BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/PM/NK/2019-20/6987]

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

In respect of

R. K. Stock Holding Private Limited (PAN: AACCR0011K)

In the matter of

Trading by Chetan Dogra Group Entities in the Scrip of Urja Global Limited, Sampada Chemicals Limited and IFL Promoters Limited

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FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted an investigation in the matter of Trading by Chetan Dogra Group Entities in the Scrip of Urja Global Limited (hereinafter referred to as Urja or UGL), Sampada Chemicals Limited (hereinafter referred to as Sampada or SCL) and IFL Promoters Limited ((hereinafter referred to as IFL or IPL) for the period from October 01, 2010 to March 21, 2011 (hereinafter referred to as 'investigation period'/'period of investigation). It was observed that during the period from October 1, 2010 to November 16, 2010 there was a huge increase in price/volume of the scrip. During this patch, the traded volume of the scrip was 24,13,770 which was 23.19 % of the total traded volume of 1,04,08,589 shares during the entire investigation period and price of the scrip increased from Rs 104.00 to Rs 176.45 through intra-day movement.

2. It was alleged that the trading member, R. K. Stockholding Private Limited (hereinafter referred to as the Noticee or Stock Broker or RKSPL) by repetitively executing self-trades

on behalf of its clients, namely, Chetan Dogra and Chetan Dogra (HUF) in the scrip of Urja Global Limited (hereinafter refer to as Urja or UGL or the company), has failed to exercise due skill, care and diligence and thereby violated the provisions of Clause A(2) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 7 (as existed at the relevant time) [now Regulation 9 (f)] of the SEBI (Stock Broker and Sub-Broker) Regulations, 1992 (hereinafter referred to as Broker Regulations, 1992).

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as the Adjudicating Officer under section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **"SEBI Act"**) read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the **'Adjudication Rules'**) to inquire into and adjudge under section 15HB of the SEBI Act for the alleged violations of provisions of Clause A(2) of the Code of Conduct for Stock Brokers, as specified under Schedule II read with Regulation 7 [now Regulation 9 (f)] of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 by the Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A Show Cause Notice EAD/ADJ/PM/AA/OW/29511/2017 dated November 24, 2017 (hereinafter referred to as "**SCN**") was issued to the Noticee under Rule 4 of the Adjudication Rules to show cause as to why an inquiry should not be initiated and penalty be not imposed under section 15HB of the SEBI Act, for the alleged violations of provisions of Clause A(2) of the Code of Conduct for Stock Brokers, Schedule II read with Regulation 7 [now Regulation 9 (f)] of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 as specified in the SCN. Copies of the documents relied upon in the SCN were provided to the Noticee along with the SCN.
5. In the SCN it was alleged that during the period, October 1, 2010 to November 16, 2010 (hereinafter referred to as the price rise patch), two clients namely, Chetan Dogra and Chetan Dogra (HUF) through the trading member R. K. Stockholding Private Limited (hereinafter referred to as the Noticee or Stock Broker) have repetitively entered into self-

trades i.e. *trades in which both the buyer and the seller are the same entity and which does not result in change of beneficial ownership*. It was alleged that the Noticee appeared on the both sides (buy as well as sell side) as stock broker repetitively to the trades of the aforesaid two clients, Chetan Dogra and Chetan Dogra (HUF) having same terminal IDs, the user name, location address and location ID. The details of self-trades executed by the clients of the Noticee are as under:-

					Same Terminal	
Name of the client	**Name of the broker on both buy and sell side**	**No. of days**	**No. of instances**	**Total No. of shares**	**No. of instances**	**No. of shares**
Chetan Dogra	R.K. Stock Holding Private Limited	7	8	5259	8	5259
Chetan Dogra HUF	R.K. Stock Holding Private Limited	12	31	1522	31	1522
Total		**19**	**39**	**6781**	**39**	**6781**

6. The Noticee vide undated letter received on January 11, 2018 in reply to the SCN submitted that *Chetan Dogra (Client Code: CDJ1154) and Chetan Dogra (HUF) (Client Code: CDJ1155) both belong to the same person. The client wanted to transfer his shareholding from the individual account to his HUF account and since the trades were executed by the same person it did not find suspicious. Further since both clients codes were active and belonged to the same branch, the location id, terminal id, user name and address were same*.

7. Thereafter, an opportunity of personal hearing was granted to the Noticee on October 31, 2018 vide hearing notice dated October 12, 2018. The personal hearing was attended by the Noticee's Compliance Officer, Authorised Representative (hereinafter referred to as AR). The AR requested for additional time and another opportunity to present its case which was acceded to.

8. The Noticee replied to the SCN vide letter dated November 19, 2018 relevant portion of which is as below:

- *In the captioned SCN inter-alia it has been alleged that we have executed impugned 'self-trades' on behalf of our clients viz. Chetan Dogra and Chetan Dogra HUF in scrip of Urja Global Limited (hereinafter, "Urja Global") during the Investigation conducted by SEBI for the period from 01.10.2010 to 21.03.2011. It is alleged that we had failed to exercise due skill, care and diligence and thereby are in violation of Clause A (2) of Code of Conduct as specified under Schedule II r/w Regulation 7 of SEBI (Stock Broker and Sub-Brokers) Regulations, 1992.*
- *In this regard, at the outset we would like to put on record facts of the present case in brief as under:*

  a) Date wise self-trades executed by our clients through us is as under.

Table – 1 – Chetan Dogra (UCC-CDJ154) (Amount in Rs.)

Sr. No.	Date	Quantity	Value
1	14-10-2010	24	2,768
2	28-10-2010	75	10,121
3	04-11-2010	136	20,454
4	05-11-2010	432	66,506
5	08-11-2010	1	157
6	09-11-2010	990	1,59,341
7	16-11-2010	3,601	6,40,978
Total ====>>>		**5,259**	**9,00,326**

Table – 2 – Chetan Dogra (HUF) (UCC-CDJ155) (Amount in Rs.)

Sr. No.	Date	Quantity	Value
1	14-10-2010	12	1,384
2	15-10-2010	1	116
3	25-10-2010	1	126
4	26-10-2010	464	61,526
5	28-10-2010	75	10,121
6	04-11-2010	136	20,454
7	09-11-2010	31	4,956
8	10-11-2010	140	22,826

9	11-11-2010	20	3,275
10	12-11-2010	500	86,475
11	15-11-2010	30	5,130
12	16-11-2010	112	19,324
Total ====>>>		**1,522**	**2,35,714**

b) *On perusal of the above table 1 & 2, it is submitted that during the investigation period ranging from 01.10.2010 to 21.03.2011 i.e. around 6 months wherein volume of 1,04,08,589 shares were carried out on the stock exchange (BSE), the volume of alleged self-trades executed by Chetan Dogra on 7 days is 5,259 shares (0.05%) and Chetan Dogra (HUF) on 12 days is 1,522 shares (0.01%) which is very negligible volume to have any impact on market or on any trading activity carried out in Urja Global scrip on very few days (7/12 days) when the alleged self-trades were executed during investigation period.*

c) *Further on perusal of the Annexure – 1 enclosed to SCN, it is pertinent to mention that the above referred impugned self-trades were executed at the then prevailing market price of Urja Global shares and had no or negligible impact on the last traded price of shares at the relevant times. Relevant extract from Annexure – 1 of the SCN is reproduced below:*

Table No. 3 - Mr. Chetan Dogra (CDJ154)

Trade wise details of alleged self-trade and its impact on LTP

Sr. No.	Date	Qty.	Value in Rs.	LTP Rate	LTP%
1	14-10-2010	12	1,384	-	-
2	14-10-2010	12	1,384	-	-
3	28-10-2010	75	10,121	-	-
4	04-11-2010	136	20,454	0.40	0.27
5	05-11-2010	432	66,506	(0.05)	(0.03)
6	08-11-2010	1	157	(0.15)	(0.10)
7	09-11-2010	990	1,59,341	-	-
8	16-11-2010	3,601	6,40,978	0.20	0.11
Total ====>>>		**5,259**	**9,00,326**		

Table No. 4 - Mr. Chetan Dogra HUF (UCC-CDJ155)

Trade wise details of alleged self-trade and its impact on LTP

Sr. No.	Date	Qty.	Value in Rs.	LTP Rate	LTP%
1	14-10-2010	12	1,384	-	-
2	15-10-2010	1	116	0.20	0.17
3	25-10-2010	1	126	1.35	1.08
4	26-10-2010	464	61,526	-	-
5	28-10-2010	75	10,121	-	-
6	04-11-2010	136	20,454	-	-
7	09-11-2010	1	159	0.50	0.32
8	09-11-2010	10	1,580	(0.05)	(0.03)
9	09-11-2010	10	1,609	(0.90)	(0.56)
10	09-11-2010	10	1,609	-	-
11	10-11-2010	10	1,616	(0.05)	(0.03)
12	10-11-2010	10	1,615	(0.10)	(0.06)
13	10-11-2010	10	1,614	(0.10)	(0.06)
14	10-11-2010	10	1,613	(0.10)	(0.06)
15	10-11-2010	10	1,616	(0.15)	(0.09)
16	10-11-2010	10	1,616	(0.05)	(0.03)
17	10-11-2010	10	1,617	(0.20)	(0.12)
18	10-11-2010	10	1,610	(0.05)	(0.03)
19	10-11-2010	10	1,619	1.20	0.75
20	10-11-2010	50	8,290	-	-
21	11-11-2010	10	1,638	(0.10)	(0.06)
22	11-11-2010	10	1,637	(0.10)	(0.06)
23	12-11-2010	500	86,475	-	-
24	15-11-2010	10	1,711	0.10	0.06
25	15-11-2010	10	1,710	0.95	0.56
26	15-11-2010	10	1,709	(0.05)	(0.03)
27	16-11-2010	10	1,750	0.95	0.55
28	16-11-2010	10	1,720	0.25	015
29	16-11-2010	2	343	(0.25)	(0.15)
30	16-11-2010	10	1,724	-	-
31	16-11-2010	80	13,788	0.35	0.20
Total =➔		**1,552**	**2,35,714**		

In view of the aforesaid facts, we humbly pray that no adverse inferences be drawn against us and we may be discharged on this ground alone.

- *Without prejudice to our aforesaid submissions, we further submit as under.*

Exercise of due skill, care and diligence by us

The Black's Law Dictionary (6th Edition) defines 'due diligence' as follows:

"Such a measure of prudence, activity or assiduity, as is properly expected from and ordinarily exercised by a reasonable and prudent man under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of special case"

Thus in accordance to the above, we submit that we have exercised due skill, care and diligence while executing orders on behalf of our clients Mr. Chetan Dogra and M/s Chetan Dogra (HUF) in the scrip of Urja Global Cable. Further we submit as under:

(i) *We as a broker have registered around 13,616 clients and operate from 78 branches across India. At the time of registering the client viz. Mr. Chetan Dogra and M/s Chetan Dogra HUF, we have complied with all KYC norms i.e. we obtained duly filled "Client Registration Form" (KYC) a/w all the necessary documents as statutorily required. It is only thereafter said client was allowed to place orders with us as per our routine practice uniformly followed for all the clients. After completing all formalities their accounts were opened with us on 22.12.2009 and 23.12.2009 and they were allotted UCC No. CDJ154 and CDJ155 respectively*.

(ii) We had taken all reasonable steps to assess the client's background, genuineness, financial soundness and trading-cum-investment objectives as per SEBI prescribed guidelines. As required, we had obtained the bank & financial details, identity / address proofs, copy of PAN cards and executed Broker-Client Agreement as per guidelines prescribed by regulator.

(iii) We submit that Mr. Chetan Dogra and M/s Chetan Dogra (HUF) have executed their transactions through our Branch office located at 401, 4th Floor, DDA First Building, District Centre, Janakpuri, New Delhi-110 053.

(iv) Relevant summary of trades executed by our clients in Urja Global scrip is summarized as under:

<u>Table – 5 – Chetan Dogra (UCC-CDJ154)</u> <u>(Amount in Lac)</u>

Particulars	**No. of Trades**	**Total Qty.**	**Total Volume (Rs.)**		
		Buy	**Sell**	**Buy**	**Sell**
Investigation Period **(IP)** 01.10.2010 to 21.03.2011	936	3,26,301	6,00,603	454.74	536.19
Patch Period: 01.10.2010 to 16.11.2010	565	2,86,281	2,59,709	386.32	354.38
Alleged self- trades					
i. Impugned Trades	8	5,259	5,259	9.00	9.00
ii. % to IP	0.85	1.61	0.88	1.98	1.68
iii. % to Patch period	1.42	1.84	2.02	3.14	2.54

<u>Table – 6 – Chetan Dogra (HUF) (UCC-CDJ155)</u> <u>(Amount in Lac)</u>

Particulars	**No. of Trades**	**Total Qty.**		**Total Volume (Rs.)**	
		Buy	**Sell**	**Buy**	**Sell**
Investigation Period **(IP)** 01.10.2010 to 21.03.2011	6,218	5,61,415	6,61,425	815.27	789.75
Patch Period: 01.10.2010 to 16.11.2010	3,100	4,64,139	4,59,393	651.07	640.33
Alleged self- trades					
i. Impugned Trades	31	1,522	1,522	2.36	2.36
ii. % to IP	0.50	0.27	0.23	0.29	0.29
iii. % to Patch period	1	0.33	0.33	0.36	0.36

(v) *We submit that the minuscule volume of Mr. Chetan Dogra and M/s Chetan Dogra HUF is a pointer to the fact that the alleged transactions did not arise any suspicion in the mind of our dealer and therefore we submit that the same were carried out without our knowledge, consent or role w.r.t alleged transactions by* *the client. In order to establish our point we would like to submit the following data/details for your kind consideration and record*:

Table – 7 – Chetan Dogra (UCC-CDJ154)

Sr. No.	Date	No. of Total Trades	No. of Self Trades	Self Trade Qty	Market Volume	Self Trade % to Market Volume
1	14.10.2010	9	2	24	124,318	0.02
2	28.10.2010	56	1	75	40,224	0.19
3	04.11.2010	46	1	136	43,292	0.31
4	05.11.2010	89	1	432	23,523	1.84
5	08.11.2010	244	1	1	46,448	0.00
6	09.11.2010	8	1	990	66,977	1.48
7	16.11.2010	6	1	3,601	63,279	5.69
	Grand Total	**458**	**8**	**5,259**	**4,08,061**	**1.29**

Table – 8 – Chetan Dogra (HUF) (UCC-CDJ155)

Sr. No.	Date	No. of Total Trades	No. of Self Trades	Self Trade Qty	Market Volume	Self Trade % to Market Volume
1	14.10.2010	8	1	12	1,24,318	0.01
2	15.10.2010	79	1	1	1,14,867	0.00
3	25.10.2010	22	1	1	1,38,650	0.00
4	26.10.2010	94	1	464	1,12,667	0.41
5	28.10.2010	36	1	75	40,224	0.19
6	04.11.2010	103	1	136	43,292	0.31
7	09.11.2010	293	4	31	66,977	0.05
8	10.11.2010	349	10	140	62,235	0.22
9	11.11.2010	418	2	20	73,612	0.03
10	12.11.2010	189	1	500	98,126	0.51
11	15.11.2010	282	3	30	67,410	0.04
12	16.11.2010	344	5	112	63,279	0.18
	Grand Total	**2,217**	**31**	**1,522**	**1,005,657**	**0.15**

(vi) On perusal of the above table, it is submitted that the volume of alleged 'self-trades' vis-a-vis total market volume and total trades executed by our two clients are very insignificant and miniscule which can hardly cause any suspicion.

(vii) It is pertinent to mention that in cash segment, Mr. Chetan Dogra and M/s Chetan Dogra HUF had dealt in other scrips also through us.

(viii) Further, the aforesaid clients were not on the watch list of any regulatory authority for any kind of speculative or manipulative practices at that point of time. Thus, we allowed them to trade freely within the parameters & regulations prescribed by regulators from time to time.

(ix) We request your Honour to appreciate fact that a stock-broker is required to employ reasonable skill and care but is not required to begin with suspicion and to proceed in a manner of trying to detect a fraud or manipulation unless the information with him is sufficient to excite suspicion of a businessman of reasonable competence. It is submitted with humility that at the relevant time, there was nothing amiss in the conduct of the said clients to excite our suspicion.

(x) We would like to put on record that we do not have any relationship, direct or indirect, with the said Company viz. Urja Global and its Promoters and Directors.

(xi) The client's viz. Mr. Chetan Dogra and M/s Chetan Dogra HUF desired to deal in shares of Urja Global at relevant time and placed orders in the said scrip as per the extant rules/regulations. All the orders in the client's trading account were placed as per his instructions & authority and all the transactions were in compliance with the applicable Rules/Regulations. The said client honored all their obligations in their respective accounts and there have not been any defaults of any nature whatsoever in this regard.

(xii) We request your Honour to appreciate fact that after a gap of nearly 8 years, it is difficult, if not impossible, to effectively submit our explanation/clarification on the order placement activity of the client at the relevant time. Thus, in the hindsight to allege any failure on our part particularly with respect to exercise of due skill care and diligence qua buy/sell order of two clients on the trading terminal of exchange is too unrealistic, unreasonable and arbitrary.

<u>SEBI, BSE and NSE have themselves acknowledged existence of unintentional self-trades</u>

(i) *Before proceeding further, we humbly request Your Honor to consider the most important and vital fact that it is only over a period of time (more particularly after the year 2013), surveillance system on the stock exchanges improved significantly and presently transaction alerts are downloaded on daily basis so that impugned transactions as alleged in the SCN gets alerted on the same day itself. However, <u>this was not the case in the past (i.e. way back in the year 2010) wherein neither the regulator/stock exchanges nor the market participants had technology or infrastructure in place to get instantaneous alerts.</u>*

(ii) *In fact, the Indian regulators have themselves considered that self-trades per se are not illegal and cross trades do happen in the market in the normal course of broking activity. As a matter of fact, the regulators have from time to time come out with relevant circulars recognizing the existence of self-trades and measures to prevent the same. For instance;*

(a) SEBI in its circular dated 08.02.2013 had clarified as under: [Reference Para 11 (b) on Page 3 of the Circular]

"…In addition to (a) above, incentives in the form of cash payments, warrants, discount in fees, etc may not be provided for the trades where the counterparty is self, i.e., same Unique Client Code (UCC) is on both sides of the transaction…"

Thus, it is our humble submissions; at the relevant point of time SEBI itself had accepted that unintentional 'self-trade' occur in the electronic trading system and therefore they cannot be considered illegal or illegitimate per se.

(b) In pursuance thereto, BSE in its circular dated 11.02.2013 informed the trading members that it shall not incentivize trading members in the form of cash payments, warrants, discount in fees and soon for the trades where

the <u>counter-party is self</u>. Thereby, BSE stopped incentive scheme of liquidity enhancement to brokers for 'self-trade' which implied that self-trades existed due to operational limitations in electronic system.

<u>'Self-Trades' not possible in current scenario after introduction of 'Self-Trade Prevention Check'</u>

(i) We submit with humility that regulatory and operational system w.r.t. self-trades in India evolved only recently. Presently, the software systems and surveillance systems have improved meaningfully and technology is available with regulator which makes it possible to track suspicious trades or mis-happenings on daily basis and appropriate and immediate measures are taken thereof. However, no alert or caution was raised by BSE or NSE at relevant point of time.

(ii) It was only as recently as 2015; in order to address the need of preventing impugned 'self-trades' the BSE and NSE introduced the Self Trade Prevention Check mechanism in equity segment wherein automated system itself blocks buy/sell order from commonly owned accounts. Thereby, it effectively prevents 'self-trades' order from matching with another from same ID.

(iii) Thus, stock exchanges have introduced Self-trade prevention check (STPC) functionality with the purpose of preventing inadvertent matching between a buy and a sell <u>order entered in the same order book by a member for the same client code originating from same or different trading terminals of the member</u>. If an incoming order is likely to match with a passive order belonging to the same member and client code combination in the same order book, the system shall cancel such incoming order thus preventing unintentional self-trade. Therefore, we submit that systemic changes have been brought in electronic trading system and impugned unintentional 'self-trades' can no longer occur.

(iv) In view of aforesaid, we humbly submit that the systems and mechanism for preventions of self-trade evolved and progressed in the recent years (i.e. after-

2015) whereas our impugned inadvertent 'self-trades' in the scrip of Urja Global have been executed way back before 8 years i.e. in the year October-November 2010.

No adverse observations in SCN w.r.t. our dealing in Urja Global scrip

(i) We would like to submit that the investigation report does not elucidate or explicate that we had failed to exercise any due skill care and diligence while dealing in scrip of Urja Global. As a matter of fact, it does not bring on record any evidence or prove beyond reasonable doubt the said clients viz. Mr. Chetan Dogra and M/s Chetan Dogra (HUF) had any fraudulent or manipulative intent while dealing in scrip of Urja Global.

(ii) Thus, to hold that we violated Clause A (2) of Code of Conduct as specified under Schedule II r/w Regulation 7 of SEBI (Stock Broker and Sub-Brokers) Regulations, 1992 is unfair and arbitrary.

Denial of alleged violations of law

In view of our aforesaid submissions, we vehemently, strongly and emphatically deny the alleged violation of Clause A (2) of Code of Conduct as specified under Schedule II r/w Regulation 7 of SEBI (Stock Broker and Sub-Brokers) Regulations, 1992.

Legal Submissions

(i) ***Execution of Unintentional 'self-trades' by broker while executing order on behalf of the client is not punishable***

(a) We would like to draw your kind attention to Order dated 22.02.2017 in case of ***Ajay Desai & Indira Securities Private Limited*** *in the matter of MIC Electronics Ltd. wherein in similar allegation of 'self-trades' the Ld. Adjudicating Officer (SEBI) opined as under:*

[Ref: Para 15 on Page 14 of Order]

"…It's important to emphasize that there should be regulatory distinction between unintentional self-match trades and intentional, manipulative (and illegal) wash trades. Intentional wash trades are illegal self-trades that can manipulate markets by giving the impression of legitimate trading

interest or activity at a certain price, time, and size. However practically self-matches that can also occur unintentionally. Such trades can occur in the course of normal trading when orders of one broking firm from two independent trading strategies / terminal coincidentally interact with each other. Though completely legitimate, and without an intent to manipulate, the two buy-sell orders on Stock Exchange from two independent dealers/terminal can end up matching with each other..."

(b) *Similarly, vide SEBI's Order dated 14.02.2013 [EAD-2/AO/143/2012] in the case of* ***JMP Securities Private Ltd*** *the Ld. Adjudication Officer disposed of proceedings against the brokers and opined as under:*

[Reference Para 17 on Page 9 of the Order]

"…17. There is no allegation against the Noticee that it had indulged in price manipulation except that the aforementioned self-trades resulted in creation of artificial volume. I am of the view that under the above circumstances some of the trades could automatically match resulting in self-trades on the automated anonymous trading mechanism. The corroborative evidences available on record are insufficient to substantiate that the trades executed by the Noticee are fraudulent or manipulative…."

(c) *Further, we would like to refer to and rely upon to following Orders of SEBI pertaining to allegation of self-trades wherein respective Show Cause Notice were disposed-off without imposing any penalty on Noticee:*

Sr. No.	***Particulars***
1.	*Order dated 27.02.2017 (Ref. No. EAD/NP/JS/AO /23/2017) in respect of Vora Financial Services Pvt. Ltd. and JMP Securities Pvt. Ltd. in the matter of MIC Electronics Ltd.*

2.	*Order dated 16.03.2017 (Ref. No. EAD/NP/JS-AS/ AO/25/2017) in respect of Inventure Growth & Securities Limited in the matter of MIC Electronics Ltd.*
3.	*Order dated 16.03.2017 (Ref. No. EAD/NP/JS/AO/ 26/2017) in respect of Samurai Securities Private Limited in the matter of MIC Electronics Ltd.*
4.	*Order dated 16.03.2017 (Ref. No. EAD/NP/AS /AO/ 27/2017) in respect of Milkyways Mercantiles Private Limited and SPFL Securities Limited in the matter of MIC Electronics Ltd.*
5.	*Order dated 19.06.2017 (Ref. No. EAD/AO-NP/JR/ 47/2017) in respect of Genuine Stock Brokers Pvt. Ltd. and Others in the scrip of Unitech Ltd.*
6.	*Order dated 22.06.2017 (Ref. No. EAD/AO-NP/SJ/ 50/2017) in respect of Crosseas Capital Services Private Limited in the scrip of Aster Silicates Ltd.*
7.	*Order dated 29.09.2017 (Ref. No. RA/JP/184-188/ 2017) in respect of Crosseas Capital Services Private Limited and Others in the scrip of Multi Commodity Exchange of India Ltd.*
8.	*Order dated 29.09.2017 (Ref. No. RA/JP/172-181/ 2017) in respect of Crosseas Capital Services Private Limited and Others in the scrip of Apollo Tyres Ltd.*
9.	*Order dated 29.09.2017 (Ref. No. RA/JP/166-171/ 2017) in respect of Crosseas Capital Services Private Limited and Others in the scrip of United Spirits Ltd.*
10.	*Order dated 13.11.2017 (Ref. No. EAD/PM-AA /AO/ 5/2017-18) in respect of Marwadi Shares and Finance Limited in the scrip of Prakash Constrowell Ltd.*

11.	*Order dated 27.12.2017 (Ref. No. AO/JS/VRP/23-28/2017) in respect of Rikhav Investments & 5 Ors in the scrip of Midfield Industries Limited*
12.	*Order dated 27.12.2017 (Ref. no. AO/JS/VRP/29-30/2017) in respect of Madhu Mohan Reddy and Pramod Reddy in matter of Midfield Industries Ltd*
13.	*Order dated 29.12.2017 (Ref. No. AO/SBM/EAD-3/103/2017) in respect of Vasantlal Vora in matter of Veritas India Ltd*
14.	*Order dated 09.01.2018 (Ref. No. EAD/KS/MKG/ AO/70/2017-18) in respect of Gajanan Enterprises in matter of Varun Industries Ltd*
15.	*Order dated 16.01.2018 (Ref. No. EAD-12/AO/SM/ 146-147/2017-18) in respect of Mr. Vicky Rajesh Jhaveri in the matter of Gravita India Ltd*
16.	*Order dated 22.03.2018 (Ref. No. EAD/KS/MKG/ AO/109/2017-18) in respect of GKN Securities in the matter of Ujaas Energy Limited*
17.	*Order dated 26.04.2018 (Ref. No. Order/SM/AR/ 2018-19/323-324) in respect of Setu Securities Pvt Ltd in the matter of PVP Ventures Ltd*
18.	*Order dated 28.03.2018 (Ref. No. EAD/KS/MKG/ AO/117/2017-18) in respect of R M Shares Trading Private Limited in the matter of Ujaas Energy Limited*
19.	*Order dated 21.06.2018 (Ref. No. EAD/SR/SM/ AO/35/2018-19) in respect of Priyasha Meven Finance Ltd in the matter of Twilight Litaka Pharma Limited*
20.	*Order dated 21.06.2018 (Ref. No. EAD/SR/SM/AO /33-34/2018-19) in respect of Primore Solutions Private Ltd in the matter of Twilight Litaka Pharma Limited*

21.	*Order dated 21.06.2018 (Ref. No. EAD/SR/SM/AO /32/2018-19) in respect of Mansukh Securities and Finance Ltd in the matter of Twilight Litaka Pharma Limited*
22.	*Order dated 21.06.2018 (Ref. No. EAD/SR/SM/ AO/31/2018-19) in respect of Kamal Kumar Jalan Securities Pvt Ltd in the matter of Twilight Litaka Pharma Limited*
23.	*Order dated 21.06.2018 (Ref. No. EAD/SR/SM/ AO/30/2018-19) in respect of Jashwant P Makwana HUF in the matter of Twilight Litaka Pharma Limited*
24.	*Order dated 21.06.2018 (Ref. No. EAD/SR/SM/AO /28-29/2018-19) in respect of Rajyog Share and Stock Broker in the matter of Twilight Litaka Pharma Limited*
25.	*Order dated 21.06.2018 (Ref. No. EAD/SR/SM/AO /27/2018-19) in respect of MBL & Company Ltd in the matter of Twilight Litaka Pharma Limited*

(ii) ***Mere occurrence of unintentional 'self-trade' on brokers terminal is not illegal***

We would like to draw your kind attention to the case of ***Krupa Sanjay Soni vs. SEBI*** *[Appeal 32 of 2013] wherein Hon'ble Securities Appellate Tribunal vide its Order dated 24.01.2014 opined that "…a few instances of self-trades in themselves would not, ipso facto, amount to an objectionable trades…" [Ref: Para 9 on Page 4 of Order]*

(iii) ***Exercise of due skill, care and diligence***

(a) With regard to exercise of due skill, and diligence; our attention is drawn to Order dated 25.11.2011 passed by Hon'ble Securities Appellate Tribunal in

*case of **SMC Global Securities Ltd vs. SEBI** (Appeal No. 176 of 2011) the relevant paragraph of which is reproduced as under:*

[Reference Para 5 on Page 5 of the Order]

"… Clause A (2) of the Code of Conduct mandates that a stock broker shall act with due skill, care and diligence in the conduct of all its business. Such due skill, care and diligence can only mean that broker shall act in such a way that a person of ordinary prudence would act in the normal circumstances in carrying out activities and functions relating to its business and will remain careful and diligent so that nothing untoward happens in the market or in the activities connected with it. <u>The appellant is a broker and hence will welcome orders for trading in the scrips by his clients. It is not in dispute that there was no default on the part of the clients in meeting with the market obligations. The two clients were squaring off their positions in accordance with the laid down norms at the relevant time. There was nothing remiss in the conduct of these clients that might have aroused suspicion that they were indulging in some manipulation. There is nothing on record to suggest that the appellant was in any manner involved in the manipulation that might have been done by the clients. In fact, there is no allegation in the show cause notice attributing knowledge of manipulative trades to the appellant.</u> The transactions were carried out by the sub-broker who is also responsible and bound by the code of conduct prescribed in the Regulations. <u>There was nothing untoward in the trades to generate alert on the risk monitoring system. In the absence of any alerts, the appellant who is having a large client base probably could not anticipate any foul play by the clients</u>. We are, therefore, of the view that, in the facts and circumstances of the case, the adjudicating officer erred in holding the appellant guilty of violating clause A (2) of the Code of Conduct specified in Schedule II of the Regulations.

(b) Besides; we would like to draw your kind attention to Order dated 29.07.2010 [Ref: SD/AO/88/2010] passed by Ld. Adjudication Officer in the

*case of **Indiabulls Securities Ltd** the relevant paragraph of which is reproduced as under:*

[Reference Para 12 on Page 13 of the Order]

"… 12. Further, there is no proof available on record to show that the Noticee had prior understanding with the connected clients to manipulate the said scrip. In absence of any additional evidence other than trading for connected clients it is difficult to establish the violation of Clause A (2) of code of conduct of said regulation by the Noticee. I agree with the submissions of Noticee that due diligence means doing everything reasonable as a prudent man would exercise in the conduct of his own affairs. I have carefully examined all the case laws cited and submitted by the Noticee and I am in conformity with the views expressed therein….

… In the absence of any substantial evidence, the mere charges against the Noticee that it failed to exercise due skill, care and diligence while trading for the said connected clients would not stand the test of legal scrutiny and the Noticee can be given a benefit of doubt in relation to the charges alleged against him in the scrip of KCL…"

(iv) ***Broker cannot be held liable for the alleged wrongdoings of client***

*(a) We would like draw your attention to the Order dated 13.08.2010 passed by Hon'ble Tribunal in the matter of **Vidyut Shah vs. SEBI** (Appeal No. 35 of 2007), the relevant paragraph of which is reproduced as under:*

[Reference Para 5 on Page 5 of the Order]

".... It is true that the whole time member has found the appellant guilty of violating the Code of Conduct but that is on the ground that he knowingly executed fictitious trades on behalf of his clients. Since we are not attributing knowledge of fictitious trades to the appellant, the charge of violating the code of Conduct must also fail...."

*(b) Similarly, vide Order dated 22.08.2007 in matter of **Pravin V. Shah Stock Broking Pvt. Ltd. vs. SEBI** (Appeal No. 126 of 2006), the Hon'ble Tribunal held as under:*

"…Having <u>held that no nexus had been established between the appellant and its clients</u>, the adjudicating officer in Para 12 of the impugned order jumped to the conclusion that the appellant had not exercised due skill and diligence and allowed its clients to generate artificial volumes. This finding is based on no material whatsoever and cannot, therefore, be upheld..."

(c) *In large number of cases the Hon'ble Securities Appellate Tribunal has opined that the broker cannot per se be held liable for the actions of his client unless it is established beyond reasonable doubt that broker acted in concert with client or broker was aware of the alleged 'fraud' being perpetrated by the client. In this regard, we would like to draw your attention to the case laws:*

Sr. No.	***Name of the Case***	***Date of Decision***
1.	*M J Patel Shares & Stock Brokers Limited v/s SEBI (Appeal No. 157 of 2004)*	*17.07.2006*
2.	*Ramaben Samani Finance Private Limited v/s The Adjudicating Officer, SEBI (Appeal No. 91 of 2006)*	*22.10.2007*
3.	*Networth Stock Broking Pvt. Ltd. v/s SEBI (Appeal No. 5 of 2012)*	*19.06.2012*
4.	*Rajendra Jayantilal Shah v/s SEBI (Appeal No. 118 of 2012)*	*16.07.2012*
5.	*Subhkam Securities Pvt. Ltd. v/s SEBI (Appeal No. 73 of 2012)*	*25.07.2012*

<u>Summary</u>

Summarily, we would like to submit as under:

(i) We <u>do not have any relationship, direct or indirect, with the said Company</u> viz. Urja Global Ltd, its Promoters/Directors and any of its allegedly connected entities.

(ii) While opening the client's trading account, we have <u>adopted KYC philosophy in letter and spirit</u>.

(iii) *We submit that <u>except brokerage; we did not derive any benefit on execution of alleged transactions</u>.*

(iv) *All the trades executed by the clients' were <u>within their financial and risk bearing capabilities</u>.*

(v) *The said clients' viz. Mr. Chetan Dogra and M/s Chetan Dogra HUF regularly met with its obligations of funds and securities qua us/ market.*

(vi) *At the relevant point of time, the <u>technology to track trades for order matching was not available with stock exchange</u>. The systems and mechanism for preventions of self-trade evolved and progressed in the recent years (i.e. after-2015) whereas impugned 'self-trades' in the scrip of Urja Global Ltd, have been executed way back before 8 years i.e. in the year 2010.*

(vii) *The volume of alleged transactions is <u>not a very significant volume as compared to the total volume</u>, which made it possible for the trades to slip under the radar despite all the precautionary measures. The miniscule volume of the trades shows that they were happening without our knowledge, consent or participation.*

(viii) *We believe that there is <u>no investor loss or complaint</u> in respect of our dealing in the scrip of Urja Global Ltd.*

9. Thereafter, the Noticee vide email dated January 29, 2020 was given another opportunity submit additional reply if it desired. However, the Noticee vide letter dated January 31, 2020 replied that it had submitted a comprehensive reply to the SCN and therefore additional submission is not required in the matter.

10. In view of the above, I am convinced that the Noticee was given sufficient opportunity to present its case before me and that the principle of natural justice have been complied with respect to the Noticee's matter

<u>CONSIDERATION OF ISSUES AND FINDINGS</u>

11. I have perused the documents available on record. The issues that arise for consideration in the present case are :

a. ***Whether the Noticee has violated the provisions of Clause A(2) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 7 (as existed at the relevant time) [now Regulation 9 (f)] of the SEBI (Stock Broker and Sub-Broker) Regulations, 1992?***

b. ***Whether the Noticee is liable for monetary penalty as prescribed under Section 15HB of SEBI Act, 1992 for the aforesaid violation?***

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

12. I note upon perusal of the documents/material available on record that the total traded volume during the investigation period was 10408589 shares and 2413770 shares during the price rise patch (October 1, 2010 to November 16, 2010). I note that the Noticee has executed 8 self-trades involving a total quantity of 5259 shares spread across 7 days for its clients Chetan Dogra and 31 self-trades involving a total quantity of 1522 shares spread across 12 days for its clients Chetan Dogra (HUF). The aforesaid self-traded quantity on behalf of Chetan Dogra represented 0.05% of the total traded volume during the investigation period and 0.21% of traded volume during the price rise patch. Similarly self-traded quantity on behalf of Chetan Dogra (HUF) represented 0.01% of the total traded volume during the investigation period and 0.06% of traded volume during the price rise patch.

13. I also note from the reply of the Noticee that most of self-trades executed by the Noticee on behalf of its clients were having negative LTP. Further, the Noticee has submitted that it had executed a total of 936 trades for 926904 shares on behalf of its client Chetan Dogra and 6218 trades for 1222840 shares on behalf of Chetan Dogra (HUF) during the investigation period. From the above, I find that self-trades executed by the Noticee were only about 2% the trades executed by its aforesaid clients, Chetan Dogra and Chetan Dogra (HUF). I also note from table 7 and table 8 of the reply of the Noticee in paragraph 8, that self-trades when compared to the market trades of these clients of the Noticee were minuscule.

14. I note that it is also a matter of record now, that SEBI has come out with a policy on issue of self-trades dated May 16, 2017 which states that intention is a sine qua non for establishing manipulation in case of self-trades and accidental/unintentional self-trades are not covered under Regulations 4(2)(a), 4(2)(b) and 4(2)(g) of SEBI (PFUTP) Regulations, 2003 which are the specific legal provisions applicable to self-trades. In view of the aforesaid policy of SEBI the relevant issue to decide herein is whether any manipulation is arising out of self-trades executed or any intention to enter into self-trades is evident from the material on record. The proof of fraudulent/manipulative transactions in these circumstances always depends on inferences drawn from a mass of factual details, the nature of transactions, conduct of the parties etc. It is difficult to prove intent by direct evidence in these types of manipulation and, therefore, circumstantial evidence has to be taken into consideration. Further, the circumstantial evidence should be sufficient to raise a presumption in its favour with regard to the existence of a fact sought to be proved. Since it is exceedingly difficult to prove facts which are especially within the knowledge of parties concerned, the legal proof in such circumstances partakes the character of a prudent man's estimate as to the probabilities of the case.

15. The Hon’ble Securities Appellate Tribunal (“**SAT**”) in the matter of *Ketan Parekh Vs. SEBI* (Appeal No. 2 of 2004 decided on 14.07.2006) observed that, “...*Any transaction executed with the intention to defeat the market mechanism whether negotiated or not would be illegal. Whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances because direct evidence in such cases may not be available. The nature of the transaction executed, the frequency with which such transactions are undertaken, the value of the transactions, whether they involve circular trading and whether there is real change of beneficial ownership, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn*.”

16. Hon'ble Supreme Court of India in the matter of *SEBI v Kishore Ajmera* (order dated February 23, 2016), observed the following with respect to synchronized trades and market manipulations:

"It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable / prudent man would adopt to arrive at a conclusion…

17. I note from the material/documents available on record that the Noticee as a trading member had bought 1555100 shares (14.94%) and sold 1949201 shares (18.73%) of UGL on BSE during the investigation period. Of the above, the clients of the Noticee namely Chetan Dogra and Chetan Dogra (HUF) have bought and sold 429291 Shares (4.29%) and 893486 shares (8.58%) and 715219 shares (6.87%) and 782345 shares (7.52%) respectively during the investigation period.

18. It is important to note here that the motive behind executing fraudulent self-trades can either be to artificially raise the volume in a scrip / or to manipulate the price of a scrip by way of creating misleading appearance of trading so as to induce others to deal in the particular scrip.

19. I note that volume transacted in self-trades is a factor to analyze the manipulative intention of a person as per the SEBI policy dated May 16, 2017 on the issue of self-trades. If the self-trades of the Noticee on behalf of its clients is considered in that background then it would not be appropriate to hold that there was a manipulative intent on the part of the Noticee to engage in intentional self-trades as the percentage of self-traded quantity of the Noticee on behalf of its clients [Chetan Dogra and Chetan Dogra (HUF)] to that of the market trade volume on BSE is 0.22% and is 0.06% only. Such

small percentage / volume of self-trades is miniscule as compared to the total trading in the said scrip during the investigation period.

20. I note that the Investigation Report has not brought out any allegation of price manipulation attributed to the Noticee's self-trades nor is there any evidence suggesting any fraudulent intention behind execution of such self-trades by the Noticee on behalf of its clients. I also note that there are no adverse observations regarding other forms of market manipulation i.e. synchronized trading, reversal trading or executing orders away from last traded price or creation of new high prices by way of first trades etc. against the Noticee in the investigation Report.

21. In view of the discussions in the foregoing paragraphs, I am inclined to conclude that violations of provisions of Clause A(2) of the Code of Conduct for Stock Brokers, Schedule II read with Regulation 7 (as existed at the relevant time) [now Regulation 9 (f)] of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 by the Noticee do not stand established. Since the alleged violations are not established against the Noticee, Issue b. and c. of Para-11, requires no consideration.

ORDER

22. For the aforesaid reasons, Show Cause Notice EAD/ADJ/PM/AA/OW/29511/2017 dated November 24, 2017 alleging violations of provisions of Clause A (2) of the Code of Conduct for Stock Brokers, Schedule II read with Regulation 7 (as existed at the relevant time) [now Regulation 9 (f)] of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 by the Noticee i.e. R. K. Stockholding Private Limited, is disposed of without imposition of penalty.

23. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to Noticee and also to the Securities and Exchange Board of India.

Date: February 28, 2020	**Prasanta Mahapatra**
Place: Mumbai	**Adjudicating Officer**