

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: Mr. V K CHOPRA, WHOLE TIME MEMBER

UNDER SECTION 11(4) READ WITH SECTION 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AGAINST M/S MEGA MILLENNIUM SECURITIES PVT. LTD., M/S MEGA MILLENNIUM INVESTMENT PVT. LTD., MR. SWAMINATHAN MAHALINGAM AND MR. PRADIPTA CHATTERJEE.

ORDER

1.0 Background

1.1 M/s. Mega Millennium Securities Pvt. Ltd. (MMS) is a company incorporated under the provisions of the Companies Act, 1956 and located at 9, Ratan Palace, Garodia Nagar, Ghatkopar (E), Mumbai. MMS was registered with SEBI as a sub-broker (INS 1837230 & INS 11591935) of Bombay Stock Exchange Ltd. (BSE), and as a sub-broker (INS 231095436) of National Stock Exchange (NSE). Mr. Swaminathan Mahalingam; PAN No. - AAFPM6917K and Mr. Pradipta Chatterjee PAN No. - AABPC1915H are the directors of MMS. They are also directors of M/s Mega Millennium Investment Pvt. Ltd. (MMI) PAN No. AACCM2295C, a company incorporated under the provisions of the Companies Act, 1956 and located at 28/29, Vikas Co-op. Producers Society, Shah Industrial Estate, Deonar, Govandi, Mumbai. MMI is registered with SEBI as a stock broker (INB 241129130) of Inter-connected Stock Exchange of India (ISE), as

Sub-Broker (INS 23697034) of NSE & (INS 12042433) of BSE affiliated to ISE Securities & Services Ltd (ISS).

1.2 One Mr. T.S. Nilkanthan (aged 81 years) and Mrs. Nilkanthan (aged 75 years) vide letter dated July 16, 2007 made a complaint to SEBI against MMS, MMI and their directors Mr. Mahalingam and Mr. Chatterjee. The complainants have alleged that on August 24, 2003 and August 01, 2005 they had given shares of various listed companies to MMS. They had also given shares belonging to their daughter on August 01, 2005. The shares were given with the understanding that MMS would give periodical returns in the nature of interest / yield under the Securities Lending Scheme. They had been getting the returns including the dividends and bonus shares declared by the respective companies till November 2006. Thereafter MMS has neither been paying interest/yield on borrowed shares nor returning the shares to the said complainants. One cheque received from them for Rs.15,000 which was presented to the bank twice, but was bounced for want of funds.

2.0 Findings of Preliminary Inquiry Conducted by SEBI

2.1 In view of the above SEBI had carried out a preliminary inquiry. The major findings of the inquiry are as given below:

- i) MMS was a sub-broker affiliated through ISJ Securities Pvt. Ltd in BSE having SEBI registration number INS 1837230 and the same was surrendered in the year 2001. Thereafter MMS got itself registered as a sub-broker affiliated to Sykes & Ray Equities (I) Ltd in BSE and NSE. MMS surrendered these registrations also in the month of June 2006. At present MMS is not registered with SEBI as sub-broker. Mr. S. Mahalingam and Mr. Pradipta Chatterjee are

the only directors of MMS. Both of them are the only directors of MMI also.

- ii) As alleged by the complainants, MMS borrowed shares of various listed companies as mentioned below:

Table 1: Securities borrowed from Mr. T. S. Nilkanthan

S. No.	Scrip Name	Quantity	Date
1	Hindustan Lever	20000	August 24 th , 2003
2.	ITC	500	August 24 th , 2003
3.	Reliance India	1200	August 24 th , 2003
4.	Hindalco	400	August 24 th , 2003
5.	Greaves Ltd.	1500	August 24 th , 2003
6.	Greaves Cotton	2000	August 1 st , 2005
7.	Essar Steel	3000	August 1 st , 2005
8.	Tata Chemical	700	August 1 st , 2005
9.	Glaxo Smith	600	August 1 st , 2005
10.	Ashok Leyland	2000	August 1 st , 2005

Table 2: Securities borrowed from Ms. Lakshmi Nilkanthan

S. No.	Scrip Name	Quantity	Date
1	Hindustan Lever	15000	August 24 th , 2003
2	ITC	700	August 24 th , 2003
3	Reliance India	1500	August 24 th , 2003
4	Tata Engineering	500	August 24 th , 2003
5	Tata Tea	800	August 24 th , 2003
6	Exide	500	August 24 th , 2003
7	Guj. Ambuja	9000	August 1 st , 2005
8	ICICI Bank	500	August 1 st , 2005
9	HDFC Bank	400	August 1 st , 2005
10	HDFC	750	August 1 st , 2005
11	Jai Prakash Associates	2500	August 1 st , 2005
12	Hero Honda	600	August 1 st , 2005
13	Tata Chemical	1000	August 1 st , 2005

**Table 3: Securities borrowed from Ms. Revathi Nilkanthan
(Daughter of Mr. T S Nilkanthan)**

S. No.	Scrip Name	Quantity	Date
1	Reliance Ind.	1400	August 1 st , 2005
2	L&T	50	August 1 st , 2005
3	Grasim	100	August 1 st , 2005
4	ICICI Bank	100	August 1 st , 2005
5	ONGC	100	August 1 st , 2005
6	TATA Tea	300	August 1 st , 2005
7	Hind Lever	5000	August 1 st , 2005
8	Garware	900	August 1 st , 2005

(The market value of these shares as on July 31, 2007 was approximately Rs. 2.70 Crores)

- iii) MMS had issued receipt of the aforementioned shares and stated that these shares were received from the respective parties for stock lending purpose. All the receipts were duly signed by Mr. Mahalingam as authorized signatory on behalf of MMS. The demat account statement of Mr. Mahalingam reveals that most of the shares were in fact, transferred to his personal account. According to the complainants MMS had been giving monthly yield/interest including the dividends and bonus shares declared by the respective companies to them till November 2006. They have submitted copies of monthly statement of shares held with MMS and yield earned on the shares along with copy of cheques issued for payment of the yield. Two cheques, which were given to the complainants as yield/interest for the period November 1, 2006 and November 30, 2006, were drawn by Mega Millennium Financial Services (apparently belongs to Mr. Mahalingam and Mr. Chatterjee) and jointly signed by them as authorized signatories. Similarly, three other cheques issued to the complainants were

signed by Mr. Mahalingam as authorized signatory of Swamys Investment.

- iv) The complainants submitted that they were also buying and selling shares on separate transactions in a small way. One of the contracts cum bill issued to Mr. Nilkanthan was dated September 4, 2006 by MMS as a sub broker of BSE. The contract cum bill issued by MMS appears to be bogus since the registration of MMS as sub-broker BSE was surrendered as early as in the month of June, 2006.
- v) Mr. Mahalingam, in his oral submissions before the SEBI officials admitted that MMS has stopped paying interest/yield on the borrowed shares and that they have not returned the shares to the said complainants. Their demat account statements also did not evidence return of the shares.
- vi) In another case, MMS borrowed from one Ms. Kiran Ajit Bhatia under the so called stock lending scheme. MMS entered into an agreement on dated August 1, 2002 with Ms. Kiran A. Bhatia for borrowing her securities. The details of the securities borrowed by MMS from Ms. Kiran A. Bhatia are as under:

Table 4: Securities borrowed from Ms. Kiran A. Bhatia

S. No.	Scrip Name	Quantity
1.	H P C L	500
2.	Hindustan Lever	500
3.	Infosys	120
4.	Dr. Reddy	100
5.	S C I	200
6.	Ranbaxy	320

- vii) It was found that one of the terms in the agreement; MMS had agreed to pay a service charge of 8% per annum on the value of the securities. While examining the agreement it was observed that MMS had borrowed securities from its clients for the purpose of lending securities to others. It appears that the directors of MMS used the securities for their proprietary trading rather than lending to others. There may be similar agreements entered into with various clients and in this way they have misappropriated client's securities by misleading them. It is stated in the agreement between MMS and Ms. Kiran Ajit Bhatia that "SEBI has introduced a scheme as hereinafter defined for facilitating the lending and borrowing of securities for approved purpose, MMS has registered itself." Ms. Bhatia alleged that MMS stopped paying interest/yield on the shares held with MMS and could not return shares when she demanded. However, the matter was settled on consent terms in arbitration proceedings
- viii) It was ascertained from ISS that they have received several complaints against MMI from their clients for alleged non-delivery of shares/non payment of the sales proceeds on pay-out. The complaints were later settled with the clients by making partial payments. The complainants were forced to agree such unfavourable terms as there could be undue delay and uncertainty in settlement of their claims through arbitration mechanism. One Mr. Bhardwaj Iyenger & Jayanthi Iyenger complained vide letter dated April 24, 2007 alleging non transfer of shares and funds of the value of approximately 1.70 lakh. The complaint is still pending

against MMI. ISS has reportedly followed up with MMI in this regard but no positive response has been received from MMI.

ix) Mr. Chatterjee and Mr. Mahalingam, Directors of MMI orally submitted that they were into financial difficulties due to heavy trading losses. There were some delays in meeting the payment obligations in past few months. Therefore, they have drastically reduced their trading operations. Furthermore, there are personal disputes between Mr. Chatterjee and Mr. Mahalingam. It appears that the financial health as well as the status of internal control of MMI are not in good shape and not stable.

