

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

ORDER

Under sections 11 and 11B of the Securities and Exchange Board of India Act, 1992 read with Regulation 11 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 against Gennex Laboratories Ltd. and its directors Mr. Vinod Baid, Mr. U. C. Bhandari, Mr. Y. Ravinder Reddy, and Mr. Kishore Jhunjunwala.

In the matter of Gennex Laboratories Ltd.

Appearances:

For the Noticees:

1. Mr. KVLN Bhaswanth, Chief Operating Officer on behalf of Gennex Laboratories Ltd.
2. Mr. Vinod Baid, Chairman and Director of Gennex Laboratories Ltd. for himself.

For SEBI:

1. Mr. Santosh Kumar Shukla, Joint Legal Adviser
 2. Mr. Sharad K. Sharma, General Manager
 3. Ms. Geetha Kamath, Assistant General Manager, and
 4. Mr. Gautam Kumar, Assistant Legal Adviser
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1. Securities and Exchange Board of India ('SEBI') conducted investigation into the trading in the shares of Gennex Laboratories Ltd. (hereinafter referred to as 'GLL/Company') to ascertain whether any provisions of the Securities and Exchange Board of India Act, 1992 and Rules and Regulations made there under have been violated during the period April 30, 2007 to November 18, 2008 (the investigation period). During the investigation period, the scrip of GLL was listed on the Bombay Stock Exchange Ltd. ('BSE') and its directors were Mr. Vinod Baid (Chairman), Mr. U. C. Bhandari, Mr. Y. Ravinder Reddy and Mr. Kishore Jhunjunwala.
2. During the investigation, it was noted that GLL was incorporated in 1985 as a private limited company and became a public limited company in 1994. Its earlier name was Prudential Pharmaceuticals Ltd. ('PPL') and it was originally promoted by Pharmasia Ltd. Later, Mr. Vinod Baid & Associates acquired a controlling stake in GLL during 1994. PPL came out with a public issue of 14, 00,000 equity shares of ₹ 10 each aggregating to ₹1.40 Crore in February 1996. Its name was changed to Gennex Laboratories Ltd. with effect from September 19, 2007.

3. It was further noted that the shareholding of the promoters of GLL had reduced substantially from 54,42,836 shares (53.62% of the paid up capital during March 2007) to 25,14,800 shares (24.72% of the paid up capital during September 2007) which included 25,00,000 shares pledged with Bank of India. From March 2008 onwards, two preferential allottees i.e. Silver Gold Property Development Finance Private Ltd. and Carwin Mercantiles Private Ltd. holding 15,00,000 shares and 10,00,000 shares respectively, were also shown as promoters of GLL. As on March 2009, the paid up equity capital of the Company was ₹ 12.65 Crores comprising 1, 26, 50,300 shares of ₹10 each.
4. The investigation revealed that :-
- (a) In the shareholding pattern of GLL for the quarters ending March 2007 - December 2008 disclosed to BSE, Bank of India was shown as its promoter. In the said shareholding pattern, it was disclosed that out of promoters' holding, 25,00,000 shares were held by Bank of India due to pledge for security of loan granted to a group company of GLL. While Bank of India confirmed that it had provided a credit facility to Prudential Sugar Corporation Ltd. for which 25, 00,000 shares of GLL were pledged as collateral security by Premier Fiscal Services Private Ltd. during May 2005, it denied having any information about it being shown as 'promoter' in the shareholding pattern of GLL. Thus, it was alleged that GLL had submitted incorrect information about its shareholding pattern to the stock exchange and had violated clause 35 of the Listing Agreement.
 - (b) CIL Securities Ltd., Registrar and Share Transfer Agent, (hereinafter referred to as the CIL) of GLL was appointed as "Common Agency" for attending to its share registry on May 15, 2007 [in respect of Central Depository Services (India) Limited (CDSL)] and on July 27, 2007 [in respect of National Securities Depository Limited (NSDL)]. However, GLL had not provided the physical records including share master, certificate master, etc. to CIL, despite several reminders. Thus, it was observed that GLL did not maintain share registry work at a single point and violated regulation 53A of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 (hereinafter referred to as the 'DP Regulations') read with SEBI circular No. D&CC/FITTC/CIR-15/2002 dated December 27, 2002.
 - (c) During the investigation period there were significant price and volume movements in the shares of GLL. On January 1, 2007, the share price of GLL opened at ₹ 9.30 and increased to ₹ 15.09 on April 27, 2007 before closing at ₹ 14.40 on the same day with an average daily volume of 13,676 shares. The share price increased from ₹ 15.25 on April 30, 2007 to ₹ 59 on December 13, 2007 with an average daily volume of 57,904 shares. During the investigation period, the share price of GLL had increased by ₹ 44.75

(314.03%) whereas the Sensex had increased only by 6823.05 points (147.46%) from 14383.72 (April 2007) to 21206.77 (January 2008).

- (d) During the investigation period, certain corporate announcements were made by GLL. The details of these announcements and price movement in the scrip of GLL during the relevant period is given in the following Table:-

Table I: Details of corporate announcements and consequent price movement:

Date	Particulars of announcement	Price Movement	Status
July 5, 2007 (1:22:31 P.M.)	Informed BSE about Board Meeting on July 16, 2007 to discuss the investment and management participation proposal received from Innovesco Pte Ltd, Singapore and the financial arrangement to be made for the proposed Bio-tech Products.	The scrip opened at ₹ 24.10 (i.e. lower than previous day's closing price of ₹24.45) and reached to ₹25.65 with 253 trades. The last trade before this announcement was executed at ₹24.20 and first trade after announcement was at ₹24.45. During July 6, 2007 to July 13, 2007, the price moved from ₹26.15 to ₹29.95 in 1506 trades.	Not implemented
July 16, 2007 (6:10:26 P.M.)	Informed BSE about in-principle approval of the investment and management proposal from Mr. Arun Jain, Chairman of Innovesco Group of Companies, Singapore and his Associates and decision to allot 30% of the expanded equity capital of GLL to Mr. Arun Jain & his Associates and/or their SPV in India on preferential basis at a price to be determined after receipt of the valuation report. The statutory auditor, M/s. Laxmi Niwas & Jain, was appointed for valuation of the business of the Company and to determine the quantum of investment to be brought in by M/s. Arun Jain & Associates.	The price of the scrip opened at ₹28.00 (1.23% lower than the previous close price of ₹28.35) and reached to ₹28.85 with 72 trades during the day. On July 17, 2007, the price opened at ₹28.95 and fell down to ₹27.10.	Not implemented
August 29, 2007	Informed BSE about Board Meeting on September 04, 2007 to	The price of the scrip opened at ₹ 27.70 (previous day closing price	Implemented

(1:35:02 PM)	consider the allotment of 25,00,000 equity shares and issue of 25,00,000 equity warrants as under: Silver Golden Property Develop Fin Investment Ltd, Mumbai. – 15,00,000 shares and 25,00,000 warrants Carwin Mercantiles (P) Ltd, Kolkata – 10,00,000 shares	was ₹ 27.50) and fell down to. ₹ 27.35. There were 36 trades during the day.	
September 4, 2007 (3:08:51 PM)	Informed BSE about approval of above decision.	The scrip opened at ₹31.35 (4.85% higher than the previous day closing price of ₹29.90) and same was the closing price. There were 22 trades during the day. Similarly on 05.09.07, the scrip opened at ₹32.90 and remain the price of the day with 28 trades.	Implemented
August 27, 2008 (11:12:43 AM)	Informed BSE that in the Board Meeting held on August 26, 2008, it was unanimously decided to make an offer for purchase of 51% Stake in Ammana Bio Pharma Ltd and authorized the Managing Director of the Company to enter into necessary Shareholders Agreement with them for acquisition of said stake.	The scrip opened at ₹46.25 on August 27, 2007 (previous day closing price was ₹46.40) and reached to ₹48.00 and closed at ₹45.05. There were 246 trades during the day.	Not implemented

- (e) Out of the above mentioned five corporate announcements, three announcements made on July 05, 2007, July 16, 2007 and August 27, 2008 were not implemented by GLL. The stock exchange was not intimated about their non-implementation. When these announcements were made there were positive improvements in the share price of GLL as shown in the above Table. It has been alleged that GLL and its directors had made these false corporate announcements to create artificial market in the scrip and manipulate the same in a fraudulent manner. The announcements were made by GLL for the purpose of propping up the price of its shares and thereafter to offload their shares in an artificially created market.

- (f) Mercury Fund Management Company Limited (hereinafter referred to as 'MFMCCL') was a promoter of GLL till March 2007. Further, Mr. Kishore Jhunjunwala was a common director in GLL and MFMCCL both. Thus, MFMCCL was an entity connected with GLL.
- (g) On July 4, 2007 i.e. just one day before the corporate announcement about the aforesaid investment proposal was made on July 5, 2007, MFMCCL had received 9,60,000 shares of GLL off market from Mr. Vinod Baid.
- (h) During the investigation period, MFMCCL had traded in the scrip of GLL as stated in the following Table-

Table II: Trades of MFMCCL during investigation period:

Period	Trades of MFMCCL	
	No. of Shares Purchased	No. of Shares Sold
30.04.07 to 03.07.07	2055	16,17,350
05.07.07		2,00,000
06.07.07 to 12.07.07		2,00,000
16.07.07		55,000
17.07.07 to 22.08.07	5350	5,30,850
07.09.07 to 19.08.08	65,153	3,91,194

- (i) When the aforesaid corporate announcements were made by GLL, MFMCCL traded in the scrip of GLL taking advantage of the said positive announcements. On July 05, 2007 i.e. on the day of the first announcement itself, MFMCCL sold 2 lakh shares of GLL in the market when the price of the scrip was in the range of ₹24.10 to ₹25.65. Thereafter, MFMCCL sold 11,77,044 shares of GLL from July 06, 2007 to August 19, 2008 during which period, the price of the scrip was in the range of ₹ 24.10 to ₹31.35. Mr. Vinod Baid first transferred his 9,60,000 shares of GLL through off market transactions to MFMCCL, a connected entity, and then false corporate announcements were made by GLL for the purpose of propping up the price of the shares of GLL.
- (j) It was alleged that the false announcements were made for the purpose of propping up the price of shares of GLL and thereafter to offload the shares of its promoters in an artificially created market and induce investors to deal in its shares. Thus, GLL and its directors namely Mr. Vinod Baid (Chairman and Executive Director), Mr. U. C. Bhandari, Mr. Y. Ravinder Reddy and Mr. Kishore Jhunjunwala who were in charge of affairs of GLL and responsible for the conduct of its business are alleged to have violated provisions of regulation 3 (a), (b), (c), (d) and regulation 4(2) (r) 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'*).

- (k) It was further alleged that Mr. Vinod Baid, Chairman and Executive Director of GLL played an orchestrated ploy in connivance with MFMCCL to defraud the gullible investors and made benefits out of such transactions. He colluded with MFMCCL and defrauded the investors in the securities market. he thus, violated provisions of section 12 A (a), (b) and (c) of the SEBI Act read with regulation 3 of the PFUTP Regulations
5. In view of the above, SEBI issued a combined show cause notice ('SCN') dated May 09, 2012 to GLL and its directors, Mr. Vinod Baid, Mr. U. C. Bhandari, Mr. Y. Ravinder Reddy and Mr. Kishore Jhunjhunwala (hereinafter collectively referred to as 'the Noticees' and individually by their respective names) calling upon them to show cause as to why appropriate directions under sections 11(4) and 11B of the SEBI Act including restraining them from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities, for an appropriate period of time, should not be issued. The allegations and violations charged in SCN against the Noticees are summarized in the following Table:

Table III: List of charges against the Noticees:

Sr. No.	Name of the entity	Allegation	Violation
1.	GLL and other Noticees	Not maintaining share registry work at a single point	Regulation 53A of DP Regulations read with SEBI Circular D&CC/FITTC/Cir-15/2002 dated December 27, 2002.
		Wrong shareholding details to the exchanges by incorrectly showing Bank of India as one of its promoters.	Section 21 of SCRA read with Clause 35 of Listing Agreement.
		False corporate announcements and inducing investors to deal in its shares.	Regulation 3 (a), (b), (c) and (d) and regulation 4(2)(r) of the PFUTP Regulations.
2.	Mr. Vinod Baid	Collusion with MFMCCL and defrauding the investors.	Section 12A (a), (b), (c) of the SEBI Act read with

	(Chairman and Director)	He knowingly played an orchestrated ploy in connivance with MFMCL and sold his shares at an inflated price through it and committed fraud on the gullible investors and made benefits out of such transactions.	regulation 3 of the PFUTP Regulations.
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6. All the Noticees filed their respective written replies to the SCN. The Noticees were also afforded an opportunity of personal hearing in the matter December 13, 2012. On the fixed date, Mr. KVLN Bhaswanth, Chief Operating Officer of GLL appeared and made submissions on its behalf. Mr. Vinod Baid appeared and made submissions for himself. During the hearing, GLL was directed to submit certain documents/details within one week from the date of hearing. Vide its letter dated January 17, 2013, GLL filed additional submissions. The other noticees namely Mr. U.C. Bhandari, Y. Ravinder Reddy and Mr. Kishore Jhunjhunwala did not appear on the fixed date. Mr. Kishore Jhunjhunwala made requests in writing for another opportunity of personal hearing. The said requests were acceded to and Mr. Kishore Jhunjhunwala was granted two opportunities of hearing on January 17, 2013 and March 28, 2013. However, he again failed to appear for personal hearing on the fixed dates despite the receipt of hearing notices.
7. The submissions of the Noticees *inter alia* are as follows:

I. Submissions of GLL

- (a) All the allegations contained in the SCN except those that are specifically admitted are denied.
- (b) It is managed by an independent team of staff members headed by Mr. Gopal Krishnan, Executive Director (not a Board member) assisted by, Mr. KVLN Bhaswanth its COO and other staff members. Mr. Vinod Baid, Mr. U.C. Bhandari, Y. Ravinder Reddy and Mr. Kishore Jhunjhunwala were independent directors on its Board and were not involved in the day to day management of its affairs.
- (c) An error was committed by its Compliance Officer of GLL in ascertaining and understanding the promoter categories mentioned in clause 35 of the Listing Agreement. Bank of India being shown in the promoters' category was an error committed by the concerned officer. There was no *mala-fide* intention in showing Bank of India in the promoter category and the same cannot be construed as a deliberate attempt for any wrongful gain, which can be readily gauged from the fact that a categorical disclosure that 25,00,000 shares of the Company are kept under pledge with Bank of India was made. It is true that GLL, ideally, should have shown the name of Premier Fiscal Services Private Ltd.

in the promoter category instead of Bank of India. The disclosure was erroneous and was neither willful nor wanton. There is no allegation in the SCN that the disclosure was done for any wrongful purpose.

- (d) It had appointed CIL Securities Limited as its RTA in the year 2007, and several issues between GLL and the RTA cropped up with respect to deficiency in service and other issues regarding communication between them. In view of the said issues, the management of GLL decided to switch over to another RTA. Therefore, there was no further activity with the RTA. Subsequently, there was a delay in switching over to another RTA and there was no undue gain or undue loss to any person due to such inadvertent delay.
- (e) Further, the communications sent by the RTA to GLL for providing physical records referred to in the SCN have not reached the Company and the said letters are not available in its records. GLL has expressed its doubts as to whether the RTA issued those letters to it at any point of time.
- (f) GLL appointed new RTA i.e. "R&D Infotech, Kolkatta" in April 2009 in place of CIL Securities Ltd. as "Common Agency" and since then it is conducting RTA work of the Company from a single point and therefore, there is no violation of regulation 53A of the DP Regulations and any delay in complying with the said regulation was due to delay in appointing the new RTA.
- (g) GLL has denied that there were any false announcements by it and submitted that it had made announcements after its Board of Directors decided in its meetings about the proposals. Any failure in implementation of the announcements can be attributed to various factors including adverse market conditions. Innovesco Pte Limited (Innovesco) is a long standing Singapore-based Company that *inter alia* deals in sourcing of chemicals and pharmaceuticals products from China and other overseas markets for export to India. Innovesco is associated with GLL for more than 7 years now and has been sourcing critical raw materials from China. During one of the visits Mr. Vinod Baid to Singapore, Mr. Arun Jain, Chairman of Innovesco had expressed his interest to invest in the Company and also to participate in the management of the Company by virtue of his experience in trading in pharmaceutical industry. Subsequently, on June 26, 2007, Mr. Arun Jain had sent a formal letter conveying his Company's offer to invest in GLL and the same was placed before GLL's Board of Directors at its meeting held on July 16, 2007. The Board of Directors of GLL, after discussing Innovesco's offer, had given its in-principle approval to consider the same and a resolution was passed accordingly.
- (h) The Board of Directors of GLL at the same meeting had also decided to appoint M/s. Laxmi Niwas & Jain, Chartered Accountants as Statutory Auditors to carry out enterprise valuation of GLL in accordance with the erstwhile SEBI (DIP) Guidelines and to determine the quantum of investment that may be brought in by Innovesco. GLL had

intimated the outcome of the said Board Meeting to the Stock Exchanges vide its letter dated July 16, 2007. As per the Enterprise Valuation Report of the Chartered Accountants, the price with regard to proposed preferential issue was determined in terms of the SEBI (DIP) Guidelines at ₹29/- per share including premium of ₹19/- per share. Accordingly, GLL offered preferential allotment equity shares to Innovesco at the rate of ₹29/- per share for their acceptance subject to mutual agreement upon other terms and conditions and statutory compliances by both the companies under related statutes / Acts of the respective Countries, as the case may be. However, Innovesco conveyed its inability to accept the offer explaining reasons thereof vide their letter dated November 14, 2007.

- (a) GLL is not aware of the transactions of MFMCL and the alleged connection of such transactions to its Chairman, Mr. Vinod Baid.
- (b) No *mala fide* can be attributed to the collective decision of the Board because of some anonymous transactions. Further, there is nothing in the SCN substantiating the allegation of false announcement except for the transaction of MFMCL.
- (c) The Adjudicating Officer appointed by SEBI earlier issued SCN dated May 23, 2011 to all Noticees for the alleged violation of sections 11C (2) and 11C(3) read with 11C(6) of the SEBI Act. GLL suffered heavy penalties for the said violation vide order dated July 29, 2011 passed by the Adjudicating Officer.

II. Submissions of Mr. Vinod Baid

- (a) He has also denied all the allegations contained in the SCN except those that are specifically admitted.
- (b) He has claimed that as a Chairman of GLL he is not involved in day to day activities of the Company. GLL is managed by an independent team of staff members headed by Mr. Gopal Krishnan, Executive Director (not a Board member) and assisted by COO, Mr. KVLN Bhaswanth and other staff members. Mr. U.C. Bhandari, Mr. Y. Ravinder Reddy and Mr. Kishore Jhunjhunwala (noticees no. 3, 4 and 5 respectively) were independent directors on GLL's Board and were not involved in day to day management of its affairs. He has made submissions on the lines of submissions of GLL as mentioned above and has made additional specific submissions as mentioned hereinafter.
- (c) The Adjudicating Officer appointed by SEBI earlier issued a show cause notice dated May 23, 2011 to all Noticees for the alleged violation of sections 11C(2) and 11C(3) read with section 11C(6) of the SEBI Act. The Company suffered heavy penalties for the said violation vide order dated July 29, 2011 passed by the Adjudicating Officer. Further, the Adjudicating Officer in the said order held that *"I find that there is no evidence on record to suggest that these directors were involved in the day to day activities of the Company, I therefore tend to give benefit*

of doubt to the directors and I do not find noticee-2, noticee-3, noticee-4 and noticee-5 guilty of violating the provisions of Sections 11 C(2) and 11C(3) read with 11C(6) of the SEBI Act, 1992."

- (d) He has denied the allegations pertaining to significant price and volume movements in the shares of GLL during the investigation period and has stated that the same are false and without any basis. He has further submitted that the announcements were not significant and that there was no significant price movement or volumes created as alleged or at all. Further, there was no gain made by any one and no loss was caused to anyone.
- (e) He has submitted that as per the SCN, when the announcement was made to BSE on July 16, 2007, the price of the scrip was hovering around ₹28. Further, the SCN alleges that on July 17, 2007 the price of the scrip opened at ₹28.95 and fell down to ₹27.10 and that on July 17, 2007 MFMCL purchased 5350 shares and sold 5,30,850 shares. These facts would show that the announcement had no impact on the price. On the contrary, it had negative impact on the price.
- (f) Sale and purchase of the shares by MFMCL was coincidental and cannot be linked to him and he had nothing to do with the announcements made by GLL. He has further submitted that the allegations of false announcements have not been referred to the parties and reliance is not placed on substantial material proving the correctness of such allegations and that the SCN is completely silent on these aspects and lacks material to support the allegation.
- (g) Any purchase of shares by any person when the announcements were not implemented cannot be the sole criteria to declare that the announcements were false, more so, when serious allegation of fraud is leveled against him. Such a sole criterion, being a weak link, cannot be relied upon.
- (h) As per the SCN when the announcement dated August 27, 2008 was made, the price of the scrip opened at ₹46.25 (previous close price ₹46.40), reached till ₹48 and closed at ₹45.05. There were 246 trades during the day. The SCN itself says that MFMCL had not traded on this date and on any subsequent date till the end of investigation period. He has further contended that any trades by MFMCL cannot, at the first instance, be linked to him. Secondly, such trades cannot be categorized to defraud investors by creating artificial market as alleged.

III. Mr. U. C. Bhandari, Mr. Y. Ravinder Reddy and Mr. Kishore Jhunjhunwala have made the same submission that they were nominated directors on the Board of GLL and assumed a very limited role and responsibility in the management of its affairs on a day to day basis more so, in the matter relating to purchase/ sale/ transfer of shares between the Company and other entities. Mr. U. C. Bhandari has also placed reliance on an order dated July 29, 2011 passed by

the Adjudicating Officer, SEBI and has submitted that he was not involved in the day to day activities of GLL.

8. I have carefully considered the SCN, replies of the Noticees and the oral submissions made during the hearing. The provisions of SEBI Act, SCRA, DP Regulations and PFUTP Regulations alleged to have been violated by the Noticees are reproduced hereunder:

DP Regulations

Manner of handling share registry work.

53A. All matters relating to transfer of securities, maintenance of records of holders of securities, handling of physical securities and establishing connectivity with the depositories shall be handled and maintained at a single point i.e. either in-house by the issuer or by a Share Transfer Agent registered with the Board.

SCRA

Conditions for listing.

21. Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.

SEBI Act

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognised stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

....

PFUTP Regulations

Prohibition of certain dealings in securities

3. No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognised stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognised stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made thereunder.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—

(r) planting false or misleading news which may induce sale or purchase of securities.

9. Mr. U. C. Bhandari, Mr. Y. Ravinder Reddy and Mr. Kishore Jhunjhunwala have claimed to be nominated directors. I note from the Annual Report of GLL for the year 2007-2008 that their names have been disclosed as independent directors of GLL in the Corporate Governance Report. I find that the SCN does not contain any allegation as to the involvement of these independent directors in the alleged violations. Further there is no material to establish that they were in charge of day to day affairs of GLL or that the alleged violations occurred with their consent or connivance. I, therefore, give them the benefit of doubt.
10. I note that Mr. Vinod Baid was the Chairman and Executive Director of the Company. He was the only executive director of the Company in its Board comprising four directors during the relevant time. Mr. Baid's role in the day to day management of the Company is evident from the fact that he had attended all the Board Meetings, Annual General Meeting (as shown in the annual report for 2007-2008) and was also a part of several committees of the Company such as Remuneration Committee, Investors' Grievance Committee, etc. I, therefore, find that being in charge of the day to day management of the Company and having fiduciary duty towards the Company and its shareholders, he is responsible for the acts and omissions of the Company besides being responsible for his own acts and omissions.
11. I note that GLL and Mr. Vinod Baid have contended that the Adjudicating Officer appointed by SEBI earlier issued a show cause notice dated May 23, 2011 to all Noticees for the alleged violation of sections 11C(2) and 11C(3) read with section 11C(6) of the SEBI Act. The Company suffered heavy penalties for the said violation vide order dated July 29, 2011 passed by the Adjudicating Officer. Further, Mr. Vinod Baid has submitted that the Adjudicating Officer in the said order had given the benefit of doubt to the directors and did not find Mr. Vinod Baid and other directors to be guilty of violating the provisions of Sections 11 C(2) and 11C(3) read with 11C(6) of the SEBI Act, 1992. I note that the order dated July 29, 2011 have been passed by the Adjudicating Officer with regard to the non compliance of summons issued by the investigating authority by GLL. The observations of the Adjudicating Officer in that order are with regard to charge of violation of sections 11 C(2) and 11C(3) read with 11C(6) of the SEBI Act, 1992. These

proceedings are with regard to altogether different charges than that inquired into and adjudicated upon by the Adjudicating Officer. I, therefore, find that the observations of the Adjudicating officer in his order dated July 29, 2011 have no bearing on the present proceedings.

12. I note that the Company had shown Bank of India as one of the promoters in its shareholding pattern filed with BSE for the quarters March 2007 - December 2008 which was not the correct position. It is also noted that the charge in the SCN is that of the wrong disclosure under clause 35. The Company has admitted this lapse and has submitted that it was an error committed by the Compliance Officer of the Company in ascertaining and understanding the promoter categories mentioned in clause 35 of the Listing Agreement and the disclosure was erroneous and was neither willful nor wanton. There is no dispute that Premier Fiscal Services Ltd., one of the promoters of GLL, had pledged 25 lakh shares as collateral security with Bank of India and the Company's shareholding pattern depicted the holding of Bank of India with an explanation "*25 lakh shares are kept under pledge with Bank of India as security for loan granted to a group company*". In these facts and circumstances, I observe that such disclosure was an error and do not find any blemish conduct on the part of the Company. However, the Company should be careful while making disclosures and should make true, fair and correct disclosures as required under the securities laws.
13. I find that GLL and its directors have been charged of not having appointed a "*Common Agency*" to handle share registry work at a single point. In terms of regulation 53A of the DP Regulations, responsibility is cast upon the issuer company to have a single point solution, i.e. either in-house by the issuer or a share transfer agent registered with SEBI, for all matters relating to the handling of physical security, security transfer, etc. As per SEBI circular D&CC/FTTTC/CIR-15/2002 dated December 27, 2002, all work related to share registry in terms of both physical and electronic should be maintained at a single point i.e. either in-house by the company or by a SEBI registered RTA.
14. In this case, I note that GLL had appointed CIL to handle its share registry work. According to the submissions of the Company and Vinod Baid, several issues between the Company and CIL cropped up with respect to deficiency in service and other issues. I note that the CIL also issued a No Objection Certificate vide letter dated April 13, 2009 in favour of a new Registrar and Transfer Agent, R&D Infotech Ltd., Kolkata. Further, the services of the CIL were terminated from July 1, 2009. Thus, the Company had taken measures to have a single point for the share registry work through a registered share and transfer agent. However, certain administrative issues arose between the Company and CIL because of matters pertaining to deficiency in service of CIL. In view of these facts and circumstances, I find that the default alleged in the SCN is technical and venial.

15. I further note that the Company had made several corporate announcements (as brought out in the table at point no. 4 above) during the period of investigation, some of which appeared to be false and misleading in nature, and has only implemented the corporate announcements of August 29, 2007 and September 4, 2007 about the preferential allotment of shares and warrants to Silver Golden Property Develop Fin Investment Ltd. and Carwin Mercantiles (P) Ltd. whereas other announcements were never implemented. Moreover, non-implementation of the same was not informed to the public through BSE.
16. In this case, on July 5, 2007, GLL announced about the Board Meeting to be convened on July 16, 2007 for considering the investment and management participation proposal received from Innovesco Pte Ltd, Singapore and the financial arrangement to be made for the proposed Bio-tech Products. On July 5, 2007, the scrip opened at ₹24.10 and reached to ₹25.65 with 253 trades. During July 6, 2007 to July 13, 2007, the price of the scrip further increased from ₹26.15 to ₹29.95 in 1506 trades. On July 16, 2007, GLL made another announcement whereby it announced that the Board had given its in-principle approval to the investment and management participation proposal from Mr. Arun Jain, Chairman of Innovesco Pte Ltd, proposed preferential allotment to Mr. Arun Jain and his associates and appointment of the statutory auditor for valuation of the business of the Company to determine the quantum of investment to be brought in by Mr. Arun Jain & Associates. The price of the scrip opened at ₹28.00 on July 16, 2007 and reached till ₹28.85 with 72 trades during the day. It is undisputed fact that these corporate announcements made by GLL positively impacted the price of the scrip.
17. I note that Mr. Vinod Baid, being the Promoter, Chairman and the only Executive Director of the Company, was in charge of the day to day affairs of the Company and therefore, was aware of the Company's actions. In fact, as mentioned in the letter dated June 26, 2007 sent by Innovesco Pte Ltd. to GLL (then named as Prudential Pharmaceuticals Ltd.), Mr. Vinod Baid had met and discussed with Mr. Arun Jain, Chairman of Innovesco Pte Ltd in Singapore about their investment proposal into the Company. It is noted that on July 4, 2007, (i.e. just one day before the corporate announcement was made on July 5, 2007) Mr. Vinod Baid, transferred his 9.60 lakh shares in GLL through off market transactions to Mercury Fund Management Company Ltd. (MFMCL), a connected entity. MFMCL then sold 9,30,850 shares on the Stock Exchange during July 5, 2007 to August 22, 2007, i.e. during the period when the above corporate announcements were made by GLL.
18. I note that neither Mr. Vinod Baid nor MFMCL have been able to establish their claim that the said 9.60 lakh shares were transferred in the off market transfer as security of the financial assistance/loan given by MFMCL on the basis of agreement between them. Further, vide its letter

dated January 17, 2013, GLL has submitted during these proceedings the correspondence between it and Innovesco Pte Ltd., which clearly suggest that Innovesco Pte Ltd. withdrew its investment proposal and communicated the same to GLL on November 14, 2007 i.e. much later than the period when the shares of the promoter and Chairman, Mr. Vinod Baid were being offloaded into the market by MFMCL. Admittedly, disclosures with regard to withdrawal of investment proposal of Innovesco Pte. Ltd. was not made at all by GLL to the stock exchanges.

