

THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

IN THE MATTER OF DIRECTIONS TO SHRI VINAY RAI UNDER SECTION 11 READ WITH SECTION 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992, REGULATION 11 OF THE SEBI (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003, REGULATION 11 OF THE SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 1992 AND SEBI (SUBSTANTIAL ACQUISITION OF SHARES AND UNDERTAKINGS) REGULATIONS, 1997,

CO/229/ISD/03/2004

1.0 A sudden spurt was observed in the share prices of Information technologies (India) Ltd (hereinafter referred to as "ITIL") during January and February, 2000. The price of the scrip rose from Rs.469.35 per share on 3.1.2000 to Rs.2023.05 on 22.2.2000 and trade volumes in the shares of ITIL from 80,200 shares on 3.1.2000 to 1,73,000 shares on 22.2.2000. NSE, where the scrip is listed, conducted an investigation on the trading of the shares on ITIL during the period 3.1.2000 to 26.4.2000 and submitted reports to SEBI. On the direction of SEBI, The Stock Exchange, Mumbai (BSE) also conducted an investigation and submitted report to SEBI.

1.1 The finding of the investigation by NSE included the following:

- (a) Common clients were observed to be trading through Lloyd Credits Ltd and Victory Financial Services Ltd and their trading accounted for 55% to 88% of the trading of the gross quantity traded in various settlements.
- (b) Several structured and cross deals involving large quantity of shares were observed for various settlements.
- (c) They suspected creation of artificial volumes and false market with an intention of manipulating the price of the scrip.

1.2 The findings of BSE included the following:

- (a) 81% of the net purchases were concentrated amongst four members and net sales were widely scattered.
- (b) The trades were done either by members or clients who were also members.
- (c) They recommended that transactions by the members on other exchanges may also be examined.

2.0 SEBI vide orders dated 21.5.2001 and 26.7.2001 directed that an investigation be conducted in the matter. The findings of the said investigation included the following:

- (a) The promoters and associated entities indulged in manipulation of the price of the scrip through artificial trades, falsely fabricating accounts of the company, artificially creating volumes and thereby violated sub-regulations (a) to (e) of Regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as “the FUTP Regulations”) and Regulation 4 of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as “the Insider Trading Regulations”).
- (b) ITIL aided and assisted the promoters of the company in the manipulation of price of the scrip by indulging in falsification of the books, accounts and records, thereby violating Regulation 6 (d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995.
- (c) The promoters and associated entities did not comply with the requirement of Regulation 11 (2) of the SEBI (Substantial Acquisition

of Shares and Takeover) Regulations 1997 (hereinafter referred to as “the Takeover Regulations”) while acquiring 24,15,532 shares of ITIL.

3.0 Based on the findings of the investigation, a show cause notice dated 28.6.2002 was issued to Shri Vinai Rai advising him to show cause why action under Regulation 44 and 45 (6) of the Takeover Regulations should not be taken against him. Subsequently, Show Cause Notice dated 4.9.2002 was issued to him to show cause why action in terms of Section 11B read with Regulation 11 of the FUTP Regulations should not be taken against him.

4.1 Following are the allegations contained in the show cause notice dated 4.9.2002 in respect of violation of the FUTP Regulations and the Insider Trading Regulations:

4.1.1 ITIL was a part of the Usha group of companies promoted by Shri Vinay Rai and family. The following three companies are the main promoter companies as reported by ITIL :

1. Pukhraj Holdings Pvt. Ltd.
2. RKKR Agencies Pvt. Ltd.
3. Utility Tradelinks Pvt. Ltd.

Shri Vinay Rai and Anil Rai were promoter directors of the company

4.1.2 ITIL came out with its initial Public Issue on 14.1.1993 for 25,00,000 shares of Rs.10/- each at a premium of Rs.30/- each. The issue was undersubscribed and devolved on the underwriters. Underwriters therefore subscribed for 3,64,600 shares and the balance was subscribed by the promoters. The promoters, directors, relatives and group companies were holding about 92%

of the post issue capital of the company. The Company changed its name from Usha Services and Consultants Ltd. to Information Technologies India Ltd in December, 1993.

4.1.3 In May, 1999, the company's balance sheet showed that reserves and surplus have increased 20 times from Rs.33.40 Crores to Rs.605.75 Crores. The amount that was accounted for by intangible assets by valuing the brand value and value of human resources was Rs.509.27 Crores. The same was nil during the previous accounting year. The company had also valued its brand and created Reserves to the extent of Rs.446 crores during the year 2000 and thereby manipulated the book value of the shares by Rs.65.

4.1.4 The total fictitious reserves created by the company accounts for Rs.509 crores in 1999 , Rs.904 crores in 2000 and Rs.426 crores in 2001 accounting for about 84% in 1999, 87% in 2000 and 76% in 2001 to the total reserves of the company. Because of these fictitious results, their book value per share had been manipulated upwards by Rs.74 in 1999, Rs.66/- in 2000 and Rs.32/- in 2001 out of the total book value of Rs.92/- in 1999, Rs.80/- in 2000 and Rs.45/- in 2001.

4.1.5 ITIL had accounted the Human Resources Value as an "Intangible Assets" in its books and simultaneously created reserves under 'Reserves & Surplus' to the extent of about Rs. 458 crores in the balance sheet of the company by which the book value of the company had increased by Rs.66 (Rs.10 paid up). Thus the management of the company resorted to accounting the brand value and human resources to artificially boost the net-worth per share by about Rs.130 per share during the year 1999 and

2000. This is a fictitious and bogus entry made in the books of the company in order to boost the net worth of the shares. Thus the balance sheet of the company did not give a true and fair view of the state of affairs of the company.

4.1.6 The distribution schedule of the Company dated the 7th January 2000 shows that the largest percentage of holding is in the 'other body corporate' category. The list of bodies corporate as given with the distribution schedule submitted by the company consists of 57 bodies corporate in all and revealed that almost all these bodies corporate were owned / controlled / managed either directly or indirectly by the promoters' group.

4.1.7 Thus, the promoters were holding directly or indirectly through their front companies to the extent of 92.41% of the company as on 07.01.2000. Thus all these companies were acting in concert. The general public were holding to the extent of only 5.11 % in January 2000 and which has further reduced to 1.39% in May 2000.

4.1.8 Besides the promoter companies the following 16 promoter group / associate companies which form part of the above mentioned promoter group / associate holdings had dealt in the shares of ITIL during the above period through the members of NSE, DSE and OTCEI.

1.	Sumac Iron & Steels Pvt. Ltd.
2.	New Age Commercial Pvt. Ltd.
3.	Ambika Ferro Alloys Pvt. Ltd.
4.	Vedant Steel Casings Pvt. Ltd.
5.	Deep Traders and Advances Pvt. Ltd.
06.	Eureka Machineries Pvt. Ltd.
7.	Arunoday Vinimay Pvt. Ltd.
8.	Anjali Flat Rolled Sheets Pvt. Ltd.

9.	Amit Share Trading Private Ltd.
10	Parvati Casting Pvt. Ltd.
11	KRP Consultants Pvt. Ltd.
12	Tauruas Portfolio Ltd.
13	Decent Dealers and Advances (P) Ltd.
14	Varren Financial Services (P) Ltd.
15	Classic Dealers and Advances (P) Ltd.
16	Aquarius Steels Pvt. Ltd.

4.1.9 The above companies were interconnected through common addresses / common directors / common introductions / common contact persons / common telephone numbers etc. within themselves and with the promoter group entities.

4.1.10 The share trading activities of the promoters' group were controlled from two secret offices at E-127 and E-58, Sarita Vihar, New Delhi. Which were owned / leased by Malvika Steels Ltd., a group company.

4.1.11 Many of these companies are appearing in the list of shareholders of the company under the head 'Corporate Bodies'. The above front companies of Usha Group which have traded in this scrip of ITIL such as Pukhraj Holdings Pvt Limited, Sumac Iron & Steel, Arunoday Vinimay Pvt. Ltd. etc. were operating from Usha Bhavan, A-41, Mohan Co-op. Estate, Mathura Road, New Delhi – 110 044 or their secret offices at Sarita Vihar, New Delhi. The employees of Usha Group namely Shri. P. K. Rao, Shri. V.K.Agarwal, Shri. R. P. Sharma etc. were the Directors of these front companies.

4.1.12 The common clients, who were the front companies of the Usha Group were trading through Lloyd Credits Ltd, Victory Financial

Services Ltd. and Bharat Bhushan Equity Traders Ltd., Bonanza Portfolio Ltd. and Alankit Assignments Ltd. Almost 90% of the trades of these brokers were on behalf of the front companies of the Usha Group. Lloyd Credits Ltd and Victory Financial Services Ltd. were trading to the extent of 55% to 88% in various settlements of the gross traded quantity at NSE. Several structured and synchronized deals were entered by these clients through the above members. Structured / synchronized deals involving a total of 23,73,500 shares were observed between the settlements at NSE. Most of the other members who traded in the scrip did not have concentration more than 5% each. These structured/synchronised trades were executed with a view to create artificial volumes in the scrip in the market and also with an intention of manipulating the price of the scrip.

4.1.13 The front companies of the promoters group had bought 24,15,532 shares aggregating to Rs.369.26 crores across BSE, NSE & OTCEI during the period September 1999 to September 2000 through the said members. They had also sold 23,73,610 shares aggregating to Rs.352.20 crores during the said period. In the process they have incurred a notional loss of Rs.17.00 crores. This was mainly incurred with a view to generate artificial volumes in the scrip and to manipulate the scrip.

4.1.14 The front companies of the promoter had dealt in the shares of ITIL through an OTCEI member viz. Bonanza Portfolio Ltd.

4.1.15 The promoters group had through Bharat Bhushan & Co. sold 1,20,000 shares to UTI on an “offer Sauda” basis on behalf of Eureka Machineries Pvt. Ltd. (33000 shares), KRP Consultants (30000 shares) and Sumac Iron & Steels Pvt. Ltd. (57000 share).

The shares were sold in the price range of Rs.290/- to Rs.395/- during October and December, 1999 for a total value of Rs.3.92 crores. The transactions were done off-market and Bharat Bhushan & Co. did not report the same to the Delhi Stock Exchange or any other exchange in violation of SEBI circular No. SMD/RCG/CIR/BKG/293/95 dated March 14, 1995.

4.1.16 At NSE, it was observed that on an average members viz. Lloyds Credits Ltd. Victory Financial Services Ltd., Bharat Bhushan Equity Traders Pvt. Ltd. and Alankit Assignments Ltd. accounted for 70 to 80 % of the trades in the scrip at NSE during the investigation period. Also, more than 90% of these trades are on behalf of the above front Companies of the Usha Group. The proportion of trading by public was very less as also the holding by the public was negligible at about 5% during the period.

4.1.17 The front companies of ITIL entered into a number of cross deals in the scrip with the same brokers. The cross deals by these front Companies of the promoters' group were frequent and accounted for 30 to 40 % of the members' gross turnover in the scrips at the exchanges during the said period.

4.1.18 On February 16, 2000 the maximum intra-day movement in the scrip price was noticed in NSE i.e. about 13% between the opening price and the highest price during the day and 8% increase in the closing price as compared to the closing price of the previous day. On that day the total number of shares traded were 130700. Out of this Llyods Credit Ltd. was involved as a buying or selling broker in trades of about 127433 shares of which trades relating to 118800 shares Llyod was both the buyer and the seller. All these trades were on behalf of Sumac Iron & Steels Pvt. Ltd. Between February

8, 2000 to February 21, 2000 in a span of about 10 trading days, there was more than 100% increase in closing prices and total number of shares traded (where both the buyer and seller was Llyods) were 870200 out of a total of 1298200 on behalf of sumac Iron & Steels Ltd. In this period on 9 days, the closing price was higher by 8% daily than the previous day's closing price. Also, Lloyds is involved as either a buyer or seller in the opening trade on most of the days during the period and has bought/sold or matched / synchronized trades on almost all days during the last half an hour of trading.

4.1.19 There were many instances of trades done by Lloyd and Victory at successively higher rates, as a result, influencing the market price significantly. On some days there was major jump in opening price of the scrip as compared to the previous days closing price by almost 8%. There were several closing and opening trades done by Lloyds Credit Ltd., and Victory Financial Services Ltd. on behalf of these front companies. Such trades were entered to influence the opening and closing price of the scrip.

4.1.20 Between 21st March to 27th March, 2000, several buy and sell orders were entered by the NSE member Victory Financial Services Ltd., on behalf of Pukhraj Holdings Pvt. Ltd., resulting in several self trades where both the buyer and the seller were the same entity i.e. Pukhraj Holdings Pvt. Ltd. and both the buy and sell orders were entered from the same terminal. The price of the scrip increased from Rs. 1819 to Rs. 2325 (by almost 28%) during the said period. Similar trades were noticed during the period March 21, 2000 to March 29, 2000. During this period the price moved from Rs. 1850(closing price Rs.1956.8) on March 21, 2000 to the highest of Rs. 2645 (closing price Rs. 2642.35)on March 29, 2000.

- 4.1.21 Several synchronized trades were noticed between Sumac Iron & Steels Ltd. as a seller and buyer through terminal no 8245 of Llyods Credits Ltd., during the period January 3, 2000, to February 22, 2000. During this period the price of the scrips traded moved from Rs. 469.35 on January 3 to Rs. 2049 on February 22, 2000. The highest price recorded on that day was Rs. 2089.5
- 4.1.22 There were many synchronised trades between Arunoday Vinimay as buyer and seller through the same terminal of Victory Financial Services Ltd., during the period February 23, 2000 to March 16, 2000. During this period the price at which the shares were traded from Rs. 2182 (closing price Rs. 2173.5) on Feb 23 to the highest of Rs. 2925 (closing price Rs. 2724.7) on March 9, 2000. The last trade on 16th March was done at Rs. 1950 (closing price Rs.1846.55). There were also synchronized trades by Ambika Ferro Alloys with itself and with Pukhraj which were done at rates starting from Rs. 2570/- on 29th March upto 2645 on March, 30 and maintaining at Rs. 2570 on March, 31, 2000. From March 31, upto April 25, 2000 there were many such trades by Parvati Castings in the range of Rs. 1600 to Rs. 2700.
- 4.1.23 Several buy and sell orders were synchronised/structured between Lloyd Credits Ltd. and Victory Financial Services Ltd. between January 7, 2000 and February 22, 2000. Lloyd traded on behalf of Sumac and Victory on behalf of Arunoday and others. Orders were entered by the two members for the same quantity at the same price within a gap of not more than 5 minutes.
- 4.1.24 Therefore, 40% of the trades done by the front entities of the Usha Group through the aforesaid members were deliberately

synchronized to create artificial volumes as also done frequently/often at successively higher prices in order to manipulate the price of the scrip.

4.1.25 Shri..V.K.Ahuja, Director of Victory Financial Services Ltd.had knowingly dealt on behalf of the front entities (Pukhraj Holdings & others) of the Usha Group of ITIL with a view to manipulate the prices of the scrip as well as in creating artificial volumes. Incidentally, it was observed that NSE had levied a fine of Rs.15.00 lacs on this member for these irregular dealings.

