

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER UNDER SECTION 11(4) OF SEBI ACT, 1992 AGAINST FIRST CUSTODIAN FUND (INDIA) LTD. IN THE MATTER OF NEDUNGADI BANK LTD.

CO/ /2003/IES/FUTP

1.0 SEBI had conducted investigations into the alleged violations of the provisions of SEBI Act, Rules and Regulations made there under, Securities Contract (Regulation) Act, 1956 as well as the Rules, Regulations and Byelaws of the Exchanges by First Custodian Fund India Ltd. (FCFL) along with its associate brokers namely Shrikant G. Mantri (SGM) and Harvest Deal Securities Ltd. (HDSL) in its dealings with Nedungadi Bank Ltd. during the period September, 1999 to March, 2000.

2.0 Subsequent to the investigation, a show cause notice dated March 11, 2003 was issued by SEBI to FCFL asking them to show cause as to why directions under Section 11B of SEBI Act, 1992 read with Regulation 11 and 12 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 1995 should not be issued pending enquiry. FCFL was alleged to have indulged in the acts mentioned below :

- issued bogus contract notes;
- did not account for the contract notes which have been issued;
- delayed payments to the bank;
- entered into one sided transactions;
- made late delivery of securities; and
- did not obtain written agreement from the client,

which were in violation of regulation 6 (a), (c) and (d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 1995. Through the above acts, FCFL was alleged to have violated clause A (1), (2) and (5) and clause B (1) of Schedule II of the Code of Conduct for Stock Brokers read with regulation 7 of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992.

3.0 A letter dated March 17, 2003 from FCFL was received by SEBI whereby they had asked for change in the date for inspection of documents, which was duly granted for March 27 and March 28, 2003 vide letter dated March 26, 2003 and received by them on the same day. The opportunity for inspection was availed by FCFL on March 27, 2003. Accordingly, the documents were inspected by their representatives. Mr. Prakash Shah, their Chartered Accountant had requested for copies of certain documents available with SEBI, which was furnished vide the letter no. IES/ID5/RM/7132/2003 dated April 09, 2003. On April 10, 2003, SEBI received a further communication from FCFL in which it had been mentioned that they may be granted further time to file a detailed reply to the show cause notice. In the said letter, they had also denied all the charges / contentions/ allegations made out against them in the show cause notice.

3.1 An opportunity of hearing was granted to FCFL on April 10, 2003 vide letter dated April 09, 2003. No one represented FCFL during such hearing.

3.2 The reply to the show cause notice was sent by FCFL on April 27, 2003 subsequent to the hearing before me.. In their reply, they had denied any association with Harvest Deals Securities Ltd. (herein after referred to as 'HDSL') or M/s Shrikanth G. Mantri. It was stated that FCFL was separate public limited company listed at Mumbai and Calcutta Stock Exchange. They were also stated to have been registered as a trading member at NSE. They also admitted that some relatives of Shri Shrikanth Mantri and Shri Rajendra Banthia, Managing Director of HDSL are on the Board of FCFL. However, it was said that FCFL was not managed by Shri Shrikanth Mantri or Shri Banthia or other individuals and they were not concerned with the business of FCFL. The said relatives were stated to be on the Board of FCFL in their individual capacities. They had emphasized that FCFL was neither an associate nor a company under the same management as HDSL or M/s Shrikanth Mantri under the Companies Act.

3.3 Vide their reply, they denied the allegations of having violated, SEBI Act, Rules and Regulations made there under and Securities Contract (Regulations) Act, 1956 in their dealings with Nedungadi Bank Ltd. (herein after referred to as "NBL"). In the show cause notice, it had been alleged that FCFL, a member of NSE had entered into arbitrage transactions on behalf of NBL during the period September 1999 to March 2000. This allegation was denied by FCFL stating that they had been executing purchase / sale transactions on behalf of NBL on the NEAT system of NSE, of which all were delivery based.

3.4 Referring to the scheme alleged to have been approved by NBL for entering into arbitrage dealings between itself and HDSL, FCFL and M/s Shrikanth G. Mantri, FCFL submitted in their reply that when NBL had appointed these brokers for undertaking share transactions on their behalf, they were not informed about any such scheme being approved.

3.5 With respect to the statement in the show cause notice that at the end of March 2000, the arbitrage trading has been stopped by the NBL and it was found that the trading transaction forming part of the NBL's investment portfolio was carried out by FCFL alongwith M/s Shrikant G. Mantri and HDSL, it was submitted that FCFL was neither informed by NBL about the arbitrage transaction nor told about stopping the same from March 2000. As far as the total volume of transaction done by HDSL and SGM on behalf of NBL was concerned, it was submitted that the same was Rs.637 crores. They said that they were not aware of the total volume of trading done by NBL through other brokers.

3.6 They also denied any delay in the payment of the sale proceeds to NBL, as had been alleged in the show cause notice. It was stated that they were not aware whether other brokers had delayed their payments of the sale proceeds which had resulted in dues outstanding to NBL to the tune of Rs.94.61 Crores as on March 31, 2000.

3.7 They had submitted that their investment on behalf of NBL was totally independent and the same was done in two tranches amounting to 2% and 1% approximately in 1999-2000 and 2000-2001 and they had sold their entire investment of NBL in 2001-

2002. They had also denied about the discussions held in the Board meeting of NBL with respect to obtaining the broking services to FCFL & Ors. as mentioned in the show cause notice.

3.8 In their reply they had stated that they operate independently although their office premises is located in the same building as HDSL and M/s Shrikanth G. Mantri and hence they cannot be presumed to be closely connected. The sharing of telephone and fax connection, according to them, were very common in Mumbai and merely because NBL had done the share transaction through FCFL, it cannot be said that there was common linkage between them and HDSL and M/s Shrikanth G. Mantri. Again, it was common practice among institutional investors to distribute the business between brokers, which therefore, cannot be a basis for a charge of common linkage.

3.9 With respect to the allegation of having not obtained a client registration form and the agreement from NBL in violation of SEBI circular no. SMD/POLICY/CIRCULAR/5-97 dated April 11, 1997 and clause A (5) of Schedule II of the code of conduct of stock brokers read with Regulation 7 of SEBI (Stock Broker and Sub-broker) Regulations, 1992, it was mentioned in the reply of FCFL that they had been a constituent of NBL for a long period and also enjoying credit facilities from them, they had thought that there was no necessity to obtain the client registration form since their bonafides were well established.

3.10 They also denied having free hand in the buying and selling of scrips on behalf of NBL and that transactions were carried out on the basis of discussions between them and NBL as alleged in the show cause notice. That the purchase order, name of the scrip, quantity etc. had been decided by FCFL / or on the directions from R.K. Banthia was also denied. In this connection, they referred the deposition/statement of Shri T.R. Narayanan, DGM, NBL during the investigation of SEBI where it was said that all the purchase and sale transactions to the brokers were given by the officials of NBL. As regards, the allegation of Shri Banthia having exercised pressure on the Chairman / Board of NBL for the purpose of purchase and sale of shares and during his directorship NBL had decided to make investment of 30 crores in securities on January 2001, etc. it was submitted that FCFL was not a party to such discussions and that the decision was taken at the Board meeting of NBL.

3.11 Further, regarding the overdraft facility and Bank guarantee limit of Rs.500 lakh each from NBL, the same was admitted by FCFL in their reply stating that such facilities had been sanctioned to them on the basis of their requirements.

3.12 Regarding the purchase/sale transactions entered into by NBL through FCFL, it was submitted that the same had been executed by them on the NEAT system of NSE under instructions from NBL and the reasons for purchase could only be explained by NBL since they had been merely executing the instructions of NBL, being a member of NSE. FCFL did not reply to the allegation in the notice regarding frequent inflow and outflow of shares in the demat accounts of FCFL which was indicative of the NBL taking positions in various scrips through brokers instead of pure arbitrage transactions.

3.13 It was one of the findings of investigation against FCFL that in the last week of March 2000, sale transactions of NBL through FCFL and its associate brokers to an extent of Rs.58.7 crores had mainly been in the scrips of PentaFour Software, Global Telesystems, Himachal Futuristic, Moser Baer, DSQ Software, ACC and Zee. It was also found that the above mentioned transactions had been off market deals not done through exchanges and above all one sided transactions having no purchaser for the above scrips which were reportedly sold by the NBL through the associate brokers of FCFL. Moreover, the prices at which all the above scrips have been sold were found to be significantly higher than the then prevailing market price. The other major discrepancies about such sale transactions that had been noted during the investigation are as follows:

- No deliveries were obtained from the NBL for the above sales by the brokers.
- There were no payments from the brokers to the NBL for the above deals.
- The brokers had issued contract notes for the above transactions but had not accounted for the transactions in their books of accounts.
- However the NBL had accounted for the above deals in their books of accounts for the year ending March, 2000 based on the above bogus contract notes.

3.14 With respect to the above allegation, it was submitted by FCFL that during March 2000 no sale transaction had been executed by FCFL on behalf of NBL and hence no comments on the same.

3.15 In reference to the allegation to the above referred transactions, that the same were bogus, the contract notes not having the time of transaction entered on it, not entered through the exchange mechanism indicative of the purpose for accommodating the NBL in order to hide its losses etc. were denied stating that the same had not been done by them.

3.16 FCFL also stated that the transactions entered into by M/s Shrikanth G. Mantri as mentioned in the show cause notice to be an associate broker of FCFL, were not known to them and that they were not concerned and/or interested either directly or indirectly with the same. They further emphasized that M/s Shrikanth G. Mantri was not an associate concern of theirs. This was in response to the allegation of sale of 25,000 shares of Himachal Futuristic on behalf of the NBL on August 23, 2000, 70000 shares on August 24, 2000 and 86159 shares on August 25, 2000 aggregating to 27.29 crores as evidenced by the contract note furnished by the associate broker M/s Shrikanth G. Mantri, in the show cause notice. Further, the sale of 3,000 shares in the same scrip on August 29, 2000 and August 31, 2000 of 3000 and 18, 439 shares respectively had been entered in the books of M/s Shrikanth G. Mantri on behalf of the NBL whereas corresponding entries were missing from the books of account of the NBL. It was also found that the NBL had transferred the shares to the brokers towards these sale transactions which again proves the nexus between the brokers and the NBL for their mutual accommodation through bogus deals.

3.17 With respect to the allegation that during March, 2001, the associate of FCFL, M/s Shrikant G Mantri had purchased 50000 shares of Jindal Steel, 400000 shares of Saw Pipes aggregating to a value of Rs.5.50 crore on 14.03.2001 on behalf of the NBL and that on the same day, FCFL had contracted for the purchase of 1,76,500 shares of Monnet Ispah and 29,500 shares of Ranbaxy Labs aggregating to Rs.5.04 crore on behalf of the NBL, it was stated that the transactions of M/s Shrikant G. Mantri cannot be commented upon since they were not any associate of FCFL. Regarding the alleged contracts entered into by them mentioned above, it was stated that the same had been done on the instruction from the NBL who informed FCFL that they desire to purchase the scrip of Monnet Ispah and Ranbaxy in off market deal. FCFL had also been advised by the NBL to execute such deals after getting approval of higher authorities and accordingly FCFL had issued the contract notes. It was submitted by FCFL that NBL had subsequently informed about the non-approval by the higher authorities and hence they said that the deals were not executed. Therefore there was no delivery. Neither was the payment asked for. With respect to the allegation that NBL had not accepted these

transactions since they had not placed any orders with FCFL and also that such transactions had been thrust on NBL, FCFL submitted, that the said allegation in the show cause notice was incorrect.

3.18 Regarding the allegation, in the show cause notice that Mr. Banthia had insisted on the NBL to make the payment for the above referred purchases although the NBL had not agreed on these contracts, it was replied that Mr. Banthia could not have been instrumental in influencing NBL to enter into bogus transactions on behalf of FCFL as FCFL had not entered into bogus transactions ever. Further these deals were not effected through the exchange and were off the market deals. It was admitted by the associates of FCFL that the same was only for the purpose of accommodating the NBL. On examination of the statement of Shri Shrikant G. Mantri, the associate broker of FCFL it was observed that these brokers had these stocks in their portfolio which they had offloaded to the NBL in order to mobilize funds. This was denied by FCFL saying that they did not have any associates. It was reiterated by them that all the transactions done by them on behalf of NBL were under the instructions from NBL and had been duly executed on the NEAT system of NSE. They also denied having any nexus with the NBL with the purpose of hiding the factual positions.

3.19 They further denied the allegation about the delayed payment, the details of which (as given in the show cause notice) are as follows:

In Settlement No. 2000001, FCFL paid Rs.1.58 crores after a delay of 23 days and in Settlement no. 2000007, it paid Rs.1.56 crores after a delay of 16 days etc.

This, FCFL stated that NBL vide their letter dated May 04, 2001 had mentioned about the delayed payments for the first time and claimed interest on the same. FCFL vide the letter dated May 16, 2001 had denied that there had been any delay. In such letter, it was also explained that all the payments were made on the respective pay-out days. FCFL also submitted that there was no reply to their aforesaid letter from NBL, which, FCFL claimed, established the fact that there had been no delay in the payment. Regarding the delayed payments of HDLS and M/s Shrikant G. Mantri, as alleged in the show cause notice, FCFL stated that the same do not pertain to them and hence cannot be commented upon.

3.20 FCFL denied that they had committed any violation of the SEBI circular and the code of conduct for Stock Brokers. Further, in their reply they had denied the single instance of delivery of security to NBL towards their purchases. In view of their submissions in the reply, they submitted that the Notice may be discharged against them.

4.0 I have carefully considered the investigation report, findings and charges in the Notice, statements and other evidences available. As per the minutes of the NBL Board meeting FCFL, a member of NSE was found to have entered into arbitrage transactions on behalf of NBL during the period September, 1999 to March, 2000 with the approval of the NBL along with the following brokers :

- | | |
|--|--------------|
| 1. The Harvest Deal Securities Ltd. (HDSL) | Member - BSE |
| 2. M/s Shrikant G. Mantri (SGM) | Member - BSE |

4.1 At the end of March, 2000, the trading in arbitrage deals was found to have been stopped by the NBL. It was observed that the trading transactions, which were part of the NBL's investment portfolio were carried out by FCFL along with its associates, M/s Shrikant G. Mantri and HDLS. NBL's total turnover of trading with the above three brokers reportedly stood at Rs.1352.54 crores while transactions with the other approved brokers was insignificant at Rs. 0.26 crore which was mainly due to sale of shares from its investment portfolio. It was also found that there had been a default as well as delay in payment of the sale proceeds by the above brokers to the NBL. As a result, the dues from the brokers to the NBL were found to have stood at Rs.94.61crores as on 31st March, 2000. Though, out of this, an amount of Rs.73.42 crores was found to have been paid to the NBL over a period of one year, a sum of Rs.21.10 crores was found outstanding from M/s Srikant G. Mantri as on 31st March, 2001. The above firms were found to be owing an amount of Rs. 8.72 crores towards interest charged for the delayed payment of sale proceeds.

4.2 Shri. R. K. Banthia is found to have been the Managing Director of HDLS. He is also found to have been one of the directors of the NBL, having substantial shareholding, either directly or through his family members/associated firms / companies. Out of the total shareholding in NBL, FCFL, member NSE and also an associate of Rajendra Banthia held 3.28%, the Rajendra Banthia Group held 8.41%, and Shrikant G. Mantri a Member of BSE and also an associate of Rajendra Banthia held 10.51% of the equity of the NBL.

4.3 It is also found that over the period when the NBL decided to engage into arbitrage dealings i.e. vide the Board Meeting held on 26.06.99, Mr. M. G. Damani and Mr. Suresh G. Vaidya had represented Banthia Group on the board of Directors of the NBL. In fact Shri M. G. Damani and Shri A. R. Murthy had suggested to the Board for engaging the services of FCFL, HDLS and M/s Shrikant G Mantri. Subsequently, Mr. Rajendra Banthia was found to have been co-opted on the Board of the NBL on December 26, 2000.

4.4 Investigations had revealed that the three broking firms, FCFL, HDLS and M/s Shrikant G Mantri were closely connected to each other. Mr. Rajendra Banthia was found to be the Managing Director of the Harvest Deal Securities Ltd in which Smt. Saroj Banthia, Mr. Rajendra Banthia's wife and Shri. Manish Banthia, Mr. Rajendra Banthia's son were also Directors. In the FCFL, Shri. Surendra Kumar Banthia, Mr. Rajendra Banthia's brother was the Chairman and Shri. Manish Banthia, Mr. Rajendra's son was the Director. Shri Sushil Mantri, Executive Director of this broking firm, was the brother of Shrikant G. Mantri. Thus all the three firms were closely associated with Shri. R. K. Banthia. All the three broking companies had functioned from the same premises and had common phone and fax connections which clearly indicated that these companies were closely connected. The purchases and sales were found to have been effected in different exchanges through these brokers' which further proves the common linkages of these brokers. The exact linkages are represented through a diagram given below:

Harvest Deal Securities
R.K. Banthia
(Managing Director)
Saroj Banthia (wife)
(Director)
Manish Banthia (son)
(Director)
First Custodian Fund (India)

Ltd.
Surendra Kumar Banthia
(brother of R.K. Banthia)
(Chairman)
Manish Banthia (son)
(Director)
Sushil Mantri
(brother of Shrikant Mantri)
Executive Director M/s Shrikant G. Mantri
Shrikant Mantri
(Proprietor)

4.5 The arbitrage transactions on behalf of NBL seem to have been done to capitalize the price differences existing in the NSE and BSE due to the different settlement cycles followed by them. Purchase and sale had to be executed simultaneously and put through with accuracy and great speed and so the Chairman and General Manager were to be permitted to delegate their powers to purchase/sales to the above three brokers. The purchase and sale were to be executed simultaneously in view of the risks associated with the unfavourable movement of prices of shares. To take care of other risks, trade had to be done as far as possible in shares of reputed companies and deals were to be carried out in the demat form.

4.6 However, before entering into the dealings with NBL, FCFL was found to have not obtained a client registration form and agreement duly filled in by NBL while taking them as their clients. This is in violation of SEBI circular No. SMD/POLICY/CIRCULARS/5-97 dated April 11, 1997 and thus the brokers including FCFL appears to have violated Clause A(5) of Schedule II of the Code of Conduct for Stock Brokers read with Regulation 7 of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992. The plea taken by FCFL that it had not taken the client registration form since it was a constituent of NBL and had known it for a long period is no excuse for violation of the law relating to the same.

4.7 The investigations had revealed FCFL and its associate brokers had a free hand in the buying and selling of scrips on behalf of NBL and had carried out transactions according to the discretion of FCFL. The details of the deals such as name of the scrip, purchase order, sale order, quantity, rate etc. was found to have been decided by FCFL and its associate brokers. Shri R. K. Banthia who was a major shareholder of the NBL was also a Director of the NBL during December, 2000 to April, 2001. and Managing Director of HDSL. He played a key role in buying and selling of the shares through his associate brokers. It was found that that Mr. Banthia had exercised undue pressure on the Chairman/Board of NBL for the purpose of purchase and sale of shares. During R. K. Banthia's tenure as a Director, the Board of the NBL was found to have decided in January, 2001 to make investment of Rs.30.00 crores in shares, convertible debentures etc. which further indicates his influence on the decisions of the NBL.

4.8 FCFL was found to be having overdraft and guarantee limit of Rs. 500 lakh each from NBL. M/s Shrikant G. Mantri, another associate broker of FCFL, also had an overdraft limit of Rs. 500 lakh and a guarantee limit of Rs. 600 lakh from the NBL. NBL was found to have entered into frequent and large purchase / sale transactions through FCFL and its associate brokers in various scrips. Most of the transactions were seen not executed as arbitrage transactions i.e. purchases / sales of equal quantity of the particular shares were not executed simultaneously through different exchanges. For example, NBL was found to have purchased 6500 shares of Lupin Laboratories on 26.11.99 through SGM whereas the sale of 1500 shares was on 26.11.99 and the remaining 5000 shares were done on 29.11.99. Similarly it bought 2450 NIIT shares on 01.11.99 through FCFL and sold only 950 shares on 01.11.99 through SGM and the balance quantity was found to have been sold on the subsequent days i.e. on 2nd and 3rd November, 1999. NBL had bought 22400 shares of Silverline on 09.11.99 which were sold to the extent 12400 shares on 09.11.99 and the balance 10000 shares were sold on 10.11.99. There are several transactions of the above nature. This indicates that these transactions were not of arbitrage dealings and were open positions/investments of short term nature.

4.9 From the details of transactions in the demat accounts, frequent inflow and outflow of shares with FCFL and its associate brokers were observed. Similarly frequent inflow and outflow of funds with the brokers were also observed towards the purchases and sales of shares. This indicates that the NBL was taking positions in various scrips through FCFL and its associate brokers instead of pure arbitrage transactions.

4.10 Investigations revealed that during the last week of March, 2000 the sale transactions of NBL through the associates of FCFL were to the extent of Rs. 58.7 crores. There were dealings mainly in the scrips of infotech companies like PentaFour Software, Global Telesystems, Himachal Futuristic, Moser Baer and DSQ Software. Other scrips included ACC and Zee. These transactions were of the nature of off market deals and were not done through the exchanges. The above deals were all one sided transactions in the sense that there was no purchaser for the above scrips which were reportedly sold by the NBL through the associate brokers of FCFL. All the prices at which the above scrips were shown to have been sold were significantly above the then market prices prevailing at that point of time. For example, PentaFour Software share price on 27.03.2000 was Rs.1311.50 on BSE and Rs.1356.53 whereas the sale price of the NBL on the date was reported to be Rs.1807.65. Similarly, HFCL's sale price was Rs.2140.10 on the BSE and Rs.2147.20 on NSE whereas the reported sale price was Rs.2200. There were other scrips too which were sold in huge quantities and had similar discrepancies in the prices. The major discrepancies in the above sales transactions have already been explained above.

4.11 Investigations revealed that the above referred transactions were bogus transactions. The contract notes did not have the time of transaction and also the same were not entered through the exchange. The reason for issuing such contract notes was for the purpose of accommodating NBL to hide its losses. The NBL had huge outstanding investment in the share market and the market had started falling after the purchases. The prices of the scrips in which the NBL had open position had fallen to a great extent. The NBL had to close its book of accounts for the year and it was showing huge losses because of the above reasons. FCFL along with its associate brokers is found to have entered into a clandestine arrangement with the NBL whereby the broker would issue bogus contract notes only for the purpose of accommodation and not for the purpose of acting upon it. In this regard it was observed that FCFL and its Managing Director, Rajendra Banthia had acted as the main persons in coordinating the deals.

4.12 On the basis of the Contract notes furnished during investigations, by M/s Shrikant G. Mantri, it was found that he had sold 25000 Himachal Futuristic shares on behalf of the NBL on 23/08/2000, 70000 shares on 24/08/2000 and 86159 shares on 25/08/2000 with an aggregate sale price of Rs.27.29 crores and an entry was made in the books of accounts of Shrikant G. Mantri.

Again 3000 shares of the same scrip were found to have been sold on 29/08/2000 and 18439 shares on 31/08/2000 the entries for which were made in the books of accounts of the broker on 07/09/2000. But corresponding entries are not found in the books of accounts of the NBL. However, as stated earlier during March 2000, NBL was found to have transferred the shares to the brokers towards sale transactions. The entries made in the books of accounts of the broker for the month of September with respect to the same is bogus which proves nexus between the brokers and the NBL for their mutual accommodation by way of fictitious deals.

4.13 Investigations also revealed that FCFL and its associates had delayed payments to NBL, the details of which are given below:-

FCFL was found to have resorted to making delayed payments e.g. in the case of Settlement no. 200001, it paid Rs.1.58 crores after a delay of 23 days and in settlement no.200007, it paid Rs1.56 crores after a delay of 16 days.

HDSL had owed a sum of Rs.16,24,00,996 towards sale of shares on 06.03.2000, and Rs.3,58,44,527 towards sale on 07.03.2000 which was not paid in time to the NBL. This amount was paid in installments from 13.06.2000 to 22.06.2000 i.e. after a delay of three months. NBL is reported to have claimed interest for the late payment which has not yet been settled by the broker.

SGM had owed a sum of Rs.67,79,00,480 towards sale of shares by the NBL during 06.03.2002 to 27.03.2000 which he failed to pay in time to the NBL. Out of this Rs.7.07 crores was paid on 16th and 17th May 2000 and Rs.40.00 crores was paid only in September, 2000 i.e. after a delay of about six months. As on 31.03.2001 an amount of Rs.21.19 crores was due by SGM to the NBL. After considering the interest on this amount (as submitted by the NBL) a sum of Rs.35.51 crores was due from SGM to the NBL.

4.14 Therefore, FCFL and its associates had withheld the payments due to the NBL for considerable period of time and thereby delayed the payments to the clients. Shrikant G. Mantri was found to have owed an amount of Rs.21.19 crores to the NBL as on 31.03.2001 besides claim of interest for the late payment. These dues have basically arisen due to the disputed contracts (NBL recognizes the contracts whereas the broker claims that these are bogus) for sale transactions in March, 2000, for which contract notes had been issued by Shrikant G. Mantri during August whereas the entries for the same are not made in the books of accounts of NBL(the contract notes issued were bogus in order to accommodate NBL). These delays in payment by FCFL and its associate brokers to their clients appears to be in violation of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993. The brokers appears to have also violated clause A (1), (2) and (5) and clause B (1) of Schedule II of the Code of Conduct for Stock Brokers read with regulation 7 of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992.

4.15 Some instances of delay in delivery of securities by FCFL and its associates to the NBL towards their purchases are as follows. For example in case of ACC, the scrip was purchased on 16.02.2000 and 17.02.2000 but the delivery was made on 20.05.2000 i.e. after a gap of almost three months. Similarly the scrip of HFCL was purchased on 06.03.2000 but the delivery was made in installments on 31.05.2000, 02.06.2000 and 13.06.2000 while a part of it was not delivered at all. In the case of Videocon International, the scrip was sold on 04.02.2000 and the delivery was made on 20.05.2000 and 31.05.2000. Similar delays were observed in other scrips like Jayant Agro, Kale Consultants and Hindustan Sanitary. FCFL was found to have delayed the delivery of Jayant Agro scrips which were bought on 15.02.2000 but delivered on 20.05.2000. Differences in the statement of accounts of the transactions of the NBL and the brokers' accounts also were observed.

4.16 An enquiry officer has been appointed against FCFL to enquire into the above alleged violations and the enquiry is in progress. Meanwhile, keeping in view the gravity of the violations and prima facie case preventive action is warranted in order to refrain / restrain FCFL from dealing in securities so that no further harm or detriment is caused to the securities market and that investors are not adversely affected.

5.0 In view of the above, FCFL and the directors, Surendra Kumar Banthia, Mr. Manish Banthia and Sushil Mantri are directed in the interest of investors and Securities Market under Section 11(4) of SEBI Act, 1992 not to deal in securities in any manner till further orders.

This order shall come into force with immediate effect.

G.N. BAJPAI
CHAIRMAN
SECURITIES AND EXCHANGE BOARD OF INDIA

Date : July 14, 2003
Place : Mumbai