BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. MC/CB/2018-19/46]

UNDER SECTION 15-I (2) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

In respect of –

Liberal Properties Private Limited (PAN: AABCL4238R) having address at – 223 DDA Office Complex, Jhandewalan Extension, New Delhi – 110 055

In the matter of *Dealing in Illiquid Stock Options at the BSE*

BACKGROUND

1. Securities and Exchange Board of India (hereinafter be referred to as, the "***SEBI***") conducted investigation into the trading activity in illiquid stock options which are listed on the Bombay Stock Exchange Limited (hereinafter be referred to as, the "***BSE***") for the period April 01, 2014 to September 30, 2015 (hereinafter be referred to as, the "***Investigation Period***") after observing large scale reversal of trades in the Stock Options segment of the BSE.

2. Investigation revealed that during the Investigation Period, a total of 2,91,643 trades comprising 81.38% of all the trades executed in the BSE Stock Options Segment were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. Liberal Properties Private Limited (hereinafter be referred to as, the "***Noticee***") was one such client whose reversal trades involved squaring off transactions with significant difference in sell value and buy value of the transactions. The aforesaid reversal trades allegedly resulted into generation of artificial volumes by the aforesaid clients and counterparties, leading to allegations that the Noticee had violated Regulation 3(a), (b), (c), (d) and Regulation 4(1), 4(2) (a) of the SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter be referred to as, the "***PFUTP Regulations***".

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter be referred to as, the "***SEBI Act***") read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter be referred to as, the "***Adjudication Rules***") *vide* order dated May 31, 2018 to inquire into and adjudge under Section 15HA of the SEBI Act against the Noticee for the alleged violation of aforesaid provisions of PFUTP Regulations. The appointment of the AO was communicated *vide* order dated June 04, 2018.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Show Cause Notice No. EAD5/MC/CB/29148/1/2018 dated October 17, 2018 (hereinafter be referred to as, the "***SCN***") was served upon the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against him under Section 15HA of the SEBI Act for alleged violations of Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of the PFUTP Regulations.

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

a) The Noticee was one of the entities which indulged in reversal trades which allegedly created false and misleading appearance of trading, generating artificial volumes in Stock Options segment of the BSE during the Investigation Period.

b) The Noticee is alleged to have engaged in 20 such reversal trades in 8 unique contracts, which *allegedly* led to generation of artificial volume of 6182000 units, between March 23, 2015 and March 30, 2015.

c) The trades entered by the Noticee were reversed on the same day with same counterparties at a substantial price difference without any basis for significant change in the contract price which indicates that these trades are artificial and are non-genuine in nature.

d) A summary of dealings of the Noticee in 8 such Stock Options contracts in which the Noticee allegedly executed non-genuine reversal trades during the Investigation Period, as provided in the SCN is reproduced as under:

S. No.	Contract Name	Avg. Buy Rate (Rs.)	Total Buy Volume (no. of units)	Avg. Sell Rate (Rs.)	Total Sell Volume (no. of units)	% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
1.	ANBK15APR60.00CEW2	26.60	400000	19.10	400000	100%	27%
2.	DISH15MAR90.00CE	1.15	500000	0.15	500000	100%	10%
3.	HDFC15APR1290.00CE	99.00	40000	49.00	40000	100%	50%
4.	LNTF15APR45.00CEW1	26.35	172000	18.82	172000	100%	37%
5.	PNBK15APR165.00PE	19.00	195000	9.00	195000	100%	100%
6.	PTCI15APR70.00PEW1	2.35	284000	0.05	284000	100%	10%
7.	RCOM15MAR70.00CE	1.05	500000	0.05	500000	100%	14%
8.	TATP15MAR90.00CE	0.55	1000000	0.05	1000000	100%	37%

e) By indulging in execution of aforesaid non-genuine reversal trades, the Noticee was alleged to have violated Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of the PFUTP Regulations, text of which is reproduced as under:

*"**SEBI (Prohibition of Fraudulent and Unfair Trading Practices Related to Securities Markets) Regulations, 2003***

3. Prohibition of certain dealings in securities

No person shall directly or indirectly -

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made thereunder;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in

contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud or may include all or any of the following, namely:-

(a) indulging in an act which creates false or misleading appearance of trading in the securities market;

…..”

6. It was stated in the SCN that the aforesaid alleged violations, if established, would make the Noticee liable for monetary penalty under Section 15HA of the SEBI Act. The SCN was served upon the Noticee by way of Speed Post with Acknowledgment Due (hereinafter be referred to as, the “**SPAD**”) and also by way of e-mail at the address(es) of the Noticee, an acknowledgment of which is available on record. The Noticee was also advised to file his reply, if any, within 14 days from the receipt of the SCN. However, no reply towards the SCN was received from the Noticee.

7. After considering the facts and circumstances of the case, the undersigned granted an opportunity of personal hearing to the Noticee on November 14, 2018 *vide* Notice of Hearing dated November 02, 2018. Thereafter, *vide* e-mail dated November 13, 2018, the Noticee communicated its inability to appear in the hearing and requested an adjournment in the same, which was granted.

8. Thereafter, the Noticee submitted his reply towards the SCN *vide* letter dated November 22, 2018. Submissions of the Noticee are summarized as under:

a) The Noticee submitted that the trade data as shown in the trade log is just a matter of co-incidence. It submitted that allegations levelled against the Noticee regarding facts, validity and correctness of the details, is correct and does not attract any dispute. However, the transactions on Stock Options segment of the BSE with respect to rate, quantity and time difference of the respective buy trade or sale trade orders is just a matter of chance / co-incidence.

b) The Noticee denied any relations with other entities and stated that there is no other vested interest involved in the instant matter.

c) The Noticee also denied involvement of artificially inflating the price or creating false volume through continuous self-deals

9. Thereafter, a final opportunity of hearing was granted to the Noticee on December 20, 2018 which was communicated *vide* Notice of Hearing dated December 07, 2018. The hearing scheduled on December 20, 2018 was attended by Mr. Rajeev Kumar Choudhary who was appointed as authorized representative by the Noticee (hereinafter be referred to as, the "***Authorized Representative***"). During the hearing, the Authorized Representative reiterated the submissions made in the written reply of the Noticee dated November 22, 2018.

10. Since the inquiry in the instant matter is concluded, I proceed to decide the case on merit keeping into account the allegations mentioned in the SCN, submissions of the Noticee towards the SCN and material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

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

Issue No. I Whether reversal trades in illiquid Stock Options carried out by the Noticee during the Investigation Period were in violation of Regulations 3(a), (b), (c), (d) and 4(1) & 4(2)(a) of the PFUTP Regulations?

Issue No. II If yes, whether the violation, on the part of the Noticee would attract monetary penalty under Section 15HA 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 reversal trades in illiquid Stock Options carried out by the Noticee during the Investigation Period were in violation of Regulations 3(a), (b), (c), (d) and 4(1) & 4(2)(a) of the PFUTP Regulations?

12. The allegation that the Noticee carried out reversal trades is directly supported with evidence from the trade log containing records of all trades and reversal trades carried out by the Noticee in the Stock Options segment of the BSE during the Investigation

Period and which were provided to the Noticee by way of ***Annexure B*** and ***Annexure C*** to the SCN. On perusal of the details of trades carried out by the Noticee, it is observed that the Noticee indulged in 20 reversal trades in 8 unique contracts during the period March 23 – March 30, 2015.

13. To illustrate, on March 23, 2015 at 10:47:58 hrs, the Noticee purchased 500000 units of a contract named DISH15MAR90.00CE from counterparty, *Chirag Khaitan* at a rate of Rs. 1.15/- per unit. Thereafter, at 11:45:57 hrs. on the same day, the Noticee sold the same 500000 units of the contract named DISH15MAR90.00CE back to the counterparty, *Chirag Khaitan* at a rate of Rs. 0.15/-. Similarly, on the same day at 11:44:54 hrs, the Noticee purchased 1000000 units of a contract named TATP15MAR90.00CE from the counterparty, *Sunil Kumar Khaitan (HUF)* at a rate of Rs. 0.55/- per unit. Thereafter, at 12:17:25 hrs. on the same day, i.e. within 32 minutes of executing the said buy trade, the Noticee sold the 1000000 units back to the counterparty, *Sunil Kumar Khaitan (HUF)* at a rate of Rs. 0.05/- per unit.

14. Similarly, on March 23, 2015 at 12:19:23 hrs., the Noticee purchased 500000 units of a contract RCOM15MAR70.00CE from counterparty, *Pradeep Kumar Khaitan (HUF)* at a rate of Rs. 1.05/-. Thereafter, at 13:29:38 hrs on the same day, the Noticee sold the same 500000 units of the same contract back to the counterparty, *Pradeep Kumar Khaitan (HUF)* at a rate of Rs. 0.05/-. It is also observed that on March 23, 2015 at 14:49:31 hrs., the Noticee purchased 284000 units of a contract PTCI15APR70.00PEW1 from counterparty, *Saket Gadodia HUF* at a rate of Rs. 2.35/- Thereafter, at 15:15:39 hrs. on the same day, the Noticee sold 284000 units of the same contract back to the counterparty *Saket Gadodia HUF*, at a rate of 0.05/-.

15. From the aforesaid, it is noted that on March 23, 2015, the Noticee carried out 8 reversal trades with same counterparties in 4 unique contracts. A similar *modus operandi* is seen to be adopted by the Noticee in its trades on March 24, 2015, March 26, 2015, March 27, 2015 and March 30, 2015. It is also noted that all the trades, buy or sell, of the Noticee were reversed within minutes of execution of the first sell / buy trade. . It is also noted that of the 20 trades carried out by the Noticee, 16 trades resulted from orders which were synchronized to a few seconds, ranging from less than 1 second to 51 seconds. Of the 4 trades where the orders were entered a few minutes apart, the prices of the buy and sell orders were identical in 3 of the trades as also in the case of 16 synchronized trades. .

16. From the reply of the Noticee, I note that the Noticee has not disputed execution and subsequent reversal of trades as alleged in the SCN. However, the Noticee, without giving any justification, has merely stated these trades to be a matter of coincidence; which in my considered view, cannot be accepted.

17. I note that the Noticee in its reply had stated the trade details in respect of rate, quantity and time difference of respective buy or sell trade to be a matter of chance. I also note that the Noticee has denied any relation with / knowledge of the other entities and has claimed to have traded on a fully controlled (by the BSE) platform. I have considered the aforementioned submission of the Noticee. At this juncture, I find it relevant to refer to the decision of the Hon'ble Supreme Court in the matter of ***Securities and Exchange Board of India*** v. ***Kishore R. Ajmera*** [(2016) 6 SCC 368 : AIR 2016 SC 1079] wherein, the Supreme Court has held, "*…According to us, knowledge of who the 2nd party / client or the broker is, is not relevant at all. While the screen based trading system keeps the identity of the parties anonymous it will be too naïve to rest the final conclusions on the said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming. The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned….*"

18. I also find it relevant to refer to the decision of the Supreme Court in the matter of ***Securities and Exchange Board of India*** v. ***Rakhi Trading Private Limited*** (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 dated February 08, 2018) wherein, the Hon'ble Supreme Court while cumulatively analysing the reversal transactions held that, "…*quantity, time and significant variation of prices, without major variation in the underlying price of the securities clearly indicate that Respondent's trades are not genuine and hand only misleading appearance of trading in the securities market…..*".

19. Applying the ratio of the Supreme Court in the matter of ***Kishore R. Ajmera*** (*supra*) and ***Rakhi Trading*** (*supra*), I am of the view that while synchronized trades may occur by accident in a liquid stock, execution of synchronized trades in an illiquid market with anonymous trading indicates a prior meeting of mind with a view to execute the reversal trades at a pre-determined price. I am also of the view that there is no justification for the wide variation in prices of the same contract, within minutes and some, even seconds, except for an element of pre-determination in the prices by both counterparties when reversing the trades. Thus, the nature of trading as brought out above clearly indicates an element of prior meeting of minds and therefore, a collusion to carry out trades at pre-determined prices. Therefore, the submission of the Noticee that the trades carried out by the Noticee during March 23 – 30, 2015 (which have been discussed in the preceding paragraphs) and details thereof, i.e. rate, quantity and time difference were merely a coincidence and thus, were genuine cannot be accepted.

20. I also note that as brought out in the SCN, the Noticee generated a total trading volume of 6182000 units in 8 unique contracts through reversal of trades between March 23, 2015 to March 30, 2015, details of which is reproduced as under:

S. No.	Contract Name	Avg. Buy Rate (Rs.)	Total Buy Volume (no. of units)	Avg. Sell Rate (Rs.)	Total Sell Volume (no. of units)	% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
1.	ANBK15APR60.00CEW2	26.60	400000	19.10	400000	100%	27%
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4.	LNTF15APR45.00CEW1	26.35	172000	18.82	172000	100%	37%
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6.	PTCI15APR70.00PEW1	2.35	284000	0.05	284000	100%	10%
7.	RCOM15MAR70.00CE	1.05	500000	0.05	500000	100%	14%
8.	TATP15MAR90.00CE	0.55	1000000	0.05	1000000	100%	37%

21. From the table reproduced above, I note that the Noticee, on an average contributed 35.65% of the volume in the contracts traded, and in 5 of the 8 such contracts, the volume contribution by the Noticee was 50% which indicates a general lack of public participation in trading of such contracts.

22. Considering the synchronized manner of placing buy and sell orders within minutes of each other, reversing of the trades within a short time with widely varying prices of the two legs of trade in the same contract without any basis for such wide variation, I find that the reversal trades executed by the Noticee were *non-genuine* in nature and created an impression of ratification trading volumes in respective contracts. I am of the view that by engaging in such trades, the Noticee has violated provisions of Regulation 4(2)(a) of the PFUTP Regulations, which states that dealing in securities will be deemed to be a fraudulent or unfair trade practice if it involves "*indulging in an act which creates false or misleading appearance of trading in the securities market*".

23. I find it pertinent to place reliance on the decision of the Supreme Court in ***Rakhi Trading*** (*supra*) wherein, the Supreme Court while decision upon a case involving execution of reversal trades in index options, observed, "*the traders thus having engaged in a fraudulent and unfair trade practice while dealing in securities are hence liable to be proceeded against for violation of Regulations 3(a), 4(1) and 4(2)(a) of the PFUTP Regulations*."

24. In view of the aforesaid, I find that the Noticee, by engaging in such non-genuine transactions, created a misleading impression of trading in respective contracts while dealing in Stock Options contracts in a fraudulent manner. I am of the considered view that the aforesaid act of the Noticee is in clear violation of Regulations 3(a), 4(1) and 4(2) (a) of the PFUTP Regulations.

Issue No. II **If yes, whether the violation, on the part of the Noticee would attract monetary penalty under Section 15HA 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?**

25. Since violation of Regulations 3(a), 4(1) and 4(2) of the PFUTP Regulations by the Noticee is established, I am of the view that the same warrants imposition of monetary penalty upon the Noticee under Section 15HA of the SEBI Act, text of which is produced as under :

> ***SEBI Act***
>
> "***Penalty for fraudulent and unfair trade practices.***
> *15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five*

crore rupees or three times the amount of profits made out of such practices, whichever is higher."

26. While determining the quantum of penalty under Section 15HA of the SEBI Act, the following factors stipulated in Section 15J of the SEBI Act, have to be given due regard:

a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

27. As established in the preceding paragraphs, the trades carried out by the Noticee were non-genuine in nature and created a misleading appearance of trading. As brought out earlier, such trades were carried out by the Noticee in illiquid stock options contracts where there was negligible participation by the public. Investigation has shown amount of profit / loss of the counterparties to the trades as a result of such non-genuine trades. However, considering that the violation by the Noticee is creation of artificial trading volumes by trading between two counterparties and wider market is not involved in the trades, the trades are such that one of the counterparty books a profit while the other counterparty books a loss. Hence, it would be appropriate to consider the impact of these transactions between the two counterparties in totality. When the impact of artificial volumes created by the two counterparties is seen as a whole, it is not possible from the material available on record to quantify the amount of disproportionate gain or unfair advantage resulting from the artificial trades between the counterparties or the consequent loss caused to investors as a result of the default.

28. It is reiterated that during the Investigation Period, the Noticee has contributed to artificial volumes in 8 contracts through 20 reversal trades on 5 days and thereby, has contributed around 0.01% of the artificial reversal trades in the securities market during the Investigation Period.

29. Therefore, taking into account the facts and circumstances of this matter, mitigating factors and the proportions of trading carried out by the Notieee as compared to the total volume of reversal trades in the market during the Investigation Period, I am of the view that a penalty of ₹5,00,000 will be commensurate with the violations of Regulations 3(a), 4(1) and 4(2)(a) of the PFUTP Regulations committed by the Noticee.

ORDER

30. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15I (2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of ₹5,00,000/- (Rupees Five Lakh only) upon the Noticee, i.e. Liberal Properties Private Limited under Section 15HA of the SEBI Act for violation of Regulation 3(a), 4(1) and 4(2)(a) of the PFUTP Regulations.

31. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through e-payment facility into Bank Account the details of which are given below:

Account No. for remittance of penalties levied by Adjudication Officer	
Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

32. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – Division of Regulatory Action – I of SEBI. The Noticee shall provide the following details while forwarding DD/ payment information:

a) Name and PAN of the entity (Noticee)
b) Name of the case / matter
c) Purpose of Payment – Payment of penalty under AO proceedings
d) Bank Name and Account Number
e) Transaction Number

33. Copies of this Adjudication Order are being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

Date : December 28, 2018 **(Maninder Cheema)**

Place : Mumbai **Adjudicating Officer**