

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

DIRECTIONS UNDER SECTION 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 11 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003, IN THE MATTER OF FINE AGROMATICS LIMITED

1. On the basis of certain complaints alleging public issue irregularities in respect of the public issue of Fine Agromatics Limited (hereinafter referred to as the company), the Securities and Exchange Board of India (hereinafter referred to as SEBI), initiated an investigation to find out the possible violations of securities laws. It was found that the company had come out with a public issue of 30,00,000 equity shares of Rs.10/- each for cash at par aggregating to Rs.3,00,000,00/-. The said issue opened on November 27, 1995 and closed on November 30, 1995 and was over subscribed by about five times. The Bankers to the issue were Canara Bank, State Bank of India and Corporation Bank and the registrar to the issue was SPS International Limited. Mr. S.K. Jain (promoter-director of SPS International Limited), one of the complainants, had *inter alia* stated that he was appointed by the promoters of the company to take delivery of shares purchased in grey market on 'firm' as well as 'subject to allotment basis' from various persons. He, in his subsequent correspondence had provided the names of the entities (including M/s S.S. Associates whose proprietor was Mr. S.K. Jain himself) to whom funds were transferred by the company. It was found that an amount of Rs.1,06,00,000/- was transferred by the company to M/s S.S. Associates, immediately after allotment for purposes other than that what was stated in the prospectus, either directly or indirectly. It was found that the aforesaid amount was used for issuing account payee cheques to various parties against the purchase of shares of the company.

SEBI investigation found that the bank accounts of four entities which received money from the company were opened only after the allotment of shares in the said issue. The investigation also observed that there were numerous instances of late acceptance of applications by the Share Processing Cell of Canara Bank and that a total of 1,375 applications involving 70,56,000 shares were rejected. The said bank received valid applications in respect of 1,49,00,000 shares and that as many as 268 applications in respect of 13,60,000 shares were withdrawn on the request of the applicants. In view of the irregularities, it was alleged that the company and its directors (who were in charge of the affairs of the company) had *prima facie* violated Regulation 4(a), (c) and (e) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as the PFUTP Regulations).

2. Subsequently, a notice dated November 29, 2004 was issued by SEBI to the company and its directors namely, Mr. Vipin Kumar Ohri, Mr. Rajinder Kumar Ohri, Mr. Surinder Kumar Ohri and Mr. Nirmal Kumar Ohri advising them to show cause as to why appropriate action including directions restraining them from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities for an appropriate period, should not be passed. Mr. Rajinder Kumar Ohri (Managing director of the company), vide letter dated December 24, 2004 *inter alia* stated that the work relating to the receipt and processing of applications was being handled directly by the Bankers to the Issue and the Registrar to the Issue respectively and the management of the company was in no way involved in the same. He also stated that the management of the company had no intention to defraud the investors and public. According to him, the promoters of the company come from a rural background and were not well versed with the general corporate practices. He also stated that the company was running a successful business of a flour mill and was in need of funds to expand and grow. He further submitted that Mr. S.K. Jain was introduced to the promoters

by some mutual friends to prepare a project report for getting loan from some financial institution for expansion purpose. He stated that *“Mr. S.K. Jain had suggested to the promoters that with his contacts he would help the company in raising the required resources from the capital market, to which the promoters had agreed without realizing the trap they were walking into”*. According to him, Mr. S.K. Jain who was the Managing Director of SPS International Limited (the Registrar to the Issue) and proprietor of M/s S.S Associates, was advising the company in the entire public issue. He also contended that since Mr. S. K. Jain was acting as the management consultant, he got the company to issue cheques in favour of various parties (as mentioned in the show cause notice) for purchase of machinery. Mr. Rajinder Kumar Ohri claimed that the promoters have not defrauded anyone and that Mr. S.K. Jain, through his ‘mechanizations’ used the promoters and the company for his nefarious designs and ulterior motives. I note that the company and the other directors have not filed any reply to the said show cause notice, so far. The company and its directors namely, Mr. Vipin Kumar Ohri, Mr. Rajinder Kumar Ohri, Mr. Surinder Kumar Ohri and Mr. Nirmal Kumar Ohri are hereinafter collectively referred to as the noticees and individually by their respective names.

3. Thereafter, an opportunity of hearing was granted to the notices on December 11, 2008. However, on request of the company, the said date of hearing was extended to February 19, 2009, May 29, 2009 and then to June 24, 2009. Thereafter, as requested by the noticees, SEBI had granted another opportunity of personal hearing on July 9, 2009. SEBI specifically informed the noticees that no further opportunities would be granted and they were also advised to appear in person, in case their counsel/authorized person was unable to appear. While granting a final opportunity to the notices on July 9, 2009, it was further informed that in case of their failure to appear on the said date, action would be taken on the basis of the material available on record. However, the noticees failed to appear before me on the said date and instead through their

advocate requested for an adjournment on the ground that their counsel had gone to United States of America. I note that despite providing sufficient opportunities, the company and its directors (except Mr. Rajinder Kumar Ohri) have not filed any reply nor have appeared for the hearing. They kept themselves away from the proceedings till date. On every occasion, they had sought adjournments on one pretext or another. In the facts and circumstances of the case and also considering the fact that numerous opportunities have been afforded to them, I do not consider it necessary to grant any further opportunity to the noticees and the present proceeding is being disposed of on the basis of the show cause notice, reply received from Mr. Rajinder Kumar Ohri and other material available on record.

4. The receipt of numerous late applications in the public issue of the company is not in dispute. In 86 instances, cheques attached to the applications were found to have been cleared during January 1, 1996 to January 12, 1996, when the public issue of the company had closed on November 30, 1995. The rejection summary relating to the public issue obtained from the Registrar to the issue revealed that 17.92% of applications received in the public issue of the company were rejected. It is pertinent to note that 70,56,400 shares were involved in those applications and that the same were more than twice the size of the public issue.

5. One of the allegations leveled against the company is that it had transferred funds from the collection account, immediately on allotment to M/s. S.S. Associates either directly or indirectly. It is noted that Mr. S. K. Jain, vide letter dated December 1998 (during the investigation) to SEBI, stated that the promoters of the company had assigned M/s S.S. Associates the job of taking delivery of shares purchased in grey market on 'firm' as well as 'subject to allotment basis' from various parties. Further, Mr. S. K. Jain stated to SEBI (on January 13, 2004) that *"I was told by Mr. Rajinder Ohri, Managing Director and Mr. Vipin Ohri, Director, to take the delivery of all the shares they had purchased in grey market"*.

Though, the said statement was specified in the show cause notice issued to the company and its directors, it has not been denied by Mr. Rajinder Kumar Ohri, the Managing Director of the company. In this regard, I note that Mr. Rajinder Kumar Ohri in his reply dated December 24, 2004 *inter alia* stated “ On coming to know of the business and the financial requirements of the company, the said Sh. S. K. Jain suggested to the promoters that with his contacts he would help the company in raising the requires resources from the capital market to which the promoters agreed without realizing the trap they were walking intoIn fact, Mr Jain, thru his mechanizations used the promoters and the company for his nefarious designs and ulterior motives”. (Underline supplied). The statement of Mr. S.K. Jain and the reply of Mr. Rajinder Kumar Ohri clearly establishes that there was an arrangement to ensure that the public issue does not fail. Needless to say, the said arrangement and the events that followed were not in the interest of the investors and the securities market.

6. I further note that, as per the prospectus dated October 27, 1995 issued by the company, the issue proceeds were to be utilized in the following manner:

Particulars	Rs.(Amount in lakhs)	Rs.(Amount in lakhs)
Land & Site development		3.45
Building & Civil Works		
Purchase of building	11.50	
Construction of new building	62.50	74.00
Plant & machinery		238.43
Public Issue Expenses		53.56
Margin of working capital		65.86
Vehicles		12.99
Furniture and office equipment		6.60
	Total	454.89

Instead of utilizing the subscription money for the purposes as stated above, the company had siphoned off Rs.1,06,00,000/- immediately on allotment of shares and transferred the same either directly or indirectly to M/s. S.S. Associates to

enable Mr. S.K. Jain to pay the investors/clients/sub-brokers involved in the sale of shares of the company. I note that Rs 15,00,000/- was transferred from the account of the company to M/s. S.S. Associates directly and a further sum of Rs. 91,00,000/- was indirectly transferred to M/s. S.S. Associates through six entities. The said funds were ultimately used for issuing account payee cheques to various parties against their purchase of shares (in public issue and from other sources) of the company. The details of receipt of Rs.1,06,00,000/- in the account of M/s. S. S. Associates from the company and from the six entities are as below:

Sr. No.	Payment received from	Rs.	Bank Account Details
1.	Company	15,00,000/-	Canara Bank – Issue Collection Account
2.	M/s. Dinesh Enterprises	17,00,000/-	Syndicate Bank
3.	M/s. Vishnu Associates	21,00,000/-	Corporation Bank – A/c No.316
4.	M/s. Vishal Manufacturers	17,00,000/-	Corporation Bank – A/c No.318
5.	M/s. Rama & Co.	10,00,000/-	Corporation Bank – A/c No.317
6.	M/s. Jai Bhawani Enterprises	22,00,000/-	Corporation Bank – A/c No.315
7.	M/s. Midas Enterprises	4,00,000/-	Central Bank of India –A/c No.1271
	Total	1,06,00,000/-	

The details of the payments made by M/s S.S. Associates to clients/sub-broker/investors shows that those payments have been made around the first fortnight of February, 1996. The timing of such payments clearly establishes that the intention behind such payments were to use them for purchasing shares from the parties who have acquired the shares in the public issue. Further, the aforesaid fund transfers to M/s S.S. Associates after the public issue were also independently verified by making enquiries with various banks. The information so obtained from the banks also corroborates the aforesaid finding. Further, it is noted that out of the aforesaid entities, the bank accounts of M/s. S.S. Associates, Vishal Manufacturers, Vishnu Associates, Rama & Co. and Jai Bhawani Enterprises had been opened after they were introduced by Mr. S.K. Jain, the proprietor of M/s. S.S. Associates. Further, it is also seen that the majority of the bank accounts were opened only after the closure of the public issue of the

company. The details of such bank accounts as obtained from Corporation Bank, New Friends Colony Branch, New Delhi are mentioned below:

No.	Name of the Account holder	Account No.	Introducer's Name	Proprietor Name	Current Status of the Account	Date of Opening of A/c.	Date of closure of Account.
1.	S.S. Associates	171	NA	S.K.Jain	Closed	N.A.	6.11.96
2.	Vishal Manufacturers	318	S.K. Jain	Rikki Chaudhary	Closed	9.2.96	15.11.96
3.	Vishnu Associates	316	S.K. Jain	Suresh Chander	Closed	9.2.96	19.8.96
4.	Rama & Co.	317	S.K. Jain	Raj Mehra	Closed	9.2.96	24.2.97
5.	Jai Bhawani Enterprises	315	S.K. Jain	Bhola Nath	Closed	9.2.96	15.11.96

7. It is pertinent to note that the public issue of the company was finalized on January 30, 1996 and the refund orders were dispatched on February 5, 1996. In this background, it is evident that the motive behind the opening of those accounts was to receive funds from the company and to transfer the same later on to M/s. S.S. Associates, after the closure of the public issue to enable payments for grey market purchases. The same would further support the statement of Mr. S.K Jain. I note that SEBI had also received letters written by the company in December 1996 to M/s. S.S. Associates and the other six entities (M/s. Vishal Manufacturers, M/s. Vishnu Associates, M/s. Rama & Co., M/s. Jai Bhawani Enterprises, M/s. Dinesh Enterprises and M/s. Midas Enterprises) through whom M/s. S.S. Associates had received money from the company. Through the said letters, the company claimed that an advance of a certain amount was paid and the machinery ordered for had not been delivered. This appears to be an attempt on the part of the company to cover up the fact of siphoning of funds for their grey market operations through Mr. S.K. Jain. A copy of this letter was also sent to Mr. S.K. Jain by the company.

8. In view of the above, I note that the company and its directors in connivance with Mr. S.K. Jain (proprietor of M/s. SS. Associates) have induced the

investors to subscribe to the public issue, promising them that the shares would be purchased back after the closure of the public issue. Their intention was to create an interest in the investors and the market to ensure that the public issue was subscribed fully. Their conduct in doing so is fraudulent and unfair. I also note that the fact of siphoning of funds immediately after the allotment is clear from the bank records, which shows the transfer of funds from the company's bank account to that of M/s S. S. Associates and the other six entities from whom the funds ultimately reach M/s S. S. Associates. Most of the bank accounts of the aforesaid entities were opened only after the closure of the public issue. I also note that the motive behind making the above arrangement was to transfer money from the company to enable payments for grey market operations. An arrangement was made with Mr. S K Jain by the company to take delivery and pay for the shares apparently at rates agreed before the issue had even opened. These rates could not have been determined at the exchange as the shares were not listed when the grey market operations were carried out. Such operations have the effect of manipulating the price of the shares after the shares are listed.

9. I note that Mr. S.K. Jain in his statement (to SEBI) dated January 13, 2004, *inter alia* stated "The Ohris provided me the finance for making payments against these shares. This finance was provided to me by FAL by transferring funds after allotment was made in the public issue to my firm S.S. Associates through about a dozen other proprietorship firms. From this amount, the firm S.S. Associates made the payments to the respective persons by Account Payee cheques and the shares received from these persons along with marketable sale deeds were tallied and delivered to Ohris under acknowledgement from them." [Underline supplied] With respect to the delivery of shares to the promoters of the company, the noticee stated that *"These shares were delivered to Sh. Rajinder Ohri and Sh. Vipin Ohri, Directors of the company on various dates starting from 20.02.96 till 12.3.96."* From the above statement, I find that funds were transferred by the company/its directors to M/s S.S. Associates which were then used to pay the persons from

whom shares were received and that those shares were delivered to two of the directors of the company. This would establish how fraudulently the noticees were manipulating the public issue in utter disregard to the interest of the investors and securities market in general.

9. I also note that the Hon'ble Securities Appellate Tribunal (in Appeal No. 51 of 2003- S.K. Gupta Vs SEBI) in its order dated June 2, 2006 had observed, *"It is obvious that Ashok Chawla and S.K. Gupta had both connived with each other to artificially oversubscribe the issue so that value of the scrip of the company increases in the market. When a public issue of any company gets oversubscribed it is the promoters of that company who are the beneficiaries because they are the ones who hold the shares in substantial number but when this is manipulated it obviously affects the innocent investor in the market who tends to purchase the same and pays more than the worth of the share."*

10. Obviously, the noticees had transacted in a fraudulent manner in respect of the public issue of the company, which is prohibited under Regulation 3 of the PFUTP Regulations. The noticees were never expected to be a part of the fraudulent artifice to induce investors to subscribe for shares in the public issue of the company. The same would definitely have been at a premium. By indulging in such acts, the notices have influenced the price of the securities by their non-genuine transactions. The notices have thus contravened Regulation 4(a), (c) & (e) of PFUTP Regulations. In view of the above findings, I find that the noticee have violated the aforesaid provisions.

11. In view of the foregoing, I, in exercise of the powers conferred upon me under Section 11B of the Securities and Exchange Board of India Act, 1992 read with Regulation 11 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, hereby restrain Fine Agromatics Limited and its directors, Mr. Vipin Kumar

Ohri, Mr. Rajinder Kumar Ohri, Mr. Surinder Kumar Ohri and Mr. Nirmal Kumar Ohri from accessing the securities market and prohibit them from buying, selling or otherwise dealing in securities in any manner, directly or indirectly, for a period of two years.

12. This order shall come into force with immediate effect.

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

PLACE: NEW DELHI
DATE: DECEMBER 18, 2009