

SECURITIES AND EXCHANGE BOARD OF INDIA

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

**IN THE MATTER OF ROSY BLUE SECURITIES PVT. LTD., MEMBER, BOMBAY STOCK
EXCHANGE LTD. SEBI REG. NO. INB010721836**

IN THE SCRIP OF RAVALGAON SUGAR FARMS LTD. AND SHRENUJ AND CO. LTD.

DATE OF HEARING: February 15, 2007

Appearances

For Noticee: Shri. Bimal Parekh, Director

For SEBI: Shri P. K. Nagpal, Executive Director
Shri Prashant Saini, Manager
Ms. Kshama Chavan, Legal Officer

ORDER

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

1. The shares of Ravalgaon Sugar Farms Ltd. (hereinafter "Ravalgaon") and Shrenuj and Company Ltd. (hereinafter "Shrenuj") are listed on the National Stock Exchange of India Ltd. (hereinafter NSE) and the Bombay Stock Exchange Ltd. (hereinafter BSE).
2. Both scrips were infrequently traded. However, significant volumes of trade and fluctuation in prices were observed in both the scrips at BSE between May and June 2001. Accordingly, the Securities and Exchange Board of India

(hereinafter "SEBI") conducted investigation in the trading of these scrips for the period May 2001 to June 2001.

3. During the relevant period, at the BSE, the Ravalgaon scrip opened at Rs. 3300 on May 16, 2001 and touched a high of Rs. 5555.30 on June 4, 2001. The scrip closed at upper circuit price between May 25 and May 31, 2001. It closed at Rs. 3925 on June 27, 2001. Volumes of 1012, 1001 and 950 shares were observed on May 8, 2001, May 21, 2001 and June 28, 2001 respectively.
4. Similarly, in Shrenuj, the price of the scrip at BSE moved between Rs. 37.05 and Rs. 43.70 during the said period. Large volume of 52,310 and 18,332 shares were observed on May 3, 2001 and June 27, 2001.
5. The investigations revealed that Rosy Blue Securities Pvt. Ltd. (hereinafter "Rosy Blue Securities") had traded in the above mentioned scrips on BSE during the relevant period. Rosy Blue Securities is a group company of B. Arunkumar Capital and Credit Services Pvt. Ltd. (hereinafter "B. Arunkumar"). It was incorporated in 1994 and is a member of both the BSE and NSE and is also registered with SEBI bearing Registration No. INB010721836. These trades were undertaken by Rosy Blue Securities on behalf of their client Tropical Securities and Investments Pvt. Ltd. (hereinafter "Tropical Securities").
6. During the investigation it was observed that while Tropical Securities was the selling client through Rosy Blue Securities, it also acted as the counter party broker to all these trades. Substantial volumes were generated in the otherwise illiquid scrips of Ravalgaon and Shrenuj as a result of these synchronized transactions which affected an upward price rise in both the scrips.

7. After considering the Investigation Report, SEBI vide its order dated January 21, 2004 appointed an Enquiry Officer under Regulation 5 of the SEBI (Procedure for holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter “Enquiry Regulations”) to enquire into the alleged violations committed by Rosy Blue Securities under Regulations 4(b), 4(c), 4(e) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, (hereinafter “PFUTP Regulations”) and Clause A (1) to (4) of the Code of Conduct as specified in Schedule II read with Regulation 7 of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter “Stock Brokers Regulations”).
8. SEBI issued two show cause notices dated January 29, 2004 to Rosy Blue Securities under Regulation 6(1) of the Enquiry Regulations communicating the appointment of the Enquiry Officer, as well as the alleged violations in terms of the Enquiry Report and advised it to show cause, as to why appropriate recommendations should not be issued against them.
9. Rosy Blue Securities vide its reply dated February 24, 2004 addressed to the Enquiry Officer, denied the charge of violation of the PFUTP Regulations and the Stock Brokers Regulations and submitted the following
 - Tropical Securities Ltd. had borrowed some amount of money from B. Arunkumar, the parent company of Rosy Blue Securities
 - To repay this loan, Tropical Securities decided to sell off its holding in various shares, including Ravalgaon and Shrenuj and forward the proceeds from the sale to B. Arunkumar
 - To ensure that the sale proceeds are actually utilized to clear the dues, it was agreed between B. Arunkumar and Tropical Securities that the shares

will be sold through Rosy Blue Securities. At the request of the parties, Rosy Blue Securities agreed to act as the broker in the transaction

- There was no intention to create artificial volumes or rig the prices of the respective scrips in the market.
- All formalities as required by the SEBI regulations were complied with by Rosy Blue Securities. The shares were received from Tropical Securities in the demat account of Rosy Blue Securities on the respective trading days and the payment received from the exchange in pay-out was transferred to B. Arunkumar, as per the instructions of Tropical Securities.
- Rosy Blue Securities traded in Ravalgaon and Shrenuj scrips only once during the entire investigation period, that too at the prevailing market rate. These transactions were also the only transactions in the respective scrips conducted by Rosy Blue Securities in the entire financial year. This singular and isolated dealing can neither be considered adequate to create a false or misleading appearance of trading nor sufficient to artificially raise or depress the prices or the volume of the scrip.
- They were not aware that Tropical Securities was also acting as counter party broker in the relevant transactions
- Rosy Blue Securities has not paid any money or offered to pay any amount to anyone directly or indirectly to purchase the said shares.

10. The Enquiry Officer granted an opportunity of personal hearing in the matter on March 4, 2004. Shri Bimal Parekh, Director of Rosy Blue Securities attended the hearing and reiterated their submissions as presented in the reply to the Show Cause Notice.

11. The Enquiry Officer submitted a report on July 20, 2004 holding Rosy Blue Securities guilty for violation of Regulations 4(b), 4(c) and 4(e) of PFUTP Regulations and failure to exercise due skill and diligence in the conduct of business as per Clauses A (1) to (4) of the Code of Conduct for Brokers as specified in Schedule II of the Stock Brokers Regulations and recommended suspension of registration of Rosy Blue Securities for four months.
12. Pursuant to the Enquiry Report, a show cause notice dated July 23, 2004 under Regulation 13(2) of the Enquiry Regulations was issued to Rosy Blue Securities along with a copy of the enquiry report advising them to show cause why an action, as considered appropriate should not taken against them.
13. Vide letter dated August 14, 2004 Rosy Blue Securities replied to the said show cause notice and reiterated its earlier submissions. In addition it also submitted that
 - To establish manipulation under Regulation 4 of PFUTP Regulations, it is absolutely necessary to establish *mens rea* and the element of deceit. In absence of the same, genuine transactions, even if they result in market price variation, cannot attract the provisions of law.
 - No prior arrangements took place between Rosy Blue Securities and Tropical Securities for the execution of synchronized/ structured deals. It was submitted that all the trades matched because there was infrequent trading in both the scrips.
 - Because the scrip was infrequently traded, their trades were reflected as constituting significant levels of trading but this indication was erroneous.

- The allegation that they aided Tropical Securities and Harbinger Trading Co. in executing financial transactions were inaccurate. Moreover, there is no evidence in the Enquiry Report supporting these allegations.
- The Enquiry Report should be set aside and the charges leveled against them should be dropped.

14. An opportunity for personal hearing was sought by Rosy Blue Securities. Accordingly, a personal hearing was held on February 15, 2007, attended by Shri Bimal Parekh, Director of Rosy Blue Securities who reiterated their earlier submissions already available on record.
15. I have carefully examined the Enquiry Report, Show Cause Notice, reply of Rosy Blue Securities and submissions made by them at the time of hearing.
16. The transactions carried out by Rosy Blue Securities on behalf of Tropical Securities, in the scrip of **Ravalgaon** are reproduced below:

Date of Trade	Traded Time	Trade d Qty	Trade d Rate	Buy Qty	Sell Qty	Buy Rate	Sell Rate	Buy Time	Sell Time
21.5.01	10:21:25A M	250	3400	250	250	3400	3400	10:21:24 AM	10:21:24AM
21.5.01	11:07:04A M	250	3575	250	250	3575	3575	11:07:03AM	11:07:04AM
21.5.01	12:31:25P M	250	3560	250	250	3560	3560	12:31:23 PM	12:31:24PM
21.5.01	01:20:15P M	250	3555	250	250	3555	3555	01:20:15 PM	01:20:15PM

17. In the above trades, as can be seen, the time differential between the placement of the buy and sell order in all transactions is negligible. Whereas there is a time

difference of only one second in two trades; in the remaining two trades, there is no time differential between the placement of the buy and sell order. Furthermore, the buy and sell quantities in all the four orders are same. Even the prices quoted by both the buy and sell client registers identical variation in each successive transaction.

18. Finally, as can be seen from the trade log, the crucial point is the net upward price rise of Rs. 150 that the scrip registers in three hours of trade. As the Ravalgaon scrip was infrequently traded such upward price rise in intra day trading could not be said to be based on strong fundamentals. Moreover, the findings show that trades conducted by Rosy Blue Securities on May 21, 2001 constituted 99.9% of the total volume of intra day trading at BSE. Besides the 1000 shares traded by Rosy Blue Securities, only one more share of Ravalgaon was traded at BSE. Further, the trades constituted 89% of the gross volume traded and 19.29% of the net volume traded at BSE during the period of investigation.
19. In addition to the transactions mentioned above, Rosy Blue Securities had undertaken synchronized transactions of a similar nature in the scrip of **Shrenuj**. Following are the transactions executed by Rosy Blue Securities with respect to Shrenuj on behalf of their client Tropical Securities, while the counter party broker was also Tropical Securities:

Date of Trade	Traded Time	Traded Qty.	Trade d Rate	Buy Time	Sell Time
3.5.01	12:21:48PM	4500	40.30	12:21:46PM	12:21:48PM
3.5.01	12:21:48PM	4500	40.30	12:21:46PM	12:21:48PM
3.5.01	12:21:48PM	4500	40.30	12:21:46PM	12:21:48PM

3.5.01	12:21:48PM	4500	40.30	12:21:46PM	12:21:48PM
3.5.01	12:21:48PM	4500	40.30	12:21:46PM	12:21:48PM
3.5.01	12:21:48PM	4500	40.30	12:21:46PM	12:21:48PM
3.5.01	12:21:48PM	4500	40.30	12:21:46PM	12:21:48PM
3.5.01	12:21:48PM	4500	40.30	12:21:46PM	12:21:48PM
3.5.01	12:21:48PM	4500	40.30	12:21:46PM	12:21:48PM
3.5.01	12:21:48PM	4500	40.30	12:21:46PM	12:21:48PM

20. Looking at the abovementioned transactions, especially the fact that the clients, order times, price and quantity of shares transacted are same/ similar for all the 10 transactions, it is improbable to hold that these transactions were mere coincidences. It is claimed by Rosy Blue Securities that they were unaware of Tropical Securities acting as the counter party broker in the transactions undertaken by them. However, it is highly unlikely that two unknown entities can trade continuously by putting orders simultaneously and contributing significantly to the total volumes in the market. These trades constituted 33.38% of the gross sales and 39.26% of the net sales at the BSE.
21. In this regard, I note that Shri Naysar Shah, Finance Controller of Rosy Blue Securities in his statement dated November 12, 2003 has accepted that these trades were executed on behalf Tropical Securities in order to help them repay their loans to B. Arunkumar. In my view such an argument cannot be accepted because creation of artificial volumes for what so ever purpose which has also resulted in price manipulation of the scrips is in violation of the PFUTP Regulations.
22. The issue of synchronized deals has been dealt by the Hon'ble Securities Appellate Tribunal (SAT) in Appeal No.2 of 2004 in the case of *Ketan Parekh v. SEBI* wherein it observed that a synchronized transaction would be illegal if, "It

is executed with the intention to manipulate the market or if it results in circular trading or is dubious in nature and ... does not involve change of beneficial ownership or is executed to create false volumes resulting in upsetting the market equilibrium."

23. Furthermore, the Tribunal noted that the intention to manipulate the market can be inferred from the attending circumstances including the nature of transaction executed, frequency with which the transactions are undertaken, value of the transactions, whether they involve circular trading, real change of beneficial ownership, the conditions then prevailing in the market etc. The said issue has also been dealt by the SAT in Appeal Nos. 54 to 57 of 2002 in the case of ***Nirmal Bang Securities (P) Ltd. v. SEBI*** wherein the Tribunal observed that, *"Synchronized trading is in violation of all prudential and transparent norms of trading in securities. Synchronized trading on a large scale can create false volumes... In a synchronized trading intention is implicit."*
24. As regards *mens rea*, I would like to refer to the decision of the Hon'ble High Court of Bombay in the matter of ***SEBI v. Cabot International Capital Corporation*** (2004 (51) SCL 307 (BOM)) wherein the Court noted that *"for breaches of provisions of SEBI Act and Regulations, according to us, which are civil in nature, mens rea is not essential."* This view was reiterated by the Supreme Court in its judgment in the case of ***SEBI v. Shriram Mutual Fund and Another*** (2006 INDLAW SC 237).
25. In matters pertaining to securities transactions it is not required to establish a charge beyond reasonable doubt. Only the preponderance of probabilities pointing towards the involvement of alleged offender in the misconduct alleged is enough to hold him guilty. This position has found favor with the

Hon'ble Supreme Court in *Union of India v. Chaturbhuj M. Patel* (A.I.R. 1976 S.C. 712) and *Gulabchand v. Kudilal* (A.I.R. 1966 S.C. 1734). It is also supported by the decision of Special Court for trial of offences relating to transactions in securities in the matter of *National Housing Bank v. ANZ Grindlays* (1998 (2) LJ 153).

26. Therefore, the trades executed by Rosy Blue Securities facilitated creation of artificial volumes and significant rise in the prices of the scrips. Artificial trades of the kind mentioned above; even if they are executed at/near the prevailing market rates can have a debilitating effect on the market mechanism as a whole. This type of artificial volume creation, especially in infrequently traded scrips like Ravalgaon and Shrenuj sends out inaccurate indications and induces the common investor to trade in the scrip and consequently face losses. Moreover, synchronization of trades defeats the purpose of an anonymous order driven stock exchange mechanism, thereby affecting the price discovery process.
27. In view of the aforesaid findings, I agree with the Enquiry Officer that the trades executed by Rosy Blue Securities were in violation of Regulations 4(b) and 4(c) of the PFUTP Regulations.
28. I also note that for similar synchronized transactions in the scrip of Surya Roshini Ltd., SEBI vide its order dated September 30, 2004 had directed Rosy Blue Securities to desist from entering into matched transactions in the future. One of the parties involved in that matter also was Tropical Securities Ltd. This suggests that Rosy Blue Securities has indulged in similar transactions previously also.

29. However, I find nothing on record, either in the Investigation Report, or the Show Cause Notice or otherwise that would indicate the guilt of Rosy Blue Securities under Regulation 4(e) of the PFUTP Regulations. Regulation 4(e) of the PFUTP Regulations provides:

4. No person shall –

(e) pay, offer or agree to pay or offer, directly or indirectly, to any person any money or money's worth for inducing another person to purchase or sell any security with the sole object of inflating, depressing, or causing fluctuations in the market price of securities

30. When considered in the context of the above regulation, the facts of the present case do not in any manner indicate that the ingredients of Regulation 4(e) are established. It is nowhere apparent that Rosy Blue Securities has paid or agreed to pay any money or its worth to induce any entity or individual to indulge in trading in Ravalgaon and Shrenuj scrips with the objective of causing price fluctuations in both the scrips and neither does the evidence available point to such a possibility. I am therefore not in agreement with the findings of the Enquiry Officer that Rosy Blue Securities is in violation of Regulation 4(e) of the PFUTP Regulations.

31. I am however in agreement with the findings of the Enquiry Officer that Rosy Blue Securities, by indulging in synchronized deals, has failed to exercise due skill and care as a stock broker and attempted to manipulate the price and volume of these scrips. Rosy Blue Securities has thus violated Clauses A (1) to (4) of the Code of Conduct for Brokers as specified in Schedule II of the Stock Brokers Regulations.

32. Therefore, taking into consideration all facts and circumstances in the present matter, in the interests of investors and to safeguard the integrity of securities markets, in exercise of powers conferred upon me in terms of Section 19 of the SEBI Act read with Regulation 13(4) of Enquiry Regulations 2002, I hereby 'censure' Rosy Blue Securities Pvt. Ltd. member, The Bombay Stock Exchange Ltd., Mumbai bearing Registration No. INB010721836 (PAN No.: AAACR4082Q) and advise them to be careful in the future and not to repeat similar violations, as the same may then result in higher penalty.
33. The order shall come into force with immediate effect.

DATE: 29 . 02 . 2008

T. C. NAIR

PLACE: MUMBAI, INDIA

WHOLE TIME MEMBER

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