

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. BD /NR/2020-21/8060-8080

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

In respect of:

1. Finalysis Credit & Guarantee Co., Ltd., (PAN: AABCF9494P) Damji Shamji Complex, LBS Marg, Kurla (West), Mumbai – 400070.	2. Bipin Pushpasen Divecha (PAN: AABPD5165A) 11A-11, Embee Apts, Saibaba Nagar, Borivali (West) Mumbai – 400092.
3. Sham Sadhuram Gandhi (PAN: AAAPG8353J) 6, White Rose Apts., M Dutta Marg, Near Four Bungalows, Andheri (West), Mumbai – 400053.	4. Dilip Sureshchandra Shah (PAN: AJAPS4111R) 3, Rajhans Teen Batti – 6, Donersi Road, Walkeshwar, Mumbai – 400006.
5. Jiger Dilip Shah (PAN: BBOPS1405H) 3, Rajhans Teenbatti, Walkeshwar, Mumbai – 400006.	6. Sharad Ramchandra Ghadi (PAN: AIQPG6396R) Kesrinath Joshi CHS Ltd., Flat No. 202, 2nd Floor, Saba Road, Diva (East), Thane – 400612.
7. Mohammad Rafi (PAN : BMEPM7501B) H 73, Mahindra Park, B-1, H-Wing, LBS Mag, Nr. Union Bank of India, Ghatkopar (West), Mumbai – 400086.	8. Roma Shamshad Khan (PAN : AHMPP8481F) 73, Mahindra Park, Building 1, H – Wing, LBS Road, Ghatkopar (West), Mumbai – 400086.
9. Mohd Salim Khan (PAN : AVRPK7818C) Samrat Apts, B Wing, R No.307, Sonapur Lane, Pereira Marg, Kurla West, Mumbai – 400070.	10. Amir Hamza Hakim Khan (PAN : ASXPK2912L) Flat No.-B/307, Samrat Chs, Scty Lee, Peeter Qeriera, Wadi Road, Behind City Hospital, Mumbai – 400070
11. Abdul Hakim Khan (PAN : AHAPK0293Q) Flat No.-B/307, Samrat Chs, Scty Lee, Peeter Qeriera, Wadi Road, Behind City Hospital, Mumbai – 400070.	12. Abdul Zameer Hakim Khan (PAN : ASXPK2911K) Flat No.-B/307, Samrat Chs, Scty Lee, Peeter Qeriera, Wadi Road, Behind City Hospital, Mumbai – 400070.
13. Talat Wahadataali Mohamad (PAN : AAHPM1979K)	14. Rehana Khan (PAN : BVFPK4495L)

H/73, Mahindra Park, Bldg 1, LBS Marg, Ghatkopar (West), Mumbai – 400086	3rd Floor, Near City Hospital, Kurla (West), Mumbai – 400070.
15. Santosh Jayaram Sawant (PAN : AZHPS1796B) M/s Vibrant Investments 47, Tamarind Lane, Raja Bahadur Mansion, 2nd Floor, Fort, Mumbai-400001.	16. Bipen Devecha HUF (PAN: AAFHB5124D) 11A-11, Embee Apts, Saibaba Nagar, Borivali (West), Mumbai – 400092.
17. Balaji Investment Proprietor: Bipin P Divecha (PAN: AABPD5165A) No.4 Tripta Sadan, Shanta Wadi, Andheri (West), Mumbai – 400058.	18. Jagdish Dilip Sarkhot (PAN : CFIPS3482M) A/Po, Pushkunj, Dahanu Thane – 401601.
19. Market Pulse Finsoft Pvt Ltd (PAN: AAHCM3288Q) 3g, Gopal Bhuvan Next to Omsai Motor Kandivali (West) Mumbai – 400067.	20. Saga Financial Services Pvt Ltd (PAN : AAJCS7871F) Office No-03, Vatsal Apts., Next to Dena Bank, S.V. Road Kandivali (West), Mumbai – 400067.
21. Yashwant Trimabak Sarkhot (PAN : AEEPS2861K) Near Fort, Dahanu West, Dahanu, Thane – 401601.	

(The aforesaid entities are hereinafter referred to by their respective names/serial numbers or collectively as “the Noticees”)

In the matter of Finalysis Credit & Guarantee Co., Ltd.,

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as ‘SEBI’) carried out an inspection of books of records and other documents of Link Intime India Pvt., Ltd., (*hereinafter referred to as “Link Intime”*), a SEBI registered Registrars to an Issue and Share Transfer Agents (*hereinafter referred to as “RTA”*), in respect of the processes being followed by it in executing investor requests, viz., share transfer, transmission, issue of duplicate shares, dematerialisation and rematerialisation. During the said inspection, it was observed that many investor complaints were pending with respect to the Company - Finalysis Credit & Guarantee Co., Ltd., (*hereinafter referred to as “Noticee 1” / “Company” / “Finalysis”*).

2. The Company was incorporated on April 07, 1988 as Finalysis Credit & Guarantee Company Private Limited. The name of the Company was changed on August 23, 1995 to Finalysis Credit & Guarantee Company Limited. The Company was listed on June 19, 1996 at the Bombay Stock Exchange ('BSE') and was suspended on May 13, 2002 for not complying with the terms of the Equity Listing Agreement. Subsequently, upon an application from the Company, the said suspension was revoked on March 28, 2012; however, the listing of the Company was again suspended on September 9, 2014.
3. The said complaints as mentioned *supra* had been filed with SEBI by public shareholders of the Company during the period August 2012 to May 2013, after their requests for transfer/dematting of shares were rejected on the ground that the shares had already been dematted or transferred. Accordingly, in order to arrive at the circumstances leading to the rejection of transfer and demat requests, and any other consequential violations, an investigation was ordered in the matter on November 20, 2014, and the investigation period was determined to be August 29, 2012 to May 08, 2013.
4. The Investigation revealed that the Noticees 3, 4 and 5 namely Sham Sadhuram Gandhi, Dilip Sureshchandra Shah and Jiger Dilip Shah held about 6.84 lakh shares of Finalysis. Consequent upon absconding of the promoter of the Company viz., Mukesh Kothari, the above mentioned Noticees devised a Scheme to initiate fraudulent sale of 93% of the shareholding of Finalysis, constituting a total of 51,20,394 shares held by public shareholders, even though the said Noticees held about 6.84 lakh shares of Finalysis. With the said objective, the above named Noticees took the help of Vinayak Sarkhot and Bipin Pushpasen Divecha (Noticee 2) to find purchasers for the said 93% stake and to get the suspension of trading on BSE revoked. Further, the Investigation Report also observed that Sajjad Abdul Qadir Pavane was the Managing Director of Finalysis at the time of receipt of the complaints from the public shareholders, and a large number of shares had been transferred to Sajjad Pavane's related entities, the Noticees 7 to 14. Thus, the investigation concluded that the Noticees 1 to 15, Vinayak Sarkhot and Sajjad Abdul Qadir Pavne had devised a scheme to defraud the original public shareholders by issuing forged

consolidated share certificates and thereafter, fraudulently selling these forged consolidated share certificates to purchasers brought by Bipin Divecha making them believe that the shares transferred to them were original, though they were not so. Accordingly, the investigation found that the Noticees 1 to 15, Vinayak Sarkhot, Sajjad Abdul Qadir and Wahadataali Gulam Rasoon Khan, had violated the provisions of Section 12 A(a), (b) and (c) of SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 *{hereinafter referred to as "SEBI (PFUTP) Regulations}*. Further, the investigation observed that Noticees 7, 9 to 14 and Wahadataali Gulamrasool Khan while acting in concert with each other had together acquired shareholding entitling them to exercise more than 25% of the voting rights in Finalysis during the quarter ended September 2013 and accordingly they were required under Regulation 3(1) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 *{hereinafter referred to as SEBI (SAST) Regulations}* to make a public announcement of an open offer for acquiring the shares in Finalysis, which the eight entities taken together failed to do so. The investigation also observed that the Noticees 7 to 14 and Wahadataali Gulamrasool Khan acting in concert with each other, were required to make appropriate disclosures under regulations 29(1) and 29(2) of SEBI (SAST) Regulations, 2011, during the quarters ended Sep. 2012, March 2013 and June 2013, which they failed to do, which is in violation of the provisions of regulations 29(1), 29(2) and 29(3)(a) of SEBI (SAST) Regulations, 2011. Further, the investigation found that the Noticee 2 Bipin P Divecha acting through himself and the PACs (Noticees 16, 17, 19 and 20) was required to make appropriate disclosures under regulations 29(1) and 29(2) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, which he and the PACs have failed to do so. It was also observed that the Noticees 2, 3 and 6 pursuant to change in their shareholding failed to make the requisite disclosures under the provisions of Regulation 13 (1), 13 (3), 13 (4) and 13 (5) (b) of SEBI (Prohibition of Insider Trading) Regulations, 1992 *{hereinafter referred to as SEBI (PIT) Regulations, 1992}*. The investigation also found that Vinayak Trimbak Sarkhot acting through himself and the PACs (Noticees 18 & 21) was required to make appropriate disclosures under Regulations 29(1) of

SEBI (SAST) Regulations, 2011, when they had acquired the shares of Finalysis during the quarter March 2010, which they failed to do so. It was observed that the Noticee 7 failed to submit complete information as required under the Summons issued to him and also submitted false information.

APPOINTMENT OF ADJUDICATING OFFICER

5. Based on the findings of the investigation, SEBI initiated Adjudication proceedings against the Noticees and appointed Ms. Rachna Anand as the Adjudicating Officer vide Order dated January 7, 2016 under Section 19 read with Sub-section (1) of Section 15I of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and imposing penalties) Rules, 1995 (*hereinafter referred to as SEBI Adjudication Rules*) to inquire into and adjudge the alleged violations committed by the Noticees of the provisions Section 15HA, 15H(ii), 15A(a) and 15A(b) of SEBI Act (*as applicable*). Pursuant to internal restructuring, the undersigned has been appointed as the Adjudicating Officer vide Order dated December 24, 2019.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

6. A common Show Cause Notice (SCN) ref. no. EAO/RA/JP/32480/2016 dated November 30, 2016 was issued to all the Noticees by the erstwhile Adjudicating Officer in terms of Rule 4 of the SEBI Adjudication Rules to show cause as to why an inquiry should not be initiated and penalty should not be imposed under Section 15A(a), 15A(b), 15(H(ii)) and 15HA of the SEBI Act, 1992, on the Noticees for the alleged violation of the provisions of Section 11 C (2), (3) & (5), Section 12 A(f), Section 12 A(a), (b) and (c) of SEBI Act, 1992 read with Regulation 3(a), 3(b), 3(c) & 3(d) and regulation 4(1) & 4(2)(h) of SEBI (PFUTP) Regulations, Regulation 3(1), 29(1), 29(2) and 29(3)(a) of SEBI (SAST) Regulations and Regulations 13(1), 13(3), 13(4) and 13(5)(b) of SEBI (PIT) Regulations.
7. The SCN relying on the Investigation Report and the statements of the Noticees has alleged that the Noticees devised a scheme to defraud the original public shareholders by issuing forged consolidated share certificates and thereafter,

fraudulently selling these forged consolidated share certificates to purchasers brought by Bipin Divecha in the following manner:

The Scheme

- 7.1 Dilip Shah, the Noticee 4 advanced more than ₹ 1 crore during 1996-99 to Mukesh Kothari, who was the promoter of Finalysis. Dilip Shah also gave Mukesh M Kothari an additional ₹50 lakh for which they did not enter into any agreement. Mukesh M Kothari, in return for the receipt of the aforesaid amounts, gave 10,000 shares of Finalysis to Dilip Shah and 2,00,000 shares of Finalysis to Dilip Shah's son, Jiger Dilip Shah, the Noticee 5, in parts during the period 1996 to 2000.
- 7.2 Sham Gandhi, the Noticee 3, advanced an amount of ₹ 30 lakh in 1996-97 to Mukesh Kothari against which Mukesh Kothari gave Sham Gandhi 4,84,000 shares of Finalysis having face value of ₹ 10, all fully paid up, in the year 2001, along with blank transfer deeds signed by various transferors. Some of the shares were in Mukesh Kothari's name and some in the name of his family members.
- 7.3 As stated above, Dilip Shah, his son- Jiger Shah and Sham Gandhi had been allotted shares in Finalysis in consideration of the amounts advanced by them to Mukesh Kothari. With the promoter of Finalysis, Mukesh Kothari having absconded, the above named Noticees devised a scheme for selling of the shares of Finalysis.
- 7.4 During that time, another company of Mukesh Kothari, Solid Carbide Tools Ltd ('Solid Carbide') was under liquidation and Dilip Shah had been appointed Administrator for Solid Carbide by the Bombay High Court. Dilip Shah along with his son, Jiger Shah and Sham Gandhi (who was also a creditor of Solid Carbide) met Vinayak Sarkhot, for arranging finances for Solid Carbide. Vinayak Sarkhot was a consultant for relisting of companies on BSE. The above named Noticees approached Vinayak Sarkhot to arrange for relisting of Finalysis at BSE and to sell the shares of Finalysis

to potential buyers. For the same, a commission of ₹ 25 lakh was promised to him.

7.5 Vinayak Sarkhot brought in Bipin Divecha, Noticee 2 to find and arrange for purchasers for buying 93% shares of Finalysis. It was agreed upon for arranging the buyers; Bipin Divecha would be given 2% of equity of Finalysis.

7.6 Accordingly, it came to be agreed upon amongst the said Noticees that Bipin Divecha would find purchasers for the sale of 93% of shares of Finalysis constituting a total of 51,20,394 shares for a total consideration amount of ₹ 4.60 crore, at an average of approximately ₹ 9 per share.

7.7 Thus, the Scheme that came to be devised was (a) to revoke the suspension of the Company on BSE; and (b) to sell 93% of the shares of the Company (substantial part of which was already held by public shareholders) to various people with a motive to make illegal gains.

7.8 It has been, thus, alleged by the SCN that the said Noticees, namely, Dilip Shah, Jiger Shah and Sham Gandhi, even though had limited number of shares, had with the aid and abetment of the other Noticees fraudulently undertook the sale of the shares held by the public shareholders, without the knowledge or consent of those public shareholders. The underlying motive included liquidation of Finalysis shares held by certain Noticees themselves.

The Modus Operandi

7.9 In order to get Finalysis relisted at BSE, Vinayak Sarkhot showed the names of Jiger Shah, Sham Gandhi and himself as promoters of Finalysis. To comply with the requirement of minimum 3 directors, Vinayak Sarkhot joined Finalysis as promoter cum Executive Director cum Compliance Officer. Jiger Dilip Shah also became the Executive Director at Finalysis and one Sharad Ghadi, Noticee 6 was inducted as Director of Finalysis. All the three (3) appointments of Directors at Finalysis were done with retrospective effect from 2001.

7.10 Vinayak Sarkhot then completed all the compliances at BSE. Sham Gandhi and Dilip Shah gave him a list of shareholders, in the year 2000, based on which he prepared shareholding patterns, quarterly results, other compliance documents, etc., for the period from 2001 till 2011. The documents were submitted to BSE and BSE issued a letter approving the in-principle revocation of suspension of Finalysis on December 01, 2011. The suspension was, thus, revoked by BSE, with effect from March 28, 2012.

7.11 Similarly, with respect to the sale of shares, Sham Gandhi and Dilip Shah then gave Bipin Divecha the list of the shareholders in Finalysis of the 93% shareholding, from which the shares were to be transferred to the clients brought in by Bipin Divecha.

7.12 In line with the above, Bipin Divecha would send the transfer deeds of the buyers identified by him to Vinayak Sarkhot after filling the buyers' details in the transfer deeds. Vinayak Sarkhot would then complete the transfer deeds with the details of the transferors and witnesses. Thereafter, Vinayak Sarkhot would give the transfer deeds to Jiger Shah, who would then give Vinayak Sarkhot the transferred share certificates. Vinayak Sarkhot then used to complete the transfer deeds with the details of the share certificates, distinctive numbers and number of shares and accordingly stamp duty was calculated and affixed. The transfer deeds were then sent to Jiger Shah, son of Dilip Shah, for his custody at the residence of the Shahs at Teen Batti, Walkeshwar, Mumbai. The share certificates, after endorsing the transfer, were then given to Bipin Divecha with a covering letter signed by Vinayak Sarkhot, and Bipin Divecha in turn used to send them to the respective transferees, totalling around 250, to whom the shares had been sold.

7.13 Vinayak Sarkhot was using the office of Vibrant Investments at Rajabandur Mansion, near BSE building for paperwork related to Finalysis and other companies. Vinayak Sarkhot knew Santosh Sawant (Noticee 15) who was working as a peon at Vibrant Investments. Santosh Sawant along with

another person was brought in to assist in the formalities for the transfer of shares. Santosh Sawant, would sign as a witness in many of the transfer deeds for transferring shares to the client brought in by Bipin Divecha.

7.14 Once the share certificates were transferred, the buyers identified by Bipin Divecha applied for demat of shares, which was approved by Jiger Shah and Vinayak Sarkhot. During this time, the entire process of transfer and demat of shares were taking place in-house by Finalysis from the residence of Dilip Shah and Jiger Shah and Sarkhot would approve these transfers and dematting of shares done in 2012. In this respect, Link Intime, the RTA, which had been appointed around the year 2000, was providing only electronic connectivity. All the physical records were with Vinayak Sarkhot, Dilip Shah and Sham Gandhi. The whole exercise was done during February- April 2012.

The Fund Flow

7.15 The consideration for the sale of the shares that came to the Noticees (as transferors) is as shown in the table placed hereunder. The details have been submitted to SEBI by both Bipin Divecha and Vinayak Sarkhot. The same details have also been submitted by Bipin Divecha to the EOW also. Further, these details are also part of the attachments in the emails exchanged amongst Bipin Divecha, Vinayak Sarkhot, Sham Gandhi, Dilip Shah, Jiger Shah and Sajjad Abdul Qadir Pavne.

Table - 1

03-Feb-12	Cash	Vinayak Sarkhot	300000
10-Feb-12	Cash	Jiger Shah	500000
14-Feb-12	RTG	Vinayak Sarkhot	900000
16-Feb-12	Cash	Vinayak Sarkhot	1000000
23-Feb-12	Cash	Sham Gandhi	1000000
24-Feb-12	Cash	Vinayak Sarkhot	350000
24-Feb-12	Cash	Sham Gandhi	400000
27-Feb-12	Cash	Vinayak Sarkhot	350000
28-Feb-12	Cash	Sham Gandhi	500000
07-Mar-12	Cash	Sham Gandhi	500000
12-Mar-12	RTG	Market Pulse — Bipin Divecha	500000
12-Mar-12	Cash	Dilip Shah	1000000

30-Mar-12	Cash	Vinayak Sarkhot	500000
30-Mar-12	Cash	Vinayak Sarkhot	600000
10-Apr-12	Cash	Vinayak Sarkhot	500000
24-Apr-12	Cash	Vinayak Sarkhot	150000
24-Apr-12	Cash	Vinaj Sarkhot	350000
25-Apr-12	Cash	Jiger Shah	1000000
02-May-12	Cash	Vinayak Sarkhot	1500000
03-May-12	Cash	Vinayak Sarkhot	500000
12-May-12	Cash	Dilip Shah	2000000
14-May-12	Cash	Jiger Shah	1000000
17-May-12	Cash	Dilip Shah	1500000
23-May-12	Cash	Vinayak Sarkhot	50000
28-May-12	RTGS	Dilip Shah	5000000
29-May-12	RTGS	Dilip Shah	5000000
30-May-12	RTGS	Dilip Shah	3000000
02-Jun-12	RTGS	Dilip Shah	3000000
26-Jul-12	Cash	Jiger Shah	1000000
Aug-12	Cash	Vinayak Sarkhot (Commission)	2500000
13-Nov-12	Cash	Dilip Shah	50000
		TOTAL	36500000

The Sajjad Pavne Group

7.16 As per their arrangement, Bipin Divecha asked Jiger Dilip Shah, Sham Gandhi and Sarkhot to hand over all the related documents to him with a cut-off date to enable him in taking charge of Finalysis. Subsequently, the records of the shareholders were handed over to Link Intime in 2012, and Jiger Shah and Dilip Shah interacted with Link Intime in this regard. Further, the master data of members in Finalysis was also prepared at Dilip Shah's house. Also, the correspondences to BSE and other agencies were made by Jiger Shah and Dilip Shah under the direction of Vinayak Sarkhot. Also, till that time, Dilip Shah, Vinayak Sarkhot and Sham Gandhi, neither gave control of Finalysis nor the promoters' shares to Bipin Divecha.

7.17 Vinayak Sarkhot then introduced Sajjad Abdul Qadir Pavne and Salim Khan to the other management team members of Finalysis, namely, Sham Gandhi, Dilip Shah, Jiger Shah in August 2012 for buying shares of Finalysis including the promoters' shares. Pavne joined as MD of Finalysis

in September 2012. Further to his appointment, the address of Finalysis was shifted from Shanti Nagar, Walkeshwar, the place of residence of Dilip Shah and Jiger Shah, to Damji Shamji, LBS Marg, Kurla (which was an office space of Sajjad Pavne). Windfall Information Technology Systems Pvt., Ltd., of which Sajjad Pavne was the CEO, was a company based in Mumbai having the same address as that of Finalysis and having email ID as sajjad@email.com.

7.18 Between September 12, 2012 to March, 2014, a large number of Finalysis shares, including the promoter shareholding were transferred by Vinayak Sarkhot (and his relations), Sham Gandhi and Jiger Shah in off-market transactions to known persons of Sajjad Pavne. The said known persons of Sajjad Pavne were Mohammad Rafi (Noticee 7), Mohd Salim Khan (Noticee 9), Amir Hamza Hakim Khan (Noticee 10), Abdul Hakim Khan (Noticee 11), Abdul Zameer Hakim Khan (Noticee 12), Talat Wahadatali Mohamad (Noticee 13), Rehana Khan (Noticee 14) and Wahadatali Gulam Rasool Khan.

Complaints of Public Shareholders

7.19 The complaints from public shareholders of Finalysis regarding rejection of requests of transfer and dematting of shares started coming to Finalysis. The first complaint as per SEBI's SCORES system was received on August 29, 2012 and the last was received on May 08, 2013. Finalysis (Noticee 1) after receiving the requests for transfer of shares and the complaints from the public shareholders, referred the same to the EOW, Mumbai Police.

7.20 As complaints were received by Finalysis from public shareholders, Link Intime, the RTA stopped servicing Finalysis and then Universal Capital Securities was appointed as the RTA. In November - December 2012, Sajjad Pawne, who had been appointed as the MD of Finalysis resigned from his position. The resignation letter was given to Vinayak Sarkhot, which was not accepted because of non-resolution of several complaints. The complaints were still pending for resolution and the Company was

again suspended by BSE on September 9, 2014, on account of non-compliance with Clause 41 of the Listing Agreement.

7.21 Thus, as already stated above, an inspection was carried out by SEBI of Link Intime, and subsequently SEBI carried out an investigation to arrive at the circumstances leading to the rejection of transfer and demat requests, and any other consequential violations.

7.22 Accordingly, it has been alleged in the SCN that the above Noticees (Sl. No. 1 to 15) had amongst themselves aided and abetted in defrauding the original public shareholders by issuing forged consolidated share certificates and thereafter, fraudulently selling these forged consolidated share certificates to buyers making them believe that the shares transferred to them were original, thereby violating the provisions of the SEBI Act and Regulation 3(a), 3(b), 3(c) and 3(d) and Regulation 4(1) and 4(2)(h) of the PFUTP Regulations, 2003.

8. The common SCN sent to all the Noticees also alleged the violations of the provisions of SEBI Act, SEBI (SAST) Regulations and SEBI (PIT) Regulations, committed by the respective Noticees, as mentioned in Para 4 above.
9. It is pertinent to note that the common SCN was also sent to Vinayak Trimbak Sarkhot, Sajjad Abdul Qadir Pavne and Wahadatali Gulam Rasool Khan. While the Adjudication proceedings were in progress, the undersigned was informed of demise of the aforementioned 3 entities and accordingly, the Adjudication proceedings initiated against the aforementioned 3 entities were abated vide Orders dated February 28, 2020 and March 30, 2020 respectively. However, since the cause of action pertaining to the charges against the rest of the Noticees involves the alleged acts of the deceased entities as well, the actions of the deceased entities are also referred in the instant Order, while dealing with the charges against the rest of the entities.
10. The details of communication / reply received from the Noticees towards the SCN and the details of personal hearing availed by them are mentioned in table below.

Name of the Noticee(s)	Reply / Letter of Noticee etc.	Hearing attended on
Bipin P Divecha	<p>i. Vide letter dated 13/12/2016 requested for extension of a month time to file reply and an opportunity of hearing in the matter.</p> <p>ii. Vide letter dated 16/01/2017 again requested for extension of a month time to file reply.</p> <p>iii. Vide letter dated 03/03/2017 again sought extension of 4 weeks to file reply.</p> <p>iv. Vide letter dated 06/04/2017 again sought extension of 4 weeks to file reply</p> <p>v. Vide letter dated 11/05/2017 again sought another extension of 1 month to file reply</p> <p>vi. Vide letter dated 18/07/2017 again requested for extension of one more month to reply</p> <p>Reply dated 21/09/2017 & June 24, 2020 submitted</p>	March 16, 2020
Amir Hamza Hakim Khan	Reply dated 10/12/2016 (reply in similar lines)	February 27, 2020
Mohammad Salim Khan	Reply dated 10/12/2016 (reply in similar lines)	February 27, 2020
Rehana Khan	Reply dated 10/12/2016 (reply in similar lines)	February 27, 2020
Abdul Zameer Hakim Khan	Reply dated 10/12/2016 (reply in similar lines)	February 27, 2020
Mohammad Rafi	Reply dated 10/12/2016	February 27, 2020
Abdul Hakim Khan	No reply or communication was received towards the SCN. Thereafter, vide email dated June 7, 2020; one more opportunity was given to furnish reply. No reply received.	February 27, 2020 (Attended by Authorized Representative)
Talat Mohammad	Reply dated 10/12/2016.	February 27, 2020
Shamshad Begam Khan (Roma Khan)	Reply dated 12/12/2016	February 27, 2020
Dilip Shah	Vide letter dated 16/12/2016 requested for 2 to 3 weeks additional time to file reply. Thereafter, vide email dated June 7, 2020; one more opportunity was given to furnish reply. No reply received.	Not attended - Declined
Jiger Shah	<p>Vide letter dated 16/12/2016 requested for 2 to 3 weeks additional time to file reply.</p> <p>Reply dated 19/09/2017 submitted</p>	Not attended
Yashwant Trimbak Sarkhot	Vide letter dated 16/12/2016 requested for a month time to file reply and an opportunity of hearing in the matter. Reply submitted vide letter dated	February 27, 2020

	24/02/2020.	
Jagdish Dilip Sarkhot	Vide letter dated 16/12/2016 requested for a month time to file reply and an opportunity of hearing in the matter. Reply submitted vide letter dated 24/02/2020.	February 27, 2020
Sham Gandhi	<p>Vide letter dated 16/12/2016 undertook to file reply after availing inspection of documents etc. An opportunity of inspection of documents was provided vide notice dated 02/01/2017 and inspection was availed on 09/08/2017</p> <p>ii. First Reply dated 30/01/2017</p> <p>iii. Second Reply dated 14/02/2017</p> <p>Availed inspection of documents on August 9, 2017.</p> <p>Vide letter dated 22/09/2017 inter – alia enclosed a reply dated 15/06/2017 submitted before the proceedings Whole Time Member of SEBI. Vide letter dated NIL (received on 26/02/2020) submitted his reply.</p>	December 27, 2017 & November 14, 2017
Marketspulse Finstock Pvt. Ltd.	<p>SCN was affixed on 04/01/2017 at the last known address of the Noticee as the same could not be served through the Speed Post.</p> <p>ii. Vide letter dated 02/03/2017 sought extension of 4 weeks to file reply</p> <p>iii. Vide letter dated 06/04/2017 again sought extension of 4 weeks to file reply</p> <p>Vide letter dated NIL (received on 18/05/2017) again sought another 1 month time to file reply</p> <p>Vide letter dated NIL (received on 21/07/2017) again sought suitable extension of time to file reply</p> <p>Reply dated 21/09/2017 submitted</p>	March 16, 2020
Saga Financial Services Pvt. Ltd.	SCN was affixed on 04/01/2017 at the last known address of the Noticee as the same could not be served through Speed Post	March 16, 2020

	<p>ii. Vide letter dated 05/03/2017 sought extension of 4 weeks to file reply</p> <p>iii. Vide letter dated 06/04/2017 again sought extension of 4 weeks to file reply</p> <p>iv. Vide letter dated 12/05/2017 again sought extension of 4 weeks to file reply</p> <p>Vide letter dated 18/07/2017 again sought extension of 4 weeks to file reply</p> <p>Reply dated 21/09/2017 submitted</p>	
M/s Balaji Investment (Through Proprietor- Mr. Bipin Divecha)	<p>SCN was affixed on 04/01/2017 at the last known address of the Noticee as the same could not be served through Speed Post</p> <p>ii. Vide letter dated 05/03/2017 sought 4 weeks to file reply</p> <p>iii. Vide letter dated 06/04/2017 again sought 4 weeks to file reply.</p> <p>iv. Vide letter dated 11/05/2017 again sought another 1 month time to file reply</p> <p>v. Vide letter dated 19/07/2017 again sought another 1 month time to file reply</p> <p>Reply dated 21/09/2017 submitted</p>	March 16, 2020
Finalysis Credit & Guarantee Co. Ltd.	<p>SCN was affixed on 03/01/2017 at the last known address of the Noticee as the same could not be served through Speed Post. Thereafter, vide email dated June 7, 2020; one more opportunity was given to furnish reply. No reply received.</p>	Not attended - Declined
Santosh Jayaram Sawant	<p>SCN was affixed on 03/01/2017 at the last known address of the Noticee as the same could not be served through Speed Post. Hearing notice dated Thereafter, vide email dated June 7, 2020; one more opportunity was given to furnish reply. No reply received.</p>	Not attended
Sharad Ramchandra Ghadi	<p>SCN was affixed on 03/01/2017 at the last known address of the Noticee as the same could not be served through Speed Post. No reply received.</p>	Not attended

Blpin Divecha HUF	<p>Vide letter dated 08/03/2017 sought one month time to file reply</p> <p>ii. Vide letter dated 06/04/2017 again sought 4 weeks time to file reply</p> <p>iii. Vide letter dated 11/05/2017 again sought another 1 month time to file reply</p> <p>iv. Vide letter dated 19/07/2017 again sought another 1 month time to file reply</p> <p>Reply dated 21/09/2017 submitted</p>	March 16, 2020
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11. The replies furnished by the Noticees are summarized hereunder:

- a. *Sham Gandhi, Noticee 3 in his replies has primarily stated that (a) Mukesh Kothari had given him 4,84,000 shares that were in the name of Mukesh Kothari and his family members along with blank signed Transfer Deeds, so the said deeds could have been used only for transferring the shares in the name of Mukesh M Kothari and his family members and not those shares belonging to others; (b) it has been wrongly stated in the SCN that he was one of the two persons holding 'majority' of the shares of Finalysis; (c) the sale of the shares of Finalysis was undertaken by Vinayak Sarkhot with Bipin Divecha and he had no role with respect to it; and (d) he denies any role in the forgery/counterfeiting of shares and that he employed a deceptive scheme to defraud the investors.*
- b. *Roma Shamshad Khan, Noticee 8 in her reply primarily stated that she was an educated individual and had her own personal choice in taking decisions, and as such she bought the shares without any intention or action of fraudulent activity in the process of purchasing the shares. Further, it has been stated by her that the only reason for her co-ordinating the share transfers from the promoters to her family members and people known to her was because such people had sought her help, and her role was to be a one-point contact to the promoters, with Vinayak Sarkhot being the point of contact from the promoters side.*
- c. *Mohd Salim Khan, (Noticee no 9) vide letter dated February 14, 2019 submitted replies to the SCN already submitted, on behalf of Noticee 7,8,9,10,11,12,13 and 14 and also appeared on behalf of the aforesaid Noticees on February 17, 2020. The above mentioned Noticees have primarily stated that the shares in Finalysis were legitimately bought and all decisions with respect to the buying of shares were made individually, without the coaxing of family members or any associate, and no one except the Noticees have any right over the shares.*

- d. *Sharad Ramchandra Gadi (Noticee 6), vide email dated March 8, 2020 submitted that he would not be able to attend a personal hearing scheduled on March 16, 2020 and submitted that he was not involved in company work and was working as an office boy. Therefore, the Noticee requested to close the proceedings against him.*
- e. *Bipen Divecha (Noticee 2), Bipin Divecha HUF (Noticee 16), Balaji Investment (Noticee 17), Market Pulse Finsoft Pvt Ltd., (Noticee 19) and Saga Financial Services Ltd., (Noticee 20) in their replies submitted that shares were purchased through Mr Vinayak Sarkhot who was already a compliance officer of Finalysis. Further with respect to non-disclosure of acquisition of shares, it was stated that Mr Vinay Sarkhot being compliance officer was required to report exchange if any such compliance was required. Therefore, it cannot be alleged that Noticee violated provisions of disclosures requirements under SAST Regulation 2011. It was also submitted that aforesaid Noticees cannot be considered as PAC as there are different PAN numbers of each entity.*
- f. *Further, email dated June 25, 2020, Mohd., Salim Khan (Noticee 9), son of Abdul Hakim Khan (Noticee 11), informing about the demise of the said Noticee on February 20, 2103. A copy of the death certificate as issued by the Municipal Corporation of Greater Mumbai certifying the death of the deceased has been provided along with the said email.*
- g. *Vide email dated June 24, 2020, Bipin P Divecha (Noticee 2), further submitted that Mr. Vinayak Sarkhot offered him to join as Non-Executive Directors to fulfil the requirement of BSE (not at his insistence) As regards 1,75,000 shares of company, the Noticee submitted that the said shares were purchased by him by paying consideration and the same was already explained to the investigator of this matter. The Noticee further added that Mr. Sham Gandhi, Mr. Dilip Shah, Mr. Jiger Shah, Mr. Vinayak Sarkhot neither mentioned in their statements , emails nor in MOU specified to make accommodation of 1,75,000 shares to him. The Noticee mentioned that the amount paid by him and shares delivered by them, were confirmed and accepted by them and produced to SEBI. The Noticee denied that he was aware of the modus operandi of Mr. Dilip Shah and Mr. Sham Gandhi. He submitted that he was not aware that the list they provided to him was a fake. As per SEBI SCN, the first complaint was received in SCORE in the month of August 2012. The shares purchased by himself and his clients dematted all the shares were much earlier than the said period. The Sellers have confirmed delivering of the shares from the list provided to him. Therefore, the Noticee stated that the question does not arise of his knowing about the wrongful transactions.*

12. The matter for consideration is that the Noticees are alleged to have violated the provisions of SEBI Act, SEBI (PFUTP) Regulations SEBI (SAST) Regulations and SEBI (PIT) Regulations. First, I would like to deal with the allegations of SEBI Act and SEBI (PFUTP) Regulations It has been alleged that the Noticees 1 to 15 have violated the provisions of Section 12 A(a), (b) and (c) of SEBI Act, 1992 read with regulation 3(a),3(b), 3(c) & 3(d) and regulation 4(1) & 4(2)(h) of PFUTP Regulations, which are reproduced hereunder:

Section 12A of SEBI Act

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;

Regulation 3 of SEBI (PFUTP) Regulations - Prohibition of certain dealings in securities

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 recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made thereunder;

(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 recognized 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.

Regulation 4 of SEBI (PFUTP) Regulations - Prohibition of manipulative, fraudulent and unfair trade practice

(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:-

(h) selling, dealing, or pleading of stolen or counterfeit security whether in physical or dematerialized form;

13. I note from the records that the Noticees 1, 4 and 15 did not file their replies. I also note that the Noticees 1, 4, 5, 6, and 15 did not avail the opportunity of personal hearing. . In this context, I would like to rely upon the observations of The Hon'ble Securities Appellate Tribunal (SAT) in the matter of Classic Credit Ltd. vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006) wherein Hon'ble SAT inter-alia observed that - "*..... the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show-cause notice were admitted by them*".
14. The Hon'ble SAT has again in the matter of Sanjay Kumar Tayal & Others v SEBI (Appeal No. 68 of 2013 decided on February 11, 2014), inter-alia, observed that – "*.....As rightly contended by Mr. Rustomjee, learned senior counsel for respondents, appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices.....*".
15. In view of the above, I am of the opinion that the SCN and Notices of hearing have been duly served on the Noticees 1, 4 and 15, but they failed to reply and also failed to avail the opportunity of hearing. I also note that the Noticees 6 and 15 despite receipt of notice of hearing did not attend the hearing. I am convinced that the principle of natural justice has been duly followed in the matter, as

enough opportunities were provided to the Noticees 1, 4, 5, 6 and 15 to reply to the SCN and to appear for hearing (*as the case may be*). Therefore, I am inclined to decide the matter ex-parte in respect of Noticees 1, 4 and 15 taking into account the evidence / material available on record.

16. As regards the alleged violation of SEBI Act and SEBI (PFUTP) Regulations, I have the following issues.

I. Whether the shares belonging to the public shareholders were counterfeited/forged by all or some of the Noticees for illegal gains?

II. If the answer is in the affirmative:

A. Whether Noticees 1 to 15 were involved in the counterfeiting/forgery of the share certificates for illegal gains and what role did the said individual Noticees play?

B. Whether Noticee No.1, Finalysis in its capacity as the Company, can be held liable for the fraudulent dealing in securities, in terms of the provisions contained in the SEBI Act and the SEBI PFUTP Regulations?

C. Whether Sajjad Abdul Qadri Pavne, and Noticees 7 to 14 were involved in the counterfeiting/forgery of the share certificates for illegal gains; if not, is there any other role played by these Noticees which will make them liable for violation of the PFUTP Regulations ?

17. Before getting into the consideration of issues, I have taken a look at the overall evidence in the matter. To begin with, the alleged transactions took place during the period February to April, 2012. The investigation was initiated on November 20, 2014 and the SCN was issued on November 30, 2016, wherein multiple actions have been proposed against the Noticees. In this regard, I find that despite the receipt of SCN, Noticees Nos. 1, 4 and 15 have not given any reply to the allegations made in the subject SCN. Similarly, despite the service of Notices of Hearing, I find that the Noticees 1, 4, 5, 6 and 15 did not attend the hearing. As on date, I understand that the Hon'ble SAT has passed an order

dated November 08, 2019 in an appeal filed by Sham Gandhi, Noticee 3 (Appeal No.106 of 2019) who is alleged to have played an important role in the circulation of counterfeit and forged shares of the public shareholders. From a perusal of the said order, I find that the Hon'ble SAT has upheld the findings of the Ld., Adjudicating Officer, SEBI, even though relief by way of waiver of penalty imposed has been granted to him. In the instant proceedings, Sham Gandhi has provided a detailed reply and submissions denying the allegations made in the SCN, but has acknowledged the receipt of funds, the sharing of the shareholders' list, the receipt of emails and acquaintance with Noticees, namely, Vinayak Sarkhot and Bipin Divecha, who have been alleged to have facilitated the sale of the counterfeited/forged shares belonging to the public shareholders. In this respect, it is mentioned that Vinayak Sarkhot, an important link in the matter, passed away on August 08, 2017. Yet another important link, Sajjad Abdul Qadir Pavne, had passed away on July 31, 2017. I also note that two entities namely Wahadatali Gulamrasool Khan and Abdul Hakim Khan (Noticee 11) whose role was also investigated and against whom the instant Adjudication proceedings have been initiated expired on November 09, 2013 and February 20, 2013 respectively. In these circumstances, in the absence of detailed replies, failure of the Noticees to appear for the personal hearing and the limiting factors as mentioned above, I have looked at the available documents, namely, replies submitted by the Noticees, the emails exchanged amongst the Noticees, the flow of funds, draft Memorandum of Understanding circulated amongst certain Noticees and the statements of the Noticees to consider the issues framed above.

Issue- I: Whether the scheme involved counterfeiting or forgery of shares of Finalysis that were held by the public by some of the Noticees for illegal gains?

18. As stated in the background, this investigation commenced on the basis of complaints received. There were a total of twenty (20) complaints with respect to rejection of transfer/demat requests pertaining to the shares of Finalysis. Out of the said twenty complaints, a total of thirteen (13) complaints were pending resolution during the investigation period, i.e. August 29, 2012 to May 08, 2013.

19. I note that the Company was listed on the Bombay Stock Exchange in 1996 and from the time of its listing till the appointment of Link Intime Pvt. Ltd as the Registrar and Share Transfer Agent (RTA) in July 2012, the share transfer/demat requests were being processed internally by the Company, and Link Intime prior to their appointment as RTA, was only providing electronic connectivity to depositories for the Company. Link Intime resigned as the RTA to the company in December 2012, and thereafter Universal Capital Services (“Universal”) was appointed as the RTA.
20. It is noted that when Finalysis was called upon to furnish the records relating to the complaints before SEBI, it failed to furnish the same stating that the records had been destroyed by white ants and the floppy disc containing the electronic data had got corrupted. Thereafter, the RTA, Universal was asked to furnish the records available with them relating to the transfer requests/demat requests that had been entertained for the shares having the same distinctive numbers as those contained in the complaints looked at by SEBI. Universal has furnished copies of most of the transfer deeds and demat request forms, including copies of the share certificates relating to the shares having the same distinctive numbers as those underlying the complaints before SEBI. From the information furnished by Universal, it was noted that most of the share transfer requests/demat requests underlying the complaints were rejected citing the reason that the shares had already been dematted in favour of other shareholders.

Transfer Requests Processed in Violation of SEBI Norms

21. The individual complaints were examined in detail and it was observed as under:

Sl. No.	Name of the Complainant	Quantity (No., of shares)	Dematted by	Demat Date
1	Hina M Sheth	100	ANISH ASHVINBHAI DALAL	09-Jul-12
2	Kanta Harji Varsani	50000	JUMARMAL RAJENDRA KUMAR	11-Jun-12

3	Kanta Harji Varsani	50000	RAJENDRA KUMAR BAGMAR	11-Jun-12
4	Kanta Harji Varsani	50000	RAJKUMAR SHYAMNARAYAN SINGH	10-May-12
5	Kanta Harji Varsani	50000	RITA RAJKUMAR SINGH	10-May-12
6	Anil Agarwal	1000	ANIL B AGARWAL	13-Dec-12
7	Kanta A Desai	1000	JINAL AMIT SHAH	10-May-12
8	Hina M Sheth	500	NA	NA
9	Pankaj A Desai	5000	KALPESH RASIKLAL SHAH	15-May-12
10	Pankaj A Decal	9000	SANJAY SUBHASHCHAND GUPTA	10-May-12
11	Pankaj A Desai	5000	SANJAY SUBHASHCHAND GUPTA	10-May-12
12	Kanta A Desai	4000	POOJA ARVIND GOYAL	19-Jul-12
13	Praful A Desai	8600	URVASHI SANJAY GUPTA	10-May-12
14	Kanta A Desai	6000	SHARES ARE STILL IN THE NAME OF KANTA A DESAI IN PHYSICAL FORM	
15	Anantrai L Desai	1000	MOHMAD JUNUS KHATRI	10-May-12
16	Anantrai L Desai	8000	MOHMAD JUNUS KHATRI	10-May-12
17	Kanta A Desai	6000	YASIN MOHAMED KHATRI	19-Jul-12
18	Kanta A Desai	4000	YASIN MOHAMED KHATRI	19-Jul-12
19	Praful A Desai	5300	URVASHI SANJAY GUPTA	10-May-12
20	Kanta A Desai	10000	YASIN MOHAMED KHATRI	19-Jul-12
21	Praful A Desai	100	SANJAY SUBHASHCHAND GUPTA	10-May-12
22	Praful A Desai	2900	SANJAY SUBHASHCHAND GUPTA	10-May-12
23	Praful A Desai	4600	SANJAY SUBHASHCHAND GUPTA	10-May-12

24	Kirtida P Desai	100	SHARES ARE STILL IN THE NAME OF KANTA A DESAI IN PHYSICAL FORM	-
25	Kirtida P Desai	900	SHARES ARE STILL IN THE NAME OF KANTA A DESAI IN PHYSICAL FORM	-
26	Kanta A Desai	10000	KALPESH RASIKLAL SHAH	15-May-12
27	Anantrai L Desai	10000	MOHMAD JUNUS KHATRI	10-May-12
28	Kanta A Desai	10000	KALPESH RASIKLAL SHAH	15-May-12
29	Hansraj Goyal	200	HANSRAJ GOYAL	08-Aug-13
30	Hansraj Goyal	300	YASH GUPTA	08-Aug-13
31	Hansraj Goyal HUF	5000	SHARES ARE IN THE NAME OF SHEELA CHANDRESH IN PHYSICAL FORM	-
32	Suman R Jethani	5900	VINAYAK TRIMBAK SARKHOT	31-Dec-11
33	Suman R Jethani	7600	VINAYAK TRIMBAK SARKHOT	31-Dec-11
34	Suman R Jethani	300	VINAYAK TRIMBAK SARKHOT	31-Dec-11
35	Suman R Jethani	2100	VINAYAK TRIMBAK SARKHOT	31-Dec-11
36	Suman R Jethani	4700	VINAYAK TRIMBAK SARKHOT	31-Dec-11
37	Suman R Jethani	4000	VINAYAK TRIMBAK SARKHOT	31-Dec-11

22. One shareholder, namely, Kanta A Desai had filed a complaint relating to the rejection of a demat request made by her. Two demat requests had been made by the Complainant through the DP on August 02, 2002 with respect to the following shares:

Certificates nos.		Distinctive nos.		Quantity
From	To	From	To	
16311	16320	2994801	2995800	1000
20399	30338	4393601	4397600	4000

30829	30888	4446601	4452600	6000
31113	31172	4475001	4481000	6000
31173	31212	4481001	4485000	4000
31413	31512	4505001	4515000	10000
32427	32526	4606401	4616400	10000
32827	32926	4646401	4656400	10000
				51000

The DP informed the complainant shareholder that the Company had rejected the demat request on November 18, 2011.

23. On inspection of the records provided by Universal, it was noted that out of the above 51,000 shares, for 20,000 shares a share transfer request from one Yasin Mohammed Khatri was entertained, where the transferor mentioned was Kiritida P Desai. The details of such transfer are as under:

Certificates nos.		Distinctive nos.		Quantity
From	To	From	To	
46975		4505001	4515000	10000
46974		4475001	4485000	10000
				20000

24. On examination of the documents underlying the transfer request made by *Yasin Mohammed Khatri*, it was noted by the investigation that:

- *The name of the transferor was mentioned as Kiritida P Desai. However, the said shares were originally in the name of Kanta A Desai and not Kiritida P Desai.*
- *The signature of Kiritida P Desai did not match with Ms. Desai's signature as appearing in her PAN Card.*
- *Signature attestation box in the transfer deed was blank as also the column for "Signature tallied by".*

- *No stamp, signature or date mentioned on the deed as regards its receipt by the company or the STA.*
- *No date of approval of transfer was mentioned on the transfer deed.*
- *The witness was one Santosh of Vibrant Investments, Mumbai having its office in the same building as that of Finalysis.*
- *There was no signature of the official confirming the transfer on the transfer deed.*
- *The shares with distinctive nos. 4475001 to 4485000 were in a single certificate no. 46974 and it was mentioned in the certificate "Issued in lieu of share certificate no. 31113 to 31212 consolidated";*
- *Similarly, the shares with the distinctive nos. 4505001 to 4515000 were in a single certificate no. 46975 and it was mentioned in the certificate, "Issued in lieu of share certificate no. 31413 to 31512 consolidated".*
- *Both the individual share certificates referred to above were originally in the name of Kanta A Desai and were issued on Jan. 15, 1998, and the shares transferred to Yasin Mohammed Khatri on January 20, 2011.*
- *The 20,000 shares were subsequently dematted by the transferee on July 11, 2012 and the same was done by Link Intime.*

25. So, from the above, the following findings of facts emerge:

- a. the complainant public shareholder holding the shares is Kanta A Desai, while the transferor of the said shares, as per the transfer deed, has been shown to be Kiritida P Desai;
- b. many anomalies are apparent in the processing of the transfer requests; and
- c. the witness to the transfer deed is Santosh Sawant, Noticee 15, who worked as a peon in Vibrant Investments, and was brought by Vinayak Sarkhot, to act as a witness

26. With respect to 25 (a) and (b) above, reference is drawn to the Norms for processing of transfers as contained in RTI Circular No. 1 (2000-2001) dated May 09, 2001. The relevant provisions are placed hereunder:

Norms for processing transfers

Transfer Deed & Share Certificate		
Sl. No.	Description	Can Co., / STA return as Company objection?
40	If the name of the transferor(s) in the share certificate and the name in the transfer deed(s) differs materially (appears as two different names.) <ul style="list-style-type: none"> Addition or deletion of more than two alphabets on the transfer deed 	No, if alterations / corrections are attested by the Introducing Member, on the transfer deed and if signature of the transferor tallies with the specimen signature/s.
41	Spelling mistakes in the name of the Company, number of shares and name of the transferor on the transfer deed and not resembling the word stipulated in the share certificate, as enumerated below:	No, if alterations / corrections are attested by the Introducing Member, on the transfer deed and if signature of the transferor tallies with the specimen signature/s.
	<ul style="list-style-type: none"> TELCO - TISCO – BAD 	
	<ul style="list-style-type: none"> FIFTY - FEEFTEEN – BAD 	
	<ul style="list-style-type: none"> RAMESH - RAJESH – BAD 	

27. Thus, as per serial number 40 of the “Norms for Processing of Transfers”, if the name of the transferor in the share certificate and the name in the transfer deed differ materially i.e., addition or deletion of more than two alphabets on the transfer deed, it calls for an objection. Similarly, as per serial no. 41 of the norms of transfers, if there are spelling mistakes in the name of the transferor on the transfer deed and as such does not resemble the word stipulated in the share certificate, e.g. TELCO – TISCO, in such circumstance it would call for an objection. In the above circumstances, an objection can be obviated if alterations / corrections are attested by the Introducing Member, on the transfer deed and if signature of the transferor tallies with the specimen signature. In the

present case, it is evident that the shares were in the name of Kanta A Desai and the name of the transferor as per the transfer deed was Kiritida P Desai, an addition/deletion of more than two alphabets. Similarly, even if the name on the transfer deed was considered as a spelling error, the same would be BAD as per the provision in serial no. 41 of the norms of transfers mandating an objection. The only way the transfer could have happened without an objection was if alterations / corrections were attested by the Introducing Member, on the transfer deed and if signature of the transferor tallied with the specimen signature. In the present case, despite there being a material difference, it was not attested; in fact, the signature attestation box in the transfer deed was blank. Thus, the Company while processing transfer requests gave scant regard to the norms stipulated by SEBI for the processing of transfer requests, and as such under no circumstances could the Company have effected transfers of the said shares.

28. With respect to Santosh Sawant, Noticee 15 being a witness to the above mentioned transfer of shares, it is relevant to mention that Sanotsh Sawant in his statement has said that “In the year 2011, Sarkhot told me to sign as witness on some transfer deeds pertaining to the shares in the scrip of Finalysis. I had signed around 20-25 filled in transfer deeds in the office of Vibrant Investments (where he worked as a peon)”. The same has also been corroborated by Vinayak Sarkhot in his statement. Thus, the witness in the instant transfer deed was a common witness, who had been specifically instructed to sign as a witness on a number of transfer deeds by Vinayak Sarkhot, and therefore cannot be presumed to have in fact witnessed the transfer of the said shares from the supposed transferor i.e, Kiritida P Desai to the transferee.

No Commercial Sense for Transferors to Sell Shares at Nominal Prices

29. A draft MoU was forwarded to Sham Gandhi by Divecha vide email dated December 10, 2012. The MoU essentially stated that the Sellers, ie. Dilip Shah, Jiger Shah, Sham Gandhi, Sarkhot and Ghadi had agreed to sell 51,20,394

shares of the company representing 93% of the equity paid up of the Company to Divecha for a consideration of ₹4.60 crore at rate of ₹8.98 per share.

30. Further, an email was sent by Sarkhot to Jiger Shah and Sham Gandhi dated July 13, 2012 enclosing the list of shares delivered to Divecha for the buyers identified by him. The enclosed list clearly states that the total shares committed to be delivered are 93% out of which 69.89% has already been delivered.
31. Though, the draft MoU was never signed by the parties, the terms of the draft MoU and amount of the shares to be delivered by sellers as per the draft MoU are reflected in the email dated July 13, 2012 referred above.
32. Thus, it emerges that a) the Noticees, who were not the transferors as per the transfer deeds, were strangely committing to transfer those shares to the buyers brought by Bipin Divecha; b) the shares, contrary to any commercial rationale, were being sold for an approximate price of ₹9 per share, which was much less than the prevailing market price of the share during 2012, which was between ₹ 30 (lowest) and ₹ 139 (highest).

Sale Consideration Flowing to Persons who are not Transferors

33. As already stated, Dilip Shah and Sham Gandhi were looking to sell shares constituting 93% of the equity share capital of the Company and for this purpose they approached Divecha through Vinayak Sarkhot, who agreed to get buyers for the said shares. This is corroborated by the email sent by Sarkhot to Jiger Shah and Sham Gandhi dated July 13, 2012 enclosing the name-wise list of shares delivered to Bipin Divecha and his associates and the number of shares. The enclosed list clearly states that the total shares committed to be delivered are 93% out of which 69.89% has already been delivered. This excluded the promoter holding of 19.69 %, which is shown as not yet delivered, being the shares that were actually held by the operators.
34. The flow of funds amongst the Noticees has already been brought out in the earlier part of this order. In this regard, it is further noted that Jiger Shah vide email dated March 04, 2013 sent at 11:54 am forwarded an attachment

containing details of the payments received from the purchasers brought by Bipin Divecha as consideration for the sale of shares of Finalysis. It is stated in the body of the email that as per the list *“31.7 Lacs have gone to V.Sarkhot Bhai out of which we are aware of 14.2 lacs.”* The email also requests Sarkhot to confirm the payments received by him so that the accounts can be reconciled. Sarkhot replied to this by way of email dated March 04, 2013 sent at 1:09 pm stating that *“I confirm that I have received only 17 lac , not recheck with shambhai and your records again as money received for fcgl were Collected by you/dilipbhai/shambhai within hours of receipt from me.”* To this email, Sham Gandhi responds vide email March 04, 2013 sent at 3:14 pm stating inter alia that *“I suggest you give a detailed account of what moneys you have received and how it has been spent. This way we will reach the bottom very soon.”*

35. The above mentioned exchange of emails confirms that the money being transferred by purchasers brought by Divecha to Sarkhot, Dilip Shah, Jiger Shah and Sham Gandhi was the consideration for acquiring the shares held by the public shareholders and not the promoter holdings, which were still with the above named Noticees.
36. Thus, the inferences that flow from the aforesaid sequence of events are: a) Finalysis as a Company was not following any norm for processing of transfer requests; b) a common witness was used to witness the transfer deeds, lending little credibility to the transfer of shares by way of such deeds; c) the Noticees, and not the transferors mentioned in the transfer deeds, are seen to be taking decisions with respect to the sale of the shares; d) the Noticees determined the price for the sale of the shares, which was lower than the then market price; c) The sale consideration for the sale of the shares moved to certain Noticees and not to the transferors, the supposed owners of the shares.
37. Accordingly, a collective evaluation of the abovementioned sequence of facts persuades me to conclude that the transferors who supposedly sold the shares, did not in fact own such shares, and certain Noticees counterfeited/forged,, by way of consolidation of shares or otherwise, the shares belonging to the genuine

public shareholders and sold it to a set of purchasers brought by Divecha claiming them to be genuine shares, in order to make illegal gains.

Issue II- A. Whether Noticee 1 to 15 were involved in the counterfeiting/forgery of the share certificates for illegal gains and what role did the said individual Noticees play?

Dilip Shah (Noticee 4) & Jiger Shah (Noticee 5)

38. The SCN has alleged that Dilip Shah and his son Jiger Shah along with other Noticees had defrauded the original shareholders by issuing forged consolidated share certificate/s, and also fraudulently made the buyers of these forged consolidated share certificate/s to believe that the shares transferred to them were original, though they were not so.
39. Accordingly, the SCN has alleged that the Noticees together employed a deceptive scheme to defraud the investors in the shares of Finalysis, thus, violating the provisions of section 12 A(a), (b) and (c) of the SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of the SEBI (PFUTP) Regulations, 2003.
40. As already stated, Dilip Shah had advanced money to Mukesh Kothari, pursuant to which he and his son, Jiger Shah respectively received 10,000 and 2,00,000 shares of Finalysis. Jiger Shah (Noticee 5), as per the MCA website, was a director of the Company from October 02, 2000 onwards. Similarly, Dilip Shah, father of Jiger Shah was shown as a promoter of the Company, as per the filing made by the Company before the BSE.
41. In this regard, reference is drawn to the statement given by Jiger Shah to SEBI. During the deposition, Jiger Shah was asked: " As per the statement recorded by Bipin Divecha, he was told by Sarkhot that they had handed over the records of the shareholders to the RTA Link Intime in 2012 and you and Dilip Shah were interacting with Link Intime. Further all the complaints received from investors/shareholders were being handled by you and Dilip Shah under the

direction of Sarkhot.” To this query of SEBI, Jiger Shah replied that, “Yes, *this is a fact. However, . Dilip Shah was not involved in all these affairs.*”

42. Further, during the deposition, Jiger Shah was asked: “*As per the statement recorded by Bipin Divecha, his clients had sent the shares for transfer in their name to you and Sarkhot. The shares got transferred and were sent back to the transferees. His clients then applied for demat of shares, which was approved by you and Sarkhot. During this time, all the process of transfer and demat of shares were taking place in-house by Finalysis from the residence of Dilip Shah and you. Sandesh Sawant and Sikander were two supervisors who were working under Dilip Shah and you were doing all the transfer and demat related work of Finalysis. Comment on this deposition of Divecha.*” To this Query Jiger Shah replied: “ *Sandesh Sawant used to have full data of the Finalysis shareholders and Sikander used to help him. I know Sikander as he used to work for Solid Carbide Tools Ltd. till 2011. I do not have a relationship with Sandesh Sawant. However, he used to come to our home for preparation of master data for sending it to Link Intime. No work as regards transfer and demat of shares of Finalysis was done from our home. All shares related work of Finalysis was done only from Shantinagar office of Finalysis.*”

43. Thus, admittedly, the master data of shareholders that was provided to Link Intime was prepared at the house of Jiger Shah/Dilip Shah; Sikander, who was known to Jiger Shah, was involved in the compilation of the master data along with one Sandesh Sawant; and Jiger Shah was interacting with Link Intime with respect to the transfer of shares.

44. Also, reference is drawn to an email dated February 15, 2013 by Vinayak Sarkhot to Bipin Divecha and Roma Khan, with copies to Jiger Shah and Sham Gandhi. The email reads:

“ Dear Sir

Please find a detailed list of shares transferred in favour of clients of Bipinbhai with distinctive no’s and name of transferor and transferee.

This shares have been transferred and delivered by Mr Dilipbhai/Mr. Jigerbhai
Regards

Sarkhot ”

45. Further reference is drawn to an email dated March 11, 2013 addressed by Bipin Divecha to Jiger Shah, Vinayak Sarkhot, Sham Gandhi, with copies to Roma Khan and Mihir Shah. The said email reads,

“Dear Sir/s,

As informed to you about the physical share certificates of FICNR lying with Ahmedabad party from whom received 2000 certificates (with details) out of 44,000 shares. Pl find an attachment of each folios”.

Folio No. of Shares	Certificate No.	Name of the shareholder/s	Dist Nos.
0012211000	013548 to 013557	SADHNA DODEJA	00002718501 TO 00002719500
0012241000	013578 to 013587	REKHA DODEJA	00002721501 TO 00002721600

Pl check your old records and confirm the same”

46. Also, reference is drawn to email dated February 04, 2013 addressed by Bipin Divecha to Vinayak Sarkhot with copies to Jiger Shah and Roma Khan, containing therewith, an excel file bearing the name, “finalysis shareholding received from jigger.xlsx”. In reply to the said email, Vinayak Sarkhot by way of email dated February 05, 2013 addressed to Bipin Divecha with copies to Jiger Shah and Roma Khan stated,

“Dear Bipinbhai,

Please find copy of shareholding with nil records received from Jiger shah Part of folio’s appearing in the list as informed earlier you can verify from the same

Now Mr. Dilipbhai only can explain movement of shares from this list Mean time you restrict damage by purchasing this lot”

47. Furthermore, reference is drawn to the email dated May 23, 2013 addressed by Bipin Divecha to Jiger Shah, Sham Gandhi. In the said email, it has been stated that *“As it was brought to your notice and particular to Mr. Dilip Shah for receiving letters of the registrars to various shareholders whose names appeared in the books of registrars while dematerialisation of shares. The shares were already dematerialised by the registrars to the shareholders with the approval. Now, other parties have started claiming for the same shares with same certificate &folios numbers, for which the explanation was asked to Mr. Dilip Shah during the last meeting, held as well we were assured by you during the meeting held in Hyat hotel for resolving all cases where there are such kind of problems. Now, the other party has also started sending legal notice to the holders whose name appeared & dematerilised the shares by them with the approval of your goodselves.”*
48. The above referred emails demonstrate that, a) Jiger Shah had knowledge and records pertaining to the shareholding of Finalysis; b) the information on shareholding as communicated by Jiger Shah had “NIL” records against certain folio numbers, however, complaints on the said folio numbers came to be received from the public shareholders; and c) the shares had been transferred and delivered by Jiger Shah/Dilip Shah.
49. It has already been elaborated in the previous part of the Order that the sale consideration for the sale of the shares to the purchasers brought by Bipin Divecha, were received by the Noticees, namely: Dilip Shah, Jiger Shah, Sham Gandhi, Vinayak Sarkhot and Bipin Divecha. In this regard, it is also observed from the fund transfer details that Dilip Shah and Jiger Shah together received a total amount of Rs. 2,40,50,000 , which is the highest amongst all the Noticees.
50. Lastly, when the complaints were received from Pankaj A. Desai and related entities, it has been stated by the complainant that Jiger Shah and Dilip Shah visited the house of the complainant, and further to the same they had issued

fresh consolidated certificates for 6000 and 1000 shares respectively with the same folio numbers, as the original share certificates.

51. Thus, from an overall evaluation of the facts, it is clear that Jiger Shah and Dilip Shah were acting in unison, and as such were having custody of records pertaining to the shareholders of Finalysis; gained maximum benefit from the sale of the shares; were instrumental in the transfer and delivery of the shares to the buyers identified by Bipin Divecha; and tried to address the complaints being received from the public shareholders by issuing fresh shares.
52. Therefore, I find that Jiger Shah and Dilip Shah acted with the common objective of selling 93% of the shares of Finalysis at an approximate price of Rs.9 per share by forging/counterfeiting the shares of the public shareholders, and subsequently selling them to the buyers identified by Bipin Divecha to make profits from the whole process.
53. Accordingly, I find that the said Noticees have violated the provisions of Section 12 A(a), (b) and (c) of the SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of the PFUTP Regulations, 2003.

Sham Sadhuram Gandhi (Noticee 3)

54. The SCN has alleged that Sham Gandhi along with the other Noticees had defrauded the original shareholders by issuing forged consolidated share certificates, and also fraudulently made the buyers of these forged consolidated share certificates to believe that the shares transferred to them were original, though they were not so.
55. Accordingly, the SCN states that the Noticees together employed deceptive scheme to defraud the investors in the shares of Finalysis, thus, violating the provisions of section 12 A(a), (b) and (c) of the SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of the PFUTP Regulations, 2003.
56. Sham Gandhi in his replies has contended as below:

- (a) The allegation that he gave the list of shareholders to Vinayak Sarkhot has no merit as the statements by Vinayak Sarkhot and Bipin Divecha did not specify when and where such a list was given.*
- (b) Vinayak Trimbak Sarkot and Bipin Pushpasen Divecha were the office bearers of the Company in 2011-2013. The letter dated March 19, 2013 of Finalysis confirming to SEBI that all records including the CD maintained by the previous RTA were destroyed, itself belies the statements of Vinayak Trimbak Sarkot and Bipin Pushpasen Divecha that the Noticeee (Sham Gandhi) handed over the list of shareholders to them.*
- (c) There was no proof or evidence with respect to him having aided and abetted 'dealings' in the shares of Finalysis in a fraudulent manner. He did not buy nor sell a single share, and got possession of the 4,84,000 shares from Mukesh M Kothari in an off market transaction, which did not involve any cash, and subsequently he was compelled to part with his shares to Sajjad Pavne and others on the promise of payment which too did not materialize.*
- (d) Mukesh M Kothari gave him the shares that were held in his name along with his family members accompanied by blank signed Transfer Deeds. The Transfer Deeds could have been used only for transferring the shares held in the names of Mukesh M Kothari and his family members and not of others.*
- (e) The letter dated November 24, 2011 issued by the Company to the RTA categorically calls upon the RTA to follow a procedure for transfer of shares by issuing Notice to the original shareholder if the market value of the shares was above Rs. 50000 /-. Hence, unless Link Intime was called upon to explain the procedure followed by them, charging him for activating any fraudulent transfers was illegal and baseless.*
- (f) No confirmation was sought from the RTA, Link Intime with respect to the statement made in paragraph 11 (k) of the SCN that Link Intime was providing electronic connectivity since 2000. Further, the Noticee (Sham Gandhi) has raised the question as to who was paying the RTA from*

2000 onwards and what were the transfers that it had supported electronically.

- (g) The Noticee received the amount of only Rs 19 lakh towards a personal loan and was not a recipient of any other funds from the alleged sale of shares. The Noticee has stated that the money received by him was in cash and the same was mentioned in an email, because of which he became panicky at the brazenness in keeping accounts of cash payments. So, he decided to end the financial transaction with Bipin Pushpasen Divecha, and repaid the funds given by Bipin Pushpasen Divecha by means of Bank RTGS.*
- (h) Varsani (Hirji) family lodged a complaint for 2,00,000 shares (Jumbo certificates) in SCORES whereas as per discussions in the meetings and as per Vinayak Trimbak Sarkhot, the Varsani family holding was 5,00,000 shares. The name of the Varsani family does not appear in any list suggesting that the family had sold the shares earlier.*
- (i) The allegation that he employed a deceptive scheme to defraud the investors in FCGC shares has been made without showing what the scheme was. No complaint against him has been brought on record to show that he had defrauded and cheated any investor. The investigation by the Oshiwara Police station had failed to establish that he had sold even one share to Bipin Pushpasen Divecha, and hence they closed the matter.*

57. As already pointed out in the previous part of the order, Sham Gandhi in his statement to SEBI stated that against an amount of Rs. 30 lakh advanced by him in 1996-97 to Mukesh Mansukhlal Kothari, he received 4,84,000 shares of Finalysis in 2001.

58. He has further informed that "In 2011, I told Sarkhot regarding the shares in Finalysis lying with me (as given to me by Kothari). Dilip Shah also said that he has 2 lac shares of Finalysis with him. Sarkhot offered to revive Finalysis, including starting operations there and getting the suspended shares revoked at BSE."

59. Thus, it is clear that Sham Gandhi knew Vinayak Sarkhot and acknowledged that he was capable of revoking the suspension of Finalysis at BSE. Sham Gandhi along with Dilip Shah had met Vinayak Sarkhot and also informed Vinayak Sarkhot of the shares held by him, and the 2 lakh shares held by Dilip Shah. Sarkhot had accordingly undertaken to revoke the suspension and revive Finalysis.
60. In this regard, the email dated July 13, 2012 from Vinayak Sarkhot to Jiger Shah (with a copy to Sham Gandhi) provides details with respect to the completion of the sale of 69.89 % of the shares of the Company. Further, the email dated September 29, 2012 addressed by Bipin Divecha to Sham Gandhi enclosed thereto a letter dated September 07, 2012 to all the directors and promoters bearing the subject "Handing over process and cut-off date". The letter enumerated the issues and matters to be sorted out, as decided at the meeting held on September 07, 2012. The following issues were mainly enumerated in the said letter *"preparation of MOU and to be signed by the directors on approval; Signature confirming on list of 93% holding of the company handed over various clients for shareholders against payment receipt; Confirmation of payment given to the promoters of the company; purchase of promoter shares and arrangement of payment"*. The letter ends with the lines, *"With vote of thanks the meeting got over with full quorum and we all thanked Mr Sham Gandhi & his family for the delicious meal provided to all of us."*
61. Further, by way of email dated December 10, 2012 Bipin Divecha emailed a copy of a draft MOU to Sham Gandhi and Jiger Shah. As per the draft MOU, the buyer- Bipin Divecha, authorised representative of the incoming shareholders, was agreeable to buy from the seller(s), namely Dilip Shah, Jiger Shah, Sham Gandhi, Vinayak Sarkhot and Sharad Ramchandra Ghadi a total of 51, 20, 394 equity shares of Rs. 10 each (constituting 93% of the fully paid up equity capital of the Company) at a total consideration of Rs. 4, 60,00,000.
62. Thus, from the email dated September 29, 2012, it is clear that subsequent to the sale of 69.89 % of the shares, the concerned Noticees (Sham Gandhi, Dilip Shah, Jiger Shah, Vinayak Sarkhot and Bipin Divecha) had earmarked pending

issues for resolution, namely the final sale of the remaining promoter shareholding that shall conclude the sale of 93% of the shares of Finalysis and the payment thereto. In this respect, it is also clear that Bipin Divecha through whom the sale of 69.89 % of the shares have been carried out, was seeking the intervention of Sham Gandhi by calling a meeting and resolving the said matter.

63. In this regard, it is stated that around September, 2012, complaints were received by the Company from the public shareholders of the Company stating that their shares contained in physical share certificates had been transferred to other persons, even though they had not transferred it.

Analysis of Emails Relating to Complaints Received from Public Shareholders

An email dated September 29, 2012 from Bipin Divecha to Sham Gandhi stated that *"Hope the said attachment must have been received from Mr. Jiger Shah, as it was informed to forward to you. Since I got your mail id, it is for me to send once again a copy of the scan for your reference and sorting out the issue. The folio and certificate nos shown in a letter is showing in another shareholders name. Pl clarify."* This was followed by another email from Bipin Divecha to Sham Gandhi on the same date stating that *"you are requested to call for a meeting immediately instead of banging down the phone without listening anything on the issues."* Further, it has been stated in the email that *"Your payment is due which we very well know, shall be made in day or two as our party/financier has assured us finally to give payment of Rs. 10 L. even though your non-compliance of the issues as mentioned"*

64. Further, the email dated December 28, 2012 addressed by Vinayak Sarkhot to Sham Gandhi and Bipin Divecha with respect to an email forwarded by Mukesh Zota bearing the subject line "FRAUD OF MY EQUITY SHARES- FINALYSIS CREDIT AND GUARANTEE CO. LTD.," states as under:

" dear sir

please find complaint received by investor

this is not yet resolved can create big problem to everybody

please do the needful”

65. In the email dated September 11, 2013 addressed by Bipin Divecha to Sham Gandhi, Bipin Divecha has stated that “ The matter of Mr. Pankaj Desai is long pending & requires to resolve immediately by your good selves as old matters are known to you...Please be noted that this is not only one matter which has come across, but more than 8 cases have been filed in various depts...Please neither ignore the matters this time nor escape from your financial responsibilities.”

Analysis of Emails Relating to Transfer of Funds Amongst the Noticees

66. An email dated May 30, 2012 was sent by Jiger Shah to Sham Gandhi and Bipin Divecha and in response thereto, an email dated May 31, 2012 was issued by Sham Gandhi to Jiger Shah and Bipin Divecha tabulating the SMSes received with respect to the transfer of funds from Bipin Divecha.
67. Further, the email dated September 10, 2012 issued by Jiger Shah to Bipin Divecha provides a table listing the payments made by Bipin Divecha, and to whom. It is relevant to state that as per the table, payments were made to SGSham Gandhi on February 22, 24, 28 and March 07, 2012 for Rs. 10 lakh, Rs. 4 lakh, Rs.5 lakh and Rs. 5 lakh respectively totalling to Rs. 24,00,000.
68. Thus, it is evident from the complaints and emails exchanged amongst the Noticees that the shares being sold belonged to public shareholders. It is also evident that Sham Gandhi was involved with the arrangement for transfer of 93% of the shareholding of the Company to the buyers brought by Bipin Divecha. He was part of the original group that contacted Vinayak Sarkhot for the revival of the Company and he was aware of the sale of the shares of the public shareholders and had assured resolution of issues, if they arose in said matter. Furthermore, it is observed that payments were received by Sham Gandhi from the sale of shares affected through Bipin Divecha. It must be stated that the said payments were not in respect of the 4,84,000 shares held by Sham Gandhi as the arrangement for the sale of promoter shareholding was still underway as on September 2012, as would be evident from the above

paragraphs, while the payments to Sham Gandhi had been made in February and March, 2012.

69. Having considered the involvement of Sham Gandhi in the matter, it is relevant to address the essential contentions raised by Sham Gandhi in his replies.
70. It has been stated by the Noticee in his reply that the payments received of Rs. 19 lakh was part of a personal loan, and that the same had been repaid. In this respect, it is stated that categorising the money received as a “personal loan” appears to be an afterthought. The email exchanges on record amongst the various Noticees do not anywhere mention the grant of any money in the nature of loan to Sham Gandhi. It is also not clear as to who advanced the loan to him. In this connection, reference is again drawn to email dated September 11, 2013 referred above, wherein it has been stated by Bipin Divecha to Sham Gandhi that *“Your payment is due which we very well know, shall be made in day or two as our party/financier has assured us finally to give payment of Rs. 10 L. even though your non-compliance of the issues as mentioned”. There is an obvious underlying transaction for which valid quid-pro-quo in the form of cash was being discussed by Sham Gandhi and Bipin Divecha*”. Accordingly, it cannot be said that the payments received by Sham Gandhi were in the nature of a personal loan.
71. Incidentally, with respect to the specific assertion made in the SCN that the share certificates which were transferred to various entities bore three signatures and the Order in the matter of Finalysis Credit & Guarantee Co. Ltd. three signatures resemble the names of Sham Gandhi, Dilip Shah and Jiger D Shah, and on many of these certificates, Sham Gandhi had affixed his initials, which match with the signature on his written statement given to SEBI in the matter; it has been contended by the Noticee that the alleged signatures do not belong to him and for this, he has placed reliance on certain forensic reports. In this connection, I note that the resemblance of the signature on the share certificates with the sign of Sham Gandhi is one of the observations of the investigation, amongst several other facts brought out revealing his role. My consideration of the aforesaid Noticee’s role is independent of the observation in

the Investigation Report regarding the comparability of the signatures on the counterfeit share certificates with that of Sham Gandhi.

72. Accordingly, I am inclined to make an overall evaluation of the role of Sham Gandhi as brought out above by analyzing the email correspondences, the fund transfers and the fact that there were meetings and common concerns with respect to issues raised by public shareholders etc. undisputedly shows the involvement of Sham Gandhi in the scheme for the forging/counterfeiting the shares of the public shareholders, and getting enriched by fraudulently selling off such forged/counterfeited shares to the buyers identified by Bipin Divecha. In my view, Sham Gandhi, being a retired banker, was party to some informal and a sham arrangement of transferring 93% of public company to Bipin Divecha. Admittedly, Sham Gandhi has monetarily benefitted, though, he styles it as a personal loan. The closure of the Oshiwara Police Station proceedings is also not relevant to the present matter.

73. Accordingly, I find that the Noticee has violated the provisions of section 12 A(a), (b) and (c) of the SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of the PFUTP Regulations, 2003.

Allegations against Vinayak Sarkhot (*Since deceased*)

74. The SCN has alleged that Vinayak Sarkhot along with other Noticees defrauded the original shareholders by issuing forged consolidated share certificate, and also fraudulently made the buyers of these forged consolidated share certificate to believe that the shares transferred to them were original, though they were not so.

75. Accordingly, the SCN has alleged that Vinayak Sarkhot violated the provisions of section 12 A(a), (b) and (c) of the SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of the PFUTP Regulations, 2003.

76. As already mentioned in the previous part of the Order, Sham Gandhi in 2011, told Vinayak Sarkhot regarding the shares in Finalysis lying with him and that Dilip Shah also told him that he had 2 lakh shares of Finalysis with him. It is also

seen that Vinayak Sarkhot had offered to revive Finalysis, and getting the suspension of Finalysis' shares revoked at BSE.

77. In this respect, it has been stated by Vinayak Sarkhot in his statement to SEBI that:

“ I was asked by Sham Gandhi and Dilip Shah to find buyers for 93% shares of Finalysis. I then approached Divecha whether he was interested in buying Finalysis....According to the deal, Sham Gandhi and Dilip Shah were supposed to arrange 93% of the holding in Finalysis for consideration of Rs. 4.60 crores, out of which I was supposed to get Rs. 25 lac as my service charges.”

78. So, from the above, it is evident that Vinayak Sarkhot was involved right at the stage of initiation of the scheme i.e., from the revocation of the suspension of Finalysis till he arranged the sale of 93% of the shares in Finalysis. 7.43.Further, it has been deposed by Vinayak Sarkhot in his statement to SEBI that he completed all the formalities required for the revocation of the listing suspension imposed on Finalysis at BSE. Pursuant to the same, Vinayak Sarkhot, became the compliance officer as well as a director in Finalysis. This resulted in the revocation of the listing suspension on Finalysis at BSE.

79. Similarly, with respect to the sale of shares of Finalysis, Vinayak Sarkhot in his statement to SEBI has said *“ I used to complete the transfer deeds with the details of the transferors and witness. I then used to give the transfer deeds to Jiger Dilip Shah and then he used to give me the transferred share certificates. I then used to complete the transfer deeds with the details of the share certificates, distinctive numbers and number of shares and accordingly stamp duty was calculated and affixed. The transfer deeds were then sent to Jiger Dilip Shah for his custody at the residence of Shah at Teenbatti, Walkeshwar, Mumbai. The transferred share certificates were then given to Divecha with covering letter signed by me and Divecha in turn used to send them respective transferees. The whole exercise was done during Feb-April 2012.”*

80. This is corroborated by the statement of Santosh Jayaram Sawant, Noticee No. 18. In his statement to SEBI he has stated that *"In the year 2011, . Sarkhot told me to sign as witness on some transfer deeds pertaining to the shares in the scrip of Finalysis. I have signed around 20-25 filled in transfer deeds in the office of Vibrant Investments, which was then located at 47, Tamrind Lane, Raja Bahadur Mansion, 2nd Floor, Fort, Mumbai 400001. At that time I was not aware that . Sarkhot is the director of Finalysis". Vinayak Sarkhot has not denied knowing Santosh Jayaram Sawant. In this respect, Vinayak Sarkhot in his statement has stated that "I was using office of M/s Vibrant Investments at Rajabahdur Mansion, near BSE building for paper work related to Finalysis and other companies. . Santosh was working as peon at Vibrant Investments."*
81. Further, to the question, "You are being shown sample of some letters of Finalysis to the RTA, wherein Finalysis has confirmed the signatures of the transferors. Also, the confirmation letter does not contain any certificate number and distinctive numbers. Offer your comments on what basis were the signatures of transferor's confirmed." In response, Vinayak Sarkhot had indicated in his statement to SEBI that, *"These certificates generally belonged to . Mukesh Kothari which were consolidated and were transferred in different names belonging to people known to me or . Dilip Shah or . Sham Gandhi. Since we knew the transferors, the signatures were verified by me. I used to get the transfer deeds with the details and signatures of transferors from . Dilip Shah or . Sham Gandhi, so there was no point in checking back with them as regards signatures of the transferors."*
82. So, from the above, it is evident that a) details of the transferors were filled by Vinayak Sarkhot in the transfer deeds; b) pursuant to such execution of transfer deeds, Jiger Shah sent the transferred share certificates to Vinayak Sarkhot; and c) upon such receipt of transferred certificates, the same were sent to Bipin Divecha for onward transmission to the buyers.
83. Furthermore, it has been stated by Sarkhot in his statement to SEBI that the share certificates generally belonged to . Mukesh Kothari which were consolidated and transferred in different names belonging to people known to him or Dilip Shah or Sham Gandhi. He used to get the transfer deeds with the

details and signatures of the transferors from Dilip Shah or Sham Gandhi. Since they knew the transferors, there was no point in checking back with them as regards signatures of the transferors.

84. Reference is made to the statement by Vinayak Sarkhot to SEBI, wherein he has stated that *"I was given 4 lac shares of Finalysis by Sham Gandhi and Dilip Shah in 2010 as security for my payment and service charges- 2 lac in my name, 1 lac in my younger brother name (Yashwant Trimbak Sarkhot), 1 lac in my nephew's name (Jagdish Dilip Sarkhot). The shares were consolidated share certificates of 1998 and were in the name of . Mukesh Kothari. No transfer deed was signed for this and I was only given the transferred share certificates. I asked for the transfer deeds which they did not give at that time. I did not insist on getting the transfer deeds. I got the shares dematted in 2012 before relisting."*
85. In this respect, specific mention is made of certificate number 46569 containing 10,000 shares with distinct numbers from 000029995801 to 00003005800. The said physical share certificate reads, *"This is to certify that the person(s) named below or the last transferee(s) whose name (s) is /are duly recorded in the Memorandum of Transfers on the reverse hereof is/are the Registered Holder (s) of the within mentioned Share(s) bearing the distinctive number(s) herein specified in the above Company hereon has been paid up on each such share."* Curiously, the Memorandum of Transfers on the reverse of the said share certificate mentions the name of Jagdish D Sarkhot and the date of transfer to be 15/11/2000. From the facts on record, and also the statement of Vinayak Sarkhot, it is clear that Vinayak Sarkhot was involved in the affairs of Finalysis only around 2010; and the shares allotted to him and persons related to him was subsequent to him joining the Company. Accordingly, the said transfer of shares to Jagdish D Sarkhot, Vinayak Sarkhot's nephew could not have taken place prior to 2010. This lends credence to the allegation that the share certificates were forged/counterfeited and the details contained therein had been tampered with. Moreover, the whole scheme of revocation of suspension and transferring the shares of public shareholders was plotted by the Noticees in the absence of

Mukesh Kothari, who was the promoter of Finalysis and had borrowed money from Dilip Shah and Sham Gandhi, and later went absconding.

86. Vinayak Sarkhot was the Compliance Officer and Director of Finalysis. He was the person who was involved in effecting transfers and filling out the transfer deeds with respect to the buyers brought by Bipin Divecha. He advanced the false claim that most of the transferors were related to Mukesh Kothari. The fact that there were several complaints from public shareholders that their shares were fraudulently transferred clearly indicates that these shareholders were, in no way, related to the promoters. It is, thus, apparent from all the facts brought out here that the forgery/counterfeiting of the shares of the public shareholders could not have happened without the active participation and connivance of Vinayak Sarkhot.
87. Furthermore, from the emails referred to in para no. 7.15 above, it is seen that a total of Rs. 95,50,000 was received by Vinayak Sarkhot out of the sale consideration from the sale of the shares of the public shareholders of Finalysis. So, the above participation and connivance for committing the forgery/counterfeiting of the shares of the public shareholders and their fraudulent sale to the purchasers brought in by Bipin Divecha was with an aim of enrichment as stated above.
88. However, in view of the demise of Vinayak Trimbak Sarkhot, the proceedings initiated against him have been abated vide Order dated February 28, 2020. In order to examine the role of the other Noticees, I consider it necessary to examine the role of Vinayak Sarkhot in order to have holistic approach.

Bipin Divecha (Noticee No. 2)

89. The SCN has alleged that Bipin Divecha defrauded the original shareholders by issuing forged consolidated share certificates, and also fraudulently made the buyers of these forged consolidated share certificates to believe that the shares transferred to them were original, though they were not so.

90. Accordingly, the SCN has alleged that Bipin Divecha violated the provisions of section 12 A(a), (b) and (c) of the SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of the PFUTP Regulations, 2003.
91. Bipin Divecha was a Director of the Company from October 10, 2011 onwards, when the transfers of shares were effected.
92. In this regard, reference is made to the statement given by Bipin Divecha to SEBI on June 18, 2015 wherein he has stated that *“Through . Sarkhot, they approached me in Jan 2012 for arranging the buyers for buying the 93% shares of Finalysis and also agreed to give 2% of equity of Finalysis, if they receive from the shareholders.”*
93. Further, he has stated that *“I used to sell these 93% shares to my known people/clients for the consideration of approximately Rs. 9 per share. The total consideration amount was Rs. 4.60 crore for total 51, 20, 394 shares of Finalysis, which is app. 93% of the total equity in Finalysis. However, out of the above 51,20, 394 shares of Finalysis, promoters’ holdings (. Jiger Dilip Shah, Sham Gandhi, Sarkhot, . Jagdish Sarkhot, . Yashwant Trimbak Sarkhot (brothers of . Sarkhot) were 10, 84,000 shares which were not given to me.”*
94. From the above, it is evident that Bipin Divecha was also party to the employing of the scheme for the sale of shares of Finalysis along with Dilip Shah, Jiger Shah, Sham Gandhi and Vinayak Sarkhot.
95. As already mentioned above, by way of email dated July 13, 2012 sent by Vinayak Sarkhot to Jiger Shah with a copy to Sham Gandhi, details with respect to the initial sale of 69.89 % of the shares of the Company were provided. Further, by way of email dated September 29, 2012, enclosing therewith a letter dated September 07, 2012 to all the directors and promoters, which enumerated issues to be considered including the purchase of promoter shares and arrangement of payment was addressed by Bipin Divecha to Sham Gandhi. So, pursuant to the above arrangement, Bipin Divecha was involved in identifying and arranging buyers for purchasing the shares of Finalysis.

96. However, as Bipin Divecha was getting buyers to buy the shares of Finalysis, complaints of the public shareholders were received simultaneously. In this regard, reference is drawn to an email dated September 25, 2012 addressed by Bipin Divecha to Jiger Shah asking him to take action with respect to the letters received from the public shareholders. Also, reference is drawn to an email dated November 23, 2012 addressed by Bipin Divecha to Jiger Shah, Vinayak Sarkhot and Sham Gandhi with the subject “ Fwd: FW: kirtida desai Finalysis credit & guarantee co. ltd” informing receipt of mail for a complaint and asking the recipients to answer the same and sort out the matter. Reference is also drawn to email dated November 24, 2012 addressed by Sajjad Pavne from the email id, info@finalysis.in to Bipin Divecha, Jiger Shah, Vinayak Sarkhot and Sham Gandhi stating therein, *“As informed by Mr. Sarkhot that the matters pending with regards to Mrs Desai & Mr. Anil Aggarwal are resolved, kindly confirm the same so that we can have it communicated.”* Reference is drawn to the email dated November 21, 2012 addressed by Roma Khan from the email id, info@finalysis.in addressed to Vinayak Sarkhot and Dnyanesh Gharote of Link Intime, with copies to Sajjad Qadir and Bipin Divecha. The email narrates the conversation that Roma Khan had with Vinayak Sarkhot and Dnyanesh Gharote of Linkintime with respect to the letters and reminders thereto, in respect of Kirtida Desai’s complaint and the discussion on the matter between one Mr. Naik of Link Intime and the complainant’s husband. On this, Roma Khan stated that *“This needs serious investigation to be carried out. We would want clarification from Mr. Naik on his account of discussion with Mr. Desai since this could lead to being accused of forgery. I have assured Mr. Desai that his complaint will be dealt with sensitivity and effectiveness and the action will be taken instantly.”*
97. It is evident from the above email exchanges that Bipin Divecha was well aware of the complaints of the public shareholders regarding the rejection of their transfer/demat requests on the grounds that such shares had already been transferred/dematted.
98. Bipin Divecha being well aware of the complaints received from the public shareholders sent an email dated December 10, 2012 to Sham Gandhi and

Jiger Shah containing therewith a draft MOU for the sale of shares of Finalysis. As per the proposed MOU, the buyer Bipin Divecha was the authorised representative of incoming shareholders, and the sellers, namely Dilip Shah, Jiger Shah, Sham Gandhi, Vinayak Sarkhot and Sharad Ramchandra Ghadi , agreed for the sale of a total of 51, 20, 394 equity shares at a total consideration of Rs. 4, 60,00,000.

99. The MOU, even though not signed or executed, is indicative of the intent of Bipin Divecha to go ahead with the sale of the shares of Finalysis while he had the knowledge that some of the public shareholders had already filed complaints about their shares having been transferred without their knowledge. However, despite such knowledge, he continued with the arrangement of facilitating the sale of shares of Finalysis to the buyers that he was bringing in. The sharing of the draft MoU by Bipin Divecha with the others who are part of the scheme can be seen only as an attempt to shield himself from the allegation of unauthorised transfers and feign ignorance of the inherent defect in the shares, i.e. that those are counterfeit shares.
100. It is relevant to mention that Bipin Divecha in his statement has stated that “ *It was also decided that on making the entire payment by me and my clients, I , along with Sham Gandhi, Jiger Dilip Shah and Dilip Shah, would enter into a Share Purchase Agreement (SPA) and all the promoters, viz. Sham Gandhi, Jiger Dilip Shah and Dilip Shah would transfer the control of Finalysis to me. I showed my interest in the deal.*” Thus, the keen interest shown by Bipin Divecha to continue to sell the shares of Finalysis even after knowing about various complaints from the public shareholders, could be attributed to the promise that he would be given the promoters’ shareholding and the control of the Company.
101. Lastly, admittedly Bipin Divecha became a Director in Finalysis on October 10, 2011 and on becoming a Director was allotted shares of Finalysis. In this respect, Bipin Divecha has in the statement to SEBI has stated that “ *I got 1,75,000 shares of Finalysis in physical form transferred in my name in 2011 when I was given the Directorship in Finalysis. The shares were in the name of Ms. Kanta Desai and Annatrai Desai. The payment at Rs. 9 per share was made by me to Finalysis in Jan 2012. The payment was made through cheque*

starting from Jan 31, 2012.” Furthermore, in the said statement given by Bipin Divecha to SEBI, it has also been stated that “I do not have the copy of share certificate. I do not have details of the folio number, certificate number and the distinctive numbers for these shares.” It is stated that the shares were transferred for a sum of Rs.9 per share, which was far below the market price. It is pertinent to note here that during 2012, the share of Finalysis was lowest at Rs. 30 and highest at Rs. 139. Thus, such a sale defies any commercial logic as no shareholder would sell the shares at such a price especially when the lowest market price of the same share was at least three times the consideration amount of Rs. 9 per share. It is observed that though the transferors of the shares were Kanta Desai and Annatrai Desai, the consideration was passed onto Finalysis, indicating that the transferors were not aware of such a transfer. Moreover, Bipin Divecha did not have the details of the folio number, the certificate number and the distinctive numbers for the said shares, thereby showing that the transfer of shares to his name was fraudulent.

102. Therefore, considering the above facts, I find that the Noticee was not only dealing with the shares with the knowledge that they were forged/counterfeit but also played a crucial role in circulating the shares to identified investors. 7.68. Accordingly, I find that the Noticee has violated the provisions of section 12 A(a), (b) and (c) of the SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of the PFUTP Regulations, 2003.

Sharad Ramchandra Ghadi (Noticee No. 6)

103. The SCN has alleged that Sharad Ghadi defrauded the original shareholders by issuing forged consolidated share certificates, and also fraudulently made the buyers of these forged consolidated share certificates to believe that the shares transferred to them were original, though they were not so.
104. Accordingly, the SCN has alleged that Sharad Ghadi violated the provisions of section 12 A(a), (b) and (c) of the SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of the PFUTP Regulations, 2003.

105. Sharad Ghadi is shown to be one of the directors in the Company. The records in the matter do not contain any reply of Sharad Ghadi to the SCN. The correspondence as available on record, and the flow of funds do not reveal any transfer of funds to him.
106. However, Sharad Ghadi in his statement to SEBI has stated that “ *Sarkhot asked me whether I would like to become Director at Finalysis. I agreed to the offer of Sarkhot and gave him my consent letter in Fort, Mumbai. He then gave me a copy of Form 32 (via email) and I became the director in Finalysis.*” He has further stated “*I have never attended any board meetings at Finalysis. I have even not visited the office of Finalysis even once.*” However, no evidence with respect to the non-attendance of board meetings has been provided by the Noticee.
107. Further, reference is drawn to the statement of Vinayak Sarkhot wherein he has stated that to comply with the requirement of minimum three Directors; he had approached Sharad Ramchandra Ghadi to become a director in Finalysis. It has been further submitted by Vinayak Sarkhot that since Sharad Ghadi had a DIN number, he was brought in to become a director in Finalysis with effect from 2001. In this respect, it would be relevant to mention that, as per the MCA website, Sharad Ghadi is a director in certain other companies, namely, The Thana Electric Supply Company Limited, Ceetee Trading and Leasing Pvt Ltd, Richtone Fintrade and Investment Private Limited, Udan Door and Vneerr Private Limited and Tuvik Investments Private Limited.
108. Sharad Ghadi, admittedly, has been part of the Board of the Company and was instrumental in ensuring compliance with all legal requirements including that of having a minimum number of directors as a listed company. It is seen from the facts of the case that the said compliances have helped the Company to lift the suspension imposed by the BSE, as a prelude to planting the fraudulent device in the securities market.
109. Thus, the mutualisation by the Noticee of his DIN Number and the Noticee’s breach of fiduciary duties lend credence to the presumption that the said Noticee by way of the above actions afforded an opportunity to the other

Noticees to employ a deceptive scheme to counterfeit/forged share certificates and consequently thereof deal in such counterfeited/forged share certificates. I also note that Sharad Ghadi's name is also part of the draft MoU, as part of the sellers to Bipin Divecha. It is therefore hard to believe that his name is included as a part of the sellers without him being involved in the fraudulent scheme.

110. Even, if it is assumed that the Noticee had lent his name for the purpose of relisting, name lending is a serious offence which enables manipulators to carry out their nefarious activities by masking their identity. In the instant case, there are no records to justify that the Noticee was caught unaware of scheme of things of fraudulent activity. In this regard, I take note of the observation of The Hon'ble Securities Appellate Tribunal in *Rahul H. Shah Vs. SEBI* (Appeal No. 83 of 2012 decided on May 11, 2012) wherein it was observed that name lending "is a fraudulent activity and requires to be curbed for maintaining the sanctity of the securities market".

111. Therefore, in line with the ration laid down by Hon'ble SAT and the aforesaid findings, I find that the Noticee has violated the provisions of Section 12 A (a), (b) and (c) of the SEBI Act, 1992 read with Regulation 3(a), 3(b), 3(c) and 3(d) and Regulation 4(1) and 4 (2) (h) of the PFUTP Regulations, 2003.

Santosh Jayaram Sawant (Noticee No. 15)

112. The SCN has alleged that Santosh Sawant defrauded the original shareholders by issuing forged consolidated share certificates, and also fraudulently made the buyers of these forged consolidated share certificates to believe that the shares transferred to them were original, though they were not so.

113. In this regard, reference is drawn to the statement of Santosh Jayaram Sawant. It has been stated by him that *"I know . Vinayak Sarkhot as he is a friend of Mr. Pawan Poddar, proprietor of Vibrant Investments. Vibrant Investments is a sub-broker of Angel Broking Ltd. I am working with Vibrant Investments since 2007 as peon. . Sarkhot used to sit for full day in the office of Vibrant Investments. . Poddar had given a computer to him for doing office job. I am not aware what was the profession or occupation of . Sarkhot. In the year 2011, . Sarkhot told*

me to sign as witness on some transfer deeds pertaining to the shares in the scrip of Finalysis. I have signed around 20-25 filled in transfer deeds in the office of Vibrant Investments, which was then located at 47, Tamrind Lane, Raja Bahadur Mansion, 2nd Floor, Fort, Mumbai-400001. At that time I was not aware that . Sarkhot is the director of Finalysis”

114. Further, it has been stated by Santosh Jayaram Sawant that “I was in no way related to or knew the transferors and/or transferees as mentioned on any of the transfer deeds.” , and that “I was not promised any return by Sarkhot in return for signing on the transfer deeds as witness. I also did not ask anything from Sarkhot in return for signing on the transfer deeds.”
115. Reference is also made to the statement of Vinayak Sarkhot. In his statement it has been stated by Vinayak Sarkhot that *“I was using office of M/s Vibrant Investments at Rajabahdur Mansion, near BSE building for paper work related to Finalysis and other companies. . Santosh was working as peon at Vibrant Investments.”*
116. A perusal of the emails exchanged amongst the main Noticees, namely Noticees 2 to 6 as accessed by SEBI, does not bear any mention of Santosh Jayaram Sawant. Further, there is nothing on record to point to any transfer of funds to the said Noticee. Even though the said Noticee has signed the transfer deeds as a witness, upon a holistic consideration of the facts, especially the position of the Noticee as a peon; the coherence in his submissions; the absence of contradictions and inconsistencies thereof, with the Noticee’s clear lack of knowledge of the larger scheme of sale of forged shares, I am of the view that the acts of the Noticee as alleged in the SCN do not stand proved.
117. Thus, I am inclined to believe that Santosh Jayaram Sawant was not involved in the counterfeiting or forgery of share certificates of Finalysis and their fraudulent sale to the transferees brought by Bipin Divecha.
118. Accordingly, I find that the Noticee has not violated the provisions of Section 12 A (a), (b) and (c) of the SEBI Act, 1992 read with Regulation 3(b), 3(c) and 3(d) and Regulation 4(1) and 4 (2) (h) of the PFUTP Regulations, 2003.

Issue II – B. Whether Noticee No.1, Finalysis as the Company, can be held liable for the fraudulent dealing in securities, in terms of the provisions contained in the SEBI Act and the SEBI PFUTP Regulations?

Finalysis Credit & Guarantee Co. (Noticee No. 1)

119. The SCN has alleged that the Company through the activities of its directors and promoters has effected fraudulent consolidation of shares and further fraudulent transfer and demat of such consolidated shares thereby violating the provisions of section 12 A(a), (b) and (c) of the SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of the PFUTP Regulations, 2003.
120. In this regard, the SCN notes that the Noticees, namely, Bipin Divecha, Sharad Ghadi, Jiger Shah and Vinayak Sarkhot were directors in the Company: Similarly, the SCN notes that Dilip Shah and Sham Gandhi were promoters of the Company.
121. The Company is bound by the fraudulent actions of its directors and promoters along with certain others, which culminated in its share certificates being forged or counterfeited and transferred unauthorizedly to certain persons other than the original shareholders. The company further did not have a regular RTA or STA and failed to furnish the details of the shareholders who were the shareholders prior to the delisting. All the compliances shown by the company to the Stock Exchange for getting itself relisted are also fraudulent in nature. Moreover, the company failed to address the grievances of its shareholders which ultimately culminated in the investigation by SEBI.
122. In the above circumstances, I find that the allegations in the SCN against the company are justified and the Directors viz., Vinayak Trimbak Sarkhot, Jigar Shah and Sharad Gadhi and Promoters viz., Vinayak Trimbak Sarkhot, Sham Gandhi, Jigar Shah along with the Company shall also be held liable for the fraudulent activities brought out during the investigation. Accordingly, I find that the Noticee Company has violated the provisions of Section 12 A (a), (b) and (c) of the SEBI Act, 1992 read with Regulation 3(b), 3(c) and 3(d) and Regulation 4(1) and 4 (2) (h) of the PFUTP Regulations, 2003.

Issue II – C. Whether Noticees 7 to 14 were involved in the counterfeiting/forgery of the share certificates for illegal gains; if not, is there any other role played by these Noticees, which will make them liable for violation of the SEBI (PFUTP) Regulations?

123. The SCN has alleged that Sajjad Pavne and certain entities known to him, namely, Mohammad Rafi (Noticee 7), Roma Shamshad Khan (Noticee 8), Mohd Salim Khan (Noticee 9), Amir Hamza Hakim Khan (Noticee 10), Abdul Hakim Khan (Noticee 11), Abdul Zameer Hakim Khan (Noticee 12), Talat Wahadatali Mohamad (Noticee 13), Wahadatali Gulamrasool (*Since deceased*), Rehana Khan (Noticee 14) along with other Noticees had defrauded the original shareholders by issuing forged consolidated share certificate, and also fraudulently made the buyers of these forged consolidated share certificate to believe that the shares transferred to them were original, though they were not so. Accordingly, it has been alleged that the above mentioned Noticees employed a deceptive scheme to defraud the investors in the shares of Finalysis, thus, violating the provisions of section 12 A(a), (b) and (c) of the SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of the PFUTP Regulations, 2003.

124. In this regard, the summary of the replies filed by the above Noticees is as under

- a) allegations made against them were wrong; b) the shares of Finalysis were bought by fair means with hard earned money, which now was lost ; c) no illegitimate means was practiced or employed to buy shares of the company; d) all decisions to buy the shares were made individually, without any coaxing from any family member or any associate; and e) no one was either a partner to such shares or had any right over it. Additionally, the Noticees submitted that they came to know of Sarkhot, who was arranging finance for their family. Sarkhot agreed to sell the shares to them, and was ready to wait for the sale consideration, and informed them that they could take loans against the shares and pay him back. Roma Shamshad Khan (Noticee 8)

submitted that, a) she had her own personal choice in taking decisions, and did not need to consult her husband (Sajjad Abdul Qadir); b) she bought the shares in the Company, legitimately and through proper channels; c) SEBI had no right to club all the members of the family and demand disclosure, as the decisions of her relatives to buy shares of the Company were their own, even though they might have shared the same address; d) the only reason for her coordinating the share transfers from the promoters to her family members and people known to her was because such people had sought her help, and her role was to be a one-point contact to the promoters, with Vinayak Sarkhot being the point of contact from the promoters side; and e) once the transfers were completed, acknowledgments were sent to the promoters, and as far as she was informed, there was benefit to both parties.

125. In this respect, it would be relevant to provide details with respect to the relationship amongst the related entities of Sajjad Pavane:

- a. An email was sent by Roma Khan (wife of Sajjad Pavne, also known as Roma Shamshad Khan and Shamshad Begum Khan) to Vinayak Sarkhot on July 16, 2013 wherein she had asked Vinayak Sarkhot to transfer the shares to Amir Hama Khan, Abdul Zameer Hakim Khan and Rehana Khan. In the email, she had also asked Vinayak Sarkhot to do the needful for other Noticees also.
- b. As per the MCA website, Windfall Information Technology Systems Pvt. Ltd., a company based in Mumbai had the same address as that of Finalysis, viz. 17, Damji Shamji, Kurla West, Mumbai with its email ID as sajjad@gmail.com.
- c. Sajjad Pavne was the CEO of the above company (as per his LinkedIn profile) which had Mohd. Salim Abdul Hakim Khan and Talat Wahadatali Mohammad as directors. Gulam Rasul Wahadat Ali Khan was the father of Talat Wahadatali Mohammad (as per MCA website). Further, the addresses of Gulam Rasul Wahadat Ali Khan and Talat Wahadatali Mohammad were the same as the residential address of Sajjad Pavne.

- d. Another Mumbai based company by the name, Kasturi Fine Arts Pvt. Ltd. had directors, Amir Hamza Abdul Hakim Khan and Talat Wahadataali Mohammad. Talat Wahadataali Mohammad was also the director of Windfall Information Technology Systems Pvt. Ltd. as mentioned above. Further, Amir Hamza Abdul Hakim Khan was the same person in whose account Roma Khan had asked Sarkhot to transfer the shares of Finalysis.
- e. Both Amir Hamza Abdul Hakim Khan and Abdul Zameer Hakim Khan shared the same address.
- f. The mobile numbers of Mohd. Salim Khan, Abdul Hakim Khan, Abdul Zameer Hakim Khan and Amir Hamza Hakim Khan were the same.
- g. The email IDs of Mohd. Salim Khan, Abdul Hakim Khan, Abdul Zameer Hakim Khan and Amir Hamza Hakim Khan were same and it was salimabdulhakimkhan@gmail.com.
- h. The address of Mohammad Rafi was the same as Sajjad Pavne's, and as stated by Sajjad Pavne in his statement to SEBI, Mohammad Rafi was his brother-in-law. Hence, in the SCN all these have been treated as a group.

II C Whether Sajid Abdul Qadri Pavne and 7 to 14 were involved in the counterfeiting/forgery of shares?

126. Reference is drawn to the email dated July 13, 2012 from Vinayak Sarkhot to Jiger Shah and Sham Gandhi as mentioned in the foregoing paragraphs of this Order. The said e-mail informed that the shares comprising 69.89% had been delivered and the shares earmarked for delivery comprised of 19.69%, which was the holding of the promoters, namely, Vinayak Sarkhot, Yashwant Sarkhot, Jiger Shah, Dilip Shah and Sham Gandhi as per the company's filing with BSE for the quarter ending June 2012. Thus, as on July 13, 2012 a predominant portion of the shares, 69.89% had been transferred to the purchasers brought by Bipin Divecha.

127. In this regard, it is stated that the appointment of Sajjad Pavne as the Managing Director of the Company happened in September 2012 by which time the complaints of the public shareholders had started coming.
128. Also, the first time the name of any of the Sajjad Pavne related entities came up in any correspondence, was in an email dated November 21, 2012. The said email had been addressed from the email id, info@finalysis.in by Roma Khan to Vinayak Sarkhot and Dnyanesh Gharote of Link Intime, with copies to Sajjad Pavne and Bipin Divecha, in respect of Kirtida Desai's complaint and the discussion on the said matter between one Mr. Naik of Link Intime and the complainant's husband.
129. Thus, from the above, it is evident that the role of the Sajjad Pavne related entities emerged only after the sale of the substantial portion of the shares, 69.89% in July 2012 by Noticees 2 and 5, 6 and Sajjad Pavne. Accordingly, it cannot be stated that Sajjad Pavne or the Sajjad Pavne related entities were instrumental in the counterfeiting or forgery of shares belonging to the public shareholders.

II C Whether Noticee 7 to 14 dealt in counterfeit shares?

130. Reference is again drawn to the email dated November 21, 2012 referred above. In the said email, commenting on the complaints received, Roma Khan stated that *"This needs serious investigation to be carried out. We would want clarification from Mr. Naik on his account of discussion with Mr. Desai since this could lead to being accused of forgery. I have assured Mr. Desai that his complaint will be dealt with sensitivity and effectiveness and the action will be taken instantly."*
131. The said email clearly demonstrates the appreciation of Roma Khan of the complaint and the gravity of such complaint.
132. Further, reference is drawn to an email dated November 23, 2012 addressed by Bipin Divecha to Jiger Shah, Vinayak Sarkhot and Sham Gandhi informing them that *"Received mail from the party as well as from our Ghatkopar office for the*

below mentioned complaint. You are requested to answer the same and also requested to sort out the matter at the earliest.” In reply to the same, an email was addressed from info@finalysis.in to Bipin Divecha with a copy to Sajjad Pavne stating the following:

“ Thanks Bipin Bhai, We hope it to be resolved as committed. Regards Roma”

133. The email correspondences of November 24, 2012 and November 30, 2012 from the email id, info@finalysis.in with the signature of Sajjad Pavne, in respect of the complaints from “Mrs. Desai and Mr. Anil Aggarwal”, further convey the knowledge of Sajjad Pavne and Roma Khan of the complaints of the original shareholders. On the same matter, by way of email dated December 02, 2012 from the email id, info@finalysis.in and signed by Roma Khan, Bipin Divecha was instructed to ask Jiger Shah to reply on the resolution of issues with respect to the complaints of Mr. Anil Agarwal and Mrs. Desai.
134. Furthermore, emails dated February 15, 2013 and March 02, 2013, deal with the list of shares and shareholders to whom the shares of Finalysis were transferred by Bipin Divecha and the payments received thereto. These emails were also marked to Sajjad Pavne and his wife Roma Khan. The said emails demonstrate that Sajjad Pavne and his wife Roma Khan also had knowledge of the dealings in forged consolidated share certificates by Bipin Divecha, Vinayak Sarkhot, Sham Gandhi, Dilip Shah and Jiger Shah.
135. Thus, from the above, it is clear that not only Sajjad Pavne and Roma Khan, had full knowledge of the complaints received from the shareholders, and the nature of such shareholder complaints but also the dealings in forged consolidated shares certificates by Bipin Divecha, Vinayak Sarkhot, Sham Gandhi, Dilip Shah and Jiger Shah. Also, Sajjad Pavne and Roma Khan had viewed the complaints seriously, prompting Roma Khan to state that the non-resolution of the complaints “could lead to being accused of forgery”. Armed with the knowledge of the complaints and the seriousness of the same, Sajjad Pavne and Roma Khan could have backed out of the deal struck with Bipin Divecha and others to

buy the shares. Their continuing interest in the deal is a clear pointer to their complicity in dealing in counterfeit shares.

136. In this context, it is stated that by way of email dated July 16, 2013, instructions were given by Roma Khan to Vinayak Sarkhot to transfer shares to the related entities of Sajjad Pavne. Further, in their replies some of the related entities have stated that Sarkhot had agreed to sell the shares and was ready to wait for the consideration money and had informed them that they could take loans against the shares and pay him back subsequently.

137. Pursuant to the same, the SCN observes that transfer of the complete promoters' holdings of 10,69,000 shares, as per the quarter ending June 2013, was made to Sajjad Pavne related entities. The said transfers were made by Vinayak Sarkhot and related entities, namely, Jagdish Sarkhot, Yashwant Sarkhot, and Sham Gandhi and Jiger Shah as shown below:-

Date	DP ID	Client ID	First Holder Name	DP ID	Client ID	First Holder Name	Number of Shares
17-Jul-2013	In300159	10565707	Vinayak Sarkhot	12053300	00022227	Amir Harnza	1,50,000
18-Jul-2013	12026200	00120996	Jiger Dilip Shah	12072900	00006009	Mohammad Rafi	1,79,000
18 Jul-2013	12026200	00120996	Jiger Dilip Shah	12072900	00006009	Mohammad Rafi	6,000
26-Jul-2013	In300484	12532510	Sham S Gandhi	12059200	00074576	Rehana	1,00,000
26-Jul-2013	In300484	12532510	Sham S Gandhi	12072900	00005803	Talat Wahadataali	2,00,000
26-Jul-2013	In300484	12532510	Sham S Gandhi	12068100	00052809	Abdul Zameer	1,00,000
26 Jul-2013	12035200	00100131	Vinayak Sarkhot	12059200	00074576	Rehana	50,000
27 Jul-2013	In301549	33826112	Sarkhot Jagdish	12059200	00074576	Rehana	1,00,000
27-Jul-2013	In301549	18525262	Yashwant T Sarkhot	12068100	00052809	Abdul Zameer Hakim Khan	1,00,000
07-Aug-2013	In300484	12532510	Sham S Gandhi	In301549	36646524	Wahadataali Gulamrasool	84,000
							10,69,000

138. Further, the SCN observes that there were more entities related to Sajjad Pavne, who had dealt in the shares of Finalysis. The extracts of such shareholding patterns are as under:-

Sl. No.	Name of the Entity	Sep-12		Dec-12		Mar-13		Jun-13		Sep-13		Dec-13		Mar-14	
		No. of shares held	%	No. of shares held	%	No. of shares held	%	No. of shares held	%	No. of shares held	%	No. of shares held	%	No. of shares held	%
1	Shamshad Begum Khan	172712	3.14	172712	3.14	177712	3.23	66912	1.22						
2	Mohd Salim Khan	82900	1.51	96760	1.76	121337	2.2	125991	2.29	234886	4.27	184386	3.35	184386	3.35
3	Amir Hanna Hakin Khan	63500	1.15	66881	1.21	102887	1.87	86087	1.56	236087	4.29	205081	3.72	205081	3.72
4	Abdul Hakim Khan			66590	1.21	77915	1.42	74315	1.35	74315	1.35				
5	Abdul Zameer Hakim Khan	63500	1.15	66091	1.2	76133	1.38			217763	3.96	207763	3.77	207763	3.77
6	Mohammad Rafi					55815	1.01	75815	1.38	260815	4.74	260815	4.74	145970	2.65
7	Talat Wabadatali Mohamad					61040	1.11			223115	4.05	223115	4.05	173705	3.15
8	Wahadatali Gulamrasool Khan									110378	2	109378	1.99	79069	1.44
9	Rehana Khan									250000	4.54	250000	4.54	250000	4.54
		382612	6.95	469034	8.52	672839	12.22	429120	7.8	1607359	29.2	1440538	26.16	1245974	22.62

139. From a perusal of the above tables with respect to the sale of shares to the Sajjad Pavne related entities, it is observed that the total stake of the Sajjad Pavne related entities at the end of the September, 2102 quarter was 6.95 %. As already established above, Sajjad Pavne and Roma Khan had become aware of the complaints from the shareholders and the forgery of the shares in November of 2012. Subsequent to November of 2012, the stake of the Sajjad Pavne related entities steadily increased and reached as high as 29.2 % at the end of the March, 2013 quarter. Thus, the bulk of the sale of the shares to Sajjad Pavne related entities happened after November of 2012, when it was

clearly known to Sajjad Pavne and Roma Khan that there was a spate of complaints from the original shareholders.

140. In their replies, it has been contended by the said entities that the decision to buy shares were made individually without the coaxing of any family member or any associate and no one is either a partner to such shares or has any right over it. Further, it has been stated by some of the entities that they sought help of Vinayak Sarkhot, who was arranging finance for their family, and Sarkhot agreed to sell the shares and was ready to wait for the consideration money and informed that they could take loans against the shares and pay back Sarkhot. Furthermore, Roma Khan in her reply has stated that the only reason for her co-ordinating the share transfers from the promoters to her family members and people known to her was because such people had sought her help, and her role was to be a one-point contact to the promoters, with Vinayak Sarkhot being the point of contact from the promoters side.
141. It is a fact, as evident from the email dated July 16, 2013, that instructions were given by Roma Khan to Vinayak Sarkhot to transfer shares to the related entities of Sajjad Pavne. In their replies, some of the entities have stated that Vinayak Sarkhot had agreed to sell the shares and was ready to wait for the consideration money and informed them that they could take loans against the shares and pay back Sarkhot. However, from the records available before me, it is not clear as to the Order in the matter of Finalysis Credit & Guarantee Co. Ltd. Page 78 of 86 quantum of loans taken by the entities associated with Sajjad Pavne and Roma Khan for payment of the purchase of shares.
142. The above set of facts ought to be seen in the context of the fact that Sajjad Pavne in his own statement has stated that he was “Managing Director” of the Company from September 2012. Furthermore, Roma Khan was actively involved in the affairs of Finalysis as is evident from the emails. Both Sajjad Pavne and Roma Khan were in a position of considerable influence in Finalysis during the time the said transfers to the related entities took place.
143. Thus, in such circumstance where Sajjad Pavne and his wife are in a position of such influence, the transfer of shares to related entities, without insistence on

immediate payment by the sellers (agreeing for deferred payment), clearly demonstrates that the sale was for their benefit with the related entities being proxies. Also, Noticees 7 to 14 have not been able to explain as to how they got in touch with Vinayak Sarkhot. Further, I note that subsequent to November of 2012, the stake of the Sajjad Pavne related entities steadily increased and reached as high as 29.2 % at the end of the March, 2013 quarter. 9.23. Therefore, upon an overall evaluation, it is clear that the entities namely, Mohammad Rafi (Noticee No. 7), Mohd Salim Khan (Noticee No. 9), Amir Hamza Hakim Khan (Noticee No. 10), Abdul Hakim Khan (Noticee No. 11), Abdul Zameer Hakim Khan (Noticee No. 12), Talat Wahadataali Mohamad (Noticee No. 13), Wahadataali Gulamrasool (*Since deceased*), Rehana Khan (Noticee No. 14) by buying shares as agents have dealt in securities that were counterfeited/fraudulently issued have violated the provisions of the SEBI Act and the PFUTP Regulations.

144. Furthermore, it has been stated by Roma Khan in her replies that she was coordinating the share transfers from the promoters to her family members and people known to her. She has further stated that she coordinated the above mentioned transfer because such people had sought her help, and her role was to be a one-point contact to the promoters. Similarly, Sajjad Pavne being the Managing Director at the relevant time had failed in his fiduciary duties as a director towards the original public shareholders by allowing the transfer of shares to his related entities.

145. Thus, Sajjad Pavne by allowing the transfer of shares to Noticees 7 to 14, with the knowledge that there were complaints filed, has provided assistance in the selling of the shares that were known to be counterfeited/forged thereby violating the provisions of SEBI (PFUTP) Regulations. Similarly, Roma Khan by coordinating between Vinayak Sarkhot (and related entities), Sham Gandhi and Jiger Shah, with the knowledge that shares had been forged, has provided assistance in the selling of the shares that were known to be counterfeited/forged thereby violating the provisions of SEBI (PFUTP) Regulations.

146. In view of the above, the Noticees 7 to 14 are in violation of Section 12 A (c) of the SEBI Act read with Regulation 3(a), 3(d), 4(1), 4 (2) (h) of the PFUTP Regulations. However, as the facts on record do not demonstrate that the Noticees had conspired for the counterfeiting/fraudulent issuance of securities and the creation of such counterfeit/fraudulently issued shares. Thus, the allegation of violation of Sections 12 A (a) and (b) read with Regulation 3(b) and 3(c) of the PFUTP Regulations do not stand proven.
147. It has emerged from the facts that Jiger Shah, Dilip Shah and Sham Gandhi got in touch with Vinayak Sarkhot to get the Company relisted on BSE and to sell 93% of the shares, which were held by public shareholders. Consequent to the same, Bipin Divecha was brought in for getting buyers who would buy the 93% shares. This scheme is clearly evident from a collective reading of the emails exchanged and from the draft MoU circulated amongst the Noticees, where Jiger Shah, Dilip Shah, Sham Gandhi, Vinayak Sarkhot and Sharad Ghadi have been shown as the sellers and Bipin Divecha as the buyer for the sale of the 93% shares held by the public shareholders. Further to the above scheme, the share certificates held by genuine public shareholders were counterfeited/forged/consolidated without authorization by the above-mentioned Noticees to make illegal gains. The counterfeiting/forgery/consolidation without authorisation of the shares emerge from the facts that the Company was not following any norm for processing of transfer requests; a common witness was used to witness the transfer deeds; the Noticees namely Jiger Shah, Dilip Shah, Sham Gandhi, Vinayak Sarkhot and Bipin Divecha, and not the transferors mentioned in the transfer deeds were seen to be taking decisions with respect to the sale of the shares; the said Noticees determined the price for the sale of the shares, which was lower than the then market price; and the sale consideration for the sale of the shares explicitly moved to abovementioned Noticees and not to the transferors/original shareholders.
148. Further, the facts have also brought out the role played by each of the Noticees in the scheme for the counterfeiting of the shares and their sale to purchasers brought in by Bipin Divecha. Both Jiger Shah and Dilip Shah were acting in unison, and had custody of the records pertaining to the shareholders of

Finalysis and were instrumental in the transfer and delivery of the shares to the buyers identified by Bipin Divecha. They also received the maximum amount from the sale of the shares.

149. Similarly, Sham Gandhi was part of the original group that contacted Vinayak Sarkhot for the revival of the Company and he was aware of the sale of the shares of the public shareholders and had assured resolution of issues, if they arose in said matter. Also, it is observed that payments were received by Sham Gandhi from the sale of shares affected through Bipin Divecha.
150. Vinayak Sarkhot was the Compliance Officer and Director of Finalysis and was the person who was involved in effecting transfers and filling out the transfer deeds with respect to the buyers brought by Bipin Divecha, going by his own statement to SEBI. He also received payment for the sale of the shares. Similarly, Bipin Divecha, who brought the buyers for the sale of the counterfeited shares, was not only dealing with the shares with the knowledge that they were forged/counterfeit/fake, but also played a crucial role in circulating the tainted shares to identified investors.
151. Sharad Ghadi, admittedly, was part of the Board of the Company and was instrumental in ensuring compliance with all legal requirements including that of having a minimum number of directors as a listed company. The facts demonstrate that the said compliances helped the Company to lift the suspension imposed by the BSE, as a prelude to planting the fraudulent device in the securities market. With respect to the Company, it is an established principle that a company is bound by the fraudulent actions of its directors and promoters.
152. Sajjad Pavne, even though he may not have been involved in the counterfeiting or forgery of share certificates, allowed the transfer of shares to Noticee 7 to 14, with the knowledge that there were complaints filed from the original shareholders. Similarly, Roma Khan by coordinating between Vinayak Sarkhot (and related entities), Sham Gandhi and Jiger Shah, with the knowledge that shares had been forged, provided assistance in the selling of the shares that

were known to be counterfeited/forged. Lastly, Noticees 7 to 14 by buying shares as agents of Sajjad Pavne and Roma Khan have dealt in securities that were counterfeited/fraudulently issued, thereby violating the provisions of law.

153. In the present matter the acts of the Directors and Promoters culminated in the share certificates of public shareholders being forged/counterfeited/consolidated without authorization and transferred unauthorizedly to certain persons other than the original shareholders, thereby making the Company liable.
154. However, it is noteworthy to mention that in view of demise of Vinayak Sarkhot, Wahadataali Gulamrasool Khan and Sajid Abdul Qadri Pavne, the Adjudication proceedings have been abated vide Order dated February 28, 2020 and March 30, 2020 respectively.
155. Vide email dated June 25, 2020, it is informed that the Noticee, Abdul Hakim Khan, had passed away on February 20, 2013. In this regard the copy of death certificate of the Noticee issued by Municipal Corporation of Greater Mumbai on April 8, 2013, has been submitted by his son Salim Khan along with an email dated June 25, 2020.
156. In this regard, the reliance can be made in the Order of the Hon'ble Supreme Court of India in the matter of Girijanandini vs. Bijendra Narain (AIR 1967 SC 2110) which was subsequently followed by SEBI in the matter of Late Mr. N Mahalingam and Late Ms. Aruna Kumar.
157. I note that as per the death certificates issued by the appropriate authority, the Noticee Abdul Hakim Khah expired on February 20, 2013. Accordingly, the present adjudication proceedings against Late Abdul Hakim Khan stands abated in view of the observations of Hon'ble Supreme Court, in the matter of Girijanandini vs. Bijendra Narain (AIR 1967 SC 2110), wherein the Hon'ble Supreme Court observed that in case of personal actions, i.e. the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives and in such cases the *maxim actio personalis moritor cum persona* (personal action dies with the death of the person) would apply.

158. Relying on the aforementioned Order of Hon'ble Supreme Court, I am of the view that the adjudication proceedings initiated against the Noticee will not survive and are liable to be abated without going into the merits of the case. Consequently, no penalty is imposed on the Noticee, who are since deceased, and the Adjudication Proceedings against the Noticee stand abated.
159. Accordingly, the present Adjudication proceedings initiated against the Noticees viz. Late Abdul Hakim Khan (Noticee 11), vide the SCN no. EAO/RA/JP/32480/2016 dated November 30, 2016 is disposed of. However, since the cause of action pertaining to the charges against the rest of the Noticees involves the alleged acts of the deceased entity as well, the actions of the deceased entity are also referred in the instant Order, while dealing with the charges against the rest of the entities.
160. Now, I would like to deal with the allegations levelled against the Noticees for violation of the provisions of SEBI Act, SEB (SAST) Regulations, 2011 and SEBI (PIT) Regulations, 1992, the provisions of which are reproduced hereunder:

Section 12 A (f) of SEBI Act – No person shall directly or indirectly:

f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognized stock exchange in contravention of the regulations made under this Act.

Regulation 3 (1) of SEBI (SAST) Regulations - Substantial acquisition of shares or voting rights.

3(1). No acquirer shall acquire shares or voting rights which in a target company which taken together with shares or voting rights, if any, held by him or by persons acting in concert with him in such target company, entitle them to exercise twenty five per cent or more of the voting rights in such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations.

Regulations 29(1), 29(2) and 29 (3) of SEBI (SAST) Regulations Disclosure of acquisition and disposal

29. (1) Any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to five

per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company in such form as may be specified.

29 (2) Any acquirer, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose every acquisition or disposal of shares of such target company representing two per cent or more of the shares or voting rights in such target company in such form as may be specified.

(3) The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within two working days of the receipt of intimation of allotment of shares, or the acquisition of shares or voting rights in the target company to,—

(a) every stock exchange where the shares of the target company are listed; and

(b) the target company at its registered office.

Regulation 13 (1) of SEBI (PIT) Regulations, 1992

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 2 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.

Regulation 13 (3) of SEBI (PIT) Regulations, 1992

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.

Regulation 13 (4) of SEBI (PIT) Regulations, 1992

Any person who is a Director or Officer of a Listed company, shall disclose to the Company and the Stock Exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person and his dependents (as defined by the company) from the last disclosure made

under sub-regulation (2) or under this sub-regulation, and the change exceeds ` 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.

Regulation 13 (5) of SEBI (PIT) Regulations, 1992

The disclosure mentioned in sub-regulations (3), (4) and (4A) shall be made within two working days of :

- (a) the receipts of intimation of allotment of shares, or*
- (b) the acquisition or sale of shares or voting rights, as the case may be.*

161. It is observed from the list of public shareholders holding more than 1% shares in Finalysis (as per BSE website), during the quarters ended September 2013 and December 2013, that one Rehman Khan was mentioned having 2,50,000 shares. It is also observed that during the quarter ended March 2014, one Rehana Khan, having 2,50,000 shares, was mentioned in the list of public shareholders holding more than 1% shares in Finalysis (as per BSE website). Further, no person with the name as Rehman Khan finds mention during the quarter ended March 2014. Since the two names of Rehman Khan and Rehana Khan resemble each other to a good extent and that against both the names the same number of 2,50,000 shares are mentioned, further details regarding the two names were called from the RTA, Universal. The RTA furnished the email and the attachments of the list of public shareholders holding more than 1% shares in Finalysis during the three quarters, which they had sent to Finalysis and Roma Khan during the relevant times for further intimation to BSE by Finalysis and from where it is observed that the RTA had in fact submitted the name of Rehana Khan only to Finalysis during all the three quarters but Finalysis submitted wrong details to BSE (Rehman Khan in place of Rehana Khan) during the quarters ended September 2013 and December 2013. It is noted that during the quarters of September 2013 and December 2013, PACs of Sajjad had more than 25% shares in Finalysis and that in the quarter of March 2014, this shareholding had reduced below 25% and in this quarter the correct name of Rehana Khan was given to BSE by Finalysis. The details of such shareholding is inter-alia shown in a table at paragraph 137 above. In quarter of March 2014, the correct name of Rehana Khan was given to BSE by Finalysis which was earlier wrongly shown as Rehman Khan and allegedly the same was

so done by Mr. Sajjad and Roma Khan to hide the correct details as regards the aggregate shareholding of their PACs during the two quarters.

162. However, it is noted that the Noticees 7, 9 to 14 (viz., Mohd Salim Khan, Amir Hamza Hakin Khan, Abdul Hakim Khan, Abdul Zameer Hakim Khan, Mohammad Rafi, Talat Wahadatali Mohamad, and Rehana Khan) and Wahadatali Gulamrasool Khan, while acting in concert with each other had acquired the shareholding entitling them to exercise more than 25% of the voting rights in the Finalysis during the quarter ended September 2013, without making a public announcement of an open offer for acquiring the shares in Finalysis.
163. I note that the Noticees admittedly failed to make any public announcement. Thus, by failing to make a public announcement for acquiring the shares, I note that the Noticees 7, 9 to 14 had violated the provisions of section 12 A(f) of SEBI Act and regulation 3(1) read with Regulation 13 of SEBI (SAST) Regulations.
164. Further, I note that the Noticees 7 to 14, pursuant to change in shareholding as mentioned in a table at paragraph 137 above were required to make the requisite disclosures to the Company and BSE under Regulation 29(1), 29 (2) and 29 (3) of SEBI (SAST) Regulations. I also note from the records that there were no such disclosures filed by these Noticees either to the Company or to the BSE. Therefore, I find that the Noticees 7 to 14 by failing to make the requisite disclosures consequent upon change in shareholding had violated the provisions of Regulations 29 (1), 29 (2) and 29 (3) of SEBI (SAST) Regulations, 2011.
165. I note that Bipin Divecha (Noticee 2) is a Director in Marketpulse Finsoft Pvt. Ltd., (Noticee 10) and Grisha Bipin Divecha (daughter of Bipin Divecha) is a Director in Saga Financial Services Pvt., Ltd., (Noticee 20), as per MCA website and both of them are having the same address. It was observed by the investigation that Bipin Divecha and his PAC / associate or connected entities namely - Bipin Divecha HUF (Noticee 16), Balaji Investments (Noticee 17) (Proprietor: Bipin Divecha), Marketpulse Finsoft Pvt., Ltd., and Saga Financial

Services Pvt. Ltd. (Noticee 20) had acquired substantial shareholding in Finalysis, the details of which are as under:

Quarter Ending	Year	Name	Shares	%
March	2012	Balaji Investment	175000	3.18
March	2012	Bipin Divecha HUF	102400	1.86
				5.04
June	2012	Bipin P Divecha	187198	3.40
June	2012	Bipin Divecha HUF	110325	2.00
June	2012	Marketpulse Finsoft Pvt. Ltd.	166333	3.02
				8.42
September	2012	Marketpulse Finsoft Pvt. Ltd.	194659	3.54
September	2012	Bipin P Divecha	145598	2.64
September	2012	Bipin Divecha HUF	55225	1.00
				7.18
December	2012	Marketpulse Finsoft Pvt. Ltd.	194659	3.54
December	2012	Saga Financial Services Pvt. Ltd.	82871	1.51
December	2012	Bipin P Divecha	120598	2.19
December	2012	Bipin Divecha HUF	64225	1.17
				8.41
March	2013	Bipin P Divecha	138589	2.52
March	2013	Bipin Divecha HUF	64225	1.17
March	2013	Marketpulse Finsoft Pvt. Ltd.	233010	4.23
March	2013	Saga Financial Services Pvt. Ltd.	73212	1.33
				9.25
June	2013	Saga Financial Services Pvt. Ltd.	71813	1.30
				1.30
September	2013	Saga Financial Services Pvt. Ltd.	71813	1.30
				1.30
December	2013	Saga Financial Services Pvt. Ltd.	0	0

166. I note from the shareholding pattern and demat statements of the above mentioned Noticees and the relationship amongst Bipin Divecha and his PACs, that upon such acquisition by Bipin Divecha and his aforesaid PACs (Noticee No. 2, 16, 17, 19 & 20) during the quarters March 2012, June 2012 and June 2013, they were required to make disclosures in term of Regulations 29(1) and 29(2) of the SEBI (SAST) Regulations, which they have allegedly failed to do. I also note from the records that there is nothing on record to establish that the Noticees had made the requisite disclosures either to the Company or to the BSE. Therefore, I conclude that the Noticees, 2, 16, 17, 19 and 20 pursuant to

change in their shareholding by failing to make the requisite disclosures had violated the provisions of Regulations 29(1), 29(2) and 29(3)(a) of the SEBI (SAST) Regulations.

167. Further, I note that Bipin Divecha (Noticee 2) being a Director in Finalysis since October 2011, was required to make disclosures in terms of regulation 13(4) of the SEBI (PIT) Regulations upon change in his shareholding in Finalysis when such change exceeds ` 5 lakh in value or 25,000 shares and/or 1% of total shareholding or voting rights, whichever is lower. I note that since the Noticee 2) had acquired / disposed of shares the change of which were more than 25,000 shares and/or 1% of total shareholding (as shown in the table above 163 above), however, he had allegedly failed to make the required disclosures and thereby violated the provisions of Regulations 13(4) and 13(5) (b) of the SEBI (PIT) Regulations.

168. I note from the statement recorded before the Investigation Authority by Vinayak Trimbak Sarkhot that Jagdish Dilip Sarkhot and Yashwant Trimbak Sarkhot were his Nephew and Brother respectively and therefore they have been together treated as Person Acting in Concert (PAC). The SCN alleged that Vinayak Trimbak Sarkhot and his PAC / connected entities namely Jagdish Dilip Sarkhot and Yashwant Trimbak Sarkhot (Noticees 18 & 21) had acquired substantial amounts of shareholding in Finalysis as shown in table below.

Period	Name	Shares	%
March 2010 to June 2013	Vinayak Trimbak Sarkhot	200000	3.63
	Yashwant Trimbak Sarkhot	100000	1.82
	Jagdish Dilip Sarkhot	100000	1.82
			7.27

169. I note from the shareholding pattern / demat statements of the aforesaid Noticees that upon such acquisition by Noticees 18 & 21 along with Vinayk Trimbak Sarkhot, as mentioned above, they were required to make disclosures in term of regulations 29(1) and 29(2) of the SAST Regulations. I note form the submissions made by the Noticees 18 & 21, that they have made such

disclosures in July 2013 under regulation 29(2) of SAST Regulations when their holding in Finalysis was disposed of, but they did not make any disclosure under regulation 29(1) when they had acquired the shares of Finalysis during the quarter March 2010. Therefore, I find that PACs of Vinayak Trimbak Sarkhot namely- Jagdish Dilip Sarkhot and Yashwant Trimbak Sarkhot (Noticees 18 & 21) had violated provisions of regulations 29(1) and 29(3)(a) of SAST Regulations.

170. It is alleged in the SCN that Jiger Shah (Noticee 5), Director, Finalysis had acquired substantial shareholding in Finalysis as shown in table below;

Period	Name	Shares	%
March 2010	Jiger Dilip Shah	200000	3.63
December 2012	Jiger Dilip Shah	185000	3.36
September 2013	Jiger Dilip Shah	0	0

171. I note from the shareholding pattern and demat statements of the above Noticee that pursuant to change in shareholding as mentioned in the above was required to make disclosures during 2 quarters, viz. March 2010 and September 2013 in terms of Regulation 13(4) of the SEBI (PIT) Regulations upon change in his shareholding in Finalysis when such change exceeds ` 5 lakh in value or 25,000 shares and/or 1% of total shareholding or voting rights, whichever is lower. However, I note that the Noticee did not make any disclosures and there is nothing on record to justify that the Noticee had made the requisite disclosures to the Company and to BSE. Therefore, I find that the Noticee 5 had violated the provisions of Regulations 13(4) and 13(5)(b) of the SE (PIT) Regulations.

172. The SCN also alleged that Sham Gandhi (Noticee 3) had acquired substantial shareholding in Finalysis as shown in table below.

Period	Name	Shares	%
March 2010	Shyam Sadhuram Gandhi	250000	4.54
March 2012	Shyam Sadhuram Gandhi	484000	8.79
September 2013	Shyam Sadhuram Gandhi	0	0

173. Upon holding more than 5% shares or voting rights in Finalysis and upon change of more than 2% as required under Regulations 13(1) and 13(3) of the SEBI (PIT) Regulations, the Noticee was required to make disclosures during 2

quarters, viz. March 2012 and September 2013. However, I note that the Noticee did not make any disclosures and there is nothing on record to justify that the Noticee had made the requisite disclosures to the Company and to BSE. Therefore, I find that the Noticee 3 had violated the provisions of Regulations 13(1), 13(3) and 13(5) (b) of the SEBI (PIT) Regulations.

174. The information regarding sale/purchase of shares by promoters is price sensitive in nature and therefore material and relevant for investors to assess the company and its state of affairs. SEBI (PIT) & (SAST) Regulations specifically provide for the manner and timing of disclosure to be made by promoters, directors, substantial shareholders and persons who have control over the company. Such specific disclosures are timely disseminated by stock exchanges for public information. The object of requiring such disclosure to be made within the requisite number of days is with a view to ensure that there is no abuse on account of investors being not aware of such in shareholding of a Promoter / Director. If the necessary disclosures are not made within the requisite number of days as per the respective Regulations, which are event based, the investors are deprived of taking an informed decision in investing in the scrip of the said Company.
175. The timely disclosure is mandated under these Regulations for the benefit of the investors at large. There can be no dispute that compliance with the provisions of the Regulations is mandatory and it is the duty of SEBI to enforce compliance of these Regulations. Timeliness is the essence of disclosure and delayed disclosure would serve no purpose at all.
176. The Hon'ble SAT in its Order dated September 30, 2014, in the matter of Akriti Global Traders Ltd. Vs SEBI had observed that *"Obligation to make disclosures under the provisions contained in SAST Regulations, 2011 as also under PIT Regulations, 1992 would arise as soon as there is acquisition of shares by a person in excess of the limits prescribed under the respective regulations and it is immaterial as to how the shares are acquired. Therefore, irrespective of the fact as to whether the shares were purchased from open market or shares were received on account of amalgamation or by way of bonus shares, if, as a result*

of such acquisition/ receipt, percentage of shares held by that person exceeds the limits prescribed under the respective regulations, then, it is mandatory to make disclosures under these regulations.” (Emphasis supplied)

177. In view of the above, I find that the Noticees 7 to 14, 2, 16, 17, 19, 20, 18, 21, 3 & 5 by not making the requisite disclosures under the provisions of SEBI (SAST) & SEBI (PIT) Regulations, have violated the provisions of Regulation 29 (1), 29 (2), 29 (3) of SEBI (SAST) Regulations and Regulation 13 (1), 13 (3), 13 (4) and 13 (5) of SEBI (PIT) Regulations.
178. During the course of investigation, in order to examine the role of Mohamad Rafi (Noticee 7) along with others, a summons dated March 31, 2015 under Section 11C(3) of SEBI Act was issued to Mohammad Rafi (brother-in-law of Sajjad Pavne) seeking certain information/documents who was having the same address as of Sajjad Pavne. In respect to the said summons, Mohammad Rafi vide letter dated April 07, 2015 submitted only partial information related to his PAN and his contact details and had failed to submit major information viz. his dealings in Finalysis both market and off-market and demat statements and bank statements in this regard. Moreover, it was observed under investigation that Mr. Mohammad Rafi had submitted false information as regards his relationship of any kind viz. personal / financial / business / or otherwise with Finalysis and its promoters / directors and key management personnel, both present as well as in the past, by refusing such relationships. However, it was observed under investigation that Mohammad Rafi is the brother-in-law of Sajjad Pavne (as deposed by Sajjad Pavne in his statement under oath who was the MD of Finalysis). Therefore, I find that the Noticee 7 not only failed to provide the complete information as was required under summons, to SEBI thereby causing hampering of investigation and therefore, allegedly the same is in violation of provisions of Section 11 C (2), (3) & (5) of the SEBI Act.
179. The Hon'ble Securities Appellate Tribunal (hereinafter referred to as "SAT") in its Order dated 22.10.2013, in the matter of Rich Capital & Financial Services Limited and Mr. Shashwat Agarwal Vs SEBI observed that-

“We note that requisite information and relevant records are pre-requisites for a meaningful investigation. In the absence of cooperation by the concerned company, the SEBI cannot move an inch. Therefore, every company is obliged to reasonably respond to any letters or summons to be issued by the regulator by furnishing the required information and/or documents for a smooth investigation, unless such a request/demand by the regulator is shown to be the outcome of ill-will, or is tainted with malice and/ or is otherwise arbitrary in the fact situation of a given case. If companies are allowed to take the statutory summons, letters or other statutory commands of the Regulator lightly, every investigation will be thwarted even before it begins.”

180. However, as regards the alleged violation of furnishing false information, it is relevant to mention that the Hon’ble Supreme Court of India, in Civil Appeal No. 5859 of 2006 in the matter of Bonanza Biotech Ltd Vs SEBI and other connected appeals examined the issue as to whether the Adjudicating Officer (AO) under section 15A of the SEBI Act is authorized to impose penalty when the documents/information called for and furnished are false or whether the power of the said AO to impose penalty on the person/entity is limited and exercisable only in the event of failure to furnish information/details/documents. I note that the above appeal was filed in the context of an Order dated June 16, 2008 in the matter of Bonanza Biotech Ltd vs SEBI wherein Hon’ble SAT had upheld the levy of penalty imposed by the AO on Bonanza Biotech Ltd (the appellant) under section 15A for submission of false information /details to the investigating authority of SEBI. In its order dated March 7, 2017, in Civil Appeal No 5859 of 2006, the Hon’ble Supreme Court, inter alia, referred to the observation of the expert group constituted by SEBI under the chairmanship of Late Mr. Justice M. H. Kania, former Chief Justice of India, which was relied upon by the appellant, which mentioned that:

“as per the provisions of Chapter VIA of SEBI Act, SEBI can impose monetary penalty for failure to furnish information or delay in furnishing the information. However, there is no provision for monetary penalty for giving false information”.

181. The Hon'ble Supreme Court of India, in its judgment dated March 07, 2017 had observed the following: -

"It appears that the only question in this matter is whether the Adjudicating Officer Under Section 15A of the Securities and Exchange Board of India Act, 1992, is authorized to impose penalty on the ground that the documents which have been asked for and have been furnished are false or whether power of the Adjudicating Officer to impose penalty is limited and can be exercised only in the event of failure to furnish documents. We have perused the order passed by the Adjudicating Officer. It appears from the order which was passed that the Adjudicating Officer had specifically stated in para 31 'that the Appellant has already furnished the materials which are available on record'. Since the materials have already been furnished, in our opinion, the said section is not attracted on the given facts."

182. Having regard to the above mentioned observations, the Hon'ble Supreme Court, set aside the Order dated June 16, 2008 of Hon'ble SAT as not sustainable. Therefore, in view of the above observations and in the context of the present proceedings against the Noticee 7, the allegation levelled in the SCN that he had violated the provisions of sections 11C(2) & 11C(3) of SEBI Act by furnishing false information/details to the Investigating Authority w.r.t details sought through the summons (two summons) issued to the Noticee 7 by the IA is not sustainable. Accordingly, no penalty can be levied against the Noticee 7 u/s 15A(a) of the SEBI Act, as existing at the time of occurrence of cause of action, for furnishing false information/details sought through the summons issued by the Investigating Authority. Therefore, I dispose of the SCN against Noticee 7 to the allegation of furnishing of false information.

183. In view of the aforesaid findings and in view of the ratio laid down by Hon'ble SAT, I conclude that the Noticees 7 failed to comply with the summons issued to them. Therefore, I hold that the Noticee 7 has violated the provisions of Section 11 (C) (2), (3) & (5) of SEBI Act.

184. From the findings as mentioned above, the violations committed by the Noticees stands established, for which the Noticees are liable for monetary penalty under the provisions of SEBI Act, the details of which are furnished hereunder:

Sl. No.	Name of the Noticee	Violations observed	Penalty under the provisions of
1	Finalysis Credit & Guarantee Co., Ltd.,	Section 12 A(a), (b) and (c) of SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of SEBI (PFUTP) Regulations	Section 15HA of SEBI Act
2	Bipin Pushpasen Divecha	Section 12 A(a), (b) and (c) of SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of SEBI (PFUTP) Regulations	Section 15HA of SEBI Act
		Regulation 29(1), 29(2) & 29(3)(a) of SEBI (SAST) Regulations, 2011	Section 15 A (b) of SEBI Act
		Regulation 13(4) and 13(5)(b) of SEBI (PIT) Regulations	
3	Sham Sadhuram Gandhi	Section 12 A(a), (b) and (c) of SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of SEBI (PFUTP) Regulations	Section 15HA of SEBI Act
		Regulations 13(1) and 13(3) of SEBI (PIT) Regulations	Section 15 A (b) of SEBI Act
4	Dilip Sureshchandra Shah	Section 12 A(a), (b) and (c) of SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of SEBI (PFUTP) Regulations	Section 15HA of SEBI Act
5	Jiger Dilip Shah	Section 12 A(a), (b) and (c) of SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of SEBI (PFUTP) Regulations	Section 15HA of SEBI Act
		Regulation 13(4) and 13(5)(b) of SEBI (PIT) Regulations	Section 15 A (b) of SEBI Act
6	Sharad Ramchandra Ghadi	Section 12 A(a), (b) and (c) of SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of SEBI (PFUTP) Regulations	Section 15HA of SEBI Act
7	Mohammad Rafi	Section 12 A (c) of the SEBI Act read with Regulation 3(a), 3(d), 4(1), 4 (2) (h) of SEBI (PFUTP) Regulations.	Section 15HA of SEBI Act

		Section 12 A(f) of SEBI Act and Regulation 3(1) read with Regulation 13 of SEBI (SAST) Regulations	Section 15 H (ii) of SEBI Act
		Regulations 29(1), 29(2) and 29(3)(a) of SEBI (SAST) Regulations	Section 15 A (b) of SEBI Act
		Section 11 C (2), (3) & (5) of the SEBI Act	Section 15 A (a) of SEBI Act
8	Roma Shamshad Khan	Section 12 A (c) of the SEBI Act read with Regulation 3(a), 3(d), 4(1), 4 (2) (h) of SEBI (PFUTP) Regulations.	Section 15HA of SEBI Act
		Regulations 29(1), 29(2) and 29(3)(a) of the SEBI (SAST) Regulations	Section 15 A (b) of SEBI Act
9	Mohd Salim Khan	Section 12 A (c) of the SEBI Act read with Regulation 3(a), 3(d), 4(1), 4 (2) (h) of SEBI (PFUTP) Regulations.	Section 15HA of SEBI Act
		Section 12 A(f) of SEBI Act and Regulation 3(1) read with Regulation 13 of SEBI (SAST) Regulations	Section 15 H (ii) of SEBI Act
		Regulations 29(1), 29(2) and 29(3)(a) of the SEBI (SAST) Regulations	Section 15 A (b) of SEBI Act
10	Amir Hamza Hakin Khan	Section 12 A (c) of the SEBI Act read with Regulation 3(a), 3(d), 4(1), 4 (2) (h) of SEBI (PFUTP) Regulations.	Section 15HA of SEBI Act
		Section 12 A(f) of SEBI Act and Regulation 3(1) read with Regulation 13 of SEBI (SAST) Regulations	Section 15 H (ii) of SEBI Act
		Regulations 29(1), 29(2) and 29(3)(a) of the SAST Regulations	Section 15 A (b) of SEBI Act
11	Abdul Hakim Khan	Section 12 A (c) of the SEBI Act read with Regulation 3(a), 3(d), 4(1), 4 (2) (h) of SEBI (PFUTP) Regulations.	Abated in view of demise.
		Section 12 A(f) of SEBI Act and Regulation 3(1) read with Regulation 13 of SEBI (SAST) Regulations	
		Regulations 29(1), 29(2) and 29(3)(a) of the SEBI (SAST) Regulations	
12	Abdul Zameer Hakim Khan	Section 12 A (c) of the SEBI Act read with Regulation 3(a), 3(d), 4(1), 4 (2) (h) of SEBI (PFUTP) Regulations.	Section 15HA of SEBI Act
		Section 12 A(f) of SEBI Act and Regulation 3(1) read with Regulation 13 of SEBI (SAST) Regulations	Section 15 H (ii) of SEBI Act
		Regulations 29(1), 29(2) and 29(3)(a) of SEBI (SAST) Regulations	Section 15 A (b) of SEBI Act

13	Talat Wahadatali Mohamad	Section 12 A (c) of the SEBI Act read with Regulation 3(a), 3(d), 4(1), 4 (2) (h) of SEBI (PFUTP) Regulations.	Section 15HA of SEBI Act
		Section 12 A(f) of SEBI Act and Regulation 3(1) read with Regulation 13 of SEBI (SAST) Regulations	Section 15 H (ii) of SEBI Act
		Regulations 29(1), 29(2) and 29(3)(a) of the SAST Regulations	Section 15 A (b) of SEBI Act
14	Rehana Khan	Section 12 A (c) of the SEBI Act read with Regulation 3(a), 3(d), 4(1), 4 (2) (h) of SEBI (PFUTP) Regulations.	Section 15HA of SEBI Act
		Section 12 A(f) of SEBI Act and Regulation 3(1) read with Regulation 13 of SEBI (SAST) Regulations	Section 15 H (ii) of SEBI Act
		Regulations 29(1), 29(2) and 29(3)(a) of the SEBI (SAST) Regulations	Section 15 A (b) of SEBI Act
15	Santosh Jayaram Sawant	Section 12 A(a), (b) and (c) of SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of SEBI (PFUTP) Regulations. Violation not established.	No Penalty. SCN disposed of.
16	Bipin Divecha HUF	Regulation 29(1), 29(2) & 29(3)(a) of SEBI (SAST) Regulations, 2011	Section 15 A (b) of SEBI Act
17	Balaji Investment		
18	Marketpulse Finsoft Pvt., Ltd.,		
19	Saga Financial Services Pvt Ltd		
20	Yashwant Trimbak Sarkhot	Regulations 29(1) and 29(3)(a) of SEBI (SAST) Regulations, 2011	Section 15 A (b) of SEBI Act
21	Jagdish Dilip Sarkhot		

Section 15HA of SEBI Act - Penalty for fraudulent and unfair trade practices

“If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty five crore rupees or three times the amount of profits made out of such practices, whichever is higher”.

Section 15H (ii) of SEBI Act - Penalty for non-disclosure of acquisition of shares and take-overs:

“If any person, who is required under this Act or any rules or regulations made thereunder, fails to,-

(ii) make a public announcement to acquire shares at a minimum price;

he shall be liable to a penalty twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher.

Section 15A of SEBI Act– Penalty for failure to furnish information, return, etc.

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 therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees

Section 15 A (a) of SEBI Act - Penalty for failure to furnish information, return etc.,

If any person, who is required under this Act or any rules or regulations made thereunder:

“to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees”.

185. While determining the quantum of monetary penalty under Section 15HA, 15 H(ii), 15 A (b) and 15 A (a) of SEBI Act, I have considered the factors stipulated in Section 15-J of SEBI Act, which reads as under:

Section 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.

186. The material made available on record has not quantified the amount of disproportionate gain or unfair advantage made by the Noticees and the loss suffered by the investors as a result of the Noticee's default. There is also no material made available on record to assess the amount of loss caused to investors or the amount of disproportionate gain or unfair advantage made by the Noticee as a result of default. It is an established fact that the Noticees in the instant case had not only defrauded the complainants and other original shareholders of Finalysis by issuing forged consolidated share certificate which originally belonged to the complainants and other original shareholders but had also fraudulently made the buyers / transferees to believe that the shares transferred to them were original, though they were not so. They had together employed deceptive scheme to defraud the investors in the shares of Finalysis, I am of the view that where 'market abuse' is committed by acquiring shares of a company in violation of the SEBI (SAST) Regulations, it is necessary to take stern action to curb such practice, failing which the object and purpose with which SEBI Act is enacted would be defeated. Further, it is important to note that timely disclosure of information, as prescribed under the statute, is an important regulatory tool intended to serve a public purpose. Timely disclosures are also an essential part of the proper functioning of the securities market and failure to do so prevents investors from taking a well-informed investment decision. Non-cooperation to the Investigating Authority by any person is detrimental to the interest of investors in securities market, which needs to be dealt strictly.

187. Therefore, I am not inclined to view the lapses on the part of the Noticee leniently and consider it necessary to impose monetary penalty which would act as deterrent to the Noticees in future. Further, I take into consideration the Order of the Hon'ble Whole Time Member, SEBI dated May 5, 2020 in the same matter for the same violations, with regard to order for disgorgement of proceeds against the Noticees 2, 3, 4 and 5 besides restraining/debarring the Noticees 1 to 14 (*excepting Noticee 11*) from the securities market.

ORDER

188. Having considered all the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules, hereby impose a penalty on the Noticees as under:

Penalty for violation of SEBI (PFUTP) Regulations

Sl. No.	Name of the Noticee	Charging provisions	Penal provisions	Penalty amount in ₹ And words
1.	Finalysis Credit & Guarantee Co. Ltd.	Section 12 A(a), (b) and (c) of SEBI Act read with regulation 3(a), 3(b), 3(c) and 3(d) and regulation 4(1) and 4(2)(h) of SEBI (PFUTP) Regulations	Section 15HA of SEBI Act	20,00,000 (Rupees Twenty Lakhs only)
2.	Bipin Pushpasen Divecha			10,00,000 (Ten Lakhs only)
3.	Sham Sadhuram Gandhi			10,00,000 (Ten Lakhs only)
4.	Dilip Shah			10,00,000 (Ten Lakhs only)
5.	Jiger Dilip Shah			10,00,000 (Ten Lakhs only)
6.	Sharad Ramchandra Ghadi			5,00,000 (Five Lakhs only)
7.	Mohammad Rafi	Section 12 A (c) of the SEBI Act read with Regulation 3(a), 3(d), 4(1), 4 (2) (h) of SEBI (PFUTP) Regulations.		5,00,000 (Five Lakhs only)
8.	Roma Shamshad Khan			5,00,000 (Five Lakhs only)
9.	Mohd Salim Khan			5,00,000 (Five Lakhs only)
10.	Amir Hamza Hakim Khan			5,00,000 (Five Lakhs only)
11.	Abdul Zameer Hakim Khan			5,00,000 (Five Lakhs only)
12.	Talat Wahadataali Mohamad			5,00,000 (Five Lakhs only)
13.	Rehana Khan			5,00,000 (Five Lakhs only)

189. Penalty of ₹ 20,00,000/- (Rupees Twenty lakhs only) on the Noticees 7, 9, 10, 12 to 14 i.e., Mohammad Rafi, Mohd., Salim Khan, Amir Hamza Hakim Khan, Abdul Zameer Hakim Khan, Talat Wahadatali Mohammad and Rehana Khan, under Regulation 15 H (ii) of SEBI Act for violation of the provisions of Section

12 A(f) of SEBI Act and regulation 3(1) read with Regulation 13 of SEBI (SAST) Regulations to be paid jointly and severally by the Noticees.

190. Penalty of ₹ 10,00,000/- (Rupees Ten lakhs only) on the Noticees 7, 8, 9, 10, 12 to 14 i.e., Mohammad Rafi, Roma Shamshad Khan, Mohd., Salim Khan, Amir Hamza Hakim Khan, Abdul Zameer Hakim Khan, Talat Wahadatali Mohammad and Rehana Khan, under Regulation 15 A (b) of SEBI Act for violation of the provisions of Regulations 29(1), 29(2) and 29(3)(a) of the SEBI (SAST) Regulations, to be paid jointly and severally by the Noticees.
191. Penalty of ₹ 5,00,000/- (Rupees Five lakhs only) on the Noticees 2, 16, 17, 19, and 20 i.e., Bipin Pushpasen Divecha, Bipin Divecha HUF, Balaji Investment, Market Plus Finsoft Pvt., Ltd, and Saga Financial Services Pvt., Ltd., under regulation 15 A (b) of SEBI Act for violation of the provisions of Regulations 29(1), 29(2) and 29(3)(a) of the SEBI (SAST) Regulations, to be paid jointly and severally by the Noticees.
192. Penalty of ₹1,00,000/- (Rupees One lakh only) on the Noticees 18 and 21 viz., Jagdish Dilip Sarkhot and Yashwant T Sarkhot, under regulation 15 A (b) of SEBI Act for violation of the provisions of Regulations 29(1) and 29(3)(a) of the SEBI (SAST) Regulations, to be paid jointly and severally by the Noticees.
193. Penalty of ₹ 1,00,000/- each on the Noticees 2, 3 and 5 i.e., Bipin Pushpasen Divecha, Sham Sadhuram Gandhi and Jiger Dilip Shah, under Section 15 A (b) of SEBI Act, for violation of the provisions of SEBI (PIT) Regulations.
194. Penalty of ₹ 2,00,000/- (Rupees Two lakhs only) on the Noticee 7 i.e., Mohammad Rafi under Section 15 A (a) of SEBI Act for violation of the provisions of Section 11 C (2), (3) & (5) of the SEBI Act
195. The said penalty imposed on the Noticees, as mentioned above, shall commensurate with the violation committed and acts as a deterrent factor for the Noticees and others in protecting the interest of investors.

196. The Noticees shall remit / pay the said amount of penalty within 45 days from the date of receipt of this Order, either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the SEBI website www.sebi.gov.in on the following path by clicking on the payment link.

ENFORCEMENT → Orders → Orders of AO → PAY NOW

197. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department-1, DRA-2, SEBI, in the format as given in table below

Case Name	
Name of Payee	
Date of payment	
Amount Paid	
Transaction No	
Bank Details in which payment is made	
Payment is made for	Penalty

198. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

199. In terms of Rule 6 of the SEBI Adjudication Rules, copies of this order are sent to the Noticees and also to SEBI.

Date: 30 June 2020

Place: Mumbai

B J DILIP

Adjudicating Officer