3.0 Consideration of the Findings

3.1 According to the clause 5 of the Securities Lending & Borrowing Scheme, 1997 “No person shall act as an approved intermediary unless a certificate of registration has been obtained from the Board”. Clause 6 & 7 of the said scheme prescribes that the approved intermediaries shall, unless otherwise provided in the agreement with the lender, guarantee the return of the equivalent securities of the same type and class to the lender along with the corporate benefits accrued on them during the tenure of the borrowing. Even incase of failure of the borrower to return the securities or corporate benefits the approved intermediary shall be liable for making good the loss caused to the lender. Clause 7 says that the approved intermediary may return the securities deposited by the lender in its custody as a trustee on behalf of the lender. MMS claimed itself to be an approved intermediary under Securities Lending Scheme and have entered into an agreement for lending and borrowing with the investors. The fact remains that the entity is not registered with SEBI in that capacity. As

per Code of conduct of SEBI (Stock Broker-Sub-broker) Regulations, 1992, the market intermediaries are required to maintain high standards of integrity, promptitude and fairness in the conduct of all business and when dealing with a client shall disclose whether he is acting as a principal or as an agent and shall ensure at the same time that no conflict of interest arises between him and the client. MMS was conducting securities lending and borrowing not as a registered approved intermediary. It is also observed that during its tenure as registered sub-broker, MMS had misled and misrepresented the investors claiming to be a registered approved entity under the Securities Lending and Borrowing scheme and conducted the lending and borrowing transactions. Later MMS failed to return the shares and also the yields from the securities, which clearly tantamount to cheating the clients. On the other part, MMI has failed to transfer clients' fund/securities, to redress investor grievances, and respond to ISS in order to redress complaint of Mr. Kiran A. Bhatia.

3.2 The safety and integrity of the securities market depends on the credibility of the market participants such as the stock brokers/sub-brokers. MMS issued contract notes to its client even after surrendering the SEBI registrations, thereby violating SEBI (Stock Broker-Sub-broker) Regulations, 1992 and Code of Conduct prescribed under this Regulation.

3.3 In light of the aforesaid facts and circumstances I am of the view that the violations committed by MMS, MMI, Mr. S. Mahalingam and Mr. Pradipta Chatterjee are very serious in nature. They have duped gullible investors of their hard earned money to the tune of several crores of rupees by misrepresentation and fictitious means in utter

disregard and disrespect to the regulatory framework. As MMI is still active in the securities market, there appears to be grave urgency in the matter as they may continue to engage in such illegal activities and defraud gullible investors. A separate Enquiry Proceedings have also been instituted in terms of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing penalty) Regulations, 2002 against MMI. As the enquiry proceedings are likely to take some time, it is felt that in order to prevent further harm to the investors and securities market, appropriate preventive action is required to be taken immediately against MMS, MMI and their directors. Their conduct has been highly objectionable and unbecoming of market participants. It is necessary to prevent such entities from operating and conducting such activities and to prevent them from misrepresenting and misleading the investors.

4.0 ORDER

4.1 Thus, on an examination of the facts of the case and the material circumstances attendant thereto and in view of the urgency in the matter as mentioned above, in exercise of the powers conferred upon me under Section 19 read with Sections 11, 11(4)(b) and 11B of the SEBI Act, 1992, as an interim measure, I hereby direct M/s. Mega Millennium Investment Pvt. Ltd., M/s Mega Millennium Securities Pvt. Ltd. and their directors namely Shri Swaminathan Mahalingam and Shri Pradipta Chatterjee not to buy, sell or deal in securities in any manner whatsoever either for themselves or for their clients. Further, the demat accounts of these entities will remain frozen till completion of the Enquiry Proceedings and passing of the final order by SEBI thereon. As regards the activities of these entities such as borrowing and lending of securities without being registered as approved

intermediary under the securities Lending and Borrowing Scheme, 1997, I hereby in exercise of power under Section 19 read with Sections 11, 11B and 11D of the SEBI Act, 1992, direct them not to engage in the activity of borrowing and lending of securities without obtaining registration from the Board.

4.2 I am of the considered view that due to imminent urgency and in order to safeguard the integrity of the securities market and to protect the interest of investors, the issuance of notice to show cause can be dispensed with and it will be in the interest of justice to pass an ex-parte order, as above. If MMS, MMI, Mr. Mahalingam and Mr. Chatterjee feel aggrieved by this interim ex-parte order, it may approach SEBI within 30 days of this order showing cause as to why the directions passed in this order should not be continued till the completion of Enquiry Proceedings and passing of the final order thereon. For this purpose, this order may be treated as show cause notice (SCN) and the above mentioned entities and individuals may also avail opportunity of inspection of preliminary inquiry report, letters of complainants, and other documents, if any, relying upon which this order is being passed. Where the above mentioned entities and individuals file their submission for reconsideration of the directions passed by this order, a date shall be fixed for giving them an opportunity of being heard within 30 days after filing of their submissions. However, in case the above mentioned entities and individuals fail to file any submission for reconsideration of the directions passed by this order, the order/ directions as contained in Para 4.1, shall continue till completion of the Enquiry Proceedings and passing of the final order. It is made clear that the above mentioned entities/individuals are entitled to a post decisional hearing before me

and the same would be granted upon receipt of request from them in this regard.

4.3 The Enquiry Officer so appointed shall proceed with its proceedings and make recommendations without being influenced by the observations made in this Order.

4.4 This order shall come into force with immediate effect.

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Date: 03.09.2007

V. K. CHOPRA

Place: Mumbai

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA