

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

In the matter of directions to M/s Galav Finance and Investments Pvt. Ltd; under section 11(4) (b) read with section 11B of the SEBI and the SEBI (fraudulent & unfair trade practices relating to the securities market) regulations, 2003 in the matter of public issue of M/s Natural Expo Agro Industries Limited

1.0 M/s. Galav Finance & Investments Pvt. Ltd. (hereinafter referred to as "GFIL") is a company incorporated under the Companies Act, 1956 and having its registered office at Opp. Pradhan Decorators, Near Jayaratna Building, Navapura, Vadodara – 390 001. Shri Navinbhai and Shri Jayesh Thakkar are the directors of GFIL. Natural Expo Agro Industries Ltd. (Hereinafter referred to as "NEAL") is a public limited company with its registered and corporate office at 9th Floor, Galav Chambers, Near Sardar Patel Statue, Sayaji Gunj, Vadodara, Gujarat 390005. NEAL came out with a public issue of Rs. 275 lacs in February-March, 1996. The issue for 77 lakh equity shares of Rs.10/- each for cash aggregating to Rs.770 lakhs opened on 3.5.95 and closed on 6.5.95. Several complaints were received regarding delay in transfer of shares and manipulation of price of the shares. A preliminary investigation by SEBI showed that there was a delay in transfer of shares as well as in the dispatch of shares after transfer. It was also noted that trading in the share was suspended by The Stock Exchange, Mumbai (BSE) on some days on account of abnormal increase in the price. In view of the above, investigation was ordered into the affairs relating to dealing in shares in respect of public issue by NEAL, its lead manager, Registrar to the Issue and other persons/intermediaries associated with the public issue and trading in its shares, vide order dated 30.1.97.

1.1 The report on investigation was submitted to SEBI on 18.4.2002. The Investigations inter alia revealed that:

a. NEAL did not receive the minimum required subscription to the public issue and the same was subscribed only to the extent of 14%.

b. In order to circumvent the requirement of minimum subscription, NEAL had entered into an arrangement through Galav Finance and Investments Pvt. Ltd. (hereinafter referred to as "GFIL") whereby they financed applications for the issue in order to ensure minimum subscription and NEAL purchased back the shares allotted. It was seen that NEAL transferred funds to GFIL which in turn transferred the funds to the applicants who later issued cheques to NEAL. Thus, NEAL did not receive any real consideration and also utilized the proceeds of the public issue for arranging subscription and for circumventing the requirement of minimum subscription.

c. NEAL and its directors made allotments without receiving the minimum subscription in the Issue.

d. The share certificates allotted to the applicants were not dispatched to them by NEAL rather these shares were retained by the company. 6 Lakh shares which had arrears of call money were traded in the market through various brokers including GFIL. The prices of the scrip went up abnormally due to the cornering of shares coupled with artificial scarcity of stock through intentional delay in transfer of shares.

e. GFIL and others had acted on the orders of one Devendra Kantilal Dalal (hereinafter referred to as "DK Dalal") and connived in the manipulation of price of the scrip of NEAL.

2.0 Show cause notice was issued to GFIL and its directors on 27.9.02. Although they acknowledged receipt of the notice, they did not submit any reply to the same. Further, letters dated 28.1.2003 and 21.2.2003 were issued granting an opportunity of hearing before the Chairman on 26.2.2003 and 27.2.2003. GFIL acknowledged the said letters but did not appear for hearing. I find that adequate opportunity has been given to GFIL and its directors to make their submissions in compliance of principles of natural justice and therefore, I am of the view that no further opportunity is necessary and it would be in the interest of justice, if I proceed further in the matter.

3.0 I have considered the facts of the issue and material on record. The following issues arise for consideration:

3.1 Whether GFIL had aided and abetted the promoters of NEAL in fraudulently creating a façade of the public issue having received minimum subscription.

3.1.1 It was noted that 435 applications were received for 69,76,800 shares and according to which, the issue was subscribed to the extent of 90.61%. From the list of applicants and allottees, it was noted that the following six applicants had applied for and had been allotted 60 lakh shares i.e. approx. 86% of the total shares allotted in the issue.

Applicant	Stock invest No.	Issued By	Shares	
			Applied	Allotted
Ketan Doshi	12068	Global Trust Bank	100000	100000
Toophanmal Bhandari				
Piyush Avlani	12065	Global Trust Bank	100000	100000
Toophanmal Bhandari				
Bhavna K. Doshi	12064	Global Trust Bank	100000	100000
Toophanmal Bhandari				
Kamlesh Doshi	12066	Global Trust Bank	100000	100000
Toophanmal Bhandari				
Muktaben H. Doshi	12063	Global Trust Bank	100000	100000

Toophanmal Bhandari				
Paulomi Doshi	12067	Global Trust Bank	100000	100000
Toophanmal Bhandari				

All the applicants mentioned above had shown their address as Nirmal, 3rd Floor, Nariman Point, Mumbai – 21. Investigations revealed that the above address was that of one DCW Finance Ltd. (DCW) and one Shri Toophanmal Bhandari, the second applicant in all of the above applications was the Vice President of DCW.

3.1.2 The said Toophanmal Bhandari in his statement before the investigating officer on 24.3.98 stated that DCW was in the business of financing public issues and that Piyush Avlani and Ketan Doshi the applicants as above along with their family members were regular clients of DCW. Shri Toophanmal Bhandari also stated that Shri. Avlani and Shri Doshi approached DCW for finance to the extent of Rs.300 lakhs to make 6 applications of Rs.50 lakhs each in the public issue of NEAL. Joint accounts were opened by DCW with the 6 applicants with Global Trust Bank (GTB) and 6 cheques for Rs.50 lakhs each were issued in favour of the said persons. Against these six cheques, GTB issued 6 stock invests for Rs.50 lakhs each and 6 applications for 1 lakh shares each were made by the said persons with Shri Toophanmal Bhandari as the second applicant.

3.1.3 Mr. Ketan Doshi and Mr. Piyush Avlani appeared on behalf of all the above applicants. In his statement on oath before the investigation team recorded at SEBI on 24.2.98, Shri Ketan Doshi stated that one Kalpesh Chawalla (a stock broker of Ahmedabad Stock Exchange) approached him to apply for shares in the public issue of NEAL under Finance arrangement with M/s. Galav Finance & Investments Pvt. Ltd. (GFIL). Corroborating the statement of Toophanmal Bhandari, he stated further that, he approached DCW to finance the application on his behalf and that joint applications were made by him along with Shri Toophanmal Bhandari. He also confirmed that he gave Power of Attorney to DCW Ltd. to operate the joint account opened with them at GTB for acquiring stock invests. He also stated that interest was paid to him upfront either by GFIL or Mr. Kalpesh Chawalla. Shri Doshi in his statement further stated that he did not receive delivery of shares, rather DCW received a letter from NEAL informing that the stock invests submitted by him were lost and suggesting that the payments be made good by issuing cheques to NEAL for which payments were to be made by GFIL. These payments were made by the applicants on separate dates as and when they received funds from GFIL and all these payments were handled by Shri Kalpesh Chawalla.

3.1.4 Shri Kalpesh Chawalla in his statement dated 27.11.96, 10.4.97, 1.3.98 submitted that he was approached by GFIL to arrange for subscription in the public issue of NEAL. He then approached Shri Doshi and Shri Avlani. He further stated that GFIL also asked him to extend a loan of Rs.6.75 by way of 6 cheques for Rs.1,12,500 each to the aforementioned applicants towards interest on the finance extended by them. He paid the said amounts to GFIL and that he was paid interest @ 2.5% p.m. for 4 months by GFIL. He stated that he received his money back in October 1995.

3.1.5 Further, it was observed from the extract of the current account statement of NEAL and GFIL maintained with Union Bank of India, Nariman Point Branch, that the flow of funds was as under:

Date	Particulars	Amounts credited/debited in the accounts of		
		NEAL	GFIL	NEAL
3.6.95	From NEAL to GFIL	3005000		
3.6.95	From GFIL to Ketan Doshi		3005000	
5.6.95	From NEAL to GFIL	1400000		
6.6.95	From GFIL to Ketan Doshi		1400000	
8.6.95	From Ketan Doshi to NEAL			5000000
9.6.95	From NEAL to GFIL	5000000		
13.6.95	From GFIL to Piyush Avlani		5000000	
15.6.95	From Piyush Avlani to NEAL			5000000
16.6.95	From NEAL to GFIL	5000000		
16.6.95	From GFIL to Paulomi Doshi		5000000	
20.6.95	From Paulomi Doshi to NEAL			5000000
21.6.95	From NEAL to GFIL	5000000		
21.6.95	From GFIL to Bhavna Doshi		5000000	
22.6.95	From Bhavna Doshi to NEAL			5000000
23.6.95	From NEAL to GFIL	5000000		
23.6.95	From GFIL to Muktaben Doshi		5000000	
27.6.95	From Muktaben Doshi to NEAL			5000000
28.6.95	From NEAL to GFIL	2500000		
28.6.95	From GFIL to Kamlesh Doshi		2500000	
29.6.95	From Kamlesh Doshi to NEAL			2500000
4.7.95	From NEAL to GFIL	2500000		
4.7.95	From GFIL to Kamlesh Doshi		2500000	
5.7.95	From Kamlesh Doshi to NEAL			2500000
		29405000	29405000	30000000

From the above, I note that NEAL had credited amounts to GFIL on various dates and these amounts were then credited by GFIL to the respective applicants on the same day. Thereafter, the same amounts were credited to NEAL by the applicants. It is further noted that the amounts were transferred from NEAL to the applicants through GFIL after finalization of allotment on 27.5.95 i.e. after NEAL informed DCW that the stock invests were lost and advised them to submit cheques for the amounts. Further, as per details provided by NEAL only a sum of Rs.38,15,500/- has been collected on account of Call Money. This implies that only 7,63,100 shares out of

69,76,800 shares were fully paid up and the remaining were partly paid up. Thus, no consideration was actually received by NEAL for the shares allotted to the six applicants and that the amounts were circulated to and from the applicants to give an impression that the loss of stock invests of value Rs.300 lakhs had been fully made up and the issue had been subscribed. If the said applications are not taken into account, the issue would have been subscribed only to the extent of 14%.

3.1.6 In view of the above, I find that GFIL had connived with and abetted NEAL in extending funds to the 6 applicants in order to ensure a façade of minimum subscription being received for the issue and that the issue does not devolve.

3.2 Whether GFIL had indulged in or aided/abetted the manipulation of the price of the scrip of NEAL.

3.2.1 It is noted that none of the 6 applicants received delivery of shares. Shri Ketan Doshi, in his statement dated 24.2.98 stated that these applicants had given to Kalpesh Chawalla letters of authority executed in favour of GFIL to take delivery of the shares after making payment to NEAL and that the applicants and Shri Bhandari had signed transfer deeds which were then handed over to Shri Chawalla. Shri Chawalla in his statement stated that the shares were with GFIL who in turn gave these to NEAL. This was corroborated by delivery memos raised by Shri Chawalla in favour of GFIL. Details of the memos are as under:

Date of Delivery Memo	No. of shares	Delivered by	Name of Holder
5.7.95	70000	GFIL	Ketan Doshi
13.7.95	60000	GFIL	Ketan Doshi
28.9.95	5000	GFIL	Ketan Doshi
2.11.95	13000	GFIL	Ketan Doshi
25.1.96	42800	GFIL	Ketan Doshi
Total	190800		

3.2.2 M/s R & D Consultants Pvt. Limited (hereinafter referred to as "the RTA"), Registrars to Issue stated that certificates for the 60,00,000 shares allotted to the 6 applicants were delivered to Mr. Jayesh Thakkar of NEAL. RTA submitted photocopies of delivery challans for the shares delivered to Mr. Deepak, authorized person of NEAL on 22.6.95 and 23.6.95. From these challans, it is seen that 11,238 certificates were delivered to NEAL on 23.6.95 i.e. an aggregate of 60,000 share certificates for the 60,00,000 shares allotted to the 6 applicants were handed over to NEAL. Thus, it is clear that the share certificates were not delivered to the shareholders and were retained by NEAL and GFIL had connived with NEAL.

3.2.3 The RTA in their statement admitted that they delivered the shares of the said six applicants to NEAL. Therefore, all these 60,00,000 shares were lying with NEAL, the issuer only. This led to cornering of stocks leaving a floating stock of only 12.69%. The 6 lakh shares which were partly paid up delivered to NEAL were later on offloaded in the market by GFIL although allotment money in these shares continued to be in arrears. These partly paid up shares were sold in the market as fully paid up ones. I also note that GFIL acquired a large number of shares out of this low floating stock resulting in a squeeze in liquidity of the scrip and consequent rise in price. Once the prices were artificially raised in the manner mentioned above, GFIL off loaded their positions in the scrip. It is seen that GFIL had acted upon the directions of Shri D.K. Dalal, who was suspended as a member of Ahmedabad Stock Exchange and as a broker. Therefore, I find that GFIL has connived with D.K.Dalal and the promoters of NEAL in manipulating the price of the scrip.

3.2.4 In this regard, I also note that vide order dated 17.6.2003, NEAL and its directors have been prohibited from dealing in securities and directed to disassociate themselves from the capital market for a period of five years.

3.3 In this regard, I note that Regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 1995(hereinafter referred to as "the said regulations") provided that :

"Prohibition against Market Manipulation

4. No person shall –

- (a) effect, take part in, or enter into, either directly or indirectly, transactions in securities, with the intention of artificially raising or depressing the prices of securities and thereby inducing the sale or purchase of securities by any person ;
- (b) indulge in any act which is calculated to create a false or misleading appearance of trading on the securities market;
- (c) indulge in any act which results in reflection of prices of securities based on transactions that are not genuine trade transactions;
- (d) enter into a purchase or sale of any securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress, or cause fluctuations in the market price of securities ;
- (e) pay, offer or agree to pay or offer, directly or indirectly, to any person any money or money's worth for inducing another person to purchase or sell any security with the sole object of inflating, depressing, or causing fluctuations in the market price of securities.

3.4 I note further note that Regulation 5(1) of the said regulations provided that:

"Prohibition of misleading statements to induce sale or purchase of securities

5. (1) No person shall make any statement, or disseminate any information which-

- (a) is misleading in a material particular; and

(b) is likely to induce the sale or purchase of securities by any other person or is likely to have the effect of increasing or depressing the market price of securities, if he makes the statement or disseminates the information-

(i)

(ii) he knows, or ought reasonably to have known that the statement or information is misleading in any material particular."

3.5 I also note that Regulation 6 of the said regulations provided that:

"Prohibition on unfair trade practice relating to securities

6. No person shall –

(a) in the course of his business, knowingly engage in any act, or practice which would operate as a fraud upon any person in connection with the purchase or sale of, or any other dealing in, any securities

(b) on his own behalf or on behalf of any person, knowingly buy, sell or otherwise deal in securities, pending the execution of any order of his client relating to the same security for purchase, sale or other dealings in respect of securities.

Nothing contained in this clause shall apply where according to the clients instruction, the transaction for the client is to be effected only under specified conditions or in specified circumstances;

(c) Intentionally and in contravention of any law for the time being in force delays the transfer of securities in the name of the transferee or the dispatch of securities or connected documents to any transferee.

3.6 In view of the above, I find that GFIL has acted in violation of Regulations 4, 5(1) and 6 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995.

3.7 In this regard, I note that the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to securities market) Regulations, 2003 (hereinafter referred to as "2003 Regulations") which were notified on 17.7.2003, have replaced the 1995 regulations; however, Regulation 13 of the 2003 regulations provides that –

"13. Repeal and saving

(1) ...

(2) Notwithstanding repeal of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, any violation of regulations 3, 4, 5 and 6 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to securities market) Regulations, 1995 shall be investigated and proceeded against in accordance with the procedure laid down in these regulations.

(3) Notwithstanding repeal of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, any investigation pending, at the commencement of these regulations shall be continued and disposed of in accordance with the procedure laid down in these regulations.

Therefore, I proceed to issue directions under Regulation 11 of 2003 regulations.

4.0 In view of the above, it is necessary that appropriate directions be issued by SEBI in the interest of investors and the safety and security of the capital market. Therefore, in exercise of the powers conferred on me under Section 4(3) read with Section 11 and 11B of the SEBI Act and Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, I , hereby direct that M/s Galav Finance Limited and its directors namely Shri Navinbhai and Shri Jayesh Thakkar shall dissociate themselves from the capital market for a period of 5 years and that the aforesaid persons shall not deal in securities in any manner whatsoever for a period of 5 years.

This order shall come into effect immediately.

Date : September 5, 2003

Place: Mumbai

G.N. BAJPAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA