

Securities Appellate Tribunal

Sebi vs Yatin D. Shah on 29 November, 2007

Bench: G Anantharaman

ORDER G. Anantharaman, Member 1.1 Securities and Exchange Board of India (hereinafter referred to as SEBI) noticed unusual price movements in the shares of Home Trade Ltd. (for short HTL) which were listed at Pune Stock Exchange Ltd. (for short PSE) on November 15, 1999 at Rs 250/- and at Bangalore Stock Exchange Ltd. (for short BgSE) on November 16, 1999 at Rs.275/-. There was a sharp rise in the price of the shares of HTL both at PSE and BgSE and the share price reached Rs.315/- within two weeks of its listing, i.e. by December 06, 1999. The subsequent rise in the price of the shares of HTL is as detailed below:

Date Price (Rs.) December 30, 1999 525.00 January 31, 2000 735.00 March 31, 2000 809.00 April 10, 2000 825.25 1.2 The maximum rise in the price of the shares of HTL took place between November 16, 1999 and March 31, 2000, when it moved from Rs.275/- to Rs.815/-. In view of the unusual price movement noticed in the shares of HTL, SEBI conducted investigations to look into the possible violation of the provisions of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as FUTP Regulations) and Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as the Broker Regulations).

1.3 The investigation conducted by SEBI found that M/s Yatin D Shah (for short, the Broker), Member, PSE and registered with SEBI as a stock broker had inter alia traded substantially in the shares of HTL at PSE. It has been alleged that there were circular trading in the shares of HTL among the members of PSE viz. Shobha Investments, Shri Amin Mulani, Shri Harish Kadam and the Broker. The investigation conducted by SEBI observed that the price of the shares of HTL increased from Rs.320/- to Rs.720/- between December 10, 1999 and January 20, 2000. It has been alleged that the aforesaid stock brokers by their circular trades had contributed 82% of the gross purchases and sales and 90% of the volume in the shares of HTL during the above period at PSE. The trades of the aforesaid stock brokers (collectively) in the shares of HTL are as follows:

Name of the stock broker	Broker	Shobha Investments	Shri. Mulani	Amin Shri. Kadam	Harish Total
of 4 brokers	Total volume at PSE	% of volume of 4 brokers	vis-à-vis PSE	Set No.	Buy Sell Buy Sell
Buy Sell Buy Sell Buy Sell	Buy Sell	69.23	82.42	11700	11000
		13500	86.67	81.48	63.92
		72.16	62.11		
		68.42	10900	10800	11900
		91.60	90.76	10100	87.13
		76.24			49800
					50500
					63800
					78.06
					79.15

1.4 The Broker had executed transactions in the shares of HTL on behalf of various clients including M/s Hans Capital, Shri Sandeep Seth, M/s Maniram Consultancy, Shri Sandeep Kedia, M/s Euro Discover Technology Ventures Ltd., M/s Dingo Vincom Pvt Limited, M/s Century Dealers Limited, M/s Parakh Shares and Stock Brokering Services Pvt. Ltd., M/s AGS Financial Services Ltd., M/s Indian National Press Pvt Ltd., M/s Giltedge Finance and Management Services Ltd., M/s Discovery Investment and Unitron Corporation Ltd., Shri Manoj Shah, Shri Neeraj Surti, Smt. Kruti N Surti, Shri Vijay Agarwal, Smt. Subhra Agarwal. Out of the said clients, M/s Euro Discover Technology Ventures Ltd. (EDTV) and M/s Discovery Investment and Unitron Corporation Ltd., were Overseas Corporate Bodies (OCB) based in Mauritius. It was noted that the buy and the sell orders placed by them were at a much higher price than the prevailing market price. The said orders

were allegedly placed at the instance of one Shri Veerkar, employee of HTL. It has been alleged that the Broker had not maintained the client registration forms pertaining to its clients, which was in violation of SEBI circulars dated February 11, 1997 and April 11, 1997 and that it had not maintained the counter foils or duplicates of the contract notes issued to any of its clients which was in violation of Regulation 17 of the Broker Regulations, read with SEBI circular dated November 18, 1993. It has been further alleged that the trades of the Broker had entered into transactions in the shares of HTL which were not genuine and the same created artificial price / volumes in the said scrip, in violation of Regulation 4 (a), (b) and (c) of the FUTP Regulations. It has been observed that the Broker had entered into large scale off market transfers on behalf of its clients viz. EDTV, Discovery Investments, AGS Financial Ltd., Maniram Consultancy etc. It has been alleged that the said trades were in the nature of cross deals and were executed without entering the same on the system, in violation of SEBI circular dated September 14, 1999. The Broker was also alleged to have committed violation of the provisions of Clause A (1) to (5) of the Code of Conduct as specified in the Broker regulations.

2.1 On completion of investigations, SEBI appointed an Enquiry officer vide order dated August 9, 2002 under regulation 5(1) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (for short the Enquiry Regulations) to enquire into the alleged irregular transactions of the Broker in the shares of HTL. Accordingly a show cause notice dated March 28, 2003 was issued to the Broker by the Enquiry Officer. The details of the trades of the Broker in the shares of HTL were also furnished to it with the said show cause notice. The Broker submitted its reply to the said show cause notice and pursuant to the same, the Enquiry Officer, vide report dated August 29, 2003 recommended to impose a major penalty of suspension of the certificate of registration of the Broker for a period of twenty four months in terms of the provisions of the Enquiry Regulations.

2.2 Pursuant to the submission of the Enquiry Report, a notice dated September 9, 2003 was sent to the Broker by SEBI asking it to show cause as to why the penalty as considered appropriate should not be imposed against it. A copy of the Enquiry Report was also forwarded to the Broker with the said show cause notice. The Broker vide letter dated November 24, 2003 inter alia stated that its trading volume was 700 shares per day on an average (on a settlement cycle of 7 days) in the scrip of HTL against the average total trading of 2500 shares per day. According to the Broker, the aggregate trading of 2500 shares per day (on an average) was too small a quantity for rigging the price. The Broker further contended that the present enquiry proceedings were initiated under misconception of law as the Enquiry Regulations came into force with effect from September 27, 2002, whereas the alleged transactions took place between December 1999 and January 2000. The Broker contended that the violation of Regulation 4 of the FUTP Regulation required a mental element and that no charge of manipulation could be held against it for want of the identity of the counter parties. He also urged that the recommended penalty was excessive.

3.1 SEBI granted an opportunity of hearing to the Broker on various dates and the matter was finally the matter was heard on July 21, 2006, whereupon the Broker appeared before me and made submissions on the lines of its aforesaid reply.

4.1 I have perused the Enquiry Report, show cause notice issued to the Broker, the oral as well as written submissions made on behalf of the Broker and other relevant materials available on record. At the outset, I note the preliminary objections of the Broker as to the applicability of the Enquiry Regulations to its case. In this context, I note that the present enquiry proceeding against the Broker was initiated in terms of the provisions of the Broker Regulations inter alia for the alleged violations of the provisions of the FUTP Regulations. In the present case, the Enquiry officer was appointed by SEBI vide order dated August 9, 2002 under the provisions of the Broker Regulations. Prior to the appointment of Enquiry Officer, SEBI initiated an investigation to look into the alleged violations that took place during the period December 1999 to January 2000. I note that the enquiry proceedings which were pending at the time of the notification of the Enquiry Regulation (September 2002) was saved in terms of Regulation 23 thereof. Regulation 23 of the Enquiry Regulation states that notwithstanding amendments to any of the Regulations (specified in the Enquiry Regulations) including the Broker Regulations, anything done or any action taken, including any proceeding for inspection, investigation or enquiry commenced or any notice issued under the respective regulations before the commencement of the Enquiry Regulations shall be deemed to have been done or taken under the corresponding provisions of the Enquiry Regulations. It also states that any enquiry pending before the enquiry officer before the commencement of the said Regulations shall be deemed to have been done or taken under the corresponding provisions of the Enquiry Regulations. Therefore, the contention that the present proceeding was initiated under a misconception of law is nothing but a naïve plea without any substance. The said plea takes a restricted and blinkered view of SEBI's powers. Besides, no prejudice has been caused to the Broker.

4.2 As the Enquiry Officer had not drawn any adverse inference against the Broker in respect of the allegation of non maintenance of the counter foils or duplicates of the contract notes issued to the clients, I am not dealing with the said issue, considering the facts and circumstances of the present case. The fact that the Broker had executed trades in the shares of HTL on behalf of his various clients is not disputed. I note that Shri Yatin Shah (proprietor of the Broker) made a statement to SEBI inter alia to the effect that one Shri Veerkar, employee of HTL (who was introduced by Shri Ketan Seth, member, PSE) used to place orders for buying and selling the shares of HTL on behalf of clients viz. Shri Sandeep Kedia, Maniram Consultants and Investments Pvt. Ltd. and various other clients. Further, according to Broker, as per the specific instructions (name of the buyer and seller with the rate at which the said trades were to be executed) of Shri Veerkar, it had executed the said orders. The Broker also stated that Shri Trivedi (another employee of the Broker) used to place orders on behalf of clients who were introduced by Shri Veerkar. As per the statement of the Broker, it was Shri Trivedi/ Shri Veerkar who used to make payments directly in the account of the Broker (account No. 653 maintained with Janata Sahakari Bank, Fort Branch, Mumbai).

4.3 Thus, I note that the orders on behalf of most of the clients of the Broker were placed either by Shri Veerkar or Shri. Trivedi (employees of HTL). It is an admitted fact that the Broker had not met any of the clients except one, Porwal & Co. Admittedly, the Broker had not entered into the client registration form in respect of the said clients. Further, the specific details such as name of the buyer and seller, the rate etc were given by Shri Veerkar/ Shri. Trivedi (HTL employees). Though the Broker claimed that, in respect of certain clients (M/s Maniram Consultancy, M/s Parakh Shares and Stock Brokering Services Pvt. Ltd., M/s AGS Financial Services Ltd.), the client registration

forms were available, it had not taken any steps to produce the said documents in support of its claim. In this context, I note that the Broker admitted that, in respect of certain other clients (M/s Euro Discover Technology Ventures Ltd., M/s Discovery Investment and Unitron Corporation Ltd. and Shri Sandeep Seth), either the client registration form was not signed or the same was not returned by the respective clients.

4.4 I note that, SEBI by its circular dated February 11, 1997 inter alia advised the stock brokers to maintain a database of their clients. Subsequently, vide Circular dated April 11, 1997, it had once again advised the stock brokers to follow its earlier circular dated February 11, 1997. In its circular dated April 11, 1997, SEBI had further advised that the stock brokers might seek additional information, if any, so as to satisfy themselves about the antecedents of clients and that it would be the responsibility of the stock brokers to provide for client details as and when need arises. The said requirements had been made in compliance of the Know Your Clients (KYC) norms.

4.5 In the present matter, admittedly the Broker had not obtained client registration forms in respect of various clients. Though he had claimed that the client registration forms were available with it in respect of some of the clients, it had failed to produce the same so as to prove its claim. He had also not met most of his clients, while the trade orders were placed by third parties (employees of HTL as stated above). In some cases, the Broker was not even aware, on what basis, Shri Trivedi was placing orders on behalf of the client viz. Maniram Consultancy. It indicates that the Broker had executed the trades in the shares of HTL on behalf of various persons / entities without their specific instructions (in majority cases) and without knowing them or their antecedents, but on the basis of the instructions received from third parties who were none other than the employees of HTL. It is one of the primary duties of a stock broker to ensure that his client is personally known to him or has been introduced to him by a person known to him so as to satisfy that his clients are genuine. The very purpose of such practice is to enable the stock brokers to evaluate the client before he takes up trading for the clients. In view of the above it is fairly established that the Broker had not taken the client registration forms as required and instead traded at the behest of the employees of HTL. It is noteworthy to state here that the Broker in its reply to the show cause notice issued by the Enquiry Officer stated that all the clients were introduced by Shri Veerkar. Such act of the Broker is in violation of the provisions of SEBI circulars dated February 11, 1997 and April 11, 1997.

4.6 As mentioned earlier, certain stock brokers including the Broker had contributed significantly to the volumes in the scrip of HTL during the period December 10, 1999 to January 20, 2000 wherein the share price had increased from Rs.280/- to Rs.720/- against low volumes. The aforesaid stock brokers had collectively contributed to 82% (gross purchase) and 90% (sales) of the volumes during the period November 15, 1999 to March 31, 2000. The price of the said scrip had also increased steeply during this period from Rs.270/- to Rs.815/- on average volumes of 2000 shares per day. It has been noted that till December 9, 1999, the scrip of HTL was trading in the range of Rs. 280/- Rs. 304/- with an average daily volume of 800 shares. The sudden spurt in the price and volume had taken place from settlement No.39 onwards. (December 10, 1999 till December 16, 1999). Incidentally, the Broker started trading in the scrip of HTL from December 10, 1999 (settlement No.39) onwards. Thereafter, the price had gone up substantially and reached Rs.728/- in settlement No.44 in the following manner.

Settlement No. Period Share price Volume (Shares) December 17, 1999 to December 23, 1999 Rs.420/□ December 24, 1999 to December 30, 1999 Rs.525/□ January 3, 2000 to January 6, 2000 Rs.609/□ January 7, 2000 to January 13, 2000 Rs.647/□ 4.7 I note that Shri Yatin Shah in his statement to SEBI dated August 1, 2002 admitted the purchase of HTL shares at a higher rate than the prevailing market rate. The details of such purchase as per his statement are given below:

Date Broker Time Sale/ Purchase No. of shares Rate Market rate at that time Counter party stock broker* 13.12.1999 11:33 am Purchase 321.75 13.12.1999 12:08 Purchase 13.12.1999 12:50 Purchase 13.12.1999 14:53 pm Purchase 14.12.1999 12:43 pm Purchase 14.12.1999 15:09 Purchase 14.12.1999 15:09 Purchase 15.12.1999 12:30 Purchase 16.12.1999 12:51 Purchase 355.50 350.5 16.12.1999 14:49 Purchase 355.50 17.12.1999 12:09 Purchase 354.75 353.25 17.12.1999 14:49 Purchase 355.50 353.25 17.12.1999 15.12 Purchase 355.50 17.12.1999 15:13 Purchase 357.50 20.12.1999 15.25 Purchase 23.12.1999 14:38 Purchase 27.12.1999 11:00 am Purchase 27.12.1999 13:11 Purchase 27.12.1999 13:11 Purchase 28.12.1999 11:53 am Purchase 28.12.1999 12:47 Purchase 29.12.1999 14:25 Purchase 500.50 29.12.1999 14:25 Purchase 3.1.2000 11:45 am Purchase 3.1.2000 12:56 pm Purchase 5.1.2000 10:36 Purchase 582.25 6.1.2002 11:01 Purchase 599.50 6.1.2002 11:03 am Purchase 599.50 6.1.2000 3:32 pm Purchase 610.75 609.75 10.1.2000 2:41 pm Purchase 618.75 617.50 10.1.2000 2:46 pm Purchase 618.75 618.75 10.1.2000 3:16 pm Purchase 627.50 624.75 12.1.2000 3:16 pm Purchase 541.25 639.50 13.1.2000 11:15 am Purchase 641.25 639.25 13.1.2000 11:15 am Purchase 641.50 641.25 13.1.2000 02:00 pm Purchase 653.50 14.1.2000 1:24 pm Purchase 671.25 17.1.2000 1:01 pm Purchase 681.25 677.75 17.1.2000 2:52 pm Purchase 686.75 19.1.2000 12:56 pm Purchase 704.50 700.50 19.1.2000 3:31 pm Purchase 714.50 20.1.2000 12:54 Purchase 728.50 *77 = Broker 91 = Shoba Investments 222 = Amin Mulani & Co. 247 = Harish Kadam 4.8 The above trades has to be viewed in the context of the statement of Shri Yatin D. Shah that the details such as timing, price, order quantity etc. were used to be given by the employees of HTL employee. The said trades were executed at a fixed price and at a specific time as per the instructions of third parties. Admittedly, the trade orders on behalf of majority of the clients of the Broker were placed by third parties including the employees of HTL. The consistency with which the said trades were executed by the Broker on behalf of its clients in the shares of HTL cannot be a matter of coincidence, considering its nature, wherein trades were executed as per the specific (with respect to price, quantity and time) instructions of the employees of HTL, at a price higher than the prevailing market price. The said concerted level of activity and that too repeatedly for a number of trades is only compatible with the purposes of manipulating the securities market. The fact that orders were placed at a higher rate when the shares were available in the market at a lower rate does not make an economic sense. The series of trades would only lead to the finding that the said trades executed by the Broker were done with the purpose of manipulating the volume in the shares of HTL to the detriment of the genuine investors. Thus, it can be seen that the price of the scrip of HTL had gone up substantially during the above period against low volumes. Further, it shows the involvement of the Broker in manipulating the securities market by creating artificial price and misleading appearance of trading in the securities market. I note that, intra alia due to the said trades, the share price of HTL had gradually increased.

4.9 The fact that shares were purchased at a higher rate would establish the complicity of Broker in the manipulation of the securities market, since no genuine buyer would purchase the shares at a

higher price when the shares were available at a lower rate. I find from the pattern amongst the stock brokers, that they had accounted for most of the trading undertaken in the scrip at PSE during the said period. Further, the Broker stated that he used to get instructions for executing the trade orders either from the clients or from Shri Veerkar/ Shri Trivedi (employees of HTL).

4.10 A cumulative analysis of the facts of the case, clearly indicate that the Broker did not act in a bonafide manner. On the contrary, the above facts highlight its complete involvement in the creation of misleading market in the shares of HTL and the creation of artificial volume and price in the said shares. Definitely it is a clear case of having congruence of interest with HTL and such an act could not be anything but compatible with a scheme of manipulation, to which the Broker is a privy. It is true that the stock brokers act on the advice of their clients. But in the present case highlighting how the Broker was acting at the behest of HTL employees, they happen to be the necessary party to the entire game plan. In the circumstances, it becomes increasingly evident that the trades involving the Broker with the help of people who were the employees of HTL were yet another step in manipulating the volume and price of the shares of the company.

4.11 Artificial increase in the volumes of scrip has the adverse effect on the innocent investors of the market who get induced to buy the shares. SAT in the matter of Ketan Parekh v. SEBI had observed: When a person takes part in or enters into transactions in securities with the intention to artificially raise or depress the price he thereby automatically induces the innocent investors in the market to buy / sell their stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is being manipulated the person doing so is necessarily influencing the decision of the buyer/seller thereby inducing him to buy or sell depending upon how the market has been manipulated. We are therefore of the view that inducement to any person to buy or sell securities is the necessary consequence of manipulation and flows therefrom. In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged.

4.12 Thus, by entering into such fictitious trades, the Broker created a misleading appearance of trading in the shares of HTL. The details of trades executed by the Broker in the shares of HTL, as mentioned above were not disputed. It can be seen that the Broker had executed various trades consistently for a period of time (December 1999 to January 2000) at a higher price than the prevailing market price with a set of stock brokers. The Broker has not refuted the manner of the trades executed as described above but confined his submissions to the fact that the trading system was computerized and that it had acted merely upon instructions of its clients. The explanation and submissions of the Broker fly in the face of his statements and materials available on record. During the period of the trades of the Broker, the share price of HTL had increased substantially as stated above without there being any significant change in the economic fundamentals of HTL. Hence, I find that the Broker had indulged in manipulative trading in the scrip of HTL. Therefore, I do not have any hesitation to hold that the Broker had violated the provisions of regulation 4 (a) to (c) of the FUTP Regulations.

4.13 The natural corollary to this issue is whether the Broker had maintained high standards of integrity, promptitude, fairness and exercised due skill, care and diligence in the conduct of its business. In terms of the provisions of the Clauses A (1) to (4) of the Code of Conduct prescribed under the provisions of the Broker Regulations, a stock broker shall not inter alia create false market or indulge in any act detrimental to the investors' interest or which leads to the interference with the fair and smooth functioning of the securities market. The stock broker shall also maintain high standards of integrity, promptitude and fairness and shall act with due skill, care and diligence in the conduct of his business. It is also a requirement that a stock broker shall not inter alia indulge in manipulative transactions with a view to distort the market equilibrium. In the present case, the trades of the Broker (as explained in detail above) created a misleading appearance of trading in the shares of HTL, artificial volume and price in the said shares by vitiating the price discovery mechanism in the securities market. It amply demonstrates that the Broker, instead of maintaining the Code of Conduct as expected of a SEBI Registered intermediary, virtually became a party to the manipulation in the shares of HTL to the detriment of genuine investors. Further, the trades were executed without obtaining the necessary requirement like client registration form.

4.14 A Stock broker is expected to protect the interest of the investors in the securities market in which he operates and it ill behoves him to become a party to any market manipulation. Being an intermediary operating in the securities market, a stock broker is required to maintain high standards of integrity, promptitude and fairness in the conduct of the business dealings as specified in the Code of Conduct of the Broker Regulations (mentioned above). An intermediary who fails to perform such duties has to be punished in terms of the provisions of the Enquiry regulations. In view of the above, it is established that the said stock brokers had violated the Clauses A(1) to (4) of the Code of Conduct specified under the Broker Regulations.

4.15 Further, I note that the Broker had executed number of off market transactions in the shares of HTL. The details of some of such transactions are given below:

Date Buying Client Selling client Price Quantity Value 03-Mar-00 Manirarn Consultancy EDTV (Mauritius) 799.5 12500 9993750 04-Apr-00 Maniram Consultancy.

EDTV (Mauritius) 2367000 16-May-00 Maniram Consultancy EDTV (Mauritius) 533400 16-May-00 Maniram Consultancy EDTV (Mauritius) 4455000 16-May-00 Maniram Consultancy EDTV (Mauritius) 8046000 08-Jun-00 Maniram Consultancy Discover Investments 429500 08-Jun-00 Manirarn Consultancy EDTV (Mauritius) 4558000 08-Jun-00 Manirarn Consultancy EDTV (Mauritius) 6801900 08-Jun-00 Manirarn Consultancy EDTV(Mauritius) 5258200 08-Jun-00 Manirarn Consultancy EDTV(Mauritius) 1637800 06-Jul-00 Manirarn Consultancy Discover Investments 25000 17850000 24-Jul-00 Manirarn Consultancy Discover Investments 344500 09-Aug-00 Manirarn Consultancy Discover Investments 103500 87871500 05-Sep-00 Maniram Consultancy Discover Investments 3667900 14-Sep-00 Maniram Consultancy Discover Investments 5751000 15-Sep-00 Manirarn Consultancy Discover Investments 29000 23055000 04-Oct-00 Manirarn Consultancy Discover Investments 5526000 03-Nov-00 AGS Financials Discover Investments 116500 17242000 14-Nov-00 EDTV (Mauritius) AGS Financials 70000 10010000 15-Dec-00 Maniram Consultancy Discover Investments 158.25 37000 5855250

18-Dec-00 Maniram Consultancy Discover Investments 151.5 619200 93808800 01-Jan-00 Maniram AGS/Parakh Discover Investments 149.5 1100400 164509800 15-Feb-01 Maniram Consultancy Discover Investments 164.26 60200 9888452 15-Feb-01 AGS Financials Discover Investments 164.5 52700 8669150 15-Feb-01 Parakh Share & Stock Discover Investments 164.75 38100 6276975 22-Feb-01 Maniram Consultancy Discover Investments 159.52 65500 10448560 28-Feb-01 Maniram Consultancy Discover Investments 156.53 84000 13148520 09-Mar-01 AGS Financials Discover Investments 152.54 126900 19357326 16-Mar-01 AGS Financials Discover Investments 150.55 42400 6383320 04-Apr-01 Parakh Share & Stock Discover Investments 148.95 200300 29834685 11-Jun-01 Dingo Vincom Pvt. Limited Discover Investments 155.53 164000 25506920 08-Aug-01 Dingo Vincom Pvt. Limited Discover Investments 153.19 71500 10953085 04-Oct-01 EDTV (Mauritius) Dingo Vincom Pvt.Ltd.

109.78 85000 9331300 13-Nov-01 Dingo Vincom Pvt. Limited Discover Investments 78.4 51000 3998400 14-Dec-01 Dingo Vincom Pvt. Limited Discover Investments 68.4 73000 4993200 Total

3367900 642368993 4.16 The above transaction details were already communicated to the Broker with the show cause notice issued by the Enquiry Officer and the same has not been disputed by the Broker. Shri Yatin D. Shah stated to SEBI that whenever off- market cross deals were to be done, the employees of HTL (Shri Trivedi/ Shri Subhodh Bhandari) used to call him and specify the name of the seller and the buyer with the rate at which the said transactions would be executed. He also stated that in some instances one Shri Raju (HTL employee) used to bring deliveries from HTL. He also stated that the sale of 3,22,500 shares of HTL on behalf of Shri Neeraj Surti and Ms. Kirti N. Surti on January 2, 2001 were off market transactions with one AGS Financials and that the delivery was not routed through him. The trades were executed at a higher rate than the prevailing market rate. I note that the client of the Broker viz. Discovery Investments had sold 30 lakh shares of HTL through the Broker in an off market transactions and the delivery for the said transactions were given to the Broker by one Shri Raju, an employee of HTL. The said shares were in turn sent by the member to Shri Veerkar, another employee of HTL. Similarly, EDTV had sold 1 lakh shares and purchased 1,55,000 shares through the Broker (off market transfers) for which the shares were given by Shri Raju to the Broker who in turn sent the same to the office of HTL. Further, the said trades were found to be not genuine trades as the same were executed at the behest of the employees of HTL. This is not the one which was envisaged under the SEBI circular dated September 14, 1999 which stipulates that all negotiated deals shall be executed only on the screens of the exchanges in the price and order matching mechanism of the exchange just like any other normal trade. I note that the Broker had executed several off market transactions at a price higher than the prevailing market price which facilitated inter alia its clients to transact substantially in the shares of HTL. The quantum of the off market transactions executed through the Broker was significantly high and the total quantity of shares of HTL traded in the off market transfer was 33,67,900 shares amounting to Rs.64,23,68,993/-. Also, the total volume of HTL at PSE during 1999-2000 was to the tune of 14,00,000 shares i.e the off market transactions of the Broker in the said scrip was 2.5 times higher than the PSE turnover. As discussed above, the trades of the Broker were executed with the instructions of the people connected to HTL without intending to effect the transfer of beneficial ownership but to operate only as a device to cause fluctuations in the price of the shares. The price information in respect of an off market transfer are not through the stock exchange mechanism and the investors are, thus deprived of the best possible price. The Broker had not denied that the said

off market transactions were in the nature of cross deals wherein both the buyer and the seller belonged to the same stock broker. Therefore, it is established that the Broker had violated the SEBI Circular dated September 14, 1999.

4.17 In the facts and circumstances it is established that the Broker had violated Regulation 4 (a), (b) and (c) of the FUTP Regulations, Clause A(1) to (4) of the Code of Conduct prescribed under Schedule II of the Broker Regulations and the circulars of SEBI dated February 11, 1997, April 11, 1997 and September 14, 1999. The aforesaid violations committed by the Broker cannot be taken lightly and the same call for a major penalty as ordered hereinunder.

5.1 In view of the foregoing, I, in exercise of the powers conferred vide regulation 13(4) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, hereby impose a major penalty of suspension of the certificate of registration of M/s Yatin Shah (INB 110245316), Member, Pune Stock Exchange Ltd. for a period of eighteen months.

This order shall come into force immediately on the expiry of 21 days from the date of this order.