BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. EAD-2/DSR/KM/PU/63-70/2014]

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 BY ADJUDICATING OFFICER) RULES, 1995

In respect of

1. **Shri Shanti Ranjan Paul [PAN :AFFOPP0218E]**
2. **Ms. Manjula H. Parekh [PAN : ACDPP2409F]**
3. **Ms. Mona Parekh [PAN :ANVPP5856H]**
4. **Shri Nikhil Parekh [PAN :AKJPP5964B]**
5. **Ms. Ramaben Jayasukhlal Parekh [PAN :ACDPP2412N]**
6. **Shri Hasmukh Parekh [PAN :AFTPP2385R]**
7. **Shri Mehul Jayasukh Parekh [PAN :AIDPP5714F]**
8. **Mehul International Ltd [PAN :AABCM6854E]**

In the matter of

Shelter Infra Projects Ltd.

Background

1. The Securities and Exchange Board of India (hereinafter referred to as "SEBI") carried out an investigation into the alleged irregularity in the scrip of M/s Shelter Infra Projects Limited (previously known as Central Concrete and Allied Products Private Limited)(hereinafter referred to as '**SIPL**' or '**the company**') for the period from April 01, 2009 to September 22, 2009 (hereinafter referred to as the '**investigation period**') during which the price of the scrip increased from ₹ 9.0 to a high of ₹ 62.05, i.e. a rise of 589%.

2. The Investigation, *inter-alia,* had revealed that SIPL had entered into a Share Purchase Agreement, to be executed between SIPL and the proposed acquirers, M/s Ramayana Promoters Pvt. Ltd. on July 31, 2009 for the sale of the issued and subscribed equity share capital of the company held by the erstwhile promoters, as also change in

management of the company. It was alleged that Shri Shanti Ranjan Paul (hereinafter referred to as Noticee No. 1), director of SIPL has allegedly passed on Unpublished Price Sensitive Information (UPSI) to Ms. Manjula H. Parekh, Ms. Mona Parekh, Shri Nikhil Parekh, Ms. Ramaben Jayasukhlal Parekh, Shri Hasmukh Parekh, Shri Mehul Jayasukhlal Parekh and Mehul International Ltd.(hereinafter referred to as Noticee Nos. 2 to 8 respectively or 'Parekh Group entities') and thereby facilitating them to trade in the scrip of SIPL just before the period of the open offer.

3. SEBI has, therefore, initiated adjudication proceedings under the SEBI Act to inquire into and adjudge the alleged violations of Regulation 3 (ii) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as PIT Regulations) against Noticee No. 1 and Regulations 3(i), 3 (ii) and 4 of the PIT Regulations against Noticees Nos. 2 to 8. (Noticee Nos. 1 to 8 are hereinafter collectively referred to as '**the Noticees**').

Appointment of Adjudicating Officer

4. I have been appointed as the Adjudicating Officer, in place of previous Adjudicating Officer, vide order dated August 29, 2013 under section 15 I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act") read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as " Adjudication Rules") to inquire into and adjudge under Section 15 G of the SEBI Act, the alleged violation of the provisions of law by the Noticees.

Show Cause Notice, Reply and Personal Hearing

5. A common show cause notice dated August 29, 2012 (hereinafter referred to as "SCN") was issued to the Noticees under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty should not be imposed on them under Section 15 G of the SEBI Act for the alleged violation of the provisions of Regulation 3 (ii) of the PIT Regulations against Noticee No. 1 and Regulations 3(i), 3 (ii) and 4 of the PIT Regulations against Noticee Nos. 2 to 8. Noticee No. 1 had submitted his replies vide letters dated October 05, 2012, December 20, 2012 and August 19, 2013, while Noticees Nos. 2 to 8 submitted their replies vide letters dated September 18, 2012.

6. After considering the replies submitted by the Noticees, the then AO, Shri. P.K. Kuriachen decided to conduct an inquiry in the matter and accordingly, granted an opportunity of personal hearing to the Noticees on October 19, 2012 vide letter dated October 03, 2012. Noticee No. 1 vide his letter dated October 18, 2012, sought an adjournment of the hearing. Accordingly, he was granted another opportunity of personal hearing on November 30, 2012 vide letter dated November 20, 2012. Vide letter dated December 03, 2012, Noticee No.1 informed that he has received the hearing notice only on December 03, 2012 and therefore, sought another opportunity of personal hearing. Considering his request, another opportunity of personal hearing was granted to him on December 20, 2012 vide letter dated December 07, 2012. Thereafter, the Noticee No. 1 attended the said hearing on December 20, 2012 and reiterated the submissions made by him in his reply dated dated October 05, 2012 and further submitted additional written submissions. Consequent to Shri P.K. Kuriachen's deputation, Ms. Anita Kenkare was appointed as the Adjudicating Officer, who granted another opportunity of personal hearing on August 19, 2013 vide letter dated August 05, 2013, however, the Noticee No.1 sought an adjournment. Consequent to my appointment, in the interest of natural Justice, another opportunity of personal hearing was granted to Noticee No.1 on December 04, 2013 vide letter dated November 21, 2013, and the Noticee No. 1 appeared before me and reiterated his written submissions.

