

SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: V. K. CHOPRA, WHOLE TIME MEMBER

In the matter of alleged Shri Rajesh Shah, Falgun C Shah, Yatin B Shah, Shyam Investments, Uttam Investments, Rupani Enterprises, Loko Securities, Jatin J. Shah, Comet Investments Pvt. Ltd., Addvalue Financial Services Pvt. Ltd., Rohit Gandhi, Meeta A. Gala, Caplon Securities & Investments Pvt. Ltd., Mitesh V. Shah and Dharmen J. Sheth.

IN THE SCRIPT OF ALANG INDUSTRIES GASES LTD.

DATES OF HEARING: 04.01.2007 and 05.03.2007

Appearances:

For Noticees :

1. Shri Falgun C. Shah
2. Shri Yatin Shah (for Loko Securities, Uttam Investments and himself)
3. Shri Naresh Rupani, Partner, Rupani Enterprises
4. Shri Jatin Shah
5. Shri Atul Shah, Director - M/s Comet Investments Pvt Ltd
6. Shri Sanjay Gupta, Director- Addvalue Financial Services Pvt. Ltd
7. Shri Mitesh Shah
8. Shri Dharmen Sheth

For SEBI:

1. Shri Sanjiv Dutt, CGM
2. Shri P. Bhagavathi Raja, Manager
3. Shri Mohamed Rahaz P.M., Legal Officer

ORDER

Under Section 11B of the Securities and Exchange Board of India Act, 1992 r/w Regulation 11 of the Securities and Exchange Board of India (Prohibition Of Fraudulent And Unfair Trade Practices Relating To Securities Market) Regulations, 1995.

- 1.1 M/s. Alang Industrial Gases Ltd. (hereinafter referred to as “AIGL”) was incorporated on 31.03.1995 and obtained the Certificate of Commencement of Business on 04.04.1995. The main object of AIGL was to carry on the business of manufacturing various types of industrial gases. With a view to diversify the existing line of business, in 1996, AIGL proposed to set up an oxygen manufacturing plant of 200 CMH Capacity. For this purpose, in the same year AIGL came out with a public issue. The Company AIGL had a paid up capital of Rs. 5.4 crores comprising of 54,00,700 shares of Rs. 10/- each and its share holding pattern is given hereunder:

Sr. No.	Category of Shareholders	Amount (Rs. in lacs)	Percentage
1.	Promoters	225.007	41.67
2.	Public (including NRIs)	315.000	58.33
	Total	540.007	100.00

- 1.2 A perusal of Income Tax returns of the AIGL for Financial Years 1999 - 2000 and 2000 - 2001 revealed that no commercial operations had started and the company was incurring losses. AIGL was listed on the Bombay Stock Exchange (hereinafter referred to as “BSE”) and Ahmedabad Stock Exchange (ASE). No trading was observed in ASE during the period of investigations. It was observed that AIGL scrip was a very illiquid and infrequently traded.
- 1.3 BSE conducted investigations into the trades entered on 16.03.2001 in AIGL on suspecting that these were not genuine and were in the nature of financing/fictitious transactions. BSE also noted that the shares delivered by the selling clients have come from the demat accounts of Rajesh Shah and Falgun C. Shah who in turn had received the shares from the demat account of Shri Dilip Balkrisna Sheth, Director of AIGL.
- 1.4 It was also revealed that during the period starting from 01.01.2001 to 16.03.2001 the AIGL was traded only on three days on 19.01.2001, 22.01.2001 and 16.01.2001 and the quantity traded was 1900, 500 and 4,43,300 shares respectively. As is clear, the trading in AIGL on 16.03.2001 was very high as

compared to the other two days.

- 1.5 On receipt of BSE investigation report, Securities and Exchange Board of India (hereinafter referred to as “SEBI”) conducted investigations which revealed that on 16.03.2001 Shyam Investments, Uttam Investments, Loko Securities, Rupani Enterprises and Jatin J. Shah were the sellers while Comet Investments Pvt. Ltd., Addvalue Financial Services Pvt. Ltd., Meeta A. Gala, Mitesh V. Shah, Dharmen J. Sheth, Rohit Gandhi, Caplon Securities & Investments Pvt. Ltd. were the buyers. Further it was found that the shares were transferred to these persons/entities by Rajesh Shah and his associate Falgun C Shah through Yatin B Shah and all these person/entities (hereinafter referred to as “Noticees”) had transacted in AIGL in fraudulent manner. It was further found that prior to 16.03.2001, none of these selling clients were holding any shares of AIGL. When asked to explain these selling without having shares, they argued that they had dealt in the AIGL on behalf of Shri Yatin B. Shah who, in turn, claimed to have acted on behalf of Shri Rajesh Shah. Since all the selling and buying clients were arranged by Shri Yatin B. Shah, it was inferred that the sellers were aware of the identity of the ultimate buyers and of the arrangement with the ultimate buyers. The transactions executed by these persons were in contravention of Regulation 3 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to securities market) Regulation, 1995 (hereinafter referred to as “PFUTP Regulations.”)
- 2.1 Accordingly, show cause notices dated 30.03.2005 and 06.06.2005 were issued to them advising them to show cause as to why suitable directions under Section 11B of SEBI Act, read with Regulation 11 and 12 of PFUTP Regulations, interalia prohibiting them from buying and selling in securities should not be issued against them for the alleged violation of Regulation 3 of PFUTP Regulations.
- 3.1 Shri Yatin B. Shah vide his letter dated 27.06.2005 replied to the show cause notice stating interalia that he had not acted in a fraudulent manner and he had not

at all acted in concert with Shree Ganesh Enterprises or their partners or their clients. He further stated that the alleged transactions were having three parts viz. acquisition of shares by Shri Rajesh Shah from Shri Dilip Sheth, the sale of shares by Shri Rajesh Shah and the acquisition of shares by Shree Ganesh Enterprises and their clients. Shri Yatin Shah though admitted that he helped Shri Rajesh Shah to sell the shares but he denied his role in the third part of the transactions. He further stated that Shri Rajesh Shah, who is his friend, approached him to sell large quantity of AIGL shares and in turn introduced to Shri Rakesh Shah and Shri Anil Shah, partners of Shree Ganesh Enterprises, who reside in the same building where he was staying, had agreed to arrange buyers and sellers for the transactions for which he extended all his assistance. Shri Yatin Shah also submitted that negotiated deals are permitted by SEBI as per SEBI circular no. SMDRP/POLICY/CIR-32/99 dated 14.09.1999.

3.2 In addition to the above, Shri Yatin B Shah had also filed joint reply vide letter dated 03.05.2005 to the show cause notice dated 30.03.2005 issued to Loko Securities and Uttam Investments and stated that their role in the transaction was only to help out Shri Rajesh Shah to sell the shares. This reply was similar to that of his own reply as referred to in paragraph 3.1 above.

3.3 The proprietor of Shyam Investments, Shri Sunil Shah vide his letter dated 28.04.2005 replied to the show cause notice dated 30.03.2005 stating therein that he had sold 1,58,000 shares of AIGL through Arihant and Co. and the sole purpose was to help his friend Shri Yatin Shah who stayed in the same building with him. Shri Sunil Shah added that he was not having any fraudulent intention in the transactions of AIGL and he only sold the shares of Yatin Shah under his instructions. Shri Sunil Shah admitted that he never owned any shares of AIGL and had carried out similar transactions in the past and there was no allegation of any wrongdoing at that time. He further stated that he did not know Shri Rajesh Shah, the real owner of these shares and was not concerned with the ulterior motive, if any of Shri Rajesh Shah. He further stated that he did not know any other buyer and seller in the scrip except Shri Yatin Shah and his brother. As

regards the charge of short selling, Shri Sunil Shah submitted that he had shares under his control and had duly ensured delivery of the shares well within the prescribed time. He also stated that the circular regarding the short sale came into existence on 07.03.2001 while the sales took place on 16.03.2001 and the said circular was not made available to a person like him immediately after its publication on 07.03.2001. Further, he claims that he is not an intermediary and as such the above circular is not applicable to him.

- 3.4 Shri Naresh S Rupani filed reply dated 20.04.2005 on behalf of Rupani Enterprises stating therein that the transactions carried out on 16.03.2001 were normal, the shares were worth around Rs.1.50 crores and it was not possible to find buyers without taking the help of several persons. Further, he stated that he was not aware as to how many parties were involved and submitted that his role was a very limited in these transactions.
- 3.5 Shri Jatin Shah vide his reply dated 25.04.2005 submitted that he sold 50000 shares through M/s TM Kirtikumar Fulchand Vora. He further submitted that his sole purpose was to help Yatin Shah to sell the shares and this was his only involvement in the whole transactions.
- 3.6 Comet Investments Private Ltd filed its reply vide letter dated 09.05.2005 for its director Shri Atul K. Shah denying all the charges and submitted that they take investment decision on the basis of wide variety of sources including 'tips' from their sub-broker Shree Ganesh Enterprises. Regarding the trades in question, they stated that they came to know that the shares of AIGL were available at a bargain price for whatever reasons. They further submitted that they had no knowledge of the ulterior motives of Shree Ganesh Enterprises and according to them, AIGL was having good prospects. Further, they submitted that to the best of their knowledge and belief there was nothing wrong or illegal in these trades. They further stated that SEBI has specifically encouraged and made synchronised transactions mandatory by a circular of 1999.

- 3.7 Addvalue Financial Services Pvt.Ltd. vide their letter dated 19.04.2005 submitted that they had been dealing with Shree Ganesh Enterprises since long time and had no reason to apprehend any ulterior motive behind the recommendation of their sub broker to buy AIGL scrip. They further stated that 25000 shares were purchased on 16.03.2001 and the same was reversed on 28.03.2001 because of no delivery. They further submitted that they had no knowledge or contact with various parties mentioned in show cause notice, except that of Shree Ganesh Enterprises.
- 3.8 Shri Rohit Gandhi in his reply dated 25.04.2005 stated that he had purchased 20,000 shares of AIGL on the recommendations of their sub-broker in March 2001. Further, for various other reasons, the delivery of shares could not be received by him and as such the sub-broker Shri Ganesh Shah took steps to see that the transaction was reversed. He denied all the charges and stated that he was neither aware, nor involved in any wrong doing that may have been committed by any of other parties.
- 3.9 Ms. Meeta A. Gala filed her reply dated 25.04.2005 stating interalia that she had purchased 15,000 shares of AIGL. She further stated that the earlier delivery of the shares could not be received by her because of some embargo by BSE. She stated that in view of this, her sub broker Shree Ganesh Enterprises took all steps that were necessary so that the transaction was reversed and her money was returned. She denied all the charges and stated that she was neither aware nor involved in any wrong doing that may have been committed by any other parties. She denied having committed any fraud or having carried out any fraudulent dealings. She stated that there was no financial arrangement with the sub broker who had taken only the brokerages from her. She also stated that her transactions in AIGL scrip were on the basis of the good advises given by the sub broker based on the market. She further submitted that the charges of fraud can not be based on suspicion or conjecture and further stated that she was not a party to the alleged fraud as she had no knowledge of intention of other parties.

- 3.10 M/s Caplon Securities & Investments Pvt. Ltd., Shri Mitesh V. Shah and Dharmen J. Sheth filed their replies vide their letters dated 02.05.2005, 21.04.2005 and 25.04.2005 respectively similar to that of Ms Meeta Gala. Shri Rajesh Shah has however, not filed any reply to show cause notice.
- 4.1 An opportunity of personal hearing was granted on 04.01.2006 and 05.03.2007 to the Noticees. On 04.01.2006, Shri Falgun C. Shah, Shri Yatin Shah (for himself and for Loko Securities and Uttam Investments), Shri Naresh Rupani (Partner, Rupani Enterprises), Shri Jatin Shah, Shri Atul Shah (Director-M/s Comet Investments Pvt Ltd.), Shri Sanjay Gupta, (Director-Addvalue Financial Services Pvt. Ltd.), Shri Mitesh Shah, Shri Dharmen Sheth attended the hearing and all of them by and large reiterated their submissions already made in their various replies to the show cause notices.
- 4.2 Shri Yatin Shah filed written submission dated 05.01.2007 wherein he stated that he transacted for himself and on behalf of his associated companies namely Uttam Investments and Loco Securities. He further stated that the sale was made for and on behalf of Shri Rajesh Shah who is his friend to help him sell the shares. Further, to ensure that there would be timely and assured delivery of the shares to the stock exchange, he requested Shri Rajesh Shah to make the shares available.
- 4.3 The proprietor of Shyam Investments, Shri Sunil Shah vide letter dated 13.03.2007 stated that they delivered the shares well before the date when delivery was required to be given.
- 4.4 M/s Caplon Securities & Investments Pvt Ltd and Shri Rohit Gandhi vide their letters dated 26.12.2006 and 22.02.2007 informed that no personal hearing is required and their replies to the show cause notices may be considered.
- 5.1 I have carefully examined the show cause notices, replies thereof and other materials on record.

- 5.2 The investigation was initiated on observing unusual trades in the scrip of AIGL entered on 16.03.2001. The investigations revealed that during the period between 01.01.2001 to 16.03.2001, the scrip was traded only on three days i.e. 19.01.2001, 22.01.2001 and 16.03.2001. It was further revealed that on 16.03.2001 trading in AIGL was exceptionally high as compared to the other two days as is clear from the following table:

DATE	OPENING (Rs.)	HIGH (Rs.)	LOW (Rs.)	CLOSE (Rs.)	NO. OF TRADES	QTY TRADED
19/01/01	39.60	40.20	38.55	40.20	13	1900
22/01/01	39.40	39.40	39.40	39.40	01	500
16/03/01	36.25	42.50	40.00	40.00	56	4,43,300

- 5.3 It was also observed that the shares delivered by the selling clients had been delivered from the demat accounts of Rajesh Shah and Falgun C. Shah. Both these clients had received the shares from the demat account of Shri Dilip Balkrisna Sheth, Director of AIGL.

Transfer of Shares from Shri Dilip Sheth to Shri Rajesh Shah and Shri Falgun Shah

- 5.4 I note that Shri Dilip Sheth in his statement recorded on 19.02.2004 submitted that he was in need of money and therefore he sold 300000 shares of AIGL in the month of December, 2000 and subsequently another 145000 shares of AIGL in February, 2001 to Shri Falgun Shah as per instruction from Shri Rajesh Shah. Shri Falgun Shah was an associate of Shri Rajesh Shah and was also one of the directors in M/s Swaraj Capital Services Ltd., a company promoted by Shri Rajesh Shah.
- 5.5 I observe that Shri Dilip Sheth had dematerialized 400000 shares on 17.02.2001. As regards the transfer of 300000 shares in the month of December, 2000, Shri Dilip Sheth clarified that the verbal deal had taken place in the month of December 2000 but at that time he did not have the transferable shares as the shares were under lock-in. Therefore, after the expiry of the lock-in period in January 2001, he got them dematerialized and transferred them to the accounts of

Shri Rajesh Shah and Shri Falgun Shah. In his statement recorded on 20.01.2004 Shri Rajesh R. Shah also admitted that “there was no written agreement” although he maintained that this “verbal agreement” was for raising finance rather than sale of shares.

- 5.6 As is apparent from the letter dated 16.05.2003 of Shri Dilip Sheth addressed to SEBI, the above transaction for sale of 445000 shares was carried out @ Rs.31 per share, whereas the then prevailing market price of the scrip was in the range of Rs.36- Rs.38 each. He had also submitted that a large part of the total amount was still due from Shri Rajesh Shah on account of sale of shares. Shri Dilip Sheth submitted that it was agreed between Shri Rajesh Shah and him that the entire amount of consideration would be paid to him by the end of February, 2001.
- 5.7 Shri Rajesh Shah in his statement recorded on 20.01.2004 gave explanation for the above transactions. He submitted that on 21.02.2001 Shri Dilip Sheth transferred 300000 shares of AIGL to his account requesting him to raise funds against the security. He also submitted that he had approached few of his clients and friends to find out if they were interested in lending some money to Shri Dilip Sheth against the security. He also submitted that later, Shri Dilip Sheth asked him to transfer these 300000 shares to one Shri Rakesh Shah’s account and the shares were transferred to this account on 16.03.2001. Shri Rajesh Shah also stated that Shri Dilip Sheth subsequently called up to say that the account number was wrongly given and informed that Shri Rakesh Shah would transfer the shares back to the demat account No.80008439 of M/s Swaraj Financial and Investment Pvt. Ltd. held with the DP, Global Trust Bank, Fort, Mumbai where Shri Rakesh Shah also had his account. According to the statement given by Shri Rajesh Shah, he also stated that Shri Dilip Sheth asked him to transfer the shares to the account of Shri Yatin Shah.
- 5.8 In my view the explanation given by Shri Rajesh Shah is not acceptable for a number of reasons. In the first place, if Shri Sheth wanted Shri Shah to raise funds for him from third parties, then there was no need to transfer the shares to the

demat account of Shri Shah. Secondly there was no need for Shri Rajesh Shah to make part payment of Rs. 1 lakh by cheque and another Rs. 5 lakhs in cash in lieu of bounced cheques and later transfer 50000 shares of Pilani Investments Ltd valued at Rs. 2 crores to Shri Sheth. Thirdly, if the shares were given only for the purpose of raising funds, these should have been returned to Shri Sheth after Shri Shah failed to do so. Fourthly, it is a matter of record that Shri Sheth has initiated criminal prosecution against Shri Shah for cheating him. If Shri Shah was completely innocent as he claims, then it is surprising that he was arrested by the police and despite that he did not take any action against Shri Sheth for implicating Shri Shah in “false” cases. Fifthly, it is also relevant to note that even Shri Pavankumar Sanwermal who was the real owner of 5000 Pilani shares, has initiated a criminal case against Shri Shah for cheating and criminal breach of trust. And finally, it is stated by Shri Falgun Shah, an associate of Shri Rajesh Shah that he had the knowledge that the later had purchased the shares in bulk from Shri Sheth. In view of this, the testimony of Shri Shah in this regard is not worthy of any credence.

- 5.9 The sequence of events such as issue of cheques, payment of Rs. 1 lakh through cheque No. 016058, cash payment of Rs. 5 lakhs in lieu of dishonored cheques, arranging transfer of 50000 shares of Pilani Investments Ltd. to demat account of Shri Sheth clearly show that all this was done by Shri Rajesh Shah to settle his dues with Shri Sheth on account of purchase of shares of AIGL from him. I note that Shri Dilip Sheth had also submitted before the investigating officer that Shri Shah had mentioned this payment of Rs. 6 lakhs in his statement to the police.
- 5.10 As stated above, Shri Falgun C. Shah was a business associate of Shri. Rajesh Shah. Both were directors of M/s Swaraj Capital Services Ltd. In this regard I note that even Shri Falgun Shah in his deposition before SEBI on 19.01.2004 pointed out that “as far as I know, there was consideration involved (in the deal between Shri Rajesh Shah and Shri Dilip Sheth) and Shri Shah had paid Rs. 5-6 lakhs for the deal which involved purchase of around 4- 4.5 lakh shares from Shri Sheth”. He also submitted that Shri Rajesh Shah had told him that he was

transferring shares of AIGL to Shri Falgun Shah's demat account held with Standard Chartered Bank for a week or fifteen days after which he would transfer them. It is a matter of record that all 145000 shares were transferred to the demat account of Shri Falgun Shah. Shri Falgun Shah also submitted that he later came to know that Shri Rajesh Shah had bought the shares of AIGL in bulk from one Shri Dilip Sheth whom he had met in Shri Rajesh Shah's office because Shri Sheth used to come to the office of Shri Rajesh Shah after the dealing took place. Shri Falgun Shah also submitted that later, the shares were transferred by Shri Falgun Shah into the accounts of persons, whose names he was not aware of. According to him, "Shri Rajesh Shah had given me the numbers of the accounts to which the shares were to be transferred and I had acted on his instructions".

Transfer of Shares by Shri Rajesh Shah to Shri Anil K. Shah and Shri Chetan P. Shah on 16.03.2001.

- 5.11 From the demat account of Shri Rajesh Shah, it was observed that 3 lakh shares were transferred to the demat account No. 80016004 of Shri Anil K. Shah and Shri Chetan P. Shah on 16.03.2001 (i.e. the date of transaction) maintained with the DP, Global Trust Bank, Fort, Mumbai. Shri Anil K. Shah and Shri Chetan P. Shah are the partners of Shree Ganesh Enterprises. In my view, this is the most vital link in the chain of events and its significance must be understood in the right perspective. The parties involved mainly were Shri Rajesh Shah and Shri Rakesh Shah, partner of Shree Ganesh Enterprises.
- 5.12 Shri Rajesh Shah has pleaded that he transferred the shares to the account of Shri Anil Shah and Shri Chetan Shah on the advice of Shri Sheth. However, this plea is not acceptable as Shri Sheth had already sold the shares to Shri Rajesh Shah and was not involved, in any way, in the subsequent transfers of these shares to various accounts. Shri Rakesh Shah, a partner of Shree Ganesh Enterprises, during the course of his statement recorded on 21.01.2004 tried to explain that 2-3 days prior to 16.03.2001, Shri Yatin B. Shah had approached him in his office with an offer of sale of Rs. 4 lakh shares of AIGL. He had offered to sell it to

Shree Ganesh Enterprises as an off-market deal. He also submitted that his clients wanted the transaction to be done on BOLT. Shri Rakesh Shah submitted that around 1 lakh shares (although actually it is 3 lakh shares) were transferred to the account of another partner Shri Anil Shah on 16.03.2001 but then it was transferred back to Shri Yatin Shah on 17.03.2001 because the deal was to be carried out through the exchange mechanism.

- 5.13 Shri Yatin B. Shah in his statement recorded on 13.02.2004 submitted that Shri Rajesh Shah had come to him with an offer of sale of 4.5-5 lakhs of AIGL around one week or ten days before 16.03.2001 and asked him to find out a buyer for this quantity of shares. Shri Yatin Shah submitted that he spoke to few persons including Shri Rakesh Shah of Shree Ganesh Enterprises who were residents of the same building where he used to stay. Shri Yatin Shah submitted that Shri Rakesh Shah agreed to the deal and he introduced Shri Rajesh Shah to Shri Atul Shah and Shri Rakesh Shah 3-4 days prior to 16.03.2001. He submitted that both the parties agreed to the deal and promised him some money as goodwill. He also submitted that later, Shri Rakesh Shah rang up to inform that the deal was through and gave the demat account no. to him to which 300000 shares were transferred by Shri Rajesh Shah on 16.03.2001. It is thus clear that the transfer of 3 lakh shares by Shri Rajesh Shah to the said demat account was part of an off-market deal with the partners of Shree Ganesh Enterprises. The trade details of the Noticees who had bought and sold viz. the quantity sold, the settlement number and the rate at which sold are given hereunder:

No	Client Details	Sett. No.	Gross Purchases Qty.	Rate	Gross Sales		Net Qty.
					Qty.	Rate	
1	Comet Investments Pvt. Ltd.	51	113200	37.80			113200
2	Addvalue Fin Ser P. Ltd	51	25000	36.35			25000
3	Caplon Securities Pvt. Ltd.	51	25000	36.35			25000
4	Kantilal Mohanlal Shah	51	25000	36.35			25000

5	<i>Mitesh V Shah</i>	51	10000	36.35			10000
6	<i>Meeta Anil Gala</i>	51	15000	36.35			15000
7	<i>Rohit Gandhi</i>	51	20000	36.35			20000
8	<i>Dharmen Jagdish Seth</i>	51	10000	36.35			10000
9	<i>Uttam Investments</i>	51			92000	36.25	-92000
10	<i>Rupani Trading Co.</i>	51			50000	40.00	-50000
11	<i>Loko Securities Pvt. Ltd</i>	51			92000	38.00	-92000
12	<i>Jatin J. Shah</i>	51			50000	36.18	-50000
13	<i>Shyam Investment</i>	51			158000	36.20	-158000

Arrangement of clients by Yatin B. Shah for the dealings on 16.03.2001.

5.14 I note that Shri Yatin Shah has submitted that since Shri Rakesh Shah wanted the deal to be executed on BOLT, he met Shri Rajesh Shah who told him that the later did not have enough brokers to execute such a big transaction and asked the former to help out since he was known to many brokers/sub brokers/clients in the market. Shri Yatin Shah stated that he enquired about the company and arranged for the clients namely, Shri Rajesh Jhaveri, Shyam Investments, Uttam Investments and Rupani Trading Co. Shri Yatin Shah submitted that he too sold shares through Loko Securities which was floated by him.

5.15 Shri Yatin Shah vide his statement dt.16.03.2001 explained the modus operandi of the trading which took place. He stated that Shri Rakesh Shah used to call up and tell him to enter the sell order for the transaction in shares at the market price on that date. He also submitted that he then used to call up his associated entities and ask them to enter the sell order for the quantity they were willing to sell at the price and inform Shri Rakesh Shah accordingly so that he may enter the buy order and all the transactions were executed in the same way. In his subsequent statement dated 07.06.2004 he submitted that the sales deals were executed at Shri Rajesh Shah's office where there was a terminal for viewing rates. Shri Rajesh Shah used to watch the rates and used to ring up Shri Rakesh Shah and decide on the rates and asked him to enter the trades. The shares were not directly transferred by Shri Rajesh Shah to the sellers' accounts and were routed through

Shri Yatin Shah's account, because the former probably wanted to remain in the background and not come in the forefront. The execution of these kind of trades are in the nature of synchronised trades with an intention to hamper the price and order matching mechanism of the exchanges.

- 5.16 In its report forwarded to SEBI vide letter dated 26.12.2001, BSE has pointed out that during the course of investigation of dealings in the scrip of M/s CSJ Technologies Ltd., it was noted by them that Shri Yatin B. Shah had played a more or less similar role. Shri Yatin Shah had furnished copy of a letter to the BSE addressed by him to M/s Dhruv Investments wherein he had stated that the shares of CSJ Technologies which were in his name were actually the property of another person and were held in his name for convenience. In the instant case also it is clear that the shares which were transferred by him to the various selling clients actually belonged to Shri Rajesh Shah.

Subsequent transfer of 300000 shares to the demat account of M/s Swaraj Finance and Investments on 17.03.2001.

- 5.17 It was observed that the shares had been transferred to the account of M/s Swaraj Finance and Investment Ltd. (demat account no. 80008439 held with the DP, Global Trust Bank) on 17.03.2001. M/s Swaraj Finance and Investments was a company promoted by Shri Rajesh Shah and his wife, Ms. Swati Shah. From the demat account of M/s Swaraj Finance and Investments the shares were then transferred to demat account no. 10113326 held with the DP, IL&FS in the name of Shri Yatin Shah on 17.03.2001. Shri Rajesh Shah in his statement recorded on 25.03.2004 tried to argue that at that time the share transfer used to take one day. Since Shri Dilip Sheth was in a hurry and the account of Shri Anil Shah and Swaraj Finance and Investments Ltd. were in the same DP, Global Trust Bank as much Shri Rakesh Shah transferred the shares to Swaraj Finance and Investment Ltd. to enable them to transfer the shares to Shri Yatin Shah on the same day. However, this explanation cannot be treated as satisfactory. In the first place, Shri

Dilip Sheth had already sold the shares to Shri Rajesh Shah and it was now the later and not the former who was “in a hurry” to further sell the shares in the market. Secondly, if only time factor was involved, shares could have been directly transferred from account of Shri Anil Shah to that of Shri Yatin B. Shah without involving Swaraj Finance & Investment Ltd. Moreover, Shri Anil Shah and Swaraj Finance & Investment Ltd. may be having demat accounts with the same DP, but Swaraj Finance & Investment Ltd. and Yatin B. Shah are having demat accounts with two different DPs. Further, it may be noted that the transaction had already taken place on the exchange on 16.03.2001 and sufficient time of 5-6 days was available for the delivery of shares before the pay-in (due on 22.03.2001). Thus it appears that in all likelihood, this transfer of shares to the account of Swaraj Finance & Investment Ltd was made in pursuance to the plan of executing the trades on the exchange medium.

Transfer of shares by Yatin B. Shah and Falgun C. Shah to the demat accounts of the selling clients after 16.03.2001.

- 5.18 It was observed that none of the selling clients had any shares of AGIL with them in their demat accounts as on the date of transaction on 16.03.2001. On the other hand, it is noticed that the transfer of shares to their accounts actually happened only after 16.03.2001. In this connection, Shri Yatin Shah submitted that 3 lakh shares came from Shri Rajesh Shah’s account held with Global Trust Bank on 17.03.2001 and 99000 shares came from Shri Falgun Shah’s account on 21.03.2001. These shares were transferred from his account to the selling clients as per the details given below:

S. No.	Date of transfer	To whom transferred	DP	Demat A/c No.	No. of shares
1	19.03.2001	Shri Rajesh Jhaveri & Mrs. Renuka Jhaveri	SSKI Securities Ltd.,	10072493	50000
2	19.03.2001	Uttam Investments Prop. Manoj Shah (brother of Yatin Shah)	UTI Bank Ltd.	10415613	92000

3	19.03.2001	Shyam Investments Prop. Sunil Shah	SHCIL	13788081	158000
4	22.03.2001	CDSL account of self	Kaushik Shah Share and Stock Brokers Ltd	12020100 00000260	92000
5	22.03.2001	M/s Rupani Enterprises	Global Trust Bank	10034242	7900
				TOTAL	399900

SELLING CLIENTS

Shyam Investments

- 5.19 Shri Sunil Shah stated that he had sold 158000 shares on 16.03.2001 on behalf of Shri Yatin B. Shah “who is my personal and business friend”. These shares were sold through Arihant & Co. Chennai (Prop. Shri Ravikant Chowdhary), a sub-broker of Bang Equity Broking Pvt. Ltd. A perusal of his client registration application form shows that he submitted the application form to the sub broker Arihant & Co. on 20.03.2001 whereas the transaction took place on 16.03.2001. In other words, Shri Sunil Shah was not registered as a client on 16.03.2001. It was further seen that the sub broker has not taken any introduction on the application form. Further, it was observed that the address of Shri Sunil Shah as given on the copy of the Voter Identity Card enclosed with the application form was the same as that of Yatin Shah and Rakesh Shah i.e. 1-12 Nagar Niwas, 6/8 Anantwadi, Mumbai-400 002. In his reply to the show cause notice, Shri Sunil Shah admitted that the real owner of AIGL shares transacted by him was Shri Rajesh Shah. He also stated that he had carried out similar transactions in the past and there was no question or allegation of any wrong doing at that time. Further, with regards the charge of short selling, he stated that he had shares under his control and had duly ensured such delivery of the shares well within the due date.
- 5.20 In my view however, this argument is not tenable as the shares had come to his demat account No. 13788081 held with DP SHCIL only on 19.03.2001 from Yatin Shah. Hence, on the date of transaction, Shyam Investments was not holding any shares. It is further noted that Shyam Investments/ Sunil N. Shah had

not carried out dealings in any other scrips during 2000-01. Ledger account of Sunil N. Shah showed a credit balance of Rs.56,95,505/- as on 17.03.2001. In his reply, he also stated that the circular regarding short sale came into existence on 07.03.2001 while the sales took place on 16.03.2001. He sought to claim ignorance of the said circular which can not be accepted in terms of well settled legal position.

Uttam Investments

- 5.21 Uttam Investments was a proprietorship concern of Shri Manoj B. Shah, brother of Shri Yatin B. Shah. Uttam Investments was found to be registered as a client of sub-broker M/s Sovereign Global Finance Pvt. Ltd. of the main trading member M/s Sovereign Securities Pvt. Ltd. since 05.12.2000. The address of this concern was 6/8 Anantwadi, 46 Nagar Niwas, Mumbai which was similar to that of Shri Yatin B. Shah as well as the partners of Shree Ganesh Enterprises. It has sold 92000 shares of AIGL on 16.03.2001. However, on the date of transaction, it was not holding any shares since shares came to its demat account No. 10415613 held with the DP UTI Bank Ltd. only on 20.03.2001. The summons sent to Shri Manoj Shah of Uttam Investments on 19.04.2004 and 11.06.2004 remained non-complied. He neither appeared nor sought any adjournment. In his statement recorded on 07.06.2004 Shri Yatin B. Shah pointed out that his brother, Shri Manoj Shah had “carried out the transactions on my instructions” and that he did not know anything in this behalf. Shri Yatin Shah further admitted that Uttam Investment and Loko Securities were floated by him.

Loko Securities Pvt. Ltd.

- 5.22 Shri Yatin Shah had sold the shares through Loko Securities Pvt. Ltd (promoted by him) through the broker, Kaushik Shah Share and Securities Ltd. It was seen that this company got registered with the broker on 08.03.2001 and was found to have been promoted by Shri Yatin B. Shah and Shri Manish V. Mankad in March, 1999. The address of the company was 6/8 Anantwadi, 46 Nagar Niwas, Mumbai

which was similar that of Shri Yatin B. Shah. The company had sold 92000 shares on 16.03.2001. It was however observed that on 16.03.2001 the company was not having any share of AGIL in its possession and the shares came to its demat account only on 22.03.2001. In its reply dated 17.06.2003 the company claimed that it had sold the shares for and on behalf of Shri Yatin B. Shah. It is further noted that the company had not done any other dealings in these shares during 2000-01. When Shri Yatin Shah was asked as to why there was a need to arrange for sale of the shares of AIGL through so many individuals/entities when the entire sale could have been effected through him, he replied that no broker including Kaushik Shah Share and Stock Brokers was ready to execute a transaction for such a large quantity of shares in an illiquid scrip. He also submitted that he was not in a position to handle such a large payout. In his reply to the show cause notice, he also stated this entire dealing in AIGL was to help Shri Rajesh Shah. In this way, he knowingly aided Shri Rajesh Shah to offload the shares in the market for which he used his own entities and arranged other entities. All these entities executed matched trades under the instructions of Shri Rajesh Shah, Shri Falgun Shah and Shri Yatin Shah for which undue benefit was certain. To justify the fraudulent transactions, he even stated that such synchronised trades are in the nature of negotiated deals which are permitted as per SEBI Circular dated 14.09.1999. This stand can not be accepted for the reasons stated in paragraph no.5.47 below.

M/s Rupani Enterprises

- 5.23 M/s Rupani Enterprises was a partnership firm of Shri Naresh Rupani and his wife Mrs. Charu Rupani. It is found to be registered as a client of the Sovereign Securities Pvt. Ltd. since March, 2001 only as seen from the Client Registration Application Form. In his statement before SEBI on 29.03.2004, Shri Naresh Rupani submitted that he was requested by his friend, Shri Yatin Shah to sell 50000 shares of AIGL on 16.03.2001 and pay the money received after the payout from the Exchange. It was observed that 42100 shares were transferred to his

demat account from the account of Shri Falgun Shah and another 7900 shares were received from the demat account of Shri Yatin Shah on 22.03.2001 and on the same day these shares were transferred to the account of the broker, Sovereign Securities Pvt. Ltd. through whom Rupani Enterprises had sold the shares. When asked about how Rupani Enterprises without being registered as a sub broker sold shares on behalf of Shri Yatin Shah, Shri Naresh Rupani pointed out that he had no interest in the above deals nor was there any monetary gain for them. It was just a request from his friend to sell the shares. He also submitted that this was the only time he had sold shares on somebody's behalf. This argument, however, is not acceptable as it was seen that Rupani Enterprises itself got registered as a client of M/s Sovereign Securities Pvt. Ltd. only in March, 2001 just a few days before the date of transaction. Getting registered with a broker is not a big deal and Shri Yatin B. Shah with his connections and resources could easily have got registered with some broker or the other. If Shri Yatin B. Shah could arrange for about a dozen people to act as sellers and buyers for the deal, he could have arranged a broker for himself without requiring any help from Shri Rupani. As stated above Shri Yatin B. Shah himself dealt in the scrip through his company M/s Loko Securities Ltd. and sold 92000 shares and obviously did not require Shri Rupani's help to sell another 50000 shares.

- 5.24 It was observed from the demat account of M/s Rupani Enterprises that the firm was mostly dealing or having investments in liquid scrips such as Hindustan Motors, Hindustan Zinc, ACC, SAIL, Bombay Dyeing, BPCL, Dr. Reddy's Labs., Goodyear, Wockhardt, etc. and was not trading in illiquid scrips.
- 5.25 It was noticed that Shri Rupani and the other selling clients such as Uttam Investment, Shyam Investment etc. in their reply to the BSE Show Cause Notice had stated that the shares were bought by them from Shri Yatin Shah in off-market/ spot deals whereas in sharp contrast to this, they all took plea before SEBI that they had sold the shares on behalf of Shri Yatin B. Shah. In his deposition recorded on 08.06.2004, Shri Naresh Rupani explained that the fact

was that he had not purchased the shares from Shri Yatin Shah in spot market and that this was “wrongly mentioned” in his letter to BSE. He also submitted that the letter was not drafted by him and was signed by him in haste without looking into the contents of the letter. He also submitted that he could not remember who had drafted the letter. He also stated that he had not informed BSE about the wrong reporting of facts.

- 5.26 It is undisputed that M/s Rupani Enterprises sold 50000 shares of AIGL on 16.03.2001, on which date it was not holding any shares. In fact the shares came to its demat account No. 10034242 held with the DP Global Trust Bank Ltd. only on 20.03.2001.
- 5.27 A perusal of the books of accounts of M/s Rupani Enterprises shows that there was no a/c related to the sale of shares of AIGL allegedly made on behalf of Shri Yatin Shah. Nor was there any account of ShriYatin B. Shah in the books of accounts showing him to be a creditor for the shares allegedly sold on behalf of Shri Yatin Shah and the money due to him from Rupani Enterprises. This leads to the inference that Shri Rupani/ Rupani Enterprises had dealt in these shares in an unaccounted manner.

Jatin J. Shah

- 5.28 Shri Jatin J. Shah was registered as a client with trading member Kirtikumar Fulchand Vora since 04.12.2000. In his statement before SEBI on 06.04.2004, Shri Jatin J. Shah submitted that Shri Rajesh Jhaveri had approached him a week or ten days before the sale took place and asked him to sell the shares on his behalf through Shri Jatin Shah’s broker as Shri Rajesh Jhaveri did not have any account with any broker. He also submitted that Shri Rajesh Jhaveri told him that he is selling the shares as he needed money and since Shri Rajesh Jhaveri was a personal acquaintance, he agreed to the above deal. Shri Jatin Shah also submitted that Shri Rajesh Jhaveri came back to him in a few days after the first meeting and confirmed that he could sell the shares and Shri Jatin Shah in turn informed his

broker to sell the shares. From the demat account of Shri Rajesh Jhaveri/ Ms. Renuka Jhaveri, 50000 shares were transferred to the demat account of Shri Jatin J. Shah held with the DP, Global Trust Bank on 20.03.2001. It is thus clear that while the shares were sold by Shri Jatin J. Shah on 16.03.2001, he did not have any shares in his possession as on the date of transaction and that the shares were credited to his demat account on 20.03.2001. When asked about the sale of 50000 shares without having them in his demat account points to short selling, Shri Jatin Shah submitted that he was not aware that his actions amounted to short selling.

- 5.29 In light of the aforesaid, I am of the view that enough evidence is available to show that the shares of AIGL actually belonged to Shri Rajesh Shah who had an off-market arrangement with the partners of Shree Ganesh Enterprises. Shri Yatin Shah has clearly stated that *“there was a terminal at Shri Rajesh Shah’s office for viewing rates. Shri Rajesh Shah used to watch the rates of AIGL and ring up Shri Rakesh Shah and decide on the rates and asked me to enter the trades”*. If Shri Rajesh Shah had got nothing to do with these shares, he would not have been taking trouble of watching the rates or deciding on the rates for entering the trades in the scrip. Further, when his attention was drawn to the two sets of letters, one written by the selling clients to the BSE claiming that they had purchased the shares from Yatin B. Shah and the other addressed to the SEBI saying that they had dealt in the scrip on behalf of Yatin B. Shah, he pointed out that *“previously the payout had not come from the broker and at that time Shri Rajesh Shah drafted the first set of letters for release of payout and the sellers have signed it. Later when the payout was not released we thought that the matter was serious and I and my associates directly dealt with SEBI and wrote the second set of letters”*. He further stated that initially he acted on Shri Rajesh Shah’s instructions and later *“when the matter became serious I stated the facts.”* He explained that he had to act according to what Rajesh Shah said *“since it was his money which was stuck.”*

THE BUYING CLIENTS

- 5.30 Comet Investments Private Ltd, Addvalue Financial Services Pvt. Ltd., Meeta A. Gala, Shri Mitesh V. Shah, Shri Dharmen J. Sheth, Shri Rohit B. Gandhi and M/s Caplon Securities & Investment Pvt. Ltd. were the buying clients who transacted through the sub broker Shree Ganesh Enterprises. From the client details, it was observed that most of the clients dealing through Shree Ganesh Enterprises had same addresses which was same as that of Shree Ganesh Enterprises. During the course of investigation, in his statement dated 21.01.2004, Shri Rakesh Shah, Partner of Shree Ganesh Enterprises, stated that the addresses of two of their clients namely, Shri Mitesh Shah and Shri Dharmen Sheth are the same because both the persons have their offices in the same building next to each other. Likewise, the address of M/s Comet Investments, Addvalue Financial Services Pvt. Ltd. and Yatin Shah were also found to be one and the same.

Comet Investments Private Ltd.

- 5.31 The company was having office at 6/8 Anantwadi, 33 Nagar Niwas, Bhuleshwar, Mumbai which was the residence of Shri Atul Shah, its director. Shri Rakesh Shah (who was also one of the partners of Shree Ganesh Enterprises) was the other director of this company. Shri Atul Shah is the younger brother of Shri Anil K. Shah who was also the partner in Shree Ganesh Enterprises. In other words, M/s Comet Investments Pvt. Ltd. was a group/associate entity of Shree Ganesh Enterprises.
- 5.32 M/s Comet Investments Pvt. Ltd. had purchased 113200 shares. In his statement before SEBI on 15.06.2004 Shri Atul Shah, Director submitted that the decision to invest in the shares of AIGL was taken by Shri Rakesh Shah of Shree Ganesh Enterprises, as he had gone to Ahmedabad and he came to know of the investment only after he came back. Regarding the basis of investment, Shri Atul Shah submitted that they purchased the shares as “*there were market rumours that someone was going to takeover AIGL*”, although he could not spell out who was going to do so. He also stated that the sell and buy orders were placed within

seconds of each other and had thus matched because Shri Yatin Shah had “arranged for the deal”.

Addvalue Financial Services Pvt. Ltd.

- 5.33 Addvalue Financial Services Pvt. Ltd was registered with the sub-broker, Shree Ganesh Enterprises since 20.09.1999 and directors of the company were Shri Dilip Chainani, Umesh Gupta & Sanjay Gupta. The company has its office on the first floor while M/s Shree Ganesh Enterprises has its office on second floor of Kothari House in Oak Lane in Fort, Mumbai.
- 5.34 In his statement before SEBI, Shri Sanjay Gupta, Director, submitted that the sub broker, Shree Ganesh Enterprises recommended the scrip to him on 16.03.2001 informing that the scrip was going to go up because there were favorable market rumors. Shri Gupta also submitted that Shree Ganesh was not specific about the market rumor and he recommended a buy quantity of around 10000-20000 shares. Accordingly, Shri Sanjay Gupta spoke to the other directors and they agreed to buy 25000 shares at the market rate. He also submitted that since the shares were not delivered to them, the deal had been mutually called off between the sub broker and Add Value Financial Services Pvt. Ltd. Vide letter dated 28.03.2001 Shree Ganesh Enterprises informed Add Value Financial Services Pvt. Ltd that *“as we are unable to deliver the shares of AIGL we have mutually agreed to cancel the deal and take it into our account if it comes in future”*.

Meeta A. Gala

- 5.35 Ms. Meeta A Gala was registered with the sub-broker since 20.09.1999. She has been introduced by her husband Shri Anil Gala who was known to the sub-broker. Shri Anil Gala appeared before SEBI on behalf of his wife as he claimed that *“all decisions on behalf of her are taken by him.”* In his statement before SEBI, Shri Anil Gala submitted that Shri Rakesh Shah of Shree Ganesh Enterprises told him

on 16.03.2001 that the scrip of AIGL looked good and he was going to get some benefit by purchasing the shares. He also submitted that he decided on the quantity (i.e. 15000 shares) and the deal was executed at the market price. He also submitted that the deal was called off at the end of the settlement because the sub broker did not deliver the shares.

Shri Mitesh V. Shah

5.36 He was registered with the sub-broker since 29.01.2000 as a client without any introduction. He is related to the sub- broker as he got married to the sister of Shri Rakesh Shah who was one of the partners of Shree Ganesh Enterprises. He submitted in his deposition before SEBI on 28.04.2004 that he got a tip from the sub broker, Shree Ganesh Enterprises. He submitted that he had gone to the office of the sub broker and he was told by the sub broker that “it was a good share and since many people were buying at the office”, he too placed buy orders. He submitted that he was planning to use the money from his family accounts to fund the purchase of 10000 shares of AIGL. He also pointed out that *“the deal is still on (even after withholding of payout) as in that I will pay the amount if taking a buy position is beneficial to us and as per our fund position, else the deal is off”*.

5.37 It was seen that he had regular dealings with the sub-broker during 2000-01. A perusal of his account with Shree Ganesh Enterprises reveals that there was always a debit balance of about Rs. 2 lakhs which was squared off only on 31.03.2001. It can be inferred that the sub-broker was using his own funds for purchases made on behalf of the client who happen to be closely related to the firm. He has mainly dealt in liquid scrips such as Whirlpool, Pentamedia, Infosys, S. Kumar’s.com, Global Trust Bank etc. during 2000-01.

Shri Dharmen J. Sheth

5.38 He was registered with the sub broker since 30.01.2000 as a client without any introduction because he was well known to Shri Mitesh Shah, a relative of the

partners of Shree Ganesh Enterprises. He submitted in his deposition before SEBI that the sub broker, Shree Ganesh Enterprises suggested buying the scrip as they expected the price to go up over a period of time. He submitted that the sub broker decided on the quantity and price. He was found to have placed buy orders for 10000 shares and submitted that he was planning to arrange for funds by switching over the earlier held shares in his accounts or through funds from his father's account. He could not give any satisfactory explanation as to why he had dealt in an illiquid scrip in such large quantity. He stated that he bought on the "recommendation" of the sub-broker and was "normally not aware of the liquidity status" of a particular scrip. A perusal of his IT return for A.Y. 2001-02 shows that his annual salary income was only Rs.80,000/-. With his meager salary and resources, it seems highly improbable that he would risk his money (about Rs.3.5 lakhs) in an illiquid scrip like AIGL. In his reply to the show cause notice, he stated that it was not his income but his position of finance that is relevant to be considered in deciding the capacity to execute such trades. He, however, did not produce any evidence to show that he was having sufficient capacity to enter into such bulk transactions. A perusal of his demat account reveals that he has mostly dealt (in small quantities) in media and IT scrips which are actively traded.

- 5.39 It is seen that he had regular dealings with the sub-broker. A perusal of his account with Shree Ganesh Enterprises reveals that he had a sort of running account which was squared off only in the end of March, 2001.

Shri Rohit B. Gandhi

- 5.40 Shri Gandhi was registered with M/s Shree Ganesh Enterprises since 21.01.2000 as a client without any introduction and is admittedly well known to the sub-broker. In his deposition before SEBI on 29.04.2004 he submitted that Shri Rakesh Shah suggested that he should purchase shares of AIGL "*for some reason which I do not remember*". He also submitted that "*everybody in the office of Comet Investments was purchasing the shares of AIGL*" and so he too followed it. The quantity and the rate was decided by him. He also submitted that he was

planning to use his own funds to fund the purchase of 20000 shares of AIGL. From his demat account that during 2000-01 his major dealings/ holdings were in highly liquid scrips like RIL, Reliance Capital, GE Shipping, Jindal Iron, Syndicate Bank, IndusInd bank etc.

M/s Caplon Securities & Investment Pvt. Ltd.

- 5.41 Caplon Securities & Investment Pvt. Ltd. was registered with the sub-broker Shree Ganesh Enterprises since 20.09.1999 and was having Sh. Jitendra Patel and Bharatkumar Patel as directors. The company is stated to be based in Ahmedabad and its net worth as per the Client registration Application Form was NIL. The column relating to “Annual Income in past 3 years” was left blank. This company purchased 25000 shares.
- 5.42 It was seen from their account in the books of Shree Ganesh Enterprises that they were having regular dealings with the sub-broker during February and March, 2001. It was also seen that the sub-broker had not been making payments to the client for securities sold but retaining the sale proceeds with him beyond reasonable limits. Likewise, it was also noted that the sub-broker had often employed his own funds towards the purchases made on behalf of the client. Thus it can safely be inferred that the sub-broker and the client had a financing arrangement between them.
- 5.43 From the above facts, it is clear that all the buying clients were related with the sub-broker who utilized them for executing the fictitious trades for the benefit as stated in succeeding paragraph No.5.51. Their knowledge of such fictitious and fraudulent trades is certain from their statements. I have also noted that the reply to show cause notice from all the buying clients are almost similar stating that they had entered into the transactions on the market rumors and tips given by the sub-broker. However, it is surprising that all of them executed huge quantity of trades in a single day.

TRADE AND ORDER LOG ANALYSIS

5.44 BSE had conducted trade and order log analysis for the trades executed on 16.03.2001. The following table shows the details of the orders placed by the members on 16.03.2001:

Sell Orders				Buy Orders				Trade		
Member	Qty.	Rate	Time	Member	Qty.	Rate	Time	Qty	Rate	Time
56	100000	36.25	1:36:57 p.m.	81	100000	36.25	1:37:05 p.m.	100000	36.25	1:37:05 p.m.
56	58000	36.25	1:46:41 p.m.	81	58000	36.25	1:46:50 p.m.	58000	36.25	1:46:50 p.m.
370	50000	36.25	1:39:18 p.m.	81	50000	36.25	1:39:26 p.m.	50000	36.25	1:39:27 p.m.
245	50000	36.25	1:41:59 p.m.	81	50000	36.25	1:42:14 p.m.	50000	36.25	1:42:15 p.m.
245	42000	36.25	1:51:45 p.m.	81	42000	36.25	1:51:53 p.m.	42000	36.25	1:51:54 p.m.
245	50000	40.00	3:56:09 p.m.	81	50000	40.00	3:56:18 p.m.	50000	40.00	3:56:18 p.m.
343	92000	38.00	3:42:16 p.m.	81	92000	38.00	3:42:23 p.m.	92000	38.00	3:42:24 p.m.

5.45 It is clear from the above table that 300000 shares were traded between 1:36:57 p.m. and 1:51:54 p.m. while another 142000 shares were traded between 3:42:16 p.m. and 3:56:18 p.m. However, as is apparent from the above, the buy and sell orders were placed within seconds of each other and the maximum time gap between two orders was 15 seconds. Thus, these deals were nothing but synchronized where the sell-orders were placed in the system before the buy-orders.

5.46 During the course of investigations and as per the statements of Shri Rakesh Shah and Shri Yatin Shah I find that the transactions were indeed synchronized and the deals were arranged as has been admitted by both of them. Both the parties were in contact with each other over the telephone during the execution of the trades.

- 5.47 Some of the Noticees had taken a stand that the trades done on 16.03.2001 represented negotiated deals executed on the exchange as was permissible under SEBI Circular bearing No.SMDRP/POLICY/CIR-32/99 dated 14.09.1999 which permitted all negotiated deals (including cross deals) to be executed only on the screens of the exchanges in the price and order matching mechanism of the exchanges just like any other normal trade. In other words, it was stated that the screen-based negotiated deals were permitted in order to bring about greater transparency and better price discovery through participation of large number of buyers and sellers in an open manner. When examined with respect to this case, I note that AIGL was an illiquid and very thinly traded scrip. During the period from 01.01.2001 to 16.03.2001, the scrip was traded for only 1900 shares (in 13 trades) and 500 shares (in 1 trade) shares on two days i.e. 19.01.2001 and 22.01.2001. Thus sudden occurrence of bulk deals of 442000 shares on 16.03.2001 in an illiquid scrip, among the Noticees known to each other, cannot be called a negotiated deal, because it was executed as a structured/synchronized deal which did not allow any scope for “participation of large number of buyers and sellers in an open manner”. Some parties viz. Addvalue, Meeta Gala have stated before SEBI to have mutually called off the deals with the sub-broker who failed to deliver the shares to them. In any case, assuming but not admitting, these ‘negotiated deals’ could not have been possible without the prior approval of the BSE, which was admittedly not obtained by the concerned parties.
- 5.48 The trading pattern of the Noticees revealed that they executed bulk synchronised deals on a single day when the time difference between buy and sell orders was negligible. Analysis of the trade/order log indicates that the Noticees were the main sellers and buyers in the market and they mainly received shares in the off market from Rajesh Shah and Falgun Shah and acted in concert with them. The trading of the Noticees created huge volumes in the scrip in the market which in fact was illiquid scrip. This trading was having potential of creating investor interest in the scrip and thereafter when they started selling in the market the buyers were found to be scattered. No unknown person can trade continuously by

putting orders in such a pattern contributing significantly to total volume in the market. This establishes that all of the noticees were related/connected to each other and they were matching their non genuine trades which obviously did not result into the transfer of beneficial ownership.

5.49 It is quite apparent that the trades on the exchange were carried out on 16.03.2001 in a pre-arranged, pre-decided and pre-meditated manner. This has been admitted by Shri Yatin Shah who was the main link between the selling and buying clients. A perusal of the trade and order log (viz. matched/ synchronized trades) together with analysis of the statements and conduct of the Noticees (i.e. circuitous manner of transfer of shares from one account to another) clearly reveals that the trades in question are essentially fictitious trades and were carried out not for legitimate business or commercial reasons but for ulterior and dubious intentions.

5.50 Shri Rajesh Shah, with the help of Shri Yatin Shah entered into off-market deals with Shree Ganesh Enterprises for sale of the shares. Both Shri Rajesh Shah and Shree Ganesh Enterprises were the main players in the deal. It was Shri Yatin Shah who was approached by Shri Rajesh Shah for arranging the sellers. Shri Yatin Shah was the main link between the buyers and the sellers. Shri Yatin Shah along with Shri Falgun C. Shah who acted as conduit for transfer of shares aided and abetted the two main players in carrying out the deal. The transfer of shares between the layers of Shri Rajesh Shah and Shri Yatin Shah has followed a circuitous route as explained above. No cogent reason or convincing explanation has been offered as regards the buying of shares in the huge quantities by the clients of the sub broker, Shree Ganesh Enterprises in a dormant, illiquid and thinly traded scrip.

5.51 In the said transactions, the sub – broker Shree Ganesh Enterprises with the connivance of the Noticees made undue benefit. In this regard I note that Arbitration proceedings were initiated by the main broker of Shree Ganesh Enterprises and arbitration award was passed in the matter. It was observed from

the Arbitration Award that Shree Ganesh Enterprises claimed to have a debit balance with its main broker on 16.03.2001. Information obtained from the BSE reveals that Century Consultants Ltd. was informed by BSE vide letter dated 16.03.2001 that their BOLT terminals would be de-activated w.e.f. 17.03.2001 on account of non-clearance of pay-in obligation pertaining to Rolling Settlement No. DR-241/200-01 (dated 09.03.2001) which was due on 16.03.2001. This was followed by further defaults on the part of Century Consultants Ltd. in payment of settlement dues and other obligations towards the exchange. In view of this, it appears that the share dealings in question were carried out on the BOLT by Shree Ganesh Enterprises (quite late in the day on 16.03.2001 between 1.35 p.m. and 3.56 p.m.) with a view to recovering / adjusting the amount due from Century Consultants Ltd. Under the Rules and Bye-Laws of the BSE, in the matter of application of all the money, rights, property and assets of the defaulter by the Defaulters' Committee, the settlement dues of the exchange or the clearing house enjoy the first priority whereas the payment of unpaid outstandings to members of the exchange is quite low (i.e. the sixth) in the order of priority. In other words, the ulterior purpose or design behind this trading in AIGL by Shree Ganesh Enterprises with the knowing participation of their clients (buyers) as stated above on the BOLT was to gain fraudulent preference through the settlement mechanism of the exchange to the detriment of the other creditors and thereby defeat the interests of other creditors of Century Consultants Ltd. The decision to enter the trades on the BOLT was thus motivated by the desire to have a larger share than what would have otherwise come to them, in the assets / property of Century Consultants Ltd. on its default, by way of fraudulent / fictitious transaction. The deal was thus conceived in deceit and was executed by a set of persons acting in league with each other for the purpose of causing wrongful gain or unfair advantage to the sub-broker. Had the deal gone unnoticed by the exchange authorities, Shree Ganesh Enterprises would have killed two birds with one stone i.e. taken protection under the Trade Guarantee Fund of the Exchange and at the same time gained a priority of claim on the Century Consultants Ltd. in the event of its eminent default. In this manner, Shree Ganesh Enterprises would have

settled the deal with Shri Rajesh Shah as well as would have got preference in settlement of its claim on the defaulting Century Consultants Ltd.

5.52 The dealings of the Noticee in the scrip of AIGL were carried out in a deceitful and fraudulent manner on 16.03.2001 as is evident from the manner in which the trades were done on the BOLT. None of the Noticees had any shares of AIGL which they sold on 16.03.2001. I note that before BSE, they took the plea that they had purchased the shares in off-market deals from Shri Yatin B. Shah. However, they argued that they had dealt in the shares on behalf of Shri Yatin B. Shah who, in turn, claimed to have acted on behalf of Shri Rajesh Shah. Since all the selling and buying noticees were arranged by Shri Yatin B. Shah, it can be safely said that the apparent sellers were aware of the identity of the ultimate buyers and of the arrangement with the ultimate buyers. However, the sellers were not genuine and were only acting on behalf of Shri Yatin B. Shah/Shri Rajesh Shah. It was seen that Rupani Enterprises has recorded neither the dealings in the scrip nor the amount payable to Shri Yatin B. Shah in its books of accounts. Shyam Investments and Uttam Investments did not comply with the summons and their books of account could not be verified. Thus, none of the selling clients has been able to adduce any evidence to show that these transactions were genuine transactions in the normal course of trade.

5.53 As far as the buying Noticees are concerned, it was observed that most of them are closely related to Shree Ganesh Enterprises such as Comet Enterprises Pvt. Ltd., Mitesh V. Shah, etc. There are some other clients like Rohit Gandhi and Dharem J. Sheth who were well-known to the sub-broker. However, it was seen from their demat accounts that these clients have mostly dealt in liquid scrips and none of them has been able to offer any satisfactory explanation as to why they chose to deal in such large quantity in an illiquid scrip like AIGL. It was also seen that two of the clients namely Add Value Financial Services Pvt. Ltd. and Meeta A. Gala had called off the deal mutually with the sub-broker in respect of the shares of AIGL.

- 5.54 At the relevant time, AGIL was incurring loss and there was hardly any business activity worth the name of the company. Under these circumstances, to imagine that investors would like to take such huge positions in a scrip which provided no exit option at all, defies all logic. Almost all the noticees who had transacted through sub-broker, Shree Ganesh Enterprises submitted that there were some positive rumors (which they have not able to spell out) in the market on the basis of which the sub broker recommended them to buy the scrip. However, this explanation is not satisfactory as they were clients taking up positions in an illiquid scrip based on mere market rumors not supported by any corporate news/developments.
- 5.55 It is clearly established that the sellers were not the real owners of the shares and did not have the shares with them as on the relevant date of trade; the sub-broking firm already had the shares in the demat account of its partners on the date of transaction; some of the buyers denied having placed any such purchase order and the other buying clients have entered into the trades under some tacit understanding with the sub-broker by virtue of their close connection with its partners. Such a transaction (with so many angles or shades to it) can by no means, be said to be bona fide or genuine. As already stated above, 3 lakh shares had already come to the demat account of the partners of Shree Ganesh Enterprises on 16.03.2001 and as such the dealings carried out on the BOLT on 16.03.2001 did not involve any change of beneficial ownership. All these facts and circumstances lead to the inevitable conclusion that the entire dealings in the scrip was carried out in a deceitful and fraudulent manner.
- 5.56 Such manipulative conduct would obviously amount to violation of Regulation 3 of PFUTP Regulations, 1995 which clearly prohibits a person from buying, selling or otherwise dealing in securities in a “fraudulent manner”. The expression “fraudulent manner” is defined in the PFUTP Regulations, although Regulation 2(c) does provide an inclusive definition of “fraud” which given hereunder:

“2.(1) In these regulations, unless the context otherwise requires -

(c) "fraud" includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract:-

(1) the suggestion, as to a fact, of that which is not true, by one who does not believe it to be true;

(2) the active concealment of a fact by one having knowledge or belief of the fact;

(3) a promise made without any intention of performing it;

(4) any other act fitted to deceive;

(5) any such act or omission as the law specially declares to be fraudulent; and "fraudulent" shall be construed accordingly.

Explanation: Mere silence as to facts likely to affect the willingness of a person to enter into a contract is not fraud, unless the circumstances of the case are such that, regard being had to them, it is the duty of the person keeping silence to speak, or unless his silence is, in itself, equivalent to speech”.

5.57 Regulation 3 of PFUTP Regulations expressly prohibits dealing in securities in a fraudulent manner. In other words, it is not at all necessary that the impugned dealing in securities should be fraudulent. Rather, what is important is that the impugned dealing in securities is carried out in a deceptive or fraudulent manner with some ulterior purpose or design. In the instant matter, all the Noticees had transacted in AIGL without having AIGL shares with them and apparently traded to aid the sub-broker and Shri Rajesh Shah. Having considered all facts and circumstances of the case, I am of the view that this is a fit case to restrain the noticees from accessing the securities market with a view to protect the interest of investors since, it will act as a deterrent for such actions in the securities market in future.

6.1 Therefore, taking into consideration facts and circumstances of the case and in exercise of the powers conferred upon me under Sections 19 of the SEBI Act read with Sections 11B of 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, 1995, I hereby restrain the Noticees viz. Shri Rajesh Shah (PAN No. ABEPS2049D), Falgun C Shah (PAN No.

AMZPS8436P), Yatin B Shah (PAN No. AQSPS3457R), M/s Shyam Investments, M/s Uttam Investments (PAN No. ACOPS2923D), Rupani Enterprises (PAN No. AAAFR8149R), Loko Securities, Jatin J. Shah (PAN No. AAGPS0683K), M/s Comet Investments Pvt. Ltd. (PAN No. AAACC2051O), Addvalue Financial Services Pvt. Ltd. (PAN No. AACCA6709R), Rohit Gandhi (PAN No. AABPG2420K), Meeta A. Gala (PAN No. AALPG1053A), M/s Caplon Securities & Investments Pvt. Ltd., Mitesh V. Shah (PAN No. AGDPS0860K), Dharmen J. Sheth (PAN No. AABPS6828F) from accessing the securities market and prohibit them from buying, selling or dealing in securities in any manner whatsoever for a period of six months.

6.2 This order shall come into force with immediate effect.

Place: Mumbai

Date: December 10, 2007

V. K. CHOPRA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA