

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: RAJEEV KUMAR AGARWAL, WHOLE TIME MEMBER**

ORDER

Under section 12(3) of the SEBI Act and regulation 28(2) read with 38 of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008-In respect of HB Securities Limited

In the matter of Jagsonpal Pharmaceuticals Limited.

Appearances:

For Noticee: Mr. Praveen Gupta, Director - HB Securities Ltd.

For SEBI: Mr. Santosh Kumar Shukla, Joint Legal Adviser
Mr. Jeevan Sonparote, General Manager
Mr. Jagannath Das, Assistant General Manager

-
1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted investigation into the dealings in the scrip of Jagsonpal Pharmaceuticals Limited (hereinafter referred to as 'Jagsonpal') for the periods of August, 2000 to December, 2000 (hereinafter referred to as 'first period of investigation') and July, 2001 to October, 2001 (hereinafter referred to as 'second period of investigation'). During these periods of investigations, the shares of Jagsonpal were listed at National Stock Exchange of India Limited (NSE), Bombay Stock Exchange Limited (BSE) and Delhi Stock Exchange Limited (DSE).
 2. It was observed that, during the first period of investigation, the price of the scrip of Jagsonpal at NSE increased from ₹599 as on August 18, 2000 and touched a high of ₹700 as on September 11, 2000 and reached to ₹660 as on November 01, 2000. An irregular pattern in trading volumes in the scrip was also observed, wherein the trading volume varied between only 5 shares as on August 18, 2000 to 39,200 shares as on October 31, 2000. At BSE, the scrip witnessed comparatively lesser trading volume. At both these exchanges, volume in the scrip was observed mainly on those days when select individuals/ entities had traded in the scrip. At DSE, the scrip was traded for two days i.e. on November 15, 2000 and November 16, 2000 only.
 3. During the second period of investigation, the price of the scrip at NSE fell down from ₹319.20 as on July 02, 2001 to ₹129.50 as on October 31, 2001. The trading volume in the scrip varied between 18,985 shares as on July 16, 2001 to only 1 share as on October 08, 2001 at NSE. At NSE, out of total 65 trading days, on 48 days the volumes were less than 1,000 shares and on 28 days (out of total 65 trading days), volumes were less than 100 shares. It was observed that two groups were

creating artificial volume and manipulating the price of the scrip. The first group was active in NSE and BSE and the second group was active in NSE and DSE. The constituents of first group dealt in both periods of investigation and constituents of second group dealt only in the first period of investigation. HB Securities Ltd. (hereinafter referred to as the 'the noticee') was a member of second group that consisted of the following stock brokers and clients-

Stock Brokers

- (a) HB Securities Ltd., stock broker-NSE
- (b) Fincap Portfolio Ltd., stock broker-NSE (*Fincap*)
- (c) RRB Master Securities Delhi Ltd., stock broker-DSE (*RRB Master*)
- (d) UTI Securities Ltd., stock broker-NSE (*UTI*)

Clients:

- i. HB Stockholdings Ltd.(*HB Stockholding*)
- ii. Har Sai Investments Ltd.(*Harsai*)
- iii. Alaknanda Capital Services P. Ltd.(*Alaknanda*)
- iv. Gloria Investments Ltd. (*Gloria*)

- 4. Based on the findings of the investigations, SEBI, vide order dated February 22, 2005, initiated proceedings against the noticee in terms of the then SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalties) Regulations, 2002 [(*since repealed*) and hereinafter referred to as 'the Enquiry Proceedings Regulations'] to enquire into the violations / contraventions alleged to have been committed by it. While the proceedings were pending before the Enquiry Officer, the Enquiry Proceedings Regulations were repealed on May 26, 2008, by the SEBI (Intermediaries Regulations, 2008 ('the Intermediaries Regulations'). Accordingly, the Enquiry Officer/Designated Authority (DA) continued with the proceedings and submitted his Report ('the Report') dated February 28, 2011 in terms of regulation 27 read with 38(2) of the Intermediaries Regulations and regulation 13(1) of Enquiry Proceedings Regulations.
- 5. In the Report, the DA has noted that the noticee had traded in the scrip during first period of investigation at NSE and DSE. Further, the disciplinary committee of NSE had taken disciplinary action and a fine of ₹1,00,000 was levied on the noticee for its trades executed in this scrip and the same had been upheld by the appellate body in the appeal.
- 6. The trades of the noticee at NSE that were matter of enquiry by the DA and the basis of charge against it as discussed in the Report are as following-
 - a) During October 04, 2000 and November 21, 2000 (settlement no. 2000041N to 2000047N), the noticee had executed 75 cross deals (through 8 buy orders and 22 sell orders) amounting to 33200 shares (in settlement no. 2000044 and 2000047). These cross deals accounted for 12.19% and 22.52%, respectively to the market gross, in these two settlements. The buy

orders and sell orders were put at, more or less, same time. The orders were put at a consistently higher price than the previous day's closing price. Thus, the orders were placed with a *mala fide* intention of creating a false market for the scrip. The cross deals were either between *Gloria* and *HB Stockholdings* or between *Gloria* and *Alaknanda*.

- b) *Fincap* (on the buy side) and the noticee (on the sell side) executed 31 structured deals amounting to 47300 shares in settlements no. 2000044, 2000046 and 2000047. The percentage of volume through these structured trades with respect to market volume in the scrip in these settlements was 23.46%, 44.03% and 6.53%, respectively. The buy and sell orders were put at more or less the same time. Based on the trade log analysis, the DA observed that in settlement no. 2000044 (6 buy orders and 7 sell orders) the buy side client was *Harsai* and sell side clients were *Harsai* and *Alaknanda*. In settlement no. 2000046 (13 buy orders and 16 sell orders), the buy side client was *Harsai* and the sell side client was *Alaknanda*. In settlement no. 2000047 (5 buy orders and 5 sell orders), the buy side client was *Harsai* and sell side client was *Alaknanda*.
- c) The noticee [buying stock broker] and *UTI* [selling stock broker] executed 63 structured deals amounting to 34,570 shares in settlement no. 2000045 and settlement no. 2000047. The buy orders and sell orders were put at more or less the same time. The orders were put at consistently higher price than the previous day's closing price. In settlement no. 2000045, the buy side client was *Alaknanda* and the sell side client was *HB Stockholding*. In settlement no. 2000047, the buy side clients were *Alaknanda* and *Gloria* on the other hand the sell side client was *HB Stockholdings*.
- d) Eight structured deals amounting to 4,844 shares, constituting 4.22% to the market gross, were observed in settlement no. 2000047 between *Fincap* on the buy side and *UTI* on the sell side. The buy orders and sell orders were put at more or less the same time. The buy side client was *Harsai* and the sell side client was *HB Stockholdings*. The percentage variation as compared to last traded price (LTP) was in the range of (1.62%) to 0.74%.

- 7. From the lists of their associated entities provided by *HB Stockholdings* and *Harsai Investments Ltd.*, the DA has noted that they are connected to the noticee. Further, *RRB Securities Ltd.* (*RRB Securities*) and *RRB Master* are also related/ associated entities of the noticee. From the details of promoters' holding in *HB Stockholdings* as on March 31, 2004 the DA has observed that *Alaknanda* is its promoter that holds 1.61% shares in it. The DA has also observed that apart from having common address, these entities also have many common directors viz., Mr. Lalit Bhasin, Mr. H.C. Bhasin, Mr. J.M.L Suri, Mr. Anil Goyal, and Mr. Praveen Gupta. *RRB Securities* and the noticee have the same address. Similarly the address of *HB Stockholdings* and *Harsai* has been found to be the same. Moreover, *HB Stockholdings* and *Harsai* and the noticee share common subscribers to their

Memorandum of Association. Based on these factors, the DA has concluded that all these entities are related /associated entities of the noticee. In view of the nexus/ relationship between the entities and the pattern of cross deals/ structured deals found in his Report, the DA has found that the trades undertaken by the noticee in the scrip of Jagsonpal during the investigation period were in collusion with its related/associated entities.

8. The DA has found that the noticee undertook continuous trades in the scrip of Jagsonpal for 6 days during the investigation period and its trading volumes were high and the entities participating in the deals were all related/ connected to the noticee. From the fact that some of the trades were cross deals in nature, i.e. the noticee was both the buy stock broker as well as the sell stock broker and that most of the entities participating in the trades were related to the noticee and that the trade volumes were high and frequent the DA has concluded that the deals were structured in nature.
9. In view of his abovementioned findings, the DA has found that the noticee has failed to adhere to the provisions of regulations 4 (a), (b), (c) and (d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 1995 ('PFUTP Regulations') as well as clauses A (1), (3), (4) and (5) of the Code of Conduct specified for stock brokers in Schedule II read with regulation 7 of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (Stock brokers Regulations). The DA further observed that since considerable time has elapsed (approx. 10 years from the investigation period) a considerate view may be taken in this case and has recommended that the certificate of registration of the noticee (Registration no. INB 230607337), a stock broker of NSE, may be suspended for a period of three days.
10. After considering the Report, a show cause notice ('SCN') dated March 30, 2011 was issued to the noticee under regulation 28(1) of the Intermediaries Regulations calling upon it to show cause as to why appropriate penalty including penalty as recommended by the DA should not be imposed on it. A copy of the Report was also forwarded to the noticee along with the SCN. After seeking further time, the noticee submitted its reply. During the personal hearing the authorized representative of the noticee, while reiterating earlier submissions of the noticee contended the trade and order log containing details of alleged structured trades, cross deals and all the trades executed in Settlement numbers 44, 45, 46, & 47 in the scrip had not been provided to the noticee. He sought for those details and requested for another opportunity to respond to the same by filing written representation. Considering this plea, it was directed, in observance of principles of natural justice, to provide the relevant details to the noticee to enable it to submit its defence. Accordingly, SEBI provided the requested details to the noticee and thereafter the noticee submitted its additional reply *inter alia* reiterating its earlier submissions already made before the DA and in written reply to the SCN. It is noted that the noticee has again raised the same preliminary objections and arguments which it had earlier raised before the Enquiry Officer/Designated Authority with regard to-

- (a) the authority of the Competent Authority who appointed the Investigating Authority,
- (b) non receipt of documents with regard to such appointment, investigation against other entities, copy of investigation report, copy of order of appointment of Enquiry Officers, copy of NSE report, etc.
- (c) Period/s i.e. August 2000 to December 2000 and July 2001 to October 2001, almost seven months apart. But no co-relation between the two periods had been shown. The transaction in question relate to the period 2000/2001 investigation is grossly time barred. Enquiry Proceedings Regulations were enacted on September 27, 2002 and is applicable from that date and not with retrospective effect.

11. With regard to the charges in the SCN and the findings in the Report the noticee has made *inter alia* following submissions on merit:

- a) There is no evidence to establish allegation of connection between various companies.
- b) The details with regard to trade log and order log has been provided to it after a lapse of considerable period of time and data provided seems to be an extract which has been arbitrarily edited.
- c) SEBI has apparently cherry picked some trades for alleging suspicious deals. Further, the allegation made against noticee is not for the entire quantity traded but only for 6 days.
- d) The data from NSE and computation of the average daily volume five months prior to August 2000 and five months after December 2000 shows the following:

Period (No. of trading days)	Traded Quantity	Average Daily Volume
May 01, 2000 to June 31, 2000 (49 trading days)	273312	5577.80
August 01, 2000 to December 31, 2000 (73 trading days)	401178	5495.59
January 01, 2001 to May 31, 2001 (100 trading days)	470541	4705.41

- e) From the above, it is clearly seen that rather than an increase in volume, there was a decline from the daily average of 5577.80 shares to 5495.59 shares in the period August 01, 2000 to December 31, 2000.
- f) The price of the scrip touched a high of ₹ 700/ on September 11, 2000 and a low of ₹ 541/ of October 09, 2000. Notable here is the fact that the said high / low on September 11, 2000 and October 09, 2000 took place much before the noticee's impugned trades, as its first impugned trade as per the SCN was conducted on 31.10.2000. Hence the fluctuation in the price as pointed out in the SCN had already taken place prior to the impugned trades. The NSE Nifty 50 Index which closed at 1456.35 on September 11, 2000 declined to close at

1267.30 on October 09, 2000. Thus, the decline in the price of the scrip of Jagsonpal between the periods September 11, 2000 to October 09, 2000 was in sync with the general overall decline of the broad market.

- g) Scrip wise Price-Volume Data downloaded from the site of NSE shows that there was trading of more than 10,000 shares on the following dates during period August 2000 to December 2000 when no trades have been imputed to the noticee:

<i>Dates</i>	<i>Total Volume</i>
04.10.2000	20015
18.10.2000	14000
24.10.2000	15000
27.10.2000	10000
07.11.2000	20042
20.11.2000	20000
28.11.2000	30000
18.12.2000	11176
27.12.2000	20760

- h) The variation to last traded price (LTP) in this settlement is between -0.15 to 0 thus negating the allegation that there was any increase in price from the previous day's closing price. So far as settlement no. 2000047 is concerned, record shows that the transactions were conducted on November 21, 2000, at the trading price of ₹ 680. Thus it is seen that in both the settlement numbers, 2000044 and 2000047, the transactions were conducted on prices lower or same as the previous day's closing price.
- i) SCN issued to him fails to appreciate that all the transactions were done on the screen of NSE, therefore the chances of synchronized trade is impossible. Further, all the transactions were delivery based and there was a transfer of beneficial ownership
- j) SCN fails to appreciate that for a charge of structured trades to be sustained, the buy and sell orders should be synchronized as held in the matter of *R.K. Global Securities Ltd. vs. SEBI*.
- k) All the trades were conducted by noticee within the parameters of SEBI which has allowed negotiated deals including cross deals on Exchange and as per the price and order matching mechanism.
- l) From the 29 Counter party to the trades only two counter parties namely, UTI Securities Ltd. and Fincap Portfolio Ltd. were picked up for making allegation. Further, Fincap Portfolio Ltd. was let off without any penalty. Further, co-noticee of SCN was also let-off without any penalty by SEBI.

