

WTM/AB/IVD/ID2/7988/2020-21

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

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

Noticee No.	Name of the Noticee	PAN
1.	Darshan Desai	ADTPD8926G
2.	Nitin Goradia	AAMPG0512D
3.	Amit N. Joshi	ADNPJ7255L
4.	Nikhil Securities Ltd.	AAACN6532F
5.	Yatin B. Shah	AQSPS3457R
6.	Jayesh Shah	AMWPS6919C
7.	Rajesh Jani	ACNPJ4374R
8.	Dynamic Stock Broking Pvt. Ltd.	AABCD2889E
9.	Nimesh Chitalia	ADGPC5953K

In the matter of Pyramid Saimira Theatre Limited

The aforesaid entities are hereinafter referred to individually by their respective names/Noticee numbers and collectively as “the Noticees”.

1. On December 21 and 22, 2008, there were several media reports that the Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) had

ordered P.S. Saminathan, one of the promoters of Pyramid Saimira Theatre Limited (hereinafter referred to as “**PSTL**”), to make an open offer under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as “**SAST Regulations**”) for an additional 20% stake at a price not less than Rs 250/- within 14 days, for allegedly violating creeping acquisition norms. With the reports in the media appearing about the impending offer at Rs 250/-, the shares of the company shot up on Monday morning i.e. December 22, 2008, when the stock markets opened for the day. On December 22, 2008, PSTL first informed the Bombay Stock Exchange Limited (hereinafter referred to as “**BSE**”) and National Stock Exchange of India Limited (hereinafter referred to as “**NSE**”) in the morning that the company had not received any communication from SEBI regarding the media reports on Open Offer. BSE disseminated the denial by the company at 10:28:04 a.m. on December 22, 2008 on its website and NSE did so at 10:30:00 a.m. on same day.

2. Subsequently, on the same day, at around 10:30 a.m., PSTL received the alleged SEBI order directing PSTL to make an open offer, when the courier company, Blue Dart, delivered the purported SEBI letter to PSTL. P.S. Saminathan informed BSE and NSE on December 23, 2008 about the receipt of the letter from SEBI. In this regard, on December 23, 2008, SEBI issued a Press Release clarifying that the SEBI had neither issued a letter nor an order to P.S. Saminathan for the said open offer and that the said letter was apparently circulated with ulterior motives. SEBI had lodged an FIR with regard to the forgery of the SEBI letter in Bandra Kurla Police Station, Mumbai and also initiated an investigation into the matter.
3. The investigations by SEBI, prima facie, revealed that the forgery was done to manipulate the stock price of PSTL and that Nirmal Kotecha, one of the promoters and the largest shareholder of PSTL then, was one of the major beneficiaries of the said manipulation and appeared to have largely masterminded the forgery. It was further observed that several persons/ entities directly and indirectly related to Nirmal Kotecha had bought PSTL shares on BSE and NSE during December

15-19, 2008 and sold these shares on December 22, 2008 i.e. after the price rise in the shares on December 22, 2008 consequent to the publication of the forged SEBI letter. It was also found that some persons/ entities had sold PSTL shares on December 22, 2008 and bought back the shares at lower prices on the same day taking advantage of both the price rise which occurred due to the publication of the forged SEBI letter as well as the price fall which occurred due to a clarification issued by P.S. Saminathan that the company had not received any communication from SEBI directing P. S. Saminathan to make open offer.

4. Pending investigation, SEBI vide an *ad interim ex parte* order dated April 23, 2009 (hereinafter referred to as “**the 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 257 entities and their proprietors/partners/directors who prima facie appear to have played a role in the forgery of the SEBI letter, dissemination of the information contained in the forged letter to the media, misleading the media to believe in the authenticity of the information that was circulated to them, carrying out suspicious banking transactions, carrying out and disguising his manipulative intent and gaining advantage from the forgery and have channelled funds either directly or indirectly in the stock markets for manipulating the scrip of PSTL, not to buy, sell or deal in the securities market including in Initial Public Offerings, in any manner, either directly or indirectly, till further directions.
5. Darshan Desai (Noticee no. 1), Nitin Goradia (Noticee no. 2), Rajesh V. Jani (Noticee no. 7), Dynamic Stock broking Pvt. Ltd. (Noticee no. 8) and Nimesh Chitalia (Noticee no. 9) were some of the entities against whom such directions were passed vide the interim order. Thereafter, vide confirmatory order dated January 28, 2010, directions issued against Darshan Desai (Noticee no. 1), Nitin Goradia (Noticee no. 2), Rajesh V. Jani (Noticee no. 7) and Nimesh Chitalia (Noticee no. 9) vide *ad interim ex parte* order dated April 23, 2009, were confirmed. Further, vide confirmatory order dated July 06, 2010, directions issued

against Dynamic Stock Broking Pvt. Ltd (Noticee no. 8) vide *ad interim ex parte* order dated April 23, 2009, was confirmed.

6. Investigation revealed that besides Darshan Desai, Nitin Goradia, Dynamic Stock broking Pvt. Ltd. and Nimesh Chitalia, there were several others who were also involved in the manipulation of the scrip of PSTL and associated with Nirmal Kotecha. Accordingly, show cause notices were issued to 44 entities, including to the 9 Noticees herein vide Show Cause Notice dated December 02, 2015 (hereinafter referred to as “**SCN**”). The SCN inter alia alleged that:
 - a) Yatin Shah, Darshan Desai, and employees of India Capital Market Pvt. Ltd. (hereinafter referred to as “**ICMPL**”) like Amit Joshi, Nimesh Chitalia, their relatives such as Nitin Goradia had formed a group of sorts that used low income background persons as fronts in their bigger game of manipulation of PSTL scrip so as to facilitate Nirmal Kotecha to offload his huge stake in the PSTL scrip.
 - b) Darshan Desai acted as one of the key associates of Nirmal Kotecha and was found to be in constant touch with him during the investigation period. Darshan Desai traded in the account of Amol Kokane and Priyanka Desai and executed synchronized/ structures deals with Nirmal Kotecha entities. There were also reversals of positions in the two accounts being operated by Darshan Desai by executing synchronized/ structured deals. This manner of trading enabled the Nirmal Kotecha associated entities to create an appearance of trading in the stock market in the shares of PSTL which in turn enabled Nirmal Kotecha to offload his shares in PSTL. Nitin Goradia used various fronts to route funds into the stock market to the account of Amol Kokane which was then used to create artificial volume in the scrip of PSTL. It is alleged that Darshan Desai in connivance with Amit Joshi, Branch Manager, Rashmi Building, Borivali (West) branch of ICMPL, executed synchronized reversal/ circular transactions while trading on behalf of his wife Priyanka Desai and on behalf of Amol Kokane (Nirmal Kotecha’s

front).

- c) Nikhil Securities Ltd. bought and sold shares of PSTL and its trades matched with trades of Nirmal Kotecha associated entities. In this process it incurred a loss and an amount of Rs. 50 lakhs was paid to it for the same. Thus Nikhil Securities Ltd. also acted as a front of Nirmal Kotecha for facilitating Nirmal Kotecha in carrying out his nefarious activities and an amount of Rs.50 lacs was paid by Nirmal Kotecha to Nikhil Securities Ltd. through his other front Amol Kokane to compensate for the loss incurred by Nikhil Securities Ltd.
- d) Yatin B. Shah used the account of his cousin Raju G. Shah to execute manipulative trades which were synchronized in nature in the scrip of PSTL during the investigation period, to enable Nirmal Kotecha to off load his shares of PSTL in the stock market. It is alleged that he was in touch with Darshan Desai and Normal Kotecha at the same time that orders were executed from the account of Raju G. Shah.
- e) Jayesh Shah traded in the scrip of PSTL on behalf of his wife Falguni Shah who was an entity associated with Nirmal Kotecha and found to have executed synchronized/ structured trades in the scrip of PSTL during the investigation period.
- f) Rajesh Jani transferred funds to various entities, which were then transferred to the account of Amol Kokane and were used to create artificial volume in the scrip of PSTL during the investigation period. Synchronized/structured trades were also executed through his brokerage firm Venture Capital Ltd. Dynamic Stock Broking Pvt. Ltd., transferred funds to Rajesh Jani who was also the promoter and director of Dynamic Stock Broking Pvt. Ltd., which were subsequently transferred to the account of Amol Kokane and were used to create artificial volume in the scrip of PSTL. It is also alleged that Dynamic Stock Broking Pvt. Ltd. also provided an exit route to Nirmal Kotecha by buying large quantities of shares from him in synchronized trades on December 22, 2008 after clarification came from P.S. Swaminathan.

7. Therefore, SCN alleged that Darshan Desai, Nitin Goradia, Jayesh Shah, Nikhil Securities Ltd. and Dynamic Stock Broking Ltd. have violated Section 12 A of the SEBI Act and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a) (b) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”).
8. It is also alleged that Yatin B. Shah, Rajesh Jani and Nimesh Chitalia have violated Section 12 A of the SEBI Act and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a) and (e) of the PFUTP Regulations and Amit N. Joshi has violated Section 12 A of the SEBI Act and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a) (d) and (e) of the PFUTP Regulations. It is also alleged that Nimesh Chitalia has violated Section 12 A of the SEBI Act and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(e) of the PFUTP Regulations.
9. The SCN issued to the Noticees, contained relevant findings of the investigation report qua the Noticees along with certain annexures, list of which is as under:

Table: 1

S. No.	Particulars of Document
1.	Forged SEBI Letter
2.	Statement of Amol Kokane dated February 27, 2009
3.	Fund Trail
4.	Statement of Amol Kokane dated June 25, 2009
5.	Statement of Ms. Priyanka Desai recorded on March 18, 2010
6.	Role of Darshan Desai & Nitin Goradia
7.	Statement of Mr. Ankit Vasani dated March 18, 2010
8.	Letter of Mr. Ankit Vasani dated April 01, 2010
9.	Statement of Mr. Kanji B. Rita dated July 30, 2010
10.	Statement of Mr. Radha Krishna Garg dated October 09, 2009

11.	Statement of Milan Mithani dated April 06, 2010.
12.	Statement of Mr. Shri Pal Jain dated March 18, 2010
13.	Statement of Mr. Shatrugan Singh dated May 28, 2010
14.	Statement of Mr. Chandrasekhar Jaykishan Thanvi dated June 08, 2010
15.	Statement of Sanjay Gupta dated April 30, 2010
16.	Date-wise Contribution by entities in Table I in BSE
17.	Date-wise Contribution among entities in Table I in NSE
18.	Date-wise Contribution among entities in Table I in BSE
19.	Date-wise concentration within the group among entities in Table I in NSE
20.	Chart on Reversal and circular trades
21.	Statement of Yatin Shah dated July 27, 2010 and his reply dated July 29, 2010
22.	Statement of Janak Chitalia dated June 29, 2009
23.	Statement of Jayesh C. Shah dated March 18, 2010
24.	Statement of Nitin Goradia dated June 30, 2009
25.	Statement of Darshan Desai dated March 05, 2009 and March 13, 2009
26.	Statement of Manilal Kotecha dated April 09, 2010
27.	Statement of Nigam Vinod Shah dated June 24, 2009, his income tax return and his bank statement
28.	Statement of Hemal Gandhi June 25, 2009
29.	Statement of Raju G. Shah dated June 26, 2009
30.	Statement of Harsh Shah dated March 05, 2009 and March 13, 2009
31.	Statement of Rajesh Jani dated April 17, 2009
32.	Call Data Records of Amol Kokane's number
33.	KYC and bank Statements of Kapol Co-operative Bank
A4	Instances where the Borivali (W) branch of ICMPL would have been in debit balance without the funds of Nirmal Kotecha
A5	Instances where the Borivali (W) branch of ICMPL went into debit balance after Nirmal Kotecha withdrew his funds
A6	Table giving the time difference between the buy and sell orders for the major Counter Parties for the buy trades of Raju G Shah on BSE

A7	Table giving the time difference between the buy and sell orders for the major CPs for the sell trades of Raju G Shah on BSE
A8	Table giving the time difference between the buy and sell orders for the major CPs for the buy trades of Raju G Shah on NSE
A9	Table giving the time difference between the buy and sell orders for the major CPs for the sell trades of Raju G Shah on NSE
A10	Counterparty clients of Raju G. Shah on BSE
A11	Counterparty clients of Raju G. Shah on NSE
A12A	Counterparty clients for Buy trades of Raju G Shah with order placement and execution details BSE
A12B	Counterparty clients for Sell trades of Raju G Shah with order placement and execution details BSE
A13A	Counterparty clients for Buy trades of Raju G Shah with order placement and execution details -NSE
A13B	Counterparty clients for Sell trades of Raju G Shah with order placement and execution details NSE
A14	Trading of Nikhil during the period September 15 to October 15, 2008 on BSE
A15	Trading of Nikhil during the period September 15 to October 15, 2008 on NSE
A16	Order time for the trades of Nikhil Securities in PSTL and SEL Manufacturing
A17	Order time for the trades of Nikhil Securities in Usher Agro
A18	Analysis of the counter-party clients of Dynamic

Replies, Hearing and Written submissions:

- It is noted that pending investigation, an interim order dated April 23, 2009 was issued to around 257 entities and their proprietors/partners/directors in the present matter of PSTL. Further, confirmatory orders were passed on different dates against some of the entities. Upon completion of the investigation, SCN was issued to 44 entities, including the 10 noticees herein. I note that Adjudication proceedings under Chapter VIA of the SEBI Act have also been initiated for some of the entities. The details of the entities to the show cause notices issued are given below in para 19. Since all the entities are alleged to be inter related with one another and connected to Nirmal Kotecha, opportunity of personal hearing were jointly given to all the entities in the matter of PSTL, including the Noticees to

the present SCN, on July 27, 2015 and April 30, 2016 by the then Whole Time Member, before whom the proceedings were pending. I note that a separate show cause notice dated December 03, 2013 was issued to Nirmal Kotecha, the alleged mastermind behind the fraud in the scrip of PSTL, who had then filed a miscellaneous application before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as "**SAT**") seeking inspection of documents and cross examination of certain entities. The Hon'ble SAT vide its Order dated May 19, 2016 disposed of the application directing that *"It is made clear that on 31.05.2016 the application to be filed by the appellant within one week from today shall be heard first and thereafter the Whole Time Member of SEBI shall proceed to hear the show cause notices subject to granting any short adjournment if any, sought by the appellant"*. Subsequently, the Nirmal Kotecha vide various letters sought cross examination of 64 persons, including Noticee no. 1. The then Whole Time Member heard the matter on May 31, 2016 and passed an order on May 31, 2016 disposing of all applications dated May 26, 2016 filed by Nirmal Kotecha and directed him to file fresh applications by June 24, 2016 with justification as to why inspection of documents, copy of documents/statements/information, and cross examination of 64 persons are required. Subsequently, Nirmal Kotecha filed a fresh application dated June 28, 2016 and an opportunity of inspection of documents/information was granted to the Noticee on August 22, 2016. Further, cross examination of 7 entities (including Noticee no. 1) from the 24 sought by Nirmal Kotecha were granted to him on January 10, 2017. During the course of cross examination, it is noted that Nirmal Kotecha took considerable amount of time to cross examine each person and hence the cross examination of the 7 entities had to be adjourned to separate days for each entity. Nirmal Kotecha vide email dated January 23, 2017, had sought adjournment of the cross examination of Noticee no. 1 which was scheduled for January 24, 2017. Accordingly, cross examination of Noticee no. 1 was granted to Nirmal Kotecha on March 21, 2017, and the same was concluded on the said date. Cross examination of the remaining entities were granted to Nirmal Kotecha on May 03 and 04, 2017. Since 3 entities sought adjournment, cross examination of the 3 entities were granted on

May 22, 2017. One of the entities (Yatin B. Shah) sought adjournment and a final opportunity was granted to the entity to appear for cross examination on June 07, 2017. However, on the scheduled date of June 07, 2017, Yatin B Shah sought for an adjournment. Since, several opportunities had already been granted, no further adjournment was granted and the cross examination of the said entity was closed. I note that during this period, Nirmal Kotecha had also filled for settlement of proceedings which was subsequently rejected in August 2017 and the proceedings continued against him. Subsequently, the final Order against Nirmal Kotecha was passed on March 22, 2018, which was challenged by Nirmal Kotecha before the Hon'ble SAT. Further, the final order dated March 22, 2018 against Nirmal Kotecha has also been upheld by the Hon'ble SAT vide its order dated March 02, 2020 in Appeal no. 261 of 2018.

11. I note that Rajesh Jayantial Shah and 8 others (hereinafter referred to as the **"Shah Group"**), who are Noticees to Show cause notice dated January 16, 2014, had filed an appeal before the Hon'ble SAT against the confirmatory order dated December 14, 2009 passed against them. The Hon'ble SAT vide its order dated June 30, 2017 directed SEBI to pass a final order with regard to the Shah Group within a period of 6 months from the date of the Order. During this period the matter of PSTL was assigned to another Whole Time Member, due to the end of tenure and retirement of the earlier Whole Time Member to whom it was assigned. Due to the matter being assigned to a new Whole Time Member, following the principles of natural justice, an opportunity of personal hearing was again granted to the Shah Group on November 27, 2017. Thereafter, written submissions were received from the Shah Group on December 04, 2017. A request for extension of time in passing the final order against the Shah Group was made before the Hon'ble SAT and it was pleased to grant a further period of 3 months vide its order dated December 21, 2017. Final order against the Shah Group was passed on March 22, 2018. I note that final order dated March 22, 2018 against the Shah Group has been upheld by the Hon'ble SAT vide its Order dated March 17, 2020 in Appeal no. 179 of

2018.

12. The matter of PSTL in respect of the remaining 32 entities was subsequently assigned to the undersigned and accordingly, following the principles of natural justice, an opportunity of personal hearing was granted to the Noticees on August 07, 2019. Noticees no. 5, 7 and 9 appeared on August 07, 2019 and made submissions and filed their written submissions on August 30, 2019, August 12, 2019 and August 20, 2019, respectively. Noticees no. 1, 2, 3, 4, 6 and 8 did not appear for the hearing on August 07, 2019. Accordingly, another opportunity of hearing was granted to Noticees no. 1, 2, 3, 4, 6 and 8 on September 23, 2019. On September 23, 2019, Advocates on behalf of Noticees 4 appeared and sought for an adjournment. Accordingly, another opportunity of hearing was granted to Noticee no. 4 on October 07, 2019. Further, Noticee no. 8 vide letter dated September 18, 2019 had sought for an adjournment and a copy of the SCN as it claimed that it had not received the SCN as yet. Accordingly, copy of the SCN was provided to the Noticee no. 8 and another opportunity of hearing was granted on October 15, 2019. Noticee no. 1, 2, 3 and 6 failed to appear for the hearing on September 23, 2019. Further, no request for adjournment or further date of hearing was received from the Noticee no. 1, 2, 3 and 6 and since 2 opportunities have been given, hearing for Noticee no. 1, 2, 3 and 6 stands concluded. On October 07, 2019, Advocates on behalf of Noticees 4 appeared for the hearing and made submissions and sought time to file their written submissions. Subsequently, vide letter dated October 18, 2019, Noticee no. 4 filed its written submissions. On October 15, 2019, Advocates on behalf of Noticee no. 8 appeared for the hearing and made submissions and filed their written submissions.
13. As noted above, proceedings were first initiated against the main entity Nirmal Kotecha by issue of interim order dated April 23, 2009. Subsequently, a final order was passed on March 22, 2018 against Nirmal Kotecha. The SEBI order dated March 22, 2018 against Nirmal Kotecha was upheld by the Hon'ble SAT

vide its Order dated March 02, 2020 in Appeal no. 261 of 2018. Further, a final order dated March 22, 2018 was also passed against the Shah Group and has been upheld by the Hon'ble SAT vide its Order dated March 17, 2020 in Appeal no. 179 of 2018. Such orders have a bearing on the proceedings given that Nirmal Kotecha was alleged to have masterminded the entire fraud and all the other entities, including the Noticees, were *inter alia* alleged to have colluded with him in manipulating the scrip of PSTL.

14. Subsequently, there was an outbreak of COVID-19 and consequential lock down was imposed. Accordingly, the SCN issued against the Noticees herein after giving an opportunity of personal hearing and filing of written submissions following the principles of natural justice, is being dealt with in the present order with directions in terms of para 122.

Submissions of the Noticees:

15. The various submissions made by the Noticees are as under:
 - a) Noticee no. 1 (Darshan Desai) vide letter dated January 05, 2016, *inter alia* submitted that:
 - (i) *At the outset, I deny the allegations made of having committed violations of the SEBI Act and Regulations, as stated in the SCN. I hereby also deny the assertions made in the SCN unless explicitly admitted herein.*
 - (ii) *I have carried out transactions of Amol Kokane in ICMPL under due authority from such person. Even if the allegation that Amol Kokane was a front of Nirmal Kotecha (NK) is true, it does not mean that I have concern or knowledge about NKs intents or game plan. I had carried out such transactions in ordinary course of business just as I did of other clients.*
 - (iii) *I am alleged to have given guarantee to certain loans granted by or*

through Nitin Goradia/other persons to clients of ICMPL. At the outset, there is nothing on record to substantiate that I have given such formal guarantees. Further, in any case even if such allegation may be true, giving of assurances of clients whether in the form of their background or otherwise soundness of their credit worthiness is often given in business transactions. Nothing is brought on record to demonstrate an underlying linkage/relation other than the broker client relation with the borrower or the lender-guarantor relation with the lender.

(iv) I have alleged to have made a few phone calls/sms to certain persons who carried out transactions in the first part or who were otherwise associated with transactions in the first part. Nothing is brought on record as to the contents of such calls/sms. It is also on record that such persons were clients of ICMPL or otherwise known to me. A few calls/sms were thus expected and it would have been strange/abnormal if such calls/sms were not made. There is no link established between the calls and the transactions. The timing of such calls/sms does not match the transactions. I submit that there is nothing on record to substantiate the charge that the transactions were coordinated by such calls/sms or the charge that relations other than in the ordinary course of business existed with such parties.

(v) Paragraph 29 states that Darshan Desai has carried out trades on behalf of Amol Kokane. However, this was purely under instructions given by Mr. Amol Kokane in writing. The allegation in para 30 that the written instructions were an afterthought is baseless and is an arbitrary and illegal allegation.

