

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI
CORAM: M. S. SAHOO, WHOLE TIME MEMBER**

Show Cause Notice No.SEBI/PSTL/AK/190939/2010 dated January 13, 2010 issued to Mr. N. Narayanan and Mr. V. Natarajan in the matter of Pyramid Saimira Theatre Ltd.

Dates of Hearing: August 23 and September 8, 2010

Date / Place of Hearing	Noticees		For SEBI
	Name	For Noticee	
August 23, 2010 / Chennai	Mr. N. Narayanan	Mr. N. Narayanan	Mr. Kumar Desai, Advocate Dr. Pradnya Saravade, Executive Director Ms. Anita Kenkare, General Manager Mr. Madhusudhanan S., Asstt. GM Mr. Amitesh Kumar, Asstt. Legal Adviser Mr. Nitesh Bhati, Manager, and Mr. Kirtikumar Jadhav, Legal Officer
September 08, 2010 / Mumbai	Mr. V. Natarajan	Mr. V. Natarajan Mr. R. Thiagarajan	Ms. Anita Kenkare, General Manager Mr. Ansuman D. Pradhan, Asstt. GM Mr. Amitesh Kumar, Asstt. Legal Adviser, and Mr. Kirtikumar Jadhav, Legal Officer.

ORDER

Under Sections 11, 11B and 11(4) of the Securities and Exchange Board of India Act, 1992 read with Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003

1. Vide a common show cause notice dated January 13, 2010 (SCN) issued to Mr. N. Narayanan and Mr. V. Natarajan (collectively referred to as ‘noticees’), among others, it is alleged that Pyramid Saimira Theatre Ltd. (PSTL or the company) inflated its revenues and profits by fictitious entries in its accounts, disclosed the same in quarterly and annual accounts for the financial year 2007-08 and thereby misled the public in their investment decisions. It is also alleged that PSTL made false disclosures to stock exchanges on January 30, 2009 that it had entered into agreement with 802 theatres as on June 30, 2008. It is further alleged that PSTL did not cooperate with investigation by failing to produce various documents and records required by investigation despite summons and did not maintain certain books of accounts. Mr. N. Narayanan was whole time director of PSTL and Mr. V. Natarajan was the chairman and whole time director of PSTL at the relevant time. The SCN accordingly alleges that the noticees have violated Section 12A of SEBI Act, 1992 and Regulation 3(b), 3(c), 3(d), 4(1), 4(2)(a), 4(2) (e), 4(2)(f), 4(2)(k), 4(2)(r) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (PFUTP Regulations). The SCN called upon the noticees to show cause as to why appropriate directions under Sections 11, 11B and 11(4) of the SEBI Act, 1992 read with Regulation 11 of the PFUTP Regulations be not issued against them.

2. Mr. N. Narayanan appeared for a personal hearing on August 23, 2010. He filed written

submission dated September 15, 2010. He has submitted that though he was a full time director of the company, he was looking after only HR functions. As regards finance and accounts, he relied upon the recommendation of the finance division head, and concurrence of the MD, the statutory auditors and the audit committee, in good faith.

3. Mr. V. Natarajan replied to the SCN vide his letter dated February 03, 2010 and appeared for a personal hearing on September 8, 2010. He has essentially submitted as under:

- a. He resigned as a director of PSTL on April 14, 2008. The SCN covers irregularities subsequent to his resignation.
- b. Even when he was a member of the Board, he was not involved in day-to-day activities of the company, which were handled by the managing director.
- c. SEBI Act is silent about the books of accounts to be maintained by a company and the obligation to maintain books of accounts is with the managing director under the Companies Act.
- a. He has not dealt in securities. Hence he cannot be accused of violating the Section 12A of the SEBI Act, 1992 or the PFUTP Regulations.

4. I have carefully considered the SCN, the written and oral submissions, and other material available on record. I note that the SCN alleges that the noticees / PSTL:

- a. manipulated accounts by fictitious entries,
- b. made false disclosures to the stock exchange,
- c. did not co-operate with the investigations, and
- d. did not maintain certain books of accounts.

However, the SCN has not charged the noticees for violation of any law in respect of the allegations at (c) and (d) above. Hence I am not considering these allegations and replies of the noticees thereon.

5. The noticees have not contested the facts based on which allegations have been made. I find from the SCN that for the financial year 2007-08, total revenue of Rs.749.30 crore included an income of Rs.549.58 crore from theatres as under:

(In Rs. crore)			
Region	From PSTL Theatres	From Non-PSTL Theatre	Total Revenue from Theatres
Tamil Nadu	303.46	41.51	344.97
Andhra Pradesh	74.66	62.04	136.70
Karnataka	45.86	7.60	53.45
Kerala	12.95		12.95
Others	0.28	1.23	1.52
Total	437.21	112.38	549.58

Own theatre income of Rs.303.46 crore from Tamil Nadu region included 11 consolidated credit entries of Rs.244 crore with corresponding consolidated debits to "Theatre Collection

Receivables Account'. This account did not show any income from April, 2008 onwards. The journal vouchers in respect of these entries did not carry any narration such as daily collection report number, name of theatre, etc. The receivables were adjusted against cost of content, transferred to advance / security deposit account or remained unrealised. The receivables account continued to have consolidated entries. As on March 31, 2008, the total receivables of PSTL from Tamil Nadu region was Rs.38.58 crore. Out of this, Rs.2.19 crore was outstanding against 162 theatres and the balance Rs.36.39 crore was outstanding in one account only which did not contain the theatre-wise break-up. Similarly, the entire amount of Rs.75 crore from own theatres in Andhra Pradesh was accounted by a single journal voucher which did not have any narration. PSTL did not provide theatre wise daily collection reports, theatre-wise break up and other supporting documents in support of these consolidated entries or journal vouchers, despite assurance to provide the same. This leads to inevitable conclusion that these revenues were never earned by PSTL; these are fictitious incomes booked to inflate the revenues and profits. PSTL disclosed these inflated figures in its annual report for 2007-08 and thereby misled the investors.

6. I further find from the SCN that PSTL disclosed to stock exchanges on January 30, 2009 that it had entered into agreement with 802 theatres as on June 30, 2008. Out of 802 agreements, PSTL could show only 257 original agreements to SEBI officials. This leads to inevitable conclusion that the balance 545 agreements never existed. Probably the revenues accounted against these 545 agreements have been entered as consolidated entries in the accounts. I also find that there was no payment for security deposit in respect of the agreements. The fictitious revenues have been converted to 'theatre collection receivables' which, in turn, have been converted to 'security deposits'. For example, PSTL booked receivables of Rs.84.77 crore against income in Tamil Nadu region and converted the same into security deposits. Similarly, it booked receivables of Rs.57.58 crore against income in Andhra Pradesh region and converted the same into security deposits. Therefore, the security deposits are not genuine, but were created to hide the theatre receivables in the balance sheet, since outstanding receivables for a period of six months had to be compulsorily disclosed in its annual report. Therefore, PSTL made a false corporate announcement to the effect that it had entered into agreements with 802 theatres and thereby misled the investing public.

7. Mr. Natarajan has submitted that he cannot be charged under Section 12A which basically deals with intermediaries and he is not covered under the said section. He has further submitted that he cannot be charged under PFUTP Regulations, as he has not dealt in shares of PSTL. I, however, find that Section 12A prohibits any person from employing manipulative and deceptive devices. This Section is not limited to intermediaries, as claimed by Mr. Natarajan, and includes

any person. Further, PFUTP Regulations prohibit a person from employing any manipulative or deceptive device in connection with purchase or sale of securities or engaging in any act which operates as fraud or deceit upon any person in connection with dealing in securities. The SCN alleges various accounting irregularities and false disclosures which operate as fraud on investors dealing in shares of PSTL. It is not necessary that the fraudster itself has to deal in securities to attract PFUTP Regulations. It is enough if it has committed the fraud which has the potential to induce others to deal in securities. I, therefore, find that Section 12A covers Mr. Natarajan within its ambit and PFUTP Regulations cover his allegedly illegal activities. This is besides the fact that Mr. V. Natarajan has sold his entire stake in PSTL to Mr. P. S. Saminathan by selling 1,11,335 shares and 8,90,665 shares respectively on April 03, 2008 and April 14, 2008 in off market transactions.

8. Mr. Natarajan has submitted that he resigned as a director on April 14, 2008. I find from records that he in fact resigned on that date and his resignation was accepted in the Board meeting on April 21, 2008. In the said board meeting, he was, however, appointed as Chairman Emeritus, an honorary non-board position, to advise and mentor the management team and to attend board meetings as invitee. Since Mr. Natarajan ceased to be the chairman and whole time director of the Board in April, 2008, it would not be appropriate to charge him for the false disclosures made by the company in January, 2009. It is thus clear that Mr. Narayanan was whole time director when PSTL committed violations as at Para 4 (a) and 4 (b) while Mr. Natarajan was chairman and whole time director when PSTL committed the violation at Para 4(a) above.

9. The only issue remains to be decided is: can the whole time directors be held responsible for the violations committed by the company. A company does not have a mind of its own. It acts through its board of directors. The directors, particularly whole time directors, are responsible for all the acts of omission and commission by the company. It is the duty and responsibility of the directors to ensure that proper systems and controls are in place for financial reporting and to monitor the efficacy of such systems and controls. They have the duty of care, which calls for exercise of independent judgment with reasonable care, diligence and skill which should be reasonably exercised by a prudent person with the knowledge, skill and experience which may reasonably be expected of a director in his position and any additional knowledge, skill and experience which he has. I find that the directors failed to exercise the duty of care by either actively allowing the management to fabricate accounts and make false disclosures or not setting up systems to generate accurate accounts and make correct disclosures. The former is more likely as the noticees overlooked numerous red flags in the trend in revenues, profits, receivables, advances, etc. which could not escape the attention of a prudent person. For example, profits

tripled in the quarter ending June 2007 over the preceding quarter. It doubled in the quarter ending December 2007 over the preceding quarter. The quarter ending March 2008 reported a loss of Rs.3.11 crore compared to a profit of Rs.29.87 crore in the preceding quarter. Similarly, though the number of screens in theatres increased from 487 as on September 30, 2007 to 655 as on December 31, 2007, security deposits with theatres during the same period increased disproportionately from Rs.36.05 crore to Rs.170.38 crore. Such aberrations in financial figures would alert any person of ordinary prudence. The appropriate questions at the right time from the noticees would have unraveled the fraud being played by the company on the innocent investors. By failing to ask the right questions at the right point of time, I find that the noticees have failed in their duty of care as a director. I find that the noticees were either too negligent to notice the aberrations in performance of the company and the fraud behind such aberrations or acted as shadow directors of the board. In either case, they facilitated the company to make false and misleading disclosures and thereby created artificial prices and volumes in the securities of PSTL in the market, to the detriment of innocent investors. I, therefore, conclude that the charge of disclosure of false and misleading statements, as alleged in the SCN against the noticees, is established. Thus, the noticees are guilty of violating Section 12A of SEBI Act, 1992 and regulation 3(b), 3(c), 3(d), 4(1), 4(2) (e), 4(2)(f), 4(2)(k), 4(2)(r) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

10. Such conduct on the part of the noticees is disgrace to the institutions of board of directors of a listed company. This cannot be viewed lightly and warrants regulatory intervention. Therefore, in exercise of the powers conferred upon me under Section 19 read with Sections 11, 11B and 11(4) of the Securities and Exchange Board of India Act, 1992 and Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, I hereby restrain Mr. N. Narayanan (Permanent Account Number: ABXPN6447Q) and Mr. V. Natarajan (Permanent Account Number:ACFPN0276Q) for a period of two years and three years respectively from the date of this Order, from buying, selling or dealing in securities in any manner whatsoever or accessing the securities market, directly or indirectly and from being a director of any listed company.

11. A copy of this Order shall be served on all recognized stock exchanges to ensure that the directions given in Para 10 above are strictly complied with. A copy of this Order shall also be served on Ministry of Corporate Affairs for actions as may be considered appropriate.

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

DATE: April 18, 2011
PLACE: MUMBAI

M. S. SAHOO
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA