achieve its objectives of protection of interest of investors including prevention of misuse of the market. Moreover, if the entities who have been restrained from accessing securities market attempt to access the securities market directly or indirectly in any manner thereby rendering such directions as futile and meaningless, it will have serious impact on the investors and market as a whole.
49. The words, ***restrained from accessing the securities market and further prohibited from buying, selling or dealing in securities in any manner whatsoever*** are very clear in their intent to not allow these Noticees from dealing in any manner in securities market till the directions are in force. By funding the trading of the Jigar group entities, the Noticees have accessed as well as dealt in the securities market indirectly. Further, it is trite law to mention here that what cannot be done directly cannot be done indirectly.
50. In view of the above, I find that Noticees have dealt in the securities indirectly and acts of the Noticees are not only in distortion of market mechanism but also are found to be fraudulent and prohibited in nature being intended to inflate the

volume of the scrip artificially. The Noticees have therefore violated the provisions of Section 12A (a), (b) and (c) of the SEBI Act and Regulations 3 (a), (b), (c), (d) and 4 (1) of PFUTP Regulations charged under the SCN . I also hold the Noticees guilty for such violations and their acts are in contravention of the directions of SEBI order dated February 2, 2011.

51. I note that as per the submissions of Rajnandi Yarns Pvt. Ltd. as well as on verification from MCA website, the Company's name is shown as struck off. Accordingly, I do not issue directions qua Rajnandi Yarns Pvt. Ltd. This is subject to order of restoration of Company's name, if any, passed in future.

DIRECTIONS

52. In view of the above, in exercise of powers conferred upon me under Sections 11, 11B read with Section 19 of the Securities and Exchange Board of India Act, 1992, in order to protect the interest of investors and the integrity of the securities market, I hereby restrain the following Noticees, from accessing the securities market and further prohibit them from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of seven years from the date of this order. During the period of restraint, the existing holding of Noticees including units of mutual funds, shall remain frozen.

S.No.	Names of the Noticees	PAN
1.	Shri Prem Mohanlal Parikh	ALHPP3489N
2.	Shree Shagun Financial Services	ABTFS0353F
3.	Shri Bhavesh Prakash Pabari	AKGPP8679N
4.	Shri Ankit R Sanchaniya	BLNPS3316L
5.	Shri Chirag Rajnikant Jariwala	AFMPJ7543L
6.	H. Bhavesh Securities and Commodities Pvt. Ltd	AAACB1655R
7.	Shri Hemant Madhusudan Sheth	ANOPS8607E
8.	Shri Bharat Shantilal Thakkar	AAZPT9542R
9.	Shri Bipin Jayant Thaker	ABYPT4984H

53. The Order shall come into force with the immediate effect.

54. A copy of this order shall be forwarded to the Noticees, all the recognized stock exchange, depositories and registrar and transfer agents for ensuring compliance with the above directions.

-Sd-

DATE: FEBRUARY 27, 2019

S. K. MOHANTY

PLACE: MUMBAI

WHOLE TIME MEMBER