

## SECURITIES AND EXCHANGE BOARD OF INDIA

## ORDER

**UNDER REGULATION 11 OF THE SEBI (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003 READ WITH SECTION 11B OF THE SEBI ACT, 1992.**

**AGAINST SHRI MURLI LEKHRAJ, SANWA FINANCE PVT. LTD., M/S SANWA DEVELOPMENT PVT. LTD., Shri JANAK VASWANI AND M/S. JAYEM EXPORTS PVT. LTD., IN THE MATTER OF M/S UNITED WESTERN BANK LIMITED**

1. M/s United Western Bank Limited (hereinafter referred to as 'UWBL') was incorporated in 1937 and is one of the largest private sector commercial banks in India. The bank's capital is held by 48,597 shareholders from all over the country, including some NRI shareholders. The bank's paid up capital is Rs.30 crores and the scrip of UWBL is listed at the Pune, Mumbai and National Stock Exchanges (for brevity's sake hereinafter referred to as 'PSE', 'BSE' and 'NSE' respectively).
2. The Securities and Exchange Board of India (hereinafter referred to as 'SEBI') received complaints, including some anonymous complaints, which inter alia alleged price manipulation of the shares of UWBL. In view of the same, Chairman, SEBI, in exercise of powers conferred upon him under Section 4(3) of the SEBI Act, 1992, vide his orders dated 02.08.2001 and 29.07.2003, ordered an investigation into the affairs relating to the buying, selling and dealing in the shares of UWBL.
3. The investigation inter-alia revealed a steep rise in the price of the scrip on the BSE from Rs.33/- as on October 25, 2000 to Rs.60.90 as on November, 14, 2000 and on the NSE from Rs.31.00 as on October 17, 2000 to Rs.65.15 as on November 13, 2000. During the period October-November 2000, it was further found that UBWL Employees Equity Trust (hereinafter referred to as 'the UWBL trust') was buying shares of UWBL from the market as well as through off market deals from individual investors and that there was a spurt in the volumes and share price of UWBL in settlement nos.200045 and 200046. Further on scrutiny of the trading pattern from settlement no.2000044 to 2000049 (on NSE) (period – 25.10.00 to 5.12.00), it was noted that –
  - ♦ UWBL Employees Equity Trust (hereinafter referred to as the Trust) was a major buyer during the said period.
  - ♦ Sanwa Finance (P) Ltd. (hereinafter referred to as SFPL), Sanwa Developments Pvt. Ltd. (SDL), Jayem Exports (P) Ltd. (JEPL), all of which had traded in the shares of UWBL during the said period, through Sanwa Securities (P) Ltd., Member, NSE (hereinafter referred to as 'SSPL'), had a common director in Shri Murli Lekhraj. The trades of SSPL, for and on behalf of these clients accounted for a major portion of the gross market quantity, specifically for settlement nos.2000044 and 2000045.
  - ♦ SFPL, SDL and JEL (collectively referred to as the 'Sanwa Group') were clients of SSPL and associated with each other as they were sister concerns of the trading member.
  - ♦ The gross traded quantity by Shri Murli Lekhraj, through SFPL, SDL, JEPL and Shri Janak Vaswani (Son-in-law of Shri Murli Lekhraj.), in comparison with the gross traded quantity in the market (on the NSE) were as under –

| Settl No. | Client Name        | Buy    | Sell   | Net qty. | Gross qty. | Mkt. Gross Qty. for the settlement | % of client gross to Mkt. gross |
|-----------|--------------------|--------|--------|----------|------------|------------------------------------|---------------------------------|
| 2000044   | Sanwa Finance Ltd. | 15900  | 0      | 15900    | 15900      | 70374                              | 22.59                           |
| 2000045   | Sanwa Finance Ltd. | 0      | 413530 | -413530  | 413530     | 1358668                            | 30.4                            |
| 2000045   | Sanwa Dev. P. Ltd. | 419696 | 0      | 419696   | 419696     | 1358668                            | 30.89                           |
| 2000046   | Sanwa Dev. P Ltd.  | 8000   | 2260   | 5740     | 10260      | 2067592                            | 0.50                            |
| 2000046   | Sanwa Finance Ltd. | 120721 | 62000  | 58721    | 182721     | 2067592                            | 8.84                            |

|         |                    |       |       |       |       |         |      |
|---------|--------------------|-------|-------|-------|-------|---------|------|
| 2000046 | Janak Vaswani      | 10000 | 10000 | 0     | 20000 | 2067592 | 0.97 |
| 2000047 | Sanwa Finance Ltd. | 20974 | 20974 | 0     | 41948 | 964368  | 4.35 |
| 2000048 | Sanwa Finance Ltd. | 12799 | 1313  | 11486 | 14112 | 422356  | 3.34 |
| 2000049 | Sanwa Finance Ltd. | 11690 | 1600  | 10090 | 13290 | 205902  | 6.45 |

- SSPL had executed 52 cross deals amounting to 432670 shares on behalf of its clients. The cross traded quantity accounted for 59.36% of the gross market quantity for settlement no.2000045 and 2.84% of the gross market quantity for settlement no.2000046.
- In settlement no.2000045, opposite positions were taken by SFL and SDL on whose account cross deals had been executed.
- Analysis of cross deals executed by SSPL showed –
  - Highest price variation with respect to previous traded price was of 5.94% on the positive side and 0.73% on the negative side.
  - The price of the scrip increased steadily from Rs.34.8 (as on 25.10.00) to Rs.63.25 (as on 14.11.00), an increase of 81.75%. This increase was in two settlements, viz., settlement nos. 2000045 to 2000046.
  - Similarly, the traded quantity which was 4700 shares (as on 25.10.00) increased to 581149 shares (as on 13.11.00).
  - This increase in price and volume from settlement nos.2000045 and 2000046 was attributed to the cross deals executed by SSPL with the intention of creating an artificial market and rigging up the price of the scrip.

4. In view of the findings of investigation, as stated above, SEBI issued a notice dated October 27, 2003 to Shri Murli Lekhraj, among others, calling upon him to show cause as to why directions under Section 11B of SEBI Act, 1992 and Regulations 3 and 4(1) and (2)(a), (b) and (e) of SEBI (Fraudulent & Unfair Trade Practices relating to the securities market) Regulations, 2003 should not be issued against him inter alia for manipulating the price of the scrip of UWBL. In the said notice, SFPL, SDL JEPL and Shri Janak Vaswani were also called upon to show cause why directions under Section 11B of SEBI Act, 1992 and Regulations 3 & 4 of SEBI (Fraudulent & Unfair Trade Practices relating to the securities market) Regulations, 2003 should not be issued against them for aiding & abetting Shri Murli Lekhraj in manipulating the price of the scrip. The said entities were advised to furnish their reply within 21 days of the receipt thereof and it was also indicated that if they failed to furnish their reply within the stipulated time, it would be presumed that they had no explanation to offer and that SEBI would take action as it deemed fit.
5. Shri Murli Lekhraj on his behalf as well as on behalf of SFPL, SDPL, JEPL, SSPL, and Sino Securities Pvt. Ltd (member, BSE and also having Shri Lekhraj as its director), vide his letter dated November 27, 2003, inter alia challenged the contents of the show cause notice and also refuted acting through SSPL, SFPL, SDL and in the said process violating Regulation 3 and 4(a), (b) and (c) of chapter II of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the securities market) Regulations, 1995, prevalent at that time. Shri Lekhraj further denied that as the promoter director of SSPL, he was responsible for creating a false market and manipulating the price of the scrip of UWBL and subsequently, offloading his holding in an off-market deal to the Trust or that SFPL, SDL and JEPL had aided and abetted him in manipulating the price of the scrip. It was further stated that although they had requested for various relevant details from SEBI, they had not been provided with the full copies of the recorded statements of Mr. P. N. Joshi, Mr. S. T. Gadre, Mr. S. V. Joshi, Mr. Vadodkar and Mr. N. J. Mathur, officials of UWBL. On the basis of the above, while seeking the inspection of the documents mentioned, it was requested that the proceedings against them be dropped in view of the submissions made above and that they be granted a personal hearing. I have noted that Shri Murli Lekhraj and his companies were provided with the copies of all the documents as requested by them and also relevant extracts of the recorded statements of the bank officials.
6. In view of the request for a personal hearing, Shri Lekhraj and the Sanwa Group were advised to appear before me for a hearing on March 05, 2004. On the said date, the said entities reiterated that they were not guilty of any default and that no action should be taken against them as the allegations contained in the show cause notice were incorrect.
7. I have taken into consideration the facts and circumstances of the case and the material available on record which includes the facts leading to the investigation, submissions made on behalf of Shri Lekhraj and the Sanwa Group, the findings of the

investigation, the show cause notice and the reply of the parties to the same.

8. From the findings of the investigation, I have noted that the following allegation was leveled against Sri Lekhraj and the Sanwa Group which I shall to proceed to deal with as below :-
9. I have noted the fact that during the period October-November, 2000, the UWBL trust was buying shares from the market as well as through off market deals from individual investors and that the newspapers were replete with reports of tussle between the bank's management and SICOM (its largest shareholder) for control of the bank.
10. Shri Murli Lekhraj was a director in SSPL, SFPL and all its associate companies. His company SFPL was one of the top shareholders of UWBL, with its name appearing in the top 50 shareholders list, holding 665250 shares as on 30.9.00. As on 15.11.00, SFPL held 585206 shares, 645116 shares as on 30.11.00 and nil shares as on 31.12.00. In this regard, I have noted the submission of Shri Lekhraj that the Sanwa Group was holding a large number of shares in UWBL (almost 4% of the equity capital) acquired over a period of time since 1994-95, with the knowledge of UWBL, the objective being long-term investment. The details of the investments made by the Sanwa Group in UWBL were stated to be as follows :-

| Entity            | Year of Purchase | Quantity of shares | Cost (Rs.lakhs) | Average Price/Share (Rs.) |
|-------------------|------------------|--------------------|-----------------|---------------------------|
| Jayem Exports     | 1994-95          | 33,400             | 28.11           | 84                        |
|                   | 1995-96          | 62,000             | 24.80           | 40                        |
| Sava Garments     | 1994-95          | 23,500             | 19.49           | 83                        |
|                   | 1995-96          | 39,000             | 15.60           | 40                        |
| Palmar Investment | 1994-95          | 35,000             | 27.50           | 78                        |
|                   | 1995-96          | 60,300             | 24.22           | 40                        |
| Sanwa Finance     | 1994-95          | 28,000             | 35.34           | 126                       |
|                   | 1995-96          | 46,000             | 18.40           | 40                        |
|                   | 1996-97          | 44,600             | 14.31           | 32                        |
|                   | 1997-98          | 1,79,100           | 58.14           | 32                        |
|                   | 1998-99          | 3,12,000           | 88.87           | 28                        |
|                   | 1999-00          | 3,55,300           | 77.56           | 22                        |
|                   | 2000-01          | 1,64,703           | 94.16           | 57                        |
| <b>Total</b>      |                  | <b>13,82,903</b>   | <b>526.50</b>   |                           |

11. I have noted that on account of SFPL being the top individual shareholder of UWBL (other than the financial institutions), and as a consequence of the takeover threat to the bank, the bank management/officials were in constant touch with Shri Murli Lekhraj. I have also noted that Shri S. T. Gadre, Executive Director of UWBL had met Shri Lekhraj to apprise him of the bank's view/standing with regard to the takeover threat faced by the bank, from SICOM Ltd. In view of the same, Shri Murli Lekhraj would have been aware of the attempts of the bank to consolidate its holding by buying shares in the open market, towards avoiding the takeover threat from SICOM. I have also noted that the Sanwa Group is said to have sold 1205816 shares in an off market deal to the Trust on 14<sup>th</sup> November 2000. These facts were also substantiated by Shri Lekhraj himself during the time of his statement recording on 12.12.02. I have noted the fact that during the recording session, Shri Lekhraj essentially stated that being an investor looking for profit, he was willing to sell his holdings to the party which paid the "right price". He had further stated that Shri N J Mathure, Deputy General Manager, UWBL and Shri S T Gadre, Executive Director of the bank had approached him, seeking his support and proxy in the forthcoming EOGM of the bank, which was to be held on 24.11.00.
12. I have also noted Shri Lekhraj's contention that around the 10<sup>th</sup> or 11<sup>th</sup> of November, he telephoned Shri P N Joshi, Chairman, UWBL and offered to sell his entire holding for a price of Rs.100/- per share and that on 12.11.00, Shri P N Joshi called him back and agreed to purchase the entire holding at Rs.70/- per share and compensate the difference of Rs.30 per share, by way of rights or bonus issue which was in the offing, is also noted. In this regard, I have noted the fact that there is no written agreement to substantiate such a claim of an agreement with Shri Joshi. However, Shri Lekhraj had put this alleged agreement in writing by sending a letter to such an effect to Shri P N Joshi and Shri S A Vadodkar, General Manager, UWBL by courier and a copy by fax dated 29.11.00. On their part, Shri P N Joshi, Chairman, Shri S T Gadre, Executive Director, Shri S V Joshi, Director, Shri S A Vadodkar, General Manager, Shri N J Mathure, and Deputy General Manager during the time of recording their statements submitted that Shri Murli Lekhraj had demanded a price of Rs.70/- per share and Shri S. V. Joshi said that he was trying to get a higher price to part with his holding. Thus, Shri Murli Lekhraj was well aware of the developments in the bank as well as regarding the interest of the bank in acquiring his stake in the bank, so as to consolidate its shareholding. In fact, from October end, 2000 till beginning of November, 2000, he was negotiating with the bank to sell his holdings.
13. As stated above at para 3, I have noted that SSPL had traded on behalf of its own associate companies and relatives/ Directors and that these trades constituted a major percentage of the gross traded quantity for settlement nos.44 & 45 on NSE, period being from 25.10.00 to 7.11.00.