- m) Structured deals in themselves are not violation of regulations unless they are collusive, manipulative or fraudulent; SCN fails to show any evidence of fraud, manipulative intent or collusion with other parties or counterparty brokers.
- n) The noticee has made certain specific submissions with respect to its trades for clients *Gloria, Harsai* and *Alaknanda*, *HB Stock Holdings*, *Fincap* and *UTI* which are mentioned and dealt with hereinafter while examining its trades for the respective clients.

12. I have carefully considered the Report, the SCN, oral and written replies/submissions of the noticee and the material available on record. Before dealing with the charges against the noticee on merits, I proceed to deal with preliminary/technical contentions/ objections of the noticee. The first technical objection of the noticee is with regard to the applicability of Enquiry Proceedings Regulations. I note that the alleged violations in this case occurred during the year 2000. The acts of the noticee are alleged to be in violation of the provisions of the PFUTP Regulations, 1995 Stock Brokers Regulations, 1992 that contained *inter alia* substantive provisions with regard to obligation of stock brokers and prohibitions of fraudulent, unfair and manipulative activities, respectively. I note that the Enquiry Proceedings Regulations came into force on September 27, 2002. Prior to the commencement of Enquiry Proceedings Regulations, the manner and procedure for the actions under section 12(3) of the SEBI Act with respect to stock brokers were prescribed in the Stock Brokers Regulations and for other registered enteritis in the relevant regulations governing them. These provisions prescribed in the different regulations were consolidated in the Enquiry Proceedings Regulations and were omitted from the relevant regulations. I further note that in terms of saving clause provided in regulation 23(1) and (2)(ii) of the Enquiry Proceedings Regulations the proceedings initiated and commenced before the enquiry officer prior to its commencement is be deemed to have been initiated/commenced under the corresponding provisions of the Enquiry Proceedings Regulations.
13. It also needs to be mentioned here that with effect from May 26, 2008 the Enquiry Proceedings Regulations were repealed by the Intermediaries Regulations. Chapter V of the Intermediaries Regulations which came into force on May 26, 2008 prescribes the consolidated procedure for the purposes of section 12(3) of the SEBI Act. In terms of regulation 38(2) of the Intermediaries Regulations, the proceedings that were pending under the Enquiry Proceeding Regulations as on May 26, 2008 have to commence and continue under the corresponding provisions of the Intermediaries Regulations.
14. In view of the above saving provisions, I find that the proceedings initiated under the relevant regulations for violation of provisions of SEBI Act or regulations made thereunder will not be vitiated on account of repeal of procedure prescribed thereunder. I find that, in this case, the DA has

followed the procedure prescribed in the Enquiry Proceedings Regulations and Intermediaries Regulations as they were applicable on relevant dates during the continuance of the proceedings. I, therefore, do not find any infirmity in the proceedings conducted by the DA for this reason alone.

15. Even otherwise, I find that there is no substantial difference in the procedure prescribed the Stock Brokers Regulations, Enquiry Proceedings Regulations and the Intermediaries Regulations and no prejudice can be caused to the noticee if the procedures specified by later Regulations are followed. Further, the retrospective application of procedural requirements to prior defaults is not bad in law as examined by the DA in the Report.
16. The noticee has reiterated its contention about non receipt of various documents. I note that the DA in his Report has dealt with such contention in detail and I agree with his findings that the copies of relevant documents that have been relied upon in the proceedings had been furnished to the noticee. The noticee has further contented that it has not been given copy of "Authority" given to member to appoint the Investigating Officer. I note that by virtue of provisions of section 19 of the SEBI Act, the Whole Time Member has authority to appoint the Investigating Officer. I note that the copy of the relevant document in that regard had been given to the noticee. The noticee has further contented that only a portion of the investigation report had been provided to it. In this regard, I note that regulation 6(2) of the Enquiry proceedings Regulations (since repealed) and regulation 25(3) of the Intermediaries Regulations require that "*relevant portions of documents, reports containing the findings arrived at in an investigation*" should be furnished to the noticee. As per this regulation, only the findings of the investigation and not the complete investigation report is required to be annexed with the notice issued by the DA.
17. I note that, in this case, the portion of the Report i.e., the findings of the investigation report with regard to the noticee, that is relied upon in the notice issued by the DA in this case, had been furnished to it. The DA has not relied upon the investigation report rather it is the findings of the investigation that are basis of charge against the noticee and are relied upon in these proceedings. Further, the proceedings had been completed on the basis of the documents that have been provided to the noticee. Since the procedure laid down in the regulation is followed and principle of natural justice has been complied with in this case, the grievance of the noticee, in my view, is without any foundation and I do not find any merit in the contentions of the noticee. This view also finds support from the following judgment of Hon'ble Securities Appellate Tribunal (SAT) on the similar issue with regard to adjudication proceedings in the case of *Manoj Gaur Vs. Securities and Exchange Board of India*, in Appeal Number 64 of 2012 decided on October 03, 2012: -

"The investigation report is not the evidence on which reliance was placed by the adjudicating officer. Since the adjudicating officer has complied with the statutory requirements, there is no legal obligation on the Board to furnish the entire investigation report to the appellants. Learned counsel for the parties have relied on certain case law relating to principles of natural justice. We do not consider it necessary to refer to all those details in

view of the fact that regulation 9 of the Regulations makes it obligatory to communicate the findings in the investigation report and not the whole report. It is nobody's case that such findings were not made available. If the procedure laid down in the regulations has been followed by the adjudicating officer, the grievance of violation of principles of natural justice is without any foundation."

18. Other technical objection of the noticee is that SEBI has picked up some of the trades. According to the noticee the price manipulation is alleged in two periods, i.e. August 2000 to December 2000, and July 2001 to October 2001 but no co-relation between the two periods has been shown. I note that the DA had selected suspected trades of the noticee, during the first period of investigation and not the second period of investigation, on sample basis out of all such trades as shown in its order/ trade log. Therefore, the alleged trades of the noticee executed during the first period of investigation have been taken into account by the DA and there is no need to establish a co-relation between the two periods as sought to be contended by the noticee.
19. The noticee has again contended that it was not provided with the complete order log and trade log. The noticee has further contended that trade log and order log provided to him seems to be an extract which was arbitrarily edited. In this regard, I note that as held by Hon'ble Securities Appellate Tribunal (SAT) in the cases of *Mayrose Capfin Private Limited vs. SEBI* and *Rajesh Jhaveri Vs. SEBI* vide its order dated March 30, 2012 and April 16, 2012, respectively, the details which are relevant for the noticee have to be furnished to it. I note that the trade log and order log relevant for the noticee and relied upon in the matter had been provided to it. I, therefore, do not find any merit in the contentions of the noticee.
20. Having dealt with the preliminary/ technical contentions of the noticee, I proceed to deal with the merit of the case. Before dealing with the charges alleged against the noticee, I deem it necessary to refer to the provisions of the relevant regulations the contravention of which has been alleged in this case and are reproduced hereunder:-

PFUTP Regulations, 1995

"Prohibition against Market Manipulation

4. No person shall -

- (a) effect, take part in, or enter into, either directly or indirectly, transactions in securities, with the intention of artificially raising or depressing the prices of securities and thereby inducing the sale or purchase of securities by any person;*
- (b) indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities market;*
- (c) indulge in any act which results in reflection of prices of securities based on transactions that are not genuine trade transactions;*
- (d) enter into a purchase or sale of any securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress, or cause fluctuations in the market price of securities;*

Stock Brokers Regulations

"Stock Brokers to abide by the Code of Conduct.

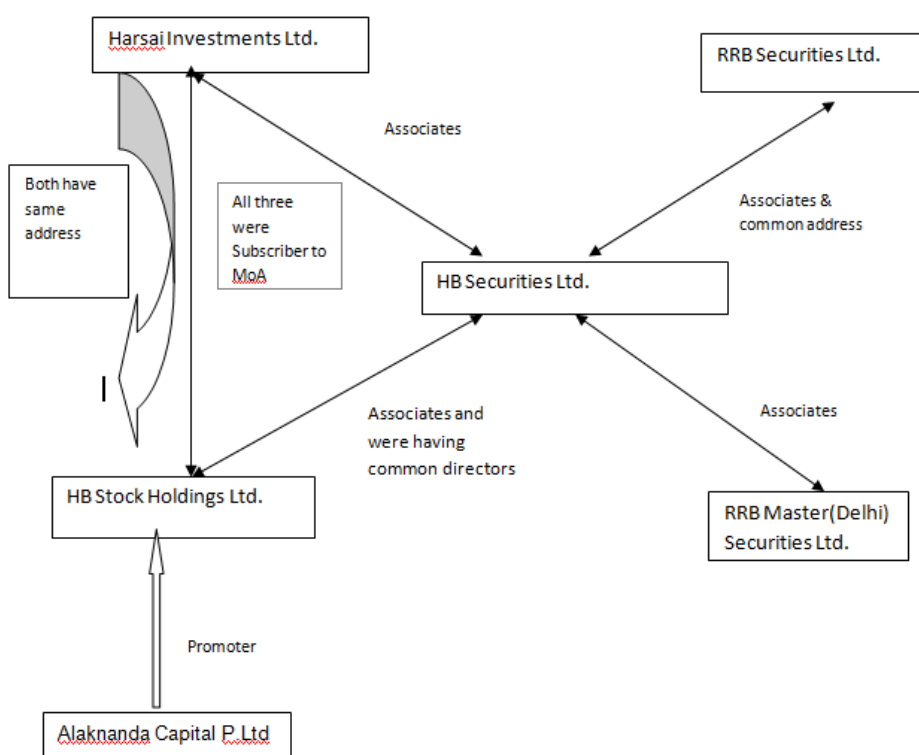
- 7. The stock-broker holding a certificate shall at all times abide by the Code of Conduct as specified at Schedule II.***

Code of Conduct (Schedule II) -

A. General

- (1) *Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.*
- (3) *Manipulation: A stock-broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.*
- (4). *Malpractices: A stock-broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors interest or which leads to interference with the fair and smooth functioning of the market. A stock-broker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.*
- (5) *Compliance with statutory requirements: A stock broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the stock exchange from time to time as may be applicable to him.”*

21. It is admitted fact that the noticee had traded only during the first period of investigation and on only 6 days. From the Report the connection between the concerned entities can be represented as follows:-



22. I note that the with regard to the factors of establishing connection /relation between the noticee, its clients and other stock brokers as discussed in the Report, the noticee has submitted that having common directors or common addresses does not necessarily mean that there is a relationship /association amongst the concerned entities. In this regard, I note that Hon'ble SAT has, in many cases such as *Classic Credit Ltd. vs. SEBI (SAT Appeal no. 68/2003, Order dated December 8, 2006)*, *Classic Credit Ltd. vs. SEBI (SAT Appeal no. 76/ 2003, Order dated January 9, 2007)* and *Veronica Financial Services Ltd. Vs SEBI (SAT Order dated August 24, 2012)*, held that connection/relations can be established on the basis of factors including the common addresses, common directors/ shareholders, etc. I, therefore, do not agree with contentions of the noticee in this regard. It is

established in this case, on the basis of factors discussed in the Report, that the noticee, *RRB Master, RRB Securities, HB Stockholding, Harsai and Alakananda* are related / connected to each other.

23. From the material available on record, I do not find major variation in the price of the scrip and that the trades of the noticee had impacted the price of the scrip in some way. I note that during the period May 01, 2000 to June 31, 2000 (i.e. prior to investigation period in this scrip) average daily volume was 5577.80 and during the investigation period the daily average volume was 5496 shares. I further note that out of total 4,01,178 shares of Jagsonpal traded at NSE, the noticee had traded for 2,00,717 shares (i.e. 50.03% of the total traded volume) during the investigation period.
24. I, now, proceed to examine those trades of the noticee (*executed by it during the first period of investigation*) which are the basis of the findings of the DA. I note that there is no dispute as to the details of the trades of the noticee as described in the Report. However, the noticee has made certain specific submissions with regard to its trades in the scrip which are *inter alia* mentioned hereinabove. I proceed to deal with contentions of the noticee in the following paragraphs.

Trades of Gloria:-

25. According to noticee, it had executed 8 buy orders for 46700 shares and 23 sale orders for 33,299 shares but the Report takes into account 75 trades for 33,200 shares. I note that all trades of the noticee during the investigation period are not an issue for inquiry, rather only those trades which were observed to be suspected are the matter of inquiry in this case. From the Report, I note that during the period October 04, 2000 and November 21, 2000 [SN. 2000041N to 2000047N] the noticee executed 75 cross trades through 8 buy orders and 22 sell orders [in SN. 2000044 and 2000047] for 33200 shares on two days as given in the following Table:-

Trade Date	Settlement No.	shares traded	Buy Member Name	Buy Client	Sell Member name	Sell Client Name	Total	
							Structured Trade Qty	No. of Trades
31-Oct-00	2000044	19200	HB Securities Limited	HB Stockholdings	HB Securities Limited	Gloria	19200	4
21-11-2000	2000047	14000	HB Securities Limited	Gloria	HB Securities Limited	Alakananda	14000	71

26. From the above Table, it is noted that all these trades were cross deals wherein buy and sell orders were executed by the noticee, acting as common broker for buying client and selling client both, for same quantity (or for different quantity on certain occasions), at the same price and within a time gap of less than 60 seconds. Thus, there was clear synchronization in the above trades executed by the noticee for its clients. In this regard, I note that in the case of *GIR Marketing & Trading Co. Pvt. Ltd. vs. SEBI* (Appeal no. 113 of 2011 decided on August 5, 2011) - Hon'ble Securities Appellate Tribunal (SAT) has held that “*cross deals per se are not illegal but the common broker executing the buy and sell orders is not expected to match those orders by putting in orders for the same quantity, at the same price and at the same time*”.

27. I note that with regard to the synchronization with respect to quantity Hon'ble SAT vide its order dated December 03, 2012 in the matter of *Anita Dalal Vs SEBI* has held that -

"The contention of the appellant that there is a vast difference between the quantity order and the quantity matched cannot be taken as a ground to prove the innocence of the appellant. In market manipulation perfect synchronization and exact matching of trades may not be available."

28. In the above mentioned *Anita Dalal's* case, Hon'ble SAT further held that :-

".....The argument of the learned counsel that the appellant's role in the scheme of manipulation has to be viewed in the background of her overall trades does not merit consideration. The relationship of the parties, the continuous and consistent matching of trades and the transactions in the same scrips by all the group entities through a central broker would amply illustrate the game plan of the entities involved."

29. In this case, from the trading pattern of *Gloria* through noticee in the alleged cross deals as observed from the order and trade log provided to the noticee it is noted that out of the above 75 cross deals, the noticee had executed 4 trades wherein *HB Stockholdings* was buying client and *Gloria* was selling client and 71 trades wherein *Gloria* was buying client and *Alakananda* was selling client. *HB Stockholdings* and *Alakananda* are the entities related/connected to the noticee. However, there is no charge that *Gloria* is related/connected with the noticee or its other related/connected entities i.e. *HB Stockholdings* and *Alakananda*. However, the pattern of continuous trading repeatedly in an illiquid scrip, within a period of few seconds at the same price and in same quantity (or different quantity on some occasions), by the noticee being the common broker and its related/connected entities being counterparty clients indicates pre-planned synchronised cross trades in the system by the noticee with collusion of its connected clients.

Trades of the noticee with counter party broker *Fincap*

30. The noticee has contended that there were in aggregate 27 buy orders for 47515 shares and 29 sale orders for 48,500 shares with *Fincap*. But the DA has discussed 31 trades involving 47,300 shares in this regard. Thus, there is mismatch of figure and no charge for manipulative trades can be sustained. From the Report and the order log, trade log provided to the noticee, I note that in this case, all buy orders and sell orders of the noticee with *Fincap* are not the subject matter of inquiry. The allegation of structured deals has been levied against the noticee in the SCN only with regard to its 31 trades involving 47300 shares as described in the following Table:

Trade Date	Settlement No.	No. of sec. traded	Buying Broker	Buying Client	Selling Broker	Selling Client	Total	
							Structured Trade Qty	No. of Trades
31.10.00	2000044	10000	Fincap	Harsai	HB Securities Ltd.	Harsai	10000	4
		10000				Alakananda	10000	4
14.11.00	2000046	19800	Fincap	Harsai	HB Securities Ltd.	Alakananda	19800	18
21.11.00	2000047	7500	Fincap	Harsai	HB Securities Ltd.	Alakananda	7500	5

31. It is noted that in all the above 31 trades, the noticee was selling broker and the *Fincap* was buying broker. However, buying client was *Harsai* and selling client was either *Harsai* or *Alakananda* who are related/connected to the noticee. From the order log and trade log provided to the noticee, it is seen that all these trades were synchronized with respect to price, time and quantity though in certain trades there was quantity difference. Such trades were executed repeatedly and continuously in three settlements in the illiquid scrip. From such pattern of synchronised trading it can reasonably inferred that such synchronisation was not merely a coincidence but the trades were executed under a pre-mediated plan.

Trades of the noticee with counter party broker UTI:

32. With regard to the alleged trades of the noticee wherein UTI was counter party broker, the noticee has contended that it had executed in aggregate 38 sell orders for 35981 shares and 63 buy orders for 35294 shares with *UTI*. But the DA has taken into account 63 trades involving 34570 shares. The noticee has further argued that as per the order log, trade log subsequently provided to it by SEBI, *Alakananda* and *Gloria* were the buying clients in settlement no. 2000047. However, as per the Report, in all the alleged 63 trades, *Alakananda* was the buying client. Thus, there is mismatch and no charge for manipulative trades can be sustained in this regard.
33. From the Report and the order log, trade log subsequently provided to the noticee, I note that in this case, all buy orders and sell orders of the noticee placed by it during the first investigation period are not the matter in inquiry. The allegation of structured deals has been levied against the noticee in the SCN only with regard to its 63 trades involving 34570 shares executed by the noticee as described in the following Table:-

Trade Date	Settlement No.	No. of sec. traded	Buying broker	Buying Client	Selling broker	Selling Client	Total	
							Structured Trade Qty	No. of Trades
01.11.00	2000045	19700	HB Securities.	Alkananda	UTI	HB Stock holding	19700	5
15.11.00	2000047	9900	HB Securities.	Alkananda	UTI	HB Stock holding	9900	35
1.11.00	2000047	4970	HB Securities.	Alkananda	UTI	HB Stock holding	4970	23

34. I note that the all the alleged 63 trades were executed by the noticee as buying broker for its connected client *Alakananda* wherein *UTI* was selling broker for *HB Stockholding* another connected client of the noticee. From the order log and trade log provided to the noticee, it is seen that like its other synchronized / structured trades as mentioned above these 63 trades executed by the noticee as a buying broker were synchronized with respect to price, time and quantity though in certain trades there was difference in quantity. These trades were also executed repeatedly and continuously in the settlement number 2000047 in the illiquid scrip of Jagsonpal. From the pattern of these

synchronised trading also it can reasonably be inferred that such synchronisation was not merely a coincidence but the trades were executed under a pre-mediated plan.

35. In view of the above, I find that the noticee indulged in manipulative synchronised cross deals and synchronised structured deals as found in the Report. I find that the trade details relied upon in the case and shared with the noticee show that the both buy and sell orders were entered simultaneously by the related/connected clients of the noticee in synchronised manner. In the synchronised cross deals of the noticee though the counter party client *Gloria* was not connected with it, the buy and sell order both were placed and executed by the noticee.
36. It is settled position that though the synchronised / structured trades are *per se* not illegal, they would, however, be illegal; if executed with a view to manipulate the market. This view is settled in various judgments of Hon'ble SAT including in the case of *Ketan Parekh Vs. Securities and Exchange Board of India* decided on July 14, 2006, wherein Hon'ble SAT held as under-
- " A synchronised transaction will, however, be illegal or violative of the Regulations if it is executed with a view to manipulate the market or if it results in circular trading or is dubious in nature and is executed with a view to avoid regulatory detection or does not involve change of beneficial ownership or is executed to create false volumes resulting in upsetting the market equilibrium. Any transaction executed with the intention to defeat the market mechanism whether negotiated or not would be illegal. Whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties....."*
37. In such cases the intention or collusion of the parties can be gathered and inferred from the conduct of the parties, pattern of transactions and attending circumstances, etc. When the transactions are undertaken between the connected clients through connected stock broker repeatedly and continuously involving considerable amount of shares, intention is implicit. It is established position that even though the screen based trading system maintains anonymity of the counterparty broker/client; two parties with prior intent can match their trades with each other by placing orders simultaneously at the same price. In the facts and circumstances of this case as discussed hereinabove, the repeated and continuous pattern of such synchronised trading in illiquid scrip, in my view, clearly suggests pre-determined plan of placing of the orders so as to match with a specific counterparty with intention to create artificial volume in the illiquid scrip of Jagsonpal during the investigation period. I, therefore, agree with the findings of the DA that the noticee has violated regulation 4(a), (b), (c) and (d) of the PFUTP Regulations, 1995 read with regulation 13 of the PFUTP Regulations, 2003 and clause A(1), (3), (4) and (5) of the Code of Conduct as specified in Schedule II of regulation 7 of the Stock Brokers Regulations.
38. I note that facts and circumstances with regard to proceedings against *Fincap* and *RRB Master* are different from those of the noticee. In case of *Fincap* it was found that it had executed trades on behalf of only one client (i.e. *Harsai*) who was not connected with it and all its trades were buy

orders. In case of *RRB Master* it was found that while the alleged price variation had taken place at NSE and BSE, it had executed the alleged trades at Delhi Stock Exchange on two days for its clients. I, therefore, do not agree with the contentions of the noticee in this regard.

39. I am satisfied that it is necessary to secure the proper management of the activity of the noticee. I note that the transaction in question relates to the year 2000 and the DA has considered this fact as mitigating factor in this case. I note that there is no material on record to suggest price manipulation by the trades of the noticee. In my view, considering the facts and circumstances of this case and taking into account the interests of the investors, suspension of certificate of registration of the noticee for three days as recommended by the Designated Authority will be commensurate with the contraventions found in this matter.
40. I therefore, in the exercise of powers conferred upon me by virtue of section 19 read with section 12(3) of the SEBI Act, and regulation 28(2) of Intermediaries Regulations, hereby suspend the certificate of registration of the noticee i.e. HB Securities Ltd. having SEBI Registration No. INB230607337) as a stock broker and a member of NSE for a period of three days.
41. A copy of this order shall be served upon the HB Securities Ltd. and to the NSE in accordance with regulation 30 of the SEBI (Intermediaries) Regulations, 2008 for necessary action.
42. This order shall come into force immediately on expiry of twenty one days from the date of this order.

Date: July 23rd, 2013

Place: Mumbai

RAJEEV KUMAR AGARWAL

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA