

BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. PKB/AO - 51/2011]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995

In respect of:

Lakshya Securities and Credit Holdings Limited
(PAN - AAACL7744D)

In the Matter of: Platinum Corporation Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) conducted investigations relating to buying, selling or dealing in the shares of Platinum Corporation Limited (hereinafter referred to as “the Company”). Investigation, *inter-alia*, had revealed that certain persons were holding shares of the Company but did not disclose their shareholdings and change in shareholding in compliance with SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as “PIT Regulations”) and SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as “SAST Regulations”).
2. It was observed that Lakshya Securities and Credit Holdings Limited (hereinafter referred to as the “Noticee”) was having beneficiary account with Depository Participant (hereinafter referred to as “DP”), Shah Investor’s Home Ltd. having BOID: 10280166. It was observed that the shareholding of the Noticee exceeded more than 5% of equity shares of the Company. Relevant transactions in the aforesaid beneficiary account were as follows:

| Date | Description | Credit | Debit | Balance | Balance % to equity |
|----------|--|--------|-----------|-----------|---------------------|
| 01/01/04 | Opening balance | | | 51,44,490 | 4.80% |
| 03/08/04 | To off-market transfer to Pavapuri Capital | 0 | 50,00,000 | 1,44,490 | 0.13% |

| Date | Description | Credit | Debit | Balance | Balance % to equity |
|----------|--|-----------|-----------|-----------|---------------------|
| 08/12/04 | By off-market credit from Pavapuri Capital | 50,00,000 | 0 | 51,44,490 | 4.80% |
| 07/01/05 | By off-market credit from 1301670000012840 | 17,80,490 | 0 | 69,24,980 | 6.47% |
| 25/01/05 | By off-market credit | 3,00,000 | | 72,24,980 | 6.75% |
| 06/04/05 | To off-market transfer to Anand Ramanlal Trivedi | | 72,24,980 | 0 | 0% |

3. It was observed that on January 07, 2005 the Noticee was holding 6.47% of paid up capital of the Company which was subsequently increased to 6.75% on January 25, 2005. Thereafter, these shares were transferred to beneficiary account of Mr. Anand Ramanlal Trivedi on April 06, 2005, thereby reducing the shareholding of the Noticee more than 2% of equity capital of the Company.
4. It was observed that the Noticee transacted substantially in the shares of the Company, but failed to make disclosures about its initial shareholding and change in shareholding to the Company and also to the Stock Exchanges as required under the PIT Regulations and SAST Regulations. In view of the aforesaid it was alleged that the Noticee violated the provisions of Regulation 13(1) and 13(3) of PIT Regulations and Regulation 7(1) of SAST Regulations.
5. The undersigned was appointed as the Adjudicating Officer vide Order dated March 23, 2011 and the said appointment was conveyed vide proceedings of the Whole Time Member dated July 04, 2011 to inquire into and adjudicate under Section 15 A (b) of the SEBI Act, 1992, the alleged violation of provisions of Regulation 13(1) and 13(3) of PIT Regulations and Regulation 7(1) of SAST Regulations.

SHOW CAUSE NOTICE, HEARING & REPLY

6. A Show Cause Notice (hereinafter referred to as “SCN”) in terms of the provisions of Rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as “**Adjudication Rules**”) was issued to the Noticee on July 15, 2011, calling upon the Noticee to show cause why an inquiry should not be held against it under Rule 4(3) of the Adjudication Rules for the alleged violations.

7. The aforesaid SCN could not be delivered by hand and therefore the same was affixed at the last known address of the Noticee. However, as no reply was received from the Noticee, Notice of Inquiry dated September 23, 2011 was issued to the Noticee vide which an opportunity of personal hearing was given to the Noticee which was scheduled for October 11, 2011. This Notice of Inquiry was duly served by way of affixture by the Western Regional Office of SEBI at the last known address of the Noticee in terms of provisions of Rule 4(3) read with Rule 7 of the Adjudication Rules. The report with regard to service of the SCN and Notice of Inquiry signed by two witnesses is on record. However, the Noticee failed to appear for personal hearing on the scheduled date.
8. I note that the Noticee failed to submit the reply to the SCN and also failed to appear for hearing and therefore, the inquiry is proceeded with taking into account the material available on record.

ISSUES FOR CONSIDERATION

9. After perusal of the material available on record, I have the following issues for consideration, viz.,
- A. Whether the Noticee has violated provisions of Regulation 13(1) and 13(3) of PIT Regulations and Regulation 7(1) of SAST Regulations?
 - B. Whether the Noticee is liable for monetary penalty under Section 15 A (b) of the SEBI Act, 1992?
 - C. What quantum of monetary penalty should be imposed on the Noticee taking into consideration the factors mentioned in Section 15J of the SEBI Act, 1992?

FINDINGS

10. On perusal of the material available on record and giving regard to the facts and circumstances of the case, I record my findings hereunder.

ISSUE 1: Whether the Noticee has violated provisions of Regulation 13(1) and 13(3) of PIT Regulations and Regulation 7(1) of SAST Regulations?

11. The provisions of Regulation 13(1) and 13(3) of PIT Regulations and Regulation 7(1) of SAST Regulations read as under:

SEBI (Prohibition of Insider Trading) Regulations, 1992

Disclosure of interest or holding by directors and officers and substantial shareholders in a listed companies - Initial Disclosure.

- 13 (1)** Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form A, the number of shares or voting rights held by such person, on becoming such holder, within 4 working days of : –
- (a) the receipt of intimation of allotment of shares; or
 - (b) the acquisition of shares or voting rights, as the case may be.

Continual Disclosure

- 13 (3)** Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company in Form C the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.

SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 1997

Acquisition of 5 per cent and more shares or voting rights of a company

- 7(1):** Any acquirer, who acquires shares or voting rights which (taken together with shares or voting rights, if any, held by him) would entitle him to more than five per cent or ten per cent or fourteen per cent or fifty four per cent or seventy four per cent shares or voting rights in a company, in any manner whatsoever, shall disclose at every stage the aggregate of his shareholding or voting rights in that company to the company and to the stock exchanges where shares of the target company are listed.

12. I note that the requirement of Regulation 13(1) of PIT Regulations is to disclosure to the company by any person who holds more than 5% shares or voting rights in any listed company; and such disclosure has to be made within four working days of receipt of intimation of allotment of shares or acquisition of shares or voting rights, as the case may be. I also note Regulation 13(3) of PIT Regulations requires a person holding more than 5% shares for voting rights in any listed company to disclose to the company the number of shares or voting rights held and change in shareholding or voting rights, if there has been change in such holdings from the last disclosure made under Regulation 13(1) of PIT Regulations or Regulation 13(3) of PIT Regulations; and such change exceeds 2% of total shareholding or voting rights in the company.

13. I note that the Noticee was having beneficiary account with the DP Shah Investor's Home Ltd. having BOID: 10280166. From the beneficiary account statement (Demat statement) of the Noticee (enclosed with the SCN as "Annexure II") I note that on January 07, 2005, the Noticee bought/received 17,80,490 shares of the Company taking its total shareholding in the Company to 69,24,980 shares (representing 6.47%

of the equity capital of the Company). I also note that on January 25, 2005, the Noticee bought/received 3,00,000 shares of the Company which further increased its total shareholding in the Company to 72,24,980 shares (representing 6.75% of the equity capital of the Company). I further note that on April 06, 2005 the Noticee transferred his entire shareholding ,i.e., 72,24,980 shares of the Company. Relevant transactions of the Noticee in the aforesaid beneficiary account were as follows:

| Date | Description | Credit | Debit | Balance | Balance % to equity |
|----------|--|-----------|-----------|-----------|---------------------|
| 01/01/04 | Opening balance | | | 51,44,490 | 4.80% |
| 03/08/04 | To H.NYALCHAND FINANCIAL SERVICES PRIVATE LTD / 10004314 | 0 | 50,00,000 | 1,44,490 | 0.13% |
| 08/12/04 | By H.NYALCHAND FINANCIAL SERVICES PRIVATE LTD / 10004314 | 50,00,000 | 0 | 51,44,490 | 4.80% |
| 07/01/05 | By Inter Depository transfer CDS / 1301670000012840 | 17,80,490 | 0 | 69,24,980 | 6.47% |
| 25/01/05 | By KIFS SECURITIES PRIVATE LTD / 10000677 | 3,00,000 | | 72,24,980 | 6.75% |
| 06/04/05 | To SHAH INVESTORS HOME LTD / 10263667 | | 72,24,980 | 0 | 0% |

14. From the above it is evident that the Noticee was holding more than 5% of the equity capital of the Company. It is also evident that there was a change in the shareholdings of the Noticee as it had sold/transferred 72,24,980 shares of the Company which reduced its shareholding from 6.75% to 0, i.e., a change exceeding 2% of the shareholding in the Company. Hence, the Noticee was under obligation to make disclosures under Regulation 13(1) and 13(3) of PIT Regulations to the Company. However, no such disclosures had been made by the Noticee under the aforesaid regulations.

15. I note that since the Noticee was holding more than 5% of the shares of the Company, in terms of Regulation 7(1) of SAST Regulations, the Noticee was also under obligation to disclose the aggregate of his shareholding in the Company to the Company and to the stock exchanges where shares of the Company were listed. However, no such disclosures had been made by the Noticee under Regulation 7(1) of SAST Regulations.

16. In view of the above, I hold that the Noticee was under an obligation to make the required disclosures under Regulation 13(1) and 13(3) of PIT Regulations to the Company and under Regulation 7(1) of SAST Regulations to the Company and to the

Stock Exchange, which the Noticee failed to do. Therefore, the Noticee has violated the provisions of Regulation 13(1) and 13(3) of PIT Regulations and Regulation 7(1) of SAST Regulations.

ISSUE 2: Whether the Noticee is liable for monetary penalty under Section 15A(b) of the SEBI Act, 1992?

17. The provisions of Section 15 A(b) of the Act reads,

“Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder, –

(b) to file any return or furnish any information, books or other documents within the time specified therefore in the regulations, fails to file return or furnish the same within the time specified therefore in the regulations, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;”

18. As already observed, the Noticee transacted substantially in the shares of the Company, but failed to make disclosures as required under Regulation 13(1) and 13(3) of PIT Regulations and Regulation 7(1) of SAST Regulations. Therefore, I find that the Noticee is liable for monetary penalty under Section 15A(b) of the SEBI Act, 1992.

ISSUE 3: What quantum of monetary penalty should be imposed on the Noticee taking into consideration the factors mentioned in Section 15J of the Act?

19. While imposing monetary penalty it is important to consider the factors stipulated in Section 15J of the Act, which reads as under:

“15J - Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.”

20. In the absence of material on record, the amount of disproportionate gain or unfair advantage made as a result of the default and the amount of loss caused to the investors due to the said default cannot be quantified. However, by virtue of the failure on the part of the Noticee to make the necessary disclosures on time, the fact remains that the investors were deprived of the important information at the relevant point of time. In other words, by not complying with the regulatory obligation of

making the disclosure, the Noticee had concealed the vital information which is detrimental to the interest of investors in securities market.

21. In the forgoing paragraphs it is now established that the Noticee failed to make necessary disclosures under Regulation 13(1) and 13(3) of PIT Regulations and Regulation 7(1) of SAST Regulations. Considering the facts and circumstances of the case and the violation committed by the Noticee, I find that imposing a penalty of ₹ 3,00,000/- (Rupees Three Lakhs only) on the Noticee would be commensurate with the violations committed by it.

ORDER

22. Considering the facts and circumstances of the case, in terms of the provisions of Section 15A(b) of the SEBI Act, 1992 and Rule 5(1) of the Adjudication Rules, I hereby impose a penalty of ₹ 3,00,000/- (Rupees Three Lakhs only) on Lakshya Securities and Credit Holdings Limited for not making necessary disclosures under Regulation 13(1) and 13(3) of PIT Regulations and Regulation 7(1) of SAST Regulations.
23. The penalty shall be paid by way of demand draft drawn in favour of "SEBI – Penalties Remittable to Government of India" payable at Mumbai within 45 days of receipt of this Order. The said demand draft shall be forwarded to Ms. Anita Kenkare, General Manager, Investigation Department, Securities and Exchange Board of India, Plot No. C4-A, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400051.
24. In terms of the provisions of Rule 6 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules 1995, copies of this Order are being sent to the Noticee and also to Securities and Exchange Board of India.

Date: November 17, 2011
Place: Mumbai

P. K. Bindlish
Adjudicating Officer