(vi) I have no connection whatsoever with the alleged forgery/fake letters/fraud in the second part that happened in the last week of December. My transactions were completed much before such period. I am not directly or indirectly connected with such transactions, nor had any knowledge, concern or involvement in it. The allegations are very serious, and the onus of proof is on the person who accuses and

standard of proof is very high. I submit that nothing has been brought on record to demonstrate my involvement, concern, or even knowledge of such alleged forgery etc.

(vii) *I am not connected with NK with regard to such transactions or otherwise. I have had no past connections or transactions with NK. I am not related to him personally or professionally, except purely as a client and that too of ICMPL. I have had no other financial dealings with him. It is a false allegation that I am alleged any of his schemes/irregularities. Important, all of the allegations made against me and necessarily on the basis of the allegation that I am related to NK and because of such alleged relation with NK, I am related to various other parties. This allegation is false, farfetched and without basis.*

(viii) *I am not connected with the other parties or their transactions. The SCN uses very flimsy basis such as alleged guarantees of loans, a few phone calls/sms over long period etc. to make serious allegations of connections with such parties. This is denied and in any case they are unsubstantiated.*

(ix) *I deny that my transactions suffered from any irregularity. In particular, when the alleged relations as listed above are removed, they will clearly appear on a reasonable view of the facts to be of normal transactions of jobbers/day traders.*

b) Noticee no. 2 (Nitin Goradia) vide letter dated January 20, 2016, *inter alia* submitted that:

(i) *At the outset I deny the allegations made of having committed violations of the SEBI Act and Regulations, as stated in the SCN. I hereby also deny the assertions made in the SCN unless explicitly admitted herein.*

(ii) *I have not carried out a single transaction in the shares of PSTL, nor have I been alleged to do so.*

(iii) *I have provided, as I do for numerous other parties, clients, friends' etc. services of grant of loans or arrangement of grant of loans. The end use*

of such loans is not of my concern and in any case I had no knowledge where the amounts of such.

- (iv) I have no concern or knowledge about NK's intents or game plan, I provided services relating to finance/loans in ordinary course of business just as I did of other clients/parties.*
- (v) I am alleged to have given loans or arranged certain loans to specified parties. This has been done in an arm's length manner. Nothing is brought on record to demonstrate an underlying linkage/relation between me and the borrowers other than the borrower-lender or facilitator-borrower relation.*
- (vi) My acts of granting/facilitating loans in any case have not resulted in any price or volume increase. They also have no connection with the alleged fraud/price manipulation. Hence, it is submitted that the allegation that I was party to any alleged price increase fails and must be dropped.*
- (vii) The loans, as the SCN itself conceded, are given/repaid by account payee cheques through normal banking channels. They have been duly disclosed for income-tax and accounts purposes.*
- (viii) There is no question of "disguising" the trail of funds when the loans are granted/repaid through normal banking channels and through account payee cheques. To repeat, the lenders had ample funds with them which in any case they were using over several years and merely deployed by them this time in the present case. Thus, the allegation that they were any "disguising" fails because the loans were granted transparently.*
- (ix) I have no connection whatsoever with the alleged forgery/fake letters/fraud in the second part that happened in the last week of December. The transactions of loans arranged by me were completed much before such period. I am not directly or indirectly connected with such transactions in the second part including the forgery etc. nor had any knowledge, concern or involvement in it. The allegations are very serious, and the onus of proof is on the person who accuses and the*

standards of proof very high. I submit that nothing has been brought on record to demonstrate my involvement, concern or knowledge of such alleged forgery, etc.

(x) My loans, in any case, are in lakhs, while the serious frauds and transactions in the second part are clearly in crores. It is inconceivable that the small amount of loans arranged through me could possibly have any connection with such large transactions. This is without prejudice to my contention that I am not connected with the transactions by others in the first part or the second part.

(xi) I am not connected with NK in any manner. I have had no part connections or transactions with NK. I am not related to him personally or professionally. Along link of flimsy connections have been made between certain persons and me and such persons and NK. Based on such long chain of weak links, it is presumed and alleged that I am also linked with NK and his allegedly nefarious activities. Such allegations are serious and there is nothing on record to establish such relations.

(xii) I deny that my arranging of loans suffered from any irregularity. In particular, when the alleged relations as listed above are removed, they will clearly appear on a reasonable view of the facts to be of normal transactions of borrowers/lenders/facilitators.

c) Noticee no. 3 (Amit N. Joshi) vide letter dated January 20, 2016, *inter alia* submitted that:

(i) At the outset I deny the allegations made of having committed violations of the SEBI Act and Regulations, as stated in the SCN. I hereby also deny the assertions made in the SCN unless explicitly admitted herein.

(ii) I was branch manager of a separate branch of ICML. This branch had no role or connection with the alleged irregularities, nor has it been even alleged to have any role/connection. Even if one were to assume that there were irregularities carried out through ICML in the scrip of PSTL, no such events had taken place.

- (iii) *I believe I have introduced several persons to brokers including ICMPL over the period I was branch manager of ICMPL. This is expected and understood to help clients carry out activities at the branch of their choice and in the interests of my employer, ICMPL. However, the SCN picks out one single such introduction and exaggerates the role of it, as if I have connection with such persons introduced or to other parties. Making such a connection is a leap in logic and has no basis in facts or in law.*
- (iv) *I have alleged to have made/received exactly eight calls to/with certain persons. One set of calls was from a person who was introduced by me as a client, and the other was acting as branch manager of another branch of ICMPL. The calls were less than one minute of length each. The said person, Ankit Vasani, was known to me and it is expected that a few calls may be made. The other is a branch manager of another branch of my employer company, ICMPL. Again it is expected that calls would be made between us. I fail to understand how such calls can be linked with hundreds of allegedly irregular transactions as listed in the SCN which were on different dates and/or at different times. I deny the allegation that the phone calls have any concern with such irregularities.*
- (v) *I have no connection whatsoever with the alleged forgery/fake letters/fraud in the second part that happened in the last week of December. My transactions were completed much before such period. I am not directly or indirectly connected with such transactions, nor had any knowledge, concern or involvement in it. The allegations are very serious, and the onus of proof is on the person who accuses and the standards of proof very high. I submit that nothing has been brought on record to demonstrate my involvement, concern, or even knowledge of such alleged forgery, etc.*
- (vi) *I am not connected with NK with regard to such transactions or otherwise. I have had no past connections or transactions with NK. I am not related to him personally or professionally. I have had no financial*

dealings with him. It is false allegation that I am alleged with any of his schemes/irregularities. Importantly, all of the allegations that I am directly/indirectly connected with NK and because of such alleged relation with NK, I am related to various other parties. This allegation is false, farfetched and without basis.

(vii) I was branch manager of ICMPL and that too of a branch where no irregularities have been even alleged to have committed in the transactions relating to PSTL as listed in the SCN. Had there been any truth that I had any involvement, surely some transactions would have taken place at such branch where I was in charge.

(viii) I am not connected with the other parties or their transactions. The SCN uses very flimsy basis such as introduction of a party, a few phone calls etc. to make serious allegations of connections with such parties. This is denied and in any case they are unsubstantiated.

(ix) The amount of loans granted by me has been in the ordinary course of business. It was made through normal banking channels. The payment was made by account payee cheque. The loans have been duly disclosed for the purposes of tax and accounts. I am fully financial capable to grant such loans. The transactions is thus wholly above board and nothing has been brought on record to state otherwise.

(x) I deny that my transactions suffered from irregularity. My transactions were predominantly of purchase of shares. These are made I ordinary course of business, through opaque mechanism of stock exchange, fully paid for, at the ruling market price and no reversal or circular transaction has taken place nor alleged.

d) Noticee no. 4 (Nikhil Securities Limited) vide letter dated October 18, 2019, *inter alia* submitted that:

(i) We deny all the allegations made against us in aforesaid SCN in toto.

(ii) It is submitted that our impugned transactions were also delivery based and therefore there was change in beneficial ownership of the shares. It

is submitted that the said transaction of shares did not cause any price fluctuation. In view of the aforesaid, it is submitted that we have not contravened or violated any of the provisions as alleged.

- (iii) Our total trading in the scrip of PSTL is only 0.25% of our trading in the FY 2008-09. Further, our trading in the scrips viz. PSTL, SEL Manufacturing Company Ltd and Usher Agro Ltd taken together is only 1.26% of our trading in the FY 2008-09.*
- (iv) Further, it is submitted that on a careful perusal of the Regulation 4, it is clear that element of deceit is an underlying factor in the transactions. A genuine transaction by itself cannot attract the regulation, though such a transaction had resulted in market price variation. It is submitted that in Regulation 4, the intention of the party is relevant. If one is to be charged for the market manipulation stated in Regulation 4, it is absolutely necessary to prove that the person had acted intentionally.*
- (v) With regard to the purchase and sale of 90,000 shares of PSTL by us, it is pertinent to note that out of the said 90,000 shares of PSTL, we had purchased only 49,900 shares from DKG and the remaining 50,100 shares were purchased from Kotak Mahindra Mutual Fund A/c. MNL Scheme, Prudential Management Advisors Ltd and one Vinod Kumar Baid (collectively referred as “other sellers”) who had nothing to do with Nirmal Kotecha. Further, the purchase price for these shares from other sellers was almost same as that of purchase price from DKG Securities as given in the Table at page 41 of the SCN.*
- (vi) SCN has attempted to doubt the genuineness of the aforesaid trades merely on account of a loan transaction which took place on 17.10.2008 i.e. after the aforesaid trades. The trades cannot be viewed as violative of SEBI Regulations merely because we have undertaken a loan transaction in the ordinary course of business with Amol Kokane, an entity allegedly connected to Nirmal Kotecha. Even if some fault is found with the loan transactions, the same cannot have any impact on the legality of the aforesaid trades in the scrip of PSTL which were otherwise*

genuine trades.

(vii) We have already issued cheque to the lender for repayment and we cannot be held responsible in case he has failed to deposit the same in his account. We cannot be held responsible for any action/inaction on part of any other person over whom we do not have any control. In view of the same, we deny that the said amount was not a loan and same had not been repaid by us.

e) Noticee no. 5 (Yatin B Shah) vide letter dated August 30, 2019, *inter alia* submitted that:

(i) Our client submits that our client our client has not undertaken any transaction of PSTL at all. It may be noted that our client has nether paid any amount nor received any amount towards any transactions of PSTL. Our client has neither received nor delivered a single share of PSTL in and from his account. Our client has not benefitted by single naya paisa for any transactions in the shares of PSTL and simply casual acquaintances of the same people is not sufficient to allege involvement of our client in the scam of PSTL. There is no evidence whatsoever against our client for the allegations made against him.

(ii) Our client denies that he is one of the related/associates entities of Mr. Nirmal Kotecha as alleged. Our client further denies that our client was a close associate of Mr. Nirmal Kotecha and helped Mr. Nirmal Kotecha in his attempt to build false volume in the scrip of PSTL and even offload shares of PSTL by him in the market as alleged. Our client further denies that our client has received any loan of Rs. 20 lakhs in the year 2007 from Mr. Nirmal Kotecha as our client has checked his records and verified that no loan has been received by our client as alleged.

(iii) Our client denies that our client, through his cousin brother Raju G. Shah, traded in the scrip of PSTL and facilitated Mr. Nirmal Kotecha to create artificial volume in the scrip of PSTL and thereby allegedly mislead innocent investors in the market as alleged. It was our client

who himself has disclosed that Mr. Raju G. Shah was his cousin brother. Our client has further stated that he was supporting Raju G. Shah as Mr. Raju G. Shah was passing through a lean period after he was involved in a train blast. Therefore, being cousin brother our client was helping him out. Our client has not traded at all in the account of Mr. Raju G. Shah. Neither Mr. Raju G. Shah nor the broker of Mr. Raju G. Shah has implicated our client in trading of PSTL. In fact, Mr. Raju G. Shah has admitted in his statement dated 26.06.2019 that he was himself undertaking transactions in PSTL. Our client denies that he has anything to do with the transactions of Mr. Raju G. Shah in the scrip of PSTL. It is pertinent to note that our client has not even introduced the trading account of Mr. Raju G. Shah in the Borivali (West) branch of ICMPL. Our client has also not facilitated or guaranteed the finance of Mr. Raju G. Shah. Simply by showing some call records, it cannot be inferred that our client has traded on behalf of Mr. Raju G. Shah and thereby facilitated Mr. Nirmal Kotecha into offloading huge stake in the scrip of PSTL. Neither Mr. Raju G. Shah nor Mr. Nirmal Kotecha has made any statement indicates any role of our client at all. In fact, our client is nowhere connected with any entities for the transaction undertaken in the scrip of PSTL.

(iv) Our client has himself stated that he knew Mr. Nirmal Kotecha from the time when Mr. Nirmal Kotecha was trading through IL&FS and he was introduced by our clients' friend, Mr. Mahesh Pujara.

(v) Our client knew Mr. Darshan Desai as he is brother of his friend. Even Mr. Darshan Desai has not implicated our client in the trades of PSTL in the account of Mr. Raju G. Shah.

f) Noticee no. 7 (Rajesh Jani) vide letter received on October 07, 2016 and August 12, 2019, *inter alia* submitted that:

(i) *I deny the allegation vide para 116 of the SCN that I have in my individual capacity as Director of Dynamic Stock Broking Ltd and Venture*

Securities Ltd, facilitated one Shri Nirmal Kotecha or anyone else to create artificial volumes in PSTL and thereby mislead innocent investors in the market. In any event, the SCN has failed to bring on record any evidence of any investor who is sought to have been misled. Further, the allegation of “creation of artificial volumes” too falls flat on lack of substantive evidence on record.

- (ii) That during my tenure as director I had very limited role in the Company, as I was only a director and was not looking after the day to day affairs and management of the company. That the trades in PSTL were executed by Venture as per the client's orders and on behalf of the clients.*
- (iii) That at the most if any violation could be attributed, the same should be attributed to Venture and not to me. That the SCN has referred to me whilst the allegations are conclusively on Venture. That I deny that I have traded in the scrip of PSTL at all. It may be appreciated and noted that the SCN also does not allege me that I have traded in PSTL. That I was never a shareholder of Venture.*
- (iv) That during my tenure as director I had very limited role in the Company, as I was only a director and was not looking after the day to day affairs and management of the company. That the trades in PSTL were executed by Dynamic as per the client's orders and on behalf of the clients.*
- (v) That at the most if any violation could be attributed, the same should be attributed to Dynamic and not to me. That the SCN has referred to me whilst the allegations are conclusively on Dynamic. That I deny that I have traded in the scrip of PSTL at all. It may be appreciated and noted that the SCN also does not allege me that I have traded in PSTL. That I was never a shareholder of Dynamic.*
- (vi) That SCN has failed to establish any intention on my part to enter in to the alleged matched trades by Dynamic in the shares of PSTL.*
- (vii) In so far as the observation that I transferred funds to various*

persons/entities connected to Nirmal Kotecha who in turn transferred the same to the account of one Amol Kokane, with respect to the alleged front of Nirmal Kotecha is concerned, I deny that I had any knowledge of the fact that the lenders of my loans namely M/s Viren Trading Agency, Shri Hemal H. Gandhi, Shri Nigam Vinod Shah and Shri Janak H. Chitalia had transferred the amounts to one Amol Kokane, as it has been wrongly alleged.

(viii) That I cannot be faulted for merely taking and repaying loans. There is no law which prohibits or limits taking/repaying loans by an individual, whether a director of a company or otherwise. In any event the SCN has not accused me for any violation for my borrowings and repayments.

(ix) That M/s Viren Trading Agency, Shri Hemal H. Gandhi, Shri Nigam Vinod Shah and Shri Janak H. Chitalia had given me loans which are reflected in my balance sheet for the year 2007-08. These parties were introduced to me and loans were arranged through my Chartered Accountant Mr. Nitin R. Goradia. These loans were taken in the normal course of business and were deployed accordingly.

(x) I state that I know Shri Nitin Goradia since 1998 and I repeat, reiterate and confirm the contents of my statement as recorded on April 17, 2009 and confirm that the loans mentioned therein were arranged by Shri Nitin Goradia. Hence there were no formal loan agreements executed.

(xi) That by no stretch of imagination can it be concluded that my repayment of loans was the only necessary incident to the creation of a clear nexus between Nirmal Kotecha and the above mentioned persons, as wrongly alleged. I deny that I have facilitated Nirmal Kotecha or any other person to create artificial volumes in PSTL as wrongly alleged.

g) Noticee no. 8 (Dynamic Stock Broking Pvt. Ltd.) vide letter dated October 10, 2019, *inter alia* submitted that:

(i) We state that Shri Rajesh Jani resigned as a director of the company with effect from 26.02.2015.

- (ii) *We deny any knowledge or involvement in the dealings between the said entities and Shri Rajesh Jani as alleged or otherwise. We state that any dealings and/or financial transactions by and between Rajesh Jani and the other entities may have been carried out in his individual capacity and were neither in the capacity as a director of the company nor were these for and behalf of the company. Banking transactions carried out by Shri Rajesh Jani in his individual capacity cannot and should not in any way be considered to arrive at a conclusion that we are in violation in any manner whatsoever. We state and submit that we can never be held accountable for the acts of omissions or commissions, if any, by any of the directors in their individual capacity and pray that no adverse inference against us may be drawn therefrom.*
- (iii) *Further, it is submitted that the debit of Rs. 15 lakh in the client account of Shri Nitin Goradia is a matter of maintaining a running account of the client and no adverse inference may be drawn from the same. We most humbly submit that Shri Nitin Goradia is known to Shri Rajesh Jani, our erstwhile director Shri Rajesh Jani who had assured the company that the debit balance shall be cleared in a short while.*
- (iv) *In so far as the inference that how Shri Nigam Shah (25 years of age), whose family income is relatively so low can advance a loan of Rs. 25 lacs in the year 2007-08 to Shri Rajesh Jani and that too, without any loan agreement regarding interest rate and repayment schedule is concerned, is submitted that we are not a party to any of the said banking transactions and have no means to address the allegation. At the best, Shri Nigam Shah and Shri Rajesh Jani may have the relevant information and explanation in the matter.*
- (v) *The SCN does not disclose as to why repayment of loans taken in 2006-07 is considered to be violative of provisions of any particular law. The conclusion that repayment per se of legitimate loans is in violation of any law is totally untenable and is belied by the fact that loans are required to be repaid to the lender. It is therefore submitted that merely because*

we had repaid loans should be the foundation for any conclusion that the same was manipulated or artificial or were otherwise sinister. We state that the consequence drawn from an erroneous premise would definitely result in a faulty conclusion.

(vi) In light of the aforesaid it is submitted that by no stretch of imagination can it be concluded that the alleged transfer of funds from/to Mr. Rajesh Jani and Mr. Nigam Vinod Shah were the only factors to deduce the creation of a clear nexus between Nirmal Kotecha, above mentioned persons and us, as alleged.

(vii) It is pertinent to note that the ad interim ex parte order dated 23.04.2009 in PSTL has rightly concluded that the quantities traded by us have been very small. We state that the alleged small quantities of trades have not resulted into any substantial gain for us and neither were we aware of the counterparty brokers or their clients. In a screen based trading system, it is impossible for us to ascertain the counterparty broker or their clients. We deny that we had any knowledge of the counterparty broker or their clients.

(viii) We deny that our sale of shares of PSTL in the market, allegedly termed as those to Hardik Mithani, Meet Shares and Stocks Services Pvt. Ltd, SPJ Stock Brokers Pvt. Ltd and Inventure Growth and Securities are synchronized with time difference between buy and sell orders as less time than 60 seconds.

(ix) Assuming without admitting that we have bought and sold shares to the same 5 counterparties we most humbly state that the said matching of trades was mere coincidence, controlled solely by automated blind mechanism of the exchange and we were neither aware of details thereof nor have means to verify the same. We deny that we have facilitated or otherwise dealt with Shri Nirmal Kotecha or anyone else in offloading his stake in PSTL as wrongly alleged.

h) Noticee no. 9 (Nimesh Chitalia) vide letters dated August 07, 2019 and

August 20, 2019, *inter alia* submitted that:

- (i) *At the outset I deny that I have violated any of the provisions of law as mentioned in the show cause notice.*
- (ii) *With regard to the allegation that the said M/s Kankeshwari Securities Pvt. Ltd had lent an amount of Rs. 30 lakhs to Mr. Rajesh Jani in April, 2006, I submit that it was by way of friendly interest free loan. It was in the year 2006. The loan was repaid by the said Rajesh Jani in the same financial year. Since the loan transaction was in the year 2006, I submit that it is not relevant to the current proceedings or investigation. There was nothing further alleged in the context of this loan to Rajesh Jani.*
- (iii) *With regard to the allegation that Mr. Nitin Goradia and the Noticee brought in low income background persons to disguise the trail of funds used by Mr. Nirmal Kotecha to carry out his nefarious activities in the stock market during the investigation period, I submit that this allegation is baseless and without application of mind on the available facts. There was no allegation in the SCN that I arranged funds from any person to any person at any point of time. Just because some of the recipients of the loans arranged by my brother-in-law are allegedly associates of Nirmal Kotecha, it cannot be alleged that I along with my brother-in-law in any way aided or abetted in the alleged fraud committed in the scrip of PSTL.*
- (iv) *With regard to the allegation that I had signed in introduction of Mr. Nigam Shah in Axis Bank, I submit that it happened in the year 2004 and has nothing to do with the fraud. It is pertinent to note that I joined ICMPL in the year December 2006. I submit that it is not correct to infer that I introduced the said account in 2004 with a malafide motive since I joined ICMPL in 2006 and alleged fraud happened in 2008. Over a period of these 4 years Mr. Nigam Shah must have carried out several transactions and cannot be blamed for any irregularities in his account.*
- (v) *With regard to allegation that Mr. Janak Chitalia had given a loan and that he is my brother, I submit that he is my elder brother of around 52*

years age and got separated from our family around the year 1993 and settled in Surat ever since.

(vi) With regard to the allegation that I introduced Mr. Deepak Mali to Kapol Bank, I submit that I signed the introduction on the request of Mr. Darshan Desai. I submit that just by mere introduction, I cannot be held responsible for the transactions committed by him in his account. I submit that mere fact that I know Darshan Desai does not mean that I acted along with him in any fraudulent manner whatsoever.

(vii) I reiterate that I have not traded a single share in the said scrip of PSTL directly or indirectly. I have not introduced any single client in my company as my KRA in India Capital was to focus on development of branches and franchises and I must have developed more than 15 to 20 branches and 100 plus franchises to my best knowledge in my career with India Capital Markets. I have not advances loans/arranged loans of single rupee nor am I a facilitator or guarantor or witness in any of such transactions.

Consideration of Issues, Submissions and Findings:

16. I have perused the SCN dated December 02, 2015, along with its annexures, the reply filed by the Noticees, submissions made during the course of personal hearing. The issue for consideration in these proceedings is whether the Noticees resorted to artificial inflation of the trading volumes and stock prices in the scrip of PSTL by entering into circular trades, synchronized trades, reversal trades and self-trades and have violated the provisions of the SEBI Act and PFUTP Regulations, as alleged in the SCN.
17. Before considering the above issues and dealing with the various contentions raised by the Noticees, the relevant provisions of law which are necessary to advert to are extracted hereunder:

Relevant extract of provisions of SEBI Act:

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

12A. No person shall directly or indirectly –

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a 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;

Relevant extract of provisions of PFUTP Regulations:

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

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

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

(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.

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

18. As noted above, an order dated March 22, 2018 was passed by SEBI against Nirmal Kotecha for violating provisions of the SEBI Act and PFUTP Regulations. The same was upheld by the Hon'ble SAT vide its order dated March 02, 2020. Hence, before dealing with the allegations against the Noticees, it would be appropriate to discuss the role of Nirmal Kotecha who was one of the promoters and the then largest shareholder of PSTL. I note that Nirmal Kotecha was one of the major beneficiaries of the said manipulation and was found to have masterminded the forgery of the SEBI Letter. Nirmal Kotecha had caused to publish a false media report on December 20 and 21, 2008 that on December 19, 2008, SEBI had issued a letter to P. S. Saminathan, one of the promoters of PSTL to make an open offer under the SAST Regulations, for an additional 20% stake at

a price not less than Rs. 250/-, for violating creeping acquisition norms. It was observed that during the period June 2008 to December 2008, persons/ entities directly and indirectly related to Nirmal Kotecha were found to have had significant market presence in the scrip of PSTL in BSE and NSE. Further, several persons/ entities directly and indirectly related to Nirmal Kotecha had bought PSTL shares on BSE and NSE during December 15-19, 2008 and sold these shares on December 22, 2008 i.e. after the price rise in the shares on December 22, 2008 consequent to the publication of news about the forged SEBI letter. It was also found that some persons/ entities had sold PSTL shares on December 22, 2008 and bought back the shares at lower prices on the same day taking advantage of both the price rise which occurred due to the publication of the forged SEBI letter as well as the price fall which occurred due to a clarification on media reports on Open Offer provided by P.S. Saminathan to the stock exchanges that he had not received any communication directing P. S. Saminathan to make open offer. In view of this SEBI had passed a final order against Nirmal Kotecha on March 22, 2018. The said SEBI order was challenged by Nirmal Kotecha by filing an Appeal No. 261 of 2018 before Hon'ble SAT which was dismissed by Hon'ble SAT vide its order dated March 02, 2020. Thus, the role of Nirmal Kotecha in devising a scheme to manipulate the scrip of PSTL stands established.

19. SEBI conducted an investigation in the manipulation in the scrip of PSTL and initiated several proceedings vide separate show cause notices against the various entities found to be involved in the fraudulent scheme devised by Nirmal Kotecha. The details of the proceedings initiated by SEBI where orders have been passed is as follows:

Sr. No	Name of the entity	Date of SEBI Order	Date of SAT Order
1.	SCN dated 03.12.2013 Nirmal Kotecha	Final Order under Section 11 and 11B of SEBI Act dated March 22, 2018	SEBI Order was upheld by the SAT Order dated March 02, 2020

2.	SCN dated 16.01.2014 Shah Group 1. Mr. Rajesh Jayantilal Shah 2. Mr. Shailesh Jayantilal Shah 3. Mr. Nirmal Rohitbhai Shah 4. Mr. Devang R Shah 5. Ms. Ritaben Rohitkumar Shah 6. Mr. Jayantilal Ratilal Shah 7. Ms. Binaben Shaileshkumar Shah 8. Ms. Namitaben Sachinkumar Shah 9. Mr. Sachin Jayantilal Shah 10. Ms. Manishaben Rajeshkumar Shah 11. Ms. Jinny Nirmal Shah	Final Order under Section 11 and 11B of SEBI Act dated March 22, 2018	SEBI Order was upheld by the SAT Order dated March 17, 2020
3.	SCN dated 16.01.2014 1. Mr. Maheshbhai Himatlal Sheth 2. Mr. Deepak Thakkar 3. Mr. Raju G. Shah 4. Ms. Sharda Pujara 5. M/s. Meet Shares and Services Pvt. Ltd. 6. Ms. Monali Harsh Doshi 7. Mr. Harsh Doshi 8. Mr. Mukesh Jain 9. Mr. Sanjay Gupta	Final Order dated June 23, 2020 passed by SEBI under Sections 11 and 11B of the SEBI Act, 1992.	

4.	SCN dated 30.04.2015 1. Mr. Amol Anand Konkane 2. Mr. Falguni Jayesh Shah 3. Mr. Hardik Mithani 4. Ms. Priyanka Darshan Desai 5. Inventure Growth & Securities Limited 6. SPJ Stock Broker Pvt. Ltd. 7. Mr. Ankit Girishkumar Vasani 8. DKG Securities Pvt. Ltd. 9. APL Infrastructure Ltd. 10. Mr. Milanbhai Mithani	Final Order dated June 23, 2020 passed by SEBI under Sections 11 and 11B of the SEBI Act, 1992.	
5.	SCN dated 02.12.2015 1. Rakesh Sharma 2. Rajesh Unnikrishnan 3. Dharmesh Shah	Final Order dated June 23, 2020 passed by SEBI under Sections 11 and 11B of the SEBI Act, 1992.	
6.	SCN dated 07.12.2015 P.S. Saminathan	Final Order dated June 23, 2020 passed by SEBI under Sections 11 and 11B of the SEBI Act, 1992.	
7.	SCN dated 02.12.2015	Present proceedings	

20. **Darshan Desai (Noticee No. 1):** I observe that Darshan Desai has played a key a role in facilitating Nirmal Kotecha in carrying out suspicious banking transactions and indulging in manipulative trades on behalf of his wife Priyanka Darshan Desai and Amol Kokane, who was the front of Nirmal Kotecha. I note that in his first statement dated March 05, 2009, Darshan Desai had introduced himself as a

Branch Head of the Borivali (West) Branch of ICMPL, however, on the visiting card given to the investigation team, his designation was shown as Business Associate. In this regard, I observe that contrary statements were given by Darshan Desai and Harsh Shah, Vice president of ICMPL with regard to the employment status of Darshan Desai with ICMPL. However, investigation revealed that Darshan Desai was in fact not an employee of ICMPL and his wife Priyanka Darshan Desai was the Branch Head of Borivali (West) branch of ICMPL. Further, Darshan Desai vide his subsequent statement dated March 13, 2009 admitted that he did not have any proof of his association with ICMPL and Harsh Shah, vide his statement dated March 13, 2009, had also clarified that Darshan Desai was not an employee of ICMPL. Further, I find that Darshan Desai did not trade in his own account in the scrip of PSTL during the period June to December 2008 and as per the statement of his wife Priyanka Darshan Desai recorded on March 18, 2010, she has stated that her husband Darshan Desai did all the trading in her name and that wherever her husband told her to sign, she used to sign. I also note that Darshan Desai has not denied this. Hence, I find that Darshan Desai has traded on behalf of Priyanka Desai in the scrip of PSTL.

21. I also observe that Darshan Desai, vide his statement dated March 05, 2009 and March 13, 2009, has stated that the decisions for the trades in the account of Amol Kokane for 15 trading days from October 27, 2008 were taken by him. It is observed that at the time of recording his statement dated March 05, 2009, it was specifically asked from Darshan Desai as to how he could trade in the account of Amol Kokane when there was no instruction from him to that effect and in reply to the said query, Darshan Desai had stated that he himself had taken the decision to trade in the account of Amol Kokane in order to bring the account to credit balance. However, it is noted that Darshan Desai not only traded to clear the debits lying in the account of Amol Kokane, but, also went on to make further purchases which resulted in heavy losses in the account of Amol Kokane.

22. Further, I note that it is only vide letter dated May 17, 2009 filed by the advocates on behalf of Darshan Desai in reply to ex-parte ad-interim order dated April 23, 2009, that reference to an authority letter dated September 15, 2008 from Amol Kokane to Darshan Desai has been made for the first time. Though the said letter of authority authorizes ICMPL and Darshan Desai to carry out transactions on Amol Kokane's behalf whenever Darshan Desai may think appropriate, and also agrees for the financial responsibility arising from the said transactions, it appears to be an afterthought. Further, as noted above, Harsh Shah, Vice president of ICMPL had stated that Darshan Desai was not an employee of ICMPL, which would question the very legitimacy of the authority letter authorizing Darshan Desai. Further, I note that Amol Kokane, vide his statement dated February 27, 2009 had stated that Nirmal Kotecha was operating all his accounts and has not relied upon any letter of authority in favour of Darshan Desai. Hence, I find no merit in the submission of the said authority letter dated September 15, 2008 from Amol Kokane to Darshan Desai.
23. In this regard, I note that vide SEBI Order dated March 22, 2018, it was held that Darshan Desai had opened the trading account of both Amol Kokane and Nirmal Kotecha with ICMPL on the same day and the accounts of Amol Kokane (which includes the trading account and the bank account) and the mobile number of AK were being actually used by Nirmal Kotecha for his trades. The said Order was upheld by the Hon'ble SAT vide its Order dated March 02, 2020. Therefore, since Darshan Desai has also admitted that he used to trade in the account of Amol Kokane, I find that he was directly associated with Nirmal Kotecha. This is further established from the fact that his wife Priyanka Desai in whose account he was also placing orders, had entered into synchronized trades with Amol Kokane, which would mean that Darshan Desai was the one placing orders for both sides of the parties to the trade. The details of such orders placed are elaborated in the following paras.

24. With regard to the trades of Priyanka Darshan Desai, I observe that during the period from June 1, 2008 to December 19, 2008, Priyanka Darshan Desai, the wife of Darshan Desai had purchased 1,94,910 shares and sold 1,94,910 shares on **BSE**. Examination of the major counterparties of Priyanka Darshan Desai revealed that she had purchased from the following major selling clients namely Falguni Jayesh Shah (45,847 shares), Amol Kokane (42,475 shares), Kotak Mahindra Mutual Fund A/C K-30 (9,260 shares) and Inventure Growth & Securities Ltd. (6,249 shares). Priyanka Darshan Desai sold to the following major buying clients namely Amol Kokane (65,089 shares), Falguni Jayesh Shah (44,696 shares), Hari Shankar (8,378 shares), Bijal Madhani HUF (5,000 shares) and M. P. Vora Shares & Sec Pvt. Ltd. (4,975 shares). Further, on **NSE**, during the period from June 1, 2008 to December 19, 2008, Priyanka Darshan Desai had purchased 35,255 shares and sold 35,255 shares. Examination of the major counterparties of Priyanka Darshan Desai revealed that it had purchased from the following major selling clients namely B. K. Shah & Co. (8,170 shares), BP Fintrade Pvt. Ltd. (5,029 shares), Chola Mutual Fund (5,000 shares), Raj Kumar HUF (2,002 shares) and Dindayal Biyani Stock Brokers Ltd. (2,000 shares). Priyanka Darshan Desai sold to the following major buying clients namely Standard Securities & Investment Intermediates Ltd. (9,378 shares), MBL & Co. Ltd. (5,636 shares), Axis Capital Markets (INDIA) Ltd. (3,258 shares), Capital Wizard Stock Broking Pvt. Ltd. (2,195 shares) and Inventure Growth & Securities Ltd. (1,696 shares).
25. I observe that Priyanka Darshan Desai had bought and sold majorly from/to the same counterparties namely Falguni Jayesh Shah, Amol Kokane and Inventure Growth & Securities Ltd. who are associates of Nirmal Kotecha. Examination of the trades of Priyanka Darshan Desai with Falguni Jayesh Shah and Amol Anand Kokane on a sample basis revealed that these trades were in the nature of synchronized and reversal transactions.

26. In this regard, I note that during the period October 27, 2008 to November 17, 2008, Amol Kokane bought 4,19,084 shares of PSTL at a value of Rs.2,25,57,138.82 and sold 4,21,974 shares of PSTL at a value of Rs.2,15,54,295 on BSE. I also observe that on intra-day basis, the purchases by Amol Kokane in the scrip of PSTL were at higher prices than the sell prices, thus resulting in losses. Examination of the major counterparties of Amol Kokane revealed that he had purchased from the following major selling clients namely Priyanka Darshan Desai (65,089 shares), DKG Securities Pvt. Ltd. (31,538 shares), Inventure Growth & Securities Pvt. Ltd. (29,788 shares) Ankit Vasani (22,744 shares), and Sykes & Ray Equities (I) Ltd. (19,534 shares) on BSE. Further, Amol Anand Kokane had sold to the following major buying clients on BSE, namely Ankit Vasani (84,464 shares), Falguni Jayesh Shah (66,451 shares), Priyanka Darshan Desai (42,475 shares), Inventure Growth & Securities Pvt. Ltd. (31,898 shares) and Sykes & Ray Equities (I) Ltd. (15,254 shares) during the said period.
27. Further, during the aforesaid period, Amol Kokane had purchased 73,909 shares and sold 1,31,019 shares of PSTL on NSE. Examination of the major counterparties of Amol Anand Kokane revealed that it had purchased from the following major selling clients namely Radhika Dipan Mehta (6,708 shares), Inventure Growth & Securities Pvt. Ltd. (6,414 shares), Sykes & Ray Equities (I) Ltd. (5,089 shares), Sheth Brothers (4,738 shares) and Naga Sreenu Gollapalli (2993 shares). Amol Kokane had also sold to the following major buying clients on NSE, namely Radhika Dipan Mehta (7,576 shares), Inventure Growth & Securities Pvt. Ltd. (7,005 shares), Citigroup Global Market Mauritius Pvt. Ltd. (5,526 shares), Dinesh H Ambawat (4,998 shares) and Sykes & Ray Equities (I) Ltd. (4,379 shares). I note that such trading in the scrip of PSTL resulted in loss of Rs.11,50,464.45 to Amol Kokane on BSE. Similarly, on NSE also, the trading by Darshan Desai in the scrip of PSTL in the account of Amol Kokane has resulted in a loss of Rs.28,019.

28. Hence, I find that Amol Kokane had bought and sold majorly from and to the same counterparties namely Priyanka Darshan Desai, Ankit Girishkumar Vasani and Inventure Growth & Securities Pvt. Ltd., and also sold majorly to Falguni Jayesh Shah, who I observe are entities associated with Nirmal Kotecha. Upon examining the trades, as given in the following paras, of Amol Kokane with Priyanka Darshan Desai, Ankit Girishkumar Vasani and Inventure Growth & Securities Pvt. Ltd., it is noted that these trades were in the nature of synchronized / structured transactions.
29. With regard to the trades between Amol Kokane and Priyanka Darshan Desai, I note that on November 03, 2008 Priyanka Darshan Desai sold 27,902 shares of PSTL through 11 trades to Amol Anand Kokane on BSE. On the same day, Priyanka Darshan Desai bought back 36,753 shares through 4 trades from Amol Kokane on BSE. Some of the orders placed by Amol Kokane and Priyanka Darshan Desai which resulted in large quantities of shares being traded amongst them were examined and I observe that the orders were placed by Amol Anand Kokane and Priyanka Darshan Desai in a synchronised manner so as to result in their orders getting matched in trades of large quantities of shares. Further, on November 04, 2008 Priyanka Darshan Desai sold 37,087 shares of PSTL through 12 trades to Amol Kokane on BSE. On the same day, Priyanka Darshan Desai bought back 5,722 shares through 2 trades from Amol Kokane on BSE. Hence, I note that during the period October 27, 2008 to November 17, 2008, Amol Kokane had purchased 65,089 shares from Priyanka Darshan Desai and sold 42,475 shares to Priyanka Darshan Desai, on BSE. I note that the aforesaid trades of Priyanka Desai were executed by Darshan Desai through the broker Venture Broking. The trades of Amol Kokane too were executed by Darshan Desai, but, through ICMPL, during the period October 27, 2008 to November 17, 2008. Therefore, during the said period, it was Darshan Desai himself who was executing the trades in the names of both viz. his wife Priyanka Desai, through Venture Broking, and, Amol Kokane, through ICMPL, which had matched. Therefore, though these trades prima-facie show transfer of beneficial ownership,

if we go behind these trades, it is clear that it was Darshan Desai himself who was taking both the buy and sell decisions for the trades between Amol Kokane and Priyanka Darshan Desai. Further, I find from the call records that Darshan Desai was in constant touch with Nirmal Kotecha during the investigation period.

30. In this regard, I also note that vide SEBI Order dated June 23, 2020 against Amol Kokane and Priyanka Darshan Desai, it was found that Amol Kokane and Priyanka Darshan Desai had entered into synchronized reversal trades with each other in the scrip of PSTL. Since, it is an admitted fact by Darshan Desai that he was trading on behalf of Priyanka Darshan Desai and Amol Kokane in the scrip of PSTL during this period, it is appropriately concluded that Darshan Desai was putting the trade orders on both sides which clearly establishes the element of meeting of minds in the act of synchronized trades. Therefore, in view of the above trades and the findings in the Order dated June 23, 2020, I find that Darshan Desai was synchronizing the transactions of Amol Kokane with Priyanka Darshan Desai.
31. With regard to the trades of Priyanka Darshan Desai with Falguni Jayesh Shah, I note that on November 03, 2008, Priyanka Darshan Desai bought 20,000 shares of PSTL from Falguni Jayesh Shah on BSE in which Priyanka Darshan Desai traded through the broker Venture Broking while Falguni Jayesh Shah traded through B.N. Rathi Securities Ltd. On the same day, Priyanka Darshan Desai sold 19,900 shares to Falguni Jayesh Shah on BSE. Examination of the trades between Ms. Falguni Jayesh Shah and Ms. Priyanka Darshan Desai revealed that there were a total of two trades between them on November 3, 2008 on BSE. The orders placed by Falguni Jayesh Shah and Priyanka Darshan Desai, which resulted in large quantities of shares being traded amongst them, were examined and I observe that the orders were placed by Falguni Jayesh Shah and Priyanka Darshan Desai in a synchronised manner so as to result in their orders getting matched in trades of large quantities of shares. Further, I note that on November 04, 2008, Priyanka Darshan Desai bought 25,847 shares of PSTL from Falguni

Jayesh Shah on BSE. On the same day, Priyanka Darshan Desai sold back 24,796 shares to Falguni Jayesh Shah on BSE. Examination of the trades between Falguni Jayesh Shah and Priyanka Darshan Desai revealed that there were a total of seven trades between them on November 4, 2008 on BSE. Some of the orders placed by Falguni Jayesh Shah and Priyanka Darshan Desai which resulted in large quantities of shares being traded amongst them were examined and I observe that the orders were placed by Falguni Jayesh Shah and Priyanka Darshan Desai in a synchronised manner so as to result in their orders getting matched in trades of large quantities of shares.

32. In this regard, I note that Darshan Desai was admittedly trading on behalf of his wife Priyanka Darshan Desai. I also note that Jayesh Shah (Noticee no. 6) had vide his statement dated March 18, 2010, had stated that he had traded on behalf of his wife Falguni Jayesh Shah. Hence, I find that it was Darshan Desai who had placed the trades for Priyanka Darshan Desai and Jayesh Shah who had placed the trades for Falguni Jayesh Shah. I note from the call data records of Darshan Desai that he had made three calls to Noticee no. 6 on November 03, 2008 and four times on November 04, 2008, i.e. on the date of the aforesaid trades between Priyanka Darshan Desai and Falguni Jayesh Shah. In this regard, I note that on November 04, 2008, Darshan Desai had made calls to Noticee no. 6 just before the execution of trades between Priyanka Darshan Desai and Falguni Jayesh Shah. Hence, I find that Darshan Desai had called Noticee no. 6 to synchronize the trades between their respective wives, for whom they were placing trades. Further, I note that vide SEBI Order dated June 23, 2020 against Priyanka Darshan Desai and Falguni Jayesh Shah in the matter of PSTL, it was held that Priyanka Darshan Desai had entered into synchronized trades with Falguni Jayesh Shah. Therefore, in view of the above trades and call records and the findings in the Order dated June 23, 2020, I find that Darshan Desai and Noticee no. 6 had executed synchronized reversal trades with each other on November 03 and 04, 2008 in the scrip of PSTL.

33. With regard to the trades of Amol Kokane with Ankit Girishkumar Vasani, I note that on November 03, 2008, Amol Kokane sold 6,700 shares of PSTL through 4 trades to Ankit Girishkumar Vasani on BSE. On the same day, Amol Kokane bought back 10,050 shares through 5 trades from Ankit Girishkumar Vasani on BSE. Further, on November 05, 2008 Amol Kokane sold 35,225 shares of PSTL through 10 trades to Ankit Girishkumar Vasani on BSE. On the same day, Amol Kokane bought back 5,238 shares through 10 trades from Ankit Girishkumar Vasani on BSE. I note that Ankit Girishkumar Vasani was introduced to ICMPL, Goyal Shopping Centre, Borivali (West) branch by Amit N. Joshi (Noticee no. 3) who was the Branch Manager of Rashmi Building, Borivali (West) branch with ICMPL.
34. I observe from the call data records of Ankit Girishkumar Vasani's mobile number 9833884005 that he was in touch with Noticee no. 3 and Darshan Desai on November 03, 2008. I also note from the call records of Darshan Desai, that he had called Noticee no. 3 on November 03, 2008 at 9:08:39 and then called Ankit Girishkumar Vasani at 09:09:53. Noticee no. 3 then called Ankit Girishkumar Vasani at 9:38:45. Darshan Desai again called Noticee no. 3 at 9:48:48, who in turn called Ankit Girishkumar Vasani at 11:19:01. In between Ankit Girishkumar Vasani had also called Darshan Desai at 10:00:34. I note that Ankit Girishkumar Vasani started trading in the scrip of PSTL from 11:19:26 through Venture Broking i.e. immediately after he received the second call from Noticee no. 3 on November 03, 2008 at 11:19:01. I further note that Ankit Girishkumar Vasani placed a total buy order for 3,77,420 shares and sell order for 5,20,309 shares of PSTL on November 03, 2008. In this regard, I place reference on the Order of the Hon'ble Supreme Court, in the matter **SEBI vs. Kishore R. Ajmera (2016) 6 SCC 368** wherein, it had held that:
- ".....While the screen based trading system keeps the identity of the parties anonymous it will be too naive to rest the final conclusions on said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming. The test, in our considered view, is one*

of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned. Prosecution under Section 24 of the Act for violation of the provisions of any of the Regulations, of course, has to be on the basis of proof beyond reasonable doubt.

35. From the call records of Ankit Girishkumar Vasani, Noticee no. 3 and Darshan Desai, I find that they were in contact with each other before they began executing trades in the scrip of PSTL. Further, I find that Ankit Girishkumar Vasani was trading through the Borivali (West) Branch of ICMPL, which was registered in the name of Priyanka Darshan Desai, the wife of Darshan Desai and furthermore, Darshan Desai had claimed to be the Branch Head of the Borivali (West) Branch of ICMPL during that period. Hence, the nexus between Ankit Girishkumar Vasani and Darshan Desai is clearly established and the fact that there were calls were made between the two prior to trading in the scrip of PSTL, I find that there was meeting of minds in the execution of synchronized trades between Ankit Girishkumar Vasani and Amol Konkane, whose account was admittedly being operated by Darshan Desai. In this regard, I note that vide SEBI Order dated June 23, 2020 against Amol Kokane and Ankit Girishkumar Vasani, it was held that Amol Kokane had entered into synchronized trades with Ankit Girishkumar Vasani. Further, I find that Noticee no. 3 who was the Branch Manager of Rashmi Building, Borivali (West) branch with ICMPL, was the one who introduced Ankit Girishkumar Vasani to the Borivali (West) Branch of ICMPL which was being run by Darshan Desai, and was also making and receiving calls from Darshan Desai and Ankit Girishkumar Vasani just before they started executing trades in the scrip of PSTL. Hence, I also find that Noticee no. 3 has colluded with Darshan Desai and Ankit Girishkumar Vasani.
36. With regard to the trades between Ankit Girishkumar Vasani, Amol Kokane and DKG Securities Limited, I note that on November 04, 2008, Amol Kokane sold 40,363 shares of PSTL to Ankit Girishkumar Vasani. On the same day, Ankit

Girishkumar Vasani sold 41,019 shares to DKG Securities Pvt. Ltd. and DKG Securities Pvt. Ltd. in turn sold 31,538 shares to Amol Kokane. I observe that this circular transaction involved 29 trades between the three entities and that many of these trades between Amol Kokane, DKG Securities Pvt. Ltd and Ankit Girishkumar Vasani which resulted in the aforesaid circular movement of shares resulted from synchronized orders placed by them. I note that one Radha Krishna Garg, in his statement dated October 09, 2009 for DKG Securities Pvt. Ltd. had stated that he is an employee and former director of DKG Securities Pvt. Ltd. Further that his wife and son are the directors of DKG Securities Pvt. Ltd. He also stated that he was taking almost all of the investment decisions on behalf of DKG Securities Pvt. Ltd. Further, he has also stated that he knew Nirmal Kotecha and has met him on 2 or 3 occasions.

37. I note from the Call Data Records of Nirmal Kotecha's Amol Kokane number that he was in close touch with Radha Krishna Garg on his mobile number on an almost daily basis. Radha Krishna Garg has in this regard, stated that they used to talk about the stock market and exchanged views. However, I find from the Call Data Records that on November 04, 2008, Nirmal Kotecha had called Radha Krishna Garg at 02:49:58 pm. Prior to the same, Nirmal Kotecha had received call from Sumit Desai (brother of Darshan Desai) from mobile number 9323384929 at 02:02:55 pm. I note that when the Investigation team visited the Borivali (West) branch of ICMPL on March 5, 2009 without prior intimation, Sumit Desai was also present in the branch and was present throughout the statement recording of Darshan Desai. Further, I note that during the time period from 2:26:30 pm to 03:00:47 pm on November 04, 2008, Amol Kokane placed six buy orders for a cumulative order quantity of 77,032 shares at a price range of Rs. 51.15 to Rs. 59.25 per share. DKG Securities Pvt. Ltd. had cumulatively placed sell order for 34,000 shares from time period 02:50:20 pm to 02:53:21 pm. i.e. immediately after Nirmal Kotecha had called Radha Krishna Garg. Therefore, I find that the transactions between Amol Kokane and DKG Securities Pvt. Ltd. were synchronized. Since, Darshan Desai was admittedly operating the account of

Amol Kokane during this period, it is clear that Darshan Desai has colluded with Nirmal Kotecha and played a key role in the manipulation of the scrip of PSTL.

38. With regard to the allegations of manipulative trading done on behalf of Priyanka Darshan Desai and Amol Kokane, Darshan Desai vide his reply dated January 05, 2016, has *inter alia* submitted that he has carried out transactions of Amol Kokane in ICMPL under due authority from such person. That even if the allegation that Amol Kokane was a front of Nirmal Kotecha is true, it does not mean that he has any concern or knowledge about Nirmal Kotecha's intent or game plan. That he had carried out such transactions in ordinary course of business just as he did for other clients. However, I find the submission untenable and in fact I find this as an admission on the part of Darshan Desai that he has indulged in fraudulent activity. As noted above, I find that the Noticee was unable to prove his association as an employee of ICMPL and Harsh Shah, the Vice President of ICMPL, had also stated that Darshan Desai was not an employee of ICMPL and no salary was being paid to him. In this regard, I also note that Amol Kokane has never stated that he gave any written instructions for Darshan Desai to trade on his behalf. Further, since Darshan Desai is not an employee of ICMPL, I don't see how such authorization could be given to him. Hence, the submission of Darshan Desai that he carried out such transactions in ordinary course of business just as he did for other clients, when he wasn't even an employee of ICMPL, reeks of admission of guilt on his part in the entire scheme of things and corroborates the fact that he played a key role in aiding Nirmal Kotecha in manipulating the scrip of PSTL.
39. Further, with regard to the call records, Darshan Desai has contended that nothing is brought on record as to the contents of such calls/sms. That it is also on record that such persons were clients of ICMPL or otherwise known to him. Hence, that a few calls/sms were thus expected and it would have been strange/abnormal if such calls/sms were not made. Further, that there is no link established between the calls and the transactions and the timing of such calls/sms do not match the transactions. Also that there is nothing on record to

substantiate the charge that the transactions were coordinated by such calls/sms or the charge that relations other than in the ordinary course of business existed with such parties. In this regard, I find the submissions of the Noticee untenable and astonishing. I find that Darshan Desai during investigation could not prove that he was an employee of ICMPL. He even failed to establish his exact position in ICMPL by first claiming to be Branch Head and then Business Associate. Further, even the Vice President of ICMPL, Harsh Shah, had clarified in his statement dated March 13, 2009 that Darshan Desai was not an employee of ICMPL and no salary was being paid to him. What I find astonishing is that vide his letter dated May 17, 2009, Darshan Desai submitted an authority letter dated September 15, 2008 from Amol Kokane authorizing ICMPL and Darshan Desai to carry out transactions on his behalf. The obvious inference from this would be how Darshan Desai could be authorized when he was not an employee of ICMPL and thereby, clearly establishing the fact that the letter of authority was invalid and an afterthought. I also note that Amol Kokane has never stated that he issued a letter of authority to Darshan Desai. It appears that his contentions mainly rely on his claim that they were his clients and he was in contact with them in ordinary course of business. However, the fact is that Darshan Desai was not an employee of ICMPL. Hence, if he claims that they were all his clients, it would mean that he has deceived all these clients and has fraudulently placed orders on their behalf. Further, his claim that the calls and transactions do not match is untenable as I have already noted above that he had spoken to Amit Joshi and Ankit Girishkumar Vasani prior to Ankit Girishkumar Vasani executing his synchronized trades with Amol Kokane. Further, Darshan Desai had also made calls to Jayesh Shah just prior to synchronized trades being executed between Piryanka Darshan Desai and Falguni Jayesh Shah, who were their respective spouses on whose behalf they traded. Clearly such calls were not in the ordinary course of business as Darshan Desai was not an employee of ICMPL.

40. I also note that Nitin Goradia vide his statement dated June 30, 2009, has also stated that on the guarantee of Darshan Desai, he had arranged loan of Rs. 15

lakhs from his client Nigam V. Shah and Rs. 2.75 lakhs from his other client Hemal Gandhi for Amol Kokane in October 2008. Further, Janak Chitalia vide his statements dated June 29, 2009, has stated that he had lent Rs. 12 lakhs to Amol Kokane on the personal guarantee of Darshan Desai and that except for confirmation letter that is provided for Income Tax purpose, he had no other document (including personal guarantee) with regard to loan given to Amol Kokane on October 10, 2008, that he had given the loan at 12% rate of interest. With regard to the same, Darshan Desai had submitted that there is nothing on record to substantiate that he has given such formal guarantees. That in any case even if such allegation may be true, giving of assurances of clients whether in the form of their background or otherwise soundness of their credit worthiness is often given in business transactions. Further, that nothing is brought on record to demonstrate an underlying linkage/relation other than the broker client relation with the borrower or the lender-guarantor relation with the lender. However, I find that the Noticees contentions erroneous and untenable. As noted above, it is established that Darshan Desai was not an employee of ICMPL, hence his contention of a broker client relation with the borrower is wholly misplaced and self-incriminating of his fraudulent role with ICMPL. However, I note that there is no evidence to substantiate that he acted as a guarantee as it appears to have been made only been through oral commitments and there was no formal written agreement in this regard. Be that as it may, I find that there is enough and substantial evidence to prove the Noticee's involvement in the entire scheme of things with Nitin Goradia and Nirmal Kotecha.

41. Darshan Desai has also submitted that he is not connected with Nirmal Kotecha with regard to such transactions or otherwise. That he has had no past connections or transactions with Nirmal Kotecha and he is not related to him personally or professionally, except purely as a client and that too of ICMPL. That all of the allegations made against him are on the basis of the allegation that he is related to Nirmal Kotecha and because of such alleged relation with Nirmal Kotecha, he is alleged to be related to various other parties. Such allegation is

false, farfetched and without basis. In this regard, as noted above, I find the submissions of the Noticee untenable as I find that Darshan Desai was not an employee of ICMPL and hence, Nirmal Kotecha cannot be his client. Hence, his contention that Nirmal Kotecha was merely his client, further corroborates the fact that he played an active role in the fraud with Nirmal Kotecha. Further, it is admitted by Amol Kokane that his accounts were being operated by Nirmal Kotecha and since it was Darshan who has admitted to placing trades on behalf of Amol Kokane, it is clear that Darshan Desai was working with Nirmal Kotecha.

42. In view of the above, I find that Noticee no.1 (Darshan Desai) has violated Section 12A of the Securities and Exchange Board of India Act, 1992 and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a)(b) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003.
43. **Nitin Goradia (Noticee No. 2):** I note that Nitin Goradia was the Chartered Accountant for Priyanka Darshan Desai and for Rajesh Jani. I observe that Nitin Goradia in his statement dated June 30, 2009 to SEBI stated that he has inter alia advanced loans / arranged loans through third parties during the last two years to Rajesh Jani, Nimesh Mehta, Manisha Mehta, Devang Shah etc. He has further stated that there were no loan agreements for loans given/ arranged by him and that it was on the basis of mutual understanding. Further that the guarantees were on the basis of oral commitments. He has stated that his role was to match both parties requirements – the ones who desire to borrow and the ones who desire to lend. In this regard, I observe that Nitin Goradia was connected to many entities associated with Nirmal Kotecha and has also used many entities as fronts to route money to Amol Kokane, a front entity of Nirmal Kotecha. The connection of Nitin Goradia with the various entities is as under:

Sr. No.	Name of Entity	Connection with Nitin Goradia

1	Priyanka Darshan Desai	Nitin Goradia was the Chartered Accountant for Priyanka Darshan Desai, the wife of Noticee no. 1. Separate proceedings have been initiated against her vide show cause notice dated April 30, 2015 for her fraudulent trades and association with Nirmal Kotecha. The Borivali (W) branch of ICMPL, where Priyanka Darshan Desai was the Branch Head, was being run from 202, B Wing, Goyal Shopping Centre, Borivali (W), Mumbai – 400092, which was the premises owned by Nitin Goradia and lent on leave and license basis to ICMPL.
2	Ankit Girishkumar Vasani	Shri Nitin Goradia introduced him to Ventura Broking and Emkay Broking. Ankit Girishkumar Vasani is one of the associates of Nirmal Kotecha, and separate proceedings have been initiated against him vide show cause notice dated April 30, 2015.
3	Falguni Jayesh Shah	Falguni Jayesh Shah's account with The Kapol Co-op. Bank Ltd. shows receipt of Rs. 4,76,340/- on Jan 23, 2008 from the account of Nitin Goradia HUF and the said funds were transferred to ICMPL on Jan 24, 2008. Falguni Jayesh Shah is the wife of Noticee no. 6 and an associate of Nirmal Kotecha. Separate proceedings have been initiated against her vide show cause notice dated April 30, 2015 for her fraudulent trades and association with Nirmal Kotecha.
4	Darshan Desai (Noticee no. 1)	Investigation revealed that Nitin Goradia from his mobile number 9322233908 was also seen to be in close touch with Darshan Desai. The Call Data Records of Darshan Desai's number 9324540561 for Nov-Dec, 2008 revealed that Darshan Desai had made more than 50 Outcalls/SMSs to Nitin Goradia on his mobile number 9322233908 and received more than 35 In calls/SMSs. Nitin Goradia vide his statement dated June 30, 2009,

		has also stated that on the guarantee of Darshan Desai, he had arranged loan of Rs. 15 lacs from his client Nigam V. Shah and Rs. 2.75 lacs from his other client Hemal Gandhi for Amol Kokane in October 2008.
5	Nigam Vinod Shah	Nigam Vinod Shah had transferred Rs. 15 lacs to Amol Kokane's account on October 10, 2008 from his bank account held with Axis Bank, Borivali (West) branch. Vide his statement dated June 24, 2009 (Annexure 27); Nigam Vinod Shah has stated that he knew Nitin Goradia as he was his father's friend. He has further stated that he knew Raju G. Shah as he had met him in Nitin Goradia's office. Also, that he did not know anything about the financial transactions and that his father and Chartered Accountant Nitin Goradia did everything, He also informed that he did not know Amol Kokane, however, that his father and Chartered Accountant Nitin Goradia may know him.
6	Hemal Gandhi HUF	Amol Kokane's account had received credit of Rs. 2.75 lacs from Hemal H. Gandhi HUF of Datapro on October 10, 2008 and he in turn, had received credit of similar amount in his account again from Rajesh Jani on October 08, 2008, i.e. just immediately before the transfer of funds to Amol Kokane on October 10, 2008. Vide his statement dated June 25, 2009, Hemal Gandhi has inter alia stated that Nitin R. Goradia is his family friend and that he had given Rs. 50,000/- as loan to Nitin Goradia in June/ July 2008 without interest, which Nitin Goradia had not returned back.
7	Janak H. Chitalia	Janak Chitalia is the brother-in-law of Nitin Goradia and the brother of Nimesh Chitalia. The account of Janak Chitalia, inter alia, shows financial transactions with one Amar Dave, who was also working with Nitin Goradia and had financed Rs. 4 lacs to one Deepak Mali for trading in stock market through ICMPL. Amar Dave, who

	worked with Nitin Goradia is also the person who introduced Priyanka Darshan Desai to The Kapol Co-op. Bank Ltd. Janak Chitalia in his statement dated June 29, 2009 to SEBI has stated that he has studied till standard IX. Also, that he was working at Mahindra Silk Mills in Kalbadevi, Mumbai for about 7-8 years and earning approximately Rs. 4,500/- per month. He has also stated that in the past two years he was a broker for yarn in Surat and a proprietor in M/s. J.H. Chitalia & Co. As per the copies of Income Tax Returns submitted for the Assessment Year 2008-09 and 2007-08, Janak Chitalia's gross total income is Rs. 1,13,920/- and Rs. 1,11,485/- respectively. In his aforesaid statement he has stated that he used to lend money on interest to parties in the form of unsecured loans without any agreement or collateral and that he has employed a capital of Rs. 5 lacs. Further, though he has stated that Amol Kokane was one of his three major clients, however, he has stated that he did not know Amol Kokane. Investigations revealed that Amol Kokane's account had received credit of Rs. 12 lacs from Janak H. Chitalia of M/s. J.H. Chitalia & Co. on October 10, 2008 and he in turn, had received credit of similar amount in his account again from Rajesh Jani on October 08, 2008, i.e. just immediately before the transfer of funds to Amol Kokane on October 10, 2008. From a perusal of the bank statement of Janak H. Chitalia with Bank of Maharashtra, Borivali (West) branch, it is observed that on December 27, 2007, he had received Rs. 12 lacs from Nimesh Chandrakant Mehta, which were transferred to Rajesh Jani's (Noticee no. 7) account with ICICI Bank on December 28, 2007. The said amount of Rs. 12,00,000/- was received from Rajesh Jani on
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		October 08, 2008 and the same was transferred to Amol Kokane on Oct 10, 2008. The balance sheet as on Mar 31, 2008 reflects that he had also give a loan of Rs. 5,90,000/- to Rajesh Jani in addition to the loan of Rs. 12,00,000/-. Janak Chitalia has stated that he had lent Rs. 12 lacs to Amol Kokane on the personal guarantee of Darshan Desai and that except for confirmation letter that is provided for Income Tax purpose, he had no other document (including personal guarantee) with regard to loan given to Amol Kokane on October 10, 2008, that he had given the loan at 12% rate of interest. He further stated that the loan was given for 1 year and that the money with interest has not been returned to him and that he was following up with Darshan Desai with regards to the interest.
8	Rita Nitin Goradia	She is the sister of Nimesh Chitalia, who is the Head, Business Development of ICMPL and the wife of Nitin Goradia, in whose premises the Borivali (W) branch of ICMPL was operating and was run by Darshan Desai, in the name of his wife Priyanka Darshan Desai. She is also a director of M/s. Kankeshwari Securities Pvt. Ltd., which had lent an amount of Rs. 30 lacs to Rajesh Jani (Noticee no. 7) in April 2006.
9	Deepak Mali	Deepak Mali's trading account was opened on December 12, 2007 with Borivali (West) branch of ICMPL. Deepak Mali was introduced to ICMPL by Priyanka Darshan Desai, the wife of Darshan Desai. Deepak Mali traded in the scrip of PSTL during the period June to Dec 2008 on BSE. From the client ledger of Deepak Mali, it is seen that Deepak Mali was allowed continuous large debit balances in his account during the period June 1, 2008 to December 24, 2008. As per the KYC of Deepak Mali

	with ICMPL, his annual income was shown as less than Rs. 1 lakh. However, he was allowed to have a debit balance of Rs. 35,97,853 as on June 19, 2008 with ICMPL. Upon examining his bank account with Kapol Co-op. Bank Ltd., it was revealed that he was introduced to the bank by Nimesh Chitalia, the Head of Business Development (Retail) with ICMPL and also the brother of Janak Chitalia, who is the brother in law of Nitin Goradia. His bank account revealed that on January 11, 2008, he received Rs. 4 lakh from on Amar J. Dave, on January 18, 2008, he received an amount of Rs. 7 lakh from Manav Naresh Patel, on September 11, 2008, he received an amount of Rs. 10 lakh from Mahesh Sanatan Haldar and on October 23, 2008, he received an amount of Rs. 8 lakh from M/s. Simbosis Financial Solutions. It is noted that all these 4 amounts were subsequently transferred to ICMPL. I observe from the KYC of Amar J. Dave, Manav Naresh Patel and Mahesh Sanatan Haldar with The Kapol Co-op. Bank Ltd. was 202, B Wing, Goyal Shopping Centre, Borivali (W), Mumbai – 400092. This is the same as the address as that of the Borivali (West) branch of ICMPL, which is owned by Nitin Goradia and lent on leave and license basis to ICMPL. It is also seen from the KYC copy of M/s. Kankeshwari Securities Pvt. Ltd., whose directors were Nimesh Chitalia, Vilas Parshottamdas Shah and Rita Nitin Goradia (wife of Nitin Goradia), that this was also the office address of M/s. Kankeshwari Securities Pvt. Ltd. Hence, it appears that Amar Jayesh Dave and Manav Naresh Patel were then working for Nitin Goradia/ M/s. Kankeshwari Securities Pvt. Ltd. Further, as per the KYC copy, it is seen that Mahesh Sanatan Haldar was working as a driver with Nitin Goradia/ M/s.
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		Kankeshwari Securities Pvt. Ltd. Further, I note that Noticee no. 3 is the proprietor of M/s. Simbosis Financial Solutions, who had also transferred money to the account of Deepal Mali.
10	Rajesh Jani (Noticee no. 7)	I observe that Rajesh Jani is director In Dynamic Stock Broking Pvt. Ltd. (Noticee no. 8) and in Venture Broking. Vide his statement dated April 17, 2009, Rajesh Jani claimed that the amount of Rs. 15 lakhs he received from Nigam Vinod Shah on February 20, 2007 and returned on October 08, 2008, the amount of Rs. 2,75,000/- received from Hemal Gandhi HUF on December 28, 2007 and returned on October 08, 2008 and the amount of Rs. 12 lakhs received from Janak H. Chitalia on December 28, 2007 and returned on October 08, 2008, were all loans arranged by his Chartered Accountant Nitin Goradia. I note that all these amounts were subsequently transferred to Amok Kokane, the front entity of Nirmal Kotecha. Further, I observe that as per the documents submitted by Nigam Vinod Shah to its broker Noticee no. 8 at the time of opening of client account, his family's annual income was shown to be only Rs. 50,000/-. Hence, it appears unfeasible that Nigam Shah (25 years in age), whose family income is relatively so low, can advance a loan of Rs. 25 lakhs in the year 2007-08 to Rajesh Jani, and that too, without any loan agreement regarding interest rate and repayment schedule. Further, I note that Janak H. Chitalia, who lent an amount of Rs. 12 lakh to Rajesh Jani, is the brother in law of Nitin Goradia. I also note from the KYC of M/s. Kankeshwari Securities Pvt. Ltd., who had lent an amount of Rs. 30 lacs to Rajesh Jani in April 2006, by way of friendly interest free loan as claimed by Rajesh Jani in his statement, that its

		directors are Vilas P. Shah, Rita N. Goradia, wife of Nitin Goradia and Nimesh H. Chitalia, Head, Business Development of ICMPL and the brother-in-law of Shri Nitin Goradia. Investigation had revealed that Nitin Goradia was also the client of Noticee no. 8 and his client account with Noticee no. 8 was allowed debit balance of Rs. 15 lakhs for more than a year since April 2008. Rajesh Jani in his aforesaid statement had stated that as he was unable to pay interest to parties from whom Nitin Goradia had arranged loans for him, the outstanding amount due to Noticee no. 8 had also not been cleared by Nitin Garodia.
11	Dynamic Stock Broking Pvt. Ltd. (Noticee no. 8)	Rajesh Jani was the director of Dynamic Stock Broking Pvt. Ltd. and Nitin Goradia was one of its clients. As mentioned in the aforesaid para, Nitin Goradia's client account with Dynamic Stock Broking Pvt. Ltd. was allowed debit balance of Rs. 15 lakhs for more than a year since April 2008, since its Director Rajesh Jani was unable to pay interest to parties from whom Nitin Goradia had arranged loans for him.

44. From the above, I find that Nitin Goradia has played a vital role in connecting and using people to route money to the account of Amol Kokane, who is the front entity of Nirmal Kotecha. I find that Nitin Goradia was known and connected to many of the associates of Nirmal Kotecha. As noted above, he was the Chartered Accountant for Priyanka Darshan Desai and Rajesh Jani (Noticee no. 7). The Borivali (West) branch of ICMPL that was headed by Priyanka Darshan Desai was on the premises owned by Nitin Goradia. He had also introduced Ankit Girishkumar Vasani to Venture Broking where Rajesh Jani was a director. He has also transferred money to Falguni Jayesh Shah, wife of Jayesh Shah (Noticee no. 6). His call data records shows that he was in constant touch with Darshan Desai

(Noticee no. 1), who as noted in the foregoing paras, was admittedly operating the trading account of Amol Kokane and also stood as guarantor for loans arranged by Nitin Goradia for Amol Kokane. He had arranged loans for Rajesh Jani (Noticee no. 7) from entities including his brother in law Janak H. Chitalia and M/s. Kankeshwari Securities Pvt. Ltd., whose directors included his wife Rita N. Goradia, and brother-in-law Nimesh H. Chitalia (Noticee no. 9), the Head of Business Development of ICMPL. Further, he was a client of Dynamic Stock Broking Pvt. Ltd. (Noticee no. 8) where he was allowed a debit balance of Rs. 15 lakhs. Hence, I find it clearly established that Nitin Goradia was indirectly connected and associated with Nirmal Kotecha through all these entities who were associated with Nirmal Kotecha.

45. Nitin Goradia vide his reply dated January 20, 2016, has *inter alia* submitted that he has not carried out a single transaction in the shares of PSTL and that he has provided, as he does for numerous other parties, clients, friends' etc. services of grant of loans or arrangement of grant of loans. That the end use of such loans is not his concern and in any case he had no knowledge where the amounts of such loans were being used for. That the loans given or arranged by him for specified parties has been done in an arm's length manner. That nothing is brought on record to demonstrate an underlying linkage/relation between him and the borrowers other than the borrower-lender or facilitator-borrower relation. The loans are given/repaid by account payee cheques through normal banking channels and have been duly disclosed for income-tax and accounts purposes. Further, he has submitted that there is no question of "disguising" the trail of funds when the loans are granted/repaid through normal banking channels and through account payee cheques. That the lenders had ample funds with them which in any case they were using over several years and merely deployed by them in the present case. Therefore, he submits that the allegation that there was any "disguising" fails because the loans were granted transparently.

46. In this regard, I find the submissions of the Noticee untenable. As noted in the foregoing paras, based on the bank account statements of Nigam Vinod Shah, Hemal Gandhi HUF (Datapro), Janak Chitalia and their corresponding KYCs as well as their statements recorded, I find that these persons served as a conduit for Nitin Goradia to transfer funds from one person to another by disguising the trail of funds so transferred since despite low gross annual incomes, these persons/entities are seen to be lending money in the form of unsecured loans without any agreement or collateral for large amounts and extended over considerable periods of time to persons unknown to them, but, known to Nitin Goradia and also to Darshan Desai and Nimesh Chitalia. As noted above, Nigam Vinod Shah's family incomes was shown to be only Rs. 50,000/-, yet he advanced a loan of Rs. 25 lakhs to Rajesh Jani, as arranged by Nitin Goradia. Further, from Janak Chitalia's income tax returns for the year 2008-09 and 2007-08, his gross total income was Rs. 1,13,920/- and Rs. 1,11,485/- respectively. Yet, Janak Chitalia had given a loan of Rs. 12 lakhs to Amol Kokane and also a loan of Rs. 5,90,000/- and Rs. 12 lakhs to Rajesh Jani. Hence, I find that the lenders through whom he was arranging loans, clearly did not seem to have the financial capability to provide such loans.
47. Further, I find that entities like Amar J. Dave, Manav Naresh Patel and Mahesh Sanatan Haldar, who were employees of Nitin Goradia, were also used as fronts for transferring money to Deepak Mali who transferred the same to ICMPL. I observe that Mahesh Sanatan Haldar was a driver for Nitin Goradia and yet managed to lend Rs. 10 lakhs to Deepak Mali. Hence, I cannot agree with the submission of the Noticee that he was merely arranging loans. Even though the trail of funds was through normal banking channels, I find the submission that the lenders had ample funds with them which they were using over several years as untenable. The source of finance of the lenders who are low income entities and well connected to Nitin Goradia is clearly questionable. Further, I note that Amol Kokane vide his statement dated June 25, 2009 stated to SEBI that from January 01, 2008 to February 02, 2009, no funds in his bank account under investigation

were deposited by him and his family. Hence, it is clear that it was not Amol Kokane who was receiving the funds, as the bank accounts of Amol Kokane were being operated by Nirmal Kotecha. Further, it has been stated by Nitin Goradia himself that the said loans to Amol Kokane have not been repaid and no legal action has been taken in this regard. Therefore, it is clear that Nitin Goradia was using low income entities for the purpose of transferring funds to the account of Amol Kokane to be used by Nirmal Kotecha.

48. Nitin Goradia has also submitted that he is not connected with Nirmal Kotecha in any manner and has had no part connections or transactions with him. He is not related to Nirmal Kotecha personally or professionally. That a long link of flimsy connections have been made between certain persons with him and Nirmal Kotecha and based on such long chain of weak links, it is presumed and alleged that he is also linked with Nirmal Kotecha and his allegedly nefarious activities. That such allegations are serious and there is nothing on record to establish such relations. In this regard, as noted in the foregoing para no. 38, I find it is clearly established that Nitin Goradia was indirectly associated with Nirmal Kotecha through various entities, including Noticees 1, 6 and 7, and hence I find the submissions of the Noticee that he is not connected to Nirmal Kotecha as weak and untenable. Further, given his connection with all these associates of Nirmal Kotecha, I find the Noticee's contention that he was merely arranging loans as frivolous and untenable.
49. Hence, I find that by using low income entities, Nitin Goradia together with Nimesh Chitalia, Darshan Desai and Rajesh Jani colluded with Nirmal Kotecha to disguise the trail of funds used by Nirmal Kotecha to carry out his nefarious activities through the accounts of Amol Kokane. As noted in the foregoing paras, Darshan Desai was admittedly operating the trading account of Amol Kokane and had entered into various manipulative trades with various entities associated with Nirmal Kotecha in the scrip of PSTL.

50. In view of the above, I find that Noticee no. 2 (Nitin Goradia) has violated Section 12A of the Securities and Exchange Board of India Act, 1992 and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a)(b) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003.
51. **Amit N. Joshi (Noticee No. 3):** I observed that Amit Joshi was is the Branch Manager of Rashmi Building, Borivali (west) branch of ICMPL. He is also the proprietor of M/s Simbosis Financial Solutions. He had introduced Ankit Girishkumar Vasani to the Borivali (West) branch of ICMPL, which was being run by Darshan Desai. From the call records of Amit Joshi, it was found that he was in close touch with Ankit Girishkumar Vasani and Darshan Desai, when Ankit Girishkumar Vasani had traded in the scrip of PSTL and carried out synchronized reversal transactions with Amol Kokane, a front entity of Nirmal Kotecha.
52. In this regard, I observe from the Call Data Records of Ankit Vasani's mobile number 9833884005 that Amit Joshi, from his mobile number 9930002346, was in close touch with Ankit Girishkumar Vasani especially on November 03 and 05, 2008. Further, Darshan Desai, who was admittedly operating the account of Amol Kokane during the said period, was also seen to be in close touch with Amit Joshi and had called him on November 03, 2008. Darshan Desai was also seen to be in touch with Ankit Girishkumar Vasani especially on November 03, 2008. From the call records, as brought out in the SCN, it was revealed that Darshan Desai called Amit Joshi on November 03, 2008 at 9:08:39 and called Ankit Girishkumar Vasani at 09:09:53. Amit Joshi called Ankit Girishkumar Vasani on 9:38:45. Again Darshan Desai called Amit Joshi at 9:48:41 and Amit Joshi called Ankit Girishkumar Vasani at 11:19:01. In between Ankit Girishkumar Vasani had also called Darshan Desai at 10:00:34. I observe that that Ankit Girishkumar Vasani started trading in the scrip of PSTL from 11:19:26 through Venture Broking i.e. immediately after he received the second call from Amit Joshi on November 03, 2008 at 11:19:01. He placed a total buy order for 3,77,420 shares and sell order

for 5,20,309 shares of PSTL on Nov 03, 2008. Trading on behalf of Amol Kokane in PSTL on November 03, 2008 started from 13:06:00 on that day. There were several matching trades between Amol Kokane trading through ICMPL and Ankit Girishkumar Vasani trading through Venture Broking on the said day.

53. I observe that Amit Joshi was also in touch with Ankit Vasani on Nov 05, 2008, around the time when Ankit Vasani had put buy/ sell orders for trading in the scrip of PSTL. There were several matching trades between Amol Kokane and Ankit Vasani on the said day too. Thus, it is seen that Darshan Desai, who claims to have been the Branch Manager, Borivali (West) branch of ICMPL and Amit Joshi, Branch Manager, Rashmi Building, Borivali (West) branch of ICMPL were together facilitating Nirmal Kotecha, through his front Amol Kokane, to carry out synchronized reversal transactions with Ankit Girishkumar Vasani again on Nov 05, 2008. Further, it has been stated by Darshan Desai that he was executing the trades on behalf of Amol Kokane during the said period. Thus, I find that on November 03 and 05, 2008, Darshan Desai and Amit Joshi were together facilitating Nirmal Kotecha, through his front Amol Kokane, to carry out synchronized reversal transactions with Ankit Girishkumar Vasani, who was introduced to Borivali (West) branch of ICMPL by Amit Joshi.
54. I also observe that Amit Joshi had entered into synchronized trades with Dynamic Stock Broking Pvt. Ltd. (Noticee no. 8) on December 22, 2008. I note that on December 22, 2008, Amit Joshi placed a sell order at 12:02:16 for 1000 shares and Dynamic Stock Broking Pvt. Ltd had placed a buy order for 1000 shares at 12:02:17, with almost no time difference between the sell and buy order. Further, it is observed that Amit Joshi had bought 26,308 shares on December 22, 2008 from Nirmal Kotecha who was the counter party. In this regard, I note that Rajesh Jani (Noticee no. 7) is the director of Noticee no. 8 with whom Amit Joshi had entered into synchronized trades. As noted in the foregoing paras, Noticee no. 7 had secured loans through front entities of his Chartered Accountant Nitin Goradia (Noticee no. 2) which were ultimately transferred to Amol Kokane. Further,

Dynamic Stock Broking Pvt. Ltd. permitted Nitin Goradia to keep a debit balance of Rs. 15 lakhs since April 2008. I also note that Dynamic Stock Broking Pvt. Ltd. had entered into synchronized trades with Nirmal Kotecha himself and also with Sharda Pujara, Raju G. Shah, Hardik Mithani, and S.P.J. Stock Brokers Pvt. Ltd. who are all associates of Nirmal Kotecha. Further, I note that Rajesh Jani who is the director of Dynamic Stock Broking Pvt. Ltd. with whom Amit Joshi had entered in to synchronized trades, is also the director of Venture Broking, the broker through which Amit Joshi had traded. Hence, it is evident that Amit Joshi was clearly associated and known to Dynamic Stock Broking Pvt. Ltd. with whom he entered into synchronized trades. Further, he is associated with entities like Darshan Desai who had operated the account of Amol Kokane on behalf of Nirmal Kotecha and he is also associated with Ankit Girisihkumar Vasani who entered into synchronized trades with Amol Kokane. Hence, his indirect association with Nirmal Kotecha is well established through multiple entities. Therefore, I find that he has entered into synchronized trades with Dynamic Stock Broking Pvt. Ltd.

55. Investigation has also revealed that Amit Joshi had transferred funds from his account to the account of one Deepak Mali and from there the same were transferred to ICMPL. That on October 23, 2008, an amount of Rs. 8 lacs was received by Deepak Mali from M/s Simbosis Financial Solutions, whose proprietor was Amit Joshi and the same amount was transferred from Deepak Mali to ICMPL on October 24, 2008. I note that Deepak Mali had also received funds from the front entities of Nitin Goradia. Hence, I find that Deepak Mali traded in the scrip of PSTL, subsequent to receipt of funds from Amit Joshi and Mahesh Haldar, a front of Nitin Goradia.
56. Amit Joshi vide his reply dated January 20, 2016, has *inter alia* submitted that he was the branch manager of a separate branch of ICMPL. That this branch had no role or connection with the alleged irregularities, nor has it been even alleged to have any role/connection and even if one were to assume that there were such irregularities carried out through ICMPL in the scrip of PSTL, no such events had

taken place. Further, that he has introduced several persons to brokers including ICMPL over the period when he was branch manager of ICMPL. That this is expected and understood to help clients carry out activities at the branch of their choice and in the interests of his employer, ICMPL. However, that the SCN has picked out one single such introduction of Ankit Girishkumar Vasani and has exaggerated the role of it. In this regard, I find that his association with Ankit Girishkumar Vasani itself is significant, as he has colluded with Ankit Girishkumar Vasani in entering into synchronized trades with Amol Kokane, whose account was operated by Darshan Desai. I find that his arguments that he has introduced several persons is just a garb to conceal the relevance of his association with Ankit Girishkumar Vasani. Further, the allegations in the SCN are against him and not against the ICMPL branch which he is heading and therefore, his contention that his branch had no role or connection with the alleged irregularities, nor has it been even alleged to have any role/connection, is irrelevant and untenable.

57. Further, the Noticee has submitted that he is alleged to have made/received exactly eight calls to/with certain persons. One set of calls was from a person who was introduced by him as a client, and the other was acting as branch manager of another branch of ICMPL. The calls were less than one minute of length each. The said person, Ankit Girishkumar Vasani, was known to him and it is expected that a few calls may be made. The other is a branch manager of another branch of his employer company, ICMPL. Again it is expected that calls would be made between them. He contended that he fails to understand how such calls can be linked with hundreds of allegedly irregular transactions as listed in the SCN which were on different dates and/or at different times. Hence, he denies the allegation that the phone calls have any concern with such irregularities. In this regard, I observe that the Noticee also claims that Darshan Desai is the Branch Manager of the other branch of ICMPL. I find this admission to be clear evidence of the fact that he had colluded with Darshan Desai since it is established that Darshan Desai was not the Branch Head or Manager of the Borivalli (West) branch of ICMPL. It is also established that he was not even an employee of ICMPL, as

clarified by Harsh Shah, the Vice President of ICMPL. Hence, the fact that Amit Joshi claims Darshan Desai was the Branch Manager simply shows his involvement with Darshan Desai in the fraud. This is further corroborated by the fact that he had introduced Ankit Girishkumar Vasani to the Borivalli (West) branch of ICMPL. Given the above facts, I find that the calls made by Amit Joshi with Darshan Desai and Ankit Girishkumar Vasani just before the trades were made by Ankit Girishkumar Vasani, cannot be a mere coincidence but were calls meant to synchronize the trades between Ankit Girishkumar Vasani with Amol Kokane. Further, the fact that the trades for Amol Kokane were placed by Darshan Desai further corroborates the evidence that Amit Joshi was colluding with both the parties to the trade. I also note that vide SEBI Order dated June 23, 2020 against Ankit Girishkumar Vasani, it was held that Ankit Girishkumar Vasani had entered into synchronized trades with Amol Kokane. Hence, I find the submission of the Noticee that the phone calls did not have any concern with the irregular transactions as untenable and that Amit Joshi has in fact colluded with Ankit Girishkumar Vasani and Darshan Desai in executing synchronized trades in the scrip of PSTL.

58. Amit Joshi has further submitted that with regard to the transfer of funds to Deepak Mali, nothing further has been brought on record to show how such transfer of funds had anything to do with the alleged irregularities by various persons as listed in the SCN. That SEBI has not looked into the matter further at all and merely because there was a loan given by him, a summary conclusion is sought to be drawn and allegations made against him. Further, that nothing has been established or detailed as to how such funds were used for carrying out trading activities in the account of Deepak Mali. In this regard, I find the submissions of the Noticee untenable, as the transfer of funds to Deepak Mali by Amit Joshi through M/s Simbosis Financial Solutions, shows the connection of the Noticee with Nitin Goradia who was also arranging funds for Deepak Mali through low income front entities, which were eventually transferred to ICMPL. Further, I also find that the same amount of Rs. 8 lakhs that was given by M/s Simbosis

Financial Solutions to Deepak Mali on October 23, 2008 was transferred to ICMPL on the very next day. In this regard, I note that Deepak Mali, who was introduced to the Borivalli (West) branch of ICMPL by Priyanka Darshan Desai, was shown to have an annual income of less than Rs. 1 lakh. However, Deepak Mali was allowed to have a debit balance of Rs. 35,97,853/- as on June 19, 2008, which far exceeds his annual income. Further, I note that Deepak Mali was introduced to The Kapol Co-op. Bank Ltd. on December 15, 2007 by Nimesh Chitalia, who was the Head - Business Development (Retail) with ICMPL and also the brother in law of Nitin Goradia. Examination of the bank account of Deepak Mali revealed that immediately after opening of the account, cash of Rs. 1,74,000/- was deposited in the account in three lots of Rs. 49,000/- and one lot of Rs. 25,000/- (in addition to initial two cash deposit of Rs. 1,000/-). Further, I note that immediately after these cash deposits, trading account in the name of Deepak Mali was opened on December 12, 2007 with ICMPL by the introduction from Priyanka Darshan Desai, and an amount of Rs. 1,70,000/- that was deposited to the bank account in cash was transferred to the said trading account with ICMPL. Hence, it is clear from the annual income of Deepak Mali, his debit balance with ICMPL and cash deposits in his bank account that he was a front entity, through whom money was being transferred to ICMPL. Therefore, the fact that money was transferred from M/s Simbosis Financial Solutions to Deepak Mali which was then transferred the very next day to ICMPL shows that Deepak Mali was being used as a front for transferring the money to the ICMPL branch at Borivalli (West) which was being run by Darshan Desai, a key associate of Nirmal Kotecha.

59. Further, with regard to the trading in the shares of PSTL, Amit Joshi has submitted that with regards to the trades with Nirmal Kotecha, no contact or connection between him and Nirmal Kotecha has been established or put forth and it has not been alleged that the transactions with Nirmal Kotecha were synchronized, reversed or circular transactions. In this regard, I find that there are no allegations of synchronized, reversal or circular transactions between the Noticee and Nirmal Kotecha in the SCN. However, as noted in the foregoing

paras, I find that he is indirectly connected and associated with Nirmal Kotecha through Darshan Desai, Priyanka Darshan Desai, Rajesh Jani and Nitin Gorodia. Therefore, though I find no irregularity in his trading with Nirmal Kotecha, I find the Noticee's contention that he had no connection with Nirmal Kotecha to be untenable as his association with Nirmal Kotecha has already been established in the aforesaid paras.

60. In view of the above, I find that Noticee no. 3 (Amit N. Joshi) has violated Section 12A of the Securities and Exchange Board of India Act, 1992 and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a)(d) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003.
61. **Nikhil Securities Ltd (Noticee no. 4):** I observe that Nikhil Securities Ltd. had received Rs.50 lakhs from the account of Amol Kokane with Bank of India, D.N. Road branch on October 17, 2008. The cheque for the said amount drawn on Bank of India was deposited in the HDFC bank account of Nikhil Securities Ltd. at the Tulsiani branch, to be credited to the account of Nikhil Securities Ltd. at Kanpur Branch. Analysis of the trading of Nikhil Securities Ltd. just prior to the transfer of Rs. 50 lakhs by Amol Kokane i.e. the period September 15, 2008 to October 15, 2008, revealed that during the said period Nikhil Securities Ltd. traded in 3 scrips on NSE. I note that out of the total buy of Rs.19,885,032.30, Nikhil Securities Ltd. had bought PSTL shares worth Rs.99,60,729.9 (around 50%) and SEL Manufacturing Company Ltd. (hereinafter referred to as "**SEL**") shares worth Rs.91,81,742.4 (around 46%). I also note that Nikhil Securities Ltd. had not traded in the scrip of PSTL and SEL on NSE during the period January 1, 2008 to September 15, 2008 and only on three trading days i.e. September 16, 17 and 29, 2008, it had bought 90,000 shares of PSTL and 50,000 shares of SEL, which is totally worth over Rs.1.91 crores.

62. I observe that on BSE, Nikhil Securities Ltd. traded in 3 scrips during the relevant period. Out of the total buy of Rs.2,94,26,080.75 on BSE during the period, Nikhil bought shares of Usher Agro Ltd. worth Rs.2,30,68,240.75, which comprises over 78% of the total buy value. I note that Nirmal Kotecha had significant interest in PSTL, SEL and Usher Agro Ltd. and that around the period when the said amount of Rs.50 lacs was received by Nikhil Securities Ltd. from Amol Kokane, I note that Nikhil Securities Ltd. was predominantly trading in the scrips of those companies PSTL, SEL and Usher Agro Ltd., where Nirmal Kotecha had significant interest. I note that the SCN has brought out the trading activity of Nikhil Securities Ltd in the shares of SEL and Usher Agro Ltd. However, in the present matter I shall limit my findings on the trades done by Nikhil Securities Ltd in the scrip of PSTL only.

63. In this regard, I observe that during the months of September and October 2008, Nikhil Securities Ltd. had reversed its position in the scrips of PSTL. I observe that Nikhil Securities Ltd. bought 90,000 shares of PSTL on September 17 and 29, 2008, out of which 49,900 shares were bought from DKG Securities Pvt. Ltd. The other major counter-parties of Nikhil Securities Ltd. for the said buy were Vinod Kumar Baid (13,516 shares), Kotak Mahindra Mutual Fund A/C MNC Scheme (13,500 shares) and Prudential Management Advisors Pvt. Ltd. (7,500 shares). Further, I observe that subsequently on October 03, 2008, Nikhil Securities Ltd. sold the entire 90,000 shares of PSTL, out of which 87,295 shares were sold to DKG Securities Pvt. Ltd. Therefore, I note that Nikhil Securities Ltd. is majorly seen to have bought and sold the shares of PSTL from/ to DKG Securities Pvt. Ltd. Examination of the trades between Nikhil Securities Ltd and DKG Securities Pvt. Ltd. had revealed that the trades executed between the two were in the nature of synchronized trades. In this regard, I note from the trade logs on September 17 and 29, 2008 that:

- a) On September 17, 2008, Nikhil Securities Ltd had placed a buy order for 25,000 shares of PSTL at Rs. 120.50 per share vide Buy order no. 2008091701839193 at 15:06:41 pm on NSE. At 15:06:47 pm, i.e. within the next 6 seconds, DKG Securities Pvt. Ltd. placed a sell order for 25,000

shares at Rs. 120.50 per share and the same got matched for 24,900 shares.

- b) On September 29, 2008, Nikhil Securities Ltd had placed a buy order for 25,000 shares of PSTL at Rs. 102.75 per share vide Buy order no. 2008092900947904 at 12:56:22 pm on NSE. At 12:56:24 pm, i.e. within the next .02 seconds, DKG Securities Pvt. Ltd. placed a sell order for 25,000 shares at Rs. 102.75 per share and the same got matched for 25,000 shares.
- c) On October 03, 2008, Nikhil Securities Ltd, placed the following sell orders:
 - (i) Nikhil Securities Ltd placed a sell order for 25,000 shares of PSTL at Rs. 94.5 per share vide sell order no. 2008100300637064 at 11:21:52 am on NSE. At 11:21:58 am, i.e. within the next 6 seconds, DKG Securities Pvt. Ltd. placed a buy order for 25,000 shares at Rs. 94.5 per share and the same got matched for 24,985 shares.
 - (ii) DKG Securities Pvt. Ltd. placed a buy order for 22,310 shares of PSTL at Rs. 94.5 per share vide buy order no. 2008100367648723 at 11:22:15 am on NSE. At 11:22:16 am, i.e. within the next 1 second, Nikhil Securities Ltd placed a sell order for 25,000 shares at Rs. 94.5 per share and the same got matched for 22,310 shares.
 - (iii) Nikhil Securities Ltd placed a sell order for 22,310 shares of PSTL at Rs. 94.5 per share vide sell order no. 2008100300640103 at 11:22:30 am on NSE. At 11:22:36 am, i.e. within the next 6 seconds, DKG Securities Pvt. Ltd. placed a buy order for 20,000 shares at Rs. 94.5 per share and the same got matched for 19,986 shares.
 - (iv) Nikhil Securities Ltd placed a sell order for 20,000 shares of PSTL at Rs. 94.5 per share vide sell order no. 2008100300641563 at 11:22:49 am on NSE. At 11:22:55 am, i.e. within the next 6 seconds, DKG Securities Pvt. Ltd. placed a buy order for 20,000 shares at Rs. 94.5 per share and the same got matched for 19,988 shares.

64. Hence, from the above, I find that Nikhil Securities Ltd had entered into synchronized trades with DKG Securities Pvt. Ltd. while executing trades in the scrip of PSTL on September 17 and 29, 2008 and on October 03, 2008. Further, as noted above, Nikhil Securities Ltd. had bought 90,000 shares of PSTL on September 17 and 29, 2008 and sold the entire 90,000 shares on October 3, 2008. I note that the total buy value of 90,000 shares of PSTL was Rs. 99,60,729.90, while the sell value of the said shares was Rs. 85,06,345/-, thus causing a loss of Rs.14,54,384.90 to Nikhil Securities Ltd. Thus, I also observe that Nikhil Securities Ltd had incurred a total loss of Rs.14,54,384.90 from its trading in the scrip of PSTL, where the major counterparty was DKG Securities Pvt. Ltd., an associate of Nirmal Kotecha. In this regard, I note that separate proceedings have been initiated against DKG Securities Pvt. Ltd. vide show cause notice dated April 15, 2015.
65. With regard to the amount of Rs. 50 lakhs received from Amol Kokane, I note that Nikhil Securities Ltd. vide their letter dated October 18, 2019, have admitted that a loan of Rs. 50 lakhs was taken from Amol Kokane. Further, they have submitted that they have already issued cheques to the lender, Amol Kokane for repayment and cannot be held responsible in case Amol Kokane has failed to deposit the same in his account. Therefore, they have denied that the said amount was not a loan and that the same had not been repaid by them, as they cannot be held responsible for any action/inaction on part of any other person over whom they do not have any control. In this regard, I note that Amol Kokane, vide his statement dated February 27, 2009, admitted to SEBI that Nirmal Kotecha was operating all his accounts. Further, that he had opened a share trading account with the broker M/s. ICMPL on the recommendation of his late brother-in-law, Sandeep Pati Gavhane, who was working as an Accountant with M/s. Kotecha Capital Services Pvt. Ltd., which was run and controlled by Nirmal Kotecha. Amol Kokane had also stated that his brother-in-law was operating that account for his boss Nirmal Kotecha and that his brother-in-law used to take his signatures on blank forms and documents. Further, he stated that his account was operated by his brother-

in-law, till his brother-in-law met with an accident on October 16, 2008 and had to be hospitalized. Amol Kokane further stated that after the death of his brother-in-law on November 01, 2008, Nirmal Kotecha was operating his share trading account and also his bank account.

66. In this regard, I note that the loan of Rs. 50 lakhs was given to Nikhil Securities Ltd just after Amol Kokane's brother in law was hospitalized from an accident. Be as it may, Amol Kokane had stated that his brother in law was operating the account for his boss Nirmal Kotecha. I note that Amol Kokane had claimed in his statement to SEBI that he was a student of an Engineering College at Navi Mumbai and that he did not have any personal income. I also note that the family's annual income as disclosed in the Client Registration form of the broker ICMPL was in the range of Rs. 1-5 lakhs only. Therefore, in view of the above, I find it difficult to believe that someone like Amol Kokane, a student with family income ranging between Rs 1-5 lakhs, could give a loan of Rs. 50 lakhs to Nikhil Securities Ltd. Further, I note that vide his statement dated June 25, 2009, Amol Kokane had confirmed that from January 01, 2008 to February 02, 2009, no funds were deposited in the said account by him or his family. It is evident that the account was being used by Nirmal Kotecha as stated by Amol Kokane. In this regard, I note that vide SEBI Order dated March 22, 2018 against Nirmal Kotecha in the matter of PSTL, it was held that Nirmal Kotecha was operating the bank account of Amol Kokane and the same has been upheld the Hon'ble SAT vide its Order dated March 02, 2020. Hence, it is established that the bank account of Amol Kokane was being operated by Nirmal Kotecha and therefore, the supposed loan of Rs. 50 lakhs received by Nikhil Securities Ltd was from Nirmal Kotecha. Further, I note that Nikhil Securities Ltd has contended that the Rs. 50 lakhs was received as a loan. However, I note that the Rs. 50 lakhs has not been transferred or repaid back. In this regard, I note that in the said SEBI Order dated March 22, 2018 against Nirmal Kotecha, it was also held that:

*"4.17. I note that the SCN, under the head **"Role of M/s. Nikhil Securities Ltd."** had brought out certain adjustments/losses to be made good by the*

Noticee to Nikhil Securities, arising out of the earlier trades executed by Nikhil Securities acting as a front of the Noticee, in certain identified scrips of interest to the Noticee, such as SEL Manufacturing Company, Usher Agro Ltd and PSTL. The investigation had also identified that Nikhil Securities had sustained loss to the tune of Rs. 39,62,997.30, as a result of its trades in the scrips of PSTL and SEL, as on October 10, 2008. Nikhil Securities claimed that the said amount of Rs.50 lacs was received from AK in the form of a loan and they have repaid the said amount. However, upon verification, Sarwesh Dubey, a director of Nikhil Securities, vide his e-mail dated April 13, 2010, has stated that the said cheques are yet to be cleared, which means that the cheques were not encashed. This also confirms the position that AK had not sent the cheques for collection thereby falsifying the case of the Noticee that it was a loan transaction between AK and Nikhil Securities. I observe that the reply of the Noticee does not give any explanation to this part of the allegations except stating that AK is not connected to him. Therefore from the circumstances, it appears that the fund transfer from AK's account to Nikhil Securities, which is another front entity of the Noticee, has happened at the instance of the Noticee and not otherwise."

67. As noted above, the SEBI Order was upheld by the Hon'ble SAT vide its Order dated March 02, 2020. I find that the submissions of Nikhil Securities Ltd have also failed to explain how a loan of Rs. 50 lakhs could have been received from Amol Kokane as they claimed and how the same has not been transferred back. I also note that Standard Chartered Bank, vide their e-mail dated April 13, 2010 have stated that the said cheques are yet to be cleared. In the given facts and circumstances of the case, I find that the Rs. 50 lakhs was paid by Nirmal Kotecha for the losses incurred by Nikhil Securities Ltd in the its trades in the scrip of PSTL and SEL.

68. In view of the above, I find that Noticee no. 4 (Nikhil Securities Ltd.) has violated Section 12A of the Securities and Exchange Board of India Act, 1992 and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a), (b) and (e) of the Securities and

Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003.

69. **Yatin B. Shah (Noticee no. 5):** I observe that in his statement recorded on July 27, 2010, Yatin B. Shah (hereinafter referred to as “**Yatin Shah**”) has stated that Nirmal Kotecha is his friend, that he knows him for approx. 5 to 6 years. He further stated that he knew him as he was trading through ILF&S, and, at that point of time, he was introduced to Nirmal Kotecha by his friend Mahesh Pujara. He has also stated that he was previously in touch with Nirmal Kotecha for market information since he was an HNI trader. Also, vide his aforesaid statement, Yatin Shah had further stated that personally too he was sharing his things with Nirmal Kotecha. Further, I note that as per the Schedule of Loans and Advances as on March 31, 2007 made available by Nirmal Kotecha, it is seen that Nirmal Kotecha had given a loan of Rs. 20 lakhs to Yatin B. Shah. Hence, I find it established that Yatin Shah was closely known and associated with Nirmal Kotecha, as admitted by Yatin Shah himself.
70. Yatin Shah in his statement has also stated that he knew Darshan Desai as he is the brother of his friend Sumit Desai. The call data records shows that Yatin Shah (from his mobile number 9890355693 and 9323055693) was in touch with Darshan Desai on his mobile number 9324540561 and on Sumit Desai’s mobile number 9323384929. The call data records further revealed that Yatin Shah was in close touch with Darshan Desai’s mobile number 9324540561 on December 19 and 22, 2008 i.e. the dates when trades from the account of Raju G, Shah in the scrip of PSTL were executed and were alleged to be synchronized with Nirmal Kotecha and his associated persons/ entities. I note that there is no allegation in the SCN that Yatin Shah has traded in the scrip of PSTL through his own account. However, it has been alleged that Yatin Shah was trading through his paternal cousin brother Raju G. Shah.

71. In this regard, I observe that as per the statement of Raju B. Shah recorded on June 26, 2009, he is the paternal cousin brother of Yatin B. Shah. This has also been confirmed by Yatin Shah in his statement recorded on July 27, 2010. Call data records had revealed that Yatin Shah (from his mobile number 9890355693 and 9323055693) was found to be in close touch with Nirmal Kotecha (on his mobile number 9819988816 in the name of Amol Kokane) especially on December 19 and 22, 2008, when Raju G. Shah had traded in PSTL. I observe that during the period June 1, 2008 to December 31, 2008, Raju G. Shah, trading through the broker ICMPL, had bought and sold 2,32,589 shares of PSTL on BSE. He traded on four trading days i.e. July 22, 2008, July, 23, 2008, December 19, 2008 and December 22, 2008 on BSE.
72. I note that the top four counterparty clients for the buy transactions of Raju G. Shah on BSE are M/s. S.P.J. Stock Brokers, M/s. Meet Shares and Stocks Services Pvt. Ltd., Inventure Growth and Securities Ltd. and Nirmal Kotecha himself. The top three counterparty clients for the sell transactions of Raju. G. Shah in BSE are M/s. S.P.J. Stock Brokers, Hardik Mithani and M/s. Meet Shares and Stocks Services Pvt. Ltd. I note that along with Nirmal Kotecha, all the other top counterparty clients viz. M/s. S.P.J. Stock Brokers, Hardik Mithani, Inventure Growth and Securities Ltd. and M/s. Meet Shares and Stocks Services Pvt. Ltd. have been identified as Nirmal Kotecha Group entities, against whom separate proceedings have been initiated.
73. Further, I observe that Raju G. Shah had also traded on NSE and bought and sold 1,56,940 shares of PSTL during the said period on December 19 and 22, 2008. The major counter party clients were Meet Shares and Stocks Services Pvt. Ltd., Nirmal Kotecha himself and Hardik Mithani.
74. Hence, I observe that Nirmal Kotecha himself or entities/ persons connected to him were the counterparty clients of Raju G. Shah on BSE and on NSE. An examination of the orders which resulted in trade between Raju G. Shah and the

aforesaid counterparties revealed that some of the trades were placed in a synchronized manner. As per SCN, examination of the said trades on July 22, 2008 and December 19, 2008, on BSE revealed that:

- a) Raju G. Shah had executed synchronized reversal transactions on July 22, 2008 and December 19, 2008 with SPJ Stock Broker in the scrip of PSTL on BSE. On July 22, 2008, Raju G. Shah bought 21,250 shares of PSTL in synchronized trades and sold 29,287 shares of PSTL in synchronized trades to SPJ Stock Broker on the same day. Similarly on December 19, 2008, Raju G. Shah bought 12,000 shares of PSTL in synchronized trades and sold 25,986 shares of PSTL in synchronized trades to SPJ Stock Broker on the same day.
- b) Raju G. Shah bought 6,852 shares from Inventure Growth and Securities Ltd. in synchronized trades on December 19, 2008 and sold 5203 shares in synchronized trades to Inventure Growth and Securities Ltd. on the same day.
- c) Raju G. Shah bought 5762 shares from Meet Shares and Stock Services Pvt. Ltd. in synchronized trades on December 19, 2008.

75. As per SCN, examination of the said trades on December 19, 2008 and December 22, 2008, on NSE revealed that:

- a) Raju G. Shah bought 13,958 shares from Meet Shares and Stock Services Pvt. Ltd. in synchronized trades on December 19, 2008 and sold 4,190 shares to Meet Shares and Stock Services Pvt. Ltd. in synchronized trades on December 22, 2008.
- b) Raju G. Shah bought 17,883 shares from Nirmal Kotecha in synchronized trades on December 22, 2008.
- c) Raju G. Shah sold 5000 shares to Hardik Mithani in synchronized trades on December 19, 2008 and also bought 25,000 shares from Hardik Mithani in synchronized trades on December 22, 2008.

76. Hence, I observe that Raju G. Shah had entered into multiple synchronized trades with multiple entities associated with Nirmal Kotecha on July 22, 2008 and December 19 and 22, 2008, and with Nirmal Kotecha himself on December 22, 2008. In this regard, I note that vide SEBI Order dated June 23, 2020 against Raju G. Shah and others, it was held that Raju G. Shah had entered into synchronized trades with entities associated with Nirmal Kotecha in violation of provisions of the SEBI Act and the PFUTP Regulations, 2003.
77. I observe that on December 19 and 22, 2008, when Raju G. Shah had traded in the scrip of PSTL, the call records of Yatin Shah revealed that he had made multiple calls to/from Darshan Desai and Nirmal Kotecha. I note that on December 19, 2008, Yatin Shah received 9 calls from Darshan Desai. Further, on the same day, Yatin Shah had made 3 calls to Darshan Desai. The duration of these calls were ranging from 13 seconds to 67 seconds. I also note that on December 19, 2008 Yatin Shah had received 6 calls from Nirmal Kotecha. Further, on the same day Yatin Shah had made 8 calls to Nirmal Kotecha. On December 22, 2008, Yatin Shah had received 14 calls and 6 SMS from Nirmal Kotecha. Further, on the same day Yatin Shah made 11 calls 3 SMS. The duration of these calls were ranging from 1 second to 9 minutes. Hence, it was alleged in the SCN that Yatin Shah was trading on behalf of his cousin Raju G. Shah.
78. With regard to the above trades of Raju G. Shah and call records of Yatin Shah with Nirmal Kotecha and Darshan Desai, I note that Yatin Shah, vide his reply dated August 30, 2019, has denied that he traded in the scrip of PSTL through his cousin both Raju G. Shah and facilitated Nirmal Kotecha to create artificial volume in the script of PSTL. He stated that he has not traded at all in the account of Raju G. Shah and neither Raju G. Shah nor his broker have implicated him in the trading of PSTL. That Raju G. Shah has admitted in his statement of June 26, 2019 that he was himself undertaking transactions in PSTL. Yatin Shah has

denied that he has anything to with the transactions of Raju G. Shah or that Raju G. Shah was his front.

79. In this regard, I observe that Raju G. Shah was not just the paternal cousin of Yatin Shah. Vide his statement recorded on June 26, 2009, Raju G. Shah has *inter alia* stated that:

- a) He was not doing any job for the past two years before he started working with Girigopal Investment for the last 4 month. Yatin Shah is the proprietor of Girigopal Investment.
- b) He started trading in PSTL because Darshan Desai told him that it is a good scrip.
- c) His total family income was around Rs. 90,000 in the last year and this year it was Rs. 80,000.
- d) He is employed with Yatin Shah and getting a salary of Rs. 4,000/- for the last four months.
- e) He was given a trading limit of Rs. 50 lakhs and when his limit gets exhausted, he used to get additional limit up to Rs. 5-6 crore.

80. In this regard, I find it difficult to accept that a person with a family income of Rs. 80,000/- and a monthly salary of Rs. 4,000/-, would be permitted a trading limit of more than Rs. 5 crores. I note that contrary to the statement of Raju G. Shah, Yatin Shah vide his statement dated July 27, 2009, stated that he was giving his cousin Raju G. Shah approximately Rs. 10,000/- to Rs. 11,000/- every month for the past 3-4 years. I note that as per the KYC of Raju G. Shah with ICMPL, his annual income is shown as Rs. 1-5 lakh, however, ICMPL has allowed him a debit balance of Rs. 42,05,927.16 as on September 18, 2008. Further, I note that Raju G. Shah had not traded in PSTL from June to December 2008, except on July 22 and 23, 2008 and December 19 and 22, 2008, which had resulted in synchronized trades with Nirmal Kotecha and with persons/ entities connected with Nirmal Kotecha. Therefore, in view of the above facts, I find it untenable that Raju G. Shah could have bought and sold 3,89,529 shares of PSTL with his given

financials. The fact that Raju G. Shah is the cousin brother and an employee of Yatin Shah and given the relationship of Yatin Shah with Nirmal Kotecha and Darshan Desai, I find that it was Yatin Shah who was using Raju G. Shah as a front to trade in the scrip of PSTL. The fact that there were more than 25 calls and 9 SMS between Yatin Shah and Nirmal Kotecha on the same day when the synchronized trades were executed between Nirmal Kotecha and Raju G. Shah cannot be a mere coincidence. In this regard, I place reference on the Order of the Hon'ble SAT in **Ketan Parekh vs. SEBI (Order dated July 14, 2006 in Appeal No. 2 of 2004)** wherein, it was held that the intention of the parties could be inferred from the attending circumstances of the case, because direct evidence in such cases may not be available. Hence, in view of the above facts and circumstances, I find the contention of Yatin Shah that he was not trading through his cousin Raju G. Shah as untenable, and I find that Raju G. Shah was in fact a front entity for Yatin Shah, for the purpose of colluding with Nirmal Kotecha in manipulating the scrip of PSTL.

81. Yatin Shah has also contended that he has not facilitated or guaranteed the finance of Raju G. Shah. In this regard, though I find that no such allegation or evidence per se has been provided in the SCN, I find that the fact that Raju G. Shah was a client of ICMPL, Borivali (West) Branch (which was being run by Darshan Desai) and that Yatin Shah was closely associated with Darshan Desai, it is highly feasible to infer that he was being financially facilitated by Yatin Shah and Darshan Desai through ICMPL. In this regard I also note that Ankit Girishkumar Vasani, who is associated with Darshan Desai had vide his letter dated April 01, 2010, submitted that he had made investments in property with Girigopal Investment, where Yatin Shah is the proprietor. I also note that Yatin Shah has submitted that he had never received any loan of Rs. 20 lacs in the year 2007 from Nirmal Kotecha. Though I note that there is no evidence in the SCN to substantiate this claim by Nirmal Kotecha that a loan of Rs. 20 lakhs was given, I find that it is irrelevant as the association and relation of Yatin Shah with Nirmal Kotecha is clearly established irrespective of whether such loan was given.

82. In view of the above, I find that Noticee no. 5 (Yatin B. Shah) has violated Section 12A of the Securities and Exchange Board of India Act, 1992 and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003.
83. **Jayesh Shah (Noticee no. 6):** I note that Jayesh Shah vide his statement dated March 18, 2010, had stated that he had traded on behalf of his wife Falguni Jayesh Shah. He has personally not traded in the scrip of PSTL. I note that he had appeared and made statements on behalf of his wife Falguni Jayesh Shah. With regards to the trades of Falguni Jayesh Shah, I have already discussed the synchronized trades entered between Falguni Jayesh Shah with Priyanka Darshan Desai in the aforementioned para 26. Further, as noted in the foregoing paras, I observe that Darshan Desai (Noticee no. 1) was admittedly trading on behalf of his wife Priyanka Darshan Desai. Further, that Jayesh Shah was trading on behalf of his wife Falguni Jayesh Shah. Hence, I find that it was Darshan Desai who had placed the trades for Priyanka Darshan Desai and Jayesh Shah who had placed the trades for Falguni Jayesh Shah. I also note from the call data records of Noticee no. 1 that he had made three calls to Jayesh Shah on November 03, 2008 and four times on November 04, 2008, i.e. on the date that the aforesaid trades between Priyanka Darshan Desai and Falguni Jayesh Shah took place. In this regard, I note that on November 04, 2008, Noticee no. 1 had made calls to Jayesh Shah just before the execution of trades between Priyanka Darshan Desai and Falguni Jayesh Shah. Hence, I find that it is evident that Noticee no. 1 had called Jayesh Shah to synchronize the trades between their respective wives, for whom they were placing trades. In this regard, I note that vide SEBI Order dated June 23, 2020 against Priyanka Darshan Desai and Falguni Jayesh Shah in the matter of PSTL, it was held that Priyanka Darshan Desai and Falguni Jayesh Shah had entered into multiple synchronized trades in the scrip of PSTL with

entities associated with Nirmal Kotecha in violation of provisions of the SEBI Act and the PFUTP Regulations, 2003.

84. In this regard, no reply has been filed by Jayesh Shah as I note that Jayesh Shah is deceased and has passed away during the course of these proceedings. Vide letter dated September 13, 2019, his wife Falguni Jayesh Shah has been submitted a death certificate of Jayesh Shah. However, on the basis of the documents and evidence available before me, I find that Falguni Jayesh Shah had executed synchronized trades in the scrip of PSTL with entities associated with Nirmal Kotecha and I find that it was Jayesh Shah who was trading on behalf of his wife Falguni Jayesh Shah and had colluded with Darshan Desai by making calls to Darshan Desai before executing the trades. Hence, I find that Noticee no. 6 (Jayesh Shah) has violated Section 12A of the SEBI Act, 1992 and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a)(b) and (e) of the PFUTP Regulations, 2003

85. **Rajesh Jani (Noticee no. 7):** I observe that Rajesh Jani is the common director of Dynamic Stock Broking (India) Pvt. Ltd (Noticee no. 8) and Venture Broking Ltd. I note that the account of Amol Kokane (front entity of Nirmal Kotecha) had received credits of Rs. 5.25 lacs, Rs. 2.75 lacs, Rs. 15 lacs and Rs. 12 lacs from different parties viz. Praful P. Vora of M/s. Viren Trading Agency, Hemal H. Gandhi HUF of Datapro, Nigam Vinod Shah and Janak H. Chitalia of M/s. J.H. Chitalia & Co., respectively on October 10, 2008. I also note that each of these persons, in turn, were found to have received credit of similar amounts in their account from the Noticee no. 7, Rajesh Jani on October 08, 2008, just before they transferred the funds to Amol Kokane on October 10, 2008. The details of the transfers received and sent by Rajesh Jani, are as under:

a) **Nigam Vinod Shah** had given Rs. 50 lakhs to Dynamic Stock Broking Pvt. Ltd. on February 13, 2006, which was returned to Nigam Vinod Shah on February 15, 2007. Nigam Vinod Shah then gave Rs. 15 lakhs to Rajesh Jani on February 20, 2007, which was returned to Nigam Vinod Shah on

October 08, 2008. Nigam Vinod Shah then gave Rs. 15 lakhs to Amol Kokane on October 10, 2008. Nigam Vinod Shah has stated that he did not know anything about the financial transactions and that his father and Nitin Goradia had done everything.

- b) **Hemal Gandhi HUF** had received Rs. 2,75,000/- from Nimesh Chandrakant Mehta on December 27, 2007. Hemal Gandhi HUF then gave Rs. 2,75,000/- to Rajesh Jani on December 28, 2007, which was returned on October 08, 2008. Hemal Gandhi HUF then gave Rs. 2,75,000/- to Amol Kokane on October 10, 2008. Further, Hemal Gandhi HUF had also given Rs. 50,000/- to Nitin Goradia in June/July 2008 without interest, which has not been returned back.
 - c) **Janak H. Chitalia** had received Rs. 12 lacs from Nimesh Chandrakant Mehta on December 27, 2007. Janak H. Chitalia then gave Rs. 12 lacs to Rajesh Jani on December 28, 2007, which was returned on October 08, 2008. Janak H. Chitalia then gave Rs. 12 lacs to Amol Kokane on October 10, 2008.
 - d) **Praful P. Vora** of Viren Trading Agency had given Rs. 5.25 lacs to Rajesh Jani on December 28, 2007, which was returned to Praful P. Vora on October 08, 2008. Praful P. Vora then gave Rs. 5.25 lacs to Amol Kokane on October 10, 2008.
86. Rajesh Jani vide his statements dated April 17, 2009 had also stated that these credits from his bank account to Nigam V. Shah and Janak H. Chitalia are repayments of loans taken from them in the year 2007-08, which were arranged by his chartered accountant Nitin Goradia. I note that there was no loan agreement to substantiate his statements that these amounts were actually loans. Further, I note certain facts and connections that are relevant to the supposed loan as claimed by Rajesh Jani:

- a) I also note from the statement dated June 30, 2009 of Nitin Goradia that it was Darshan Desai who stood as a guarantee for the loan of Rs. 15 lacs from Nigam V. Shah and Rs. 2.75 lacs from Hemal Gandhi HUF for Amol Kokane, as arranged by Nitin Goradia in October 2008.
- b) Further, I note that as per the documents submitted by Nigam V. Shah to Dynamic Stock broking Pvt. Ltd. at the time of opening client account, his annual income was shown to be Rs. 50,000. However, I note he had managed to give Rs. 50 lakhs to Dynamic Stock Broking Pvt. Ltd. on February 13, 2006, and then Rs. 15 lakhs to Rajesh Jani on February 20, 2007.
- c) I observed that Nitin Goradia's client account with Dynamic Stock Broking Pvt. Ltd. showed a debit balance of Rs. 15 lakhs since April 2008. In this regard, Rajesh Jani in his statement had submitted that since he was not able to pay interest to parties from whom Nitin Goradia had arranged loans for him, the outstanding amount due to Dynamic Stock Broking Pvt. Ltd. had also not been cleared by Nitin Garodia. Hence, I note that Rajesh Jani had significant control in Dynamic Stock Broking Pvt. Ltd.
- d) I also note that M/s Kankeshwari Securities Pvt. Ltd. had lent an amount of Rs. 30 lakhs to Rajesh Jani in April 2006 by way of a friendly interest free loan, as per the statement of Rajesh Jani. From a perusal of the KYC of Kankeshwari Securities Pvt. Ltd., I note that its directors are/were Rita N. Goradia, wife of Nitin Goradia, Nimesh H. Chitalia, Head, Business Development of ICMPL and the brother-in-law of Nitin Goradia and one Vilas P. Shah.
- e) Further, I note that Janak H. Chitalia, who had lent an amount of Rs. 12 lacs to Rajesh Jani in December 28, 2007, and subsequently lent the said funds to Amol Kokane on October 10, 2008, is the brother-in-law of Nitin Goradia. As per the Income Tax Returns submitted for the Assessment Year 2008-09 and 2007-08, Janak Chitalia's gross total income is Rs. 1,13,920/- and Rs. 1,11,485/- respectively.

87. Hence, I note that Rajesh Jani is well connected to Nitin Goradia through various financial means and entities and not just as a Chartered Accountant. I also find that the entities through whom he has claimed to have taken loans from do not appear to have the financial means to provide such loans. Further, I find that it cannot be a mere coincidence that all the four entities with whom he had taken loans and repaid, thereafter gave the exact same amount to Amol Kokane, a front entity of Nirmal Kotecha.
88. I observe that Rajesh Jani was a director of Venture Broking, which was found to have traded in the scrip of PSTL on behalf of the following three clients:
- a) Priyanka Darshan Desai, who is the wife of Darshan Desai, in whose name the Borivali (West) branch of ICMPL was registered. She was introduced to Venture Broking by her Chartered Accountant Nitin Goradia;
 - b) Ankit Girishkumar Vasani, who also had a client account with the Borivali (West) branch of ICMPL and who was alleged to be in close touch with Amit Joshi, Branch Manager of Rashmi Building, Borivali (west) branch of ICMPL. Further, as noted in above paras, Darshan Desai trading on behalf of Nirmal Kotecha's front Amol Kokane had allegedly done synchronized reversal transactions with Ankit Vasani. He was introduced to Venture Broking by Nitin Goradia; and
 - c) Amit Joshi, who is the Branch Manager of Rashmi Building, Borivali (west) branch of ICMPL. He had introduced Ankit Vasani to Borivali (West) branch of ICMPL and was found to be in close touch with Ankit Vasani, who had traded in the scrip of PSTL and carried out synchronized reversal transactions with Amol Kokane, Nirmal Kotecha's front, when Darshan Desai was trading on behalf of Amol Kokane.
89. Further, I also note that Rajesh Jani was the director of Dynamic Stock Broking Pvt. Ltd., which had traded in its proprietary account in the scrip of PSTL. I

observe that the trading of Dynamic Stock Broking Pvt. Ltd., in the scrip of PSTL was not significant before December 22, 2008 except for September 10, 2008 when it bought 27,749 shares and sold 20,712 shares of PSTL. On December 22, 2008 it bought and sold 42,177 shares of PSTL. This trading volume was an exception taking into consideration the earlier trading of the broker during the period June 1, 2008 to December 19, 2008. I also observe that on December 22, 2008, Dynamic Stock Broking Pvt. Ltd., had entered into synchronized trades with entities associated with Nirmal Kotecha and with Nirmal Kotecha himself. I find that Dynamic Stock Broking Pvt. Ltd. had entered into synchronized trades with Nirmal Kotecha, Sharda Pujara, Raju G. Shah, Amit Joshi, Hardik Mithani, Champaklal N Pujara, Meet Shares and Stocks Services Pvt. Ltd., and S.P.J. Stock Brokers Pvt. Ltd. with time difference between buy and sell orders as less than 60 seconds. The details of these trades have been dealt with in the following paras while dealing with the allegations against Dynamic Stock Broking Pvt. Ltd. Hence, I find that Rajesh Jani is responsible as a director for the fraudulent trades entered into by Dynamic Stock Broking Pvt. Ltd. in the scrip of PSTL.

90. Rajesh Jani vide letters dated October 07, 2016 and August 12, 2019, has *inter alia* submitted that he cannot be faulted for merely taking and repaying loans. He has denied that he had any knowledge of the fact that the lenders of his loans namely M/s Viren Trading Agency, Hemal H. Gandhi, Nigam Vinod Shah and Janak H. Chitalia had transferred the amounts to one Amol Kokane, who is the front of Nirmal Kotecha. Further, that there is no law which prohibits or limits taking/repaying loans by an individual, whether a director of a company or otherwise and in any event the SCN has not accused him for any violation for his borrowings and repayments. Also that M/s Viren Trading Agency, Hemal H. Gandhi, Nigam Vinod Shah and Janak H. Chitalia had given him loans which are reflected in his balance sheet for the year 2007-08. These parties were introduced to me and loans were arranged through my Chartered Accountant Nitin R. Goradia. These loans were taken in the normal course of business and were deployed accordingly.

91. In this regard, I find that the transfer of funds, which were claimed to be loans, by itself would not appear to be suspicious or faulted. However, as detailed in the above paras, I find that Rajesh Jani is connected in many ways to the entities associated with Nirmal Kotecha, to whom these funds were eventually transferred to. It cannot be a mere coincidence that all the four entities with whom he had taken loans and repaid, thereafter gave the exact same amount to Amol Kokane, a front entity of Nirmal Kotecha. Further, the financials of these entities to manage such loans is questionable. Furthermore, I find that these entities are all connected to Nitin Goradia, who I have found in the above paras, as an associate of Nirmal Kotecha who was using low income individuals as fronts for transferring funds to Nirmal Kotecha. Hence, I find the submission of the Noticee that he was merely taking and repaying loans as untenable. I note that the Hon'ble SAT in ***Ketan Parekh vs. SEBI (Order dated July 14, 2006 in Appeal No. 2 of 2004)*** had held that “... *in order to find out whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism, will depend upon the intention of the parties which could be inferred from the attending circumstances of the cases, because direct evidence in such cases may not be available.*” Hence, in the given facts and circumstances of the case, I find Rajesh Jani has not merely taken and repaid loans but has acted as a conduit for Nitin Goradia to transfer funds to Nirmal Kotecha.
92. Rajesh Jani has further denied that in his individual capacity as Director of Dynamic Stock Broking Pvt. Ltd and Venture Securities Ltd, he has facilitated Nirmal Kotecha or anyone else to create artificial volumes in PSTL and thereby mislead innocent investors in the market. He has submitted that the SCN has failed to bring on record any evidence of any investor who is sought to have been misled. Further, that the allegation of “creation of artificial volumes” too falls flat on lack of substantive evidence on record. In this regard, I place reference on the Order of the Hon'ble Supreme Court in ***SEBI Vs. Kanaiyalal Baldevbhai Patel (2017) 15 SCC 1***, wherein it was observed, “.....*the definition of fraud which is*

an inclusive definition and therefore has to be understood to be broad and expansive, contemplates even an action or omission, as may be committed, even without any deceit if such act or omission has the effect of inducing another person to deal in securities. Certainly the definition expands beyond what can be normally understood to be a fraudulent act or a conduct amounting to fraud....."

In the Kanaiyalal matter, Hon'ble Supreme Court further observed, ".....the difference between inducement in criminal law and the wider meaning thereof as in the present case, is that to make inducement an offence the intention behind the representation or misrepresentation of facts must be dishonest whereas in the latter category of cases like the present the element of dishonesty need not be present or proved and established to be present. In the latter category of cases, a mere inference, rather than proof, that the person induced would not have acted in the manner that he did but for the inducement is sufficient. No element of dishonesty or bad faith in the making of the inducement would be required.....". In the present matter, I find that Rajesh Jani had transferred funds to various entities, which were then transferred to the account of Amol Kokane and used by Nirmal Kotecha in creating artificial volume in the scrip of PSTL. Further, Rajesh Jani was a director in Dynamic Stock Broking Pvt. Ltd. which had primarily traded and executed synchronized trades on December 22, 2008 after 10:30 am i.e. after the clarification came from P.S. Saminathan that he has not received any letter from SEBI. I observe that in order to enable Nirmal Kotecha to off-load his stake, trading volume was required to be maintained in the market and for the same, Dynamic Stock Broking Pvt. Ltd. bought and sold primarily to Nirmal Kotecha and entities associated with Nirmal Kotecha and thereby, facilitated Nirmal Kotecha in off-loading his stake in PSTL. I find that trading to maintain and increase trading volume in the scrip of PSTL had the potential to "induce" or to mislead the investors to trade in the securities of the PSTL. I note that the multiple synchronized trades with multiple entities associated with Nirmal Kotecha and with Nirmal Kotecha himself, shows higher degree of probability, of bringing out of such inducement or misleading investors to deal or abstain from dealing in the shares of PSTL and consequential fraud

committed, in the present matter. Accordingly, I find the contention of the Noticee that there is no evidence that investors have been misled as erroneous and untenable.

93. Rajesh Jani has further submitted that during his tenure as director he had very limited role in the Company, as he was only a director and was not looking after the day to day affairs and management of the company. Further, that at the most if any violation could be attributed, the same should be attributed to Dynamic and not to him. That the SCN has referred to him whilst the allegations are conclusively on Dynamic. He had denied that he has traded in the scrip of PSTL at all and that the SCN also does not allege that he has traded in PSTL. In this regard, I note that there are no allegations of Rajesh Jani personally trading the scrip of PSTL. However, I find that he was the common director in Dynamic Stock Broking Pvt. Ltd and in Venture Broking. As already noted above, Venture Broking had multiple clients who were associated to Nirmal Kotecha and executed fraudulent trades in the scrip of PSTL. Even if that is placed aside as the trades were done by its clients, I observe that Dynamic had executed synchronized trades with Nirmal Kotecha himself and other entities associated with Nirmal Kotecha. I place reference to the Order of the Hon'ble Supreme Court, in the matter of ***N Narayanan v. Adjudicating Officer, SEBI (2013) 12 SCC 152***, wherein, it was held that

"33. Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. This Court while describing what is the duty of a Director of a company held in Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602 that a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provided against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the company

even superficially.” Further, in the present case, I note that Rajesh Jani has played a role along with Dynamic Stock Broking Pvt. Ltd. in transferring funds to entities that were low income fronts used by Nitin Goradia for transferring funds to Amol Kokane. Further, as stated by Rajesh Jani that a debit balance of Rs. 15 lakhs was permitted to Nitin Goradia with Dynamic Stock Broking Pvt. Ltd., since he was yet to pay the interest to the lenders arranged by Nitin Goradia, further corroborates the involvement of Rajesh Jani as a Director of Dynamic Stock Broking Pvt. Ltd. in its association with Nitin Goradia and Nirmal Kotecha in the entire scheme of things.

94. In view of the above, I find that Noticee no. 7 (Rajesh Jani) has violated Section 12A of the Securities and Exchange Board of India Act, 1992 and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003.
95. **Dynamic Stock Broking Pvt. Ltd. (Noticee no. 8):** I observed that Rajesh Jani was the director in Dynamic Stock Broking Pvt. Ltd. As noted in the foregoing paras, Nitin Goradia was a client of Dynamic Stock Broking Pvt. Ltd. and his client account was allowed a debit balance of Rs. 15 lacs for more than a year since April 2008. Rajesh Jani in his statement dated April 17, 2009, had stated that since he was not able to pay interest to parties from whom Nitin Goradia had arranged loans for him, the outstanding amount due to Dynamic Stock Broking Pvt. Ltd. had also not been cleared by Nitin Garodia. In this regard, I find that Dynamic Stock Broking Pvt. Ltd. vide its reply dated October 10, 2019, submitted that the debit of Rs. 15 lakh in the client account of Nitin Goradia is a matter of maintaining a running account of the client and no adverse inference may be drawn from the same and that Nitin Goradia is known to their erstwhile director Rajesh Jani who had assured the company that the debit balance shall be cleared in a short while.

96. I observe that Dynamic Stock Broking Pvt. Ltd. has consistently traded in the scrip of PSTL in the relevant period from June 2008 to December 2008. I note that the trading of Dynamic Stock Broking Pvt. Ltd. in the scrip of PSTL was not significant before December 22, 2008 except for September 10, 2008 when it bought 27,749 shares and sold 20,712 shares of PSTL. On December 22, 2008 it bought and sold 42,177 shares of PSTL, which was exceptionally higher, taking into consideration the earlier trading of Dynamic Stock Broking Pvt. Ltd. during the period June 1, 2008 to December 19, 2008. The top entities with whom it bought and sold shares of PSTL on December 22, 2008, are as under:

- a) I observe that on December 22, 2008, Dynamic Stock Broking Pvt. Ltd. had bought 5,328 shares (12.63% contribution of market) from Nirmal Kotecha, 3,710 shares (8.80%) from Sharda Pujara, 2,515 shares (5.96%) from Raju. G. Shah, 1,276 shares (3.03%) from Inventure Growth and Securities Ltd, 1,000 shares (2.37%) from Amit Joshi and from other Nirmal Kotecha related group entities such as Hardik Mithani and SPJ Stock Brokers Pvt. Ltd.
- b) I observe that on December 22, 2008, Dynamic Stock Broking Pvt. Ltd. sold 7257 shares (17.21%) to Hardik Mithnai, 4,057 shares (9.62%) to Sharda Pujara, 1,380 shares (3.27%) to Meet Shares and Stock Services Pvt. Ltd., 1,005 shares (2.38%) to SPJ Stock Brokers Pvt. Ltd. and to other Nirmal Kotecha group entities.

97. I observe that the top entities with whom Dynamic Stock Broking Pvt. Ltd. had traded were Nirmal Kotecha and Sharda Pujara, Raju G. Shah, Amit Joshi, Hardik Mithani, Champaklal N Pujara, Meet Shares and Stocks Services Pvt. Ltd., and S.P.J. Stock Brokers Pvt. Ltd., who are all entities associated with Nirmal Kotecha. Further, I note that the Noticee had entered into trades with Nirmal Kotecha and the entities associated with Nirmal Kotecha with time difference between buy and sell orders as less than 60 seconds. The details of the buy and sell orders with time difference as less than 60 seconds on

December 22, 2008, are as under:

1. Buy transactions of Dynamic Stock broking

Sell client name	Trade qty.	Buy order time	Sell Order time	Time diff
Nirmal Kotecha	5000	11:21:40	11:21:13	0:00:27
	300	9:55:01	9:55:29	0:00:28
	28	12:24:18	12:24:18	0:00:00
Sharda Pujara	1000	12:20:25	12:20:19	0:00:07
	2688	11:59:35	11:59:25	0:00:10
Raju G. Shah	2500	11:37:31	11:37:26	0:00:04
Inventure Growth & Securities	1	11:57:46	11:57:46	0:00:00
	1	11:18:58	11:19:00	0:00:02
	1	11:18:58	11:19:01	0:00:03
	1	11:18:58	11:18:54	0:00:04
	1	12:18:13	12:18:08	0:00:05
	1	10:33:06	10:32:58	0:00:08
	1	12:18:13	12:18:05	0:00:09
Amit Joshi	1000	12:02:17	12:02:16	0:00:00
Hardik Mithani	693	11:18:58	11:18:48	0:00:10
	10	12:19:40	12:20:06	0:00:26
Champaklal N Pujara	324	11:57:46	11:57:54	0:00:08
	311	11:59:35	11:59:17	0:00:18
S.P.J. Stock Brokers Pvt. Ltd.	252	11:56:40	11:56:37	0:00:03

2. Sell transactions of Dynamic Stock broking:

Buy client name	Trade qty.	Buy order time	Sell Order time	Time diff
Hardik Mithani	4900	11:20:51	11:20:53	0:00:02
Sharda Pujara	250	11:51:32	11:51:50	0:00:17
Meet Shares and Stocks Services Pvt. Ltd.	1375	10:30:31	10:29:51	0:00:40
	5	10:43:54	10:43:46	0:00:08
S.P.J. Stock Brokers Pvt. Ltd.	1000	11:59:30	11:59:30	0:00:01
Champaklal N Pujara	150	11:55:51	11:56:28	0:00:37
	10	11:47:13	11:47:57	0:00:45
Inventure Growth & Securities	450	11:58:17	11:57:38	0:00:39
	1	12:17:37	12:16:51	0:00:47
	1	12:19:28	12:18:34	0:00:53

98. Hence, from the above, I find that Dynamic Stock Broking Pvt. Ltd. had entered into synchronized trades with Nirmal Kotecha himself and also with many other entities associated with Nirmal Kotecha. Further, I find that on December 22, 2008, Dynamic Stock Broking Pvt. Ltd. had entered into reversal trades with multiple entities associated with Nirmal Kotecha.

Sl. No.	Name of the client	Quantity bought by Dynamic	Quantity sold by Dynamic
1	Sharda Pujara	3710	4057
2	Inventure Growth & Securities Ltd	1276	455
3	Hardik Mithani	703	7257
4	Champaklal N. Pujara	635	547
5	SPJ Stock Brokers Pvt. Ltd.	252	1005

99. Further, I note that the trading of Dynamic Stock Broking Pvt. Ltd. on December 22, 2008 was primarily after 10.30 a.m. i.e. after the clarification came from P.S. Saminathan that he has not received any letter from SEBI. Hence, I find that Dynamic Stock Broking Pvt. Ltd., in order to enable Nirmal Kotecha to off-load his balance stake, for which trading volume was required to be maintained in the market and for the same, bought and sold primarily from/to Nirmal Kotecha and persons associated with Nirmal Kotecha on December 22, 2008.
100. Dynamic Stock Broking Pvt. Ltd. vide their reply dated October 10, 2019, submitted that they deny any knowledge or involvement in the dealings between the said entities and Rajesh Jani as alleged or otherwise. That any dealings and/or financial transactions by and between Rajesh Jani and the other entities may have been carried out in his individual capacity and were neither in the capacity as a director of the company nor were these for and behalf of the company. It was contended that they cannot be held accountable for the acts of omissions or commissions, if any, by any of the directors in their individual capacity. In this regard, I note that Dynamic Stock Broking Pvt. Ltd. had also received Rs. 50 lakhs from Nigam Vinod Shah on February 13, 2006 and the amount was returned on February 15, 2007. From the same amount, Rs. 15 lakhs was then given to Rajesh Jani on Feb 20, 2007. I note that Nigam Vinod Shah was a client of Dynamic Stock Broking Pvt. Ltd. and as per his letter dated June 24, 2009, his gross total income was Rs. 1,98,509/-, Rs. 1,31,674/- and Rs. 53,096/- during the previous year ended March 31, 2009, March 31, 2008 and March 31, 2007 respectively. I note that no loan agreement has been provided with regard to the said Rs. 50 lakhs given to Dynamic Stock Broking Pvt. Ltd. It has been established in the foregoing paras that Nigam Vinod Shah was a low income front entity of Nitin Goradia and was used for transferring funds to Amol Kokane, a front entity of Nirmal Kotecha.
101. Hence, I find the above submissions of the Noticee untenable as it is evident that it was not just Rajesh Jani in his personal capacity that had taken loan from a

front entity of Nitin Goradia, but that Dynamic Stock Broking Pvt. Ltd. had also taken a loan and transferred funds to front entities of Nitin Goradia. The fact that Rajesh Jani is their Director, and had also taken a loan of Rs. 25 lakhs from Nigam Vinod Shah, only further corroborates their involvement and association with Nitin Goradia, a close associate of Nirmal Kotecha. Further, the Noticee has contended that the loan taken in 2006-07 is not violative of any particular law and that merely because they had repaid loans should not be the foundation for any conclusion that the same was manipulated or artificial or were otherwise sinister. In this regard, I find that the same is wholly misplaced and erroneous as the allegation is not that the loan per se had violated any provisions of law, but that the loan taken from a front entity of an associate of Nirmal Kotecha, establishes the association of the Noticee with Nirmal Kotecha and its part in the transfer of funds to the account of Amol Kokane.

102. The Noticee has also denied that their sale of shares of PSTL in the market, allegedly termed as those to Hardik Mithani, Meet Shares and Stocks Services Pvt. Ltd, SPJ Stock Brokers Pvt. Ltd and Inventure Growth and Securities are synchronized with time difference between buy and sell orders as less time than 60 seconds. Further, they have contended that assuming without admitting that they have bought and sold shares to the same 5 counterparties, the said matching of trades was mere coincidence, controlled solely by automated blind mechanism of the exchange and they were neither aware of details thereof nor had the means to verify the same. Hence, they have denied that they have facilitated or otherwise dealt with Nirmal Kotecha. In this regard, I note that from the above tables of the Noticee's buy and sell orders, it is clear and evident that it had entered into multiple synchronized trades with multiple entities associated with Nirmal Kotecha and with Nirmal Kotecha himself. Given the above facts and placing reference to the Order of the Hon'ble SAT in **Ketan Parekh vs. SEBI** (supra) and Order of the Hon'ble Supreme Court in the matter **SEBI vs. Kishore R. Ajmera** (supra), I find that the facts and circumstances in the present case overwhelmingly prove the Noticee's association with Nirmal Kotecha. The fact that they have executed

multiple synchronized trades with Nirmal Kotecha himself and more than 5 of his associates on the same day cannot be a mere coincidence as claimed by the Noticee.

103. In view of the above, I find that Noticee no. 8 (Dynamic Stock Broking Pvt. Ltd.) has violated Section 12A of the Securities and Exchange Board of India Act, 1992 and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a), (b) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003.

104. **Nimesh Chitalia (Noticee no. 9):** I observe that Nimesh Chitalia was the Head Business Development (Retail) with ICMPL. He is the brother-in-law of Nitin Goradia and one of the directors of Kankeshwari Securities Pvt. Ltd. which had lent an amount of Rs. 30 lakhs to Rajesh Jani in April 2006, by way of friendly interest free loan as submitted by Rajesh Jani in his statement dated April 17, 2009. I note that Nimesh Chitalia has not traded in the scrip of PSTL during the relevant period.

105. I note that one Deepak Mali, whose trading account was opened with the Borivali (West) branch of ICMPL on December 12, 2007, traded in the scrip of PSTL and was allowed continuous large debit balances in his account during the period June 01, 2008 to December 24, 2008. I note that Deepak Mali was introduced to ICMPL by Priyanka Desai. Further, I observed that that Deepak Mali was introduced to The Kapol Co-op. Bank Ltd. on December 15, 2007 by Nimesh Chitalia. It has been brought out in the SCN that there was various transfer of funds from the said bank account of Deepak Mali to entities associated with Nirmal Kotecha and Nitin Goradia. Further, that Deepak Mali's trades had matched with Falguni Jayesh Shah, the wife of Noticee no. 6 and an entity associated with Nirmal Kotecha. Since Deepak Mali was introduced to The Kapol Co-operative Bank by Nimesh Chitalia, the brother-in-law of Nitin Goradia and one of the directors of Kankeshwari Securities Pvt. Ltd., whose director Rita Goradia was the wife of Nitin Goradia, it was alleged that Deepak Mali was Nitin Goradia

and Nimesh Chitalia's front. I also note that Nigam Vinod Shah, who had transferred Rs. 50 lakhs to Dynamic Stock Broking Ltd and Rs. 15 lakhs to Rajesh Jani, which was later transferred to Amol Kokane as detailed in the foregoing paras, was introduced to Axis Bank, Borivali (West) branch by Nimesh Chitalia in March 2004.

106. Accordingly, I find that the allegations made against Nimesh Chitalia in the SCN are as under:

- a) Nigam Vinod Shah was introduced to Axis Bank, Borivali (West) branch by Nimesh Chitalia in March 2004.
- b) Janak Chitalia, who had transferred Rs. 12 lakhs to Amol Kokane is the brother-in-law of Nitin Goradia and the brother of Nimesh Chitalia.
- c) Deepak Mali was introduced to The Kapol Co-op. Bank Ltd. on December 15, 2007 by Nimesh Chitalia.
- d) M/s. Kankeshwari Securities Pvt. Ltd., had lent an interest free loan amount of Rs. 30 lacs to Rajesh Jani in April 2006. Rita N. Goradia (wife of Nitin Goradia and the sister of Nimesh Chitalia) Vilas P. Shah and Nimesh H. Chitalia are the directors of M/s. Kankeshwari Securities Pvt. Ltd.

107. Nimesh Chitalia, vide letter dated August 07, 2019 and August 20, 2019, submitted that with regard to the allegation that M/s Kankeshwari Securities Pvt. Ltd had lent an amount of Rs. 30 lakhs to Rajesh Jani in April, 2006, it was by way of friendly interest free loan and it was in the year 2006. The loan was repaid by the Rajesh Jani in the same financial year. That since the loan transaction was in the year 2006, it is not relevant to the current proceedings or investigation and there was nothing further alleged in the context of this loan to Rajesh Jani.

108. Nimesh Chitalia has further submitted that with regard to the allegation that Nitin Goradia and the Noticee had brought in low income background persons to disguise the trail of funds used by Nirmal Kotecha to carry out his nefarious activities in the stock market during the investigation period, the allegation is

baseless and without application of mind on the available facts. That there was no allegation in the SCN that he arranged funds to any person at any point of time. That just because some of the recipients of the loans arranged by his brother-in-law are allegedly associates of Nirmal Kotecha, it cannot be alleged that he along with his brother-in-law in any way aided or abetted in the alleged fraud committed in the scrip of PSTL. In this regard, I note that Nimesh Chitalia had only introduced Deepak Mali to the Kapol Co-op. Bank Ltd. and I find that there is no further allegation regarding his involvement with Deepak Mali. Hence, I find that mere introduction of Deepak Mali to the bank is insufficient evidence to prove that Deepak Mali was a front for Nimesh Chitalia. Further, I note that Nimesh Chitalia is the brother of Janak Chitalia, however, I find that there is no allegation in the SCN with regard to his connection with the acts of Janak Chitalia, other than the fact that he is his brother.

109. Further, with regard to the allegation that he had signed in the introduction of Nigam Shah in Axis Bank, Nimesh Chitalia has submitted that it happened in the year 2004 and has nothing to do with the fraud. That it is pertinent to note that he joined ICMPL in the year December 2006 and hence, it is incorrect to infer that he introduced the said account in 2004 with a malafide motive for the alleged fraud that happened in 2008. As over a period of these 4 years Nigam Shah must have carried out several transactions for which he cannot be blamed for any irregularities in his account. In this regard, I accept the submission of the Noticee that a mere introduction coupled with the fact that it took place in 2004 is insufficient to prove that Nigam Shah was a front for Nimesh Chitalia.

110. In view of the submissions made by Nimesh Chitalia, I agree with the Noticee that there is insufficient evidence in the SCN to prove that Deepak Mali or Nigam Vinod Shah were his front entities, merely on the basis of the introductions made by him to banks and that Nitin Goradia is his brother-in-law. Hence, I find that there is insufficient evidence in the SCN to hold that Noticee no. 9 (Nimesh

Chitalia) has aided and abetted Nirmal Kotecha and violated provisions of the SEBI Act and PFUTP Regulations as alleged in the SCN in the present matter.

111. I observe that some of the Noticees have, in their submissions, placed reliance on certain judgements in order to establish that for the charge of fraud, cogent and compelling evidence is required. The Noticees have *inter alia* relied upon the findings in the following cases to buttress their argument that when fraud is alleged, mere concern or probability is not sufficient to prove the charge of fraud and it must be based on cogent evidence:

- (i) *R.K. Global Shares and Securities Ltd vs. SEBI in Appeal No. 158 of 2008*,
- (ii) *Sanman Consultants vs SEBI [2001] 30 SCL 45*,
- (iii) *Nirmal Bang Securities Pvt. Ltd. vs. SEBI*,
- (iv) *Narendra Ganatra vs SEBI (SAT Appeal no. 47 of 2011 dated July 29, 2011)*
- (v) *KSL Industries Ltd. vs. SEBI (SAT Appeal no. 9 of 2003)*,
- (vi) *EssEss Intermediaries vs SEBI (Appeal no. 13 of 2013)*,
- (vii) *SEBI vs. Shriram Mutual Fund (2006) 5 SCC 361 (SC)*,
- (viii) *Cabot International Ltd vs. SEBI (2004) 51 SCL 307*,
- (ix) *Dilip Pendse vs. SEBI (SAT Order dated November 19, 2009)*,
- (x) *Parsoli Corporation Ltd. vs. SEBI (SAT Order dated August 12, 2011)*
- (xi) *Union of India vs. Chaturbhai M. Patel (AIR 1976 SC 712)*
- (xii) *Sterlite Industries vs. SEBI (SAT Appeal no. 20/2001 dated Oct 22, 2001)*
- (xiii) *Bank of India vs. Degala Surya Narayana (AIR 1999 SC 2407)*
- (xiv) *Union of India vs. H.C. Goel (AIR 1964 SC 364)*
- (xv) *Ram Sharan Yadav vs. Thakur Muneshwar Nath Singh (AIR 1985 SC 24)*
- (xvi) *SPJ Stock Brokers Pvt. Ltd. vs SEBI (Appeal No. 52 of 2013)*
- (xvii) *HB Stockholdings Limited vs SEBI [2013 SCC Online SAT 56]*

112. Most of the cases are not relevant to the facts and circumstances and the proceedings with respect to PFUTP Regulations. As regards the relevance placed on some of the case laws with reference to the standard of proof, I find that the standard of proof in matters of fraud arising out of violation of the SEBI Act or the

provisions of the Regulations framed thereunder, is the test of preponderance of probability, as has been clearly laid down in the following recent judgments of the Hon'ble Supreme Court, as relied upon in the aforementioned paras, wherein, it was held that:

SEBI Vs. Kishore R. Ajmera (2016) 6 SCC 368

“.....While the screen based trading system keeps the identity of the parties anonymous it will be too naive to rest the final conclusions on said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming. The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned. Prosecution under Section 24 of the Act for violation of the provisions of any of the Regulations, of course, has to be on the basis of proof beyond reasonable doubt.

The conclusion has to be gathered from various circumstances like the volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. The fact that the broker himself has initiated the sale of a particular quantity of the scrip on any particular day and at the end of the day approximately equal number of the same scrip has come back to him; that trading has gone on without settlement of accounts i.e. without any payment and the volume of trading in the illiquid scrips, all, should raise a serious doubt in a reasonable man as to whether the trades are genuine.” (emphasis supplied)

SEBI Vs. Rakhi Trading Pvt. Limited (MANU/SC/0096/2018)

“We are fortified in our conclusion by the judgment of this Court in Securities And Exchange Board of India v. Kishore R. Ajmera, though it is a case pertaining to brokers, wherein it has been held at paragraph 25:

“25. The SEBI Act and the Regulations framed thereunder are intended to protect the interests of investors in the Securities Market which has seen substantial

growth in tune with the parallel developments in the economy. Investors' confidence in the capital/securities market is a reflection of the effectiveness of the regulatory mechanism in force. All such measures are intended to pre-empt manipulative trading and check all kinds of impermissible conduct in order to boost the investors' confidence in the capital market. The primary purpose of the statutory enactments is to provide an environment conducive to increased participation and investment in the securities market which is vital to the growth and development of the economy. The provisions of the SEBI Act and the Regulations will, therefore, have to be understood and interpreted in the above light."

In this case it was also held that in the absence of direct proof of meeting of minds elsewhere in synchronized transactions, the test should be one of preponderance of probabilities as far as adjudication of civil liability arising out of the violation of the Act or the provision of the Regulations is concerned."
(emphasis supplied)

113. I have considered the submissions of the Noticees and the various judgments relied upon by the Noticees to substantiate their arguments that there is not enough evidence to hold them in violation of manipulating the scrip of PSTL. I find the submissions untenable as sufficient evidence has been put forward in the above paras to prove their association with Nirmal Kotecha and how they have aided and abetted Nirmal Kotecha in order to manipulate the price of PSTL shares to facilitate Nirmal Kotecha in offloading his stake in PSTL at higher prices. I find that the test of preponderance of probability as held in **SEBI Vs. Rakhi Trading Pvt. Limited** has been established for each Noticee in view of the findings in the above paras against each Noticee, and hence, I conclude that Yatin Shah, Darshan Desai, Amit Joshi and Nitin Goradia had formed a group of sorts that used low income background persons as fronts in their bigger game of manipulation of PSTL scrip so as to facilitate Nirmal Kotecha in offloading his huge stake in the PSTL scrip. Further, that Darshan Desai, Nikhil Securities Limited, Yatin Shah, Jayesh Shah, Rajesh Jani, Dynamic Stock Broking Pvt. Ltd.

and Amit N. Joshi have entered into synchronized trades with entities associated with Nirmal Kotecha for the purpose of creating artificial volume in the shares of PSTL to facilitate Nirmal Kotecha to offload his stake in the scrip of PSTL.

114. In view of the findings as given in the above paras 20 to 113, I conclude that Noticee no. 1 (Darshan Desai), Noticee no. 2 (Nitin Goradia), Noticee no. 4 (Nikhil Securities Ltd.) and Noticee no. 8 (Dynamic Stock Broking Ltd.) have violated Section 12A of the Securities and Exchange Board of India Act, 1992 and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a) (b) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market Regulations, 2003).

115. Further, I conclude that Noticee no. 5 (Yatin B. Shah) and Noticee no. 7 (Rajesh Jani) have violated Section 12A of the Securities and Exchange Board of India Act, 1992 and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market Regulations, 2003). I also conclude that Noticee no. 3 (Amit N. Joshi) has violated Section 12A of the Securities and Exchange Board of India Act, 1992 and Regulations 3(a), (b), (c) (d), 4(1), 4(2)(a) (d) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market Regulations, 2003).

116. Furthermore, vide letter dated September 13, 2019, I have been informed that Noticee no. 6 (Jayesh Shah) has died and the death certificate of the Noticee has been submitted in this regard. In view of the same, I am of the view that the proceedings against Noticee no. 6 are liable to be abated without going into the merits of the case qua him and the allegations in the SCN dated December 02, 2015 issued qua the Noticee no. 6 is disposed of accordingly.

117. While considering the role of Noticee no. 1, the facts indicate that the Noticee operated the account of Amol Kokane for Nirmal Kotecha and compared to the other Noticees in the SCN, the role of the Noticee no. 1 was graver as he acted as

a close aide and facilitated Nirmal Kotecha in his fraudulent scheme of trading in the shares of PSTL. I note that the Noticee no. 1 has already undergone debarment from the securities market for a period of more than 10 years pursuant to SEBI's ad interim order dated April 23, 2009.

118. I also note that the Noticee no. 2 has already undergone debarment from the securities market for a period of more than 10 years pursuant to SEBI's ad interim order dated April 23, 2009. I also note that Noticee no. 8 has already undergone prohibition from entering into any fresh agreements with new clients, in its operations as stock broker for a period of more than 10 years pursuant to SEBI's ad interim order dated April 23, 2009. Further, I note that an Adjudication Order has been passed against Noticee no. 8 imposing a penalty of Rs. 2 lakhs for violation of provisions of the SEBI Act and PFUTP Regulations in the matter of PSTL. All things considered, I find that the period of restraint or prohibition already undergone by the Noticees no. 2 and 8 is commensurate with the violations committed by them. Therefore, I am of the considered view that no further period of restraint or prohibition is required in the instant case against the Noticees no. 2 and 8.

119. I note that the Noticee no. 7 has already undergone debarment from the securities market for a period of 16 months from SEBI's ad interim order dated April 23, 2009 and till the stay was granted by the Hon'ble SAT vide its order dated September 08, 2010 on SEBI's interim order dated April 23, 2009, qua the Noticee.

120. With regard to Noticees no. 3, 4 and 5, the facts have indicated that the Noticees as associates of Nirmal Kotecha have indulged in fraudulent trade practices with respect to the scrip of PSTL. I note that the violations have taken place in 2008 and the SCN was issued on December 02, 2015 and that a considerable amount of time has lapsed since the act of the Noticees took place. I also note that adjudication proceedings under Chapter VIA of the SEBI Act, 1992 for imposition of monetary penalty have been initiated against the Noticees 4 and 5 for the

violation of the provisions of the SEBI Act and the PFUTP Regulations in the matter of PSTL.

121. With regard to Noticee 9, for the reasons stated in the above para 110, I am of the view that the Noticee no. 9 has not violated the provisions of the SEBI Act and PFUTP Regulations as alleged against him in the SCN. Accordingly, allegations in the SCN dated December 02, 2015 issued qua the Noticee no. 9 are disposed of accordingly.

122. Having regard to all the aforesaid facts and circumstances including the nature of violations and conduct of the Noticees, I find that issue of directions under Sections 11 and 11B of the SEBI Act, 1992 is called for in the present matter against Noticees no. 1, 3, 4, 5 and 7, as given in para 123.

DIRECTIONS:

123. In view of the above, I, in exercise of the powers conferred upon me under Sections 11 and 11B read with Section 19 of the SEBI Act, 1992, and Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 hereby, issue the following directions:

- a) Noticee no. 1 is restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities in any manner whatsoever, either directly or indirectly, for a period of 12 (Twelve) years. However, the period of debarment already undergone by the said Noticee, in terms of the interim order dated 23 April, 2009, shall be set-off against the debarment period imposed by the present order;
- b) Revoke the directions passed against Noticee no. 2 and 8, vide interim order dated 23 April, 2009 with immediate effect, for the reasons stated in para 118.

- c) Noticees no. 3, 4, 5 and 7 are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities in any manner whatsoever, either directly or indirectly, for a period of 02 (Two) years from the date of coming into force of this Order.
- d) Dispose of the proceedings against Noticee no. 6 for the reasons stated in para 116 above.
- e) Revoke the directions passed against Noticee no. 9, vide interim order dated 23 April, 2009 with immediate effect, for the reasons stated in para 121.
- f) Obligation of the aforesaid Noticees, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange(s), as existing on the date of this Order, can take place irrespective of the restraint/prohibition imposed by this Order in respect of pending transactions, if any. Further, all open positions, if any, of the aforesaid Noticees in the F&O segment of the stock exchange, are directed to be squared off, irrespective of the restraint/prohibition imposed by this Order.

124. This order shall come into force with immediate effect.

125. A copy of this order shall also be sent to all the Noticees, recognised Stock Exchanges, the relevant banks, Depositories and Registrar and Transfer Agents of Mutual Funds to ensure that the directions given above are strictly complied with.

Sd/

Place: Mumbai

Date: June 23, 2020

ANANTA BARUA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA