

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: G. ANANTHARAMAN, WHOLE TIME MEMBER

ORDER

UNDER REGULATION 13(4) OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST M/S. PRAKASH BAID SECURITIES PVT. LTD., MEMBER, CALCUTTA STOCK EXCHANGE ASSOCIATION LIMITED IN RESPECT OF ITS DEALINGS IN THE SHARES OF PATRIOT TRADING COMPANY LIMITED.

Date of Hearing: February 19, 2007

Appearances:

For Noticee : Shri Pramod Baid, Director, M/s. Prakash Baid Securities Pvt. Ltd.

For Securities and Exchange Board of India: Shri Jayanta Jash, Dy. General Manager

1.0 BACKGROUND:

- 1.1 The price of the shares of Patriot Trading Company Ltd. (hereinafter referred to as the company) increased from Rs. 2.30/- per share on August 01, 2001 to Rs. 62.16/- on February 15, 2002 at the Calcutta Stock Exchange Association Limited (hereinafter referred to as CSE), the stock exchange where the shares of the company were listed. Further, the price of the shares of the said company showed a downward trend and reached Rs.27.05/- on February 28, 2002.
- 1.2 In view of the aforesaid unusual price movement noticed in the shares of the company, Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted an investigation in respect of buying, selling and dealing in the shares of the company and to enquire into whether the said company, other intermediaries/persons associated with the buying, selling and dealing in the shares of the company contravened the provisions of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as the FUTP Regulations), Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as the Broker Regulations), Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, (hereinafter referred to as the 'Takeover Regulations'), Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations 1992.
- 1.3 The investigation conducted by SEBI found that certain members of CSE namely, Shri. Ballabh Dass Daga, Bubna Stock Broking Services Ltd., D.B & Co, Lexus Shares & Stock Brokers Pvt. Ltd. and Prakash Baid Securities Pvt. Ltd. traded substantially in the shares of the company and contributed 87% of the total turnover in the said shares at CSE during the period August 2001 to February 2002. The aforesaid members of

CSE are also registered as stock brokers with SEBI. The aforementioned Prakash Baid Securities Pvt. Ltd is hereinafter referred to as the Broker.

1.4 It was found that the Broker had executed trades for 7,50,000 (both buy and sale) shares of the company on behalf of its various clients out of the total turnover of 78,68,302 shares at CSE. The said trades accounted for 10% of the total turnover in the shares at CSE during the said time. The investigation revealed that out of the aforesaid trades of the Broker, 4,50,000 shares were transacted by way of cross deal which constituted 60% of the Broker's trading volume in the shares of the company. It was also found that both the buy and sell orders were executed by the Broker in its single terminal at the same time with the same price and quantity with most of the trades being client to client transactions.

1.5 The transaction details of the Broker in the shares of the company are as follows :

DATE	SELL QTY	SELL RATE (Rs)	SELL VALUE(Rs)	BUY QTY	BUY RATE (Rs)	BUY VALUE (Rs)
08-Oct-01	100000	1.95	195000.00			
09-Oct-01	100000	1.90	190000.00			
10-Oct-01	100000	1.88	187500.00			
19-Dec-01	50000	35.00	1750000.00	50000	35.00	1750000.00
28-Dec-01	45000	47.50	2137500.00	45000	47.50	2137500.00
04-Jan-02	55000	44.50	2447500.00	55000	44.50	2447500.00
15-Jan-02	5000	45.00	225000.00	5000	45.00	225000.00
18-Jan-02	10000	45.00	450000.00	10000	45.00	450000.00
24-Jan-02	10000	40.00	400000.00	10000	40.00	400000.00

28-Jan-02	10000	40.00	400000.00	10000	40.00	400000.00
30-Jan-02	15000	45.00	675000.00	15000	45.00	675000.00
31-Jan-02	25000	45.00	1125000.00	25000	45.00	1125000.00
	525000			225000		

1.6 The details of the cross deals of the Broker in the shares of company are given below:

Date	Order Time	Trade Time	Order No	Trade	Qty	Price	Buy /
19-Dec-01	13:35:31	13:35:31	390918678	1394	10000	35.00	B
19-Dec-01	13:34:54	13:35:31	390918673	1394	10000	35.00	S
19-Dec-01	13:35:36	13:35:36	390918679	1395	10000	35.00	B
19-Dec-01	13:34:58	13:35:36	390918674	1395	10000	35.00	S
19-Dec-01	13:35:40	13:35:40	390918680	1396	10000	35.00	B
19-Dec-01	13:35:03	13:35:40	390918675	1396	10000	35.00	S
19-Dec-01	13:35:43	13:35:44	390918681	1397	10000	35.00	B
19-Dec-01	13:35:06	13:35:44	390918676	1397	10000	35.00	S
19-Dec-01	13:35:47	13:35:47	390918683	1398	10000	35.00	B
19-Dec-01	13:35:10	13:35:47	390918677	1398	10000	35.00	S
28-Dec-01	11:15:08	11:15:42	420774124	1444	10000	49.50	B
28-Dec-01	11:15:41	11:15:42	420774129	1444	10000	49.50	S
28-Dec-01	11:15:12	11:15:45	420774125	1445	5000	49.50	B
28-Dec-01	11:15:45	11:15:45	420774130	1445	5000	49.50	S
28-Dec-01	11:15:25	11:15:49	420774126	1446	10000	46.50	B
28-Dec-01	11:15:49	11:15:49	420774131	1446	10000	46.50	S
28-Dec-01	11:15:29	11:15:52	420774127	1447	10000	46.50	B
28-Dec-01	11:15:52	11:15:52	420774132	1447	10000	46.50	S
28-Dec-01	11:15:33	11:15:55	420774128	1448	10000	46.50	B
28-Dec-01	11:15:55	11:15:55	420774133	1448	10000	46.50	S
4-Jan-02	13:12:04	13:13:24	151624024	39	3000	44.50	B
4-Jan-02	13:13:23	13:13:24	151624032	39	3000	44.50	S
4-Jan-02	13:12:42	13:13:24	151624026	40	7000	44.50	B
4-Jan-02	13:13:23	13:13:24	151624032	40	7000	44.50	S
4-Jan-02	13:12:42	13:13:28	151624026	41	3000	44.50	B
4-Jan-02	13:13:28	13:13:28	151624033	41	3000	44.50	S
4-Jan-02	13:12:47	13:13:28	151624027	42	7000	44.50	B
4-Jan-02	13:13:28	13:13:28	151624033	42	7000	44.50	S
4-Jan-02	13:12:47	13:13:32	151624027	43	3000	44.50	B
4-Jan-02	13:13:32	13:13:32	151624034	43	3000	44.50	S
4-Jan-02	13:12:51	13:13:32	151624028	44	7000	44.50	B

4-Jan-02	13:13:32	13:13:32	151624034	44	7000	44.50	S
4-Jan-02	13:12:51	13:13:36	151624028	45	3000	44.50	B
4-Jan-02	13:13:36	13:13:36	151624035	45	3000	44.50	S
4-Jan-02	13:12:57	13:13:36	151624029	46	7000	44.50	B
4-Jan-02	13:13:36	13:13:36	151624035	46	7000	44.50	S
4-Jan-02	13:12:57	13:13:40	151624029	47	1000	44.50	B
4-Jan-02	13:13:40	13:13:40	151624036	47	1000	44.50	S
4-Jan-02	13:12:57	13:13:46	151624029	48	2000	44.50	B
4-Jan-02	13:13:45	13:13:46	151624037	48	2000	44.50	S
4-Jan-02	13:13:06	13:13:46	151624030	49	2000	44.50	B
4-Jan-02	13:13:45	13:13:46	151624037	49	2000	44.50	S
4-Jan-02	13:13:06	13:13:49	151624030	50	7000	44.50	B
4-Jan-02	13:13:49	13:13:49	151624038	50	7000	44.50	S
4-Jan-02	13:13:06	13:13:52	151624030	51	1000	44.50	B
4-Jan-02	13:13:52	13:13:52	151624039	51	1000	44.50	S
4-Jan-02	13:13:12	13:13:52	151624031	52	2000	44.50	B
4-Jan-02	13:13:52	13:13:52	151624039	52	2000	44.50	S
15-Jan-02	13:23:23	13:23:23	151633151	93	5000	45.00	B
15-Jan-02	13:23:13	13:23:23	151633150	93	5000	45.00	S
18-Jan-02	15:00:03	15:00:04	181327758	100	10000	45.00	B
18-Jan-02	14:59:58	15:00:04	181327757	100	10000	45.00	S
24-Jan-02	11:43:57	11:43:57	151643989	109	10000	40.00	B
24-Jan-02	11:43:50	11:43:57	151643987	109	10000	40.00	S
28-Jan-02	14:38:41	14:38:42	151646945	119	5000	40.00	B
28-Jan-02	14:38:30	14:38:42	151646943	119	5000	40.00	S
28-Jan-02	14:58:55	14:58:56	151646977	121	5000	40.00	B
28-Jan-02	14:58:49	14:58:56	151646976	121	5000	40.00	S
30-Jan-02	15:06:58	15:06:59	151648918	139	10000	45.00	B
30-Jan-02	15:06:51	15:06:59	151648917	139	10000	45.00	S
30-Jan-02	15:07:27	15:07:27	151648924	140	5000	45.00	B
30-Jan-02	15:06:58	15:07:27	151648921	140	5000	45.00	S
31-Jan-02	13:26:08	13:26:08	151649770	142	10000	45.00	B
31-Jan-02	13:25:47	13:26:08	151649766	142	10000	45.00	S
31-Jan-02	13:26:13	13:26:13	151649771	143	10000	45.00	B
31-Jan-02	13:25:51	13:26:13	151649767	143	10000	45.00	S
31-Jan-02	13:26:17	13:26:17	151649772	144	5000	45.00	B
31-Jan-02	13:25:54	13:26:17	151649769	144	5000	45.00	S

1.7 In view of the above, it has been alleged that the Broker has prima facie violated regulation 7 of the Broker Regulations, clause A(1), A(2) and A(4) of the Code of Conduct specified in the Broker Regulations and regulation 4 (a) and 4 (b) of the FUTP Regulations.

2.0 APPOINTMENT OF ENQUIRY OFFICER

- 2.1 On completion of investigations, SEBI appointed an Enquiry officer vide order dated July 08, 2004 under regulation 5(1) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as the Enquiry Regulations) to enquire into the alleged violations committed by the Broker as mentioned above while dealing in the shares of the company.
- 2.2 Accordingly, a notice dated August 26, 2004 was issued to the Broker asking it to show cause as to why recommendations under regulation 13 (1) of the Enquiry Regulations should not be imposed against it. The copy of the proceedings in respect of the appointment of the Enquiry Officer and the findings of the investigation were also forwarded to the Broker with the said show cause notice. The Broker filed its reply and made submissions before the Enquiry Officer. The Enquiry Officer vide his report dated October 21, 2005 did not recommend any action against the Broker, as according to him the charges leveled against the Broker were not established.

3.0 CONSIDERATION OF ISSUES AND FINDINGS.

- 3.1 I note that the Broker had executed substantial trades in the shares of the company, which were illiquid at the time of the transactions, including several cross deals at higher levels (price). Both sell and buy orders were placed almost at the same time from the single terminal of the

Broker with the same quantity, price etc. In the process, the Broker had allowed its clients to execute trades at a pre determined price and time causing price variations and thereby, impaired the market integrity by entering into trades which were not genuine. In view of the above, I observe that the Broker has prima facie violated the provisions of Regulation 4(a) and (b) of the FUTP Regulations and clauses A(1), (2) and (4) of the Code of Conduct stipulated in Schedule II to the Broker Regulations.

- 3.2 Accordingly, a notice dated April 26, 2006 was issued to the Broker asking it to show cause as to why a major penalty of suspension of certificate of registration for a period of six months should not be imposed against it. The copy of the Enquiry Report was also forwarded to the Broker with the said show cause notice. The prima facie grounds for the proposed penalty were also explained in detail in the said show cause notice.
- 3.3 The Broker vide letter dated May 22, 2006 inter alia stated that it had transacted in the shares of the company on December 19, 2001 @ Rs. 35/- and that there was no trade till December 28, 2001. On December 28, 2001, it had executed the trade in the shares of the company @ Rs. 46.50. The Broker further clarified that the next trading took place on January 4, 2002 @Rs.44.50 and that there were transactions on January 15, 2002, January 18, 2002, January 24, 2002, January 28, 2002, January 30, 2002 and on January 31, 2002 @ Rs.45/- and Rs.40/- The Broker stated that all the transaction took place on the electronic trading mechanism of the system of the Stock Exchange purely on behalf of the clients. The Broker further clarified that from the above transaction it could not be concluded that its intention was to artificially to raise price.

- 3.4 The Broker was also granted an opportunity of hearing on February 19, 2007. Shri Pramod Baid, Director of the Broker appeared before me and stated that the terminals of the Broker were not active since the last five years. He further stated that the Broker would be careful in future while executing trades on behalf of its clients.
- 3.5 I have perused the investigation report, the enquiry report, the show cause notice dated April 26, 2006, the reply of the Broker dated May 22, 2006, the oral submissions made on behalf of the Broker at the time of the hearing and other materials available on record.
- 3.6 The Broker has not disputed the trades done by it on behalf of its clients in the shares of the company at CSE during December 2001 to January 2002. In the said process, the Broker had executed trades for 7,50,000 shares of the said company out of the total turnover of 78,68,302 shares at CSE. I note that the majority of the aforesaid trades of the Broker were by way of cross deals executed at its single terminal. The details of the cross deals executed by the Broker are explained in detail in the table given in para 1.6 above. On a perusal of the said trades, it can be seen that the Broker had executed cross deals on a regular basis from December 19, 2001 to January 31, 2002. The price of the shares of the company on December 19, 2001 was Rs.35.00 and the Broker executed trades till January 31, 2002, at the price of Rs. 45/- per shares of the company, as mentioned in the table at para 1.6.
- 3.7 I note that the cross deals accounted for majority of the trades of the Broker at CSE in the shares of the company between December 2001 to January, 2002 as shown in the table at para 1.6. The continuity and the

consistency with which the said cross deals were executed by the Broker on behalf of its clients in the shares of the company cannot be a matter of coincidence, considering its nature (the price, quantity and time) and its recurrence in a row. It can be seen that most of the buy and the sell orders were placed by the Broker at almost the same time, with just a difference of few seconds. The said proximity in the placing of orders at the same price and for the same quantity, resulted in the matching of the aforesaid transactions, with all the ingredients i.e. quantity, price and the time, required to conclude the trades. Above all it has to be seen that all the transactions were executed at the single terminal of the Broker.

3.8 The method and manner in which the said cross deals were executed will clearly establish that the same were meant for the purpose of manipulating the price and volumes in the shares of the company, against the fundamentals of the functioning of the securities market. The transactions executed by the Broker undoubtedly increased the volume and price of the shares of the company artificially to induce the genuine investors. I note that at the time when the Broker was actively executing cross deals in the shares of the company, the price had increased from Rs. 35/- to Rs.45/- .

3.9 It can be seen from the table shown in para 1.6 above, that the cross deals executed by the Broker comprised of 60% of its total volume in the shares of the company, which was illiquid at the time of the said trades. In the given circumstances, considering the nature of the trades (uniformity in time, quantity and price etc.), it can not be said that the said transactions were genuine. The series of trades in the form of cross deals, considering its numbers, quantity etc. will only lead to the finding that all the deals were done with the purpose of manipulating the price /

volume in the shares of the company and thereby the securities market to the detriment of the genuine investors. The said concerted level of activity, that too continuously over a period of two months, is only compatible with the purposes of manipulating the securities market on the part of the Broker. Such transactions undoubtedly create an artificial market to mislead the genuine investors and the said transactions create false volumes. It is too much of a coincidence over too long a period in too many transactions when the same stock broker had entered into buy and sell orders for the same quantity of shares almost simultaneously.

3.10 The Broker failed to exercise due skill, care and diligence which was expected from a prudent stock broker who had a duty not only towards its client but also towards the securities market. On the other hand the Broker continued to execute such trades. The cross deals were executed from the same terminal and almost at the same time. The trades executed by the Broker were not genuine in the sense that the said trades were executed between client to client at the same terminal.

3.11 In the above facts and circumstances, it is fairly established that the trades of the Broker in the shares of the company were done for the purpose of creating false and misleading appearance of trading and for the purpose of manipulating the price of the shares of the said company and that the same should be within the knowledge of the Broker, when the anonymity of screen - based trading has been breached by his pervasive presence on both sides. Obviously the tell – tale circumstances surrounding the said transactions make it suspect. In spite of the same, the fact that the Broker executed cross deals for its clients substantially lends support to the finding that the Broker was a necessary party to the transactions giving rise to artificiality in the

market. Instead of exercising caution, the Broker had executed large number of trades and thereby was instrumental in creating artificial volumes in the shares of the company.

3.12 In this context, the provisions of Regulation 4 of the said Regulations is reproduced herein below for the sake of reference.

“No person shall -

- (a) effect, take part in, or enter into, either directly or indirectly, transactions in securities, with the intention of artificially raising or depressing the prices of securities and thereby inducing the sale or purchase of securities by any person;
- (b) indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities market;
- (c) indulge in any act which results in reflection of prices of securities based on transactions that are not genuine trade transactions;
- (d) enter into a purchase or sale of any securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress , or cause fluctuations in the market price of securities.
- (e) pay, offer or agree to pay or offer, directly or indirectly, to any person any money or money's worth for inducing another person to purchase or sell any security with the sole object of inflating, depressing, or causing fluctuations in the market price of securities”.

- 3.13 The peculiar nature of the trades executed by the Broker and the modus operandi in those transactions persuades me to the conclusion that these transactions were the outcome of a predetermined and planned action. In the present case, admittedly the Broker itself was executing transactions on both sides (buy and sell). The Broker allowed its clients to trade in the shares of the company substantially. Cross deals involving interplay of market forces, pre supposes the active participation of the Broker. In the present case, the Broker was directly involved and was trading on both sides of the transactions and the same itself will prove the direct participation of the Broker in the entire transactions that took place in the shares of the company for the purpose of giving a misleading appearance of trading in the market and thereby artificially increasing the volume and price of the said shares. I note that the increase in the share price of the company at CSE during the above period occurred inter alia as a result of the aforesaid trades/cross deals executed by the Broker and in the process, the Broker had also created artificial volumes in the shares of the company.
- 3.14 In the facts and circumstances, the trades executed by the Broker in the shares of the company at CSE as explained above in detail, would only lead to the conclusion that same were not genuine which created misleading appearance of trading on the securities market and was intended only for the purpose artificially raising the prices of shares of the company thereby inducing the sale or purchase of the said shares by any person. The Broker's direct participation (on both buy and sell sides) would prove him guilty in respect of the market manipulation.
- 3.15 I further note that the trades executed by the Broker in the shares of the company as aforesaid created a false appearance of trading. Once the

factum of manipulation is proved, then as observed by SAT in the matter of Ketan Parekh Vs SEBI, the investors are affected by the said manipulation. The relevant observation made by SAT in this regard is reproduced as below:

“When a person takes part in or enters into transactions in securities with the intention to artificially raise or depress the price he thereby automatically induces the innocent investors in the market to buy / sell their stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is being manipulated the person doing so is necessarily influencing the decision of the buyer / seller thereby inducing him to buy or sell depending upon how the market has been manipulated. We are therefore of the view that inducement to any person to buy or sell securities is the necessary consequence of manipulation and flows therefrom. In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged.”

- 3.16 A cumulative analysis of the facts of the case, clearly indicate that the Broker did not act in a bonafide manner. On the contrary, the above facts highlight its complete involvement in the creation of misleading market in the shares of the company and the creation of artificial volume and price in the said shares.
- 3.17 The natural corollary to this issue is whether the Broker had maintained high standards of integrity, promptitude, fairness and exercised due skill, care and diligence in the conduct of its business. In terms of the Code of

Conduct specified in the Broker Regulations, a stock broker shall not create false market or indulge in any act detrimental to the investors' interest or which leads to the interference with the fair and smooth functioning of the securities market. The trades (including the cross deals) executed by the Broker in the shares of the company as explained in detail above, created a misleading appearance of trading in the shares of the company and further created artificial volume and price in the said shares by vitiating the price movement mechanism prevailing in the securities market. It further shows that the Broker had not exercised due skill, care and diligence and not maintained high standards of integrity, promptitude, fairness in the conduct of its business.

3.18 Therefore, it is fairly established that the Broker had violated the provisions of Regulations 4(a) and (b) of the FUTP Regulations and clauses A(1), (2) and (4) of the Code of Conduct specified in Schedule II of the Broker Regulations.

3.19 In the facts and circumstances, the violations committed by the Broker call for penalty and therefore, I do not find any reason to agree with the recommendation of the Enquiry Officer. Considering the facts of the case as discussed in detail, I find that this is a fit case for imposing major penalty of suspension of the certificate of registration of the Broker, as ordered herein under.

4.0 ORDER

4.1 In view of the foregoing, I, in exercise of the powers conferred upon me in terms of Section 19 of the Securities and Exchange Board of India

Act, 1992 read with regulation 13(4) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, hereby impose a major penalty of suspension of the certificate of registration of Prakash Baid Securities Pvt. Ltd {Registration no. INB031136733) Member, Calcutta Stock Exchange Association Ltd. for a period of six months.

- 4.2 This order shall come into force immediately on the expiry of 21 days from the date of this order.

G ANANTHARAMAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

Place: Mumbai

Date: 29/03/2007