

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA**CORAM: Dr. T.C.NAIR, WHOLE TIME MEMBER****IN THE MATTER OF SHITAL SECURITIES PVT. LTD., SUB-BROKER TO SKSE SECURITIES LTD. IN THE SCRIP OF SWORD & SHIELD PHARMA LTD.****1.0 Background**

1.1 Sword and Shield Pharma Ltd. (hereinafter referred to as "SSPL") was incorporated as a Public Limited Company with the objective of manufacturing and marketing pharmaceutical formulations. The company is listed on the Bombay Stock Exchange Ltd. (hereinafter referred to as "BSE") and The Ahmedabad Stock Exchange Ltd. (hereinafter referred to as "ASE").

1.2 SEBI conducted investigation into the trading in the scrip of SSPL subsequent to unusual increase in the price and volume of the scrip during the period May 3, 2001 to July 6, 2001. Based on the above unusual rise in price and volume in the scrip an investigation was conducted by SEBI. It was noticed that the price and volume rise of the scrip was not supported by the fundamentals of the company. During the aforesaid investigation period, it was noticed that a group of entities were acting in concert for executing synchronised and structured trades to affect the price of the scrip.

1.3 Shital Securities Pvt. Ltd. (hereinafter referred to as "Shital") is a broker of SKSE Rajkot as also a sub-broker of SKSE Securities Ltd. is registered with SEBI. As a sub-broker, Shital was alleged to have executed transactions for Shri Hiren Rathod who was stated to be involved in the manipulation of the scrip and was charged for violating the provisions of Clause A (2) of the Code of Conduct as specified in Schedule II of Regulation 15 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 (hereinafter referred to as "Stock Brokers Regulations") and Regulation 4 (a), (b), (c) and (d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices), 1995 (hereinafter referred to as 'PFUTP Regulations').

1.4 On the basis of the findings of the investigation, an Enquiry Officer was appointed vide order dated October 14, 2004 to conduct enquiry in respect of the violations/contraventions alleged to have been committed by Shital. In terms of Regulation 6 (1) of the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalties) Regulations, 2002 (hereinafter referred to as "Enquiry Regulations") show cause notice was issued to Shital vide letter dated March 16, 2005 communicating the charges against it. However Shital did not reply to the aforesaid show cause notice.

1.5 In terms of Regulation 9 of the Enquiry Regulations, an opportunity of hearing was granted to Shital on June 7, 2005 wherein Shri Parin K Shah, authorized representative of Shital attended the hearing before the Enquiry Officer and made submissions in detail. On completion of enquiry, the Enquiry Officer vide its report dated June 29, 2005 recommended a minor penalty of censure.

1.6 Based on the recommendations of the Enquiry Officer, a show cause notice dated July 1, 2005 was issued to Shital under Regulation 13(2) of the Enquiry Regulations asking it to show cause as to why the penalty as considered appropriate including penalty recommended by the Enquiry Officer should not be imposed upon it. A copy of the Enquiry Report was also forwarded to Shital with the said show cause notice.

1.7 Shital vide its letter wrongly mentioned as March 3, 2005 and received by SEBI on July 15, 2005 replied to the show cause notice stating that as they were new to the securities market, unknowingly some error might have been committed by them, which should be ignored and there was no malafide intention on the part of Shital. Further they always have complied with the SEBI Rules and Regulations.

2.0 Consideration of Issues and Findings

2.1 I have carefully considered the Enquiry Report, the show cause notice issued to Shital, the reply of Shital and my findings are as under:

2.2 I have observed that the investigation conducted by SEBI indicated that the price of the scrip of SSPL rose from Rs. 14.85 to Rs.37.85 in just two months i.e from May 3, 2001 to July 6, 2001. This amounted to an increase of 154.88% in the price of SSPL shares despite sensex fall of more than 5% during that period. During the same period, the volume traded in SSPL shares also increased from 52525 to 164446 which led to an increase of 213.08%. Further, the price and volume rise was not supported by the fundamentals of the company at that time.

2.3 The Enquiry Officer found that certain clients, mainly Shri Mahesh Kumar Patel (also known as Mayur Patel) and his wife Smt. Jyotikaben Patel were involved in the manipulation in the scrip of SSPL. Shri Mahesh Patel was instrumental in inflating the prices through continuous buying and selling in the scrip mostly through the entities who were acting in concert namely, Jyotiben M Patel (also known as Jyotika M Hadwani and Mahesh's wife), Gautam Shambhubhai Patel, Aarushi Consultancy, Rajnibhai M Patel, Heena Rajnibhai Patel, Paragon Investment, Farida Fakkrudin Sariya, Radhe Investments, Rajesh Modi, Nilesh Patel, Pravin Raiyani, Hiren Rathod, Mega Securities, Praful Patel, Nokia Finance International Pvt. Ltd and Kishor Corporation.

2.4 The Enquiry Officer found that these entities/persons were interrelated and were acting in concert and the same was established by flow of funds and securities evidenced by the records. Further, it was observed that the clients were introducing one another to the brokers.

2.5 I note that Shri Hiren Rathod traded through Shital. Trading details of Shri Rathod is as under:

2.6 I note that signature of Shri Rathod in the client registration form as submitted by Shital, and the letter received by SEBI from Shri Rathod did not match. As regards the question whether the client registration form had been fraudulently filled by Shital and that these trades have been done in the name of a fictitious entity, Shital stated that it did not find any discrepancy in the signature on the client registration form and that it appeared to

Client	Gross buy	Gross sell	Gross Quantity	Net buy	Name of introducer	Name of broker
Hiren Rathod	211350	60903	272253	150447	Pravinbhai Raiyani	SKSE

be of Shri Hiren Rathod only. I note that the Enquiry Officer did not find enough evidence to the contrary and therefore the reply of Shital is accepted.

2.7 With regard to the pay in obligation of Shri Hiren Rathod, the Enquiry Officer has found that Shital had accepted the cheque given by a third party. In this regard, Shital replied that as per the practice of SKSE Securities Ltd., the payment had to be made the next day and hence as per the request of Shri Hiren Rathod, they accepted the cheques given by him belonging to the third party.

2.8 As regards the violation of Regulation 4 (a), (b), (c) and (d) of PFUTP Regulations, the Enquiry Officer did not find any evidence on record of the manipulative role played by Shital in aiding and abetting the client to manipulate the price of the scrip. From the facts of the case, it indicates that the transactions were executed for the purpose of earning brokerage. I have further noted that the Enquiry Officer has no evidence on record indicating the connection between Shri Hiren Rathod and Shital. Though the group of clients including Shri Hiren Rathod appear to be acting in concert, in distorting the market equilibrium of the scrip, however on the basis of record, it cannot be concluded that Shital was involved in the manipulation and thereby violated the aforesaid provisions of the PFUTP Regulations.

2.9 The Enquiry Officer has further found that Shital did not exercise proper due diligence while executing the client registration form with Shri Rathod. It was also noted that Shital was accepting payments from Shri Mayur Patel for the trades done by Shri Rathod. These actions of Shital clearly indicate that it failed to exercise due skill and care while dealing on behalf of Shri Hiren Rathod. Clause A (2) of the Code of Conduct for the sub brokers under Schedule II of Regulation 15 of the Stock Brokers Regulations which provides that a sub broker shall act with due skill, care and diligence in the conduct of all the investment business. I agree with the Enquiry Officer that on account of failure to exercise due care and diligence while dealing with the client Shri Hiren Rathod, Shital Securities Pvt. Limited failed to comply with the provisions of Clause A (2) of the Code of Conduct for sub brokers under Schedule II of Regulation 15 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992.

2.10 After considering the facts and circumstances of the case, I agree with the finding of the Enquiry Officer, and I am of the view that failure to exercise due skill, care and diligence may result in situations where the sub broker's services may be misused by the clients for illegal purposes such as market manipulation. Considering the circumstances imposition of penalty of censure would be adequate to meet the ends of justice.

6.0 Order

6.1 Therefore, in exercise of the powers conferred upon me by virtue of Section 19 read with Regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby "censure" Shital Securities Pvt. Ltd., sub broker to SKSE Securities Ltd. I also direct Shital to note that any instances of violations or non-compliance of the provisions of Securities and Exchange Board of India Act and the Rules and Regulations framed there under, in future, shall be dealt with stringently.

Date: 14.06.2007

T. C. NAIR

Place: Mumbai

**WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**