

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

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

In the Matter of DGP Securities Ltd.

In the Scripts of Ravalgaon Sugar Farms Ltd., Shrenuj & Co. Ltd. and Jagsonpal Pharmaceuticals Ltd.

DATE OF HEARING: September 3, 2007

Appearances:

For noticee: Shri Deepak Shah, Advocate

Shri K.C Gupte, Director, DGP Securities Ltd.

Shri M.K Arora, Authorised Representative, DGP Securities Ltd.

For SEBI: Shri P.K. Bindlish, Chief General Manager

Shri Praveen Trivedi, Deputy Legal Advisor

Shri Pradip Bowmick, Manager

Shri Prashant Saini, Manager

Ms. Kshama Chavan, Legal Officer

Shri Viplove Kumar Thakur, Legal Officer

ORDER

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

1. This order will dispose of three Enquiry proceedings initiated by Securities and Exchange Board of India (hereinafter referred to as "SEBI") against M/s DGP Securities Ltd. (hereinafter referred to as "DGP") into their trading in three scrips namely **Ravalgaon Sugar Farms Ltd.** (hereinafter referred to as "**Ravalgaon**"), **Shrenuj & Co. Ltd.**

(hereinafter referred to as “**Shrenuj**”) and **Jagsonpal Pharmaceuticals Ltd.** (hereinafter referred to as “**Jagsonpal**”). This is being done pursuant to the request of DGP which vide letter dated November 18, 2006 requested SEBI to combine and dispose of the Enquiry proceedings in three scrips together.

A. Enquiry Proceedings with respect to Ravalgaon and Shrenuj:

2. The shares of **Ravalgaon** and **Shrenuj** were listed at National Stock Exchange Limited (hereinafter referred to as “NSE”) and Bombay Stock Exchange Limited (hereinafter referred to as “BSE”).
3. Both scrips were infrequently traded. However, significant volumes of trade and fluctuations in prices were observed in both the scrips at NSE between May and June 2001. Accordingly, based on the investigation reports submitted by NSE, SEBI conducted investigation into the trades of the two scrips for the period May 2001 to June 2001.
4. During the relevant period, the price of the **Ravalgaon** on NSE rose from Rs. 3220 (May 23, 2001) to Rs. 4565 (June 19, 2001). In between, on June 4, 2001, the scrip touched a high of Rs. 5550. The shares were thinly traded and as such on June 11, 2001, 314 shares and on June 15, 2001, 1,240 shares of **Ravalgaon** were traded. During the entire investigation period a total of 1,978 shares of **Ravalgaon** were traded on NSE.
5. During the relevant period, the price of the **Shrenuj** moved from Rs. 40 (May 2, 2001) to Rs. 37 (June 19, 2001) at NSE. It touched a high of Rs. 43.70 on May 14, 2001. The scrip observed huge trading volumes on May 14, 2001, June 04, 2001 and June 15, 2001. Total 3, 52,104 shares of **Shrenuj** were transacted at NSE during the period under investigation.

6. Investigations revealed that in both the scrips two brokers, namely M/s CFL Securities Ltd. (hereinafter referred to as “CFL”) and DGP allegedly matched their orders by placing simultaneous/ near simultaneous buy and sell orders.
7. It was found that DGP executed structured deals for 1,53,000 shares of **Shrenuj** and 1,100 shares of **Ravalgaon** to enable their client, Mrs. Asha devi Bariwala and the client of their counter party broker (i.e. CFL), Ms. Aditi Dalal to execute non genuine financial transactions. Ms. Aditi Dalal is the wife of Shri Asim Dalal, director of CFL.
8. It was also revealed that at the time when the transactions in **Ravalgaon** and **Shrenuj** were undertaken by DGP on behalf of Mrs. Ashadevi Beriwal, Shri Mukund Beriwal, son of Smt. Ashadevi Beriwal, was the Chief Executive Officer (hereinafter referred to as “CEO”) of DGP.
9. After analyzing the trades undertaken by DGP in both the scrips, investigations found that DGP had executed structured deals to enable its client and the client of their counter party broker CFL to execute fictitious/non-genuine financial transactions and thereby created artificial volumes in both the scrips. Thus investigation report concluded that DGP had violated Regulation 4(b), 4(c) and 4(e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, (hereinafter referred to as “PFUTP Regulations”). It was also alleged that DGP failed to exercise due care, skill and diligence in the conduct of business as broker and consequently violated Clauses A(1) to A(4) of the Code of Conduct for brokers specified in Schedule II read with Regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 (hereinafter referred to as “Brokers Regulations 1992.”)

10. On the basis of this investigation report, SEBI appointed an Enquiry Officer vide two separate orders both dated January 21, 2004 (one with respect to **Ravalgaon** and other with respect to **Shrenuj**) under Regulation 5(1) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as “Enquiry Regulations”) to enquire into possible violations of the provisions of the SEBI Act, 1992, Broker Regulations 1992 and PFUTP Regulations by DGP.
11. The Investigating authority issued two separate Show Cause Notices both dated January 22, 2004 to DGP communicating the findings of the SEBI investigation and alleged violations by DGP and advised it to show cause as to why appropriate recommendation under the Enquiry Proceedings should not be made against it.
12. DGP vide their separate replies both dated February 3, 2004 *inter alia* submitted that:
- a. Their client Smt. Ashadevi Beriwalla had bought dematerialized shares of **Shrenuj** and **Ravalgaon** in spot deal from Ms. Aditi Dalal, a broker with the Ahmedabad Stock Exchange with the objective of making profit. Subsequently, these shares were sold at a profit in the normal market on NSE through DGP.
 - b. Their client Smt. Ashadevi Beriwalla sold the shares in the normal market on NSE through them. For these normal market transactions, delivery of shares was made on time to them (i.e. DGP) by Smt. Ashadevi Beriwalla and the pay in to NSE was also affected on time by them.
 - c. Their client did not square up any transactions in these shares during the period under investigation and all the transactions were delivery

- based. Further, DGP submitted that their client Smt. Ashadevi Beriwal had no intention of manipulating the share prices of the scrips and/or creating artificial volumes. This was evidenced by the fact that the shares were sold at the prevailing market price on NSE.
- d. Their client had instructed Ms. Aditi Dalal, the counter party client to transfer shares directly to DGP's pool account from where the pay-in to NSE was made directly by DGP. This was to avoid the extra cost and time involved in transferring the shares from Ms Aditi Dalal's account to beneficiary account of Smt. Ashadevi Beriwal and then finally to DGP's account. DGP also submitted that as per the written instructions of Smt. Ashadevi Beriwal, payment to Ms. Aditi Dalal for shares bought were made by DGP through a cheque issued against the credit balance that Smt. Ashadevi Beriwal had with DGP on account of the shares she had sold through them earlier on.
13. The Enquiry Officer granted an opportunity of personal hearing in the matters on February 10, 2004. Shri Mukund Beriwal, then CEO and Shri R. C. Mittal, Manager, Accounts represented DGP at the hearing
14. Based on evidence and materials available on record with respect to both the scrips, the Enquiry Officer found DGP guilty of violating Regulations 4(b), 4(c) and 4(e) of PFUTP Regulations. Enquiry Officer also found that DGP failed to exercise due diligence in the conduct of business as required under Clauses A(1) to A(4) of the Code of Conduct for Brokers specified in Schedule II read with Regulation 7 of Brokers Regulations, 1992. On the basis of the aforesaid findings, the Enquiry officer vide his common report dated July 9, 2004 recommended that the registration of DGP be suspended for a period of 6 months.

15. Accordingly, a Show Cause Notice under Regulation 13(2) of the Enquiry Regulations was issued to DGP on July 20, 2004 enclosing therewith a copy of the Enquiry Report. Vide the said Show Cause Notice, DGP was interalia advised to show cause as to why action, as considered appropriate should not be taken against them.
16. Vide reply dated August 2, 2004 to the said Show Cause Notice, DGP submitted as under:
 - a. They had done some business with Ms. Aditi Dalal wherein they bought shares from her in a spot transaction and subsequently sold the same on NSE. The transactions were carried out at the prevailing market price and were all delivery based transactions and none of the transactions were squared up. Thus neither was there any adverse impact of their transactions on the market price of the scrip nor did they have any intention to manipulate the price.
 - b. They (i.e. DGP) were not linked to anyone or any group which had vested interests in the two companies i.e **Ravalgaon** and **Shrenuj**.
 - c. Their dealings in the scrips of **Ravalgaon** and **Shrenuj** were part of the group of 6-7 scrips that DGP had dealt in with Ms. Aditi Dalal. The transactions in all these scrips, the time span, their nature and every other aspect, were identical.
 - d. They may have inadvertently violated provisions of certain SEBI Regulations but they never had any malafide intention.
 - e. NSE had conducted an investigation for the same set of transactions and appreciated the arguments put forth by DGP. The disciplinary action committee of NSE had imposed a monetary penalty of Rs. 10,000 per scrip and warned DGP to be more cautious in the future. DGP contended that in light of the penalty imposed by NSE, it would be extremely unfair if they were penalized again.

- f. Additionally, they were being penalized by SEBI as their application for trading in derivatives segment had been put on hold due to the pending investigation for over a year.
- g. They were an honest and law abiding company and their track record suggests that they never had any problems with either NSE or SEBI prior to their dealings for Smt. Beriwal.
- h. The current proceedings and the resultant penalty should be similar to the penalty levied by SEBI in the investigation of VXL Instruments and Ceat Ltd., wherein they were issued warning letters by SEBI, as the matters were alike and also took place during the same time period.
- i. An opportunity for personal hearing should be given to them.

B. Enquiry Proceedings with respect to the scrip of Jagsonpal:

- 17. SEBI also conducted investigation in the scrip of **Jagsonpal** due to the unusual spurt in the price and volume of the scrip witnessed during August to December, 2000 and July to October, 2001 at NSE.
- 18. It was alleged in the findings of the investigation in the scrip of **Jagsonpal** that DGP had entered into structured trade for its client Smt. Ashadevi Beriwal as well as into financial deals with CFL and its associate concerns to assist them (i.e. CFL and its associates) in avoiding default of their financial commitment with the respective stock exchanges. Again, the transactions in **Jagsonpal** scrip took place between CFL and DGP for DGP's client Smt. Ashadevi Beriwal. It would be pertinent to note that Smt. Ashadevi Beriwal is the mother of Shri Mukund Beriwal, the then CEO of DGP.
- 19. Therefore, SEBI vide order dated December 14, 2004 appointed an Enquiry Officer to enquire into the alleged violations/contraventions, if any, committed by DGP while transacting in the scrip of **Jagsonpal**.

20. Accordingly, a Show Cause Notice dated June 13, 2005 was issued by the Enquiry Officer to DGP communicating in detail, the charges levied against it and DGP was advised to show cause as to why an appropriate action should not be recommended against them.
21. DGP replied to the said Show Cause Notice vide letter dated July 1, 2005, making submissions similar to the submissions made by them with respect to the Enquiry conducted in scrips of **Shrenuj** and **Ravalgaon**. Additionally DGP stated as under:
- a. Their company had not indulged intentionally in any wrongful trade practice and there were sufficient explanations to prove so.
 - b. Shri Mukund Beriwal had resigned and ceased to be the CEO of the company with effect from September 15, 2004.
22. An opportunity of personal hearing was granted by the Enquiry Officer to DGP on July 20, 2005 where Shri M.K Arora, authorized representative of DGP appeared before the Enquiry officer and *inter alia* made the following submissions:
- a. Except for the transactions in questions they have always maintained an unblemished track record.
 - b. Smt. Ashadevi Beriwal was not related to their company either as a director or shareholder of the company and she was not related to promoters or other directors of the company.
 - c. Although their client Smt. Ashadevi Beriwal was the mother of their then CEO, Shri Mukund Beriwal; she was always treated as a normal client.
 - d. DGP denied that they had entered into any dealing to finance the purchase and/ or sale of shares.
 - e. With respect to the admission made by their then CEO Shri Mukund Beriwal before the Investigation Officer regarding the financing

- arrangement with various entities mentioned in the show cause notice, DGP contended that admission of any kind made by Shri Mukund Beriwal could be only as an authorized representative of his mother Smt. Ashadevi Beriwal and not as an authorized representative of DGP.
- f. With regard to the allegation of structured deals and creation of artificial volume and price manipulation, DGP submitted that all the deals were executed at prevailing market price and thus there was no attempt on their part to influence the market price through any of these deals. DGP further submitted that all the trades were delivery based and no squaring up of the transactions was done.
 - g. Therefore, DGP submitted that in the above circumstances they had no reason to suspect the wrongdoings, if any, committed by its client Smt. Ashadevi Beriwal.
23. The Enquiry Officer, after following the due procedure, vide his Enquiry report dated August 12, 2005 concluded that DGP had not entered into financing arrangement with CFL in respect of its dealing in **Jagsonpal** and thus it was not guilty of violating the provisions of Regulation 4 of SEBI PFUTP Regulations, 1995. However, the Enquiry Officer found DGP guilty of violating the provisions of Clause A(1) and A(4) of code of conduct for stock brokers specified in schedule II of Regulation 7 of Brokers Regulations and recommended a minor penalty of censure to be issued to DGP.
24. Accordingly, a Show Cause Notice dated August 25, 2005 was issued to DGP enclosing therewith a copy of Enquiry report and DGP was advised to show cause as to why action should not be taken against it as may be deemed appropriate.

25. As stated earlier, DGP vide letter dated November 18, 2006 DGP requested SEBI to club the Enquiry proceedings in all the three scrips namely **Ravalgaon, Shrenuj** and **Jagsonpal** which was accepted and accordingly a combined personal hearing was granted to DGP with respect to all three scrips on September 03, 2007 before me. On the said date, DGP was represented by its Director, Shri K.C Gupte, its Authorised representative, Shri M.K Arora and Advocate, Shri Deepak Shah.
26. Subsequently, vide letter dated September 10, 2007 DGP filed its written submissions reiterating their earlier submissions and also made some additional submissions which are as under:
- a. With respect to Enquiry Officer's report in the matter of **Ravalgaon** and **Shrenuj**, DGP contended that as all the reported violations related to the transactions carried out by the mother of Shri Mukund Beriwal, who was an interested party and, therefore, it was improper on his part to represent DGP in the Enquiry proceedings.
 - b. DGP further contended that as Shri Mukund Beriwal had clear conflict of interest, they were deprived of an appropriate opportunity to defend themselves in the enquiry and thus wanted the enquiry to be treated as having been completed after relying on the statement of an unauthorized person.
 - c. Further, it was argued by DGP that since the facts in all the three scrips i.e. **Ravalgaon, Shrenuj** and **Jagsonpal** were identical, had the correct facts been placed before the Enquiry officer during the enquiry pertaining to the scrips of **Shrenuj** and **Ravalgaon**, as was in the case of **Jagsonpal**; the Enquiry officer would have also reached a similar conclusion as the other Enquiry officer and imposed the penalty of "Censure".
 - d. DGP also placed reliance upon 2 judgments of the Hon'ble Securities Appellate Tribunal (SAT) in the matter of **Kasat Securities Pvt. Ltd**

- Vs SEBI and Millenium Equities (India) Pvt. Ltd Vs SEBI*** to show that for holding a broker guilty, it must be established that he was aware of such synchronization/circular/fictitious trading. The broker's guilt cannot be presumed merely because he acted as a broker on behalf of a client who indulged in such transactions. DGP requested that the situation in the current case was similar to the appeals dealt by SAT, and that they were unaware of the alleged transactions put through by their ex-CEO for his/ his mother's personal benefit.
- e. DGP also, after taking into consideration the findings in the scrip of Jagsonpal, requested for condonation of any inadvertent violations committed by them.

Consideration of Issues and Findings:

27. I have carefully considered the investigation reports, Enquiry reports, Show Cause Notices issued by SEBI and replies thereof. I have also considered the submissions made before me during the personal hearing, written submissions made thereafter and other materials available on records. I note that the main issues for consideration are as follows:
- Whether DGP is in violation of the PFUTP Regulations?
 - Whether DGP is in violation of the Code of Conduct specified for Stock Brokers under the Brokers Regulations 1992?
28. I note that in the scrip of **Ravalgaon**, investigation has revealed that DGP along with the counterparty broker CFL had matched their trades by placing buy and sell orders with little time gap. Details of the trades in the **Ravalgaon** scrip as entered into by DGP are given below:

SN	Sell Qty.	Client Gross Qty.	% of Client gross to Mkt Gross	Client Net Qty.	% of Client Net to Mkt Net.	Date of Trading	No of Trades	Avg. Trd. Price (Rs.)
2001023	310	310	35.23	(310)	(81.58)	June 11, 2001	1	4825
2001024	790	790	30.84	(790)	(97.77)	June 15, 2001	4	4712

Details of the trades executed by DGP in the scrip of Ravalgaon:-

SN	Transaction Date	Buy Member	Sell Member	Buy Order Time	Sell Order Time	Buy Order Qty	Sell Order Qty	Buy Price	Sell Price	Traded Price
2001023	11-Jun-01	CFL Securities Ltd.	DGP Securities Ltd.	11:47:57	11:47:56	310	310	4825.00	4825.00	4825.00
2001024	15-Jun-01	CFL Securities Ltd.	DGP Securities Ltd.	12:51:10	12:51:10	250	250	4680.00	4680.00	4680.00
2001024	15-Jun-01	CFL Securities Ltd.	DGP Securities Ltd.	13:03:56	13:03:57	250	250	4682.00	4682.00	4682.00
2001024	15-Jun-01	CFL Securities Ltd.	DGP Securities Ltd.	13:52:20	13:52:20	145	145	4684.00	4684.00	4684.00
2001024	15-Jun-01	CFL Securities Ltd.	DGP Securities Ltd.	14:34:44	14:34:44	145	145	4688.00	4688.00	4688.00

29. Similarly, the transactions carried out by DGP and CFL in the scrip of **Shrenuj** are reproduced below:

Transac tion Date	Buy Client	Sell Client	Buy Order Time	Sell Order Time	Buy Order Qty	Sell Order Qty	Buy Price	Sell Price	Traded Price
May 14, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	10:43:17	10:43:17	10, 000	10, 000	40.20	40.20	40.20
May 14, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	10:43:32	10:43:32	10, 000	10, 000	40.25	40.25	40.25
May 14, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	10:50:58	10:50:59	5, 000	5, 000	40.00	40.00	40.00
May 14, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	10:51:11	10:51:11	7, 000	7, 000	39.95	39.95	39.95
May 14, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	10:51:33	10:51:33	7, 900	7, 900	39.85	39.85	39.85
May 14, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	10:51:46	10:51:46	100	100	40.55	40.55	40.55
June 4, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	11:30:09	11:30:08	25, 000	25, 000	40.00	40.00	40.00
June 4, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	11:30:20	11:30:20	25, 000	25, 000	39.95	39.95	39.95
June 4, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	11:30:34	11:30:34	11, 000	11, 000	40.50	40.50	40.50
June 15, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	12:12:18	12:12:17	20, 000	20, 000	38.40	38.40	38.40
June 15, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	12:12:32	12:12:31	20, 000	20, 000	38.35	38.35	38.35
June 15, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	12:12:56	12:12:56	6, 000	6, 000	38.25	38.25	38.25
June 15, 2001	CFL (own account)	DGP (for Smt. Ashadevi Beriwala)	14:54:58	14:54:58	6, 000	6, 000	38.35	38.35	38.35

30. From the above transactions it can be seen that there is no/ negligible time difference between the placement of the buy and sell orders. Out of

the 13 trades, there exists a time difference of only one second in four trades while in the remaining 9 trades, there is no difference in the placement of the buy and sell orders. The buy and sell quantities in all the trades are identical, including the price quoted by brokers of both the parties.

31. These trades have accounted for 100% of trades executed by DGP (on the sell side) and 94.53% of the trades executed by CFL (on the buy side). For the period under scrutiny, the structured trades have accounted for 43.45% of the gross quantity traded in the scrip, as is clear from the table below:

SN	Date of Trading	No. of Trades	Avg trd Price	Trd Qty	% to Mkt Gross for The SN	% to Mkt gross for the period	% of the client net to market net
2001019	May 14, 2001	6	40.08	40000	44.24	11.36	90.47
2001022	June 4, 2001	3	40.07	61000	49.28	17.32	98.86
2001024	June 15, 2001	4	38.36	52000	48.73	14.77	97.52
Grand Total		13		153000		43.45	

32. Similarly, between July 2001 and October 31, 2001 DGP and CFL have executed 20 structured deals involving a total traded quantity of 46,507 shares in the scrip of **Jagsonpal** as given below:

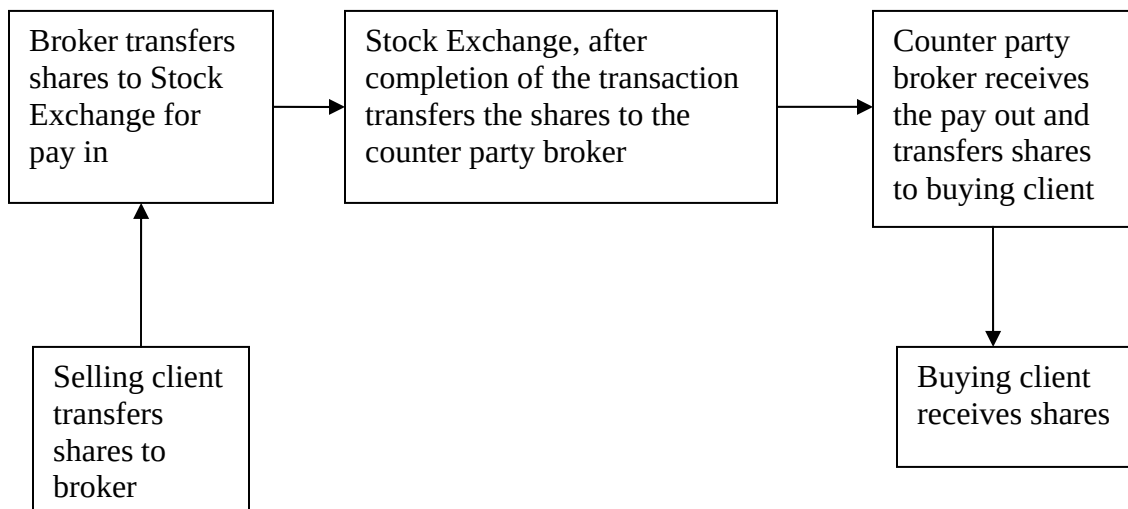
Transaction Date	Sn. No.	Buy Mem	Sell Mem	Buy Order Time	Sell Order Time	Buy Or. Qty	Sell Or. Qty	Traded Qty	Buy Price	Sell Price	Traded Price
02-Jul-01	2001126	CFL	DGP	13:08:37	13:08:38	9000	9000	9000	320	320	320
02-Jul-01	2001126	CFL	DGP	13:08:54	13:08:54	1000	1000	1000	319.2	319.2	319.2
04-Jul-01	2001126	CFL	DGP	13:57:28	13:57:29	7000	7000	7000	317	317	317
04-Jul-01	2001126	CFL	DGP	13:57:44	13:57:44	985	985	985	316.5	316.5	316.5
18-Jul-01	2001128	CFL	DGP	12:15:24	12:15:23	2000	2000	2000	275	275	275
30-Jul-01	2001130	CFL	DGP	11:34:30	11:34:31	1000	1000	1000	237	237	237
20-Aug-01	2001133	CFL	DGP	10:54:08	10:54:08	3850	3850	3850	228	228	228
20-Aug-01	2001133	CFL	DGP	10:54:21	10:54:20	4000	4000	4000	227	227	227
24-Aug-01	2001133	CFL	DGP	10:46:06	10:46:07	1000	1000	1000	240	240	240
24-Aug-01	2001133	CFL	DGP	10:46:35	10:46:35	999	1000	990	241	241	241
24-Aug-01	2001133	CFL	DGP	10:46:51	10:46:35	10	1000	10	241	241	241
28-Aug-01	2001134	CFL	DGP	12:43:19	12:43:19	142	142	142	213	213	213
13-Sep-01	2001136	CFL	DGP	14:03:22	14:03:24	2600	2615	2600	214.75	214.75	214.75
13-Sep-01	2001136	CFL	DGP	14:03:30	14:03:24	15	2615	15	214.75	214.75	214.75
20-Sep-01	2001137	CFL	DGP	11:38:52	11:38:53	2600	2615	2600	207.75	207.75	207.75
20-Sep-01	2001137	CFL	DGP	11:39:00	11:38:53	15	2615	15	207.75	207.75	207.75
01-Oct-01	2001139	CFL	DGP	15:50:16	15:50:16	3000	3000	3000	186	186	186
01-Oct-01	2001139	CFL	DGP	15:50:39	15:50:39	3000	3000	3000	186	186	186
01-Oct-01	2001139	CFL	DGP	15:51:06	15:51:06	1500	1500	1500	185.85	185.85	185.85
05-Oct-01	2001139	CFL	DGP	11:22:22	11:22:24	2800	2800	2800	175	175	175

The total quantity traded through these deals represents 22.41% of the market gross quantity during the period under consideration. The percentage of price variation as compared to Last Traded Price (LTP) was in the range of 2.23% to 7.38%.

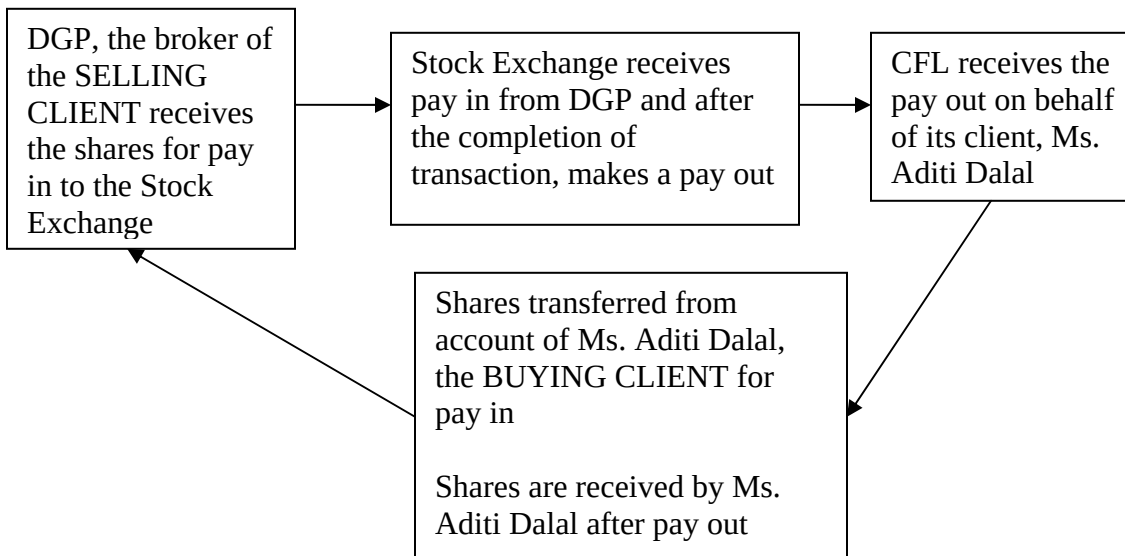
33. Further during August 01, 2000 to December 31, 2000 DGP entered into 27 structured deals in settlement numbers 2000041 to 2000047 for 71,700 shares of **Jagsonpal**. The structured deals constituted 4.11% to 50% of the market gross for the settlements under scrutiny. It was also found during the investigations that the buy and sell orders were entered at more or less the same time and for the same quantity. Few instances were noted wherein DGP had quoted prices substantially higher from the last traded price.
34. In their submissions DGP nowhere disputed the fact that they had indeed traded in the scrips of **Shrenuj**, **Jagsonpal** and **Ravalgaon** on behalf of their client Smt. Ashadevi Beriwal, the mother of then CEO of DGP Shri Mukund Beriwal. Interestingly all these trades executed for Smt. Ashadevi Beriwal were matched with the same counter party Mrs. Aditi

Dalal, the wife of director of CFL, the counter party broker. It is highly improbable that the transactions in three scrips (in the present case **Ravagoan, Shrenuj** and **Jagsonpal**) were mere conincidences as it is unlikely that two unknown entities trade continuously, exclusively with each other, by putting simultaneous/ near simultaneous buy and sell orders, contributing significantly to the total volumes in the market without any sort of pre mediation or prior understanding. In fact the scrips of **Ravalgaon** and **Shrenuj** were illiquid lead me to conclusion that the matched transactions undertaken by DGP and CFL were executed with prior understanding and active participation of both the parties and were intended to structure their respective trades.

35. Ideally when a trade is executed at the exchange the broker of the selling client has pay in obligation towards the exchange in respect of the shares sold and the broker of the buying client receives pay out from the exchange. The above situation can be explained through the following:



In the transactions in question, I note that CFL had been a net buyer in the scrip and DGP had been the net seller in the scrip of **Shrenuj** and **Ravalgaon**. An analysis of the Demat accounts of DGP and CFL however indicates that the shares of **Shrenuj** and **Ravalgaon** to be delivered in pay in by DGP (for the sales made by its client Mrs. Ashadevi Beriwal, the mother of then CEO of DGP) had come into the pool account of DGP from the beneficiary account of Ms. Aditi Dalal (the client of CFL and wife of one of its director). These very shares were delivered in pay-in by DGP to the Stock Exchange in the same settlement (for shares bought by Ms. Aditi Dalal) which eventually were delivered in pay-out by the Exchange to the beneficiary account of Ms. Aditi Dalal through CFL. The movement of shares can be shown as under:



36. Further, an analysis of Smt. Ashadevi Beriwala's ledger account revealed that in the both the scrips of **Shrenuj** and **Ravalgaon**, DGP had transferred the amount due to Smt. Ashadevi Beriwala to the account of Ms. Aditi Dalal. The details of such transfers in the scrip of Shrenuj is given below:

Date	Client	Credit (Rs.)	Debit (Rs.)	Particulars
22-May-01	Ashadevi Beriwala	Nil	70,00,000	Amount due to Ashadevi Beriwala for trades executed during SN2001019 have been transferred to Aditi Dalal's Account.
23-May-01	Ashadevi Beriwala	Nil	18,15,000	Amount due to Ashadevi Beriwala for trades executed during SN2001019 have been transferred to Aditi Dalal's Account.
06-Jun-01	Ashadevi Beriwala	Nil	89,70,000	Amount due to Ashadevi Beriwala for trades executed during SN2001022 have been transferred to Aditi Dalal's Account.
12-Jun-01	Ashadevi Beriwala	Nil	85,00,000	Amount due to Ashadevi Beriwala for trades executed during SN2001022 have been transferred to Aditi Dalal's Account.
13-Jun-01	Ashadevi Beriwala	Nil	3,046	Amount due to Ashadevi Beriwala for trades executed during SN2001022 have been transferred to Aditi Dalal's Account.
26-Jun-01	Ashadevi Beriwala	Nil	95,00,000	Amount due to Ashadevi Beriwala for trades executed during SN2001024 have been transferred to Aditi Dalal's Account.
27-Jun-01	Ashadevi Beriwala	Nil	20,85,000	Amount due to Ashadevi Beriwala for trades executed during SN2001024 have been transferred to Aditi Dalal's Account.

Similarly the details of transfers of funds in the scrip of **Ravalgaon** is given below:

Date	Client	Credit (Rs.)	Debit (Rs.)	Particulars
06-Jun-01	Ashadevi Beriwal	Nil	89,70,000	Amount due to Ashadevi Beriwal for trades executed during SN 2001021 have been transferred to Aditi Dalal's Account.
12-Jun-01	Ashadevi Beriwal	Nil	85,00,000	Amount due to Ashadevi Beriwal for trades executed during SN 2001022 have been transferred to Aditi Dalal's Account.
13-Jun-01	Ashadevi Beriwal	Nil	32,00,000	Amount due to Ashadevi Beriwal for trades executed during SN 2001022 have been transferred to Aditi Dalal's Account.
20-Jun-01	Ashadevi Beriwal	Nil	90,70,000	Amount due to Ashadevi Beriwal for trades executed during SN 2001023 have been transferred to Aditi Dalal's Account.
26-Jun-01	Ashadevi Beriwal	Nil	95,00,000	Amount due to Ashadevi Beriwal for trades executed during SN 2001024 have been transferred to Aditi Dalal's Account.
26-Jun-01	Ashadevi Beriwal	Nil	95,00,000	Amount due to Ashadevi Beriwal for trades executed during SN 2001024 have been transferred to Aditi Dalal's Account.
27-Jun-01	Ashadevi Beriwal	Nil	20,85,000	Amount due to Ashadevi Beriwal for trades executed during SN 2001024 have been transferred to Aditi Dalal's Account.

The aforesaid table clearly show that the modus operandi used in both the scrips was same.

37. I note that in his statement recorded under Section 11C (5) of the SEBI Act, 1992 before the Enquiry Officer, Shri Mukund Beriwal, the then CEO of DGP and authorized representative of Smt. Asha Devi Beriwal and Shri Milan Dalal, Director of CFL have stated that they entered into the above mentioned trades to assist CFL and its associates concerns viz. M/s Tropical Securities & Investment Pvt. Ltd.; M/s Harbinger Trading

Co Pvt. Ltd.; M/s Shriya Capital Services Pvt. Ltd.; Smt. Aditi Dalal and Shri S Ramdas (proprietary account of M/s Tropical Securities & Investment Pvt. Ltd.), to avoid default of their financial commitment with the respective stock exchanges.

38. The aforesaid findings and the statement made by Shri Mukund Beriwal and Shri Milan Dalal make it clear that the trades in question were synchronized/ structured deals and were executed pursuant to understanding reached between the parties as also evidenced by trade details at paragraphs **28- 32**.
39. I note that in their written submissions dated September 10, 2007 DGP raised the propriety of Shri Mukund Beriwal, the then CEO of DGP to represent it before the Enquiry officer on the ground that all the trades in question were executed in the name of Smt. Ashadevi Beriwal, the mother of Shri Mukund Beriwal. I, however, note that Shri Mukund Beriwal, at that point in time was the CEO of DGP and as such was considered to be an authorized person to represent DGP. Further, I note that this preliminary objection was never raised before the Enquiry officer. I have noted that Shri RC Mittal, Manager, Accounts of DGP also appeared at the personal hearing before the Enquiry officer. In view of the fact that DGP was represented by more than one representative, in the absence of any objection before him, the Enquiry Officer did not have any reason to doubt the credentials of Shri Mukund Beriwal and apprehend that he would make admissions to further his mother's interest and not those of DGP, as subsequently claimed by DGP.
40. A company is a creation of law and possesses legal personality which is in essence, fictitious. This implies that company does not do anything itself, it acts through its directors or employees. The acts and omissions of the directors or employees or authorized representatives of the

company, when done in such capacity during the course of their employment, become the acts and omissions of the company. Therefore, it is not possible to accept that the said enquiry be treated as having been completed on the basis of statement of an unauthorized person and that the Enquiry officer should have doubted the intention of Shri Mukund Beriwal.

41. I also note that DGP in its written submissions had cited the judgments passed by Hon'ble Securities Appellate Tribunal in the matter of ***Kasat Securities Pvt. Ltd Vs SEBI*** and ***Millenium Equities (India) Pvt. Ltd Vs SEBI***. However, in my view, the aforesaid cases have been cited out of context because at the relevant point of time, the fact that the client, Smt Ashadevi Beriwal was selling all the shares by executing structured deals with the wife of the director of the counter party broker, CFL was within the knowledge of DGP as DGP executed all these synchronised trades for its client who happened to be mother of its CEO. Not only that, it accepted those shares from the counter party client, Ms. Aditi Dalal directly in its pool account as referred in Para 12(d) and 35, supra.
42. In view of the facts and circumstances of the case, without expressing any opinion on the propriety of Shri Mukund Beriwal to represent DGP at the relevant time, I am very clear that, whatever said or done, DGP can not shirk the responsibility for the acts of omission and commission of its then CEO.
43. I further note that for entering into similar kind of transactions in the scrips of M/s Surya Roshni Ltd. and M/s Roofit Industries Ltd., DGP was found to be guilty of violating Regulation 4(b) and (c) of PFUTP Regulations, 1995 and Clause A(1) and (4) of Code conduct in Schedule II read with Regulation 7 of the Brokers Regulations. Accordingly, SEBI vide its order dated September 30, 2004 and October 18, 2004 had

suspended its registration for a period of one and two months respectively.

44. In appeals before Hon'ble Securities Appellate Tribunal (hereinafter referred to as "SAT") (Appeal no.268 of 2004 and 305 of 2004), the Hon'ble SAT while upholding the orders of SEBI vide its judgement and order dated August 17, 2006 had reduced the suspension from two months to one month (in Roofit Industries Ltd.) and had also directed that both the orders to run concurrently.
45. Pursuant to the said order of Hon'ble SAT, the certificate of registration of DGP was suspended from August 28, 2006 for a period of one month.
46. In view of the above, I find that DGP has been involved in assisting its client, Smt. Ashadevi Beriwal in creation of artificial volumes in all the three scrips namely **Shrenuj, Ravalgaon** and **Jagsonpal** by executing the trades which were structured, non-genuine and created false appearance of trading in the market. In addition, DGP has also misused the stock exchange mechanism by helping CFL to meet its financial obligations through the aforesaid structured trades. Therefore, I hold DGP guilty of violating Regulation 4(b) and 4(c) of PFUTP Regulations.
47. I am also in agreement with the findings of the Enquiry Officer that DGP, by indulging in synchronized and fictitious deals for its client, has failed to exercise due skill and care as a stock broker. DGP 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 read with Regulation 7 of Broker Regulations 1992 for the fact that trades executed by its client, Smt. Ashadevi Beriwal were structured trades and same resulted in creation of artificial volume in the scrips of **Shrenuj, Ravalgaon** and **Jagsonpal**.

48. I note that for the same set of transactions in the scrip of **Shrenuj and Ravalgaon**, SEBI vide its orders dated August 31, 2004 had directed Smt. Ashadevi Beriwal and Ms. Aditi Dalal, the clients to disassociate themselves from the securities market and not to deal in securities for a period of six months. This order was accepted and never challenged by the aforesaid clients. Moreover, I find that in their submissions DGP has admitted that it had dealt with Ms. Aditi Dalal in 6-7 scrips and the transactions in all these scrips, the time span, their nature and every other aspect, were identical. DGP has also admitted that in two of these scrips namely VXL Instruments Limited and Ceat Limited, the SEBI investigation was concluded and DGP was warned by SEBI to be more cautious in the future. The said admission on part of DGP clearly highlights the fact that DGP did not observe the required level of care and diligence while executing the trades for Smt Ashadevi Beriwal with Ms. Aditi Dalal through CFL. Such structured trades interfere with the market mechanism and have potential to destabilize the securities market or market equilibrium. As a regulator, SEBI can not ignore such instances of structured trades and has to take appropriate enforcement action to prevent wrong signals from reaching the market.
49. It may not be out of place to cite the judgment of the Hon'ble Supreme Court in the recent case of **Chairman, SEBI vs Shriram Mutual Fund** wherein Hon'ble Court *inter alia* held:

"Penalty is attracted as soon as contravention of the statutory obligation contemplated by the Act is established and, therefore the intention of the parties committing such violation becomes immaterial. In other words, the breach of a civil obligation which attracts penalty under the provisions of the Act would immediately attract the

levy of penalty irrespective of the fact whether the contravention was made by the defaulter with any guilty intention or not."

50. In view of the principle laid down by the Hon'ble Supreme Court, I do not find any merit in the contention of the DGP that the aforesaid violations were committed by them inadvertently and they never had any malafide intention. The aforesaid principle clearly states that once it is established that violation has been committed, penalty must follow. The only question that requires determination by the competent authority is the quantum of penalty.
51. In view of the above and taking into account the fact that DGP has already been penalized by NSE and had undergone suspension for a period of one month for entering into similar trades in scrips of M/s Surya Roshni Ltd. and M/s Roofit Industries Ltd., I think it would be in the interest of justice if a minor penalty of suspension for appropriate period is imposed on DGP for aforesaid violations.
52. Now, therefore in exercise of the powers conferred upon me under Section 19 of SEBI Act, 1992 read with Regulation 13 (4) of the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby suspend the registration of DGP for a period of one month.
53. This order shall come into force after 21 days from the date of this order.

sd/-

Date: 25.9.2008

T. C. Nair

Place: Mumbai, India

Whole Time Member

Securities and Exchange Board of India