

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, AGAINST MR. S.K. JAIN 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. Mr. S. K. Jain (hereinafter referred to as the noticee), vide letter to SEBI (during the course of investigation) admitted that he had carried out grey market operations in the shares of the company, after entering into a Memorandum of Understanding with the company. In view of the same, he was alleged to have violated Regulation 4(c) & (d) of 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. Thereafter, SEBI issued a notice dated November 29, 2004 to the noticee requiring him to show cause as to why appropriate action for his role *inter alia* in the public issue of the company, including directions restraining him from accessing the securities market and prohibiting from buying, selling or otherwise dealing in securities market for an appropriate period, should not be imposed. The noticee, vide letter dated December 1, 2004 *inter alia* stated that he had not played any foul role, nor had he indulged in manipulation of price. He further stated that in the instant case, the shares were purchased by promoters and he was made instrumental only for taking the deliveries from the stock brokers, for making the payment on behalf of promoters and for giving deliveries to the promoters. He further contended that that there is no question of any price manipulation because the entire shares were purchased before the issue was listed. He also submitted that he had never admitted that he

manipulated its price or that the shares taken by him were off loaded in the market. Thereafter, an opportunity of hearing was granted to the noticee on December 11, 2008, wherein, he appeared and made submissions on the lines of his earlier reply dated December 1, 2004.

3. I have considered the show cause notice issued to the noticee, his oral as well as written submissions and other material available on record. I find that the noticee played an active role in the public issue of the company to induce investors to subscribe to the issue through fraudulent means. I further note that on being asked about his role in the public issue apart from acting as registrar to the issue, the noticee admitted his grey market operations. In his statement made to SEBI on January 13, 2004, the noticee stated *"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 through Mr. Devendra Gupta, Chartered Accountant and Mr. Sanjay Mehra, Chartered Accountant.....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."* The said statement would prove the fraudulent acts of the noticee and the directors of the company in the public issue. The noticee had admitted that he had entered into an arrangement with the promoters of the company to take delivery of shares on 'firm basis 'as well as 'subject to allotment basis'. There is no dispute with regard to the receipt of funds to M/s. S. S. Associates from the company, either directly or indirectly. I note that, instead of utilizing the subscription money for the purposes as stated in the prospectus, 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 the noticee to pay the investors/clients/sub-brokers involved in the sale of shares of the company. I also 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/-	

4. 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

the noticee (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

5. 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. 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. I observe that the noticee in his statement (to SEBI) dated January 13, 2004, *inter alia* stated "The Ohrs 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 by it 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 the noticee in collusion with the directors of the company were manipulating the public issue which was detrimental to the interest of the investors and securities market. I also note that the Hon'ble Securities Appellate Tribunal (in Appeal No. 51 of 2003) 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." The facts and circumstances of the case establishes that the noticee was a necessary party in the fraudulent acts which is prohibited under Regulation 3 of the PFUTP Regulations. In view of the above, I find that the noticee in collusion with the company and its directors 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.

6. The noticee had thus 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 notice had promised the investors of purchasing back

the shares they have acquired in the public issue. The same would definitely have been at a premium. The noticee along with the promoter/director of the company made a device to cause fluctuation in the price of the securities. The noticee being the Managing Director of SPS International Limited (the Registrar to the public issue of the company) has clearly been a part of the fraudulent artifice to induce investors to subscribe for shares in the public issue of the company. By indulging in such acts, the noticee has influenced the price of the securities by his non-genuine transactions. In view of the same, the noticee has contravened Regulation 4(c) & (d) of the PFUTP Regulations. In view of the above findings, I find that the noticee have violated the aforesaid provisions.

7. 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 Mr. S. K. Jain from accessing the securities market and further prohibit him from buying, selling or dealing in securities, either directly or indirectly, for a period of one year.

8. 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