

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

CONSENT ORDER

ON THE APPLICATION SUBMITTED BY

FORNEY FUNDS ADVISORS PVT. LTD. AND R.K GOYAL

IN THE MATTER OF

IRREGULARITIES IN THE SCRIP OF NISSAN COPPER LIMITED

(CONSENT APPLICATION NO.1396 OF 2009)

1. Securities and Exchange Board of India ("SEBI") launched investigations into the alleged irregular dealings in the shares of Nissan Copper Limited (NCL) on the first day of listing. SEBI passed an ad interim ex *parte* order dated January 17, 2007 under section 11(4) and 11B of SEBI Act, 1992, *inter alia*, directing BSE to withhold the profits made by Forney Funds Advisors Pvt. Ltd. and R. K. Goyal, director of Forney Funds Advisors Pvt. Ltd.(hereinafter referred to as the 'applicants') in a separate escrow account. Accordingly, BSE withheld Rs.1,06,42,404/- in a separate escrow account in respect of the applicants.

2. The investigations, *prima facie*, found that the applicants had arranged for the FII subscription of QIB portion of the IPO of NCL through one Mr. Anil Bagri at the request of the promoters of the company. Further, V. K. Goyal, an employee of NCL, had applied in the public issue of NCL under employee quota and got firm allotment of 3,00,000 shares, which he subsequently transferred to Forney Funds Advisers Pvt. Ltd. through off-market transactions. Out of 3,00,000 shares so received, the applicants sold 2,83,900 shares at BSE on the date of listing, i.e., on 29th December, 2006 and earned unjust profit of Rs.1,06,42,404. It is alleged that the above conduct of the applicants is in violation of Regulations 3 (a) and (c) of SEBI (Prohibition of

Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.

3. Pursuant to the investigations, SEBI initiated proceedings under Section 11(4) and 11B of the SEBI Act, 1992 vide show cause notice dated November 7, 2007 against Forney Funds Advisors Pvt. Ltd. vide letter dated January 16, 2008 it had replied to the said show cause notice. SEBI also initiated adjudication proceedings under chapter VI A of the SEBI Act, 1992 against the applicants. The Adjudicating Officer issued show cause notices dated May 26, 2008 and the applicants replied to the said show cause notices vide letter dated June 23, 2008.

4. While the above proceedings were in progress, the applicants vide letter dated June 25, 2009 applied for settlement of the said proceedings through a consent order in terms of SEBI Circular No. EFD/ED/Cir-1/2007 dated April 20, 2007. The applicants proposed revised consent terms vide letter dated September 8, 2009. The High Powered Advisory Committee(HPAC) constituted by SEBI considered the consent terms proposed by the applicants and after deliberations, recommended the case for settlement.

5. The HPAC recommended that the case may be settled if the applicants agreed to pay the unjust profits withheld pursuant to SEBI Order dated January 17, 2007, i.e., Rs.1,00,21,628/- together with interest accrued on the withheld amount till the date of transfer and also pay 20% of the unjust profits i.e., Rs.20,04,325/- towards settlement charges. SEBI accepted the said recommendations and communicated the same to the applicant vide letter dated December 9, 2009.

6. Accordingly, the applicants vide letter dated December 17, 2009, without admitting or denying the charges, have agreed for the aforesaid terms. The applicants have remitted a sum of Rs.13,83,549/- (Rupees thirteen lakh eighty three thousand five hundred and forty nine only) vide pay order No.210126 dated

December 17, 2009 drawn on State Bank of India, payable at Mumbai. BSE shall transfer Rs.1,06,42,404/-withheld by it together with interest till date to SEBI.

7. In view of the above, it is hereby ordered that this consent order disposes of the proceedings under sections 11(4) and 11B of SEBI Act, 1992 against Forney Funds Advisers Pvt. Ltd. and adjudication proceedings under chapter VI A of the SEBI Act, 1992 against Forney Funds Advisers Pvt. Ltd. and R. K Goyal in the matter of NCL.

8. A copy of this Order shall be served on BSE which shall transfer Rs.1,06,42,404/- plus interest accrued thereon till date to SEBI, within one week after receipt of this order.

9. This order is without prejudice to the right of SEBI to initiate enforcement actions including commencing or reopening of the proceedings pending against the applicants, if:

- a. any representation made by the applicants in these consent proceedings are subsequently discovered to be untrue; or
- b. the applicant's breach of any of the consent terms or undertakings filed in these consent proceedings.

10. This consent order is passed on this day, the 8th day of January 2010 and shall come into force with immediate effect.

M. S. SAHOO
WHOLE TIME MEMBER

K. M. ABRAHAM
WHOLE TIME MEMBER