4.1.26 Bharat Bhushan & Co. had dealt in large quantities at NSE on behalf of the front entities of Usha Group. Also it had entered into off-market deals for the sale of 120000 shares by the front entities of the promoter group to UTI. These transactions were not reported by Bharat Bhushan & Co. to any Exchanges.

4.2.1 ITIL had announced the following corporate developments which were of price sensitive nature during the investigation period. The company declared a stock split in the ratio of 2:1 from Rs. 10/- paid up to Rs. 5/- paid up w.e.f. May 19, 2000. The first information relating to this matter being considered by the board was informed to the Exchanges on February 18, 2000 vide letter of the company dated February 16, 2000. The Board of Directors of the company decided on the stock split ratio of 2:1 in their meeting on March 6, 2000.

4.2.2 The company also reported substantial improvement in the annual results for the year ending May 2000 as compared to the previous year. These results were published in June 2000, prior to which they were 'unpublished price sensitive information'. The quarterly

results for the quarter ended August 1999 showed a decline in profits as compared to the previous quarter that ended on May 1999. However from the quarter ended October 1999 onwards, the company's sales and profits substantially increased higher as compared to the earlier quarters.

- 4.2.3 The promoters group and management of the company were in possession of these price sensitive information before dissemination to the public/Stock Exchanges.
- 4.2.4 The front companies of the promoters group who are the insiders were found to have traded in the scrip prior to the public dissemination of the above information.
- 4.2.5 During the period of one month i.e January 16, 2000 to February 17, 2001 prior to dissemination of the information on stock split to the public, the promoters group had purchased 7,27,200 number of shares and sold 8,39,300 number of shares through the brokers Lloyds Credits Ltd, Victory Financial Services Ltd, and Bonanza Portfolio Ltd, Bharat Bhushan Equity Traders Pvt. Ltd., and Alankit Assignments Ltd. at NSE and OTC.
- 4.2.6 The promoters group had been continuously trading in the scrip during the period September, 1999 to May 2000 in substantial quantity. In the process the promoters' group had indulged in trading in the shares by taking advantage of their intentions and the financial results before its reporting.
- 4.2.7 Some of the directors/employees of these front companies of Usha Group also traded on their own account through these very members viz., Mr. P. K. Rao, Director of Sumac Iron & Steel Pvt.

Ltd., Arunoday Vinimay Pvt. Ltd.. Mr. V. K. Agarwal, Director of Amit Share Trading etc. Mr. Satish Garg, Manager – Accounts of Pukhraj Holdings Pvt. Ltd. had bought the shares of the company.

4.2.8 The entity who traded had just acted on the instructions of Shri. V P Gupta, cousin of Shri. Vinay Rai. This clearly indicates that the company's promoters had timed these price sensitive announcements to coincide with its trading activity in order to manipulate the price of the scrip and also to indulge in insider trading.

4.3.1 Following are the benefits that were derived by the company / promoters group from the manipulation in the scrip:

4.3.1.1 The investigation revealed that the promoters group had pledged lot of their holdings of ITIL with various institutions/banks/creditors etc. for availing benefits such as loans/advances/suppliers credit etc.

4.3.1.2 It was found that two of the promoter companies of ITIL namely, Utility Trade Links Pvt. Ltd. and RKKR Agencies Pvt. Ltd. have pledged 1,78,66,320 shares and 70,65,000 shares respectively to various Financial Institutions and corporates and had availed large benefits during September 2000. A total of. 2,46,80,420 shares were found to have been pledged by the promoter group. These shares were found to have been pledged and benefits were availed mostly during September-October, 2000 and the price of the share were considered in the range of Rs.415/- to Rs.600/- per share (ex-split value) and Rs.830/- to Rs.1200/- on cum split basis. It was also observed that the institutions/banks had considered a

margin of about 50% (approx.Rs.400.00 crores) while sanctioning the loan of about Rs.410.00 crores to the promoters group resulting in a total value of over Rs.800.00 crores towards the value of the shares. It is noticed that they have defaulted in payment of all these loans. In addition to the above it is strongly suspected that the promoters group would have pledged more shares and would have availed additional loans. These details are not currently available with us.

4.3.1.3 A large number of preferential allotments of equity shares have been made by ITIL to different Institutions/other corporates at increasingly higher rates during the period of investigation. The total preferential allotments have been made to the extent of 9,35,810 shares in the issue price range of Rs 300/- to Rs.2135/- per share (cum-split). for a total value of Rs. 38,33,16,895. In fact the share price had moved up from Rs.460/- on 03.01.2000 to Rs.2940/- on 09.03.2000. Many of the private placement have been made by the company near the peak prices by taking advantage of the rapid increase in the price of the scrip.

4.3.1.4 The promoters group had sold about 6,65,000 shares through OTCEI during January 2000. In addition to the above, the promoters group had through Bharat Bhushan & Co. sold 1,20,000 shares to UTI on an “offer Sauda” basis on behalf of Eureka Machinerics Pvt. Ltd. (33000 shares), KRP Consultants (30000 shares) and Sumac Iron & Steels Pvt. Ltd. (57000 share). The shares were sold in the price range of Rs.290/- to Rs.395/- during October and December, 1999 for a total value of Rs.3.92 crores. The transactions were done off-market and

Bharat Bhushan & Co. had issued a contract note as a DSE broker but he did not report the same to the Delhi Stock Exchange or any other Exchange. Thus the promoters group had sold a total of 7,85,000 shares for a total value of Rs.45.19 crores.

4.3.1.5 The front companies of the promoters group had bought 24,15,532 shares aggregating to Rs.369.26 crores across BSE, NSE & OTCEI during the period September 1999 to September 2000. They had also sold 23,73,610 shares aggregating to Rs.352.20 crores during the said period through the above five members viz. Lloyds Credits Ltd, Victory Financial Services Ltd, Bharat Bhushan Equity Traders Ltd, Bonanza portfolio Ltd and Alankit Assignments Ltd. In the process they had incurred a notional loss of Rs.17.00 crores.

4.3.1.6 A total benefit of more than Rs.476.00 crores have been derived by the promoters group by taking advantage of the rapid increase in the price through price manipulation in the scrip. Besides the market capitalisation of the company had increased from Rs.1215.00 crores as on 31.03.1999 to Rs.18058.00 crores as on 31.03.2000, an increase of about 1500%.

4.3 It was therefore alleged that ITIL and promoters' group along with their front entities as mentioned above, prima facie, violated Regulation 4(a), (b), (c), (d), and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and Regulation 4 of SEBI (Insider Trading) Regulations, 1992. ITIL aided and assisted the promoters of the company in the above manipulation by indulging in falsification of books, accounts and records and thereby violated Regulation 6(d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market), Regulations 1995.

4.4 In view of the above, Shri Vinay Rai, promoter of ITIL was called upon to show cause as to why action in terms of Section 11 read with 11B of the SEBI Act and Regulation 11 of the FUTP Regulations and Regulation 9 of the Insider Trading Regulations, which may include prohibiting him from accessing the capital market should not be taken against him.

5.1 Following are the allegations contained in the show cause notice dated 28.6.2002 in respect of violation of the Takeover Regulations:

5.1.1 The shareholding of Shri Vinay Rai, other promoters and associates after the IPO in 1993 was around 92.41%. A scrutiny of the distribution schedule as on 7.1.2000 and the list of shareholders submitted by ITIL to the stock exchanges and to SEBI indicated that almost the entire holding in the category of "other body corporates" of 87.85% were owned by companies directly or indirectly connected with the promoter's group and the promoter directors. Of the above, the shareholding of the promoter companies was around 47%. Thus, the promoters and their associates held 92.41% shareholding in ITIL.

5.1.2 The promoters and associates had acquired 24,15,532 shares of ITIL during the period September, 1999 to September, 2000. The shares were acquired without making a public announcement as required under the provisions of the Takeover Regulations

5.1.3 It was therefore alleged that promoters and associates had acquired 24,15,532 shares in ITIL without making public announcement as required under Regulation 11 (2) of the Takeover Regulations and in view of the above, Shri Vinay Rai was advised

to show cause why action in terms of Section 11 read with 11B of the SEBI Act and Regulation 44 and 45 (6) of the Takeover Regulations should not be taken against him.

6.1 Shri Vinay Rai, in his letters dated 10.7.2002, 18.9.2002 and 14.4.2003 replied to the said show cause notices as under:

6.1.1 He stated that only three body corporates form part of promoters group and these are:

- i. Pukhraj Holdings Pvt. Ltd.
- ii. RKKR Agencies Pvt. Ltd.
- iii. Utility Tradelinks Pvt. Ltd

and that the total holding of the promoters along with the above bodies corporate as on 31.5.2002 works out to 44.24%.

6.1.2 He clarified that there has been no purchase transactions among the promoters group and that there has been no significant change in the holdings of the promoter group.

6.1.3 He stated that the price rise during the period SEBI has referred to has been there in all IT Scripts including Wipro, Infosys, Satyam and NIIT. There is no reason for ITIL to be singled out.

6.1.4 He stated that the fact that the Public Issue by ITIL on 14.1.1993 devolved on the underwriters does not mean that he took the devolved portion.

6.1.5 He contended that the fact of the company having valued its intangible assets in terms of human resources was fully stated in

books of account and approved by auditors. He further contended that most of the companies including Wipro and Infosys also valued their intangible assets but chose to show it separately and not to put it in their balance sheets. He stated that this could not be treated as fictitious and dubious reserve when it had been done by full declarations and disclosures. He stated that SEBI was not competent to decide on whether the Balance Sheet gives a true and fair view of the state of affairs of the company.

- 6.1.6 He stated that the facts and evidence as given by SEBI would not substantiate the contention of SEBI that “the other corporate body” belongs to the group. He contended that there was no merit in the statement that the trading activity of the promoters and group was controlled by two secret offices.
- 6.1.7 The statement of SEBI that S K Gupta was known to him and was related to him as a cousin was not correct. Further, it is not clear how S K Gupta is connected to any of the companies listed by SEBI in its report.
- 6.1.8 The company has not derived any benefits from the so-called price hike. Most of the shares were pledged during period 1995-97 well before the so-called price hike. The allegation that M/s Utility Trade Links and RKKR Agencies Pvt Ltd pledged 1,78,66,320 shares and 70,65,000 shares respectively to various financial institutions and corporates in September 2000 to get a loan of Rs. 410 Crores, is false.
- 6.1.9 In respect of the allegation regarding preferential allotment, it was UTI who requested for conversion of their loan to equity and majority of the shares were allotted to UTI at a price of Rs.290/-

pre-bonus of 1:1 thus coming to a price range of Rs.145/- per share.

6.1.10 They are unable to comment on the allegation of buying and selling in shares

6.2 Shri Vinay Rai had requested that a common hearing may be held in respect of the allegations in both show cause notices may be held simultaneously. Accordingly, a common hearing was granted to Shri Vinay Rai on 16.9.2002 and 9.4.2003. In the course of hearing and through his written submissions dated 10.7.2002, 18.9.2002 and 14.4.2003, Shri Vinay Rai made the following submissions:

6.2.1 The entire inferences by SEBI were based on the raid by Income Tax Department which took place on 2001. Even after two years, the income tax department has not filed any case and is still investigating. He and the parent company of ITIL viz. Usha (India) Ltd have approached the Settlement Commission, which has admitted their case.

6.2.2 SEBI is acting in an arbitrary manner and the allegations are made without proof. He stated that no S K Gupta or V P Gupta was his cousin and there are no links with any secret offices.

6.2.3 Loans of Rs.476 crores against ITIL shares is false.

6.2.3.1 One Bank Guarantee of Rs.40.00 crores was taken from IFCI in 1995 and one of the shares pledged was that of ITIL. The Bank guarantee was issued in favour of Department of Telecommunications (DoT) on behalf of Koshika Telecom

(one of the group companies) for payment of licence fee and the same was encashed in 1997.

6.2.3.2 A loan of Rs.140 crores was sanctioned by IDBI to Koshika Telecom in 2000 for payment of licence dues to DoT against pledge of 100% shares of ITIL. IDBI later took rights from the promoters. An amount of Rs.100 crores was disbursed by IDBI to DoT.

6.2.4 With regard to the allegation of allotting shares on preferential basis, it was UTI who requested the company to convert their loan into equity. Majority of the shares were allotted to UTI at a price of rs.290/- pre bonus in the ration of 1:1. Besides the above, allotment was done to GIC at a price of Rs.300/- and to a private investor who was a friend of his. The other notional placement of shares is wrong.

6.2.4.1 There has been no gain to the promoters as alleged and also on their personal behalf.

6.2.4.2 The allegation that the Sensex moved differently as compared to other IT scrips is not correct since varying periods were taken into account whereas a fixed period should have been taken for investigation.

7.0 I have considered the Investigation report, Show Cause Notices dated 28.6.2002 and 4.9.2002, the reply of M/s RKKR Agencies Ltd dated 18.9.2002, oral submissions made by Shri Vinay Rai during the hearing and written submissions dated 14.4.2003 and other material on record. The following issues arise for consideration:

7.1 Whether Shri Vinay Rai, as promoter director of ITIL indulged in manipulation of the price of the scrip through artificial trades, falsely fabricating accounts of the company, artificially creating volumes and thereby violated sub-regulations (a) to (e) of Regulation 4 of the FUTP Regulations

7.1.1 I note from the investigation report that the price of the scrip of ITIL increased by 660% between 1.10.1999 and 31.3.2001, whereas the S&P Computer Software Index had increased only by 122% during the same period. I also note that after March 15, 2001, the price of the scrip was moving upwards whereas the index was moving downwards. Thus I find that there was an abnormal rise in the price of the scrip during the period 3.1.2000 to 6.6.2000.

7.1.2 I also observe that during the said period, trading in the scrip on NSE was concentrated among 2 brokers – Lloyds Credit Ltd (hereinafter referred to as “Lloyd”) and Victory Financial Services Ltd (hereinafter referred to as “Victory”). These brokers along with M/s Bharat Bhushan Equity Traders Pvt. Ltd, Alankit Assignments Ltd and Bonanza portfolio Ltd had bought large quantities of the scrip amounting to more than 75% of the gross purchases and 78% of the net purchases on NSE. I also note that the gross sales were concentrated among Lloyd and Victory to the extent of 65.41%.

7.1.3 I note that there were many instances of trade done by Lloyd and Victory at successively higher rates, as a result, influencing the market price of the scrip significantly. For example, on 24.1.2002, Lloyd and Victory traded

successively at higher rates which resulted in an increase in the price of the scrip by Rs.50.00 within one minute.

7.1.4 I also note that the common clients of Lloyd, Victory, and Bharat Bhushan were – 1) Pukhraj Holdings Pvt. Ltd, 2) Sumac Iron & Steels Pvt. Ltd, 3) New Age Commercial Pvt. Ltd, 4) Ambika Ferro Alloys Pvt. Ltd, 5) Vedant Steel Casings Pvt. Ltd, 6) Deep Traders and Advances Pvt. Ltd, 7) Eureka Machineries Pvt. Ltd; 8) Arunoday Vinimay Pvt. Ltd; 9) Anjali Flat Rolled Sheets Pvt. Ltd; 10) Amit Share Trading Private Ltd; 11) Parvati Casting Pvt. Ltd; 12) KRP Consultants Pvt. Ltd; 13) Taurus Portfolio Ltd; 14) Decent Dealers and Advances Pvt. Ltd; 15) Varren Financial Services (P) Ltd; 16) Classic Dealers and Advances (P) Ltd and 17) Aquarius Steels Pvt. Ltd. These are the front entities which were not only inter-connected with each other, but were also connected to ITIL and were controlled by Vinay Rai. Therefore, I find that Shri Vinay Rai has dealt through Victory, Lloyd, M/s Bharat Bhushan Equity Traders Pvt. Ltd, Alankit Assignments Ltd and Bonanza portfolio Ltd.

7.1.5 The front entities had bought 24,15,532 shares of ITIL aggregating to Rs.369.26 crores across BSE, NSE & OTCEI and sold 23,73,610 shares aggregating to Rs.352.20 crores during the period September 1999 to September 2000.

7.1.6 It was also observed that several structured and synchronized deals were entered into by Lloyd and Victory between 7.1.2000 and 22.2.2000. The details of these Cross / Structured /synchronized deals are as under:

Sett. no.	Structured deals between the TMs (A)	Gross traded qty by the TMs (B)	Gross traded qty in the market (C)	% of structured deals to both TMs gross (A) / (B)*100	% of structured deals to market gross (A) / (C)*100
2000001	500	285000	408600	0.18	0.12
2000002	1600	830700	1488000	0.19	0.11
2000003	200	684000	904000	0.03	0.02
2000004	1000	639300	816000	0.16	0.12
2000006	22400	767000	960200	2.92	2.33
2000007	2100	1166200	1381000	0.18	0.15
2000008	11200	1107400	1248800	1.01	0.90

Sett. no.	Total Cross Deals done by Victory Financial Services Ltd.	Gross traded Qty of Victory Financial Services Ltd.	Gross traded Qty in the Market	% of Cross deals of Victory Financial Services Ltd. to its gross traded qty.	% of Cross deals of Victory Financial Services Ltd. to the gross traded qty of the Market
2000004	200	14900	816000	1.34	0.02
2000006	54600	140300	960200	38.92	5.69
2000007	39500	102300	1381000	38.61	2.86
2000008	33900	81700	1248800	41.49	2.71
2000009	150100	381700	535000	39.32	28.06
2000010	166300	441200	693200	37.69	23.99
2000011	119000	274300	383400	43.38	31.04
2000012	43700	104700	145800	41.74	29.97
2000013	138400	304600	372600	45.44	37.14
2000014	46600	120300	204800	38.74	22.75
2000015	70000	165100	216400	42.40	32.35
2000016	79100	175900	212000	44.97	37.31
2000017	291700	638400	746600	45.69	39.07
TOTAL	1233100	2945400	7915800	499.73	292.96

Sett. no.	Cross deals done by Sumac through Lloyd Credits Ltd.	Total cross deals done by Lloyd Credits Ltd.	Gross traded qty by Lloyd Credits Ltd.	% of cross deals of Sumac to cross deals of Lloyd Credits Ltd.	% of Sumac cross deals to gross traded qty of Lloyd Credits Ltd.
2000001	74500	90500	284200	82.32	26.21
2000002	193000	217700	827000	88.65	23.34
2000003	257100	273400	683200	94.04	37.63
2000004	263400	265600	624400	99.17	42.18
2000005	199200	200800	483000	99.20	41.24
2000006	220400	241200	626700	91.38	35.17
2000007	436100	452300	1063900	96.42	40.99
2000008	455600	464800	1025700	98.02	44.42

Sett. no.	Cross deals done by the TM	Gross traded qty by the TM	Gross traded qty in the market	% of cross deals to TMs Gross	% of cross deals to market gross
2000001	90500	284200	408600	31.84	22.15
2000002	217700	827000	1488000	26.32	14.63
2000003	273400	683200	904000	40.02	30.24
2000004	265600	624400	816000	42.54	32.55
2000005	200800	483000	651200	41.57	30.84
2000006	241200	626700	960200	38.49	25.12
2000007	452300	1063900	1381000	42.51	32.75
2000008	464800	1025700	1248800	45.32	37.22

It is observed that these deals were done by the brokers on behalf of the front entities. Details of some of the cross deals are as under:-

7.1.6.1 It was observed from the trading details that between 21st March to 27th March, 2000, several buy and sell orders were entered by the NSE member Victory Financial Services Ltd., on behalf of Pukhraj Holdings Pvt. Ltd., resulting in several self trades where both the buyer and the seller were the same entity i.e. Pukhraj Holdings Pvt. Ltd. and both the buy and sell orders were entered from the same terminal. The price of the scrip increased from Rs. 1819 to Rs. 2325 (by almost 28%) during the said period. Similar trades were noticed during the period March 21, 2000 to March 29, 2000. During the course of this period the price moved from Rs. 1850(closing price Rs.1956.8) on March 21, 2000 to the highest of Rs. 2645 (closing price Rs. 2642.35)on March 29, 2000.

7.1.6.2 Several synchronized trades were noticed between Sumac Iron & Steels Ltd. (client code-V)

as a seller and buyer through terminal no 8245 of Llyods Credits Ltd., during the period January 3, 2000, to February 22, 2000. During the course of this period the price at which the shares were traded moved from Rs. 469.35 on January 3 to Rs. 2049 on February 22, 2000. The highest price recorded on that day was Rs. 2089.5/-

7.1.6.3 There were also many synchronised trades between Arunoday Vinimay (client code-A-91) as a seller and buyer through the same terminal of Victory Financial Services Ltd., during the period February 23, 2000 to March 16, 2000. During the course of this period the price at which the shares were traded from Rs. 2182 (closing price Rs. 2173.5) on Feb 23 to the highest of Rs. 2925 (closing price Rs. 2724.7) on March 9, 2000. The last trade on 16th March was done at Rs. 1950 (closing price Rs.1846.55).

7.1.6.4 There were also synchronized trades by Ambika Ferro Alloys with itself and with Pukhraj which were done at rates starting from Rs. 2570/- on 29th March upto 2645 on March, 30 and maintaining at Rs. 2570 on March, 31, 2000. From March 31, upto April 25, 2000 there were many such trades by Parvati Castings in the range of Rs. 1600 to Rs. 2700.

7.1.7 I observe from the above that about 40% of the trades done by the front entities were deliberately synchronized to create artificial volumes as also done frequently/often at successively higher prices in order to manipulate the price of

the scrip. In this regard, Shri Vinay Rai, in his reply dated 18.9.2002 had submitted that he is unable to comment on the allegation of buying and selling in shares. Further, in his submissions has stated that the allegation that the sensex moved differently as compared to other IT scrips is not correct since varying period of time were taken into account. I find that the reply of Shri Vinay Rai and thereby of M/s RKKR Agencies Ltd is unsatisfactory. The movement of the S&P Computer Software Index and movement of prices of the scrip of ITIL have been compared for the same period namely between 1.10.1999 and 31.3.2001. No specific rebuttal of the charges of indulging in cross/structured/synchronised deals has been made by Shri Vinay Rai and hence it is presumed that he is admitting the same.

7.1.8 I also note that in May, 1999 ITIL's balance sheet showed that reserves and surplus have increased 20 times from Rs. 33.40 crores to Rs. 605.75 crores out of which Rs.509.27 crores was accounted for mainly by intangible assets such as Human Resources and Brand value. In this regard, I note that the operational and financial analysis of the company for the years 1999, 2000 and 2001 indicated a negligible export income although it was a software company. On the other hand, the analysis showed very high income per employee of Rs.0.25 crores for the year 1999, Rs.0.26 crores for the year 2000 and Rs.0.79 crores for the year 2001. It is observed that even in the case of other companies which are in the same industry such as Infosys, Wipro etc; the income per employee was only about Rs.0.12 crores and Rs.0.14 crores during the year 1999 and 2000. The average

employee cost for ITIL was Rs.0.80, Rs.0.92 and Rs.0.51 lacs in the years 1999, 2000 and 2001. This appears to be only one fourth of the employee cost of other companies such as Infosys, Wipro which are in the same industry.

7.1.9 ITIL had accounted the Human Resources Value as an “Intangible Assets” in its books and simultaneously created reserves under ‘Reserves & Surplus’ to the extent of about Rs. 458 crores in the balance sheet of the company by which the book value of the company had increased by Rs.66.

7.1.10 Similarly, ITIL had valued its brand and created Reserves to the extent of Rs.446 crores during the year 2000. As mentioned above, there was negligible export income. Thus, the ‘brand’ considered for valuation did not actually reflect any genuine business or product or services. Therefore, the valuation of the brand itself appears to be dubious and fictitious.

7.1.11 I note that the total fictitious reserves created by the company accounted for Rs.509 crores in 1999, Rs.904 crores in 2000 and Rs.426 crores in 2001 accounting for about 84% in 1999, 87% in 2000 and 76% in 2001 of the total reserves of the company. Because of these fictitious results, the book value of the share had been manipulated upwards by Rs.74 in 1999, Rs.66 in 2000 and Rs.32 in 2001 out of the total book value of Rs.92 in 1999, Rs.80 in 2000 and Rs.45 in 2001.

7.1.12 Thus the management of the company resorted to accounting the brand value and human resources thereby artificially boosting the net worth per share by about Rs.130 per share during the year 1999 and 2000. This is a fictitious entry made in the books of the company in order to boost the net worth of the shares. Further it reveals that the operational performance of the company was window dressed substantially to project a rosy picture about the performance of the company and with a manipulative intent to misguide the shareholders and public investors.

7.1.13 In his reply, Shri Vinay Rai has stated that SEBI is not competent to decide on whether the Balance sheet gives a fair and true view of the state of affairs of the company. While that may be so, I find that Shri Vinay Rai has not made any submissions regarding the allegation that the valuation of the Brand and of Human Resources had enabled ITIL to present a rosy picture regarding its performance whereas the performance of the company in reality was not good.

7.1.14 I note that a large number of preferential allotments of equity shares have been made by ITIL to different Institutions/other corporates at increasingly higher rates during the period under investigation. The details are given below.

Details of Preferential Allotments made by the Company during the period October 1, 1999 to July 31, 2000							
Sr. No.	Date of resolution	Date of Allotment	Name of Allottee	No. of shares	Price (Rs)*	Value(Rs)	Purpose
1	30.04.99	01.05.99	U.T.I	683,415	323	220,743,045	Conversion of NCDs with UTI
2	09.10.99	07.01.99	G.I.C.	200,000	300	60,000,000	Technological Diversification

3	06.04.2000	03.05.2000 /16.05.2000	G.I.C.	25,000	2135	53,375,000	Technological Diversification
4	06.04.2000	05.05.2000 /16.05.2000	G.I.C.Asset Mgmt. Co.	9,000	2135	19,215,000	Technological Diversification
5	31.07.2000	28.08.2000	Arush Exports Pvt. Ltd.	13,615	1630	22,192,450	Technological Diversification
6	31.07.2000	28.08.2000	Atlas Television Pvt. Ltd.	3,435	1630	5,599,050	Technological Diversification
7	31.07.2000	28.08.2000	Atlas Flora Pvt. Ltd.	1,345	1630	2,192,350	Technological Diversification
	Total			935,810		383,316,895	
Note : * @ Rs. 10/- per share face value							

7.1.15 I note that the total preferential allotments have been made to the extent of 9,35,810 shares in the issue price range of Rs300/- to Rs.2135/- per share (cum-split) for a total value of Rs. 38,33,16,895. In fact the share price had moved up from Rs.460/- on 03.01.2000 to Rs.2940/- on 09.03.2000. Many of the private placements have been made by the company near the peak prices by taking advantage of the rapid increase in the price of the scrip. In his reply, Shri Vinay Rai has submitted that it was UTI which requested for the conversion of their loan to equity. In respect of allotment to GIC, Shri Rai has submitted that the allotment was done at a price of Rs.300/-. While it is true that allotment to GIC and LIC was made in January and May 1999 at Rs.323/- and 300/- respectively, allotments to GIC, GIC Asset Management Co, Arush Exports Pvt. Ltd, Atlas television Pvt. Ltd and Atlas Flora Pvt. Ltd were made @ Rs.2135/- and Rs.1630/- . I note that the allotment at higher prices was made during the period 6.4.2000 to 31.7.2000, during which period, the price of the scrip had risen abnormally.

7.1.16 The promoters group had sold about 6,65,000 shares through OTC during January 2000. The details of the sales are given below.

Seller	Date	Quantity	Rate	Value (cr)
Sumac Iron & Steel	6/1/2000	50000	524	2.62
	7/1/2000	50000	560	2.80
Ambika Ferro Alloys Ltd.	14/1/2000	50000	626	3.13
	17/1/2000	50000	620	3.10
	18/1/2000	50000	610	3.05
	19/1/2000	50000	630	3.15
	20/1/2000	50000	610	3.05
	24/1/2000	50000	640	3.20
	27/6/2000	5000	715	0.35
Arunoday Vinimay Pvt. Ltd.	10/1/2000	50000	570	2.85
	11/1/2000	50000	590	2.95
	12/1/2000	50000	610	3.05
	25/1/2000	50000	670	3.35
	27/1/2000	50000	723.5	3.62
Pukhraj Holding Pvt. Ltd.	21/6/2000	10000	890	0.89
TOTAL		665000		41.26

7.1.17 In addition to the above, the promoters group had through Bharat Bhushan & Co. sold 1,20,000 shares to UTI on an “offer Suda” basis on behalf of Eureka Machineries Pvt. Ltd. (33000 shares), KRP Consultants (30000 shares) and Sumac Iron & Steels Pvt. Ltd. (57000 share). The shares were sold in the price range of Rs.290/- to Rs.395/- during October and December, 1999 for a total value of Rs.3.92 crores. The transactions were done off-market and Bharat Bhushan & Co. had issued a contract note as a DSE broker but he did not reported the same to the Delhi Stock Exchange or any other Exchange. Thus the promoters group had sold a total of 7,85,000 shares for a total value of Rs.45.19 crores. The shares of ITIL were not regularly traded at OTCEI. However, it was found that the shares were traded only in few settlements in January 2000 wherein

Bonanza Portfolios Ltd. dealt in the scrip to the extent of 99% on behalf of UTI as the buyer and the promoter group as the seller. It was stated by S P Goel, director of Bonanza Portfolios Ltd. that it received the purchase orders in the scrip from UTI for purchasing at OTCEI. It was also mentioned that Shri V K Aggarwal, a director of Bonanza Portfolios Ltd. was approached by R P Sharma, a director of Sumac Iron & Steel and also a director on other front companies of Usha Group for selling the shares of ITIL on behalf of the above said clients.

7.1.18 From the above, I note that the promoters group had an understanding with UTI and had sold 665000 shares for a total consideration of Rs.41.26 crores during the period of price rise in the scrip thus benefiting from the manipulative practices that they had indulged in.

7.1.19 I also note that the promoters group had pledged shares of ITIL with various institutions/banks/creditors etc. for availing benefits such as loans/advances/suppliers credit etc. The details of shares pledged and benefits availed by the company/promoters group observed during investigations are given below.

Pledgor/ Promoter company	No. of shares pledged	Value considered (at Rs.10/- face value)	Pledge in favour of	Purpose of pledge	Amt. Of Benefit / loan sanctioned (Rs. crores)	Amt. Disbursed	Date of Pledge	Date of disbursement
Utility Trade Links Pvt. Ltd.	3,200,000	N.A.	IFCI Ltd.	Usha Ispat Corp. loan	15.00	N.A.	31.03.97	N.A.

RKKR Agencies Pvt. Ltd.	2,265,000	415.00 (Rs.5/- paid up)	IFCI Ltd.	Koshika Telecom Bank Guarantee	131.08	131.08	21.09.2000 (revalued and extended)	27.08.97 to 04.05.2001
					33.00	18.4	30.09.2000 (revalued and extended)	31.10.2000
RKKR Agencies Pvt. Ltd.	4,800,000	N.A.	IFCI Ltd.	Vetro Tech Interim Security*	19.00	N.A.	15.10.96	N.A.
Utility Trade Links Pvt. Ltd.	4,905,000	570.90 (Rs.5/- paid up)	IDBI	Koshika Telecom Loan	140.00	100.00	06.09.2000	09.09.2000
Utility Trade Links Pvt. Ltd.	9,000,420	600..00 (Rs.5/- paid up)	Alcatel	Koshika Telecom Suppliers Credit	70.00	70.00	07.09.2000	Towards outstanding dues
Utility Trade Links Pvt. Ltd.	250,000	200.00 (Rs.10/- paid up)	Punjab & Sind Bank	ITIL Bank Guarantee	2.00	2.00	29.12.99	29.12.99
Utility Trade Links Pvt. Ltd.	160,000	N.A.	Economic Development Corp.	ITIL Loan	N.A.	N.A.	N.A.	N.A.
	100,000	N.A.	- do -	Burr Brown Loan	N.A.	N.A.	N.A.	N.A.
Total	24,680,420				410.08			
Note * : Rate of conversion of Rs. 60 has been taken for loan in pound Sterling.								

7.1.20 I note that two of the promoter companies of ITIL namely, Utility Trade Links Pvt. Ltd. and RKKR Agencies Pvt. Ltd. have pledged 1,78,66,320 shares and 70,65,000 shares respectively to various Financial Institutions and corporates and had availed large benefits during September 2000. A total of. 2,46,80,420 shares were found to have been pledged by the promoter group. These shares were found to have been pledged and benefits were availed mostly during September-October, 2000 when the price of the share were

considered in the range of Rs.415/- to Rs.600/- per share (ex-split value) and Rs.830/- to Rs.1200/- on cum split basis. It was also observed that the institutions/banks had considered a margin of about 50% (approx.Rs.400.00 crores) while sanctioning the loan of about Rs.410.00 crores to the promoters group resulting in a total value of over Rs.800.00 crores towards the value of the shares. I also note that the promoter group has defaulted in payment of all these loans. I note that the promoters including Shri Vinay Rai has by pledging the shares with Banks and Financial Institutions during the rise in price of the scrip (which rise they had engineered), derived benefits in the form of Bank Credit which they have subsequently failed to repay. In his reply, Shri Rai has not disputed the fact of the loans, in fact he has admitted that a loan of Rs.140 Crores was sanctioned to a group company – Koshika Telecom in 2000 and that an amount of Rs.100 Crore was disbursed. Thus I note that the promoters group has enjoyed benefits from the price rise in the scrip of ITIL, which artificial rise they had manipulated.

7.1.21 It was noticed from the bank statements of Sumac Iron & Steels Pvt. Ltd. and Arunodaya Vinimay Pvt. Ltd. that there were frequent transfer of funds to other front companies of the promoters group. A few such instances are given below :

7.1.21.1 On February 3, 2000 there was a payment of Rs. 20,00,000 by Sumac Iron & Steels Pvt. Ltd.in favour of K. R. P. Consultant Pvt. Ltd.

- 7.1.21.2 On March 23, 2000 there was a debit (Cheque issued) of Rs. 30,00,000 in the bank statement of Arunoday Vinimay Pvt. Ltd. in favour of Ambika Steels
- 7.1.21.3 On March 30, 2000 there was a debit (cheque issued) of Rs. 15,00,000 in the bank statement of Arunoday Vinimay Pvt. Ltd. in favour of Taurus Portfolio.
- 7.1.21.4 It was found from the issuing bank that the cheques dated February 16, 2000 amounting to Rs. 25,00,000 and Rs. 5,00,000, deposited in the bank accounts of Anjali Flat & Rolled Steels and Rs. 16,00,000 and Rs. 15,00,000 deposited in the bank accounts of Parvati Castings Pvt. Ltd. were issued by Ambika Ferro Alloys Pvt. Ltd. in the first two instances and by Accord Steel Engineering Pvt. Ltd. in the last two instances.
- 7.1.21.5 Payment of Rs. 31,02,325 on February 19, 2000 in favour of Malavika Steels Ltd. (a flagship company of the Usha Group) was noticed in the bank statement of Parvati Castings Pvt. Ltd.
- 7.1.21.6 It was also observed that there were frequent movement of funds from/to these front companies to ITIL as well as other companies of the promoters group. The details of some of these transactions noticed are given below.

Transfer from	Transfer to	Date	Amount (Rs.)	Bank name
Sumac Iron &	KRP Consultants	3/2/2000	2000000	ICICI Bank

Steel	Pvt. Ltd.			
Arunoday Vinimay	Ambika Steels Taurus Portfolio	23/3/2000 30/3/2000	3000000 1500000	ICICI Bank
Parvati Castings	ITIL ITIL ITIL ITIL Ambika Ferro Alloys Accord Steel Engg. Malavika Steel	24/12/1998 8/2/1999 & 11/2/1999 30/3/1999 14/3/2001 15/3/2001 19/2/2001	2500000 800000 1500000 1250000 1600000 1501500 3102325	Bank of Punjab " " " " " "

7.1.22 In view of the above, I find that the trades done by the front entities of the Usha Group through the brokers were deliberately synchronized to create artificial volumes as also done frequently at successively higher prices in order to manipulate the price of the scrip. Further, the front entities of the promoter group acted in concert with the above brokers. Five brokers accounted for 70% to 80% of the market and 90% of their trades were done for front entities of the promoter group with a view to artificially create volume and manipulate price. Thus, the promoters group of ITIL namely Shri Vinay Rai and family consisting of RKKR Agencies Pvt. Ltd., Pukhraj Holdings Pvt. Ltd. And Utility Tradelinks Pvt. Ltd. alongwith their front companies had indulged in manipulation in the scrip by creating a false and misleading appearance of trading in the scrip and resulted in reflection of prices of the scrip that are not genuine trade transactions. I also find that the promoter group had derived benefits from the said manipulative and fraudulent trade practice.

7.1.23 It is therefore clear that Vinay Rai, being the promoter of ITIL was instrumental in :

- (a) Window dressing the company's balance sheet by inflating the non-existent reserves thereby creating an artificial price rise. Shri Vinay Rai also was benefited out of this practice as stated above
- (b) Creating an artificial price rise in the market which was not in tandem with industry index with a view to make illegal gains.

7.1.24 In this regard, Regulation 4 of the FUTP Regulations provides 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.”

In view of the facts stated above I find that Shri Vinay Rai has violated sub-regulations (a) to (e) of Regulation 4 of the FUTP Regulations.

- 7.1.26 I note that Enquiry proceedings have been initiated under the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 against Victory, Lloyd, Bharat Bhushan Equity Traders Ltd, Alankit Assignments Ltd and Bonanza Portfolio Ltd. These proceedings shall be notwithstanding the above findings and shall not be influenced by them.

7.2 Whether Vinay Rai, as promoter director of ITIL indulged in insider trading thereby violating Regulation 4 of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as “Insider Trading Regulations”).

- 7.2.1 I note that the company announced the following corporate developments which were of price sensitive nature during the period under investigation.

- 7.2.1.1 The company declared a stock split in the ratio of 2 : 1 from Rs. 10/- paid up to Rs. 5/- paid up w.e.f. May 19, 2000. The first information relating to this matter being considered by the board was informed to the Exchanges on February 18, 2000 vide letter of the company dated February 16,

2000. The Board of Directors of the company decided on the stock split ratio of 2:1 in their meeting on March 6, 2000.

7.2.1.2 The company reported substantial improvement in the annual results for the year ending May 2000 as compared to the previous year. These results were published in June 2000, prior to which they were 'unpublished price sensitive information'. The quarterly results for the quarter ended August 1999 showed a decline in profits as compared to the previous quarter ended May 1999. However from the quarter ended October 1999 onwards, the company's sales and profits were substantially higher as compared to the earlier quarters.

7.2.2 I also note that the promoters group and management of the company were in possession of the price sensitive information i.e. proposal of stock split in the ratio of 2:1 as well as improved financial results of the company before dissemination to the public / stock exchanges. The front companies of the promoters group were thus "insiders" as defined in clause (e) of regulation 2 of the Insider Trading Regulations.

7.2.3 The details of trading by the front companies of the promoters group i.e. Usha Group and some of the Directors of these front companies indicated that:

7.2.3.1 During the period of one month i.e January 16, 2000 to February 17, 2000 prior to the

dissemination of the information on stock split to the public, the promoters group had purchased 7,27,200 number of shares and sold 8,39,300 number of shares through the brokers Lloyd, Victory, Bonanza Portfolio Ltd, Bharat Bhushan Equity Traders Pvt. Ltd., and Alankit Assignments Ltd. at NSE and OTC.

7.2.3.2 The promoters group had been continuously trading in the scrip during the period September, 1999 to May 2000 in substantial quantities. During this period the financial results of the company were manipulated to show better results and in the process the promoters group had indulged in trading in the shares by taking advantage of their intentions and the financial results before its reporting.

7.2.3.3 Some of the directors/employees of these front companies of Usha Group have also traded on their own account through the brokers viz., Mr. P. K. Rao, Director of Sumac Iron & Steel Pvt. Ltd., Arunoday Vinimay Pvt. Ltd. Mr. V. K. Agarwal, Director of Amit Share Trading etc.

7.2.4 Shri Vinay Rai has not made any statements/submissions regarding the allegation of insider trading. In view of the above, I find that the promoter groups including Shri Vinay Rai, being insiders, has traded on the basis of unpublished price sensitive information and has thus acted in

contravention of Regulation 3 of the Insider Trading Regulations.

7.3 Whether Vinay Rai along with other promoters and associates had acquired 24,15,532 shares of ITIL in violation of Regulation 11 (2) of the Takeover Regulations.

7.3.1 I note that the shareholding pattern of ITIL as on January 7, 2000 and May 30, 2000 is as under:

Sr. No.	Category	Distribution Schedule as on 7 th January, 2000		Distribution Schedule as on 30 th May, 2000	
		Number of Shares (Rs. 10/- paid – up)	Percentage of total holding	Number of Shares (Rs. 5/- paid – up)	Percentage of total holding
1.	Directors & Relatives and holding / subsidiary / affiliates companies	31,68,000	4.56%	63,36,000	4.56%
2.	Other Bodies Corporate	6,10,18,338	87.85%	12,61,60,180	90.78%
3.	Government sponsored F I 's / IFI's	17,25,330	2.48%	45,48,780	3.27%
4.	Indian Public	35,47,888	5.11%	19,35,152	1.39%
5.	Total	6,94,59,556	100%	13,89,80,112	100%

7.3.2 I note that the shareholding pattern of promoters, promoter companies and “Other Bodies Corporate” are as under :

Sr. No.	Name of Company	No. of Shares	% of shareholding
	Other Corporate bodies		
1.	Amit Share Trading Pvt. Ltd.	3600	0.00518
2.	Ambika Ferro Alloys Pvt. Ltd.	203200	0.29254
3.	Paravti Casting P.Ltd.	1400000	2.01556

4.	Ambika Ferro Alloys P.Ltd.	2548000	3.66832
5.	Omega Iron Foundries P.Ltd.	46200	0.06651
6.	Classic Dealer & Advances P.Ltd.	8200	0.01180
7.	Decent Dealer & AdvancesP.Ltd.	16700	0.02404
8.	Aquarius Steel P.Ltd.	26000	0.03743
9.	Arunoday Vinimay P.Ltd.	170656	0.24569
10.	Sumac Iron & Steel Pv.t Ltd.	188	0.00027
11.	Total		6.36734
	Promoter companies		
12.	Utility Trade Links P.Ltd.	13416840	19.31604
13.	Pukhraj Holdings P.Ltd.	3729010	5.36860
14.	RKKR Agencies P.Ltd.	14400000	20.73148

7.3.3 I note that the three promoter companies and “Other Bodies Corporates” have acted together. In this regard, I note that the distribution schedule dated the 7th January 2000 shows that the largest percentage of holding is in the ‘other body corporate’ category. The list of bodies corporate as given with the distribution schedule submitted by the company, consists of 57 bodies corporate in all and revealed the following :

7.3.3.1 The holdings of promoter directors and relatives was 4.56%

7.3.3.2 The combined shareholding of the three companies reported as promoters by the company was about 47%.

7.3.3.3 Among the list of bodies corporate 11 have traded in the shares of ITIL through select brokers and were found to be front companies of the Usha Group. Their holding was about 6.5%.

7.3.3.4 Three of the bodies corporate having the same address as that of the front companies of the Usha Group which have traded in the scrip hold 3.7%.

7.3.4 I note that the promoters including Vinay Rai along with the front entities had acquired 24,15,532 shares of ITIL aggregating to Rs.369.26 crores across BSE, NSE and OTCEI during the period September, 1999 to September, 2000.

7.3.5 As the promoters group directly or indirectly held above 90% of the Equity Capital of the company during the investigation period i.e. 01.10.99 and to 31.05.2000, the acquisition of shares to the extent of 24,15,532 shares attracts compliance of Regulation 11(2) of the Takeover Regulations. As per the above regulation no acquirer who, together with persons acting in concert with him has 75% of the shares or voting rights in a company shall acquire either by himself or through persons action in concert with him acquire any additional shares or voting rights unless such acquirer makes a public announcement to acquire shares in accordance with the regulations. The promoters group of the company should have given public announcement for acquisition of shares in accordance with the Regulations while making the above acquisition of shares. The same has not been complied with and accordingly I find that Vinay Rai has acted in violation of Regulation 11(2) of SEBI (Substantial Acquisitions of Shares & Takeovers) Regulations, 1997.

8.0 I note that Adjudication proceedings have been initiated by SEBI against Vinay Rai in respect of some of the violations mentioned supra. These

proceedings shall continue notwithstanding the findings in this order and shall not be influenced by the same.

- 8.1 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 Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, Regulation 11 of the SEBI (Prohibition of Insider Trading) Regulations, 1992 and SEBI (Substantial Acquisition of Shares and undertakings) Regulations, 1997, I, hereby direct that Vinay Rai shall dissociate himself from the capital market for a period of one year and that he shall not deal in securities in any manner whatsoever for a period of one year.

This order shall come into effect immediately.

G. N. BAJPAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA

Date: 31st March 2004

Place: Mumbai