

SECURITIES AND EXCHANGE BOARD OF INDIA

DIRECTION UNDER SECTION 11B READ WITH SECTION 11(4) OF SECURITIES AND EXCHANGE BOARD OF INDIA, ACT, 1992, READ WITH REGULATION 11 OF SEBI (PROHIBITION OF FRAUDULANT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003.

AGAINST SHRI SANJAY FATEHPURIA OF M/S FATEHPURIA ENTERPRISES, IN THE MATTER OF M/S. GREENFIELD TRADING AND FINANCE LIMITED.

BACKGROUND

1. The shares of M/s Greenfield Trading and Finance Ltd. (hereinafter referred to as "GTFL") were listed on The Stock Exchange, Mumbai. (hereinafter referred to as "BSE"). As per BSE, the capital of GTFL was Rs. 99.66 lacs, comprising 9.96 lac equity shares of Rs. 10 each.

2. The price of the shares of GTFL, which was quoting at around Rs.52/- at BSE, as on 16.01.96, with a volume of 600 shares, moved up from this level and reached Rs.210/- as on 22.02.96, with a volume of 1,46,750 shares. On account of the sudden increase in volume and price, BSE had suspended trading in the scrip of GTFL on 24.01.96, 30.01.96 and 08.02.96. The share price came down to Rs.122/- by 15.03.96. However, the volumes were on the higher side, with the average daily volume being more than 1.50 lakh shares. The share price started moving up once again and reached to Rs.450/- by 16.05.96, with a volume of 18,600 shares. The last quotation was Rs. 420, on 06.06.96, after which the scrip was placed under indefinite suspension by BSE.

3. The paid up equity capital of GTFL comprised only 9.96 lakh shares, with very low floating stock with the general public. Considering the low floating stock and the not-too-encouraging fundamentals of the company, it appeared that the increase in price and volumes in the scrip, observed during the aforesaid period, did not reflect genuine investment buying, but appeared to be intended to manipulate the market and to make abnormal gains.

4. A letter dated 04.06.96 was received from BSE, requesting Securities and Exchange Board of India (hereinafter referred to as "SEBI") to give permission for indefinite suspension in trading of GTFL scrips. According to BSE, GTFL had shown unusual price rise since March 1996, despite suspension of trading and imposition of special margins from time to time. Even though the special margins were enhanced to 100.0% from 30.05.96, the price movement had not abated. It was submitted that preliminary investigations by BSE revealed that the huge price movement of GTFL was not justified and did not serve any purpose of the general investor as the company was closely held with a very low equity base. BSE was of the view that although the company declared a 1:1 bonus in the month of April 1996, the general fundamentals of the company was not good for investors to make an investment in the scrip of GTFL.

5. In view of the above, after a preliminary enquiry and based on the findings of BSE, SEBI initiated an investigation, vide order dated 7th October, 1999, into the affairs relating to dealing in the scrip of GTFL, during the period January-June, 1996. It was noticed that Shri Sanjay Fathepuria had acted as a "client" to many trades and had funded several transactions by the other "clients" in the shares of GTFL.

SHOW CAUSE NOTICE AND HEARING

6. Pursuant to the investigation, a show cause notice dated 30.09.03 was issued to Mr. Sanjay Fathepuria, asking him to show cause as to why a suitable direction under Section 11B read with Section 11(4) of SEBI Act including a direction restraining him from accessing the capital market for a suitable period, should not be issued. It was also mentioned that if he failed to submit any reply within the stipulated period of 15 days then, it would be presumed that he had no evidence to adduce in the matter and SEBI would be free to take such action as deemed fit in the matter. Mr. Sanjay Fathepuria has not submitted any reply to the show cause notices issued by SEBI.

7. Thereafter, in the interest of natural justice, SEBI vide its letter dated 20.01.04 granted an opportunity of hearing to Mr. Sanjay Fathepuria before me on 05.02.04. However, the said date of hearing was rescheduled for 16.02.04. Mr. Sanjay Fathepuria did not appear before me on the specified day. I am convinced that sufficient opportunity has been given to Mr. Sanjay Fathepuria for being heard. Therefore, I proceed further based on the material available on record.

FINDINGS

8. Having examined the material available on record, I have observed that the market operations in the trading of the scrip were looked after by the promoter/directors of GTFL, along with certain persons appointed by them, who operated the scrip through a chain of brokers and sub brokers of BSE. The various operations undertaken by the promoters/directors in this regard are enumerated below:

- a. Appointment of persons like Mr. Prakash Pandya, Mr. KJ Desai, Mr. Viral Dave etc., to look after the day to day market operations of the scrip.
- b. Appointment of sub-brokers and getting them registered with various Trading Members of the stock exchange.
- c. Appointment of the clients with these brokers/sub-brokers (connected/related to GTFL or the Directors).
- d. Arrangement for introduction of these clients to various brokers and sub brokers of BSE.
- e. Arrangement for putting orders (both buy and sell) in the name of the various clients through various brokers so as to create artificial volumes/liquidity in the counter.

- f. Rigging up the scrip price by giving quotes at higher prices.
- g. Arrangement by giving shares/ shares certificates towards the sale positions of the clients with various brokers.
- h. Arrangement of funds to meet the pay in obligations of the various clients with various brokers and sub brokers.
- i. Appointments of financiers like Mr. Sanjay Fathepuria to meet the pay in obligation of funds of the clients through spot sales.
- j. Shifting the positions through unauthorized badla transactions from one settlement to another settlement with the help of the financier Mr. Sanjay Fathepuria.
- k. Delivering the shares of GTFL in the auctions conducted by the stock exchange, when the general investors failed to meet the pay in obligation of shares.
- l. Arrangements for collecting the contract notes, bills, cheques, delivery of shares(for the purchase position) etc., Similar arrangements were also made to issue cheques, delivery of shares (for the sale position) to the brokers.
- m. Arrangements for depositing the cheques issued by the brokers, favoring the clients appointed, towards the sale of GTFL shares in the respecting bank accounts.
- n. Arrangements for withdrawing the amount in cash terms after collection of the cheques.
- o. Co-ordination between the above mentioned entities, appointed for the exclusive purpose of manipulating the scrip price.

9. I have also observed that :

- a. Mr. Prakash Pandya and Mr. KJ Desai, having connections with the management of GTFL and Mr. Arun Gandhi, one of the Directors of GTFL, wanted to create market for an illiquid scrip.
- b. Around 1,50,000 shares were given by the management of GTFL to Mr. KJ Desai and Mr. Prakash Pandya for market operations. [This was admitted by Mr. KJ Desai in his sworn statement given to the investigating team.]
- c. On behalf of the management of the GTFL some clients like M/s. Umi Investments, Mr. Manish Pancholi, M/s. BNP Securities, Mr. Girish Shah of M.P. Investments, Mr. Viral Dave of Niyati Investments, Mr. Rajan Bhuchar, Mr. Jaspalsingh Matta, Mr. Naren Shah etc., traded through various brokers.
- d. The clients were introduced to many of the brokers by Mr. Prakash Pandya, who according to some of the clients was the primary person behind this manipulation exercise.
- e. Mr. KJ Desai was registered with various brokers as a common client.
- f. The price of the scrip was manipulated by increasing the buy quotes continuously.
- g. During the period of investigations the volumes in the scrip were contributed essentially due to trading activity in the scrip by the aforementioned clients.
- h. To meet the pay in obligation, funds were borrowed from the financiers such as M/s. Fathepuria Enterprises and the arrangement/management of funds were mainly looked after by the management of the company with the help of Mr. Prakash Pandya, Mr. KJ Desai, Mr. Viral Dave etc.
- i. Mr. Sanjay Fathepuria used to enter into unauthorised badla transactions with the clients who have traded in the scrip of GTFL.

10. To meet the pay in obligations of the clients, who were merely acting at the behest of the promoters/directors, the services of Shri Fatehpuria, a financier, were used. In those cases where the "clients" had pay-in obligation of funds to the exchange, Mr. Fathepuria, the financier appointed by the company, used to bail out these clients by buying the shares from them on spot basis and advancing them the money. On the same day Mr. Fathepuria would place the second leg of the transaction, by reversing the deal in the regular segment. Towards this, Mr. Sanjay Fathepuria got enrolled as an unregistered sub-broker to various brokers of BSE. The modus operandi adopted for this purpose was as follows :

- The shares were sold on spot basis to Mr. Sanjay Fathepuria on behalf of the common clients (mostly Mr. KJ Desai) before the pay in day of funds.
- The bills were raised in the name of Mr. Fathepuria and the share certificates were handed over.
- Mr. Fathepuria used to verify the authenticity of share certificates and transfer deeds before releasing the funds.
- Later, on the same day when Mr. Fathepuria used to reverse the transaction at a slightly higher rate (to take into account the badla charges) in the regular market segment. This leg of the transaction was mostly done through his broker M/s. Vinod Kumar Roongta.
- For the second leg of the transaction, buyers of the shares were arranged by the management of GTFL and they were mostly the same common clients who have sold the shares on spot basis to Mr. Sanjay Fathepuria.
- After confirming that the shares were sold in regular market, Mr. Fathepuria used to release funds to the sellers in the spot transactions.
- With the funds received from Mr. Fathepuria, the common clients used to meet their pay in obligation.
- In most of the cases, these cheques were issued by Mr. Fathepuria as per the instructions of Mr. Prakash Pandya, Mr. Viral Dave and Mr. KJ Desai. These cheques were favouring those BSE members through whom the common clients have traded/registered as clients.
- Mr. Fathepuria used to receive the payments from Mr. Vinod Kumar Roongta after the payout of the settlement (regular). The amount received from Roongta included the "badla charges" (Finance charges).

Using the above mentioned methods, the promoters/directors succeeded in creating an artificial market for the shares of GTFL. By this procedure, the scrip price was also moved up gradually.

11. I have noted Mr. Sanjay Fathepuria and his firm M/s Fathepuria Enterprises were the main clients who had traded in the scrip of GTFL through many brokers of BSE. I also observed that Mr. Sanjay Fathepuria had acted as an unregistered sub broker to M/s. Vinod Kumar Roongta, Member BSE (now Roongta Capital Markets Pvt. Ltd) during the period 1992-93 to 1996-97.

12. I understand that Mr. Sanjay Fathepuria's role in the matter of GTFL was more of a financier and his firm used to bail out the clients having pay in obligations, by buying the shares from them on spot basis and regularizing the same by putting the reversal transaction (i.e. sale) through the normal market.

13. I observed from that he was the major buyer on spot basis from many brokers like Kantilal Chaganlal etc., in the scrip of GTFL. However, the reversals were done only through Mr. Vinod Kumar Roongta in regular market segment. Queries also revealed that Mr. Sanjay Fathepuria acted as the Badla Financier in the scrip of GTFL. As per his submissions:

- Mr. Prakash Pandya, Mr. Viral Dave and Mr. Kiran Desai met him and they introduced them selves as sub brokers operating in the market during end of the March, 1996.
- At the behest of Mr. Prakash Pandya, who had approached Mr. Sanjay Fathepuria during April 1996 and requested for finance cheques to be given to a certain set of brokers as instructed by him, it was observed that Mr. Fathepuria issued cheques to brokers of BSE.
- When the scrip of GTFL was suspended by BSE during June 1996, Shri Arun Gandhi, (Director of GTFL) along with Mr. Harmohan Singh Chandok alias Tony met Mr. Sanjay Fathepuria and assured that suspension in the scrip would be revoked shortly. Mr. Fathepuria was aware that the above persons were associated with the management of GTFL.

14. Mr. Sanjay Fathepuria was enrolled as a sub-broker to various other brokers of BSE exclusively for the aforesaid purpose, as arranged by Mr. Prakash Pandya. As instructed by Mr. Prakash Pandya and sometimes by Mr. Viral Dave and Mr. KJ Desai, Mr. Fathepuria issued cheques for financing badla to brokers such as B.M. Gandhi & Sons, D.S. Kothari, Gautam Nemani, Harjivandas Nemidas & Sons, Kantilal Chhaganlal, Kamlesh J. Shroff, P.R. Shah, R.R. Mohta, U.M. Kamdar. Apart from the above members Mr. Fathepuria had issued one cheque in favour of M/s H.N. Consultancy Services who were purported to be sub-brokers. About 24 cheques were issued by Mr. Sanjay Fathepuria to the brokers in this regard.

15. According to Mr. Fathepuria, finance for the transactions used to be arranged through his clients and cheques in turn used to be given to the above stated brokers as instructed by Mr. Pandya from time to time. The clients of Mr. Fathepuria who had extended the finance facilities never received any delivery of shares in the above arrangement. They used to receive the interest element (2 to 2.5% badla charges approx.) and these payments were made from Mr. Fathepuria's account.

16. During the absence of Prakash Pandya, Shri Viral Dave and Kiran Desai used to give him the instructions for issuing the cheques. The money was arranged from his clients, most of whom were his relatives.

17. I also observed that Mr. Fathepuria had offered shares in auction on behalf of the clients on three occasions for close to 7,850 shares of GTFL in various auctions conducted by BSE, which has also been admitted by him in his submissions. This method of continuously buying the shares (on spot) and offering the same at auctions indicates his intentions of price manipulation in the scrip.

18. As stated above, the methodology of Mr. Fathepuria's operations was:

- Purchase shares of GTFL on behalf of the clients who had financed these transactions (on spot)
- Sell on behalf of these clients who had financed these transactions (Regular Settlement)
- The clients who had sold the shares to Mr. Fathepuria were also the ultimate buyers when he used to reverse the transactions (sale) through Mr. Vinod Kumar Roongta
- Mr. Fathepuria's spot brokerage used to be Re.0.25 and in the regular settlement, it used to be 0.25% or 0.50%

19. As per the submissions of Mr. Fathepuria, Mr. Prakash Pandya, Mr. Viral Dave and Mr. KJ Desai together met him sometime during June 1996 with a request for finance to revive the trading in the scrip of GTFL by keeping the 80,000 shares of GTFL as collateral security. The above mentioned three persons were also representing Mr. Arun Gandhi and Mr. Harmohan Singh Chandok, the managing director of GTFL. A request was placed by the above persons to arrange finance for a particular set of brokers who dealt in the scrip of GTFL.

20. On the basis of the instructions of Mr. Prakash Pandya, Cheques were issued to many brokers of BSE and the finance was arranged by Mr. Fathepuria to the tune of Rs.1.13 Crores and distributed as follows:

Name of the Person	Cheque Number	Cheque Date	Amount (in Rs.)
Mr. KJ Desai	426970	26.06.96	42,50,000
Mr. KJ Desai	426981	03.07.96	3,50,000
Mr. KJ Desai	426984	15.07.96	2,00,000
Mr. KJ Desai	521439	15.07.96	1,00,000
Mr. B.M. Gandhi	426939	11.06.96	8,00,000
Mr. B.M. Gandhi	426979	03.07.96	7,00,000
Mr. N.F. Langrana	426938	11.06.96	10,00,000
Mr. N.F. Langrana	426940	12.06.96	3,00,000

Harjivandas Nemidas and Sons	426980	03.07.96	4,50,000
Mr. Kirti J. Shah	426937	11.06.96	19,50,000
Mr. Yogesh Mehta	426934	06.06.96	12,00,000
Total			1,13,00,000

21. Mr. Fathepuria's association with Mr. KJ Desai, one of the major clients, can be seen from the bank statements and spot deals entered by him. The above practices of Mr. Fathepuria clearly suggest to me that he was indulging in unethical transactions in as much as financing transactions which were being given the color and shape of securities transaction. The trading practice adopted by him had distorted the market equilibrium in the scrip of GTFL.

22. Taking into consideration the above mentioned factors, I conclude that Mr. Sanjay Fathepuria of M/s. Fathepuria Enterprises had played a significant role in the price manipulation of GTFL's scrips during the period January to June 1996. Therefore, I find Mr. Sanjay Fathepuria guilty of violating the provisions of Regulation 4(a), (b), (c), (d) and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 which reads as under :

"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 moneys worth for inducing another person to purchase or sell any security with the sole object of inflating, depressing, or causing fluctuation in the market price of securities."

23. I note that Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 reads as under :-

"Repeal and savings

13. (1) The Securities and Exchange Board of India ((Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 is hereby repealed.

(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."

24. I find that Mr. Sanjay Fathepuria is responsible for aiding and abetting the management of GTFL in creating false and misleading appearance of trading and artificial price rise in the scrip of M/s. Greenfield Trading and Finance Ltd. Innocent investors would be induced to trade by such false appearance of trading in the securities market, unless these unscrupulous activities are prevented/contained in the securities market. In view of my findings mentioned hereinabove, I find that it is a fit case for issue of directions against Mr. Sanjay Fathepuria whose conduct is detrimental to the interest of investors and the securities market.

ORDER

25. Therefore, in exercise of the powers conferred upon me by virtue of Section 19 read with Sections 11B and 11(4) of the Securities and Exchange Board of India Act, 1992 read with Regulation 4(a), (b), (c), (d) and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 and Regulations 11 & 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, I hereby direct that Mr. Sanjay Fathepuria be restrained from associating with any corporate body in accessing the securities market and be prohibited from buying, selling or dealing in securities, directly or indirectly, for a period of two years.

26. This direction shall come into force with immediate effect.

PLACE : MUMBAI
DATE : July 23, 2004

A.K.BATRA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA