

**SECURITIES AND EXCHANGE BOARD OF INDIA****Coram: Shri T C NAIR, WHOLETIME MEMBER**

Name of the noticee : M/s. Shailee Securities  
Date of hearing : May 22, 2006  
Appearance of Parties  
For the notice : Shri Janak Raja, Proprietor, M/s. Shailee Securities  
For SEBI : Shri P K Bindlish, General Manager

**ORDER**

**UNDER REGULATION 13(4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002, AGAINST M/s. SHAILEE SECURITIES (SEBI REGISTRATION NO. INS010316714/09960, A SUB-BROKER AFFILIATED TO M/s. PRAMOD KUMAR JAIN PRIVATE LIMITED, A MEMBER OF THE STOCK EXCHANGE, MUMBAI**

**WTM/TCN/ID3/ 93/02/2007****BACKGROUND**

- Spanco Telesystems and Solutions Limited (hereinafter referred to as "STSL promoted by Shri Ashok Oberoi, Shri Bansilal Tandon, Shri V V Balakrishnan, Shri Vinod Kumar Nemani and Shri Jai Prakash Nemani was originally incorporated in 1984 as Kadambari Leasing Private Limited. Kadambari Leasing Private Limited had taken over business of STSL and adopted its name with effect from 11<sup>th</sup> November 1999. In 1984, the company had come out with a public issue of 1, 50, 000 shares at par and was listed on the Bombay Stock Exchange Limited (hereinafter referred to as "BSE.
- Securities and Exchange Board of India (hereinafter referred to as "SEBI received certain complaints about price rigging in the scrip of STSL. After receiving the observations relating to the same from BSE, SEBI conducted an investigation into the affairs of STSL for the period from 1<sup>st</sup> October 2000 to 31<sup>st</sup> July 2001 (hereinafter referred to as "investigating period. The observations under the investigation are as under:
- In an Extra Ordinary General Meeting held on 11<sup>th</sup> December 1999, STSL passed a resolution to allot 10,00,000 shares to its promoters and transfer its management control to Kapil Puri Group. The same day 10,00,000 preferential shares at Rs.10/- each were issued to Kapil Puri Group and others comprising individuals, not necessarily shareholders of STSL. The shares were listed on BSE on February 24, 2000. As on October 01, 2000, Shri Kapil Puri was Chairman of STSL.
- From the distribution schedule of STSL as on August 24, 2001, it was observed that the public holding in STSL was only 5, 77, 000 equity shares amounting to 8.26%. FIIs, NRIs, and Banks together had a holding of less than 1%. Other Body Corporates held 29.80%, while Promoters of STSL held 61%. Out of 637 shareholders, 19 shareholders held 94.67% of the equity capital of STSL.
- A preferential allotment of 22,50,000 shares at Rs.15/- each (premium Rs.5/-) was made under section 81(1A) of the Indian Companies Act, 1956, on 16.02.00, to the parties as mentioned in the table below. These shares were listed on BSE on June 26, 2000.

**Table 1**

| <b>S.No.</b> | <b>Name of the Allottee</b>    | <b>Shares Allotted</b> |
|--------------|--------------------------------|------------------------|
| 1            | Shri Kapil Puri                | 8,00,000               |
| 2            | Neha Equisearch Pvt Ltd        | 3,75,000               |
| 3            | Smt Kavita Puri                | 2,55,000               |
| 4            | Shri Rajesh Chhabria           | 2,30,000               |
| 5            | Shri Mahendra G Shah           | 2,00,000               |
| 6            | Shri Sanjeev Chainani          | 1,75,000               |
| 7            | Shri Kishore Saigal            | 60,000                 |
| 8            | M/s Networth Stock Broking Ltd | 50,000                 |
| 9            | Smt Chanderkanta Malik         | 50,000                 |
| 10           | Sarvpriya Leasing Pvt Ltd      | 20,000                 |
| 11           | Shri Sudanshu Tewari           | 20,000                 |
| 12           | Shri Naresh Bahri              | 15,000                 |
|              | <b>Total</b>                   | <b>22,50,000</b>       |

6. Further, a special resolution was passed in an Extra Ordinary General Body Meeting convened on January 30, 2001 under section 81(1A) of Companies Act, 1956 to allot 30,00,000 equity shares at Rs.52/- each (premium Rs.42/-) on preferential basis to the following persons:

**Table 2**

| S.No. | Name                 | Shares Allotted  |
|-------|----------------------|------------------|
| 1     | Shyam Telecom Ltd    | 15,60,000        |
| 2     | Shri Rajesh Chhabria | 7,20,000         |
| 3     | Shri Kapil Puri      | 7,20,000         |
|       | <b>Total</b>         | <b>30,00,000</b> |

7. Though the resolution was passed to allot shares in the above manner, no allotment was made within stipulated period of three months. An Extra Ordinary General Meeting was held on May 29, 2001 wherein a resolution was passed to allot 30,00,000 shares at Rs.10/- each for cash at a premium of Rs.27/- per share aggregating to Rs.11,10,00,000/- on preferential basis to the persons mentioned in the above table. It was observed that this premium structure was reduced from Rs.42/- to Rs. 27/- per share.
8. It was observed that there was an effort to create artificial volume in the scrip of STSL during the period of investigation, to influence the terms and conditions of the preferential allotment mentioned hereinabove. It was alleged that a set of brokers/members of BSE have traded in the scrip of STSL and indulged in creating artificial volumes thereby influencing the price of the said scrip. Accordingly, it is alleged that volumes in the scrip of STSL were high as compared to the volumes prior to and after investigation period. The price of the scrip on 01.10.00 was Rs.50/- with a volume of 1,000 shares. The price had reached its peak of Rs.54.95/- on October 06, 2000 and the number of shares traded were 2,300 after which the price had come down to a low of Rs.18.80 with 14, 660 shares being traded on April 20, 2001. Further, it was noticed that the price of the scrip had started rising and by June 29, 2001; it had reached Rs. 44.55/- with a trade volume of 61,460 shares. After this period, the price of the scrip again started falling and at the end of the investigation period i.e., on July 31, 2001, the price of the scrip was hovering around Rs. 26/- whereas traded volume reported at the exchange on the same day were 7,600 shares.
9. A group of brokers at BSE had traded and indulged in creating artificial volume and influencing the price of the scrip of STSL. M/s. Shalee Securities (herein after referred to as 'SS or 'sub-broker, affiliated to M/s. Pramod Kumar Jain Private Limited, a member of BSE, was one of those who had dealt in the scrip of STSL during the relevant period.
10. During the investigations, SS had traded in 2,37,700 shares of STSL and all the trades have been on behalf of their client, Shri Hitesh Shah. Though the trades were done for Shri Hitesh Shah, the orders were placed by Shri Sirish Shah, who had introduced Shri Hitesh Shah to SS. Shri Sirish Shah had taken deliveries and made payments on behalf of the client.

The details of such trades have been tabulated below.

**Table No. 3**

| NAME OF THE MEMBER | SETTLEMENT | PURCHASES | SALES     | NET | GROSS     |
|--------------------|------------|-----------|-----------|-----|-----------|
| Pramod Kumar Jain  | 37         | 1,000.00  | 1,000.00  | 0   | 2,000.00  |
| Securities P. Ltd. | 38         | 4,100.00  | 4,100.00  | 0   | 8,200.00  |
| Shalee Securities  | 40         | 5,200.00  | 5,200.00  | 0   | 10,400.00 |
|                    | 42         | 5,000.00  | 5,000.00  | 0   | 10,000.00 |
|                    | 43         | 2,500.00  | 2,500.00  | 0   | 5,000.00  |
|                    | 44         | 1,000.00  | 1,000.00  | 0   | 2,000.00  |
|                    | 45         | 2,000.00  | 2,000.00  | 0   | 4,000.00  |
|                    | 46         | 7,300.00  | 7,300.00  | 0   | 14,600.00 |
|                    | 47         | 11,000.00 | 11,000.00 | 0   | 22,000.00 |
|                    | 48         | 3,850.00  | 3,850.00  | 0   | 7,700.00  |
|                    | 49         | 6,750.00  | 6,550.00  | 200 | 13,300.00 |
|                    | 04         | 1,500.00  | 1,500.00  | 0   | 3,000.00  |
|                    | 05         | 2,600.00  | 2,600.00  | 0   | 5,200.00  |
|                    | 06         | 1,500.00  | 1,500.00  | 0   | 3,000.00  |
|                    | 07         | 5,500.00  | 5,500.00  | 0   | 11,000.00 |
|                    | 08         | 11,300.00 | 11,300.00 | 0   | 22,600.00 |
|                    | 09         | 14,000.00 | 14,000.00 | 0   | 28,000.00 |
|                    | 10         | 17,550.00 | 17,550.00 | 0   | 35,100.00 |
|                    | 11         | 4,200.00  | 4,200.00  | 0   | 8,400.00  |
|                    | 12         | 2,600.00  | 2,600.00  | 0   | 5,200.00  |

|              |    |                   |                   |            |                   |
|--------------|----|-------------------|-------------------|------------|-------------------|
|              | 13 | 6,000.00          | 6,000.00          | 0          | 12,000.00         |
|              | 16 | 2,400.00          | 2,400.00          | 0          | 4,800.00          |
|              | 18 | 100.00            | 100.00            | 0          | 200.00            |
| <b>TOTAL</b> |    | <b>118,950.00</b> | <b>118,750.00</b> | <b>200</b> | <b>237,700.00</b> |

As can be seen from the above table, except for 200 shares (in settlement no. 49), all the other trades have been squared off. The investigations alleged that the trades were calculated to create false appearance of trading in the market, leading to price rise thereby contravening the provisions of Regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995. The investigations also alleged that SS had not exercised proper skill and diligence by allowing artificial trades to be routed through them, thereby violating the Code of Conduct prescribed for sub-brokers specified in Schedule II read with Regulation 15 of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992.

11. In view of the allegations it was felt that an enquiry was required to be conducted against the said entity to look into the allegations leveled against them.

## ENQUIRY PROCEEDING

12. SEBI appointed an Enquiry Officer vide an order dated October 13, 2003 to enquire and adjudge into the contraventions alleged against the sub-broker while trading in the scrip of STSL.
13. The Enquiry Officer issued a notice dated April 30, 2004 to the sub-broker in accordance with the terms of Regulation 6(1) of SEBI (Procedure for Holding Enquiry by the Enquiry Officer and Imposing Penalty) Regulations, 2002 (herein after referred to as "Enquiry Regulations, wherein the sub-broker was required to show cause why action should not be taken against them for the alleged violations of SEBI Act, 1992, the provisions of Regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and the Code of Conduct prescribed for sub-brokers specified under Schedule II read with Regulation 15 of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992. The show cause notice enclosed a copy of the statement of Shri Janak Raja, Proprietor of SS. The said notice required the sub-broker to make its submissions along with supporting documents, if any, within 21 days as provided for in the regulations. The show cause notice further intimated the sub-broker that if they failed to make their submissions within the stipulated time, it would be presumed that they have no explanation to offer and that the Enquiry Officer would decide the matter on the basis of material on record.
14. The Sub-Broker had failed to respond to the show cause notice issued by the Enquiry Officer. In order to provide another opportunity to put forth its submissions, the Enquiry Officer had issued another notice dated June 24, 2004 for hearing and fixed the date of hearing on August 18, 2004. On August 18, 2004, the sub-broker through its proprietor, Shri Janak Raja had appeared before the Enquiry Officer and submitted that they had not received the show cause notice and in view of this submission the Enquiry Officer provided a copy of the show cause notice dated April 30, 2004 to him. Thereafter the sub-broker through its proprietor Shri Janak Raja replied vide his letter dated August 30, 2004 putting forth its submissions. SEBI had re-appointed the Enquiry Officer in the matter vide an order dated September 30, 2004. Thereafter the Enquiry Officer issued a notice dated November 17, 2004, advising the sub-broker to attend the hearing scheduled on December 10, 2004. Shri Janak Raja had appeared before the Enquiry Officer and reiterated his submissions made earlier through the reply.
15. I note that the Enquiry Officer after holding the Enquiry in accordance with the prescribed regulations and after appreciating the evidence submitted the Enquiry Report to the Board. In the Enquiry Report, the Enquiry Officer has observed that:
  - i) The sub-broker had mainly squared off his trades and the trading pattern was such that the buy and sell orders were set off against each other and delivery was minimal;
  - ii) The sub-broker failed to take note of the nature of trades routed through it and that the sub-broker was only concerned about pay-in and pay-out and that no default arose out of the said trades;
  - iii) By failing to exercise due diligence the sub-broker did inadvertently facilitate the manipulation in the said scrip, by allowing such trades to be routed through them which had no intention of effecting transfer of beneficial ownership.
16. Based on the findings, the Enquiry Officer found SS guilty of violating the provisions of Regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and the provisions of Code of Conduct specified in Schedule II read with Regulation 15 of the SEBI (Stock Broker and Sub-broker) Regulations, 1992 and recommended that the certificate of registration granted by SEBI to M/s. Shailee Securities be suspended for a period of 15 days. It was also observed that such penalty would be necessary for the regulation of persons operating in the capital market and its development thereof as well as the protection of investors.

## **NOTICE UNDER REGULATION 13(2) OF ENQUIRY REGULATIONS AND ITS REPLY**

17. On consideration of the Enquiry Report submitted to the Board, a notice dated 03-02-2005 in terms of Regulation 13 (2) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing of Penalty) Regulations, 2002 was issued to the sub-broker asking it to show cause as to why appropriate penalty including the penalty as recommended by the Enquiry Officer should not be imposed. The notice also required the sub-broker to submit its reply along with documents, if any within 15 days of receipt of the notice as prescribed under the Enquiry Regulations.
18. The sub-broker through Shri Janak Raja replied to the notice by its undated reply, received by SEBI on February 21, 2005. In the reply, the sub-broker submitted that:

The sub-broker has conducted the business with proper skill, care and diligence and in a professional manner;

It was very difficult for a sub-broker to find out any trade which resulted into artificial trades when the exchange and the broker/member could not find that the trades were artificial;

Punishment of a sub-broker is totally wrong and unjust;

The exchange did not warn them about such trades and that it had not violated the laws.

The sub-broker had denied the charges and reiterated their earlier stand and requested that the proceedings be dropped against it. The sub-broker was given an opportunity of hearing, by a notice dated May 05, 2006, before me on May 22, 2006. On May 22, 2006, the sub-broker represented by Shri Janak Raja appeared before me and made its submissions.

### **CONSIDERATION OF ISSUES**

19. I have perused the notice dated April 30, 2004 issued to the sub-broker, the submissions made thereon, the Enquiry Report, the show cause notice dated February 03, 2005 and the submissions made before me by Shri Janak Raja, Proprietor of SS. On a perusal of the material facts of this case, the following issues arise for consideration:
- i) Whether the sub-broker indulged in trades that were artificial in nature thereby contravening Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995
  - ii) Whether the sub-broker failed to exercise proper skill care and diligence by allowing such artificial trades to happen thereby contravening the Code of Conduct as specified in Schedule II read with Regulation 15 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992
20. I note from the records placed before me that the scrip of STSL was illiquid, before the investigation period. As on August 21, 2001, only 8.26% of the stocks of STSL were held by the public (500 shares were traded on October 1, 2000) but this figure went upto about 78,700 shares as on May 30, 2001. This rise in the trading volumes and price was found to coincide with the preferential allotment of 30,00,000 shares by STSL on May 29, 2001. I note that the price of the scrip moved from Rs.18.80/- on April 02, 2001 to Rs. 44.55/- on June 29, 2001 which subsequently came down to Rs. 26/- on July 31, 2001. I also note that the sub-broker had traded 2,27,500 shares of STSL on behalf of their client Shri Hitesh Shah who was introduced to SS by one Shri Shirish Shah. But the orders were placed on behalf of Shri Hitesh Shah by Shri Shirish Shah. I note that a statement to this effect was given by Shri Janak Raja before the Enquiry Officer. I also note that another sub-broker M/s. Mahek Consultants was also involved in the trading in the scrip of STSL for their client Shri Chandrasekhar Shah. It is pertinent to note that the orders to M/s. Mahek Consultants were also given by Shri Shirish Shah. As pointed out by the Enquiry Officer, Shri Shirish Shah seems to be a link between M/s. Shailee Securities and M/s. Mahek Consultants. The sub-broker has denied the allegation of creating artificial volumes in the scrip of STSL and that it had taken proper care in ensuring the payments. However, I find that the sub-broker had purchased 1,18,950 shares and sold 1,18,750 shares and almost all trades had been squared off except in one case where there was delivery of 200 shares which is evident from Table No. 3 above. I agree with the finding of the Enquiry Officer that the trading pattern was such that the buy and sell orders were always set-off against each other and the delivery was minimal i.e except for one trade of 200 shares all the others were squared off out of 23 settlements. Such trading pattern should have raised some doubt in the sub-broker. This kind of trading pattern cannot be normal and would be only to create a false appearance of trading in the scrip. Therefore, in my view, the sub-broker had contravened the provisions of Regulation 4 of the SEBI (Prohibition of Unfair and Fraudulent Trade Practices relating to Securities Market) Regulations, 1995.
21. With regard to the issue (ii) supra, I find that the trading pattern of the clients mentioned at Table No. 3 should have alerted the sub-broker. In its reply and submissions, SS has stated that it has traded in the scrip of STSL in the normal course and that they had no reason to doubt the purpose behind the said transactions. From the facts and circumstances of the case and the contents of Table No. 3, the trades executed by SS cannot be in the normal course. A broker or a sub-broker is expected to exercise diligence and proper care when he enters into trades on behalf of his clients. This is only to ensure that the designs of the market manipulators are kept at bay thereby safe guarding the interest of the innocent investors.

From the materials on hand I find that the sub-broker did not exercise proper care and diligence which was required in the normal course of discharge of his business in executing trades on behalf of his clients, since the transactions were only in the nature of building volumes without any intent to transfer ownership. Thus SS has contravened the provisions of the Code of Conduct prescribed for sub-brokers specified in Schedule II read with Regulation 15 of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992.

22. Based on the above discussion, I find that the sub-broker had contravened the provisions of Regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and the Code of Conduct prescribed for sub-brokers under Schedule II read with Regulation 15 of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992. Thus in the facts and circumstances of the case, in my view the period of suspension as recommended by the EO is commensurate with the violations committed by SS.

**ORDER**

23. I, therefore, in exercise of the powers conferred upon me by virtue of Section 19 of the SEBI Act, 1992 and in terms of Regulation 13 (4) of SEBI (Procedure For Holding Enquiry By Enquiry Officer And Imposing Penalty) Regulations, 2002, hereby direct that the certificate of registration granted to M/s. Shailee Securities, a sub-broker affiliated to M/S. Pramod Kumar Jain Securities Private Limited, be suspended for a period of 15 days.
24. The period of suspension shall be operative after 21 days of passing this order.

**Place: Mumbai**

**Date: 22.02.2007**

**T C NAIR**

**WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**