

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: S. RAMAN, WHOLE TIME MEMBER

ORDER

Under regulations 28(2) and 38(2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 in the enquiry proceedings against M/s Tropical Securities and Investments Pvt. Ltd. (SEBI Registration No.INB010993738) in the matter of Prudential Pharmaceuticals Limited.

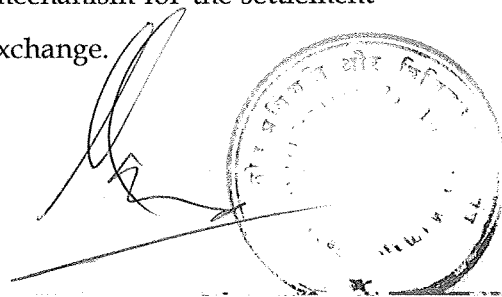
1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted an investigation into the alleged irregularities in the trading of shares of Prudential Pharmaceuticals Limited (hereinafter referred to as 'PPL') during the period March 5, 2001 to July 6, 2001(hereinafter referred to as 'the investigation period'). The shares of the company are listed on the Bombay Stock Exchange Ltd. (BSE), Calcutta Stock Exchange Ltd. (CSE), Ahmedabad Stock Exchange Ltd. (ASE) and Hyderabad Stock Exchange Ltd. (HSE).
2. It was observed that Tropical Securities and Investments Pvt. Ltd. (hereinafter referred to as 'the noticee') was the highest buyer in the scrip of PPL and its gross purchase in such scrip during the investigation period amounted to 7,60,234 shares which was 47.87% of the total gross purchase in the scrip during the investigation period. It is also observed that the noticee dealt in the scrip on its own account as well as on behalf of its clients. It was alleged based on the basis of the investigation report (IR) that the noticee had executed matched trades with other stock brokers thereby creating artificial volumes in the scrip of PPL.

3. The trading details of the noticee as furnished by BSE are given below:

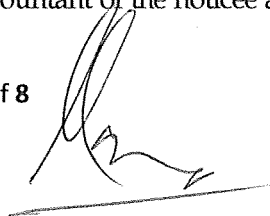
Name of the client	Settlement no.	Buy Quantity	Sell Quantity
Office A/c	12	2,10,001	
Pursarth Trading Co. Pvt. Ltd.	11	1,90,000	
	13	2,09,574	10
	14	9,185	
	15	28,069	
Falguni Mehta*	14	2,900	
Indu N. Zaveri*	14	11,100	
Nalin J Zaveri*	14	16,600	
Shrenik N Zaveri*	14	44,150	
Vidya Zaveri*	14	38,650	
Jaswant Rao*	8	5	
	TOTAL	7,60,234	10

*Clients of the noticee

4. As depicted in the table above, the noticee had dealt in the scrip on its own account as well as on behalf of its clients. Further, it was noted that Pursarth Trading Co. Pvt. Ltd. (hereinafter referred to as 'Pursarth') is a related entity of the noticee. Pursarth is one of the group companies of the noticee and the Directors of Pursarth namely Mr. Vishal Shah, Mr. Babaji Nachare and Mr. Shivaji Tambe were the employees of noticee.
5. It was alleged on the basis of IR that the noticee entered into transactions with various entities to tide over the liquidity problem/pay-in requirement of the stock exchange, thus misusing the stock exchange mechanism for the settlement of private financing arrangement outside the stock exchange.



6. On account of the various actions, the noticee is alleged to have violated the following provisions :
- i. SEBI Act, 1992;
 - ii. Regulations 4(b), 4(c) and 4(d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as "PFUTP Regulations");
 - iii. Clauses A(1), A(2), A(3) and A(4) of the Code of Conduct prescribed under Schedule II under Regulation 7 of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as "Stock Brokers Regulations").
7. Accordingly, an inquiry was initiated against the noticee in respect of the violations stated above. The Designated Authority (hereinafter referred to as DA) after conducting the enquiry submitted the report with the recommendation that the certificate of registration granted to the noticee may be suspended for a period of one month.
8. Subsequently, a Show Cause Notice dated August 8, 2013 (hereinafter referred as the "SCN") under Regulation 28(1) of the Intermediaries Regulations 2008 was issued by SEBI to the Noticee requiring it to show cause as to why action as may be considered appropriate should not be taken against the noticee as recommended by the DA. The noticee was advised to reply to the SCN within twenty one days from the date of 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 action in the manner as it deemed fit. A copy of the Enquiry Report was also forwarded to the Noticee along with the SCN.
9. The noticee replied to the SCN vide its letter dated August 20, 2013. Subsequently, an opportunity of personal hearing was granted to the noticee on September 26, 2013. On the date fixed for personal hearing, Shri Milan Dalal, Director and Shri Deepak Shah Accountant of the noticee and Shri Bhupendra



Dalal, Advocate appeared for the noticee and made oral submissions.

10. The submissions of the noticee, in brief, are:-

- a) The noticee had undergone financial crises and had to resort to spot funding the Exchange to meet the pay in obligations with the Exchange.
- b) The noticee has not resorted to any other violations except excessive volumes in illiquid scrips.
- c) There has not been a single complaint against the noticee in this respect. Also, neither any company/investor lost or harmed by the above violations nor the noticee has gained anything from the transactions in question.
- d) The noticee has fully co-operated and provided all the information asked for at every stage of the investigation.
- e) The noticee had for almost the same period transacted in a few other scrips and the nature of those transactions is similar. However, SEBI has initiated investigation in each scrip with different enquiry officers.
- f) The noticee had no connection with the PPL or its directors, or their associates.
- g) The noticee has voluntarily stopped business since December 2001.

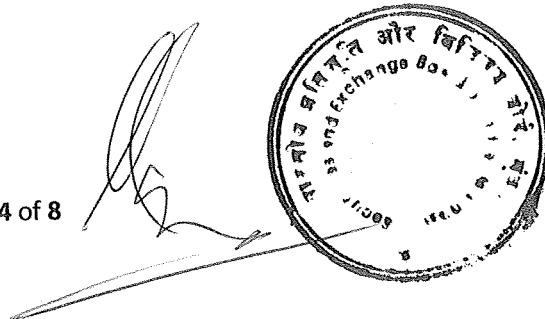
CONSIDERATION OF ISSUES AND FINDINGS

1. I have carefully considered the Enquiry Report, reply of the noticee, written submissions and the material available on record.
2. The legal provisions which have allegedly been violated by the noticee are reproduced below for reference:-

Regulation 4 (b), (c) and (d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 1995 -

"4. No person shall -

...



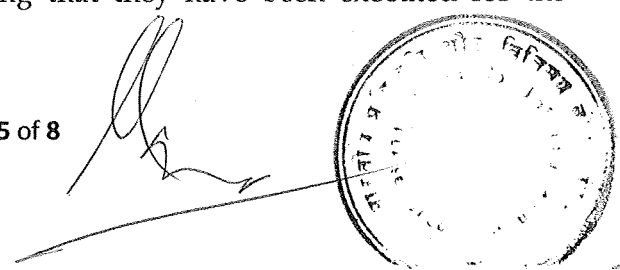
- (b) *indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities market;*
- (c) *indulge in any act which results in reflection of prices of securities based on transactions that are not genuine trade transactions;*
- (d) *enter into a purchase or 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;."*

Clause A (1), (2), (3) and (4) of the Code of Conduct for Stock Brokers in Schedule II of the SEBI (Stock-brokers and Sub-brokers) Regulations, 1992 -

"A. General.

- (1) *Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.*
- (2) *Exercise of due skill and care : A stock-broker shall act with due skill, care and diligence 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 stockbroker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness."*

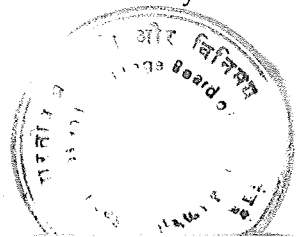
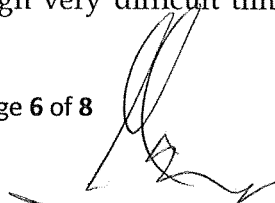
3. I note that the Noticee has not disputed the transactions in the scrip of PPL as brought out in the Enquiry Report. In this regard, I note that synchronised deals are made possible when the trades are put in the system with prior understanding between the counterparty brokers and clients. In such cases, prices and quantities are negotiated outside the system and orders are executed simultaneously. Synchronised nature of the transactions made has been admitted by the noticee stating that they have been executed for the



purpose of availing loan outside the stock exchange mechanism.

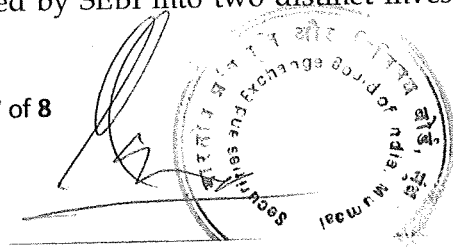
4. With regard to the allegation as to whether the noticee used stock exchange mechanism to tide over the liquidity to meet its pay-in obligation, it is observed from the bank statements of the noticee that the funds received by Harbinger Trading Co. Pvt. Ltd. (hereinafter referred to "Harbinger") and Ms. Aditi A Dalal from the proceeds of off market sales were immediately transferred to the bank account of the noticee to enable the noticee to meet its pay-in obligations. Further, Mr. Deepak Sheth, Director of Harbinger in his deposition before the Investigating Authority dated 13.12.2004 had said that Harbinger dealt in the scrip of PPL in order to create temporary funding to help group companies i.e. Tropical as well as CFL Securities to fulfill their exchange obligations. Further, the noticee also admitted that it has entered into synchronised transactions to avail loans outside the stock exchange. As the noticee had admitted that synchronised transactions were executed for the purpose of availing loans, I find that the noticee has violated the provisions of Regulation 4 (b) (c) (d) of PFUTP Regulations as well as clause A of the code of conduct for Stock brokers enumerated under the stock Brokers Regulations.
5. As the synchronised nature of the transactions has been admitted by the noticee, the only issue that remains to be addressed is whether the violations admitted by the noticee attract the penalty recommended by the DA. In this context, I note from the submissions of the noticee that in the same scrip with the same counterparty Ms. Aditi Dalal, SEBI vide order dated October 11, 2010 has awarded a penalty of warning to the counterparty.
6. Further , the noticee has also submitted that -

"SEBI may take a lenient view by only warning us as we had no intention of breaching the regulations and our request would be in the interest of justice. Please note, we have been through very difficult times and have voluntarily



shut business since December 2001. We have since then faced numerous enquiries for different scrips for almost the same period, in some cases, same settlement. Strangely, in the case of PPL there were two sets of dates covered, namely March 5, 2001 to July 6, 2001 and July 9, 2001 to March 6, 2002, we have already received suspension in the same scrip in the year 2007 for the second period and that in our opinion nothing survives in the 1st period, which is the subject matter of this case. Further the noticee contented that in the matter of Aditi Dalal Vs SEBI appeal no. 143 of 2011, the Hon'ble Securities Tribunal vide its order dated 28.11.2011 held that "the period during which the manipulations is said to have taken place is the same, the modus operandi adopted by the appellants in this scrip was also the same, we see no reason why he should have debarred the appellants for two years when they have already been warned earlier on the ground that they have undergone debarment by earlier order referred to above. If all the enquiries had been conducted simultaneously, the appellants would not have found themselves in a situation in which they are today".

7. In this regard, it is pertinent to note that SEBI conducted investigation into the alleged irregularities committed by the noticee during the period March 2001 to March 2002. However, the investigation period was divided into two and the present case is pertaining to the period March 5, 2001 to July 6, 2001. The second investigation was in respect of the period July 9, 2001 to March 6, 2002. It is noted that the noticee has already been suspended for a period of one month in respect of the enquiring proceedings initiated pursuant to the second investigation period. Further as observed from the order of the Hon'ble Securities Tribunal in a similar case in which the similar modus operandi was employed by the appellants that "If all the enquiries had been conducted simultaneously, the appellants would not have found themselves in a situation in which they are today".
8. Considering the above observations of the Hon'ble Tribunal in the light of the factual situation in the instant matter, I note that only two intervening days bifurcated the investigation conducted by SEBI into two distinct investigation



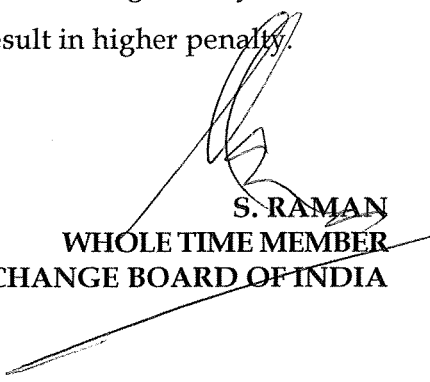
periods. Further, the modus operandi employed by the noticee during both investigation periods is the same. As mentioned before, SEBI vide order dated April 10, 2007 imposed a penalty of suspension of certificate of registration of the noticee for a period of one month for the trades executed by it in this same scrip in the latter investigation period. Considering these facts in totality, I am of the view that additional penalty of suspension of registration certificate is not warranted in the matter.

9. Considering the facts and circumstances of the case and considering the submissions made by the noticee that it has not conducted any business since 2001 and SEBI vide its order dated April 10, 2007, already imposed a penalty of suspension of registration certificate for a period of one month on the noticee, I am inclined to take a lenient view as regards the penalty warranted in the matter.

ORDER

10. In view of the foregoing, I therefore, in exercise of the powers conferred upon me by virtue of Section 19 of the SEBI Act read with regulations 28(2) and 38(2) of Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby issue a warning to Tropical Securities and Investment Ltd bearing SEBI Registration No.INB010993738 and advise Tropical Securities and Investment Ltd to be careful and cautious in the conduct of its stock broking activity and not to repeat similar violations, as the same may then result in higher penalty.

DATE: SEPTEMBER 30, 2013
PLACE: MUMBAI


S. RAMAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

