

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: Dr. T. C. NAIR, WHOLE TIME MEMBER

**IN THE MATTER OF MUKESH BABU SECURITIES LIMITED, MEMBER
OF THE BOMBAY STOCK EXCHANGE LIMITED (SEBI REGN. NO INB
010598234) AND NATIONAL STOCK EXCHANGE OF INDIA LIMITED
(SEBI REGN NO INB010930556)**

**IN THE SCRIP OF HIMACHAL FUTURISTIC COMMUNICATIONS LTD.,
ZEE TELEFILMS LIMITED AND GLOBAL TELESYSTEMS LTD.**

Date of hearing : 8th September 2006

Appearance:

For Noticee: Shri S.H. Merchant, Advocate, M.M. Legal Ventures

Shri O. Mohandas, Advocate, M.M. Legal Ventures

Shri K. Chandrasekhar, Company Secretary, Mukesh Babu
Securities Ltd.

For SEBI: Shri P.K. Nagpal, Executive Director

Shri Ansuman Dev Pradhan, Manager

Ms. Kshama Chavan, Legal Officer

ORDER

**UNDER REGULATION 13(1) OF SEBI (PROCEDURE FOR HOLDING
ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY)
REGULATIONS, 2002.**

- 1.1 Securities and Exchange Board of India (hereinafter referred to as "SEBI")
conducted investigations into the affairs related to buying, selling and
dealing in the shares of Himachal Futuristic Communications Ltd.

(hereinafter referred to as HFCL), Zee Telefilms Limited (hereinafter referred to as Zee) and Global Telesystems Ltd., (hereinafter referred to as GTL) during the period April 01, 2000 to March 31, 2001.

- 1.2 Investigations revealed that the orders placed by Mukesh Babu Securities Ltd. (hereinafter referred to as "MBSL") member, Bombay Stock Exchange Limited (hereinafter referred to as "BSE") and the National Stock Exchange of India Limited (hereinafter referred to as "NSE") on behalf of the entities connected or controlled by Shri Ketan V. Parekh and Shri Kartik K. Parekh (hereinafter referred to as "KP/Ketan Parekh entities") got matched with select counterparty brokers who also acted on behalf of KP entities. It was observed that such matched orders of the counterpart brokers were put on behalf of either same KP entity or different set of KP entities thereby resulting in circular trading.
- 1.3 MBSL was found to have failed to exercise due skill and care in its dealings on behalf of its client which were related to Ketan Parekh and it was alleged that MBSL aided and abetted KP entities in circular trading thereby creating artificial market. It was therefore alleged that MBSL while executing fictitious deals in the scrips mentioned above, violated Regulation 4 (b),(c) (d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 (hereinafter referred to as "PFUTP Regulations") and clause A (1)and (2) of the Code of Conduct specified in Schedule II under Regulation 7 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 (hereinafter referred to as the "Stock Brokers Regulations")

- 1.4 Accordingly, an Enquiry Officer was appointed vide order dated October 20, 2004 under Regulation 5 (1) of the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as “Enquiry Regulations”) to enquire into violations alleged to have been committed by MBSL. The Enquiry Officer conducted the enquiry in terms of the Enquiry Regulations and found that the actions of MBSL were violative of Regulation 4 (b), (c) and (d) of the PFUTP Regulations and clause A (2) of the Code of Conduct specified under Schedule II read with Regulation 7 of Stock Brokers Regulations. The Enquiry Officer submitted his report dated May 24, 2005 recommending a penalty of suspension of certificate of registration of MBSL for a period of one month.
- 1.5 Based on the recommendations of the Enquiry Officer, a show cause notice dated June 7, 2005 along with a copy of the enquiry report was forwarded to MBSL in terms of Regulation 13(2) of the Enquiry Regulations advising it to show cause as to why action as recommended by the Enquiry Officer should not be taken against them.
- 1.6 MBSL vide letter dated June 24, 2005 replied to the said show cause notice *inter alia* stating as under:
- i. *On perusal of the trade logs, it was found that the same is beyond the ambit of investigation as it takes into account the transactions executed during the period October 1999 – March, 2000 whereas the Investigation Order is limited to trade done between the period of April 2000 to 31st March 2001.*
 - ii. *MBSL purely acted as a broker on the instructions of its clients to earn its legitimate brokerage. Further, while executing trades, MBSL had duly discharged the obligations enjoined upon it by the Rules and Regulations of SEBI/BSE.*

- iii. *MBSL had no connection or relationship of any nature either with KP or any of the KP entities. It had executed the transactions through its sub- brokers and it did not have any direct relationship with the clients (KP entities).*
- iv. *All the transactions of MBSL including the transactions done on behalf of KP entities were done through the trading system of BSE i.e. (BOLT) and NSE (NEAT). In screen based transactions, it is highly impossible to ascertain the counter party broker. As required by the Rules, Regulations and Bye-Laws, contract notes / Bills were issued in support of the transactions and there has been effective transfer of beneficial ownership in the shares.*
- v. *MBSL has done only 29 trades in HFCL and GTL during the period under investigation i.e. 6 trades in the scrip of GTL and 23 trades in the scrip of HFCL. With regard to the trades in the GTL, the Enquiry Officer himself has not recommended any penalty against MBSL on the ground that there few number of trades (6) cannot be regarded as sufficient proof to hold that the member had executed synchronised deals in the said scrip. It was further submitted that MBSL had done only 23 trades in this scrip of HFCL and it was ensured that the beneficial ownership was effectively transferred.*
- vi. *The trade time and order time indicated in the show cause notice does not show difference of even one second which was apparently impossible.*
- vii. *The provisions of Rule 3(2) of SEBI (Criteria for Fit and Proper Person) Regulations 2004 are not applicable or attracted in the present case.*

2.1 An opportunity of personal hearing was granted to MBSL before me on September 8, 2006 wherein Shri S.H. Merchant, Advocate and persons mentioned on first page of this order appeared and made submissions on behalf of MBSL. MBSL further submitted its written submissions dated September 13, 2006 which are similar to its submissions dated June 24, 2005.

3.1 I have carefully examined the investigation report, enquiry report, the show cause notice and the submissions of MBSL and other material on record and my findings are as under:

- 3.2 At the outset, I note that MBSL has raised the contention that the Enquiry Report is predetermined and beyond the scope of show cause notice as regards the investigation period. From the documents available on record and taking them on their face value, and perusal of Annexure B to the show cause notice dated November 8, 2004, I find that the trades executed by MBSL in the scrip of HFCL during the period October 1999 – March 2000 were provided as annexures to the show cause notice which forms part of the show cause notice. MBSL was put on guard as to the material proposed to be relied upon by SEBI while giving an opportunity to rebut the charges. Therefore, this technical objection is not sustainable.
- 3.3 I find that the shares of HFCL and GTL were sold by the entities associated with Shri Ketan Parekh namely, Classic Credit Ltd. (Classic Credit), Luminant Investment Pvt. Ltd. (Luminant) and Panther Fincap & Management Services Ltd. (Panther Fincap) through the brokers CSFB Securities Ltd. (CSFB) and DKB Securities Ltd. (DKB). These shares were bought through different brokers including MBSL either by the same KP entities namely, Classic Credit and Panther Fincap or by other KP entities namely, Saimangal Investtrade Ltd. (Saimangal), NH Securities Ltd. (NH Securities – proprietary account), Classic Shares and Stock Brokers Ltd. (Classic Shares – proprietary account) and Chitrakut Computers Pvt. Ltd. (Chitrakut).
- 3.4 On perusal of the trade log and order log, I observe that apparently buy and sell brokers had put orders with prior understanding with a view to ensure that sell order of one set of KP entities matched with the buy order

of other set of KP entities / same set of KP entities. By entering into these synchronised deals, shares sold by KP entities were again purchased back by KP entities which resulted in circular trading.

- 3.5 I find that the transactions of KP entities were financing transactions but given the colour of purchase and sale of shares. It is observe that all these transactions were merely being passed from one KP entity to same or another KP entities. In fact KP entity executed such non-genuine transactions to cover up financing transactions, which resulted in misuse of stock exchange mechanism. MBSL was a counterparty broker for some synchronised/structured deals executed by KP entities in the scrip of HFCL. In this regard, I note that there was some typographical error regarding timings of trade mentioned in the table given in the show cause notice as well as the Enquiry Report which has been pointed out by the noticee also. From the factual verification of the trade and order logs obtained from the stock exchanges, I note that though there was a zero time difference between the placing of buy and sell orders with respect to some trades as alleged, there were some orders wherein there was very negligible time difference. In this regard, it may be mentioned that a broker does have the record of time of placing of this order and also actual time of its execution. From the said details (revised table given below) it is very clear that the broker had a role in synchronisation of few trades done by the KP entities.

Settlement No.	Trade Date	Trade No	Trade Time	Order Number	Order Time	Time diff. between buy & sell order	Buy/Sell	Member Name	Counter Party Name	Client Name	Qty	Price
1999035	16-Nov-99	19614	11:22:19	85040040	11:22:18	0:00:00	S	C J Dalal	Mukesh Babu Sec	CCL	11600	356.85

Settlement No.	Trade Date	Trade No	Trade Time	Order Number	Order Time	Time diff. between buy & sell order	Buy/Sell	Member Name	Counter Party Name	Client Name	Qty	Price
	16-Nov-99	19614	11:22:19	450030160	11:22:18		B	Mukesh Babu	C J Dalal	CCL	11600	356.85
1999036	26-Nov-99	37989	12:13:06	85040044	12:13:03	0:00:03	B	C J Dalal	Mukesh Babu Sec	CCL	21200	409.50
	26-Nov-99	37989	12:13:06	450030357	12:13:06		S	Mukesh Babu Sec	C J Dalal	CCL	21200	409.50
2000012	16-Jun-00	149931	11:30:55	850040000 0000510	11:30:55	0:00:00	B	C J Dalal	Mukesh Babu Sec	CCL	35000	1503.50
	16-Jun-00	149931	11:30:55	450003000 00001400	11:30:55		S	Mukesh Babu Sec	C J Dalal	CCL (17400)	35000	1503.50
2000030	16-Oct-00	19167	14:09:49	248003000 10001600	14:09:48	0:00:00	S	Hem Sec	Mukesh Babu Sec	PFMS	21460	1081
	16-Oct-00	19167	14:09:49	450003000 10006100	14:09:48		B	Mukesh Babu Sec	Hem Sec	PFMS (15000)	21460	1081
2000032	27-Oct-00	30494	15:28:17	248003000 10001800	15:28:16	0:00:00	S	Hem Sec	Mukesh Babu Sec	PFMS	19063	1179
	27-Oct-00	30494	15:28:17	450003000 10006700	15:28:16		B	Mukesh Babu Sec	Hem Sec	PFMS	19063	1179
2000032	03-Nov-00	171447	13:36:52	850040001 0002680	13:36:52	0:00:01	B	C J Dalal	Mukesh Babu Sec	PFMS	59732	1320.5
	03-Nov-00	171447	13:36:52	450003000 10007100	13:36:51		S	Mukesh Babu Sec	C J Dalal	PFMS	59732	1320.5
2000035	21-Nov-00	46450	14:08:39	405046000 00001200	14:08:38	0:00:01	S	Latin Manharlal	Mukesh Babu Sec	PFMS	24394	1294.3
	21-Nov-00	46450	14:08:39	450003000 10008000	14:08:39		B	Mukesh Babu Sec	Latin Manharlal	PFMS	24394	1294.3
2000016	10-Jul-00	8656	12:38:17	850040000 0000970	12:38:16	0:00:01	S	C J Dalal	Mukesh Babu Sec	PFMS	19208	1337.00
	10-Jul-00	8656	12:38:17	450003000 00002100	12:38:17		B	Mukesh Babu Sec	C J Dalal	PFMS	19208	1337.00
2000018	27-Jul-00	165513	14:46:13	850040000 0001230	14:46:05	0:00:07	B	C J Dalal	Mukesh Babu Sec	PFMS	18540	1368.00
	27-Jul-00	165513	14:46:13	450003000 00002800	14:46:12		S	Mukesh Babu Sec	C J Dalal	PFMS(5000)	18540	1368.00
2000020	11-Aug-00	190437	15:08:54	850040000 0001440	15:08:54	0:00:00	B	C J Dalal	Mukesh Babu Sec	PFMS	29950	1439.00
	11-Aug-00	190437	15:08:54	450003000 00003200	15:08:54		S	Mukesh Babu Sec	C J Dalal	PFMS	29950	1439.00
2000023	29-Aug-00	49567	14:06:47	450003000 10004000	14:06:47	0:00:00	B	Mukesh Babu Sec	Milan Mahendra Sec	PFMS	28510	1422.50
	29-Aug-00	49567	14:06:47	460012000 10000700	14:06:47		S	Milan Mahendra Sec	Mukesh Babu Sec	PFMS	28510	1422.50

Settlement No.	Trade Date	Trade No	Trade Time	Order Number	Order Time	Time diff. between buy & sell order	Buy/Sell	Member Name	Counter Party Name	Client Name	Qty	Price
2000026	22-Sep-00	195914	10:44:13	450003000 10005100	10:44:13	0:00:00	S	Mukesh Babu Sec	Milan Mahendra Sec	PFMS	11554	1390.00
	22-Sep-00	195914	10:44:13	460012000 10001000	10:44:13		B	Milan Mahendra Sec	Mukesh Babu Sec	PFMS	11554	1390.00
2000043	19-Jan-01	192496	10:17:46	850040001 0003730	10:17:46	0:00:00	B	C J Dalal	Mukesh Babu Sec	PFMS	60000	1188.5
	19-Jan-01	192496	10:17:46	450003000 10011100	10:17:46		S	Mukesh Babu Sec	C J Dalal	PFMS	60000	1188.5
2000043	19-Jan-01	200949	11:31:45	405046000 00001700	11:31:45	0:00:00	B	Latin Manharlal	Mukesh Babu Sec	PFMS	14410	1193.5
	19-Jan-01	200949	11:31:45	450003000 10011100	11:31:45		S	Mukesh Babu Sec	Latin Manharlal	PFMS	14410	1193.5
2000044	25-Jan-01	133188	14:46:39	405046000 00001900	14:46:39	0:00:01	B	Latin Manharlal	Mukesh Babu Sec	PFMS	45550	1237.5
	25-Jan-01	133188	14:46:39	450003000 10011700	14:46:38		S	Mukesh Babu Sec	Latin Manharlal	PFMS	45550	1237.5
2000045	02-Feb-01	163829	11:28:30	248003000 10003200	11:28:29	0:00:00	B	Hem Sec	Mukesh Babu Sec	PFMS	21650	1073
	02-Feb-01	163829	11:28:30	450003000 10012100	11:28:29		S	Mukesh Babu Sec	Hem Sec	PFMS	21650	1073
2000045	02-Feb-01	168919	12:21:53	248003000 10003200	12:21:52	0:00:01	B	Hem Sec	Mukesh Babu Sec	PFMS	10000	1077.8
	02-Feb-01	168919	12:21:53	450003000 10012200	12:21:53		S	Mukesh Babu Sec	Hem Sec	PFMS	10000	1077.8
2000046	09-Feb-01	209865	14:47:23	405046000 00002100	14:47:23	0:00:00	B	Latin Manharlal	Mukesh Babu Sec	PFMS	91473	990
	09-Feb-01	209865	14:47:23	450003000 10012900	14:47:23		S	Mukesh Babu Sec	Latin Manharlal	PFMS	91473	990
2000046	09-Feb-01	209922	14:47:55	405046000 00002100	14:47:54	0:00:01	B	Latin Manharlal	Mukesh Babu Sec	PFMS	46709	990
	09-Feb-01	209922	14:47:55	450003000 10012900	14:47:55		S	Mukesh Babu Sec	Latin Manharlal	PFMS	46709	990
2000047	16-Feb-01	150213	11:49:14	248003000 10003500	11:49:13	0:00:00	B	Hem Sec	Mukesh Babu Sec	PFMS	98224	970
	16-Feb-01	150213	11:49:14	450003000 10013400	11:49:13		S	Mukesh Babu Sec	Hem Sec	PFMS	98224	970

3.6 In addition to the above, MBSL was involved in following synchronised trades in HFCL, where counterparty brokers were DKB or CSFB and the

clients were KP entities who had traded on both buy as well as the sell side as per the following table:

Trade Date	Exchange	Trade Time	Trade Price	Trade Qty	Buy Member Name	Buy client	Sell Member	Sell client	Sell order No.	Buy order No.	Sell Order Time	Buy Order Time	Sell Order qty	Buy Order qty	Sell Order price	Buy Order price
03-Aug-00	NSE	10:16:11	1483.50	18512	Mukesh Babu	PFMS	CSFB	CSFB Prop. A/c	200008100108677	200008100108700	10:15:26	10:16:11	25000	25000	1483.50	1483.50
11-Dec-00	BSE	13:54:31	1515.00	55311	Mukesh Babu	PFMS	DKB	CCL	27600200010019175	45000100010016467	13:54:27	13:54:31	150000	60000	1515.00	1515.15
26-Dec-00	BSE	14:47:10	1129.00	43859	Mukesh Babu	PFMS	DKB	CCL	27600100010000936	45000300010009928	14:47:09	14:47:08	50000	50000	1129.00	1129.00

3.7 From the above, it is observed that all these transactions were executed almost at the same time. Summary of the time difference between the buy /sell orders of the said transactions is as follows :

Time difference between buy and sell orders (in seconds)	Number of trades
Nil	12
1	7
3	1
7	1
4	1
45	1
Total	23

3.8 From the pattern of these trades, it appears orders were put with prior understanding to ensure that the sell order of one KP entity matched with the buy order of same or other set of KP entities. In this process, the shares sold by KP entities were bought back by KP entities.

3.9 From the analysis of the trade and order log in GTL, I observe that at 6 occasions, the buy and sell orders were put almost at the same time with the same price and quantity. Further the buying and the selling client was the same viz., Panther Fincap, except in one instance where the buying client was Classic Credit. The buy and sell order of Panther

Fincap were apparently put with prior understanding with a view to ensure that the buy and sell orders of Panther Fincap matched amongst themselves. In this process, the shares sold by Panther Fincap were purchased back by Panther Fincap thereby creating artificial volume without any change in beneficial ownership.

3.10 Regarding the relationship of MBSL with KP entities, I note that Shri Mukesh Babu, Chairman of MBSL in his statement dated December 23, 2003 to the investigating officer of SEBI admitted that it had traded on behalf of Classic Credit and also entered into certain loan transactions with Panther Fincap purportedly for providing temporary accommodation to them. The orders on behalf of these clients were entered into by Shri Maniar, sub broker of MBSL who introduced Classic Credit to MBSL. Mukesh Babu further admitted that they did not collect margin money specifically for the trades executed on behalf of the KP entities as they had been dealing with them since 1991 and the KP entities were having their DP accounts with MBSL. In this context, I refer to the circulars dated November 18, 1993 and May 17, 2002 issued by SEBI in mandating the collection of margin by brokers. A broker who is a registered intermediary is required to maintain market integrity and is expected to follow rules laid down in this regard, which MBSL has failed to observe.

3.11 The purpose of collecting margin from the client is primarily to minimise the risk of default and for ensuring efficient functioning of the securities market. Admittedly Rs. 16 lakh were due on account of margin from Classic Credit as on the date of statement i.e. December 23, 2003. In any case, primarily, the submissions of the broker that it was comfortable

dealing with the clients without collecting specific margins as it had been dealing with them since 1991, is not acceptable as the said omission was potentially risky apart from being in violation of SEBI Circular referred above and Code of Conduct prescribed for a Broker.

- 3.12 The above transactions for KP entities were in the nature of circular and fictitious trades which created artificial volume and artificial markets in the scrips. I therefore concur with the findings of Enquiry Officer that these transactions were non-genuine and involved no change in the beneficial ownership of shares as such i.e. the shares were merely rotating from one KP entity to same or other KP entities. The transactions executed by MBSL on behalf of KP entities created false and artificial volume in the market in the scrip of HFCL and I have no doubt in concluding that these actions of are violative of Regulation 4 (b), (c) and (d) of the PFUTP Regulations.
- 3.13 Further, from the analysis of order log and trade log of transactions made by Classic Credit, Luminant and Panther Fincap through CSFB, I find that in as many as 23 instances entire quantity or almost entire quantity of sell order of Classic Credit, Luminant and Panther Fincap put through CSFB matched with buy orders of KP entities placed through MBSL.
- 3.14 I have noted the submission of MBSL that the said trades were executed by them based on the orders from their clients who had good reputation in the market at that point of time and all necessary requirements like broker-client agreement were entered into. MBSL further stated that in all the transactions it ensured that the beneficial ownership was effectively transferred. I find this contention of MBSL incorrect as the trades

executed by MBSL in the scrip of HFCL on behalf of KP entities which are discussed earlier show that the buying and the selling clients are the same i.e either Classic Credit or Panther Fincap which indicates that there is no change in beneficial ownership. Moreover by synchronizing the orders the brokers ensured that the trades were executed amongst KP entities.

- 3.15 As regards relationship between MBSL and KP entities, in light of the facts recorded in para 4.10 (supra), it is established that the relationship between MBSL and KP entities was more than that of the broker-client relationship considering the financial accommodation provided to the clients and non-collection of margins.
- 3.16 The defense with regard to anonymity of the counter party broker on a screen based computerized system is also not always acceptable because the fact as to whether there was a deliberate attempt to synchronize or not, can only be made out from the peculiar facts and circumstances of each case. In the present case, admittedly MBSL was aware that his clients were belonging to the KP group at the time of executing the transactions. MBSL allowed them to trade in the shares of HFCL substantially without collecting any margin.
- 3.17 Further, the large number of synchronized transactions over a period of time and non collection of margin from the KP entities clearly indicate that MBSL failed to exercise due skill and care as mandated under the provisions of clause A(2) of Schedule II read with Regulation 7 of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992. In view of the same it is found that MBSL violated the provisions of Clause A(2) of the Code of Conduct for Stock Brokers enumerated under Schedule II under

Regulation 7 of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992.

- 3.18 Taking an overall view of the present matter, it is observed that MBSL executed 23 synchronised trades in the scrip of HFCL for KP entities in the span of 17 months. Apparently, this may not be very significant considering the large number of synchronised trades executed by KP entities in various scrips including HFCL during the relevant period. However, all who have knowingly or unknowingly/ directly or indirectly assisted KP entities in their market manipulation, have to take blame to the extent of their acts of omissions or commissions. To that extent, I do not have any hesitation to hold that the broker failed to exercise due diligence mandated in clause A (2) of the Code of Conduct as per Schedule II of the Stock Broker Regulations.
- 3.19 I note that pursuant to some enforcement action (for similar violations) SEBI vide order dated September 10, 2004 had suspended the certificate of registration of MBSL for a period of one year. The appeals filed against this order is pending before the Hon'ble SAT. In any view of the matter it is made clear that the present order is independent of the earlier proceedings/ order and MBSL is liable to undergo the penalty imposed vide this order independently.
- 3.20 Therefore in facts and circumstances of the case, in exercise of the powers conferred upon me in terms of Section 19 of the SEBI Act, 1992 read with Regulation 13(4) of the Enquiry Regulations, I hereby impose a penalty of suspension of certificate registration for a period of one day on Mukesh

Babu Securities Limited, member of BSE (SEBI Regn no.010598234) and
NSE (SEBI Regn no. INB01093056 (PAN No AAACM6030F)

This order shall come into force immediately on the expiry of twenty one
days from this order.

PLACE: MUMBAI
DATE: 20/02/2008

T.C. NAIR
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA