

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: PRASHANT SARAN, WHOLE TIME MEMBER**

IN THE MATTER OF TWENTY FIRST CENTURY (INDIA) LTD.

**In respect of Dinesh Kumar Modi
(SEBI Registration No. INB 030741610)**

Date of hearing: July 23, 2010

Appearances

For Noticee: Mr.Dinesh Kumar Modi
For SEBI: Mr. G. Ramar, Deputy General Manager
Mr. N. Sunil, Assistant General Manager
Ms.Vasudha Goenka, Legal Officer

ORDER

Under Regulation 28(2) read with Regulation 38 (2) of Securities and Exchange Board of India (Intermediaries) Regulations, 2008

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted investigations into the buying, selling and dealing in the shares of Twenty First Century (India) Limited (hereinafter referred to as 'TFC') for the period from November, 2001 to April, 2002 (hereinafter referred to as 'the period of investigation'), *inter-alia*, to ascertain whether there was any violation of the provisions of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as 'PFUTP Regulations'). During the period of investigation, the scrip of TFC was listed on Calcutta Stock Exchange (hereinafter referred to as 'CSE'),
2. Investigation revealed significant increase in the price and volume of the scrip of TFC. The price of the scrip increased from Rs.2.50 in November, 2001 to a high of Rs.53 as on January 12, 2002, i.e. an increase of about 2,000%. Subsequently, the price of the scrip came down to Rs.3.50 as on April 30, 2002. The rise in

price of the scrip was not supported by any improvement in the fundamentals or any corporate actions of TFC. It was revealed that the trading was highly concentrated within top 10 stock brokers who had traded in the scrip. The said stock brokers were found to be engaged in cross trades which led to increase in volumes. This trading had accounted for 81.25% of gross purchases, 82.63% of gross sales. However, despite such high trading concentration, the net purchase and sales was very small, amounting to 2.18% and 2.37% respectively. Due to this, the brokers had no delivery positions to the exchange on most days.

3. From the data provided by CSE, it was also revealed that the trades were structured in nature and the brokers were found to have engaged in cross deals for their clients. Such cross deals accounting for nearly 90% to 97% of the total trades entered by the said brokers. During the course of investigations it was, *inter alia*, revealed that Dinesh Kumar Modi (hereinafter referred to as 'noticee') registered with SEBI as stock broker, bearing SEBI registration no. INB 030741610 had indulged in various cross deals while trading for his clients, which created artificial volume and price rise in the shares of TFC.
4. Based on the findings of investigation, SEBI initiated enquiry proceedings as against the noticee in terms of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'Enquiry Regulations'), by appointing an Enquiry Officer under Regulation 5(1) of Enquiry Regulations vide order dated March 11, 2008 and February 24, 2009. SEBI appointed the Enquiry Officer, to enquire into the alleged violation of the provisions of the PFUTP Regulations and the Code of Conduct specified under Schedule II of SEBI (Stock Brokers and Sub-Broker) Regulations, 1992 (hereinafter referred to as 'Broker Regulations'). As the Enquiry Regulations were repealed with effect from the notification of SEBI (Intermediaries) Regulations, 2008, the Enquiry Officer/ Designated Authority (hereinafter referred to as the 'Enquiry Officer') submitted his Report dated January 29, 2010, in terms of Regulation 27 of SEBI (Intermediaries) Regulations, 2008,

recommending thereby prohibition from taking up any new assignment for a period of one month to the noticee for violating the provisions of Regulation 4(a) and (d) of PFUTP Regulations read with Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, Clauses B (4) (a) and (b) of the Code of Conduct prescribed for Stock Brokers in Schedule II under Regulation 7 of Broker Regulations.

5. Subsequently a show cause notice dated February 23, 2010 (hereinafter referred as SCN') under Regulation 28 of SEBI (Intermediaries) Regulations, 2008, was issued by SEBI to the noticee to show cause as to why the appropriate penalty including penalty as recommended by the Enquiry Officer should not be imposed. The noticee was advised to reply to the SCN, within twenty one days from the date of receipt thereof. The noticee was also informed that in case of failure, it would be presumed that he had no explanation to offer and SEBI shall be free to take such action in the manner as it deemed fit. A copy of the Enquiry Report was also forwarded to the noticee along with the SCN.
6. The noticee replied to the same vide letter dated March 08, 2010 wherein the noticee has made a reference to a letter dated December 15, 2009 addressed to the Enquiry Officer as his reply. The submissions of the noticee in his letter to Enquiry Officer in brief are:
 - The noticee had not in any way, directly or indirectly, executed or effected any transactions in the shares of TFC with the intention of generating substantial volume in the scrip. The movement in the price of the scrip from Rs.2 to Rs.53.30 was purely based on the demand–supply equilibrium in the market.
 - All trades done by the noticee's clients were at the prevailing rates at that point of time.
 - All the clients were duly registered with the noticee and all the transactions entered were genuine trade transaction on behalf of clients and without any deceptive trade practice.

7. In order to proceed in the matter, an opportunity of personal hearing was granted to the noticee before me on July 23, 2010 at Kolkata. On the scheduled date the noticee appeared before me and pleaded that no harsh penalty be levied and a lenient view be taken.
8. I have carefully considered the SCN, reply of the noticee and the material available on record. The Enquiry Officer has found the noticee guilty of violating the provisions of PFUTP Regulations and Broker Regulations. Taking note of these, the issues that arise for my consideration are:
 - a. Whether the noticee had executed cross deals in the scrip of TFC, violating Regulation 4(a) and (d) of PFUTP Regulations read with Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003?
 - b. Whether the noticee violated Clauses B (4) (a) and (b) of the Code of Conduct prescribed for Stock Brokers in Schedule II under Regulation 7 of Broker Regulations?
9. Whether the noticee had executed cross deals in the scrip of TFC, violating Regulation 4(a) and (d) of PFUTP Regulations read with Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003?
 - a. I observe that the noticee purchased 14,70,800 shares amounting to 8.23% of the total market volume and sold 14,47,500 shares amounting to 8.10% of the market volume. Of the above trades, the noticee has entered into cross deals to an extent of 14,10,800 shares amounting to 96.87% of the total trading of the noticee and 7.89% of the total volume of the market.
 - b. I have also perused the data provided to the noticee and note that the trade time given in the data is not printed properly. However, this does not distract

me from the fact that the noticee indulged in a large number of cross trades when the prices of the scrip were going up.

- c. I agree with the Enquiry Officer that no person can unknowingly trade continuously for several days over a period of time through cross deals. All this is not possible without the active involvement of the broker as the cross deals contributed 96.87% of the total trading of the noticee in the scrip and where the net delivery position to the exchange remained negligible on most of the trading days. Taking note of this, it can be said that the trades of the noticee in the scrip were to create false impression about the demand in the scrip.

In view of the foregoing, I find that the noticee has violated the provisions of Regulations 4(a) and (d) of PFUTP Regulations read with Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.

- 10.** Whether the noticee violated Clauses B (4) (a) and (b) of the Code of Conduct prescribed for Stock Brokers in Schedule II under Regulation 7 of Broker Regulations?

- a. The noticee has not raised any objection to the findings of the Enquiry Officer regarding failure to submit the details of his clients' KYC forms and other documents. I note that the said documents have not been received till date.
- b. I note that the noticee has submitted that the trades were carried out on behalf of clients to earn brokerage only. To this, I agree with the opinion of the Enquiry Officer that if stock brokers are not careful and allow their systems to be misused, manipulations cannot be eliminated from the market. Cross deals are contrary to normal trading practices. When cross deals are conducted in such large volumes, they cannot be a mere coincidence and without the complicity of the broker.

In view of the above, I find that the noticee has violated Clause B (4) (a) of the Code of Conduct prescribed for Stock Brokers in Schedule II under Regulation 7 of Broker Regulations

11. In the facts and circumstances of the case, I find that the noticee had dealt in the scrip of TFC in a manner detrimental to interest of investors. Such acts of noticee threaten the market integrity and orderly development of the market and call for regulatory intervention to protect the interest of investors.
12. I note that pursuant to the notification of the Intermediaries Regulations, the Enquiry Regulations have been repealed and in terms of Regulation 38(2) of the Intermediaries Regulations, notwithstanding such repeal, any enquiry commenced under the Enquiry Regulations, shall be deemed to have been commenced under the corresponding provisions of Intermediaries Regulations.
13. in view of the foregoing, taking into consideration, the facts and circumstances of the case, I, in exercise of the powers conferred upon 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, 2008, hereby prohibit the noticee Dinesh Kumar Modi (SEBI Registration No. INB 030741610) from taking up any new assignment (i.e. not to take up any new clients) for a period of one month.
14. This order shall come into force on expiry of twenty one days from the date of this order.

DATE : December 15, 2010
PLACE: MUMBAI

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA