

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA**

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

**ORDER**

**UNDER SECTIONS 11, 11B AND 11(4) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 11 OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET) REGULATIONS, 2003 IN THE MATTER OF NORRIS MEDICINES LIMITED**

1. Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted an investigation into the transactions in the scrip of Norris Medicines Limited (hereinafter referred to as NML). The investigation conducted by SEBI *inter alia* observed that NML in its Extra-ordinary General Meeting held on June 22, 2000 passed a Resolution under Section 81 (1A) of the Companies Act, 1956, by which, its Board of Directors was authorized to issue, offer and allot equity shares not exceeding 1,80,00,000 shares of Rs. 10/- each fully paid up in one or more tranches through preferential offer/private placement to PHC Holdings Limited (hereinafter referred to as PHI) and Positive Healthcare Asia Limited (hereinafter referred to as PHAL). Accordingly, 90,00,000 shares were allotted to PHAL on September 21, 2000 for which NML had received Rs. 9,00,00,000/- in Bank A/c No. 2115 maintained with The Jai-Hind Co-operative Bank Limited, from PHAL on September 21, 2000. It was observed that NML transferred the said funds immediately to PHAL, through Indeen Investment & Agencies Private Limited, Foundation Securities & Finlease Private Limited, Shri Dwarikadhish Securities & Finlease Private Limited and Ethics Securities & Finlease Private Limited on September 22, 2000. Thus, it was *inter alia* observed that NML did not actually receive the consideration for the allotment of

shares as the amount received by it was found to have been returned to PHAL on the same date, as mentioned above. Besides, it was also found that some of the shares which were allotted on preferential basis without consideration were traded subsequently in the market. It was alleged that NML, its Chairman, Mr. B. N. Thakore, its Joint Managing Director, Mr. N.J. Patel and director, Mr. Nimish B. Thakore along with Indeen Investment & Agencies Private Limited, Foundation Securities & Finlease Private Limited, Shri Dwarikadhish Securities & Finlease Private Limited and Ethics Securities & Finlease Private Limited had contravened Regulation 3 and 6(a) 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). It was further observed that PHAL had transferred the allotted 90,00,000 shares of NML to one Falgun C. Shah (a friend of Mr. Nimish B. Thakore) on March 31, 2001. The investigation conducted by SEBI found that Mr. Falgun C. Shah had transferred 87,00,000 shares of NML to several persons including Mr. Dharmendra D. Oza (2,50,000 shares), Mr. Badri Baldwala (50,000 shares) and Mr. Dharmesh K. Sheth (81,50,000 shares). Mr. Falgun C. Shah himself had sold 1,40,255 shares (which were not listed at the exchange) in December 2001, through the stock broker namely Sanghvi Brothers Brokerage Limited, to the public at large. The investigation further revealed that Mr. Dharmesh K. Sheth had transferred back 76,50,000 shares to Mr. Falgun C. Shah on January 1, 2004. Similarly, Mr. Dharmendra D. Oza had sold 1,54,410 shares in the market during the month of December, 2001 and returned the remaining 95,590 shares to Mr. Falgun C. Shah. Thus, it was observed that Mr. Falgun C. Shah and Mr. Dharmendra D. Oza acted as conduits for the transfer of shares of NML and that they had aided and abetted NML, its promoters, its directors and PHAL in perpetrating the fraud and thereby *prima facie* committed the violation of Regulation 3 and 6(a) of the PFUTP Regulations. Accordingly, notices dated April 16, 2008 were issued to NML, Mr. B.N. Thakore, Mr. N.J. Patel, Mr. Nimish B. Thakore, PHAL (including its director Mr. Nimish B. Thakore), Indeen

Investment & Agencies Private Limited, Shri Dwarikadish Securities & Finlease Private Limited, Ethics Securities & Finlease Private Limited, Foundation Securities & Finlease Private Limited, Mr. Falgun C. Shah and Mr. Dharmendra D. Oza *inter alia* to show cause as to why suitable directions including direction of restraining from accessing securities market for a specific period.

2. Mr. Falgun C. Shah, vide letter dated May 7, 2008 requested for forty five days to submit his detailed reply. Thereafter, vide letter dated June 10, 2008, Mr. Falgun C. Shah again sought extension of time. However, no such reply has been received from him to date. Mr. Nimish B. Thakore and Mr. B.N. Thakore, vide a joint letter dated June 10, 2008 *inter alia* stated that as the share price of NML never went beyond Rs.12-13/- at any time, it is clear that there was no intention on the part of the promoters/NML in manipulating the share price. They also stated that the majority of the shares which were dematerialized had since been rematerialized and therefore, the purported mistake of not taking prior approval from SEBI was unintentional. Though, they stated that a detailed reply would be filed in the matter, no such reply was received from them. Mr. Dharmendra D. Oza (through his brother, Mr. Jagdish D. Oza), vide letter dated June 14, 2008 *inter alia* stated that he proposed to avail the consent process in accordance with the SEBI Circular dated April 20, 2007. Though, he had requested ten days for making the requisite application, no such application was received from him by SEBI. Indeen Investment & Agencies Private Limited, Foundation Securities & Finlease Private Limited, Shri Dwarikadish Securities & Finlease Private Limited and Ethics Securities & Finlease Private Limited have not responded to the show cause notice. PHAL, though it acknowledged the show cause notice, failed to respond.

3. Mr. N.J. Patel, vide letter dated May 5, 2008 *inter alia* requested for a further period of thirty days to submit the reply. Subsequently, vide separate letters dated June 7, 2008, Mr. N.J. Patel and NML again sought further

extension for filing their reply. Thereafter, as requested by NML, vide letter dated July 5, 2008, SEBI granted time upto July 30, 2008 for filing their reply to the show cause notice. However, SEBI had not received any reply, either from N. J. Patel or NML as had informed earlier and instead, vide letter dated July 28, 2008 (received by SEBI on July 30, 2008) NML requested for further extension of time for filing its reply. Thereafter, the time to file the reply was extended from time to time as per the request of NML. Finally, Mr. N.J. Patel, vide letter dated March 7, 2009 filed the reply on behalf of himself and NML. The submissions made by them in the said letter are *inter alia* the following:

- a) NML was promoted by Mr. N. J. Patel along with other directors in the year 1990 as a private limited company. Being a technical person, he was looking after the technical aspects as well as marketing of the products produced by NML since inception and was not in its day-to-day management. That after taking over the reins of NML with effect from June 1, 2001, its Mumbai Office was closed and Mr. N. J. Patel was in complete charge of the affairs of NML. NML started facing severe financial crunch from the financial year 1998 onwards and therefore, started looking out for various alternatives of infusing funds in NML. Mr. Nimish B. Thakore, an alternative director of NML, brought a proposal for and on behalf of M/s. Positive Healthcare LLC, a company situated in United States of America (USA) to infuse certain fund on the condition that the control and the management of NML to be handed over to M/s. Positive Healthcare LLC and accordingly a Memorandum of Understanding (MoU) was also signed by the directors of NML and Positive Healthcare Limited on April 2000. That, pursuant to the MoU, NML was required to increase the share capital and to issue 90,00,000 shares each to PHC Holdings LLC, USA and Positive Healthcare (Asia) Limited, Chennai. Mr. Nimish B. Thakore and Mr. Ashok Narasimhan (Chief Executive Officer of Positive Healthcare Limited) jointly assumed the responsibility of managing the affairs of NML with effect from July 1, 2000.
- b) Mr. N. J. Patel started once again handling the affairs of NML from June 1, 2001. He also submitted that the Board meeting held on June 21, 2002

authorized him to sign the documents relating to request for dematerialization or re-materialization of the shares issued by NML.

c) The share capital of NML was not increased to reflect the issuance of 90,00,000 shares and copy of the Annual Report for the year 2006-07 and 2007-08 was also submitted in this regard. After taking the charge of NML from June 1, 2001, he started inspecting the books of NML and also tried to revive NML. NML became a sick company and was initially registered with The Bombay Relief Undertakings (Special Provisions) Act, 1958 for the period from 2002 to 2003 and even as of today is registered with the Board for Industrial and Financial Reconstruction (BIFR) as a sick company.

d) According to him, neither he nor NML had made any misrepresentation or concealment of facts and on the other hand, on behalf of NML, he had only informed the registrar to issue, NSDL as well as SEBI that the shares was issued without receipt of consideration.

In view of the above submissions, Mr. N.J. Patel requested to drop the proceedings in so far as it relates to NML and himself.

4. Thereafter, an opportunity of personal hearing was granted on January 27, 2009. However, on request of the entities, another opportunity was provided on March 12, 2009, wherein, NML and its Joint Managing Director, Mr. N. J. Patel appeared and made submissions on the lines of its reply dated March 7, 2009. Subsequently, Mr. B. N. Thakore, Mr. Nimish B. Thakore, vide letter dated March 9, 2009 requested for a 'final opportunity' of hearing. Similar request was also received from Mr. Falgun C. Shah. Thereafter, a final opportunity of hearing was granted on May 15, 2009, as per their requests. On the said date, Mr. Falgun C Shah appeared before me and was granted time upto May 24, 2009 to provide the documents. Mr. B. N. Thakore and Mr. Nimish B. Thakore failed to appear before me on the said date. Thereafter, vide letter dated March 30, 2009, NML *inter alia* stated that it had not violated the provisions of law. Subsequently, vide letter dated July 3, 2009, Mr. Falgun C Shah *inter alia* submitted copy of share transfer instruction from Mr. Nimish B.

Thakore. As the other entities/persons mentioned in the respective show cause notices, neither filed replies nor appeared for the hearing, I do not consider it necessary to provide further opportunities to them and the present proceedings is disposed of on the basis of the replies/submissions made by the parties (as stated above) and other material available on record.

5. I have examined the show cause notices, the replies (as stated above) and other materials available on record. One of the allegations is that, NML had issued 90,00,000 shares to PHAL without the actual receipt of consideration. The investigation conducted by SEBI observed that, the directors of NML had entered into a Memorandum of Understanding (MoU) with Positive Healthcare LLC (hereinafter referred to as PHC) on April 29, 2000, to bring in Rs. 15,00,00,000/- as additional equity in the form of preferential allotment for enabling NML to repay its debts to banks and financial institutions. Thereafter, the Board of Directors of NML in its meeting held on May 22, 2000 resolved to issue and allot 1,80,00,000 equity shares of Rs.10/- each to PHC and their associates subject to approval of shareholders. Accordingly, NML in its Extra Ordinary General Meeting held on June 22, 2000 passed a resolution under Section 81 (1A) of the Companies Act, 1956 wherein its Board of Directors was authorized to issue, offer and allot equity shares not exceeding 1,80,00,000 shares of Rs. 10/- each fully paid up in one or more tranches through preferential offer/private placement to the associates of PHC namely, PHI and PHAL. Subsequently, NML had allotted 90,00,000 shares to PHAL on September 21, 2000 for which it had received Rs.9,00,00,000/- from PHAL on the very same date. Immediately, on September 22, 2000, NML had transferred the said amount to PHAL through four entities on September 22, 2000 itself, as given below:

| Name of the Entity                           | Bank A/c No.* | Cheque No. | Amount (Rs.) |
|----------------------------------------------|---------------|------------|--------------|
| Indeen Investment & Agencies Private Limited | 942           | 514738     | 1,50,00,000  |

|                                                         |      |        |                    |
|---------------------------------------------------------|------|--------|--------------------|
| Foundation Securities & Finlease Private Limited        | 1495 | 514740 | 3,00,00,000        |
| Shri Dwarikadhish Securities & Finlease Private Limited | 1496 | 514739 | 2,50,00,000        |
| Ethics Securities & Finlease Private Limited            | 1497 | 514741 | 2,00,00,000        |
| <b>Total</b>                                            |      |        | <b>9,00,00,000</b> |

\* All the above accounts were maintained with The Jai-Hind Co-operative Bank Limited. The aforesaid entities transferred the said amount to PHAL on the very same date.

6. The aforesaid entities namely, Indeen Investment & Agencies Private Limited, Foundation Securities & Finlease Private Limited, Shri Dwarikadhish Securities & Finlease Private Limited and Ethics Securities & Finlease Private Limited were found to be related/connected with PHAL. It was found that Mr. Nimish B. Thakore was a common director of NML and PHAL. He was also the authorized signatory of PHAL. Besides, one Mahesh Mansukhani was found to be a common director of PHAL and Indeen Investment & Agencies Private Limited. Mr. Mahesh Mansukhani also shared the address with one Gobind Mansukhani who was found to be a director of Foundation Securities & Finlease Private Limited, Shri Dwarikadhish Securities & Finlease Private Limited and Ethics Securities & Finlease Private Limited. Thus, the money received from PHAL was immediately given back to it by NML through the aforesaid entities (closely connected) which acted as conduits in the process. Thus, there was no actual receipt of allotment money by NML. The transfer of money to the said entities and the further transfer from their respective accounts to the account of PHAL is not disputed before me. Mr. N.J. Patel in his reply to the show cause notice contended that he had found that Rs.9,00,00,000 received by NML was given as loan and advance on the same day to the associates of PHC. I cannot accept the said plea for various reasons. First of all no documents in support of the same were submitted. Further, NML was unable to establish whether the said amount was repaid by the said entities. What makes it more suspicious is the fact that the allotment money was transferred immediately by NML to PHAL. In terms of the MoU (*inter alia* signed by Mr. N. J. Patel, Mr. Nimish B. Thakore, Mr B. N. Thakore), PHC was to bring in Rs. 15,00,00,000/- as additional equity

in the form of preferential allotment for enabling NML to repay its debts to banks and financial institutions. Further, it was also stated therein that, the promoters/directors who had signed the said MoU was holding 26% of the total paid up capital of NML and that they had *inter alia* availed finance from the banks. In terms of the MoU, the promoters/directors had agreed to sell/transfer/assign their holding in NML on the terms and conditions enumerated therein. Some of the conditions of MoU are reproduced hereinbelow:

“4. ....

a. *The party of the second part shall subject to requisite formalities of The Bombay Stock Exchange, The Securities and Exchange Board of India, The Reserve Bank of India and any other authority bring in an amount of Rs.15.0 crores (Fifteen crores) as additional equity capital in 'NORRIS' and in the form of a preferential allotment and the party of the First Part and NORRIS shall take such steps as to enable sanction of the shareholders for increasing the capital and for preferential allotment to the party of the Second Part. All expenses for increasing the Authorised Capital and subsequent allotment of equity shares to the party of the Second Part shall be borne and paid for in advance by the party of the Second Part.*

b. *The Party of the Second Part shall use the amount of Rs.15.0 crores bought in by it in any manner it deems fit, but expressly agrees to in the first instance to repay Banks & Financial Institutions such sums of money as may be agreed to and settled with the banks and financial institutions but not exceeding 15.0 crores so as to ensure smooth debt free working of 'NORRIS'. The party of the First Part expressly hereby agrees that they or 'NORRIS' shall have no right or claim against any sum brought in by the party of the Second Part and shall co-operate with the party of the Second part in negotiating and settling the existing liabilities of Banks & Financial Institutions.”*

7. As per the above clauses of the MoU, the consideration money was supposed to be utilized for repaying the debts of NML to the banks. As per

Clause 4(b) of the MoU (mentioned above), NML as well as its promoters/directors did not have any rights or claim against any sum brought in by PHC and that they shall further co-operate with PHC in negotiating and settling the existing liabilities of Banks & Financial Institutions. I also note that NML, in its letter (dated June 27, 2001) enclosed a certificate dated June 26, 2001 wherein it was stated that the funds were to be utilized for repayment of Bank/Financial Institutions loan as per the MoU. If the infusion of money was intended for the repayment of debts to banks and financial institutions, how could NML transfer the same, immediately on its receipt to PHAL? The parties have failed to establish that the consideration was used for repaying the debt of NML, as specified in the MoU. On the other hand, it was contended that the said amount was given as loan/advances. In this regard, I also note that NML in its letter dated June 15, 2007 (to SEBI) *inter alia* stated “*Required fund was taken back by the PHAL and hence shares allotted were stated illegal*” Thus, it is very clear that NML did not receive consideration in respect of the preferential allotment. Further, as mentioned above in this order, the said four entities (through which the money was transferred from NML to PHAL) were closely connected to each other. The above facts would establish the malafide intention on the part of NML, PHAL, Indeen Investment & Agencies Private Limited, Foundation Securities & Finlease Private Limited, Shri Dwarikadish Securities & Finlease Private Limited and Ethics Securities & Finlease Private Limited

8. I also note the submission of Mr. N. J. Patel that, “*As a result, on 22.05.2000 I was a Board Director and hence attended the meeting. In fact in the Board Meeting dated 22<sup>nd</sup> May, 2000, the draft MOU was discussed and further resolution were taken in pursuance to the MOU. Thus in this meeting the Board has resolved to issue further shares to the PHC Group. Hence there is no dispute of the fact that on 22<sup>nd</sup> May, 2000, I was a Board Director of the Company. It is not in dispute that E.G.M. dated 22<sup>nd</sup> June, 2000 was held in order to further act on the MOU and to issue preference shares to the PHC*”

*Holdings and their associates. It is also not in dispute that even on 22nd June, 2000 when the said EGM was held I was a Board Director in charge of the Technical aspects of the company. However, it is disputed that on 4<sup>th</sup> September, 2000 I was part of control and management of the company.*" I note that the Board of Directors of NML in its meeting held on May 22, 2000 resolved to issue and allot 1,80,00,000 equity shares of Rs.10/- each to PHC and their associates subject to approval of shareholders. Admittedly, Mr. N. J. Patel being the Joint Managing Director of NML, had attended its Board meeting on May 22, 2000 which had resolved to issue shares to the PHC Group. He contended that from November 2000 to December 2000 and April 2001 to May 2001, he was abroad. He also stated that in the year 2001, he got information that Positive Healthcare Group had not brought the required funds and that NML was mismanaged by PHC. Even this plea is contrary to the facts. In terms of the MoU entered into between the promoters/directors of NML and PHC, the latter was required to bring in the money on or before September 2000. Mr. N. J Patel was a signatory to the said MoU. According to Mr. N. J Patel, he went abroad only in the month of November 2000. Besides, the shares were allotted to PHAL on September 21, 2000 itself. In this scenario, how could he take the plea that he came to know that PHC had not brought in money, only in 2001? Further, his statement that PHC had not brought the required funds goes to establish that NML had allotted shares without receipt of the consideration. Such irregularly allotted shares were subsequently offloaded in the securities market. In the facts and circumstances, I can only hold that the allotment money was never actually received as the same was given back to PHAL, immediately. I note that Mr. N.J Patel had stated that, 76,50,000 shares out of the allotted 90,00,000 shares have been located and rematerialized, thereafter. However, according to him, the remaining shares could not be rematerialized as they were in possession of certain entities close to Mr. Nimish B. Thakore. Why would the shares be bought back if the same were properly allotted? Further, I note that NML, vide letter dated December 19, 2003 to National Securities

Depository Limited (NSDL) *inter alia* stated “The share certificates of 90,00,000 shares was dematerialized. However, subsequently, Positive Healthcare Inc. did not honour the terms of memorandum and did not bring in the required funding”. If the money was not paid by PHAL, how could NML allot and dematerialize such irregularly allotted shares? Besides, I note that, NML, vide letter dated February 28, 2004 (signed by Mr. N. J. Patel) informed LKP Shares & Securities Private Limited that the said shares were issued fraudulently and without proper authorization as per its primary inspection and reconciliation. The above incidents/statements would prove the irregularity in the allotment. I would also like to note here that these steps were initiated in the year 2003 when NML and its directors in the year 2000 would have known that the shares were allotted without the receipt of consideration and thus the same was irregular. I note the following observation of the Hon’ble Securities Appellate Tribunal in the matter of Aastha Broadcasting Network Limited Vs. Securities and Exchange Board of India:

*“.....In view of these specific instances referred to by the Board we have no hesitation to hold that the funds were rotated through intermediaries only as name lenders and that the company received only a meagre sum of Rs. 2.83 crores as against the issue size of Rs. 9.3 crores. In this view of the matter, the Board was right in holding that the appellant company played a fraud on the existing investors of the company who held 7 lac shares and that the investors in the market were led to believe that the preferential allotment was successful. This in turn would have increased the demand for the shares of the appellant company and would have resulted in defrauding the innocent investors had the Board not passed the interim order on 15.1.2004 prohibiting the appellant and its entities from buying, selling or dealing in scrips..”*

9. In the facts and circumstances, I find that NML had issued and allotted its shares fraudulently on preferential basis without receipt of actual

consideration. A part of such shares were subsequently offloaded in the market to the genuine investors. In view of the above, I do not have any hesitation in holding that the act of NML in allotting shares to PHAL without the receipt of consideration is fraudulent. Thus, I find that NML had violated Regulation 3 and 6(a) of the PFUTP Regulations.

10. Mr. N.J. Patel, the Joint Managing Director of NML, was in-charge of and was responsible for the conduct of the business of NML during the relevant period is also liable for the aforesaid violation. Though, Mr. N J Patel claimed that he was not in the management of the company and blamed Mr. B. N. Thakore and Mr. Nimish B. Thakore for the said fraud, he could not produce any proof to establish the change in management of NML. I also note the following observation of the Hon'ble Supreme Court of India in the matter of S.M.S. Pharmaceuticals Limited vs. Neeta Bhalla and another [(2005) 8 SCC 89]:

*"The question notes that the managing director or joint managing director would be admittedly in charge of the company and responsible to the company for the conduct of its business. .... By virtue of the office they hold as managing director or joint managing director, these persons are in charge of and responsible for the conduct of business of the company."*

11. Mr. N. J. Patel in his reply to the show cause notice stated that, from July 1, 2000 to June 1, 2001, Mr. Nimish B. Thakore with the active help of Mr. Ashok Narasihman and other Directors were controlling the management of NML. He further stated that Mr. Nimish B. Thakore was the part of the Board when issues related to MoU with PHC group, issuance of shares to PHC group were discussed. According to Mr. N. J. Patel, on coming to know that allotment money was given as loan and advances to the four entities, a letter dated August 20, 2001 was written by the directors of NML to the representatives of

PHC stating that they were required to bring in the funds as per MoU. He further stated that the said letter was signed by 3 directors i.e. Mr. N. J. Patel, Mr. Nakul L. Upadhaya and Mr. Suresh G. Patel. However, Mr. B. N. Thakore and Mr. Nimish B. Thakore had not signed the same. He further contended that, a letter dated December 19, 2003 was written by him to NSDL *inter alia* informing that Mr. Nimish B. Thakore was given the control of NML. Though, the copy of the said letter formed a part of the show cause notice issued to various persons/entities, including Mr. B. N. Thakore and Mr. Nimish B. Thakore, the same remained undisputed. I also note that Mr. N.J. Patel, in his reply had contended that a new current account was opened in the name of NML with The Jai Hind Co-op. Bank Limited, Mumbai without any authorization of the Board of NML and that none of the directors other than Mr. B. N. Thakore and Mr. Nimish B. Thakore were involved in the financial aspects of NML for the period from July 1, 2000 to May 31, 2001. I also note that PHAL (Mr. Nimish B. Thakore was one of the directors) had also opened an account with The Jai Hind Co-op. Bank Limited, Mumbai, during June 2000. Besides, Mr. B. N. Thakore and Mr. Nimish B. Thakore were the signatories of the above mentioned MoU, in their capacity as the promoters/directors of NML. In view of the above, it can be held that Mr. B. N. Thakore and Mr. Nimish B. Thakore were also in charge and were responsible for the conduct of the business of NML during the relevant period. Mr. B. N. Thakore and Mr. Nimish B. Thakore did not make any effort to controvert the same. I note that Mr. Nimish B. Thakore was a common director in both NML and PHAL, the allottee. He was also the authorized signatory of PHAL. Thus, Mr. B. N. Thakore and Mr. Nimish B. Thakore in their capacity as the directors of NML had also committed the violation of Regulation 3 and Regulation 6 (a) of PFUTP Regulations.

12. It is already established that NML had allotted shares to PHAL without the receipt of actual consideration. A part of the shares, thus, allotted had also traded in the securities market. Indeen Investment & Agencies Private Limited,

Foundation Securities & Finlease Private Limited, Shri Dwarikadish Securities & Finlease Private Limited and Ethics Securities & Finlease Private Limited had acted as conduits in the transfer of allotment money from NML to PHAL. The modus operandi of the same has been explained above. They were necessary parties in routing the funds between NML and PHAL and thus aided them in the fraudulent activities. Though, sufficient opportunities were afforded, the said entities failed to reply or appear in the personal hearing. In the facts and circumstances, I have no hesitation in holding them also guilty of violating Regulation 3 and 6(a) of the PFUTP Regulations, as they were the necessary parties in the fraudulent activities.

13. It was also observed from the demat account of PHAL (no. 11456837 maintained with the Standard Chartered Bank) that, it had transferred the entire 90,00,000 shares allotted by NML on preferential basis, to Mr. Falgun C. Shah on March 31, 2001. The said shares were not listed at the exchange. Besides, the shares which were allotted on preferential basis were under 'lock-in' for a period of one year as per Clause 13.3.1 (c) of the then existing provisions of Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000. Some of those shares were traded in the securities market. It is also not in dispute that Mr. Falgun C. Shah is the friend of Mr. Nimish B. Thakore. Thus, PHAL acted in a fraudulent manner. Analysis of the demat account of Mr. Falgun C. Shah revealed that he had transferred the shares to various entities namely Mr. Dharmendra D. Oza (2,50,000 shares), Mr. Badri Baldawa (50,000 shares), Mr. Dharmesh K. Sheth (81,50,000 shares). Further, during the month of December 2001, Mr. Falgun C. Shah had also sold 1,40,255 shares (which were not listed in the exchange) to the public at large. Mr. Dharmendra D. Oza had received the aforesaid 2,50,000 shares from Mr. Falgun C. Shah on July 28, 2001. Mr. Dharmendra D. Oza, subsequently sold 1,54,410 shares, in the market during December 2001. It was also observed that Mr. Dharmendra D. Oza had returned 95,590 shares to Mr. Falgun C. Shah

on January 19, 2002. Thus, Mr. Dharmendra D. Oza and Mr. Falgun C. Shah were necessary parties in the sale of irregularly allotted shares, in a fraudulent manner. They also acted as conduits for the transfer such shares. By selling unlisted shares in the market, Mr. Falgun C. Shah and Mr. Dharmendra D. Oza have committed fraud on the genuine investors. Thus, in the facts and circumstances of the case, I do not have any hesitation in holding that PHAL, Mr. Falgun C. Shah and Mr. Dharmendra D. Oza have violated Regulation 3 and 6(a) of the PFUTP Regulations.

14. Therefore, I, in exercise of the powers conferred upon me under Sections 11, 11B and 11(4) of the Securities and Exchange Board of India Act, 1992 read with Section 19 thereof and 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 Norris Medicines Limited [having its address at Plot No.901/4-5, GIDC Estate, Ankleshwar, Gujarat– 393002], Mr. B. N. Thakore [Chairman, Norris Medicines Limited, GIDC Estate, Ankleshwar, Gujarat– 393002], Mr. N. J. Patel [Joint Managing Director, Norris Medicines Limited having his Permanent Account Number AEBPP4529E] and Mr. Nimish B. Thakore (in his capacity as the director of Norris Medicines Limited and Positive Healthcare Asia Limited and having his Permanent Account Number AHBPT0464B), Positive Healthcare Asia Limited [having its address at Prasad Chambers, Flat No. 7, 97 A, Peters Road, Chennai- 600086], Indeen Investment & Agencies Private Limited [having its address at LB-25, Prakash Deep Building, 7 Tolstoy Marg, New Delhi-110001], Shri Dwarikadish Securities & Finlease Private Limited, Ethics Securities & Finlease Private Limited, Foundation Securities & Finlease Private Limited [having their address at 117, Rohini Complex, W-121 Sahkarpur, Delhi-1100092] Mr. Falgun C. Shah [having his Permanent Account Number AMZPS3436P] and Mr. Dharmendra D. Oza [having his Permanent Account Number AADPO9976E] from accessing the securities market and further

prohibit them from buying, selling and dealing in the securities market in any manner, either directly or indirectly, for a period of three years.

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

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

**PLACE: MUMBAI**  
**DATE: DECEMBER 31, 2009**