

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 M/S SHYAMLAL SULTANIA IN RESPECT OF ITS DEALINGS IN THE SHARES OF G. R. INDUSTRIES AND FINANCE LIMITED

1. In view of the unusual price movement noticed in the shares of some illiquid companies including that of G. R. Industries and Finance Limited (hereinafter referred to as the Company) listed at the Calcutta Stock Exchange Limited (hereinafter referred to as CSE) during the period between January 2004 and February 2005 (hereinafter referred to as the investigation period), the Securities and Exchange Board of India (hereinafter referred to as SEBI) initiated investigation into the dealings in the shares of such companies. The investigation conducted by SEBI in respect of the dealings in the shares of the Company *inter alia* observed that its share price had increased from ₹2/- (on September 7, 2004) to ₹170.20 (on February 28, 2005). It was noticed that certain stock brokers including, M/s Shyamlal Sultania (hereinafter referred to as the Broker) had traded substantially in the shares of the Company and their cumulative trades accounted for 83.30% of the total volumes in the said shares at CSE during the relevant period. It was alleged that the trades of the Broker were in contravention of Regulation 4(2)(a), (e) and (o) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as the PFUTP Regulations) and Clauses A(1) to A(4) and B(4)(a) of the Code of Conduct specified for stock brokers under Schedule II of the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992 (hereinafter referred to

as the Broker Regulations). Thereafter, SEBI, vide order dated January 30, 2008 read with a subsequent order dated December 10, 2008 appointed a Designated Authority (hereinafter referred to as the 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Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (since repealed) and Securities and Exchange Board of India (Intermediaries) Regulations, 2008 (hereinafter referred to as the Intermediaries Regulations) to enquire into the alleged violations committed by the Broker. The Enquiry Officer, in his report dated July 22, 2010 observed that the Broker had contravened the aforesaid provisions and recommended the suspension of its certificate of registration for a period of three months. Subsequently, a notice dated July 27, 2010 was issued to the Broker, requiring it to show cause as to why the penalty as recommended by the Enquiry Officer or as considered appropriate by SEBI should not be imposed against it. A copy of the Enquiry Report was also enclosed with the show cause notice. The Broker was also advised to inform SEBI, whether it would like to avail an opportunity of hearing. The Broker, vide reply dated July 28, 2010 stated:

“This is to inform you that I have received your vide letter No.SEBI/ERO/OW/13818/2010 in which I have been recommended penalty of suspension for three months. Further I would like to state that I had already been suspended for the period of three years.

Thus I request you to kindly compensate this suspension order with the previous three years suspension order or taking librant view kindly minimize the suspension period to seven days.”

2. An opportunity of hearing was also granted to the Broker on January 21, 2011, wherein Mr. Pawan Kumar Sultania, proprietor of the Broker appeared and requested that a lenient view may be taken while imposing the penalty. The representative did not contest the findings of the Enquiry Officer.

3. I have considered the Enquiry Report, the oral and written submissions made on behalf of the Broker and other material available on record. The Enquiry Officer found that the Broker was guilty of contravening Regulations 4(2)(a), (e) and (o) of the PFUTP Regulations and Clauses A(1) to A(4) and B(4)(a) of the Code of Conduct specified for stock brokers under Schedule II of the Broker Regulations. Detailed findings were given by the Enquiry Officer in respect of each of the charges. The copy of the Enquiry Report was provided to the Broker for its submission. Further, an opportunity of hearing was also provided to the Broker. The Broker neither disputed the facts of the case nor the findings of the Enquiry Officer. As the findings of the Enquiry Officer in respect of the violations are neither disputed nor countered by the Broker, I do not wish to reiterate the same in detail in this Order. As the only submission put forward by the Broker was to reduce the penalty to seven days, my focus in this Order would be to decide whether the requested reduction in penalty would be commensurate with the violations committed by the Broker. However, on examining the facts of the case and the violations, I am unable to accept the request of the Broker to reduce the penalty to seven days, for the following reasons. The trades of the Broker had accounted for 38,00,099 shares, which constituted 33.02% of the total traded volume in the shares of the Company at CSE. Out of its trades, 28,09,896 shares (73.94%) were executed through cross deals. The details of such trades were mentioned in the Enquiry Report. It is not in dispute that the share price of the Company had increased substantially without any economic fundamentals of the Company, during the period of investigation. The Broker had created an artificial volume in the scrip during the initial period of price rise by merely buying and selling without taking any positions at the end of each day. In this manner, it had pushed up the share price from ₹3/- to ₹6.50/- during the period. The Broker had generated a volume of 5,37,600 shares constituting 14.14% of its total volume traded, in the initial period of price rise, with nil obligations at the end of this period. It can only be construed that such trades with nil obligations have been executed to merely generate artificial volume in the scrip during the initial period of price rise. Admittedly, the Broker after executing certain trades under "self" a/c at CSE had subsequently

transferred the same to its clients, the details of which were mentioned in the Enquiry Report.

4. It was also observed that the trades of the Broker were also instrumental in increasing the share price of the Company from ₹3.05 to ₹22.10 (i.e. an increase of 724%). The trades of the Broker accounted for 21,80,400 shares out of the total traded volume of 61,07,700 shares. Subsequent to the said price increase, the Broker had again started executing the trades on January 5, 2005 when the share price was quoting at ₹169.05 and continued trading till February 28, 2005 at different rates including some at the highest price of ₹171/-, for trades involving 16,19,699 shares. The trading pattern of the Broker was such that both the buy and the sell orders had been placed at the same terminal simultaneously. While the clients with sell order would be a single or two clients, the order would be matched by a buy order from a set of clients whose client codes were arranged *in seriatim* during the trading period. This clearly is very unlikely to be not deliberate. Though, the Broker had admitted during the course of investigation that the orders were received from the clients over phone, it could not produce any evidence for the same. The Broker could not produce the order book too. Such trades could not be construed as normal market trades but were executed with certain pre-arranged plan for the benefit of certain set of clients. Two of the major clients of the Broker were Anushree Trade Links Private Limited and Swarn Ganga Trading Private Limited which have contributed more than 5% of its total trades. The nature of the trades of the said clients was such that they had sold the shares at low rates in the beginning of the period during which price rose and had reversed the transactions at high rates by buying, when the price reached its peak. The details of such trades are also mentioned in the Enquiry Report. Anushree Trade Links Private Limited had traded a total volume of 5,05,300 shares and Swarn Ganga Trading Private Limited traded for a total 2,49,199 shares during the period covered under investigation. It is pertinent to note that both the said clients shared the same address, had common directors and same witness in their Know Your Client (KYC) forms. One of the directors (Mr.

Anil Khemka) and the witness (Mr. Abishet Basu) in the KYC form, were also the directors in the company. The details of such connection are explained in detail in the Enquiry Report. The Broker in its statement during the course of investigation had admitted that he was aware of the fact of said clients having same address, common directors etc. One of the other clients of the Broker, Mr. Guruvindersingh Bhatia had traded for 1,98,000 shares constituting 5.21% of the total trades of the Broker. The said client had executed both buy and sell orders in such a way that the buy orders were done when the prices were low and sell orders were executed at the peak prices thereby booking profits. Details of such trades are also mentioned in the Enquiry Report, for which no explanation was provided by the Broker. Besides, there were other clients too, who had executed buy transactions at the lower rates of the scrip and had reversed the transactions at the peak rates subsequently, thereby booking profits. Further, the Broker had also executed trades for certain clients who shared the same office address. Thus, it was found that:

- Nearly, 75% of the total trades of the Broker were cross deals executed through a single terminal.
- The Broker had created an artificial volume in the scrip during the initial period of price rise by buy and sell transactions without taking any positions at the end of each day. The trades of the Broker were also instrumental in the price increase during the relevant period.
- The Broker had executed pre-determined/pre-mediated trades for its clients using the stock exchange mechanism to make them appear as normal market trades by adopting a unique trading pattern of matching the sell orders of certain clients with buy orders distributed over a set of clients whose client codes were arranged in seriatim.
- The Broker had executed trades in “self” account at the stock exchange and transferred the same to client accounts subsequently.

5. In view of the above and in the facts and circumstances of the case, it is obvious that the objective of the Broker was to manipulate the price and order matching mechanism of the stock exchange. A close appreciation of the facts of the case, clearly indicate that the Broker did not act in a bonafide manner. On the contrary, it establishes the involvement of the Broker in creating misleading

appearance of trading in the shares of the Company and in the price manipulation. In the present case, the trades of the Broker (as explained in detail above) created misleading appearance of trading in the shares of the company. It also manipulated the share price of the Company by vitiating the price discovery mechanism in the securities market. It is sufficiently established that the Broker was a party to the manipulation. Further, it has to be inferred that the Broker had encouraged sales/purchases in the shares of the Company with the sole object of generating brokerage/commission. In the light of all the findings above, I find that the Broker had participated in the manipulation of the shares of the Company, and I do not have any hesitation in agreeing with the findings of the Enquiry Officer. The contravention of Regulations 4(2)(a), (e) and (o) of the PFUTP Regulations and of Clauses A(1) to (4) and B(4) of the Code of Conduct prescribed under the Broker Regulations, in the facts of the case, does not warrant a reduction of the penalty of suspension to seven days, as requested by the Broker. The Broker submitted that it was suspended for a period of three years. I note that, SEBI, vide, interim orders dated September 29, 2005 and November 30, 2005, in respect of its dealings in the shares of certain other companies, restrained the Broker from buying, selling and dealing in shares. The said orders were subsequently confirmed by SEBI. Further, the enquiry proceedings initiated thereafter, in respect of the said Orders were subsequently disposed by SEBI, vide orders dated January 9, 2009 and July 7, 2009. I also note that SEBI had already, by way of an order restrained G. R. Industries and Finance Limited from accessing the securities market and also prohibited it from buying, selling or otherwise dealing or associating with the securities market in any manner and in any capacity for a certain period. Considering the facts and circumstances of the case, the interest of justice would be met if the certificate of registration of the Broker is suspended as ordered hereinbelow.

6. In view of the foregoing, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulation 28(2) of the Securities and Exchange Board of India (Intermediaries)

Regulations, 2008, hereby suspend the certificate of registration of the stock broker, M/s Shyamlal Sultania [Registration No. INB 030700513], Member, The Calcutta Stock Exchange Limited, for a period of one month.

7. This Order shall come into force immediately on expiry of twenty one days from the date of the Order.

8. Accordingly, the enquiry proceedings initiated against the aforesaid stock broker in the matter of G. R. Industries and Finance Limited is disposed of.

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

PLACE: MUMBAI
DATE: MARCH 16, 2011