7. The authorized representatives for Noticee Nos. 2 to 8 attended the hearing on October 19, 2012 and reiterated the submissions made in their replies dated September 18, 2012. Consequent to Shri P.K. Kuriachen's deputation, Ms. Anita Kenkare was appointed as the Adjudicating Officer, who granted another opportunity of personal hearing on August 19, 2013 vide letter dated August 05, 2013. The authorised representative Mr. Surendra Kumar Jain appeared on behalf of the Noticee Nos. 2 to 8 and submitted that they were not aware of Noticee No.1 playing the front role in executing the deal regarding the sale of whole of SIPL and all discussions related to the deal. He also submitted that there was no partnership agreement between Noticee No. 1 and Noticee No. 2 regarding purchase of land for which Noticee No.1 extended ₹ 25,000/- and ₹ 20,000/- to her on two occasions. He further submitted that there was no land identified to that extent. Furthermore, there is no loan agreement for the interest paid towards transactions between the Noticee Nos. 2 to 8 and Noticee No.1 and the details regarding the same will be forwarded to SEBI on or before August 23, 2013. Consequent to my appointment, vide letter dated November 21, 2013, in the interest of natural Justice,

another opportunity of personal hearing was granted to the Noticee Nos. 2 to 8 on December 04, 2013. The authorised representative Mr. Surendra Kumar Jain appeared again on behalf of Noticee Nos. 2 to 8 and reiterated their written submissions.

Issues, Evidence and Findings

8. I have carefully perused the charges made against the Noticees as mentioned in the SCN, written and oral submissions and all the documents available on record. In the instant matter, the following issues arise for consideration and determination:

a) Whether Noticee No. 1 has violated Regulation 3 (ii) of the PIT Regulations and whether Noticees at Serial Nos. 2 to 8 have violated Regulations 3 (i), 3 (ii) and 4 of the PIT Regulations ?

b) Whether the Noticees are liable for penalty under Section 15G of the SEBI Act?

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

9. Now, I would like to refer to the relevant provisions of the PIT Regulations which read as under:

<u>**Insider Trading Regulations**</u>

Prohibition on dealing, communicating or counseling on matters relating to insider trading.

3. *No insider shall—*

(i) *either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange when in possession of any unpublished price sensitive information; or*

(ii) *communicate or counsel or procure directly or indirectly any unpublished price sensitive information to any person who while in possession of such unpublished price sensitive information shall not deal in securities:*

Provided *that nothing contained above shall be applicable to any communication required in the ordinary course of business or profession or employment or under any law.*

Violation of provisions relating to insider trading.

4. *Any insider who deals in securities in contravention of the provisions of regulation 3 or 3A shall be guilty of insider trading.*

10. It is observed that the Board of Directors of SIPL approved a Shares Purchase Agreement at its meeting held on July 30, 2009 to be executed between SIPL and the proposed acquirers, M/s Ramayana Promoters Pvt. Ltd., on July 31, 2009 for the sale of 35.50% of the issued and subscribed equity share capital of the company held by the erstwhile promoters, as also change in management of the company. The scrip of SIPL was traded in for 117 days, which resulted in a volume of 1599314 shares at BSE, while the daily average volume was 13670 shares. There was a price rise from ₹ 9.0 to ₹ 62.05 i.e. 589% during the relevant period. The price of SIPL during the three months prior and after the investigation period was ₹ 13.21 (open price) on January 01, 2009 and ₹ 57.2 (open price) on December 22, 2009, respectively. The Shares Purchase Agreement was signed on July 31, 2009 and on August 07, 2009 the managers to the offer on behalf of the acquirer issued a public announcement to the equity shareholders of SIPL.

11. It has been alleged in the SCN that Noticee No. 1 was connected to the Parekh Group entities and had allegedly passed on Unpublished Price Sensitive Information (UPSI) regarding the Shares Purchase Agreement in addition to the public announcement of SIPL to them. Further, that the Noticee Nos. 2 to 8, on the basis of the UPSI, had purchased 1,99,946 shares of SIPL at ₹ 32.33 and did not sell them till September 22, 2009, i.e. just before period of the open offer which opened on September 23, 2009. In view of the aforesaid trades executed by the Noticees, there was a prima facie view that the trades had been executed on the basis of UPSI and therefore, the Noticees had violated the said PIT Regulations.

12. In order to examine as to whether the Noticees have traded on the basis of UPSI and have violated the Insider Trading Regulations, the following issues must be established.

a. Whether there was any UPSI?

b. Whether the Noticees were connected persons or insiders under the PIT Regulations?

c. Whether the Noticees traded 'on the basis' of the UPSI?

13. The relevant provisions of the PIT Regulations are as follows:

2. (ha) "price sensitive information" means any information which relates directly or indirectly to a company and which if published is likely to materially affect the price of securities of company.

Explanation.—The following shall be deemed to be price sensitive information :—

(i) periodical financial results of the company;

(ii) intended declaration of dividends (both interim and final);

(iii) issue of securities or buy-back of securities;

(iv) any major expansion plans or execution of new projects.

(v) amalgamation, mergers or takeovers;

(vi) disposal of the whole or substantial part of the undertaking; and

(vii) significant changes in policies, plans or operations of the company;

(k) "unpublished" means information which is not published by the company or its agents and is not specific in nature.

Explanation.—Speculative reports in print or electronic media shall not be considered as published information.

14. I find that the UPSI in the present case was that Ramayana Promoters Pvt. Ltd. was to acquire in aggregate 12,67,410 fully paid up equity shares of ₹ 10/- each, representing about 35.50% of the issued and subscribed equity share capital of SIPL from the existing promoters <u>at a price of ₹ 80/- per share</u> and consequently would have to make an open offer for acquisition of at least 20% shares from the shareholders and therefore, it is deemed to be price sensitive information under Regulation 2(ha) (v) and (vii) of the PIT Regulations.

15. Mr. Ajit Baid, one of the consultants for Ramayana Promoters Pvt. Ltd. had, after the price deal was finalized, forwarded the first draft of the SPA on or about May 28, 2009. Taking into consideration when the mandate was given, the time to prepare the draft and the primary focus of the investigation being on the trading by the Parekh group from June 22, 2009 onwards, the date of the UPSI was taken as May 21, 2009. <u>In view of the above, the UPSI is considered to have originated on May 21, 2009 and remained as an UPSI till August 07, 2009 on which date the public announcement was made.</u> This has not been contested or denied by the Noticees.

16. Now I will proceed to examine whether the Noticees are "connected persons" or "insiders" as defined under the PIT Regulations. The PIT Regulations defines a "connected person" and an "insider" as:

"2(c) "connected person" means any person who—

(i) is a director, as defined in clause (13) of section 2 of the Companies Act, 1956 (1 of 1956), of a company, or is deemed to be a director of that company by virtue of sub-clause (10) of section 307 of that Act; or

(ii) occupies the position as an officer or an employee of the company or holds a position involving a professional or business relationship between himself and the company whether temporary or permanent and who may reasonably be expected to have an access to unpublished price sensitive information in relation to that company.

Explanation :—For the purpose of clause (c), the words "connected person" shall mean any person who is a connected person six months prior to an act of insider trading;

(e) "insider" means any person who,

(i) is or was connected with the company or is deemed to have been connected with the company and is reasonably expected to have access to unpublished price sensitive information in respect of securities of company, or

(ii) has received or has had access to such unpublished price sensitive information;

(h) "person is deemed to be a connected person", if such person—

(i) is a company under the same management or group, or any subsidiary company thereof within the meaning of sub-section (1B) of section 370, or subsection (11) of section 372, of the Companies Act, 1956 (1 of 1956), or sub-clause (g) of section 2 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) as the case may be;

(ii) is an intermediary as specified in section 12 of the Act, Investment company, Trustee Company, Asset Management Company or an employee or director thereof or an official of a stock exchange or of clearing house or corporation;

(iii) is a merchant banker, share transfer agent, registrar to an issue, debenture trustee, broker, portfolio manager, Investment Advisor, sub-broker, Investment Company or an employee thereof, or, is member of the Board of Trustees of a mutual fund or a member of the Board of Directors of the Asset Management Company of a mutual fund or is an employee thereof who has a fiduciary relationship with the company;

(iv) is a Member of the Board of Directors, or an employee, of a public financial institution as defined in section 4A of the Companies Act, 1956;

(v) is an official or an employee of a Self-regulatory Organisation recognised or authorised by the Board of a regulatory body;

(vi) is a relative of any of the aforementioned persons;

(vii) is a banker of the company.

(viii) relatives of the connected person; or

(ix) is a concern, firm, trust, Hindu undivided family, company or association of persons wherein any of the connected persons mentioned in sub-clause (i) of clause (c), of this regulation or any of the persons mentioned in sub-clause (vi), (vii) or (viii) of this clause have more than 10 per cent of the holding or interest;

17. I find that Noticee No. 1 became a director of SIPL on June 16, 2008 and was a director of SIPL and Ramayana Promoters Pvt. Ltd during the period of investigation. Therefore, there is no dispute as to that Noticee No. 1 is a "connected person" as defined under Regulation 2(c)(1) of the PIT Regulations. Further, Noticee No. 1 is the concerned director who represented the purchaser in the SPA and signed the said SPA dated July 31, 2009. However, I find it curious that vide his reply dated August 19, 2013, the Noticee No. 1 has vehemently denied any knowledge of the SPA or the board meetings preceding the SPA, or the UPSI. He submitted that "*I have neither attended the Board Meeting dated 30th July, 2009 nor its immediately preceding Board Meeting held on 11th June, 2009*". That "*Without attending the Board Meeting nor being included in the Agenda or that I was neither a Whole Time Director or executive Director of the Company, how it was possible for me to know that the alleged sensitive information was approved by the Board and pass on the same for pecuniary gains is a matter of conjecture in your part.*" I find this unacceptable as the Noticee No. 1 was a common director, with both the target company and the acquirer/purchaser, who was primarily responsible for negotiating and executing the deal between the companies. The Noticee No. 1, vide letter dated July 07, 2011 to SEBI, has given an account of when the negotiations began, who were the people involved in the discussions and the tentative period of when the sale was agreed and the price that was fixed for each equity share. Further, the Noticee No. 1 was the representative for the purchasers in the SPA and had signed the SPA on behalf of the purchasers. Therefore, it is more than

evident that he would know about the UPSI concerning the SPA. Further, as per the PIT Regulations, he is a "connected person" since he is a director of both the companies.

18. With regard to Noticee Nos. 2 to 8, I find that they are a part of the same family and therefore connected to each other. Also Noticee Nos. 2 to 7, are directors in Noticee No. 8, a company. The relationship between Noticee Nos. 2 to 8 in detail is as given below:

Table No. 1

Sr. No.	Name	Relation
1	Mehul International Ltd.	Hasmukh Parekh was one of the directors
2	Manjula H Parekh	Wife of Hasmukh Parekh
3	Hasmukh Parekh	Husband of Manjula Parekh
4	Mehul Jayasukh Parekh	Nephew of Hasmukh Parekh
5	Mona Parekh	wife of Mehul J Parekh
6	Nikhil Parekh	Son of Mehul J Parekh
7	Ramaben Jayasukhlal Parekh	Sister in law of Hasmukh Parekh

19. I find that Noticees 2 to 8, do not fall under "connected person" or persons deemed to be connected persons. The question before me is whether they are "insiders" and are persons who have received or have had access to such unpublished price sensitive information. On examining the connection between Noticee 2 to 8 and Noticee No. 1, I find that Noticee No. 1 has in various replies mentioned the relationship status he has with Noticees 2 to 8 (Parekh family). Vide letter dated October 05, 2012, the Noticee No. 1 submitted that "*I may reiterate that the Parekh family is in business including trading in shares for a long time. As such the reasons for their sudden interest in the securities of CCAP are best known to them and I am not privy to their other business*". I find it interesting that on one hand he suggests that he has only business dealings with the Parekh family, but on the other hand happens to know that the Parekh family has been trading in shares for a long time and of their sudden interests in the securities of CCAP, suggesting that he is aware that they did not earlier invest in CCAP. Further, vide letter dated December 20, 2012, he submitted that "*I once again reiterate that the Parekhs is only one of the entities which has business dealings with me and or companies wherein I have interest.*" So I find that he admittedly, among other entities, does have interest in the Parekh family. Vide letter dated August 19, 2013, he admitted that he has "*definitely dealt with the Parekh family*" and that their common interest is limited only to Real Estate.

20. That Noticee No. 1 had stated that most of the companies in which he was promoter/director were engaged in Real Estate/Hospitality sector. As both sectors require substantial investments, there are a few associates who even though are not directly related to the day to day affairs of such companies but invest as his business associates and that Mr. Hasmukh Parekh (Noticee No. 6) and Ms. Ramaben Jaysukhlal Parekh (Noticee No. 5) are also two of such investors. Further, as per the filings with Ministry of Corporate Affairs (MCA), it is observed that Mehul Jaysukh Parekh (Noticee No. 7) in his letter/submissions dated May 25, 2011, did not mention Paulmech Hospitality Pvt. Ltd. where he was the director since Feb 9, 2011 along with Noticee No. 1. Mr. Jaysukh Parekh, the husband of Ms Ramaben Jayasukhlal Parekh (Noticee No. 5) is also a Director in the company Paulmech Hospitality Pvt. Ltd. Further, there was one more company which was struck off on July 03, 2009 named PS Hi-Rise Private Ltd. where Mr. Paul and Mehul Jaysukh Parekh were the directors. While the name of PS Hi-Rise Private Ltd. may not have been submitted/mentioned as it was struck off, the name of Paulmech Hospitality Pvt. Ltd should have been included.

21. Certain transactions were observed from the bank statements of the Noticees. The details of the transactions are as below:

Table No. 2

Sr. no.	Payer name	Beneficiary name	Date of Transaction	Amount (Rs.)	Reason for payment as per Shanti Ranjan Paul (Noticee No. 8)
1	Shanti Ranjan Paul	Ramaben J Parekh	02.01.2009	1,31,507	Interest on loan for Rs. 50 lacs obtained on 27.09.2008
2	Shanti Ranjan Paul	Ramaben J Parekh	02.01.2009	50 lacs	Refund of loan for Rs. 50 lacs obtained on 27.09.2008
3	Shanti Ranjan Paul	Manjula Ben Parekh	18.07.2009	20 lacs	Manjula Ben Parekh intended to purchase a land costing Rs. 1 Cr. and offered a 20% partnership to Shanti Ranjan Paul. Deal could not materialize hence returned on 12.11.2009
4	Manjula Ben Parekh	Shanti Ranjan Paul	12.11.2009	20 lacs	Refund advance made on 18.07.2009
5	Shanti Ranjan Paul	Jaysukh Parekh (Husband of Ramaben Jayasukhlal Parekh)	26.06.2009	25 lacs	Jaysukh Parekh intended to purchase a land costing Rs. 1 Cr. and offered a 25% partnership to Shanti Ranjan Paul. Deal could not materialize hence returned on 26.03.2010

22. From the above , I find that Noticee No. 1 was well acquainted with the Parekh family &two of the Parekh family members were investors in his business. He is a common director in a company with two of the Parekh family

members. He has had financial transactions with the Parekh family, where he has even extended money to them without a loan agreement, as submitted by the Parekh family during the hearing dated August 19, 2013. Further, he had given money to Manjula Ben Parekh and Jaysukh Parekh (Husband of Ramaben Jayasukhlal Parekh) to be invested in certain deals as a "partner". Yet, the Parekh family and the Noticee No. 1 continue to deny that they are not connected in any way. Given the above reasons, I find that Noticees 2 to 8 are well acquainted and connected with Noticee No. 1, who was one of the main and active directors that orchestrated the said SPA. Reference is made to the order dated October 26, 2006 of *Dr. Anjali Beke vs. The Adjudication Officer, SEBI*, passed by the Hon'ble Securities Appellate Tribunal (SAT), where the appellant was not connected to the company, but was well acquainted and close with the Managing Director of the company, whose shares she traded in on the basis of UPSI given by the Managing Director. The Hon'ble SAT held that "*Their closeness cannot, therefore, be in doubt. It is because of this closeness that he passed on the unpublished price sensitive information to her on the basis of which she traded in the shares of TFL. She is, therefore, an insider.*" Therefore, in the facts and circumstances of the instant case, I deem it reasonable to conclude that the Parekh family had access to the UPSI and are thus "insiders" in terms of the PIT Regulations.

23. I shall now proceed to examine whether Noticees 2 to 8 traded in the scrip of SIPL on the basis of the UPSI. During the relevant period, Noticees 2 to 8 had purchased 1,99,946 shares of SIPL primarily in the pre announcement period and did not sell them till September 22, 2009, i.e. just before period of the open offer which opened on September 23, 2009. This clearly shows that the Parekh group had accumulated large quantities of shares before the open offer. They had started trading in the scrip only from June 22, 2009 and their trading details during the UPSI period are as below:

<u>*Table No. 3*</u>

Name of the client	**Qty Bought**	**Avg Rate (approx)**	**Purchased amount (Rs.)**	**Qty Sold**	**Avg Rate**	**Sold amount (Rs.)**	**Net Qty Bought (before PA)**	**Shares accepted in open offer**	**Open offer Price**	**Realized Amount in open offer (Rs.)**	**Realized profit (Rs.)**
Mehul International Ltd.	13004*	35	453683.4	0	0	0	13004*	14,579 (out which 13004 was purchased before PA)	80	1040320	586,637

Manjula H Parekh	25,270	34.17	863439.5	50**	34.3	1715	25,220	18,927	80	1,514,160	652,436
Mehul Jayasukh Parekh	32,257	33.02	1065235.1	0	0	0	32,257	24,208	80	1,936,640	871,405
Mona Parekh	30,000	30.2	906000	0	0	0	30,000	22,514	80	1,801,120	895,120
Nikhil Parekh	10,285	33.56	345194.05	0	0	0	10,285	7,719	80	617,520	272,326
Ramaben Jayasukhlal Parekh	70,801	31.39	2222741.4	13700 ***	30.2	4,13,740	57,101	42,852	80	3,428,160	1,619,159
Hasmukh Parekh	32,079	32.43	1040383.05	0	0	0	32,079	24,074	80	1,925,920	885,537
TOTAL	**213,696**		**68,96,676.5**	**13750**		**4,15,455**	**199,946**	**154873**		**12,263,840**	**57,82,619**

*Note: *13004 shares bought before Public Announcement and 6422 shares after Public Announcement.*
*** Sold on July 10, 2009*
**** Sold on July 7, 2009.*

24. I note from their transactions in SIPL between January 2009 and September 2009, that most of their buying was from June 22, 2009 to July 21, 2009 except for three trades of 6422 shares bought by Noticee No. 8. They purchased 3380 shares on August 28, 2009, 1000 shares on August 31, 2009 and 2042 shares on September 09, 2009. The Parekh group started trading in the scrip of SIPL on June 22, 2009 when the market capitalization of CCAP was ₹ 7.73 crore. Further, the total investment made by them in SIPL during June 22 to September 09, 2009 was ₹ 68,66,660.85 (purchased amount ₹ 72,82,115.85 – sold amount ₹ 4,15,455/-). It is observed from the trading pattern of Parekh group in the year 2008 and 2009 that they were very much active in the market. However, their trades were mostly in those scrips where the market capitalization was very high. Vide their identical replies dated September 18, 2013, they submitted that the decision relating to securities dealings are based on market buzz in respect of scrips gaining maximum in short period of time or on the basis of price movements of individual scrips noticed by them or their family members. They further submitted that the price movement in the alleged scrip was such that it prompted them to invest in the same. The investment decision became profitable on day to day basis and further motivated them to accumulate the said scrip in view of its technical strength. Investment was made out of funds belonging to each of the Noticee individually or the family members.

25. Vide their said replies, they had also submitted the details of their trading till the financial year ended March 31, 2010. I find that during the period of investigation and just prior to it, the Parekh group traded on both BSE and NSE. I find that the Parekh group traded in scrips only where the market capitalization was more than ₹ 50 crores. On NSE there were no scrips where the market capitalization was below 50 crores. Whereas, on BSE there were only 4 scrips where the market capitalization was below ₹ 50 crores. The details is as below:

Table No. 4

Sr. no.	Scrip name	Investment duration	Market Cap (Rs. Cr.)	Bought qty	Traded value (Rs.)	Name of the entity who participated
1	FOUNDRY FUEL	4/16/2009 to 10/07/2009	4.86	56427	4,21,173	Hasmukh Parekh
2	CCAP LTD (SIPL)	6/22/2009 to 9/9/2009	7.73	220118	72,82,115	Mehul International Ltd., Manjula H Parekh, Hasmukh Parekh, Mehul J parekh, Mona Parekh, Nikhil Parekh, Ramaben J Parekh
3	ACCEL TRANS	6/19/2009 to 9/1/2009	17.55	6123	94,817	Hasmukh Parekh
4	Duncans Industries Ltd	5/19/2009 to 10/12/2009	44.7	161026	1576060.51	Hasmukh Parekh

26. It is evident from the above table that the Parekh family only trade in scrips where the market capitalization is above ₹ 50 crores. That only in 3 other scrips, where the market capitalization is less than ₹ 50 crores, one of the Noticees Hasmukh Parekh has traded. Whereas, the entire Parekh group has traded only in SIPL. Therefore, I find that this is not part of their regular trading as they have claimed it to be. The Parekh family as a whole, from the trading pattern, evidently does not trade in small scrips, however, they have traded in SIPL.

27. I find it relevant to refer to the SAT order dated May 09, 2008 of Rajiv Gandhi and Others v. SEBI, wherein, the Hon'ble SAT has held that "*The words*

*"**on the basis of**" are significant and mean that the trades executed should be motivated by the information in possession of the insider. To put it differently, the information in possession of the "insider" should be the factor or circumstance that should induce him to trade in the scrip of the company. It is then that he will be said to have dealt with or traded "**on the basis of**" that information. We are of the considered opinion that if an insider trades or deals in securities of a listed company, it would be presumed that he traded on the basis of the unpublished price sensitive information in his possession unless he establishes to the contrary. Facts necessary to establish the contrary being especially within the knowledge of the insider, the burden of proving those facts is upon him. The presumption that arises is rebuttable and the onus would be on the insider to show that he did not trade on the basis of the unpublished price sensitive information and that he traded on some other basis. He shall have to furnish some reasonable or plausible explanation of the basis on which he traded. If he can do that, the onus shall stand discharged or else the charge shall stand established. Let us illustrate to explain what we mean. If an insider who sold the shares were to plead that he wanted to raise funds to meet an emergency in his family say, marriage of his daughter or bypass surgery of a close relation and could establish that fact, it would be reasonable to hold that even though he was in possession of unpublished price sensitive information, the motive of the trade was to meet the emergency. He would not be guilty of the charge of insider trading".* Therefore, since it is established that the Noticees 2 to 8 are insiders, the onus is on them to rebut the presumption that they have not traded on the basis of the UPSI. However, I find from the above paras, that they have failed to justify or furnish some reasonable or plausible explanation as to why they traded in the scrip. It is evident that the Parekh group does not trade in small scrips (scrip where the market capitalization is below ₹ 50 crores), however, the entire group has traded in the scrip of SIPL which had a market capitalization of only ₹ 7.73 crores. The facts and circumstances compel me to conclude that the Parekh group through their relationship with Noticee No. 1 had access to the UPSI and on the basis of this UPSI traded in the scrip of SIPL in violation of Regulation 3 of the PIT Regulations.

28. The Noticees 2 to 8 have submitted that they continue to hold the balance quantity of the said scripts after tendering the same in open offer and that it is noteworthy to mention that the current ruling price of the said scrip is hovering around ₹ 26/- which is much below the average acquisition price. Further, that they have individually never shared any profit accrued to them out of their dealings in the said scrip with others. I find this irrelevant as they have tendered majority of the shares in the open

offer and so the balance quantity is meagre and they have realized profits from the trades done on the basis of UPSI as seen in *Table No. 3* of this order.

29. I do not find any merit in the arguments put forth by Noticee No. 1 that "*the company did not introduce no trading window (ten days before and two days after the public announcement) as per SEBI Guidelines and the onus lies with the Compliance Officer and the Executive Directors of the Company. Had the guidelines be followed scrupulously by the concerned persons, I would not have been held accountable today*". I find it unacceptable since the Noticee No. 1 was a key person involved in the negotiations and a representative and signatory for the purchasers in the SPA. However, I note that Noticee No. 1 did not trade in the shares of SIPL.

30. I find it relevant to also refer to the Judgment of Hon'ble District Court Southern District of New York in the matter of *United States of America V Raj Rajaratnam* 09 Cr. 1184 (RJH) decided on August 11, 2011, wherein, it was observed as follows: *"…Moreover, several other Courts of Appeals have sustained insider trading convictions based on circumstantial evidence in considering such factors as "(1) access to information; (2) relationship between the tipper and the tippee; (3) timing of contact between the tipper and the tippee; (4) timing of the trades; (5) pattern of the trades; and (6) attempts to conceal either the trades or the relationship between the tipper and the tippee."* Therefore, in such matters, the relevance of circumstantial evidence is crucial. From the above, I find that the said factors/principles (which are not in conflict with the regulatory framework of SEBI) have been taken into consideration while arriving at a finding. I find that Noticee No. 1 is a connected person as defined under the PIT Regulations, who was a key person involved in the negotiations of the UPSI and a representative/signatory to the SPA. The Noticee No. 1 is admittedly connected and well acquainted with the Parekh Group entities for several years, while some of them have also invested in his real estate business and as a result he has vested interest. Consequently, owing to his connection with the Parekh group and his position in both the target company and the acquirer company as a director, I find that he has communicated the UPSI to the Parekh group entities who in turn have traded in the scrip of SIPL on the basis of the UPSI received from Noticee No. 1. Therefore, I find that Noticee No. 1 has violated Regulation 3 (ii) of the PIT Regulations, by communicating the UPSI to the Parekh group based on which they have traded in the scrip of SIPL, warranting imposition of monetary penalty under Section 15G of the SEBI Act. Further, that Noticees 2 to 8, as insiders with access to UPSI from the Noticee No. 1 have traded in the scrip of SIPL and have thus violated Regulation 3(i), 3(ii) and 4 of

the PIT Regulations warranting imposition of monetary penalty under Section 15G of the SEBI Act, which reads as follows:

Penalty for insider trading.

15G. *If any insider who,—*

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of anybody corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty [of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher.

31. While imposing monetary penalty it is obligatory to consider the factors stipulated in Section 15J of the SEBI Act which reads as under:

15J** - **Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-

(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.

32. Persons in a company or otherwise concerned with the affairs of the company are in possession of information before it is actually made public. Knowledge of such UPSI in the hands of persons connected to the company puts them in an advantageous position over the ordinary shareholders and the general public. Such information can be used to make gains by buying shares anticipating rise in the price of the scrip or it can be also used to protect themselves against losses by selling the shares before the price falls. Such trading by the insider is not based on level playing field and is detrimental to the interest of the ordinary shareholders of the company and general public and it is with this view that SEBI had made stringent regulations to curb such practices. Hence, taking into account the mandate of Section 15G of the SEBI Act, the facts and circumstances of the case and considering that it was due to Shanti Ranjan Paul

that the Parekh group had traded, I am of the view that the violation committed by Shanti Ranjan Paul has to be viewed more seriously. Further, with regard to the above factors to be considered while determining the quantum of penalty, it is observed that the investigation report has quantified the Parkeh group's profits through the aforementioned trades as mentioned in *Table No. 3* and summarized as below. Further, it is difficult to quantify the amount of loss caused to an investor or group of investors as a result of the default. As is evident from the material available on record, the defaults are repetitive in nature.

Name of the client	**Net Qty Bought (before PA)**	**Shares accepted in open offer**	**Realized Amount in open offer (Rs.)**	**Realized profit (Rs.)**
Mehul International Ltd.	13004	14,579 (out which 13004 was purchased before PA)	1040320	586,637
Manjula H Parekh	25,220	18,927	1,514,160	652,436
Mehul Jayasukh Parekh	32,257	24,208	1,936,640	871,405
Mona Parekh	30,000	22,514	1,801,120	895,120
Nikhil Parekh	10,285	7,719	617,520	272,326
Ramaben Jayasukhlal Parekh	57,101	42,852	3,428,160	1,619,159
Hasmukh Parekh	32,079	24,074	1,925,920	885,537
TOTAL	**199,946**	**154873**	**12,263,840**	**57,82,619**

ORDER

33. In view of the above, after considering all the facts and circumstances of the case and exercising the powers conferred upon me under Section 15-I (2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of ₹1,00,00,000/- (Rupees One Crore only) on Noticee No. 1 viz., Shri Shanti Ranjan Paul under Section 15G of the SEBI Act.

34. I further impose a penalty of ₹2,00,00,000/-(Rupees Two Crores only) on the Noticees No. 2 to 8 viz., Ms. Manjula H. Parekh, Ms. Mona Parekh, Shri Nikhil Parekh, Ms. Ramaben Jayasukhlal Parekh, Shri Hasmukh Parekh, Shri Mehul Jayasukh Parekh and Mehul International Ltd., to be paid jointly and severally, under Section 15G of the SEBI Act.

35. In my view, the penalty is commensurate with the defaults committed by the Noticees. The penalty amount as mentioned above shall be paid by the Noticees through a duly crossed demand draft drawn in favour of "SEBI – Penalties Remittable to Government of India" and payable at Mumbai, within 45 days of receipt of this order. The said demand draft should be forwarded to the Division Chief, Investigation Department (IVD-6), Securities and Exchange Board of India, Plot No. C4-A, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.

36. In terms of the provisions of Rule 6 of the Adjudication Rules, the copies of this order are sent to the Noticees and also to Securities and Exchange Board of India.

Date: March 07, 2014 **D. SURA REDDY**

Place: Mumbai **ADJUDICATING OFFICER**