<u>**BEFORE THE ADJUDICATING OFFICER**</u>

<u>**SECURITIES AND EXCHANGE BOARD OF INDIA**</u>

[ADJUDICATION ORDER NO. Order/MC/RM/2021-22/13952]

UNDER SECTION 15-I (2) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995 AND UNDER SECTION 23-I (2) OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SECURITIES CONTRACTS (REGULATIONS) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of –

Link Intime India Pvt. Ltd. having address at C 101, 247 Park, Lal Bahadur Shastri Rd, Surya Nagar, Vikhroli West, Mumbai – 400083

In the matter of Atlanta Infrastructure and Finance Ltd.

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') initiated adjudication proceedings against Link Intime India Pvt. Ltd. (**Noticee)** under Section 15HB of SEBI Act for the alleged violations of SEBI RTI Circular No.1 (2000-2001) Dated May 9, 2001 by the Noticee, pursuant to investigation into trading of the scrip of Atlanta Infrastructure and Finance Ltd.

APPOINTMENT OF ADJUDICATING OFFICER

2. The undersigned was appointed as Adjudicating Officer (hereinafter referred to as '**AO**') *vide* order dated March 18, 2021 to inquire into and adjudge under Section 15HB of the SEBI Act, the aforesaid alleged violations against the Noticee. The appointment of the AO was communicated *vide* order dated March 24, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. EAD5/MC/ST/2021/16080 dated July 22, 2021 (hereinafter referred to as '**SCN**') was issued to the Noticee in terms of Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ('SEBI Adjudication Rules'), and Rule 4(1) of the Securities Contracts (Regulations) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005, ('SCR Adjudication Rules') to show cause as to why an inquiry should not be held and penalty not be imposed against Noticee in terms of Section 15HB of the SEBI Act, for the aforesaid alleged violations.

4. The allegations levelled against the Noticee in the SCN are summarized as below:

5. SEBI conducted an investigation into trading of the scrip of Atlanta Infrastructure and Finance Ltd., formerly known as Kadvani Securities Ltd. (hereinafter referred as '**Company/Atlanta**') for suspected manipulation of the scrip price.

6. During investigation, 2 sale transactions were observed on February 19, 2014 of 10,000 shares each by Kishorekumar L patel and Kishor L Kadvani. The Noticee, who was Registrar and Share Transfer Agent (RTA) of Atlanta, provided scanned copies of physical share transfer forms pertaining to the 2 sale transactions, transferring the shares to Mr. Amit Shantilal Mehta (transferee).

7. It emerged during investigation that Mr. Kishor L Kadvani had passed away on June 27, 2012 as per the death certificate from Rajkot Municipal Corporation submitted to SEBI by his son Mr. Ishan Kishor Kadvani on December 25, 2020. Hence, Noticee was advised to clarify as to how the shares were transferred from Mr. Kishor L Kadvani in 2014 after his death.

8. Noticee submitted that as per the share transfer deed executed between the entities, and since the transferor's signature was not available in their records, as per the process they had sent a notice dated January 17, 2014 by registered

post to transferor informing him about the transfer and in case he had any objection to the transfer then he had to send the objection in writing within 15 days from the date of the letter. Simultaneously, a letter was sent to the transferee intimating him that a precautionary notice had been sent to the transferor. Further, Noticee submitted that, no objection was reported to them in response to the said notice and hence the transfers were carried out following normal procedure and the transfer was processed on February 19, 2014. At the time when the transfer was effected, they had not received any intimation about the death of the transferor Mr. Kishor L Kadvani. Noticee did not submit any documentary evidence on whether the notices were delivered to the entities, stating the reason that the notices sent by registered post did not return undelivered to them by postal authorities. Further, Noticee stated that the transferor's signature was not available. However, the share transfer forms were observed to have a signature of the transferor.

9. In terms of Sr. no. 03 in Norms for objection of SEBI RTI Circular No. 1(2000-2001) dated May 09, 2001, in case of material difference in signature/s of transferor/s on Transfer Deed/s vis-à-vis specimen signatures recorded with the Company/RTA, the following procedure is to be followed by the Company/RTA:

"To send:

1. Objection memo along with documents as per General Guideline 18, in the prescribed format in original marking the reason as "material signature difference" to the transferee

2. Simultaneously, a copy of the objection memo to the transferor/s with an advice to lodge documents as detailed hereunder to facilitate the Company/STA to take on record fresh specimen signature: 3.2.1 an affidavit with the Company/STA as per Annexure-07"

10. Noticee was advised to provide details of rules/regulations/SEBI circulars in compliance with which the aforesaid transfers of shares from Mr. Kishorkumar L Patel and Mr. Kishor L Kadvani was processed.

11. Noticee replied that prior to SEB I(LODR) Regulations, 2015 which was notified in September 2015, there was no prescribed procedure laid down under SEBI regulations to be followed by the Issuer Companies/RTAs where signatures were not available. They had followed the normal process of sending a notice to the transferor and a letter to the transferee and transferred the shares as they did not receive any objections within 15 days of the letter.

12. In view of the above, the reply of Noticee was found unsatisfactory as the SEBI RTI Circular No. 1(2000-2001) dated May 09, 2001 clearly lays down the process to be followed by the RTAs where there are issues with signatures. As a registered RTA, Noticee should have followed the guidelines and formats laid down by SEBI.

13. In view thereof, **Noticee was alleged to have violated SEBI RTI Circular No. 1(2000-2001) dated May 09, 2001.**

14. The aforesaid alleged violations, if established, make the Noticee liable for monetary penalty under Section 15HB of the SEBI Act.

15. In response to the SCN, Noticee filed the reply to the SCN vide letter dated September 17, 2021. Opportunity of hearing was provided to the Noticee through video conferencing on September 21, 2021. Advocate Shruti Ranjan, and Mr. B N Ramakrishnan, Chief Compliance Officer (Linkintime India Pvt. Ltd.), the authorised representatives (AR) of the Noticee, attended the hearing and reiterated the submissions made in its reply along with few additional submissions. Vide letter dated October 11, 2021 Noticee also filed post hearing submissions.

16. The key submissions of the Noticee are reproduced below:

17. Delay in initiation of the proceedings: the allegations framed in the Notice relate to the processing of two physical share transfer forms by the Noticee in February

2014 i.e., more than seven years prior to the issuance of the Notice. The initiation of proceedings by SEBI after such inordinate delay severely prejudices the ability of the Noticee to adequately respond to the Notice in light of the dated nature of facts surrounding the process of physical transfer.

18. Clubbing of the case of Noticee with the other Noticees is gravely prejudicial: the other persons/entities arrayed in the SCN have been alleged to have violated the provisions of SEBI (Prohibition of Insider Trading) Regulations, 2015 and SEBI (Prohibition of Fraudulent and Unfair Trade Practice) Regulations, 2003. Ex facie there is no allegation of collusion between those persons/entities and the Noticee. On the other hand, the allegation with respect to the Noticee (at best) is one of a venial technical breach. As such, the clubbing of the case of Noticee with the other Noticees is improper since it gives an incorrect impression of collusion between Noticee and such other individuals/entities. Such clubbing is gravely prejudicial to Noticee, not only in terms of the reputational harm which may be sustained by Noticee but also in terms of the ability of Noticee to defend itself in the instant proceedings.

19. Erroneous interpretation of the SEBI Circular: SEBI RTI Circular No. 1 (2000-2001) dated May 09, 2001 ("SEBI Circular") was not applicable in the instant facts and, at that time, there was no specific procedure laid out by SEBI in relation to non-availability of signature. It is clarified that this obligation came only upon the enactment of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LOD Regulations") in September 2015. Further, SEBI LOD Regulations also cast an obligation on the listed entity and accordingly no consequence can be foisted upon an RTA. Prior to September 2015, this specific field with respect to 'absence of specimen signatures' was unoccupied and not legislated for, and there was no requirement of issuing objection memos in cases of absence of specimen signatures. The Noticee did not have in its records the specimen signatures of the Transferor(s) in the matter, whereas SEBI has proceeded to levy a charge of 'material difference in signature'. It is respectfully submitted that the Respondent has canvassed an erroneous interpretation of the

SEBI Circular. There is absolutely no link drawn in the aforesaid Circular between an instance of ‘material signature difference’ and one of ‘absence of record of specimen signatures’.

20. Bonafide intention of the Noticee: Noticee followed the best practices in this case, which is also analogous to the process envisaged in the said 2001 Circular inasmuch as it issued notices to the transferors, viz. Mr. Kishorkumar L Patel and Mr. Kishor L Kadvani informing them about the transfer lodged with them in respect of transfer of 20,000 shares to Amit Shantilal Mehta. The transferor(s) were further informed that in case they had any objection with respect to the transfer, they should send an objection in writing within a period of 15 days from the date of letter. Therefore, the Noticee in fact pre-empted the requirement as laid down in the present framework and issued an objection notice, thereby implementing practices that were well ahead of their time and in keeping with the spirit of rules that were yet unlegislated for. The Noticee had simultaneously sent a letter to the transferee intimating him that a precautionary notice had been sent to the transferor(s) for the shares lodged by him for transfer.

21. Noticee had received the transfer form duly executed along with the original share certificate/s and the details on the share certificate/s i.e. Certificate Number, Distinctive Numbers, Folio No., Name of the Shareholder matched with the database in the records of the RTA and since no objection was received from the transferors, the physical transfers were carried out and the transfers was processed on February 19, 2014 i.e. after more than 30 days of issue of notice (in excess of the 15 days specified in the said notices). The Letters were not returned undelivered to Noticee by the postal authorities.

22. The only basis of the charge against Noticee was the non-availability of proof of receipt of the notices sent to the transferors – which would be impossible to gather after the long passage of time. Noticee has submitted proofs of dispatch, which forms part of Annexure – 4 to the SCN.

23. Noticee was never aware of the death of one of the Transferors and came to know of this only when SEBI informed about the same when they were seeking data/details from time to time from Noticee when the proceedings were initiated. The promoter/promoter group entities or the listed company did not make any disclosure to the Noticee. An RTA can seldom independently determine these facts since its privity is with the listed entity and not its shareholders.

24. The issue of the non-availability of specimen signatures remains an industry vide problem and despite tremendous efforts by the Noticee, there is unavailability of signatures since investors did not provide the signatures despite repeated requests by the Noticee pursuant to Circular No. SEBI/HO/MIRSB/DOP1/CIR/P/2018/73, dated 20 April 2018.

25. There was no connection of Noticee with the other entities in the Notice and that no such allegation had also been raised. Further, it is not the case that the shares with which Noticee was concerned were used onwards by any entity to manipulate the market, nor was the transferee arrayed as a party to the instant Notice.

26. In light of the above, Noticee submitted that no penalty is warranted against it in the facts of the present case.

27. As the inquiry in the matter is complete, I now proceed to decide the matter on the basis of SCN issued, reply received and material placed on record.

CONSIDERATION OF ISSUES AND FINDINGS

28. The issues that arise for consideration in the instant matter are:

Issue No. I Whether the Noticee violated SEBI RTI Circular No. 1(2000-2001) dated May 09, 2001?

Issue No. II	If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15HB of the SEBI Act?
Issue No. III	If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue No. I Whether the Noticee violated SEBI RTI Circular No. 1(2000-2001) dated May 09, 2001?

29. Before going into the merits of the case, I note that the Noticee contends that the Noticee is prejudiced by the delay of 7 years in the matter. In this regard, I note that no limitation is prescribed in SEBI Act or Regulations for issuance of SCN or for completion of the Adjudication proceedings. I further note that a report was received from BSE in year 2015, and the Investigation was initiated in year 2015 and the matter was concluded in the February, 2021. The appointment of the undersigned in the matter was made in March, 2021. Hence, it cannot be said that there is inordinate delay in the initiation of the instant proceedings against the Noticee.

30. The allegations against the Noticee are based upon execution of sale transactions that resulted in transfer of 10,000 shares each from Mr. Kishor L Kadvani and Mr. Kishorkumar L Patel to Mr. Amit Shantilal Mehta on February 19, 2014, whereas, Mr. Kishor L Kadvani had passed away on June 27, 2012. The Noticee is alleged to have not followed the procedure laid down in SEBI RTI Circular No. 1(2000-2001) dated May 09, 2001 in case of material difference in signature(s) of transferor(s) on Transfer Deed(s) vis-à-vis specimen signatures recorded with the Company/RTA.

31. The Noticee, has contended that aforesaid Circular was not applicable in the instant facts since in these transfers, the signature of transferors was not

available with the Noticee, and, at that time, there was no specific procedure laid out by SEBI in relation to non-availability of signature.

32. In this regard, I from the SCN and material on record that it is not disputed that the signatures of the transferor were not available with the Noticee. Hence, I accept the Noticee's submission that they did not have specimen signatures of the transferor Kishor L Kadvani in their records. The SCN states that the transfer form had signature of transferor. However, in absence of specimen signature, the signature on transfer form could not be compared to establish material difference, if any.

33. I note that guidelines specified in the aforesaid circular, for the norms of objection provides the procedure to be followed by the RTA in cases of material difference in signature(s) of transferor(s) on Transfer Deed(s) vis-à-vis specimen signatures recorded with the Company/STA. Further, in aforesaid circular the procedure to be followed for cases of non-availability of the signature is not prescribed. The procedure to be followed for registering transfer of securities, in cases of non-availability of the signature of the transferor(s) was specified much later in September 2015 in SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

34. Since, there was no procedure prescribed in applicable circular in respect of non-availability of the signature, the procedure specified in the aforesaid circular relating to material difference in signature/s of transferor/s on Transfer Deed/s vis-à-vis specimen signatures was not applicable in the instant case. The Noticee was well within its rights to adopt a standard procedure for such cases based on reasonable due diligence and then consistently follow the adopted procedure. Further, I also note that the Noticee issued notices to transferors informing them about the transfer requests lodged with Noticee and seeking objections if they have any, within 15 days from the date of the letter. Noticee executed the transfers after more than 30 days from issuance of letters. There is nothing on record to indicate whether there was any objection raised by the transferors in

respect of these transfer requests. I also note that there is dispatch proof on record in support of Noticee's claim of issuing letters/notices to the transferors.

35. Further, there is nothing on record, to indicate that the Noticee was privy to information regarding death of one of the transferor at the time of executing the transfer request or if the same was brought to the knowledge of the Noticee.

36. In view of the above, material on record does not establish that these transfers were cases where there was material difference in the signature of the transferors on transfer deeds vis-à-vis specimen signatures recorded with the Company/STA. Therefore, the procedure specified at Sr. no. 03 in Norms for objection of SEBI RTI Circular No. 1(2000-2001) dated May 09, 2001 was not applicable in the impugned transfer of shares.

37. Hence, I am of the view that based on material on record, allegation of violation of SEBI RTI Circular No. 1(2000-2001) dated May 09, 2001 by the Noticee is not established**.**

38. As the violations alleged against the Noticee is not established, issues II and III do not merit consideration.

ORDER

39. In view of the findings noted in the preceding paragraphs, the adjudication proceedings initiated against the Noticee vide SCN dated July 14, 2021 is disposed of.

40. Copy of this Adjudication Order is being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

DATE: October 28, 2021	**MANINDER CHEEMA**
PLACE: MUMBAI	**ADJUDICATING OFFICER**