

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

Appeal No. 231 of 2009

Date of decision: 11.11.2009

1. M/s. Alka Securities Limited
203, Anupam Building,
Dadabhai Cross Road no. 2,
Andheri (W),
Mumbai.
2. Mahesh Kothari Share & Stock Brokers
Pvt Ltd.
54, Bombay Mutual Chambers,
Ambalal Doshi Marg, Fort,
Mumbai.
3. Alka M. Pandey
4. Mahendra Pandey
5. Mahesh Natwarlal Kothari
6. Ms. Anjuben Kothari
7. Mr. Brijesh Kothari
Nos 3 to 7 residing at Plot No. 10,
Road no. 10, Nutan Laxmi Society,
Juhu Vile Parle Scheme,
Mumbai.
8. Ravi Pandey
Flat No 302, Haria Park,
Vaapi Silvaasa Road, Vaapi, Gujarat.
9. Ms Dimple Prasad nee Kothari
4, Sethidham, 11th Road, Khar (West),
Mumbai.

.....Appellants

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex,
Mumbai.

..... Respondent

Mr. Sean Wassoodew, Advocate for the Appellant.

Mr. Shiraz Rustomjee, Advocate with Mr. Mihir Mody and Mr. Karan Vyas,
Advocates for the Respondent.

Mr. V.M. Singh, Advocate for the Intervenor.

CORAM : Justice N.K. Sodhi, Presiding Officer
Samar Ray, Member

Per : Justice N.K. Sodhi, Presiding Officer (Oral)

This appeal is directed against the order dated October 16, 2009 passed by the whole time member of the Securities and Exchange Board of India (for short the Board) confirming the ex-parte ad-interim order dated July 28, 2009.

M/s. Alka Securities Ltd and Mahesh Kothari Share & Stock Brokers Pvt. Ltd. are, among others, the two appellants before us. Alka Securities is a member of the National Stock Exchange and the other appellant is the member of the Bombay Stock Exchange. The other appellants are the promoters of Alka Securities Ltd. Board noticed sudden rise in the price and traded volumes in the scrip of Alka Securities Ltd. It also noticed that large number of off-market transfers in the shares had taken place. It ordered investigations which are still in progress. Pending investigations, the whole time member by his order dated July 28, 2009 inter-alia restrained the two brokers and the promoters of Alka Securities Ltd. from accessing the securities market till further orders. The two brokers had also been directed not to take fresh clients with effect from the date of the order and they had also been restrained from trading in their proprietary account. The appellants were given an opportunity to file their objections which they did and on a consideration of the matter, the whole time member has confirmed the ex-parte order pending investigations. Hence, this appeal.

We have heard the learned counsel for the parties. It appears that the Board is prima-facie of the view that the price and trading volumes of the scrip of Alka Securities Ltd. which is a listed company had been manipulated and that the two brokers before us and the promoters were responsible for the same. On the basis of the reports submitted by the two stock exchanges, the Board also found that there was co-mingling of securities between the beneficial owner accounts of Alka Securities and the other broker and that the stock exchanges were unable to ascertain the ownership in respect of certain shares lying in the beneficial owner account of the two brokers. Accordingly, the Board appointed an independent auditor to look into the records of the two brokers to ascertain the ownership of the shares lying in their beneficial owner accounts. The learned counsel appearing for the Board informs us that the independent auditor has since been appointed and that he would be submitting his report within six weeks from the date of his appointment. He further states that on the basis of that report suitable directions shall be issued within 10 days from its receipt to release the shares belonging to the clients of the two

brokers. In view of this statement we do not think it necessary to issue any directions.

Since the appeal is directed against an interim order and the investigations in the matter are still pending, we do not propose to go into the details of the issues raised by the appellants in the memorandum of appeal and instead, dispose off the appeal with a direction to the respondent Board to conclude the investigations expeditiously but not later than March 31, 2010. We are setting this time frame having regard to the fact that large number of entities are involved in the investigations which have been continuing since July this year, if not earlier. We order accordingly.

Appellants through their counsel undertake to co-operate with the investigating officer and the independent auditor. No costs.

Sd/-
Justice N. K. Sodhi
Presiding Officer

Sd/-
Samar Ray
Member

11.11.2009
Prepared and compared by:
msb/-