14. I have noted that SSPL had admittedly executed 52 cross deals, amounting to 4,32,670 shares, during settlement nos.45 & 46, on behalf of its clients, allegedly for the purpose of tax write off and the gross traded quantity accounted for 59.36% (amounting to Rs.183 lacs on NSE in Settlement No.45) of the total market gross for settlement no.45 and 2.84% of total market gross for settlement no.46 (amounting to Rs.18 lacs on NSE). For settlement no. 45, opposite positions were taken by the clients, SFPL and SDPL, both associated entities of the member. The gross traded quantity of the Sanwa Group of entities, through SSPL, vis-à-vis the market gross (including NSE and BSE) was found to be more than 30%, during the period of investigation.
15. In their defense, Shri Lekhraj and his group companies submitted that a cross deal (a bulk deal executed between two clients of the same broker) was a permitted transaction in terms of SEBI Circular dated 14<sup>th</sup> September, 1999 – SMD/POLICY/CIR-32, where under SEBI had instructed all brokers that such deals are permitted to be executed only on the screens of the exchanges in the price and order matching mechanism of the exchanges just like any other normal trade. It was further contended that SSPL, their broker, advised them that the most transparent manner of transferring these shares to SDPL was by effecting deals on the screen-based trading system of the NSE, particularly because they are associate companies and accordingly, SFPL and SDPL executed these deals on the NSE in the price and order matching mechanism of NSE, just like any other normal deal, where under SFPL sold 4,11,260 shares of UWBL to SDPL. It was stated that if two parties desired to carry out such a transaction through a common broker, then the broker had no choice but to execute a cross deal and although SFPL and SDPL could have executed the same transactions by using two different brokers, taxation was the overriding consideration in these deals and more importantly, all these trades had been executed at a price which was near about the ruling market price. Further when the deals were executed by SFPL and SDPL, there was a possibility that somebody else in the market could have picked-up the shares, since there was no assurance on a screen-based trading that SFPL would be able to sell only to SDPL and that someone else in the market would not be able to buy them and vice versa. It was stated that the Sanwa Group carried out cross deals for 4,32,670 shares only i.e. 4,03,260 shares in Settlement No.45 and 29,410 shares in Settlement No.46 from 1<sup>st</sup> November, 2000 and executed them on the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> November, 2000, at which point of time, they were not even aware of the notice of EGM of UWBL. Shri Lekhraj stated that even before they became aware of the EGM, a cross deal of 1,94,730 shares had been executed and a substantial majority of the cross deals, amounting to 4,03,260 shares, was executed in Settlement No.45 between 1<sup>st</sup> November and 7<sup>th</sup> November, 2000. Murli Lekhraj clarified that SICOM and the management of UWBL had only approached him to support their group in the forthcoming EGM on 24, November, 2000, on a date sometime after 3<sup>rd</sup> November, 2000 i.e. the date of receipt of notice of EGM as per the decision of the Board of UWBL on 31st October, 2000 to call an EGM, for which the notice was posted and received by them on or after around the 3<sup>rd</sup> November, 2000, by which time the Sanwa Group had already carried out a substantial part of the cross deals. Even the press reports started coming in only by the 8<sup>th</sup> of November, 2000, by which date, 93% of the cross deals were over. On the said basis it was clarified that at the time when the Sanwa Group executed the cross deals, they had neither an indication that someone would buy from it such a large chunk of shares of UWBL nor did it contemplate selling its stake in UWBL to anyone, since it was a long-term investor. It was stated that the deal with the Trust was orally concluded on 12<sup>th</sup> November, 2000, and by the time the offer was made to Mr. Joshi, over 93% of the cross deals had been executed. On the said basis, it was stated that there was no connection between the cross deals executed by them and the sale of the shares to UWBL in the off-market deal. On the said premise, Shri Lekhraj denied that the said deals had been executed only because they were aware that the UWBL Trust was interested in acquiring shares from them and that these deals actually influenced the market price which further influenced the negotiated deal price.
16. Shri Lekhraj further stated that although no cross deals, or for that matter no deals by the Sanwa Group were executed on the NSE on 6<sup>th</sup> November, 8<sup>th</sup> November, 9<sup>th</sup> November and 10<sup>th</sup> November, the share price of UWBL rose even on those days and that even on the days when the Sanwa Group did not execute a single trade, (cross or otherwise), the prices rose by 8% everyday and the scrip was in a freeze on all 3 days and that in all, the price rose by 26% over the closing price of 7<sup>th</sup> November, 2000 in these 3 days, which proved that the Sava Group was not responsible for the steep price rise from Rs.34.80 on October 25, 2000 to Rs.61.20 on November 10, 2000. It was contended that there were presumably other active and interested buyers who were responsible for the price rise.
17. As regards the acquisition of 18,150 shares by SFPL on November 13, 2000, in a cross deal with Mr. Janak/Ravi H. Vaswani (both being clients of the Sanwa Group), the same is stated to have been done allegedly for trading purposes and due to the fact that Janak Vaswani or for that reason, the entire Vaswani Group had been the clients of SSPL/Sino for quite sometime. It has been stated that on the said date, the total volume of UWBL on NSE was 5,81,149 and on the BSE it was 2,48,501 and the combined volume was 8,30,000 shares and that one cross deal of 18,150 shares could not have had an impact on the market price. As regards the cross deals executed even after the negotiated deal had been sealed on 12<sup>th</sup> November, 2000, it has merely been stated that the same deals were executed without any intention to prop-up the prices.

18. It was further stated that in settlement No.46, the fact that the trades were executed at lower prices has not been taken into consideration. For instance, on 13<sup>th</sup> November, 2000, the 1<sup>st</sup> deal was executed at Rs.58.50 but the very next deal was stated to have been done at Rs.57.25. Similarly, 18,150 shares (spread over 7 trades) were traded at one single price of Rs.65.90. The freeze level on that day was Rs.66.10. Similarly, although on 14<sup>th</sup> November, the 1<sup>st</sup> deal was executed at Rs.70.30, the very next deal was done at Rs.63.00, i.e. 10.38% lower than the last traded price. On the said basis, it was stated that as the deals were executed at the prevailing market prices it was not possible to influence the price with such a low volume.
19. With regard to the deals executed by Sino Securities Pvt. Ltd, member, BSE (hereinafter referred to as 'Sino'), it was stated that although the Sanwa Group did not execute a single trade, let alone a cross deal on the BSE from 1<sup>st</sup> November to 13<sup>th</sup> November, 2000, the price of UWBL was rising on BSE on all of these days and the scrip witnessed healthy volumes on several days. Further the price on the BSE shot up from Rs.35.50 on 1<sup>st</sup> November, 2000 to a high of Rs.64.00 on 13<sup>th</sup> November, 2000, i.e. an increase of 80%. Further, on 13<sup>th</sup> November 2000, it witnessed a volume of 2.48 lakhs shares. It was stated that none of these trades could be attributed to the Sanwa Group and although they had no information on who exactly was buying the shares, in all likelihood, the Trust and/or someone else in a bid to shore up its/their holding prior to the EGM, was / were acquiring the shares from the market, which was leading to the rapid increase in the share price of UWBL. It was further stated that during the relevant period, Sino bought for its client, 55,000 shares of UWBL on BSE only on 14<sup>th</sup> November, 2000 and did not sell even a single share either on that day or in that settlement on the BSE. Hence, there was no basis whatsoever for the allegation that Sino was continuously supporting the price on BSE. It was stated that Sino bought the shares from the market for its client and the sellers were outsiders and not the Sanwa Group of companies. Hence there was no basis for the allegation that these orders were executed for raising the price of the scrip on BSE on November, 14, 2000.
20. It was clarified that the most important fact was that the Sanwa Group sold the bulk shares to an informed Buyer i.e the UWBL Trust and not to an ordinary investor on the street and that the deal was negotiated by none other than the UWBL's Chairman @ Rs.70/- per share, which fact was admitted in the statements recorded by SEBI of Mr. P. N. Joshi, Chairman, Mr. S. T. Gadre, Executive Director, Mr. S. V. Joshi, Director and Mr. S. A. Vadodkar, General Manager of UWBL. It was reiterated that the negotiated deal price had no relevance or linkage to the ruling market price in as much as when the offer of Rs.100 per share was made to Mr. Joshi on 11.11.00 (Saturday), the closing market price on 10.11.00 (Friday) was Rs.61.20 i.e. below the negotiated price of Rs.70/- Thus, the ruling market price would not have affected the deal price and the Sanwa Group would not have sold its large block of shares unless it got a fair price based on various parameters.
21. From the investigation reports, and upon an analysis of the trade data, especially with respect to the period when the share price of UWBL shares rose from Rs. 35.25 to Rs 70, I have noted as follows:-
- As on 31.10.2000 the share price of UWBL was only Rs. 35.25 per share. The first cross deal was executed between the associate companies on 1.11.00. As each day progressed, a series of cross deals were executed. The price of the scrip also showed a progressive rise from Rs.36.25 to Rs.48.55 during the period from 1.11.00 to 7.11.00. The Sanwa group did not trade, at least in their own names, on 8.11.00, 9.11.00, 10.11.00, 11.11.00 and 12.11.00, (10.11.00, 1.11.00 and 12.11.00 were holidays on account of being Saturday and Sunday and there was an additional bank holiday) However upon their resuming trading on 13.11.00 and 14.11.00, the price showed an increase from Rs.58.50 to Rs.70.30 per share. On 13.11.00 (settlement No. 46) the first cross trade was executed at a price of Rs.58.50 which was subsequently increased to Rs.65.9 (in the 6<sup>th</sup> cross trade executed on the same day). On 14.11.00, the very first cross trade executed was at a price of Rs.70.30 (7.9% above the previous traded price). Thus by each order put through, there was an increase in the price of the scrip.
22. In each of the cross deals, the broker was SSPL and the buying and selling clients were JEPL, SFPL, SDPL and Shri Janak Vaswani who as brought out earlier, were associate concerns of SSPL, Shri Janak Vaswani being a relative of Shri Murli Lekhranj. Though delivery of shares was given and taken, it is only by these cross deals between the associate/group companies/relatives, that the price of the scrip was raised, as shown above at para 21 above.
23. Although the deal with the UWBL Trust was allegedly concluded orally on 12<sup>th</sup> November, 2000, by which time over 93% of the cross deals are stated to have been executed, the fact that Shri Murli Lekhranj had prior knowledge of the UWBL Trust purchasing shares from the market (which was anyway common knowledge) and that he too was looking out to sell his entire holding in UWBL in the price range of Rs.70/- to Rs.100/ is not disputed. Admittedly at that point of time, from October end, 2000 to the beginning of November, 2000 he was negotiating with the bank to sell his holding and had admittedly contacted the bank officials and had expressed his willingness to sell the shares. The initiative had been taken by him in telephoning the Chairman of the bank and offering to sell his entire holding. However the market price of the scrip was Rs.35.25 per share as on 31.10.00. It is reasonable to assume that he would not have got a good price for his holding unless the market price of the said scrip was raised. Hence Shri Lekhranj was definitely in a good bargaining position vis-à-vis the bank/Trust, since he was armed with the prior knowledge that he was the only shareholder holding the bank's shares

in bulk through SFPL and that the bank's management were desperate to ward off the takeover threat and were seeking support for the EOGM to be held on 24.11.00 which had been called for by SICOM Ltd. and 17 other shareholders to appoint 4 persons as directors on the board under Section 169 of Companies Act, 1956. In this context, read with the facts above mentioned, the rationale for the execution of cross deals by SSPL, its associate company in Settlement Nos. 45 to 46 on NSE, seems comprehensible.

24. I have also noted that on 14.11.00, the day when the debit notes were raised by Shri Murli Lekhraj/Sava group for the Trust, for the purchase of the shares, the scrip touched the maximum price of Rs.70/- per share and that when the NSE asked for an explanation from SSPL for these cross deals, SSPL's had stated that the cross deals between their group companies were only for income tax purposes and not for affecting the price. This explanation does not seem convincing, especially after taking into account the contention of Murli Lekhraj in his letter dated 12.1.01 addressed to the Trust admitting that he was supporting the price of the scrip, on the instructions of the Bank/Trust and further stating that the Trust should take up 37991 shares (held by SFL) and 5740 shares (held by SDPL) *"being the shares bought under your(bank's) instructions to support the price"* as opposed to the denial by the bank/Trust that they had advised Shri Lekhraj to support the price of the scrip. Moreover I have also noted the contention of Shri Shrikant V Joshi, Director of the bank, that Shri Murli Lekhraj had demanded a price of Rs.70/- per share and was trying to get a better price to part with his holding. However Shri Lekhraj stated that the term "support" had been taken out of context and been misinterpreted to the effect that he would support the price of the UWBL by artificially manipulating the price or by doing false trading. It was clarified that what was meant was that he would genuinely buy the shares from the market, make an investment and bear the market risk since he believed that UWBL was an underpriced scrip which had the potential to perform better and thus, the Group continued buying even later on and continued to hold it even later. Drawing an analogy it was stated that when RBI "supported" the rupee by buying the dollars, RBI entered into genuine and legal transactions and hence on the same spirit and understanding, they had actually bought the shares as investors and had been holding them. However if I were to accept such a contention, then notwithstanding the overriding reason of tax write offs, there was no reason for Shri Lekhraj along with the Sanwa Group to offload such a bulk deal (purchased at the same market price) in favour of a third party at a price which was again near about the ruling market price. Having noted Shri Lekhraj's contention that he was an investor looking for maximum profit and had accordingly and allegedly made a negotiated deal with the Trust, I find the contention that the Group did not make a gain of Rs.3.84 crores as alleged in the notice and that instead, there was a loss of Rs.17.91 lakhs, to be untenable.
25. Hence on a cumulative analysis of the facts above stated, it appears that Shri Lekhraj, through his associate companies, in the process of negotiating with the bank officials the price of his entire holding while selling it to the Trust in an off market deal, had the reason and opportunity to manipulate the price of the scrip and create an impression of false volume and did so by executing a series of cross deals through his own group companies acting as clients, on the exchange. Although cross deal per se are permitted by SEBI when done on the price and order matching mechanism of the exchange, the said deals of all his associate companies on the NSE through SSPL indicate that the Sanwa group (mainly through SFPL and SDL) purchased the said shares for the purpose of raising the price of the scrip of UWBL.
26. It is apparent that in order to strike a deal with the bank officials and thereby get the "right price" for his holding, it was imperative that the market price of the scrip should have to be around Rs.70/- level to enable Shri Murli Lekhraj to sell his holding to the Trust (in off-market deal).
27. I have noted that on 14.11.00, the various group companies of Shri Lekhraj raised debit notes in the name of the Trust for sale of shares @Rs.70/- per share as follows –

| No. | Name of the company                 | No. of shares sold | Consideration   |
|-----|-------------------------------------|--------------------|-----------------|
| 1   | Jayem Exports (P) Ltd.              | 95400              | 6678000         |
| 2   | Sava Garments Mfg. (P) Ltd.         | 62500              | 4375000         |
| 3   | Palmar Invt. & Trading Co. (P) Ltd. | 95300              | 6671000         |
| 4   | Sanwa Finance Ltd.                  | 531820             | 37227400        |
| 5   | Sanwa Developments (P) Ltd.         | 419696             | 29378720        |
| 6   | H B Vaswani                         | 1100               | 77000           |
|     | <b>Total</b>                        | <b>1205816</b>     | <b>84407120</b> |

28. In view of the above findings, I am convinced that Shri Lekhraj, through his associate companies, manipulated the price of the scrip and gave an impression of false volume by executing a series of cross deals through the exchange, at a time when he was also in the process of fixing the price for selling his holding to the UWBL Trust. By the aforesaid acts, Shri Murli Lekhraj, acting through SSPL as its promoter director, initially created a false market and manipulated the price, with the help of its group companies. Subsequently, he offloaded his holding in an off-market deal to the UWBL Trust. He, as the director of SSPL, a registered member of NSE, was fully aware of the Rules and Regulations of SEBI. By the aforesaid acts he has not maintained standards of integrity, promptitude and fairness and has indulged in manipulative, fraudulent and deceptive transactions for his own personal gain, which led to the disruption of the smooth functioning of the market.

29. Although Shri Lekhraj has contended that he is an NRI and only enjoyed an honorary position as a Director in the Sanwa Group of Companies comprising of Sava Securities P. Ltd. ("SSPL"), Sanwa Finance P. Ltd. ("SFPL") Sanwa Developments P. Ltd. ("SDPL"), Sino Securities Pvt. Ltd. ("Sino") and Jayem Exports P. Ltd. ("JEPL"), without any involvement in the day to day business or affairs of the said companies, as he was not in India for the major part of the time and that it would not be just and fair that he be implicated in these proceedings, admittedly he is the Director of the companies. As a general rule, all officers of a company are appointed to act in the interests of the company and an important area of their legal responsibility stems from the law of trusts – i.e. a fiduciary relationship with the company. The duties arising from this relationship are well defined viz., to act in a bona fide manner and exercise their powers for the benefit of the company, to avoid a conflict of interests and a duty not to restrict but freely and fully, exercise their duties and powers. In addition, they also owe a duty of care to the company, not to act negligently in the management of its affairs but exercise reasonable care and such skills as might be reasonably be expected of a person of knowledge and experience. Consequently the issue of Shri Lekhraj not being in charge of and responsible for the conduct of its business would become a question of evidence and depend upon the facts and circumstances of the case. A mere averment that the day to day management of the company did not vest with him would not suffice for the said entity to escape liability. In the case under consideration, if Shri Lekhraj's argument were to be accepted, then he ought to have substantiated his stand. Yet apart from making a bare averment to this effect, no further contentions were advanced on this issue. Hence, in the absence of any satisfactory evidence to indicate that the irregularities under consideration were committed without his knowledge or that he had exercised due diligence to prevent the commission of such an offence, it would be manifest and can be concluded that Shri Lekhraj, along with his group companies mentioned in the show cause notice, was responsible for the conduct of the business of the said companies.
30. Although Shri Lekhraj has time and again contended that there was no violation of the provisions of the Regulations quoted in the show cause notice; from a cumulative reading of the facts available on record and mentioned above and the circumstantial evidence, read with the provisions of the regulations quoted above, I find that Shri Lekhraj has acted in concert with his group companies to create an artificial/ false market during the said period, thereby aiding and abetting the price manipulation of the scrip. However as regards the allegation against Shri Janak Vaswani, I do not find the evidence on record sufficient to implicate Shri Janak Vaswani.
31. The acts committed by Shri Lekhraj, acting in concert with his group companies, are violative of the provisions of Regulations 3 and 4(a)(b) and (e) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and not in accordance with sound market principles.
32. In this context it is relevant to note the provisions of Regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 which reads as under :
- Regulation 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) .....*
- (d) .....*
- (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."*
33. It is to be noted that persons who operate in the market, are required to maintain high standards of integrity, promptitude and fairness in the conduct of the business dealings. People who indulge in manipulative, fraudulent and deceptive transactions or abet the carrying out of such transactions which are fraudulent and deceptive, are not fit or proper persons to operate in the market. Although it has been contended that there has not been any other instance of default by the Sanwa Group, either in the payment of dues or delivery of shares by SSPL to its clients, Exchanges, etc or any complaints against SSPL/Sino either by or before SEBI, in view of the facts and circumstances of the case and the violations by Shri Lekhraj and his group companies i.e. Sanwa Finance P. Ltd. ("SFPL") Sanwa Developments P. Ltd. ("SDPL"), and Jayem Exports P. Ltd. ("JEPL") of the provisions formulated by SEBI for the protection of the investors, I find that a direction restraining them from accessing the securities market and dealings in the securities market for a specified period would be required. The passing of such an order would be necessary for the regulation of the persons operating in the capital market and the development thereof, as well as for the protection of the investors.

34. In view of the above and in exercise of the powers conferred upon me under Sections 19, read with Sections 11 and 11B of the SEBI Act, 1992 and Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, I hereby debar Shri Lekhraj along with Sanwa Finance P. Ltd. ("SFPL") Sanwa Developments P. Ltd. ("SDPL"), and Jayem Exports P. Ltd. ("JEPL") from accessing the securities market and from buying, selling or dealing in securities for a period of 2 years.
35. This order shall come into force with immediate effect.

**PLACE : MUMBAI**

**DATE : AUGUST 31, 2004**

**A.K.BATRA**

**WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**