

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: DR. K. M. ABRAHAM, WHOLE TIME MEMBER

ORDER UNDER REGULATION 28(2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008 AGAINST HACIENDA INVESTMENTS PRIVATE LIMITED.

1. Securities and Exchange Board of India (hereinafter referred to as SEBI) noticed unusual rise in the price of the shares of Shirpur Gold Refinery Limited (hereinafter referred to as the company), a company listed at the Bombay Stock Exchange Limited (hereinafter referred to as BSE), during the period December 01, 1999 to January 28, 2000 and from May 08, 2000 to May 22, 2000. It was noticed that the share price of the company increased from Rs. 39/- (on December 01, 1999) to Rs. 110/- (on January 28, 2000). Between May 8, 2000 and May 22, 2000, the share price of the company had increased from Rs.146/- to Rs.264/-. In view of the unusual price movement noticed in the shares of the company as stated above, SEBI conducted an investigation into the alleged market manipulation and irregularities in the trading in the shares of the company and the possible violations of the Securities and Exchange Board of India Act, 1992 and the Rules and Regulations framed under. The investigation conducted by SEBI observed that Hacienda Investment Private Limited (a registered sub broker) was one of the entities that had traded actively in the shares of the company at BSE during the above period. Hacienda Investment Private Limited is hereinafter referred to as the sub broker. The sub broker was affiliated to the stock broker Vyomit Shares Stock & Investments and Omniscient Securities Private Limited (members of BSE). It was observed that the sub broker executed trades in its proprietary account as well as for its client Abhijit Communications & Publication Private Limited (the name was subsequently changed to Abhijit Trading Company Private Limited). This client

was found to be connected to some of the promoter associated entities by means of temporary loans taken from them. Besides, it was observed that the trades executed by the sub broker through the aforesaid stock brokers in the shares of the company, through its proprietary account were matched with the orders placed by it through the stock broker, Omniscient Securities Private Limited which was trading for the client viz. Abhijit Communications & Publication Private Limited. The sub broker traded substantially in the shares of the company during the period of investigation. The sub broker was also found to have placed orders at rates higher than the previous day's closing price. The investigation conducted by SEBI also found that the sub broker and Abhijit Communications & Publication Private Limited had entered into various manipulative trades in synchronized and structured manner among themselves and all such orders were placed by the sub broker. Thus, it was *inter alia* alleged that the sub broker *prima facie* violated the provisions of Regulation 4 of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as PFUTP Regulations) and Clause A(1) and A(2) of the Code of Conduct prescribed for sub brokers under the provisions of Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as the Broker Regulations).

2. In view of the above, SEBI, vide order dated May 12, 2004 read with a subsequent order dated November 8, 2004 appointed an Enquiry Officer under the provisions of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (since repealed) to enquire into the alleged violations committed by the sub broker. The Enquiry Officer, vide report dated January 17, 2006 recommended to cancel the certificate of registration of the sub broker. Subsequently, a show cause notice dated February 23, 2006 was issued to the sub broker by SEBI

alongwith a copy of the Enquiry Report. However, the sub broker failed to submit any reply to the said show cause notice. Subsequently, an opportunity of hearing was also given to the sub broker on June 28, 2007 and September 19, 2008. The said notice intimating the date of hearing was also posted on the SEBI website. Subsequently, another opportunity was granted on May 5, 2009 to the sub broker. Newspaper publication (one national newspaper and one newspaper with wide circulation in Mumbai) was also given to that effect. However, the sub broker failed to avail the said opportunity. I note that sufficient opportunities were provided to the sub broker to submit its reply in respect of the show cause notice dated February 23, 2006. The sub broker neither submitted a reply nor appeared for the personal hearing on the scheduled dates. I also note that the sub broker failed to file any reply when the proceedings was pending before the Enquiry Officer. In the facts and circumstances, I do not consider it necessary to grant another opportunity to the sub broker and the present proceedings is being considered and disposed of on the basis of the materials available on record.

3. The fact that the share price of the company increased sharply during the period of investigation is not in dispute. The share price increased from Rs.39/- (on December 1, 1999) to Rs.110/- (on January 28, 2000). The price volume details of the scrip, during the said period are given below:

Settlement No.	Date	Open (Rs.)	High (Rs.)	Low (Rs.)	Close (Rs.)	No. of Shares	No. of Trades
	1.12.99	39.10	39.10	39.10	39.10	100	1
1999037	2.12.99	40.65	40.65	40.65	40.65	100	1
	3.12.99	42.25	42.25	42.25	42.25	100	1
	6.12.99	43.90	43.90	43.90	43.90	200	2
	7.12.99	45.60	45.60	45.60	45.60	100	1
	8.12.99	47.40	47.40	47.40	47.40	600	3
1999038	9.12.99	49.25	49.25	49.25	49.25	400	2
	10.12.99	51.20	51.20	51.20	51.20	1500	7

	13.12.99	53.20	53.20	53.20	53.20	500	1
	14.12.99	55.30	55.30	55.30	55.30	500	1
	15.12.99	57.50	57.50	55.35	57.50	10300	16
1999039	16.12.99	59.75	59.75	59.75	59.75	5000	2
	17.12.99	62.10	62.10	62.10	62.10	6400	5
	20.12.99	64.55	64.55	64.55	64.55	5100	3
	21.12.99	67.10	67.10	67.10	67.10	6200	18
	22.12.99	69.75	69.75	69.75	69.75	1100	7
1999040	23.12.99	72.50	72.50	72.50	72.50	9100	13
	24.12.99	75.35	75.35	75.35	75.35	1400	8
	27.12.99	78.35	78.35	78.35	78.35	1200	7
	28.12.99	81.45	81.45	81.45	81.45	800	2
1999041	29.12.99	84.65	84.65	84.65	84.65	600	2
	30.12.99	88.00	88.00	88.00	88.00	900	3
	3.1.2000	91.50	91.50	91.50	91.50	700	2
	4.1.2000	95.15	95.15	95.15	95.15	2000	6
	5.1.2000	96.05	96.05	96.05	96.05	900	6
1999042	6.1.2000	97.00	97.00	97.00	97.00	1500	6
	7.1.2000	97.95	97.95	97.95	97.95	6400	22
	10.1.2000	98.90	98.90	98.90	98.90	500	1
	11.1.2000	99.85	99.85	99.85	99.85	2300	9
	12.1. 2000	100.80	100.80	100.80	100.80	1900	6
1999043	13.1. 2000	101.75	101.75	101.75	101.75	4800	12
	14.1.2000	102.75	102.75	102.75	102.75	2100	6

During the above period, the sub broker made substantial transactions in the shares of the company, the details of which are given below:

Settlement No.	Through stock broker Vyomit Shares Stock & Investments		Through stock broker Omniscient Securities Private Limited		Total volume in the exchange (no. of shares – one side)
	Buy Qty.	Sell Qty.	Buy Qty.	Sell Qty.	
1999038	500		0		2800
1999039	12400	7100	0	10000	22700
1999040	12700	9100	10200	10700	22900
1999041	2300	0	0		3500
1999042	6300	0	200		11500
1999043	2300	0	6000		11600
1999044	4500	0	600		13800
1999045	6400	0	0		8700
Total	47400	16200	17000	20700	97500

The above table indicates that the trades of the sub broker involved 1,01,300 shares of the company which accounted for 52% of the total market volume in the said shares, during the said period. The investigation conducted by SEBI further observed that the orders placed by the sub broker through Vyomit Shares Stock and Investments were matched with its own orders placed through the member Omniscient Securities Private Limited. Said trades were placed within a gap of few seconds. Details of such trades were provided to the sub broker along with the show cause notice dated June 16, 2004 issued under Regulation 6 of the Enquiry Regulations. Besides, the said details were also considered and explained in detail by the Enquiry Officer. As the sub broker did not controvert the findings of SEBI investigation or the Enquiry Officer in respect of such synchronized trades executed by it in the shares of the company, I do not consider it necessary to reiterate the same in this order. Apart from executing synchronized trades in the shares of the company, the sub broker was found to have placed orders at rates higher than the previous days closing price.

4. Needless to say, the sub broker executed synchronized trades and self trades where it acted as both the buyer and seller simultaneously. The said orders were placed at increasing rates on all the consecutive trading dates with an intention to raise the share price of the company. It was found that the sub broker was involved in the first trade, on the trading days, which were executed at a rate higher than the previous day's closing price. This trading pattern was observed on 33 out of 42 days i.e. almost for 78% of the total trading days during December 1, 1999 to January 28, 2000. The proximity in the inputting of orders at the same price and for the same quantity almost at the same time resulted in getting them matched with all the three parameters (quantity, price

and time) to conclude the trades. This cannot be a coincidence as it can be seen from the findings of investigation (provided to the sub broker alongwith the show cause notice) that the sub broker consistently executed synchronized trades in the shares of the company during the period of investigation. The sub broker did not controvert the findings of the Enquiry Officer in this regard. Besides, Mr. Kiran Mehta, (Director of the sub broker) in his statement (to SEBI) on November 14, 2003 *inter alia* stated as under:

“Q.7. How you used to place orders in the scrip of Shirpur Gold for buy and sell of securities. What kind of instructions you had given to the brokers?”

A.7. Through BOLT terminal allowed to us by Vyomit and over phone through Omniscient.”

This would indicate the manipulative intent of the sub broker while dealing in the shares of the company.

5. The sub broker also executed trades on behalf of its client Abhijat Trading Company Private Limited in the shares of the company. It is not in dispute that the said client and the promoter entities of the company were located in the same building and their directors were family friends. It was also observed that the said client availed a loan from the company. Besides, the share price of the company was increased from Rs.147/- on May 8, 2000 to Rs.264/- on May 22, 2000 within 9 trading days. The said price raise was almost 80%. The price volume chart in the shares of the company during the said period is given below:

Settlement No.	Date	Open (Rs.)	High (Rs.)	Low (Rs.)	Close (Rs.)	No. of Shares	No. of Trades
	8 May 2000	147.75	147.75	147.75	147.75	500	1
2000007	11 May 2000	159.55	159.55	159.55	159.55	100	2
	12 May 2000	172.30	172.30	172.30	172.30	15	1
	15 May 2000	186.05	186.05	186.05	186.05	25	1
2000008	16 May 2000	200.90	200.90	200.00	200.00	20	2
	17 May 2000	184.05	215.95	184.05	215.95	2035	6
	18 May 2000	230.00	230.00	230.00	230.00	50	2
	19 May 2000	244.90	244.90	244.90	244.90	1	1
2000009	22 May 2000	264.45	264.45	264.45	264.45	10	1

This indicates that the scrip was thinly traded and the price rise was result of a few trades.

6. During this period (May 8, 2000 to May 22, 2000) almost the entire volume in the shares of the company was executed by the sub broker through the stock broker Omniscient Securities Private Limited as cross deal i.e. the sub broker was placing both buy and sell orders through the same stock broker. The trade details of the sub broker during the above period are given below:

Trade Date	Trade No	Trade Time	Order No	Buy Or Sell	Member Name	Counter Party member name	Qty	Price
5/8/2000	1	12:20:15 PM	39000400000000352	B	Ominicient	Ominicient	500	147.75
5/8/2000	1	12:20:15 PM	39000200000000559	S	Ominicient	Ominicient	500	147.75
5/11/2000	1	3:18:34 PM	77500100000000129	B	D0775	Ominicient	25	159.55
5/11/2000	1	3:18:34 PM	39000400000000664	S	Ominicient	D0775	25	159.55
5/11/2000	2	3:18:34 PM	39000400000000607	B	Ominicient	Ominicient	75	159.55
5/11/2000	2	3:18:34 PM	39000400000000664	S	Ominicient	Ominicient	75	159.55

5/12/2000	1	2:55:27 PM	77500100000000140	B	D0775	Ominicient	15	172.3
5/12/2000	1	2:55:27 PM	39000400000000736	S	Ominicient	D0775	15	172.3
5/15/2000	1	3:23:29 PM	39000400000000762	B	Ominicient	Ominicient	25	186.05
5/15/2000	1	3:23:29 PM	39000100000000104	S	Ominicient	Ominicient	25	186.05
5/16/2000	1	10:03:31 AM	77500100000000211	B	D0775	Ominicient	15	200.9
5/16/2000	1	10:03:31 AM	39000400000000823	S	Ominicient	D0775	15	200.9
5/16/2000	2	11:45:03 AM	78000100000000416	B	D0780	Ominicient	5	200
5/16/2000	2	11:45:03 AM	39000400000000841	S	Ominicient	D0780	5	200
5/17/2000	1	11:32:13 AM	39000400000000949	B	Ominicient	Ominicient	500	184.05
5/17/2000	1	11:32:13 AM	39000300000001849	S	Ominicient	Ominicient	500	184.05
5/17/2000	2	11:32:13 AM	39000400000000949	B	Ominicient	Ominicient	500	184.05
5/17/2000	2	11:32:13 AM	39000300000001849	S	Ominicient	Ominicient	500	184.05
5/17/2000	3	11:32:13 AM	39000400000000949	B	Ominicient	Ominicient	500	184.05
5/17/2000	3	11:32:13 AM	39000300000001849	S	Ominicient	Ominicient	500	184.05
5/17/2000	4	11:32:13 AM	39000400000000949	B	Ominicient	Ominicient	500	184.05
5/17/2000	4	11:32:13 AM	39000300000001849	S	Ominicient	Ominicient	500	184.05
5/17/2000	5	11:40:01 AM	39000400000000960	B	Ominicient	D0106	25	214
5/17/2000	5	11:40:01 AM	10601100000001306	S	D0106	Ominicient	25	214
5/17/2000	6	12:33:18 PM	64300300000000210	B	D0643	Ominicient	10	215.95
5/17/2000	6	12:33:18 PM	39000400000000950	S	Ominicient	D0643	10	215.95
5/18/2000	2	11:31:45 AM	66301600000001569	B	D0663	Ominicient	40	230
5/18/2000	2	11:31:45 AM	39000400000001056	S	Ominicient	D0663	40	230
5/19/2000	1	2:47:08 PM	39000400000001217	B	Ominicient	D0686	1	244.9
5/19/2000	1	2:47:08 PM	68600300000000788	S	D0686	Ominicient	1	244.9
5/22/2000	1	3:12:46 PM	39000300000002292	B	Ominicient	Ominicient	10	264.45
5/22/2000	1	3:12:46 PM	39000400000001286	S	Ominicient	Ominicient	10	264.45

7. The share price of the company opened at upper circuit filters for all the 9 trading days. On May 8, May 15, May 19 and May 22, the first trade put by the sub broker through the stock broker, Omniscient Securities Private Limited established the price at circuit filter level. Thus, undoubtedly the said orders were placed with an intention to create false appearance of trading in the shares of the company and to artificially increase the price of the said shares. During this period, the sub broker was found to be a party to all the trades executed on the exchange either as buyer or seller or both. Thus, the trades which were not genuine, led to increase the volume of the trade and price of the scrip, artificially. The facts of the case and the nature of the trades executed by the sub-broker would clearly establish the manipulative intent of the sub-broker, while trading in the shares of the company during the period of investigation.

8. In the facts and circumstances, I do not have any hesitation to hold that the sub broker violated Regulation 4 (a) to 4(d) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995. The sub broker made itself a party to the manipulation in the shares of the company. The sub broker was *inter alia* responsible for the creation of a false market in the shares of the company by indulging in such activities. By entering into such manipulative transactions, the sub broker did not uphold the expected standards of integrity and fairness in its conduct. It also did not exercise due care while executing such transactions. Further, by placing orders in the nature of self trades as stated above in this order, the sub broker had indulged in deceptive trade practices. The sub broker failed to act with due skill, care and diligence in the conduct of its business in respect of the transactions in the shares of the company during the period of investigation. By doing so, the sub broker had contravened the relevant provisions of law. Thus, the sub broker has contravened Regulation 7 read with Clauses A(1) and A(2) of the Code of Conduct prescribed for sub brokers under

the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992. The sub broker failed to controvert the findings of the Enquiry Officer despite sufficient opportunities. In view of the above, I dispose of the present proceedings as ordered herein under.

9. In view of the foregoing, I, in exercise of the powers conferred on me in terms of Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulation 28(2) of Securities and Exchange Board of India (Intermediaries) Regulations, 2002 cancel the certificate of registration of the sub broker viz. Hacienda Investments Private Limited having Registration No. INS 010672033 (Permanent Account Number AAACH1090A).

10. This order shall come into force immediately after the expiry of twenty one days of this order.

K. M. ABRAHAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

Place: Mumbai

Date: May 29, 2009