

SECURITIES AND EXCHANGE BOARD OF INDIA**ORDER**

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

AGAINST SHRI RAHUL R SHAH, IN THE CASE OF SYNTHIKO FOILS LIMITED.

BACKGROUND

1. The shares of M/s. Synthiko Foils Ltd. (hereinafter referred to as 'Synthiko') were listed on The Stock Exchange, Mumbai (hereinafter referred to as 'BSE').
2. BSE informed Securities and Exchange Board of India (hereinafter referred to as 'SEBI') as follows :
 - i. Trading in the said scrip had been suspended on the exchange for a period of three days from 02.09.96, on account of the abnormal price movement noticed in the scrip during the period 02.05.96 to 30.08.96.
 - ii. The share price had increased from Rs.13.50 to Rs.82.40 i.e. an increase of almost Rs.70 in just four months.
 - iii. In order to control this unjustified rise in price, BSE had imposed various surveillance measures like suspension, special margin and filter limits but the price rise could not be arrested.

Thereafter, with effect from 09.09.96, BSE suspended the trading in the scrip indefinitely.
3. SEBI initiated investigations into the affairs of and the dealings in the shares of Synthiko, including the role of intermediaries in the contraventions, if any, of the provisions of inter alia the SEBI (Prohibition of Fraudulent & Unfair Trade Practices relating to the Securities Market) Regulations 1995 (hereinafter referred to as the Regulations) vide Chairman's order dated 27th December, 2002.
4. During the course of investigations it was seen that :
 - a. The price of the scrip had apparently been rigged by directors of Synthiko viz. Shri Bhavesh Dadhia and Shri Ramesh Dadhia, who had transacted through various brokers.
 - b. The share certificates that were being delivered in the market during the investigation period belonged to Dadhia/associates.
 - c. It appeared that the directors were selling as well as buying in the market, with a view to create artificial volume and to increase the share price.
 - d. However, imposition of indefinite suspension on the trading of Synthiko's scrip seemed to have thwarted their attempts, with the result that the directors defaulted on making payments to the brokers/sub-brokers through whom they bought shares and did not take delivery of their shares. Also, when these brokers/sub-brokers lodged the shares for transfer, the same were returned citing various reasons.
5. It was seen that one of the major buyers in the scrip of Synthiko during the period May-August, 1996 was the combination of Shri Rahul R Shah (Rahul), a broker of the Pune Stock Exchange (PSE) and Rajesh Finance & Investment Pvt. Ltd. (Rajesh). These two shared the same address, with Rahul being the major shareholder in Rajesh and his wife, Richa Shah, being a director in Rajesh. The total gross position of the two entities in the investigation period was 1.33 lac shares. The details of their purchases are as given below:

Name of the broker	Client	Buy	Sell	Gross	Net
K A Gunderia & Co.	Rahul R Shah	75100	28800	103900	46300
Asit C Mehta	Rajesh Fin & Inv Services P Ltd	29000	0	29000	29000

6. It was noted that Rahul & Rajesh had dealt through two different brokers of BSE, in the same settlement, but had either bought or sold. Their gross volume, as stated above, was around 1,32,900, which was 5.5% of BSE's gross volume in the scrip during the period under investigation.

7. Rajesh, who had allegedly purchased the shares of Synthiko for investment purposes, had taken the delivery of 27,800 shares (for which delivery was received) and sent the share certificates for transfer to Synthiko, part of which were returned back under the objection of "signature difference".
8. It was also noted that Ramesh Dadhia and Bhavesh Dadhia, Managing Director and Director respectively, of Synthiko, had both issued many cheques to Rahul, including a draft for Rs.4,95,000/-, which were sent by them to Rahul for adjustment of dues on account of dealing in the shares of Synthiko. It was also noted that the Dadhias had arranged a deposit of Rs.10 lacs from Jay Tara Trust (an associate concern), to Rahul, for payments to be made on their behalf for the purchase of synthiko's shares.

SHOW CAUSE NOTICE AND HEARING

9. In view of the findings of the investigation, SEBI issued a notice dated November 19, 2003 to Rahul, advising him to show cause as to why appropriate directions under Regulation 11 and 12 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Markets) Regulations, 2003 read with Section 11B of SEBI Act, 1992, including directions restraining him from accessing the securities market and prohibiting/suspending him from buying, selling or dealing in the securities market in any manner whatsoever, for a particular period, should not be issued against him and he was directed to reply to the said notice within 15 days of the receipt thereof and it was also indicated that in case he failed to furnish his reply within the stipulated time, it would be presumed that he had nothing to say in the matter and SEBI would be free to take such action as deemed fit. Rahul was also advised to indicate whether he preferred a personal hearing before me.
10. In reply to the same, Rahul, vide his letter dated December 24, 2003, inter alia refuted the charges leveled against him and requested that the proceedings against him be dropped and that he be granted a personal hearing. In view of the request for a personal hearing, Rahul was advised to appear before me, for a hearing on April 05, 2004. On the said date, Rahul reiterated that he was not guilty of any default and stated that no action should be taken against him, as the allegations contained in the show cause notice were incorrect.
11. I have taken into consideration the facts and circumstances of the case and the material available on record, which include the facts leading to the investigation, submissions made on behalf of Rahul, the findings of the investigation, the show cause notice and the reply of Rahul to the same.

FINDINGS

12. I have noted that during investigation, at the time of recording his statements, in response to queries regarding his interest in the share of Synthiko and the reason for accepting cash for the transactions done for his clients, Rahul had initially stated that he had purchased some shares of Synthiko and also recommended them to others at the behest of one of his clients, Mr Abhay Soman, professor at Bharatiya Vidya Peeth, Pune who was also his relative, and that at times, since he had to make frantic arrangements for meeting his pay-in obligations, he had accepted cash in certain transactions. However, subsequently Rahul had confessed that the shares of Synthiko were bought on behalf of the director of Synthiko, Shri Bhavesh Dadhia, purely on delivery basis; but that when Bhavesh defaulted on payment and refused to take delivery, he had arranged money for the pay-in and had shown the dealings as investments in the names of his various clients and consequently all the cash was arranged by him alone. This submission was substantiated by Rahul even in his reply to the show cause notice, wherein, while detailing the apparent involvement of the promoters of Synthiko on the buy side, Rahul stated the he had purchased shares of Synthiko for Bhavesh in his individual capacity & never for and on behalf of the company per se, in as much as the cheques were issued by Bhavesh in his personal capacity. Rahul had further stated that since the cheques given by Bhavesh were dishonored and the payment could not be received, he had no alternative but to effect the sales of those shares to his various clients, to raise the necessary funds.
13. I have further noted Rahul's contention that the transfer to the clients was genuine and true since he received payments by cheques from them, and that the transfer forms signed by him and the purchaser were sent to the company for transfer along with the share certificates, but that some of them were returned back under the objection of "signature difference". Rahul denied entering into spot transactions in the shares of Synthiko at the instance of Bhavesh, as alleged by SEBI and stated that whatever spot transactions that were entered into by him were purely through independent shareholders who had no connection whatsoever with Bhavesh and for which he had made the payment by cheques.
14. In response to Rahul's submission that he had dealt in the shares of Synthiko for Bhavesh, the director of Synthiko, I have noted that Bhavesh has denied either having traded in the scrip of Synthiko during the period under investigation as well as before and after the period under investigation i.e from June to December 1996 or having paid the demand draft of Rs.4.90 lacs to Rahul Shah. As regards the other payments made by him to Rahul, he has stated that he and his brother Shri Himesh Dadhia had issued post dated cheques in favour of Rahul, allegedly for repayment of the loan that they wanted to procure from Rahul. Bhavesh also stated that he had pledged some shares of Synthiko with Rahul as a collateral for the loan and also provided details of the shares so pledged, and further stated that although both Rahul and Abhay took signatures on blank pledge agreement and power of Attorney (POA), they failed to arrange the loan amount and also failed to return the said shares.

15. However, I am unable to accept the contentions of Bhavesh in this regard, as Rahul had clearly admitted that he had purchased the shares of Synthiko for Bhavesh only, who, at that point of time, was ready to pay for the same, but subsequently failed to make the payments for the shares bought on his behalf. In response to the above statements of Bhavesh, Rahul has contented that the said shares were pledged with him to enable him to raise money required for paying margin money to the exchange. As a proof of his claim in this regard, I have noted that Rahul has provided the original pledge agreement, power of attorney, letters written by Bhavesh, as well as copies of the cheques given by Bhavesh, which were dishonored by the bank on presentation by Rahul. Admittedly, Rahul was holding a total of 45,200 shares of Synthiko, bought for Bhavesh, in his possession and had allegedly tried several times to contact Bhavesh to recover the money, who had never gotten in touch with him for the past seven years, but upon receiving SEBI's notice in this regard, contacted Rahul to resolve the problem mutually and amicably.
16. I have noted that Rahul could corroborate his contentions by producing some telephone bills for the period June 1996 till December 1996 to show communication between him and the Dhadias at the trading time, as well as the taped conversations between him and Bhavesh detailing the conversation relating to pay-in details. I have also perused the documents provided by Bhavesh to the investigating authorities in support of his arguments, viz:
- i) Copy of the cheque no. 251660 of Rs.43 lakhs signed by Bhavesh. Copies of 7 cheques (nos. 053567 for Rs.1.25 lakhs, no 053568 for Rs.3.65 lakh, 053566 for Rs.9.15 lakhs, 053571 for Rs.6 lakhs, 053569 for Rs.8.45 lakhs, 053570 for Rs.8.40 lakhs, 053572 for Rs.5.99 lakhs) signed by Shri Himesh Dadhia.
 - ii) Pledge agreement for 30,200 shares entered into between Bhavesh R Dedia & Rahul R Shah for pledge of shares of Synthiko.
 - iii) Power of Attorney entered into between the above parties.
 - iv) Copy of letter dated 18.9.96 written by Bhavesh to Rahul, enclosing a DD of Rs.4.90 lacs in the name of Abhay Soman.
 - v) Copy of letter written by Rahul acknowledging receipt of Rs.10 lacs from Jay Tara Trust for purchase of shares on behalf of Bhavesh Dadhia. Copy of letter written by Bhavesh Dadhia to Rahul acknowledging that the said amount will be paid back by them.
17. I have noted that the cheques issued by the Dadhias, mentioned at para 16 above, match with the exact pay-in figure, plus brokerage and other charges, of the shares of Synthiko bought by Rahul and Rajesh combined. Thus, it is clear that the cheques issued by the Dadhias were towards their pay-in obligations towards their transactions in the shares of Synthiko and not for payment of loan taken from Rahul, as sought to be suggested by them.
18. As regards the contention of Bhavesh that the contents of pledge agreement and the Power of Attorney were unknown to him and that Rahul had taken his signatures on blank documents, I have noted that the entire contents of the pledge agreement were typewritten and were signed by Bhavesh on all the pages. In any case it appears implausible that directors of public listed companies would agree to sign blank pledge agreements and power of attorney documents.
19. I have noted that in response to the charge of aiding and abetting the Dhadias in the manipulation of share price of Synthiko, Rahul has denied any knowledge of the sales, if any, made by Bhavesh to third parties. As regards their role in price rigging or manipulation of the shares of Synthiko or in aiding or abetting Mr. Bhavesh in the alleged dealings by him, Rahul has stated that there was absolutely no reason to arrive at the said inference just because a huge amount of trading had happened in the shares and especially in the absence of any other material evidence to support such an inference.
20. However, on a cumulative analysis of the above, it is apparent that Rahul had acted on behalf of the Dadhias and had bought a not-so-insignificant quantity of shares for Bhavesh. Rahul had admittedly executed transactions at the behest of Bhavesh but upon Bhavesh failing to make payments or taking delivery of the shares, Rahul had showed the said transactions in the names of his various clients, in order to hide the real identity of the client for whom he was dealing.
21. Despite Rahul's denial of any knowledge of the dealings in the said shares by the Dhadias, from the share certificates received by him in pay-out, Rahul had the means of knowing that the share certificates (being delivered in the market) were in the name of Dadhias, clearly indicating that the Dadhias were selling on the other side. Even if it is assumed for a moment that Rahul was unaware of the intentions of the Dadhias, the share certificates received by him would have clearly indicated to him that the buying and selling in the shares of Synthiko was being done by the directors of Synthiko.
22. It is obvious that Rahul had acted in concert with the Dhadias, to create an artificial/ false market during the said period and had assisted the Dadhias in giving an impression of false volume by executing the said trades, thereby aiding and abetting the Dadhias in price manipulation of the scrip of Synthiko.
23. By the aforesaid acts he has not maintained standards of integrity, promptitude and fairness expected of a functionary in the securities market and has indulged in manipulative, fraudulent and deceptive transactions, which led to the disruption of the smooth functioning of the market. The acts committed by Rahul are in violation of the provisions of Regulations 4(a) to

(d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 and not in accordance with sound market principles.

24. 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 read 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) 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)"*

25. 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.

26. It would be relevant to add here that during the hearing before me, Rahul stated that although he had been a registered broker of PSE, by virtue of which he was a sub-broker of PSE Securities Ltd and that Rajesh, in which he was a major shareholder, was registered as a sub-broker of Scope Investments, Member, OTCEI, he had sold his PSE card in 2000 and Rajesh was a defunct company. He further stated that due to heavy losses sustained by him in share broking business, he had given up all share market activities and was now in the tourism business. I have also taken note of the fact that although Rahul did not submit the full and correct information at the beginning of the investigating procedure, later on, he cooperated and provided vital information regarding the involvement of the directors of Synthiko in the manipulation of the scrip, but for which, the case could not have proceeded further.

27. However, in view of the facts and circumstances of the case and the violations by Rahul of the provisions formulated by SEBI for the protection of the investors, I find that a direction restraining him 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.

28. In view of the above and in exercise of the powers conferred upon me under Sections 19, read with Section 11B of the Securities and Exchange Board of India Act, 1992 and Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, I hereby prohibit Rahul R. Shah from buying, selling or dealing in securities for a period of one year.

29. This order shall come into force with immediate effect.

PLACE : MUMBAI

DATE : SEPTEMBER 21st, 2004

A.K.BATRA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA