

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA**

[ADJUDICATION ORDER NO.EAD-2/DSR/RG/PU/343-344/2015]

**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

- 1. Amitabh Arun Parekh [PAN: AAIPP6897N]**
- 2. India Infoline Finance Limited [PAN: AABC12915C]**

In the matter of

Parekh Aluminex Limited

Background

1. The Securities and Exchange Board of India (hereinafter referred to as 'SEBI') had carried out an investigation into the alleged irregularity in the scrip of Parekh Aluminex Limited (herein after referred to as 'PAL') and into the possible violation of the provisions of the SEBI Act, 1992 (hereinafter referred to as the Act) and various rules and regulations made there under for the period September 06 - 07, 2010. It was observed that the price of the scrip moved from ₹319/- (on BSE) on September 06, 2010 to ₹510.90/-, intraday high on September 09, 2010 and closed at ₹499.75/-. The average daily traded quantity was 8,83,718 shares on September 06-07, 2010.
2. The investigation, inter alia, revealed that Shri Amitabh Arun Parekh, Chairman and Managing Director of PAL (hereinafter referred to as Noticee No. 1) had acquired 80,000 shares on September 06, 2010 constituting 0.61% of the total paid

up capital of PAL and further had transferred the said shares to a third party's demat account viz. India Infoline Finance Limited, Non-Banking Financial Institution (NBFC) (hereinafter referred to as Noticee No. 2) on December 10, 2010 which was within a period of 6 months from the date of the transaction (March 05, 2011). The entire transaction was reversed on February 16, 2011. The said transfer of shares ultimately resulted in promoter shareholding falling in December 2010 quarter and rising back again in January 2011 quarter.

3. The said transaction on the part of Noticee No. 1 was in violation of Clause 4.2 of the Model Code of Conduct for Prevention of Insider Trading for Listed Companies under part A of Schedule I under Regulation 12 (1) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (herein after referred to as the 'PIT Regulations') and Regulations 3 (a), 4 (1), 4 (2) (a) and 4 (2) (g) of the SEBI (Prohibition of Fraudulent Trade Practices) Regulations, 2003 (herein after referred to as 'PFUTP Regulations'). Further, by transferring 80000 shares of PAL from Noticee No.1's account to its own account and later retransferring the said shares back to Noticee No. 1's demat account, without any change of ownership and thereby creating a false and misleading transactions in the market, the Noticee No. 2 was alleged to have violated Regulations 3 (a), 4 (1), 4 (2) (a) and 4 (2) (g) of the PFUTP Regulations. SEBI, therefore, initiated Adjudication proceedings under the Act to inquire into and adjudge the alleged violations of the abovementioned provisions of law by the Noticees.

Appointment of Adjudicating Officer

4. I have been appointed as the Adjudicating Officer (AO), vide order dated August 29, 2013 under Section 15 I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act') read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'Adjudication Rules') to inquire into and

adjudge under Section 15 HA and 15 HB of the Act, the alleged violations of the provisions of law by Noticee No. 1 and under Section 15HA of the SEBI Act the alleged violations of the provisions of law by Noticee No.2.

Show Cause Notice, Reply and Personal Hearing

5. A common show cause notice dated October 25, 2013 (hereinafter referred to as 'SCNs') was issued to the Noticees under Rule 4 (1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty should not be imposed on them for the alleged violations of the abovementioned provisions of law. The SCN issued to Noticee No.1 returned undelivered with a remark that the addressee is deceased. Accordingly, vide letter dated March 04, 2014, a clarification was sought from PAL with respect to the death of Noticee No. 1. Vide letter dated March 06, 2014, PAL submitted that Noticee No.1 had passed away on January 06, 2013 and also enclosed the Certificate of Death dated January 11, 2013 issued by the Health Department, Corporation of Greater Mumbai, Government of Maharashtra. With respect to the SCN issued to Noticee No. 2, vide letter dated November 13, 2013, it sought an extension till November 25, 2013 to submit its reply. Accordingly, vide letter dated November 25, 2013, the Noticee No. 2 submitted its reply.
6. In the interest of natural justice and in order to conduct an inquiry as per Rule 4 (3) of the Adjudication Rules, an opportunity of personal hearing was granted to the Noticee No. 2 on March 26, 2014. The authorized representatives (ARs) appeared on behalf of Noticee No.2 on the scheduled date and reiterated the submissions made by it vide its reply dated November 25, 2013. Further, as the documentary evidence submitted by the Noticee No. 2 was not complete, vide letter dated July 31, 2014, the said Noticee was advised to submit the documentary evidence to illustrate the credit of 80,000 shares upon repayment of the loan amount by Noticee No. 1 on February 15, 2011. Accordingly, vide letter

dated August 14, 2014, the Noticee No. 2 submitted its reply along with a letter dated April 01, 2011 issued to Noticee No. 1. However, vide letter dated September 03, 2014, the Noticee No. 2 was once again advised to produce the documentary evidence in support of its contentions made vide its letter dated August 14, 2014. Also, vide the said notice, the Noticee No. 2 was granted another opportunity of personal hearing on September 16, 2014. The Noticee No. 2, vide letter dated September 12, 2014, submitted the requisite documents in support of its submissions. Further, the ARs attended the hearing on the scheduled date and reiterated the submissions made by the Noticee No. 2 vide letters dated November 25, 2013, August 14, 2014 and September 12, 2014. Further, the Noticee No. 2 requested for one week time to file its additional submissions in the matter. Accordingly, vide letter dated September 23, 2014, the Noticee No. 2 submitted its additional reply in the matter.

Consideration of Issues, Evidence and Findings

7. I have carefully perused the charges against the Noticees as mentioned in the SCN, written/oral submissions made by Noticee No. 2 and all the documents available on record. In the instant matter, the following issues arise for consideration and determination:

- a) **Whether the Noticee No.1 has failed to comply with Clause 4.2 of the Model Code of Conduct for Prevention of Insider Trading for Listed Companies under part A of Schedule I under Regulation 12 (1) of the PIT Regulations and Regulations 3 (a), 4 (1), 4 (2) (a) and 4 (2) (g) of the PFUTP Regulations and whether the Noticee No.2 has failed to comply with Regulations 3 (a), 4 (1), 4 (2) (a) and 4 (2) (g) of the PFUTP Regulations?**

b) Whether the Noticee No.1 is liable for monetary penalty under Section 15HA and 15HB of the Act and Whether Noticee No.2 is liable for monetary penalty under Section 15 HA of the Act?

c) If so, what should be the quantum of monetary penalty?

8. Before moving forward, I would like to refer to the relevant provisions of the PIT Regulations and the PFUTP Regulations which read as under:

PIT Regulations:

Code of internal procedures and conduct for listed companies and other entities.

12(1) All listed companies and organizations associated with securities markets including:

(a) the intermediaries as mentioned in section 12 of the Act, asset management company and trustees of mutual funds ;

(b) the self-regulatory organizations recognized or authorised by the Board;

(c) the recognized stock exchanges and clearing house or corporations;

(d) the public financial institutions as defined in section 4A of the Companies Act, 1956; and

(e) the professional firms such as auditors, accountancy firms, law firms, analysts, consultants, etc., assisting or advising listed companies, shall frame a code of internal procedures and conduct as near thereto the Model Code specified in Schedule I of these Regulations without diluting it in any manner and ensure compliance of the same.

**[Schedule I]
[Under regulation 12 (1)]**

**PART A
MODEL CODE OF CONDUCT FOR PREVENTION OF INSIDER
TRADING FOR LISTED COMPANIES**

“4.2 All directors/ officers/ designated employees who buy or sell any number of shares of the company shall not enter into an opposite transaction i.e. sell or buy any number of shares during the next six months following the prior transaction. All directors/

officers/ designated employees shall also not take positions in derivative transactions in the shares of the company at any time.

In the case of subscription in the primary market (initial public offers), the above mentioned entities shall hold their investments for a minimum period of 30 days. The holding period would commence when the securities are actually allotted."

PFUTP Regulations:

"3. Prohibition of certain dealings in securities

No person shall directly or indirectly –

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

(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: –

(a) indulging in an act which creates false or misleading appearance of trading in the securities market;

.....

(g) entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security;"

9. I find that PAL was incorporated as Parekh Aluminex Private Limited on September 01, 1994 and was converted into public company on February 14, 1995 under the Companies Act, 1956. The shares of PAL are listed on BSE and NSE. It was observed that the price of the scrip opened at ₹ 316.3 (opening price) on September 06, 2010 and closed at ₹ 398.35 (closing price) on September 07, 2010 i.e. an increase of 25.94% in just two days. The average daily traded quantity was 8,83,718 shares on September 06-07, 2010.

10. I further find from the SCN that the Noticee No. 1 was the Chairman and Managing Director of PAL and Noticee No. 2 is a NBFC registered with RBI. PAL had made an announcement on September 13, 2010 that Noticee No. 1 had acquired the following shares on September 06, 2010:

Particulars of acquisition/sale	Number of shares	Type	% w.r.t. total paid up capital of Target Company
Shares/Voting rights (VR) before acquisition under consideration	22,26,650	Equity	17.21
Shares/VR acquired	80,000	Equity	0.61
Shares/VR after acquisition	23,06,650	Equity	17.82

11. Further, I find that the Noticee No. 1 carried out the following transactions during the quarter ended December 2009, as per the demat account statement with CDSL, DP ID 12044700 and client ID 04589637:

Date	Transaction Particulars	Credit	Debit	Balance
01-04-2010	Opening Balance			0
08-09-2010	INTDEP-CR 95049637 CTRBO IN559021	40000		40000
08-09-2010	INTDEP-CR 95074662 CTRBO IN652277	40000		80000
08-12-2010	OF-DR TD: 896885 TX:319250 1204470003178117		80000	0
09-12-2010	OF-DR TD: 989888 TX:505373 1204470003178117	80000		80000
09-12-2010	OF-DR TD: 992342 TX:510277 1204470003178117		80000	0
10-12-2010	OF-DR TD: 117611 TX:560874	80000		80000

	1204470003178117			
10-12-2010	INTDEP-DR 12284189 CTRBO IN302269 12171320		80000	0

12. From the above table, it was observed that Noticee No. 1 had acquired 80000 shares of PAL in total (i.e. 40000 shares on NSE and 40000 shares on BSE) on September 06, 2010. Further, on December 10, 2010, the said acquired shares (i.e. 80000 shares) were transferred from Noticee No. 1's demat account to a third party's demat account i.e. Noticee No. 2's account. The said transaction/ transfer of 80000 shares by Noticee No. 1 within 6 months of his purchase of the same, amounted to constructive sale of the acquired shares and therefore, it was alleged that Noticee No. 1 had violated Clause 4.2 of the Model Code of Conduct for Prevention of Insider Trading for Listed Companies under part A of Schedule I under Regulation 12 (1) of the PIT Regulations. It was further noted that for the said transaction, Noticee No. 1 had even issued a delivery instruction slip (DIS) in favour of Noticee no. 2. Upon examining the said DIS, it was observed that the signature on the said DIS did not appear to be that of Noticee No. 1. Despite several attempts, no clarification was given by the Noticees to SEBI on the same. Further, upon transfer of the said shares, public shareholding for the quarter ended December 2010 reflected a false increase and a false decrease in Promoter's shareholding.

13. It was observed that the Noticee No. 1 had borrowed money from Noticee No. 2 by pledging the said shares with it. The demat account of Noticee No. 1 (client ID: 1204470004589637) however, did not show any pledge. Further, the Noticee No. 2 had got 80,000 shares of PAL transferred to its own demat account (client ID: 12044770003178117) and had kept the same till February 16, 2011 in its account. On the said date, it was noted that the Noticee No. 2 had transferred them back to the Noticee No. 1's account. By this act, it was further alleged that the Noticee No. 2 had aided Noticee No. 1 in selling the 80,000 shares without

using the market platform and without any change of ownership, thereby, creating a false and misleading transactions in the market. Therefore, it was alleged in the SCN that Noticee No. 1 & 2 had violated Regulations 3 (a), 4 (1), 4 (2) (a) and 4 (2) (g) of the PFUTP Regulations.

14. Vide letter dated March 06, 2014, PAL informed that the Noticee No. 1 had expired on January 06, 2013 and enclosed a copy of the Certificate of Death of Noticee No. 1 as issued by the Department of Health, Government of Maharashtra, in support thereof. In view of the same, I conclude that the adjudication proceedings initiated against Noticee No. 1 i.e. Shri Amitabh Arun Parekh stand abated. However, I shall examine the role of Noticee No. 1 for the limited purpose of examining the role and findings against Noticee No. 2 in the matter.

15. Vide its reply dated November 25, 2013, the Noticee No. 2 submitted that it is a NBFC registered with the Reserve Bank of India and is engaged in the business of providing loans against securities (i.e. shares, debentures, mutual fund units), mortgage loans, commercial vehicle finance, gold loan and health care finance. The Noticee No. 2 further stated that it had entered into a loan agreement dated August 10, 2009 with Noticee No. 1 to provide finance required by Noticee No. 1 for his trading/investment activities against securities, which were taken as security and the same was done as part of its business. As per the said loan agreement, it had to disburse the funds from time to time in a designated bank account to be used and operated by the Noticee No. 1 solely for the purpose of and in connection with loan facility. As security for the loan, the Noticee No. 1 was required to provide eligible security, inter alia, by transferring shares into the demat account of value determined by the Noticee No. 2 towards margin; and/or to create an exclusive pledge in favour of Noticee No. 2 on securities belonging to Noticee No. 1; and / or by transferring to its demat account such

securities as it may specify. Also, under the said agreement, Noticee No. 1 had irrevocably authorized Noticee No. 2 to transfer all such securities of Noticee No. 1's obligations, to Noticee No. 2's demat account and that it also had the absolute right of disposal over the securities so transferred in its sole discretion , so as to recover Noticee No. 1's obligations.

16. The Noticee No. 2 further submitted that, it is a part of routine for it to hold shares as security for loans and it does the same consistently by following all the rules, regulations, RBI circulars and established market practices. The Noticee No.2 had provided loan against shares only upon completing the Know your Customer (KYC) procedures as mandated by RBI, on the request of Noticee No.1, pursuant to entering into the Loan Agreement. Further, on December 08, 2010, the Noticee No. 2 had transferred various securities/ shares of Noticee No. 1 to its own demat account as security for the loan facility which included 80000 shares of PAL held by Noticee No. 1 in his demat account. The Noticee No. 2 stated that on February 15, 2011, Noticee No.1 had cleared his debit balance with it which also reflected in the ledger statement and therefore, on February 16, 2011 the Noticee No. 2 re-transferred the said shares of PAL to the demat account of Noticee No.1 on the said date. The holding of such PAL shares as security was in existence only when the ledger account of Noticee No.1 was in debit and the same were released upon repayment in full of Noticee No.1's dues under the loan agreement. The details of the same as submitted by Noticee No. 2 are as under:

Name of the Scrip	No. of shares	Date of transfer to Noticee No. 2's account	Date of transfer from Noticee No.2 's account to Noticee No.1's account
ESSAR OIL LTD	150000	08-Dec-10	29-Jan-11
JSW ENERGY LTD	37500	08-Dec-10	10-Feb-11 & 11-Feb-11
NIRAJ CEMENT	200000	08-Dec-10	16-Feb-11
PAREK ALUMINEX	80000	08-Dec-10	16-Feb-11

LTD.			
PRISM INFOMATICS	15000	08-Dec-10	03-Jan-11
SHAYADRI IND	25000	08-Dec-10	16-Feb-11
Total	5,07,500,		

17. As regards the allegation that the signature on the DIS, which does not match with that of Noticee No. 1, it is submitted by Noticee No. 2 that pursuant to the powers vested with it by virtue of the loan agreement and Power of Attorney (POA) dated August 10, 2009, the authorised signatories of Noticee No. 2 had signed the relevant DISs for the transfer of the aforesaid shares. Further, vide letter dated October 15, 2012, the Noticee No. 2 explained the background of the transaction and provided adequate supporting documents for the same. It also submitted that it had a number of clients and Noticee No.1 is also one of them, who used to avail of loan against its securities. The said transfer of shares was in the form of security and as such there was no need to sell the shares till the client defaulted in its repayment. It was further submitted by Noticee No. 2 that Noticee No. 1 had made the repayment in full on February 15, 2011 and therefore, Noticee no. 2 transferred 5,07,500 shares (including 80,000 shares of PAL) back to the demat account of Noticee No. 1. The Noticee No.2 also submitted that as the Noticee No.1 is no more alive, his account with Noticee No. 2 is inactive.

18. Vide its letter dated August 14, 2014 the Noticee No. 2 also submitted that as on December 09, 2010 the outstanding loan amount of ₹ 30,24, 95,335/- due from the Noticee No. 1 was fully received by Noticee No. 2 by April 01, 2011. The Noticee No.2 also enclosed a copy of the letter dated April 01, 2011 issued to Noticee No. 1 intimating about the collection of the outstanding loan amount and release of the securities to his demat account. Vide letter dated September 12, 2014 the

Noticee No. 2 submitted a copy of the loan agreement between Noticee No. 1 and itself, a copy of the demat account statement of itself showing the debit of 80,000 shares of PAL on February 16, 2011 from its account to the account of the Noticee No. 1 with the Noticee No. 2 as the Depository Participant (DP), copy of the demat account of Noticee No. 1 as received from the DP showing the credit of 80,000 shares of PAL on February 16, 2011, copy of the Noticee No. 2's Citibank and Axis Bank account statements showing disbursement of loan to Noticee No. 1 as receipt repayment by Noticee No. 1 on various dates.

19. Moreover, vide its letter date September 23, 2014, the Noticee No. 2 submitted that Loan Against Securities (LAS) is different from other loan products which are in the nature of term loans. For LAS, a standard loan agreement is used with required details of the customer. While normally, in term loans, the loan amount is fixed and as such the loan agreement states the loan amount along with the schedule for repayment of the principal and payment of interest together with other terms and conditions of the loan. The Noticee No. 2 further submitted that LAS is more of a floating loan whereby the loan amount depends upon the value of eligible securities offered as security to Noticee No. 2 at the time of drawing loans. Further, depending on the value of the existing securities as well as additional securities which the customer may acquire or selling of securities, the limits to draw keep varying from time to time. Accordingly, the conditions of the Loan Agreement particularly Clause 3 "Finance" provides "*The borrower hereby agrees to borrow from the Financier from time to time and the Financier agrees to lend to the borrower from time to time on the terms and conditions contained herein, such sum or sums maybe determined by Financier in its absolute discretion to part finance the borrower's trading/investment activities.*" Further, Clause 4 "Disbursement" states in paragraph 4 "*... The amount to be disbursed by the financier on each occasion shall be calculated by the financier with reference to the amount deposited as margin with the financier and the value of the securities transferred/proposed to be transferred to the*

account of the Financier by the borrower as and by way of security." Also, the interest charged on the loan amount changes from time to time as set out in Clause 5 "Interest" which provides in sub clause 5.1 that *"The Borrower shall pay to the Financier interest calculated as such rate as may be decided by the Financier from time to time..."*. The financing to borrowers under LAS is primarily made for them to invest in mutual funds, initial public offers or investing/trading in securities. The Noticee No. 2 also clarified as regards the loan account of Noticee No. 1 that the entire loan account outstanding as on February 01, 2011 of ₹ 15,82,50,140/- had been repaid in full as on April 01, 2011 (Annexure 4 to the reply dated November 25, 2013).

20. I have carefully perused the charges leveled against the Noticee No. 2 in the SCN and the submissions made by it. I find that the Noticee No. 2, is an NBFC registered with the RBI. I further find that PAL had made an announcement on September 13, 2010 that Noticee No. 1 had acquired certain shares on September 06, 2010 including 80,000 shares of PAL. On December 10, 2010, the said acquired shares (i.e. 80000 shares) were transferred from Noticee No. 1's demat account to a third party's demat account i.e. Noticee No. 2's account. It is alleged that the said transaction/ transfer of 80000 shares by Noticee No. 1 within 6 months of his purchase of the same, amounted to constructive sale. I also find that the shares of PAL increased by 4,00,000 shares from the quarter ending March 2010 to quarter ending June 2010 followed by an increase of 80,000 shares during quarter ending September 2010 due to the market purchase by the Noticee No.1 during those quarters. During the quarter ending December 2010, i.e. on December 08, 2010, Noticee No. 1 had transferred all the 80000 shares acquired by it to Noticee No.2, in an off market transfer. The details of the same are provided in the tables below;

Table - 1:

Quarter Ending	Dec-09	Mar-10	Jun-10	Sep-10	Dec-10
Promoter & Promoter Group	43,87,400	43,87,400	47,87,400	48,67,400	47,87,400
Public	85,52,600	85,52,600	81,52,600	80,72,600	81,52,600
Total (No. of shares)	1,29,40,000	1,29,40,000	1,29,40,000	1,29,40,000	1,29,40,000

Table - 2:

Date	Name of the scrip	No. of shares pledged	Nature of pledge
08-Dec-2010	Essar Oil Ltd	150000	Transfer to demat a/c 12044700 03178117 of IIFL
08-Dec-2010	JSW Energy Ltd	37500	Do
08-Dec-2010	Niraj Cement	200000	Do
08-Dec-2010	Parekh Aluminex Ltd	80000	Do
08-Dec-2010	Prism Informatics	15000	Do
08-Dec-2010	Sahyadri Ind	25000	Do

21. Further, I find that Noticee No. 2 had transferred the 80,000 shares of PAL from Noticee No. 1's account to its own demat account (Client ID: 12044770003178117) and kept the shares till February 16, 2011. On the said date, Noticee No. 2 transferred them back to the Noticee No. 1's account. Further, I find that for the said transaction, Noticee No. 1 had even issued a delivery instruction slip (DIS) in favour of Noticee no. 2. Upon examining the said DIS, it was noted that the signature on the said DIS did not appear to be that of Noticee No. 1. With respect to the said allegation, the Noticee No. 2 in his submissions has stated that the disparity in the signature on the DISs arose due to the fact that the authorised signatories of Noticee No. 2 had signed the relevant DISs pursuant to the powers vested in Noticee No. 2 under the loan agreement and POA dated August 10, 2010. I find that the said shares were transferred by Noticee No. 1 to Noticee No. 2 as Noticee No. 1 had borrowed some funds from the NBFC and had transferred the said 80,000 shares of PAL as pledge against the said money borrowed. However, the demat account of Noticee No. 1 did not state 'pledge' as the reason

for the transfer of the shares. It is the case of Noticee No. 2 that the shares were transferred from Noticee No. 1's demat account for the purpose of security and the same were returned back to the demat account of Noticee No. 1 upon repayment of the entire loan amount. The Noticee No. 2 has even provided the bank account statements and demat account details in support of its contentions.

22. Upon perusal of the Annexure 4 to the reply dated November 25, 2013 (bank account statement of Noticee No. 2), I note that the entire loan outstanding of ₹ 15,82,50,140/- as on February 01, 2011 had been actually repaid by Noticee No. 1 as on April 01, 2011. The relevant extract of the bank details showing the repayment of the monies are reproduced in the table below:

Date	Particular	Credit	Debit	Balance
Feb/01/2011	Funds released	-	250064	-158250140
Feb/02/2011	Funds released	-	12970118	-171220258
Feb/03/2011	Funds released	49332177	-	-121888081
Feb/04/2011	Funds released	4404269	-	-117483812
Feb/09/2011	Funds released	2946243	-	-114537569
Feb/10/2011	Funds released	62298097	-	-52239472
Feb/11/2011	Funds released	23692888	-	-28546584
Feb/14/2011	Funds released	8127289	-	-20419295
Feb/15/2011	Funds released	20419295	-	0
Mar/01/2011	Interest charged for the month of February 2011	-	574954	-574954
Mar/14/2011	Noticee No. 1 NBFC Interest reversal charges	31598	-	-543356
Mar/17/2011	Funds released	61695	-	-481661
Mar/21/2011	Funds released	198275	-	-283387
Mar/23/2011	Funds released	283387	-	0
Apr/01/2011	Interest charged for the month of March 2011		5084	-5084
Apr/01/2011	Funds released	5084	-	0

23. I note, that Noticee No.2 being an NBFC was engaged in the business of advancing loans against securities mortgage loans, commercial vehicle finance, gold loan and health care finance. Therefore, it is a part of the routine business for Noticee No. 2 to hold shares as security for loans, as long as it is done in consistence with the applicable Rules, Regulations, RBI Circulars and established

market practices. Moreover, Noticee No. 2 vide its letter dated October 15, 2012, stated that Noticee No.1 was one among its several clients. Thus, the loan provided by Noticee No.2 on the basis of the volume of securities of shares of PAL remains undisputed. Further, I observe that Noticee No. 2 transferred the shares back to Noticee No.1 upon full repayment of the loan amount by Noticee No. 1. The decrease in the promoter Shareholding and increase in public shareholding, during the quarter ending December 2010, as a result, cannot be circumvented unless a fraudulent intent and relationship between the Noticees is established. The said view has even been taken by the Hon'ble Securities Appellate Tribunal in the case of Piyush P Avlani v. SEBI, Appeal No. 131 of 2012. As, no such relationship between the Noticees has been established and a mere transfer of shares from Noticee No.1's account to Noticee No. 2's own account cannot be sufficient evidence to establish the fraudulent and manipulative intent on the part of Noticee No. 2. I do find merit in the submissions of the Noticee No. 2 that the loan agreement entered into between the two Noticees had the power of attorney clause which gave the Noticee No. 2 the right to pledge the shares and transfer the same from the demat account of Noticee No. 1 to its own account on disbursement of monies in the accounts of Noticee No. 1. Also, the documentary evidence produced by the Noticee No. 2 is beyond doubt showing the repayment of monies by Noticee No. 1. Therefore, I do not find any malicious intent on the part of Noticee No. 2 in keeping the shares of PAL in its own account till February 16, 2011 and later transferring them back to the demat account of Noticee No. 1. I conclude that the said transaction was purely a loan agreement between the Noticees and did not amount to any fraudulent activity.

- 24.** From the forgoing, I find that the Noticee No 2's act of transferring 80,000 shares of PAL to its own demat account and keeping the said shares in its account till February 16, 2011, when it ultimately transferred them back to the Noticee No.1's

account, does not amount to a sale of shares and is only a pledge, which was performed in the due course of Noticee No.2's business. Therefore, I conclude that the Noticee No. 2 cannot be held guilty of aiding the Noticee No.1 in selling of the 80,000 shares to it and consequently, cannot be held guilty of violating the provisions of Regulations 3 (a), 4 (1), 4 (2) (a) and 4 (2) (g) of the PFUTP Regulations.

ORDER

- 25.** In view of the above, after considering all the facts and circumstances of the case and exercising the powers conferred upon me under section 15-I (2) of the SEBI Act, I hereby conclude that the adjudication proceedings initiated against Noticee No. 1 i.e. Shri Amitabh Arun Parekh stand abated and the charges levelled against Noticee No.2, i.e. India Infoline Finance Limited, do not stand established and the matter is, accordingly, disposed of.
- 26.** In terms of the Rule 6 of the Adjudication Rules, copy of this order is sent to India Info line Finance Limited and also to Securities and Exchange Board of India.

Date: January 13, 2015

Place: Mumbai

**D. SURA REDDY
GENERAL MANAGER &
ADJUDICATING OFFICER**