19. In my view, the facts and circumstances such as, -

- (a) Mr. Vinod Baid, Chairman and Executive Director of GLL was negotiating the proposal with Innovesco Pte. Ltd. in June 2007;
- (b) Just one day before the corporate announcement dated July 05, 2007, he transfers his 9.60 lakh shares in GLL to a connected entity MFMCL through off-market transactions,
- (c) The corporate announcements made on July 05, 2007 positively impacts the price of the scrip and on the same day MFMCL starts off-loading his shares in the market;
- (d) GLL makes another announcement on July 16, 2007 that also positively impacts the price of its scrip;
- (e) MFMCL off-loads almost all the shares of Mr. Vinod Baid transferred to it in the off-market transactions in a very short span of time when the above announcements were made.

clearly indicate that the above corporate announcements succeeded in maintaining the price of the scrip to enable Mr. Vinod Baid to offload his 9.60 lakh shares in the market at an inflated price. In the above facts and circumstances it can be safely inferred that the above announcements were made as a device to enable fraudulent offloading of shares of Mr. Vinod Baid in the market at inflated price for his benefit. The design is further evident from the fact that Company never informed BSE that the investment proposal was withdrawn by Innovesco Pte Ltd.

20. In this regard, I note that the Hon'ble Securities Appellate Tribunal ("Hon'ble SAT") in matter of *V. Natarajan vs. SEBI (Order dated June 29, 2011 in Appeal No.104 of 2011)* has held that fraudulent or unfair trade practices in securities as prohibited by PFUTP Regulations include publishing any information which is not true or any advertisement that is misleading or contains information in a distorted manner. The following observations made by the Hon'ble SAT in that case are worth mentioning:

"These regulations also prohibit persons from indulging in a fraudulent or unfair trade practice in securities which includes publishing any information which is not true or which he does not believe to be true. Any advertisement that is misleading or contains information in a distorted manner which may influence the decision of the investors"

is also an unfair trade practice in securities which is prohibited. The regulations also make it clear that planting false or misleading news which may induce the public for selling or purchasing securities would also come within the ambit of unfair trade practice in securities.”

21. I further note that GLL on August 27, 2008 made another announcement whereby it informed BSE that in its Board Meeting held on August 26, 2008, it was unanimously decided to make an offer for purchase of 51% Stake in Ammana Bio Pharma Ltd and the Company authorized the Managing Director of the Company to enter into necessary Shareholders Agreement with them for acquisition of said stake. The announcement was also price sensitive and impacted the price and number of trades of the scrip as on the said day the scrip reached a high of ₹ 48.00 after opening at a price of ₹46.25 and closed at ₹45.05. There were 246 trades during the day which were substantial in respect of less traded scrip like GLL. This announcement was also not implemented by the GLL and the Stock Exchange was never informed about its non-implementation. I note that it was incumbent upon the Company to disclose non-implementation of such acquisition proposal to the Stock Exchange as it was a price sensitive information disclosure whereof is mandatory under clause 36 of the Listing Agreement. However, the Company failed to do so. In view of the precedent conduct of GLL and its Chairman and Executive Director Mr. Vinod Baid as found above and recurrence of such omissions, it can reasonably be inferred that the Company never intended to implement this corporate announcement.
22. In view of the above, I find that the GLL had planted false announcements in order to create an opportunity for Mr. Vinod Baid to offload his shares in the market at inflated prices and to generate artificial interest in the scrip of GLL. Mr. Vinod Baid, being the Promoter, Chairman and the Executive Director of GLL has played active role in issuance of such false announcements that had potential to influence and induce the buying and selling in its shares by investors. Mr. Vinod Baid was not only instrumental in the issuance of such false corporate announcements but he also fraudulently offloaded his 9.60 lakh shares in the Company through MFMCL taking advantage of the positive impact created in the market by the corporate announcements. In view of the above facts and circumstances, I note that the charges against GLL and Mr. Vinod Baid with regard to violations of the provisions of regulation 3 and 4 of the PFUTP Regulations and section 12A of the SEBI Act, 1992, as described in the SCN are established. I, therefore, find that GLL violated regulation 3(a), (b), (c) and (d) and regulation 4(2)(r) of the PFUTP Regulations and Mr. Vinod Baid violated provisions of section 12A(a), (b) and (c) of the SEBI Act, 1992 read with regulation 3 of the PFUTP Regulations.

23. I, therefore, in order to protect the interest of investors and the integrity of the securities market, in exercise of the powers conferred upon me by virtue of section 19 read with sections 11 and 11B of the SEBI Act read with provisions of regulation 11 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 hereby restrain Gennex Laboratories Ltd.(PAN: AABCP3078M) and Mr. Vinod Baid (PAN: AFOPB8378M) from accessing the securities market and also prohibit them from buying, selling, and otherwise dealing in securities market, directly or indirectly, in whatsoever manner, for a period of three years from the date of this order.
24. This order shall come into force with immediate effect.
25. A copy of this order shall be served upon all the Noticees and Bombay Stock Exchange Limited for necessary action.

DATE: September 13th, 2013

PLACE: MUMBAI

**RAJEEV KUMAR AGARWAL
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**