

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

Coram: Dr. T. C. Nair, Whole Time Member

**In the matter of M/s. Mackertich Consultancy Services Private Ltd,
M/s. Vatican Commercials Ltd. and M/s. Pinnacle Trades &
Investments Pvt. Ltd.**

**In the scrip of South East Asia Marine Engineering & Constructions
Ltd.**

Date of hearing: 29.09.06

Appearances:

For Noticees: Shri Vinay Chauhan, Advocate
Shri Kirti Sasnur, Advocate
Shri Pawan Kumar Goel

For SEBI: Shri P. K. Nagpal, ED
Shri Jerome K A, Manager
Ms. Kshama Chavan, Legal Officer

ORDER

**Under Section 11 & 11B of the Securities and Exchange Board of
India Act, 1992 and Regulation 11 of the Securities and Exchange
Board of India (Prohibition of Fraudulent and Unfair Trade Practices
Relating to Securities Market) Regulations, 1995**

1. Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted investigation into the trading in the scrip of South East Asia Marine Engineering and Constructions Limited (SEAMECL), which was formerly known as M/s Peerless Shipping and Oilfields Limited, for the period June 01, 1999 to May 31, 2000 (investigation period).

2. The scrip of SEAMECL was traded on the Bombay Stock Exchange Ltd. (BSE), National Stock Exchange (NSE) and Calcutta Stock Exchange (CSE). The price volume data of the scrip at the aforesaid three exchanges during the investigation period shows that the price of the scrip moved from Rs.15 to Rs.389 within a short period of about 8 months. The total traded quantity during the relevant period at these exchanges was 5,24,52,600 shares.
3. The investigation revealed that M/s Mackertich Consultancy Services Private Limited (hereinafter referred to as "MCSPL"), M/s Pinnacle Trades & Investments Private Limited (hereinafter referred to as "Pinnacle") and M/s Vatican Commercials Limited (hereinafter referred to as "Vatican") were associated to each other. All the aforesaid entities were also connected to M/s C Mackertich Limited (hereinafter referred to as "CML") (Member of BSE, NSE, CSE and OTCEI), M/s. SMIFS Capital Markets Limited and its associate M/s SMIFS Securities Ltd. MCSPL traded through 12 different brokers and bought 43,75,000 shares and sold 23,95,500 shares of SEAMECL during the period of investigation. Pinnacle traded in the scrip of SEAMECL through CML and it bought 10,94,600 shares and sold 9,58,300 shares and Vatican traded through 2 brokers viz. CML and Active Finstock Limited where it bought 2,04,900 shares and sold 1,67,700 shares of SEAMECL.
4. The trading pattern of MCSPL, Vatican and Pinnacle and their associate/group companies suggested that all of them were interested in creation of artificial volume and increase in the price of the scrip of SEAMECL and they were buying and selling large quantities of shares without transferring any beneficial ownership. Therefore, it was concluded in the investigation report that MCSPL, Pinnacle and Vatican were actively involved in the trading of the scrip to distort its equilibrium. Hence, it was alleged that all of the

aforesaid entities along with CML, M/s SMIFS Capital Markets Limited and M/s SMIFS Securities Limited indulged into non genuine transactions and created artificial volume and influenced the price of the scrip of SEAMECL resulting in violation of Regulation 4 (a), (b), (c) and (d) of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995.

5. On the basis of the aforesaid findings, a common show cause notice dated February 23, 2005 was issued to MCSPL, Pinnacle and Vatican advising them to show cause as to why appropriate directions including directions under Regulation 11 of SEBI PFUTP Regulations, 2003 read with Section 11B and 11(4) of SEBI Act, restraining them from dealing in securities for a specific period should not be passed against them.
6. The noticees vide their letters dated May 10, 2005 replied separately to the said show cause notices.
7. An opportunity of personal hearing was also granted to the noticees on September 29, 2006 which was attended by their representatives. The noticees then filed post hearing written submissions vide their letters dated October 14, 2006 separately.
8. The epitome of their replies and written submissions may be stated as below:
 - (i) The charges in the show cause notice are exceedingly vague and are not supported by any material on record.
 - (ii) Save and except, the mentioning of the fact that MCSPL, Vatican and Pinnacle had bought 43,75,000, 2,04,900 and 10,94,600 shares and sold 23,95,500, 167,700 and 958,300

shares respectively, the notice does not state anything about their so called trading pattern.

- (iii) All their trading in the scrip was in the ordinary course of business dehors sinister motive or design. Further, their trading decisions in the scrip were not influenced by the decisions of other companies mentioned above and were completely independent. Therefore, clubbing the trading of other companies with their trading to draw adverse inferences against them was not justified.
- (iv) With regard to allegation of price rise, MCSPL submitted that it had executed the first trade in the scrip on 27/8/99 when the price of the scrip had already reached Rs. 61/- from Rs. 15/- on 1/6/99 as stated in the notice. It may be noted that, the price of the scrip had already increased 400% and they entered in the scrip when it was already in the upward mode. Vatican submitted that it had executed the first trade in the scrip on 23/9/99 when the price of the scrip had already reached Rs.71.80/- from Rs.15/- on 1/6/99 as stated in the Notice. It may be noted that, the price of the scrip had already increased 480% and they entered in the trading in the scrip when it was already in the upward mode. While Pinnacle stated that it had executed the first trade in the scrip on 08/10/99 when the price of the scrip had already reached Rs.133.70/- from Rs.15/- on 1/6/99 as stated in the Notice. It may be noted that, the price of the scrip had already increased 890% and they entered in the trading in the scrip when it was already in the upward mode.
- (v) It was further submitted that Vatican had continued trading in the scrip only till 07/01/2000, when the price of the scrip was hovering around Rs.251/-. Subsequent to their trading, the price

of the scrip increased to the peak of Rs.389/- in February 2000. Therefore, in any case, for the subsequent increase in the price from Rs.251/- to Rs.389/- they cannot be held responsible. Pinnacle submitted that it had continued trading in the scrip only till 10/04/2000, when the price of the scrip was hovering around Rs.178/-. It had continued trading much after mid February 2000, when as per the notice the share price had peaked to Rs.389/-. Pinnacle had even purchased 6 lacs and 53000 shares of SEAMECL in October 2000 and December 2000 respectively. Similarly, MCSPL submitted that it had traded in the scrip till 24/05/2000 when the price of the scrip was hovering around Rs.73/- and had continued trading much after mid February 2000, when as per the Notice the share price had peaked to Rs.389/-.

- (vi) It is not the case that the scrip in question was illiquid and as a result of their trading the scrip had become liquid or that as a result of their trading the price of the scrip had begun to increase from the low of Rs.15/-.
- (vii) In so far as buying and selling large quantities is concerned, it was submitted that total trading of MCSPL, Vatican and Pinnacle in the scrip of SEAMECL constituted 4.03%, 0.36% and 1.69% respectively of the total trading in the scrip during the investigation period which is very insignificant and cannot be construed as large.
- (viii) Even as per the notice, the total trading of the group constituting around 20%, during the relevant period, could not have impacted the price or the volume of the scrip. In this regard reference was made to the decision of the

Hon'ble Securities Appellate Tribunal in the matter of Ketan Parekh vs. SEBI (SAT Appeal No.2 of 2004).

(ix) In the instant case, volume of transactions of MCSPL, Vatican and Pinnacle are only 4.03%, 0.36% and 1.69% respectively, as opposed to volumes ranging from 5% to 50% in the scrip of Lupin by Ketan Parekh entities, which was not found to have created artificial volumes in the scrip by the Hon'ble Securities Appellate Tribunal (SAT).

9. I have carefully considered the investigation report, show cause notice issued to the noticees as well as replies and written submissions filed by them.
10. I note that during the investigation period MCSPL traded through 12 different brokers and bought 43,75,000 and sold 23,95,500 shares of SEAMECL. It is further noted that out of 12 brokers, MCSPL had traded substantially through CML and M/s. SMIFS Securities Ltd., who are associate concerns of MCSPL. Pinnacle bought 10,94,600 and sold 9,58,300 shares of said scrip through 1 broker i.e. CML while Vatican bought 2,04,900 and sold 1,67,700 shares through 2 brokers viz. CML and M/s Active Finstock Limited. The trading details of MCSPL through 12 different brokers are mentioned in the table below:

S. No.	Name of the Broker	Quantity Bought	Quantity Sold
1.	M/s C Mackertich Limited (NSE)	2292300	1339100
2.	M/s SMIFS Securities Limited	795100	157600
3.	M/s Active Finstock Private Limited	86000	0
4.	M/s Jayantilal Khandwala & Sons Private Limited	30000	77500

S. No.	Name of the Broker	Quantity Bought	Quantity Sold
5.	M/s Pinnacle Finstock Private Limited	100	0
6.	M/s Khandwala Integrated Financial Services	156500	53300
7.	M/s Arkay Stock	5000	0
8.	M/s Khandwala Finances Limited	0	15000
9.	M/s Mehata & Ajmera	0	750000
10.	M/s Kamal Kumar Dugar & Co.	10000	0
11.	M/s Lalit Co.	500000	3000
12.	M/s Stewart & Co.	500000	0
	Total	4375000	2395500

11. I note that CML which is an associate concern of MCSPL was sharing common address with SMIFS Securities Limited i.e. Commonwealth Building, 82, Nagindas Master Road, Fort, Mumbai-400 001. M/s SMIFS Securities Limited, CML and MCSPL were connected to each other as they were having their Kolkata office in the same premises i.e. Vaibhav Plaza, 4 Lee Road, 5th Floor, Kolkata-700 020. Further, M/s SMIFS Securities Ltd. is an associate concern of M/s SMIFS Capital Markets Limited which is amongst CML's group/associate companies. The entities Vatican and Pinnacle were group companies of CML, MCSPL and M/s SMIFS Capital Markets Limited. Therefore, I agree with the findings of the investigations that M/s SMIFS Capital Markets Limited, CML, MCSPL, Vatican and Pinnacle were connected to each other and to SMIFS Securities Ltd. These facts were further corroborated by Shri Pawan Saraf, director of CML while giving statement on February 19, 2004 on behalf of CML. I further find that all these entities traded substantially in the scrip of SEAMECL during the relevant period.

12. The charge of their connection is further corroborated from the fact that Shri Ajay Kayan who is a director in M/s SMIFS Capital Markets Limited was also a director in CML and MCSPL. Further, from the statement of Shri Madan Gopal Khanna made on behalf of MCSPL, it is observed that its directors namely Ms. Lalita Kayan and Shri Ajay Kayan were also the directors of CML. Further, Shri Ajay Kayan was also director in M/s SMIFS Capital Markets Limited which was an associate concern of M/s SMIFS Securities Limited (Member BSE, NSE and OTCEI) and CML.
13. I also find that while trading in the scrip, MCSPL had executed several structured deals at NSE through the member CML. The details of these trades are as below:

Order Date	Order Time	Order No.	Buy/Sell	Trading Member	Quantity	Price	Trade No.
11/4/2000	11:25:24	20004110299632	S	CMACK	50000	173.50	196004
11/4/2000	11:25:25	20004110299657	B	CSFB	50000	173.50	196004
11/4/2000	11:25:47	20004110300436	S	CMACK	50000	173.50	196435
11/4/2000	11:25:47	20004110300471	B	CSFB	50000	173.50	196435
11/4/2000	11:26:03	20004110301012	S	CMACK	50000	173.50	196782
11/4/2000	11:26:04	20004110301046	B	CSFB	50000	173.50	196782
11/4/2000	11:26:28	20004110301853	S	CMACK	50000	173.50	197387
11/4/2000	11:26:30	20004110301936	B	CSFB	50000	173.50	197387
11/4/2000	11:26:46	20004110302549	B	CSFB	55000	173.50	197900
11/4/2000	11:26:48	20004110302608	S	CMACK	55000	173.50	197900
27/4/2000	13:57:37	20004270611993	B	CMACK	100000	108.00	404272
27/4/2000	13:57:37	20004270611998	S	CSFB	100000	108.00	404272
27/4/2000	13:57:50	20004270612357	S	CSFB	105000	108.00	404600
27/4/2000	13:57:51	20004270612368	B	CMACK	105000	108.00	404600
28/4/2000	12:40:31	20004280392294	S	CSFB	100000	100.00	2266100
28/4/2000	12:40:40	20004280392470	B	CMACK	100000	100.00	2266100

It can be observed from the above table that members, CML and M/s CSFB (India) Securities Private Limited were trading among themselves. Member CML was trading for MCSPL and Member M/s CSFB (India) Securities Private Limited was trading for CML. MCSPL and CML are connected to each other and both these entities have executed these structured deals for 5,60,000 shares and created artificial volume without transferring any beneficial ownership and thus indulged into non genuine transactions.

14. Hence, it is evident that all of these entities traded in the scrip of SEAMECL and acted in a concerted manner to influence the price and volume of the scrip. The noticees entered into fictitious transactions to create the artificial volume and influence the price of the scrip. These entities entered into non genuine transactions which led to increase in the price and traded quantity of the scrip during the period of investigation. Therefore, I hold that MCSPL, Pinnacle and Vatican entered into non genuine transactions and created artificial volume and influenced the price of the scrip of SEAMECL and violated Regulation 4 (a) (b) (c) (d) of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 which inter-alia provides as follows;

Prohibition against Market Manipulation

4. No person shall -

(a) effect, take part in, or enter into, either directly or indirectly, transactions in securities, with the intention of artificially raising or depressing the prices of securities and thereby inducing the sale or purchase of securities by any person;

(b) indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities market;

(c) indulge in any act, which results in reflection of prices of securities based on transactions that are not genuine trade transactions;

(d) enter into a purchase or sale of any securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress, or cause fluctuations in the market price of securities.

15. From the facts detailed above, it is established that noticees indulged in creating a false or misleading appearance of trading on the securities market and dealt in securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to cause fluctuations in the price of the scrip and therefore is guilty of violating the provisions of Regulation 4 (a), (b), (c) and (d) of PFUTP Regulations.

16. However, I note that the volume traded by Vatican and Pinnacle is merely 0.36% and 1.69% respectively and also the fact that they have traded in the scrip over a period of time even when the price of the scrip was less. Considering the facts and circumstances of the case and after analyzing the volume of the trading entered by Pinnacle and Vatican, I am of the view that warning to them would act as deterrent penalty which would meet the ends of justice. However, with regard to MCSPL, I note that the volume of trading entered by it is large (4375000 shares bought and 2395500 shares sold) and it had also entered into fictitious transactions by way of structured deals with CML who appeared as counterparty and which is also an associate concern of MCSPL, therefore it needs to be dealt severely.

17. Therefore, taking into consideration the facts and circumstances of the case including the mitigating factors, I, in exercise of the powers conferred upon me under Sections 19 of the SEBI Act read with Sections 11 and 11B of SEBI Act, 1992 do hereby warn the M/s. Pinnacle Trades & Investments Private Limited (PAN No.AABCP7789D) and M/s. Vatican Commercials Limited (PAN No.AABCV7869G) not to repeat such violations in future and to be more cautious while dealing in securities market and restrain M/s. Mackertich Consultancy Services Private Limited (PAN No.AABCM5680Q) from accessing the securities market and prohibit it from buying, selling or dealing or associating with the securities market in any manner whatsoever for a period of 15 days.
18. This order shall come into force with immediate effect.

DATE:12.12.08

PLACE: MUMBAI

T. C. NAIR

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA