

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

IN THE MATTER OF TOP TELEMEDIA LIMITED

In respect of M/s. Rajesh N. Jhaveri

SEBI Registration No: INS 010949811

Date of Hearing: July 12, 2011

Appearances:

For Noticee: Mr. Deepak R. Shah, Advocate

For SEBI: Mr. Mridul Rastogi, Assistant General Manager
Mr. Pradeep Kumar, Assistant Legal Adviser

ORDER

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

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted investigation into the dealings in the scrip of Top Telemedia Limited (hereinafter referred to as 'TTL') for the period of November 01, 2001 to April 29, 2002. During the period of investigation, the scrip of TTL was listed on the Bombay Stock Exchange (hereinafter referred to as 'BSE'), Ahmedabad Stock Exchange and Pune Stock Exchange. However, the present proceedings are in respect of trading at BSE.
2. The trading details of the persons who had traded in the scrip were collected and analyzed along with the data of volumes contributed. During the period from November 01, 2001 to December 28, 2001, the scrip of TTL was traded in weekly as well as in rolling segment. The trading in the scrip had started exclusively in the rolling segment, after December 28, 2001. In the weekly segment, the scrip opened at ₹1 on November 01, 2001 (with face value of ₹1 per share), touched ₹1.95 on November 27, 2001 and closed at ₹0.75 on December 28, 2001. In the month of January, 2002, the shares of TTL were consolidated in the ratio of 10:1. In rolling segment, the scrip of TTL

opened at the price of ₹0.95 (with face value of ₹1 per share) on November 01, 2001, touched ₹18 (with face value of ₹10 per share) on March 21, 2002 and closed at ₹10.70 on April 29, 2002. The investigations *prima facie* revealed that the sales, net profit and the total income of the company had reduced considerably for the year that ended in March, 2001, and the quarter that ended in September, 2001. It was revealed that a group of entities including M/s Rajesh N. Jhaveri (hereinafter referred to as 'noticee'), a sub-broker, ASE Capital Market Limited bearing Registration no. INS 010949811 had traded significantly and created artificial volumes in the scrip by entering into circular/ fictitious transactions.

3. Based on the findings of the investigations, SEBI initiated enquiry proceedings 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 the Enquiry Regulations vide order dated April 29, 2008 read with subsequent order dated November 12, 2009. SEBI appointed the Enquiry Officer, to enquire into the alleged violation of the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 (hereinafter referred to as 'PFUTP Regulations') and the Code of Conduct prescribed for sub broker as stipulated in Schedule II under Regulation 15 of the SEBI (Stock Brokers and Sub-Broker) Regulation, 1992 (hereinafter referred to as 'Broker Regulations'). Pursuant to this, the noticee filed an application for the settlement of proceedings through a consent order. The application filed by the noticee was dealt in accordance with the SEBI Circular dated April 20, 2007. Subsequently, the proceedings initiated under the SCN were revived as the application for consent was rejected by SEBI.

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 20, 2011, recommending thereby a penalty of suspension for a period of one year for violating the provisions of Regulation 3, 4(b), 4(c), 4(d) and 6(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and Clause A(1), D(4) and D(5) of the Code of Conduct prescribed for the sub-broker under Schedule II read with Regulation 15 of the Broker Regulations.

4. Subsequently, a Show Cause Notice (hereinafter referred to as 'SCN') under Regulation 28 of the SEBI (Intermediaries) Regulations, 2008 dated February 10, 2011, was issued by SEBI to the noticee, asking it to show cause as to why the action as recommended by the Enquiry Officer should not be taken. The noticee was advised to reply to the SCN, together with the documents that it may choose to rely upon in support of its reply within twenty one days of the receipt thereof. It was also informed that in case of failure, it would be presumed that it 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 said SCN.
5. No reply was received from the noticee. Before proceeding further in the matter an opportunity of personal hearing was granted to the noticee on July 12, 2011. On the date fixed Mr. Deepak R. Shah, advocate, appeared as authorized representative of the noticee and submitted that the noticee has no records to defend the case and requested for a lenient view in the matter as he is inactive since the year 2004.
6. I have carefully considered the Enquiry Report, the SCN issued to the noticee, submission of the noticee and material available on record. Before moving further, let me deal with one of the submissions of the noticee that the proprietor of the noticee, Mr. Gautam Jhaveri has already been restrained by SEBI vide order dated January 14, 2011 for the same set of transactions and further action would amount to double jeopardy. I note that the said order against Gautam Jhaveri is under Section 11 of the SEBI Act for the acts committed by him in the capacity as client. In the present case, I note that the

noticee is a registered intermediary with SEBI and the charges leveled against it are in its capacity as a sub-broker. Therefore, the argument of 'double jeopardy' is of no merit.

7. Considering this, the issue that arises for my consideration is: Whether the noticee had indulged in circular/ reversal of trades and was responsible for creating artificial volume while trading in the scrip of TTL?
8. **Whether the noticee had indulged in circular/ reversal of trades and was responsible for creating artificial volume while trading in the scrip of TTL?**
 - a. I note that during the period of investigation, the noticee had traded in the scrip of TTL in its proprietary account and for its client namely Mr. Rajendra J. Shah. I note from the Enquiry Report that the noticee had executed various reversal/ circular transaction while trading in the scrip of TTL.
 - b. During the period of January 29, 2002 to February 07, 2002, the noticee is found to have traded on 5 trading days out of total 8 days. On these days, it is observed from the Enquiry Report that the noticee reversed its trades with Mr. Gautam Jhaveri (its proprietor) who was trading through Shri Parshwa Finance, a sub-broker to P. Suryakant Shares & Stock Brokers Pvt. Limited. Details of these trades are given hereunder:

Table - A

Trade Date	Buy Clients	Sell clients		No. of Trades	Circular qty.	Day wise traded qty.	%
		Noticee (own)	Gautam Jhaveri				
29/01/02	Noticee (own)		20,000	92	20,000	1,85,345	10.79
	Gautam Jhaveri	20,000					
01/02/02	Noticee (own)		49,900	126	49,750	3,47,039	14.34
	Gautam Jhaveri	49,750					
05/02/02	Noticee (own)		49,900	173	49,400	3,29,076	15.01
	Gautam Jhaveri	49,400					
06/02/02	Noticee (own)		39,650	96	39,650	2,50,905	15.80
	Gautam Jhaveri	49,850					
07/02/02	Noticee (own)		49,675	102	49,675	2,74,746	18.08
	Gautam Jhaveri	49,850					
Grand Total		2,18,850	2,09,125	589	2,08,475	13,87,111	15.03

From the table above, it is seen that on one side of the trade the proprietor of the noticee, Gautam Jhaveri acted as a client and on the other side the noticee has trade through its proprietary account. While following this pattern, I note that the noticee had entered 589 synchronized/ reversal trades which accounted for 2,08,475 shares constituting about 15% of the total volume traded on the said days. Further, I note that the day-wise contribution of noticee with Gautam Jhaveri was ranging from 10.79% to 18.08% during the said days. It is also seen that almost same quantity of shares was exchanged in the reversed transactions between the same parties.

- c. I have seen the instances of trades discussed in the Enquiry Report during the period of March 08, 2002 to April 03, 2002. A summary of these trades is given at table B below. On these days, the noticee had entered into 4,231 reversal trades for 8,20,268 shares in its own account with Mr. Rajendra J. Shah who was the counterparty client trading through the noticee only.

Table - B

Trade Date	Bought from Rajendra J. Shah	Sold to Rajendra J. Shah	Reversal Qty	No of Trades	Day wise Volume	%
8/3/2002	50,000	50,000	50,000	200	2,38,478	20.97
13/3/2002	50,000	50,000	50,000	200	1,32,129	37.84
14/3/2002	50,000	50,000	50,000	289	1,94,683	25.68
15/3/2002	50,000	50,000	50,000	200	1,94,949	25.65
18/3/2002	68,000	69,000	68,000	279	2,24,517	30.29
19/3/2002	94,000	91,000	91,000	640	3,10,520	29.31
20/3/2002	59,000	58,650	58,650	439	2,84,919	20.58
21/3/2002	66,818	68,106	66,818	1,283	2,86,871	23.29
22/3/2002	80,000	72,000	72,000	380	2,76,876	26.00
26/3/2002	70,000	74,000	70,000	341	2,68,340	26.09
27/3/2002	14,000	14,000	14,000	60	1,56,405	8.95
28/3/2002	52,700	53,000	52,700	259	2,30,948	22.82
1/4/2002	59,900	59,100	59,100	280	2,40,020	24.62
2/4/2002	59,000	61,900	59,000	270	2,23,999	26.34
3/4/2002	9,000	9,000	9,000	40	1,11,515	8.07
Total	8,32,418	8,29,756	8,20,268	5,160	33,75,169	24.30

Having seen the nature of the trades given in table B above, where on one side of the trade, the noticee is trading in its proprietary account and on the other side, the client of the noticee, Rajendra J. Shah was trading, I am of the considered view that these were *prima facie* cross deals, where the noticee has reversed the position with its own client.

- d. Further, I observe from the Enquiry Report that during the period of April 05, 2002 to April 16, 2002, the noticee is found to have executed trades that are circular in nature. The details of such trades are given hereunder:

Table - C

Trade Date	Buy Client	Sell Clients				Consoli -dated circular qty.	No. of trade s	Day wise qty.	%
		Piyush Jhaveri	Gautam Jhaveri	Shri Parshwa Finance (Own)	Noticee (Own)				
5/4/2002	Piyush Jhaveri				94,950	99,950	613	2,58,923	38.60
	Gautam Jhaveri				5,000				
	Noticee (Own)	94,974	5,000						
8/4/2002	Piyush Jhaveri				99,550	99,550	490	2,54,189	39.16
	Noticee (Own)	89,815	10,000						
9/4/2002	Piyush Jhaveri				84,736	84,475	803	2,27,287	37.17
	Noticee (Own)	84,475							
10/4/2002	Shri Parshwa Finance (Own)				85,911	74,950	1,137	2,57,744	29.08
	Noticee (Own)			74,950					
11/4/2002	Shri Parshwa Finance (Own)				79,800	78,780	1,183	2,87,745	27.38
	Noticee (Own)			78,780					
12/4/2002	Shri Parshwa Finance (Own)				79,000	79,000	963	2,39,930	32.93
	Noticee (Own)			79,000					
15/4/2002	Gautam Jhaveri				10,000	77,700	1,124	3,98,626	19.49
	Shri Parshwa Finance (Own)				69,871				
	Noticee (Own)			77,700					
16/4/2002	Shri Parshwa Finance (Own)				84,000	84,000	1,965	2,98,225	28.17
	Noticee (Own)			84,850					
Grand Total		2,69,264	15,000	3,95,280	6,92,818	6,80,576	8,278	22,22,669	30.62

From the table above, it is seen that noticee had traded on its own account and reversed its trades with Piyush Jhaveri, Gautam Jhaveri and proprietary account of Shri Parshwa Finance. I note that Piyush Jhaveri is the proprietor of Shri Parshwa Finance and cousin brother of Gautam Jhaveri.

- e. Further, more than 98% of these orders were placed within one minute of each other and the price and quantity was also identical. Considering this, it can be said that these trades were synchronized/ structured in nature. I note that the execution of trades in an identical fashion over a period of time between the same parties indicates that the same were structured in nature. Such trades are only possible, if the trades are put in the system with some

prior understanding. In such cases, the prices and quantities are negotiated outside the system and the orders are executed simultaneously. I note that the price and quantity were identical in the present case and were synchronized in nature.

- f. I note from the trade log provided to the noticee, that the orders in respect of most of the trades entered by the noticee were entered with a startling proximity in the timing, price and quantity thus resulting into matching of the orders. Instances of such perfect matching has been discussed below from the annexure to SCN:

On January 29, 2002, Gautam Jhaveri on one leg of the transaction placed a buy order at 12:24:53 for 5,000 share at the rate of ₹7.15. The noticee on the other side placed a sell order at 12:25:02 for 5,000 shares at the rate of ₹7.15. These orders matched and got executed in multiple trades with the time difference of just 9 seconds. Further, Gautam Jhaveri placed a sell order for 10,000 shares at 12:25:28 at the rate of ₹7.35. Similarly, noticee placed a buy order of 10,000 shares at 12:25:33 at the rate of ₹7.35. These orders again got matched and executed in multiple trades with time difference of just 5 seconds. Simultaneously, the position of Gautam Jhaveri and the noticee was reversed by 5,000 shares in this trade and the noticee was having net position of 5,000 shares.

Again, Gautam Jhaveri placed a buy order at 12:26:41 for 10,000 shares at the rate of ₹7.15. On the other side, the noticee placed a sell order at 12:26:49 for 10,000 shares at the rate of ₹7.15. These orders also got matched and executed in multiple trades and now Gautam Jhaveri was having the net position of 5,000. Thereafter, Gautam Jhaveri placed a sell order for 10,000 shares at ₹7.70 at 14:11:11 and the noticee placed buy order at 14:11:22 for same quantity and at same price. These orders got executed in multiple trades and after execution of these trades the noticee was having net position of 5,000 shares which was also reversed by placing buy order by

Gautam Jhaveri for 5,000 shares at 14:47:56 at the price of ₹7.85 and sell order by the noticee at 14:47:53 for the same quantity and at same price.

At the end of the trading session, Gautam Jhaveri reversed 20,000 shares with the noticee and having zero net position with respect to these trades. Further, as noted above, these orders were placed in synchronized manner where the time difference between placing the buy order and sell order was merely 3-11 seconds. A similar pattern was also observed on the other days.

- g.** The above details clearly indicate synchronization in the placing of the orders, as these appear to have been punched with preconceived motive and prior arrangement that the orders would be picked up by a particular client of the group on the opposite side. I note that large number of trades got matched regularly. These trades were carried out for many days and the timing of the orders so placed also matched within 0-60 seconds on more than 98% occasions and the price and quantity was also identical. The occurrence of such structured and synchronized deals in a circular manner persistently cannot be a co-incidence because the shares were rotated intra-day within a closed group and there was no change in the beneficial ownership of the shares. The execution of circular trading in a synchronized manner repeatedly for several days by the noticee and the others reveals the active connivance with each other. I note that even though the screen based trading system is faceless in nature and maintain anonymity of the counterparty broker/ client, it is also an established fact that two parties with prior intent can match their trades with each other by placing orders simultaneously at the same price. I observe that the trading pattern followed by the noticee and the others is clearly in the nature of circular trades since they were the main entities who traded amongst themselves by executing synchronized trades with the intention that the orders of a particular entity get matched with the other.

In the instant case, the circular trading on so many days clearly reveals manipulative intent. These transactions, apart from creating artificial volume

of trading, also influenced the prices, by giving an impression to others that the scrip is being actively traded at prevailing prices.

- h.** The above trades of the noticee shows that it played a vital role in the game plan of the manipulation of the trading in the scrip of TTL. The noticee by carrying out synchronized transactions and circular trading created artificial liquidity in the scrip of TTL. Thus, I am of the view that the charge of the violation of the provisions of Regulation 3, 4(b), (c) and (d) & 6 (a) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 1995 stands established as against the noticee.
- 9.** Based on the above discussion and considering the nature of the trades, I note that the noticee indulged in the pattern of trades which were not genuine, but manipulative while trading on behalf of its client and in proprietary account. Thus, I find that the noticee has failed to perform its statutory duties, which are expected from a prudent sub-broker who has a duty not only towards its client but also towards maintaining the integrity of the securities market. A registered intermediary is expected to observe due compliance of the rules/ regulations and the directives issued by SEBI. It is the duty of the broker to maintain high standards of integrity, promptitude and fairness, further, it shall not *inter alia* indulge in manipulative transactions with a view to distort the market equilibrium to the detriment of genuine investors. Thus, it is clear that the noticee has failed to comply with duties expected from a registered intermediary.
- 10.** In view of the discussion above, I find that the noticee is guilty of the violation of Regulation 3, 4(b), (c), (d) and 6 (a) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 1995 and Clause A(1), D(4) and D(5) of the Code of Conduct prescribed for the sub-broker as stipulated in Schedule II under Regulation 15 of the Broker Regulations.

- 11.** I note that pursuant to the notification of the SEBI (Intermediaries) Regulations, 2008, the Enquiry Regulations have been repealed and in terms of Regulation 38(2) of the SEBI (Intermediaries) Regulations, 2008. Notwithstanding such repeal, any enquiry commenced under the Enquiry Regulations, shall be deemed to have been commenced under the corresponding provisions of the SEBI (Intermediaries) Regulations, 2008.
- 12.** I, therefore, in the exercise of power conferred upon me by Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulation 28(2) Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby suspend the certificate of registration of noticee namely, M/s. Rajesh N. Jhaveri (SEBI Registration no. INS 010949811) [PAN: ADAPJ 5993J] for a period of one year.
- 13.** This order shall come into force on expiry of twenty one days from the date of this order.

DATE : 20/SEPT/2011
PLACE: MUMBAI

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA