

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: V. K. CHOPRA, WHOLE TIME MEMBER

**Against the broker, ARJ Shares & Stock Brokers Pvt. Ltd (erstwhile
Jhunjhunwala Stock Brokers Pvt Ltd.) in the matter of Sun Infoways Ltd**

DATE OF HEARING: 16.10.2007

APPEARANCES:

FOR THE NOTICEE:

1. Shri Vinay Chauhan, Advocate
2. Shri Suresh Kumar Jhunjhunwala

FOR SEBI

1. Mrs Barnali Mukherjee, DGM.
2. Mr Deepesh M.U, Manager
3. Mr Mohamed Rahaz. P.M, Legal Officer.

ORDER

**Under Regulation 13(4) SEBI (Procedure for Holding Enquiry
by Enquiry Officer and Imposing Penalty) Regulations, 2002}**

1. Sun Infoways Limited (hereinafter referred to as “SIL”), promoted by Shri Shrikant Vasant Joglekar and Shri Sujit Shrikant Joglekar, was incorporated on June 29, 1994 as Best Mulyankan Consultants Pvt. Ltd. The main object of the company was to render consultancy services for valuation of assets such as land, building, machinery, agricultural land etc. This company was subsequently converted into public company on June 21, 1995. The name Sun Infoways Ltd. was adopted by the company after it changed its name with effect from May 11, 2000.

2. The company was listed on Bombay Stock Exchange Ltd (BSE) on May 16, 1996, after the public issue. Shri Joglekar and his family members sold their stake in SIL in the year 2000 to Shri Anil Pujari, Shri Rajan Tawate, Shri Tanvir Zaki, Shri Pravin

Sonalkar, Ms Hafeza Vohra and Shri Kuldeep Handoo. Shri Manish Marwah introduced these persons to the old promoters. Shri Hemant Damodar Mehta, a consultant, introduced Shri Manish Kumar Marwah to Shri Joglekar and his family members.

3. It was observed that there was sudden spurt in price and volumes in the scrip of SIL at BSE during February 2000 and December 2000. On February 9, 2000, only one trade for 100 shares was executed in the SIL scrip at a price of Rs.10/- per share for Rs.1000/-. However, thereafter the price of SIL shares continued to rise and reached a highest level of Rs 697/- on September 11, 2000 with volume going upto 24,800 shares.

4. SEBI initiated investigations into the alleged price manipulation in the trading of SIL shares between February 2000 and December 2000 (hereinafter referred to as “investigation period”). On analyzing the price/volume data of the SIL scrip during the investigation period, it was observed that rise in price of SIL scrip was accompanied with increased trading volumes allegedly effected through large number of entities, associated with the new promoters, directors and associates of SIL as well as few brokers including the broker Jhunjhunwala Stock Brokers Pvt Ltd with SEBI Registration No. INB011130250 and INB011105554 (composite membership) (hereinafter referred to as ‘Noticee’). The Noticee had changed its name to ARJ Shares & Stock Brokers Pvt. Ltd. with effect from July 10, 2007 (date of approval by Exchange).

5. In the light of above facts, the trading details of the various entities who had traded in SIL were collected and analyzed along with the data of the volumes contributed by these entities. It was observed that the transactions of the Noticee in the scrip during the investigation period contributed to the creation of some trading activity in the said scrip and also influenced the price of the scrip.

6. After considering the Investigation Report, SEBI appointed an Enquiry Officer to enquire into the violations allegedly committed by the Noticee under SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, (hereinafter referred to in short as “PFUTP Regulations”) and SEBI (Stock

Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to in short as “Stock brokers Regulations”) and bye laws, rules and regulations of the exchange.

7. A show cause notice dated February 02, 2004 was issued to the Noticee under Regulation 6(1) of SEBI (Procedure for holding Enquiry by Enquiry Officer and imposing penalty) Regulations, 2002 (hereinafter referred to as “the Enquiry Regulations”) to show cause, as to why enquiry proceedings should not be initiated against them for the violations of Regulation 4(a) and (b) of PFUTP Regulations 1995, code of conduct as per schedule II read with Regulation 7 of Stock brokers Regulations.

8. The Noticee sought certain documents from the Enquiry Officer. The documents sought for by the Noticee were provided and thereafter, authorized representative of the Noticee attended the personal hearing before the Enquiry Officer on October 11, 2006 and filed written submissions vide letter dated October 31, 2006. The Enquiry Officer, after conducting enquiry in accordance with the provisions of the Enquiry Regulations submitted a report dated March 30, 2007 and thereby recommended a minor penalty of suspension of registration of the Noticee for a period of one week.

9. Pursuant to the receipt of the Enquiry Report, Show Cause Notice dated April 05, 2007 was issued to the Noticee along with copy of the Enquiry Report advising them to show cause as to why the action, as recommended by the Enquiry Officer should not be imposed on them.

10. In response to the said show cause notice, Noticee vide letter dated April 19, 2007 denied all the allegations and submitted as under:

10.1 The total number of shares traded through them were 76400 out of total trading of 27,46,700 shares forming 2.79% of the total market volume spread over a long period of 326 days and had no regular pattern of trading.

10.2 All trades were executed in their normal course of business and through the screen based trading system of the exchange and the Enquiry Officer has accepted that JSBLL was not amongst the top ten buyers and stood as last amongst the top ten sellers of the scrip.

- 10.3** Three trades were alleged as indicative of synchronized in nature as per the Enquiry Report and the said three trades of merely 11,100 shares in comparison to the total market volume of 27,46,700 shares are too less to effect the market.
- 10.4** The volumes and price increased after August 11, 2000 when they had not traded and this would go to show that they have no involvement in the alleged manipulation.
- 10.5** They were not aware that R.S. Investments (RSI) was trading as a sub-broker and not as a client and the fact of RSI trading as sub broker was informed by BSE only in May 2000. Further, they sought clarification from the sub broker who assured them of getting himself registered with SEBI. Since the sub-broker was not registered till August 2000, they stopped trading with the sub-broker.
- 10.6** The Enquiry Officer has wrongly stated that they traded for Shri S.V Joglekhar merely on the basis that the shares traded through them were standing in his name. Further, they have explained that during physical trading of the shares, the shares used to be transferred merely on the basis of valid transfer deed while at the same time shares continued to be held in the name of the original holder until the book closing of the company. In this case also, the shares were standing in the name of Joglekhar though they were actually transferred from one person to other on the basis of transfer deed.
- 10.7** Their alleged nexus with other counterparties or clients such as Shri Ashok Choudhary, Manish Marwah and Anil Raina could not be established and requested that proceedings against them be dropped.
- 11.** An opportunity of personal hearing was given to the Noticee before me at SEBI's Head office at Mumbai on October 16, 2007. Shri Suresh Kumar Jhunjunwala director of the Noticee accompanied with their Advocate Shri Vinay Chauhan attended the hearing.
- 12.** I have carefully examined the findings of investigation, enquiry report, show cause notice and reply of the Noticee and I observe that consequent to a change in

shareholding of SIL during January 2000, large scale volumes were witnessed in the trading of the SIL scrip. The price of SIL scrip had shot up from a low of Rs 10 as on February 9, 2000 to Rs 697/- on September 11, 2000. It is further observed that the trades in SIL shares were executed by certain connected entities as well as a few sub brokers and brokers, who indulged in artificial trades causing manipulation in the scrip.

13. The Noticee was a net seller and one of the top seller broker who had a gross buy position of 19,200 shares and a gross sale position of 57,200 shares. The sub-broker , R.S Investment had traded in SIL scrip through the Noticee for the clients namely Ashok Kumar Chaudhary and Telefinance Pvt Ltd (TFL).

14. Three charges were mainly levelled against the Noticee such as their execution of manipulative synchronised trades, trading with clients related to the promoters of SIL and dealing with an unregistered sub broker, RS Investment. As regards the charge of trades having been executed by the Noticee on behalf of the promoter related entities, the Noticee stated that they executed trades for RS Investment as their client and they were not aware that Shri Ashok Choudhary executed trades through them. The Noticee denied knowing Manish Marwah, Anil Raina and S. V Joglekar. Further, the reason for Shri SV Joglekar's name appearing is reasonably explained by the Noticee in their reply dated April 19, 2007 (as stated in paragraph no. 10 above). Further, I do not find any concrete evidence to prove Noticee's knowledge about Shri Ashok Choudhary, Manish Marwah and Anil Raina. The Enquiry Officer observed that the unregistered sub broker, R.S Investment had executed synchronised trades through the Noticee for their client TFL for which the counterparty broker was IKM (sub broker Compu Action Securities Pvt. Ltd.) trading for their ultimate client Ashok Chaudhary, who had also executed trades through the R.S Investment as well. After analyzing all the trades executed by the Noticee, the Enquiry Officer had come to the conclusion that three synchronised trades were executed by the Noticee with the counterparty broker IKM on July 21, 2000, August 04, 2000 and August 11, 2000 for the total quantity of 11,100 shares. The Noticee submitted that only three trades of 11,100 shares in comparison to the total market volume of 27,46,700 shares be treated as miniscule quantity. Further, on examination of the trades executed by the Noticee, I do not find any manipulative pattern of trading especially when they had

executed only three synchronised trades with small quantity during the entire investigation period of almost 11 months. Further, the price and volume in SIL scrip had increased after August 11, 2000 when the Noticee had not traded in SIL scrip. In view of this, the Noticee may be given the benefit of doubt as regards their alleged role in the manipulation of SIL scrip. Also, viewed from the relevant legal position, I feel that there is no sustainable evidence on record to prove the charges levelled against them under the provisions of PFUTP Regulations in the show cause notice.

15. As regard the charge of dealing with unregistered sub-broker, R.S Investment and the violation of the provisions of Code of Conduct as per the Stock Brokers Regulations, the Noticee has taken a stand that they were not aware that R.S Investment had executed trades as a sub-broker. The Noticee further stated that R.S Investment was their registered client since 1995. The director of the Noticee, Shri Suresh Kumar Jhunjunwala in his statement dated November 07, 2001 confirmed that R.S Investment executed trade as a sub-broker. The Noticee vide letter dated April 19, 2007 had clarified that their director had made such a statement only when they realized from BSE in May 2000 that R.S Investment acted as unregistered sub-broker. The explanation given by the Noticee that they had given some time to R.S Investment to secure sub-broker registration from SEBI does not appear convincing particularly since they did not stop trading immediately after receipt of the information that R.S Investment acted as unregistered sub-broker. In fact, on the contrary they continued transactions on behalf of the sub-broker even after coming to know this fact. The onus to check as to whether the sub broker is registered with SEBI lies upon the main broker. This issue has been clearly brought out in the SEBI Circular No. SMD/Policy/Circular/3-97 dated March 31, 1997 and has clearly not been complied with by the Noticee. The Noticee is responsible for the wrongdoing of an unregistered sub-broker as the Noticee had facilitated their sub broker to execute matched trades for the connected entities and created false market in the scrip. The Noticee failed to monitor the trades of the unregistered sub-broker as all the three synchronised trades in question were executed after May 2000. The Noticee is responsible for the acts of the sub-broker and their clients when they fail to exercise necessary due diligence essentially required in conducting the business of a stock broker. The Noticee has thus violated Regulation 7

read with the clause A (2) of Code of Conduct as specified in Schedule II of Stock Brokers Regulations, which provides that

A (2) EXERCISE OF DUE SKILL AND CARE: A stock-broker, shall act with due skill, care and diligence in the conduct of all his business.

16. However, at the same time, in the absence of any evidence linking the Noticee, its sub-broker and the ultimate clients, as also since the charges levelled under the provisions of PFUTP Regulation are not established against the Noticee, I am of the view that a minor penalty of 'censure' against the Noticee is sufficient for the violation of code conduct as stated in paragraph No. 16 above.

17. Taking into consideration of all facts and circumstances in the case and in exercise of the powers conferred upon me in terms of Section 19 of the SEBI Act, 1992 read with Regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby impose a minor penalty of 'censure' to the Noticee, ARJ Shares & Stock Brokers Pvt. Ltd (erstwhile Jhunhunwala Stock Brokers Pvt Ltd.) with SEBI registration No. INB011130250 / INB011105554 and PAN No. AAACJ7576M).

Place: Mumbai

Date : January 16, 2008

V. K. CHOPRA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA