BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/KS/AA/2019-20/3416]

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

Royal Fincomm Private Limited
(PAN: AABCC0002C)

In the matter of Trading in Illiquid Stock Options on BSE

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") observed large scale reversal of trades in stock options segment of Bombay Stock Exchange (hereinafter referred to as "**BSE**"). SEBI observed that such large scale reversal of trades in stock options lead to creation of artificial volume at BSE. In view of the same, SEBI conducted an investigation into the trading activities of certain entities in illiquid stock options at BSE for the period April 1, 2014 to September 30, 2015 (hereinafter referred to as "**Investigation Period / IP**")

2. Pursuant to investigation, it was observed that total 2,91,643 trades comprising substantial 81.38% of all the trades executed in stock options segment of BSE during the Investigation Period were non genuine trades. The aforesaid non-genuine trades resulted into creation of artificial volume to the tune of 826.21

crore units or 54.68% of the total market volume in stock options segment of BSE during the Investigation Period. It was observed that Royal Fincomm Private Limited (hereinafter referred to as the "**Noticee**") was one of the various entities which indulged in execution of reversal trades in stock options segment of BSE during the Investigation Period. Such trades were observed to be non-genuine in nature and created false or misleading appearance of trading in terms of artificial volumes in stock options and therefore alleged to be manipulative, deceptive in nature. In view of the same, SEBI initiated adjudication proceedings against the Noticee for violation of the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**").

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as the Adjudicating Officer vide order dated April 3, 2018, under section 19 read with section 15I(1) of the SEBI Act, 1992 (hereinafter referred to as "**SEBI Act**") and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to conduct adjudication proceedings in the manner specified under Rule 4 of Adjudication Rules read with section 15I (1) and (2) of SEBI Act, and if satisfied that penalty is liable, impose such penalty deemed fit in terms of Rule 5 of Adjudication Rules and Section 15HA of SEBI Act.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice dated September 21, 2018 (hereinafter referred to as '**SCN**') was issued to the Noticee under Rule 4 (1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against the Noticee and why penalty should not be imposed upon the Noticee under Section 15HA

of the SEBI Act for the violations alleged to have been committed by the Noticee.

5. It was *inter alia* alleged in the SCN that the Noticee had 35 non genuine trades in 13 Stock Options contracts which resulted in artificial volume of total 22,57,500 units. The Noticee made a loss of approx. Rs. 1,21,10,000 by executing non genuine trades during the I.P. Summary of dealings of the Noticee in 13 Stock Options contracts, in which the Noticee allegedly executed non genuine trades during the I.P, is as follows:

S. No.	Contract Name	Avg. Buy Rate (Rs.)	Total Buy Volume (No. of units)	Avg. Sell Rate	Total Sell Volume (No. of units)	% of Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non Genuine trades of Noticee in the contract to Total trades in the Contract	% 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	ACCL15APR1620.00PEW3	48.00	50000	24.00	50000	100%	100%	100%	100%
2	ASPL15APR780.00PE	12.30	91000	1.30	91000	100%	33%	100%	38%
3	ASPL15APR840.00CEW4	14.50	77000	1.50	77000	100%	43%	100%	66%
4	BOBL15APR155.00CE	10.00	100000	5.00	100000	100%	40%	100%	40%
5	BOIL15APR200.00PE	7.00	150000	3.00	150000	100%	60%	100%	54%
6	CESC15APR580.00PEW4	13.00	60000	3.00	60000	100%	25%	100%	33%
7	HNDL15APR130.00CEW4	7.00	120000	3.00	120000	100%	100%	100%	100%
8	HNDL15APR130.00PE	6.00	120000	2.00	120000	100%	100%	100%	100%
9	HNDL15APR135.00PE	7.50	100000	1.50	100000	100%	100%	100%	100%
10	MARU15APR3800.00CE	62.00	64000	23.00	64000	100%	0%	100%	14%
11	MARU15APR3850.00CE	45.00	15500	16.00	15500	100%	33%	100%	28%
12	PNBK15APR175.00PEW4	21.00	70000	11.00	70000	100%	20%	100%	23%
13	PNBK15APR200.00PE	45.00	111250	27.00	111250	100%	50%	100%	50%

6. From the above table, following was noted as regards to dealings of the Noticee:

(a) The Noticee has executed non genuine trades in 13 contracts, wherein all trades of the Noticee in the said 13 contracts were non genuine trades.

(b) No. of non genuine trades of the Noticee has significantly contributed to the total no. of trades from the market in the above contracts, as 0.32% to 100% of the trades that happened in the aforementioned contracts were due to non-genuine trades executed by the Noticee.

(c) A substantial 100% of volume generated by the Noticee in each of the above contracts was artificial volume, and further artificial volume generated by the Noticee also contributed to 14% to 100% of the total volume from the market in said contracts.

(d) Non genuine trades executed by the Noticee in above contracts had significant differential in buy rates and sell rates considering that the trades were reversed on same day.

7. The SCN issued to the Noticee was sent via Speed Post Acknowledgement Due and via a digitally signed email. Thereafter, the Noticee vide letter dated October 09, 2018 requested for inspection of documents in the matter. In view of the same, the request of the Noticee was forwarded to the concerned department of SEBI for opportunity of inspection of documents relied in the matter vide letter dated October 19, 2018. Subsequently, the Authorized Representative ("AR") of the Noticee - Shri Vikas Bengani took inspection of documents relied in the matter by the Adjudicating Officer on March 05, 2019. From the available records, I am convinced that the inspection of documents, which have been relied in the matter, has been given to the Noticee.

8. In the interest of natural justice, an opportunity of hearing was granted to the Noticee on April 23, 2019 vide hearing notice dated April 05, 2019. Thereafter, the Noticee vide letter April 15, 2019 made its submissions in the matter. In the said letter dated April 15, 2019, the Noticee *inter alia* made the following submissions:

"…After receipt of the captioned SCN, vide letter dated 09-10-2018, we have requested your goodself to provide us the reasons recorded by the Ld. Whole Time Members for ordering the inquiry and appointed your goodself as Adjudicating Officer. In the same letter, we further requested your goodself to allow us inspection of the documents / data in the aforesaid matter. The inspection of the documents was allowed by your goodself and carried out by my Authorized Representative Mr. Vikas Bengani on 05-03-2019 at SEBI office. The officer of the SEBI who provided the inspection of the documents / data have granted the inspection of only those documents which already annexed with the SCN. During the course of the inspection, our Authorized Representative had specifically asked to provide copy of the Investigation Report and complete trade and order log. However, the request for the same has not been acceded till date. Thus, we are filing our written submissions to the SCN on the basis of documents available with us.

We are submitting herewith our reply to the captioned SCN as follows:

1. *At the very outset we wish to draw your kind attention towards annexure 1, i.e., Copy of Communication of appointment order of Adjudication Officer by Ms. Bhavana Ravi Kumar, Deputy General Manager, SEBI. In para 2 of the said communication, it is mentioned that "Whereas the Whole Time Member is prima facie of the view that there are grounds to adjudicate upon the alleged violation by the following entity, under the SEBI Act:……..*

   26. Royal Fincomm Private Limited……."

   However, in the said communication there is no mention of any specific grounds on the basis of which the Ld. Whole Time Member prima facie found grounds to adjudicate upon the alleged violation by our company. Thus, the said communication is ambiguous in as much as no sufficient grounds has been specifically find any mention in the said communication. Thus, the appointment of the Ld. Adjudicating Officer has been made without application of judicious mind and on this ground alone, the SCN dated 21-09-2018 is invalid, illegal and non-est.

2. *We deny and refute each and every allegation contained in the captioned SCN against us unless it is specifically admitted by us in our Reply herein. Nothing should*

be deemed as admitted by us for reason of any non-specific traverse of any allegation contained in the SCN.

3. *In the captioned SCN, our company has been called upon to show cause as to why an inquiry should not be held against the company in terms of Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 read with Section 15-1 of the SEBI Act and why penalty should not be imposed under section 15HA of the SEBI Act, 1992 for the alleged violation of Regulation 3(a),(b),(c),(d) and 4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices related to Securities Market) Regulations, 2003 (hereinafter referred to as PFUTP Regulations").*

4. *In the captioned SCN, it is alleged that SEBI had observed large scale reversal of trade in option segment of BSE leading to creation of artificial volume and SEBI had conducted an investigation into the trading activates of certain entities in illiquid stock option at BSE during the Investigation Period i.e. 01-04-2014 to 30-09-2015. We wish to submit that our trades in the option segment of BSE during the Investigation Period comprising of 18 months was only restricted to 4 days.*

5. *In the captioned SCN, it is further alleged that during investigation it had observed total 2,91,643 trades comprising substantial 81.38% of all trades executed in Stock Option Segment of BSE during the Investigation Period were found to be non-genuine trades which resulted into creation of artificial volume to the tune of 826.21 Crore units or 54.68% of the total market volume in stock option segment of BSE during the investigation period. We wish to submit that we have not been provided any material/ data of total market volume in Stock Option Segment of BSE during the Investigation Period. We have also not been provided Trade and Order Log for total 2,91,643 Trades comprising 81.38% of all trades executed in Stock Market Segment of BSE during the Investigation Period which were allegedly found to be non- genuine trades which resulted into creation of artificial volume to the tune of 826.21 Crores units or 54.68% of the total market volume in Stock Option Segment of BSE during the Investigation Period. We, however, refute that we had executed any non-genuine trades which resulted into creation of artificial volume.*

6. It is further pertinent to mention that our trades in option segment of BSE were only in well-known companies. All the trades in option segment of BSE were executed on anonymous screen based trading platform provided by BSE wherein identity of the counterparties remain undisclosed. Hence, the question of any non-genuine trade does not arise at all unless it is proved that such trades were executed in connivance with any counter party. However, all the counter party whose names have been disclosed now in your SCN were completely unknown to us.

7. We further wish to submit that BSE has a sophisticated surveillance system and if there had been any reversal of trade, the system could have alarmed BSE to take corrective measures to restrain any non- genuine trades happening in its trading platform. However, we have not received any warning or caution letter from BSE for any of our trade in its option segment during the period of me trading and any period thereafter during the investigation period. Thus, the allegation of execution of non-genuine trades by our company in option segment of BSE which purportedly resulted into creation of artificial volume is totally far-fetched and is based on presumptions, assumptions, surmises and conjectures.

8. We wish to further submit that we had meticulous track record of our trading in the securities market and except the captioned SCN we have not received even a warning letter prior to the issue of the captioned SCN.

9. It is further submitted that it is a matter of common knowledge that the option trading platform of the BSE has not been as vibrant as NSE. In such a situation it is just coincidence that the Orders placed by our company might have been matched. However, nowhere in the entire SCN it is alleged that our company or its directors had any connection/ association/ relationship with any of the counterparties. We have heard their names for the first time after receipt of captioned SCN. In absence of any such connection/ association/ relationship with any of the counter party to our trades, whose names we have come to know only after receipt of the captioned SCN, it is totally illogical and irrational to allege that my trades with the said Counter Parties were non-genuine trades which resulted into creation of any artificial volume.

10. *It is submitted that complete material documents in support of the allegation contained in the Captioned SCN have not been made available to our company despite our written request. Hence, we am not in position to file a proper Reply effectively answering the charges levelled against the company in the Captioned SCN. Moreover, not providing complete materials/ documents to the company is in violation and is contrary to the settled Principles of Natural Justice.*

11. *It is submitted that in Para 3 of the Captioned SCN it is alleged that SEBI had observed large scale reversal of trades in Stock Options segment of BSE leading to creation of artificial volume. However, nowhere in the SEBI PFUTP Regulations, the definition of reversal of trade is given. The reversal of trade is not an unusual phenomena in the securities market and hence per se are not illegal like synchronized trade. We were not aware of the identity of the counter party as the trades were executed on the screen based trading platform of the BSE.*

12. *In Para 5 of the SCN, it has been further alleged that "… total of 2,91,643 trades comprising substantial 81.38% of all the trades executed in Stock Option* Segment *of BSE were non-genuine trades... ". In this context we wish to submit that no material whatsoever has been provided to us in support of alleged 2,91,643 trades during investigation period comprising substantial artificial volume of 81.38% of the total trades executed in the BSE Stock Option Trading Segment during the Investigation Period. Thus, the allegation made in this Para of the SCN are vague, bald and devoid of any substance.*

13. *It is submitted that the trades executed by our company in the BSE Stock Option Segment were in the normal course of business devoid of any fraudulent intentions. In the derivative segment, only those stock and indices are permitted which are very liquid and there is a robust risk mitigation mechanism is in place. Since our company had traded in the Options of very well-known Companies which has tradable position in the market, there was no reason to doubt credibility of the platform provided by the Exchange as approved by SEBI. The allegation of trades being non-genuine has no basis as your goodself has failed to provide any evidence to prove that there was*

a misleading appearance created in the market by the trades executed by our company.

14. *It is very pertinent to mention that the SCN does not allege that our all trades executed in the derivative option segment of the BSE as non-genuine trades. On perusal of the Annexure B and C enclosed with the SCN, it is revealed that our company had executed 39 trades and out of 39 trades, 35 trades have been alleged as non-genuine trades. If the Appellant intention was to create artificial volume then all the trades would have been held as non-genuine trades.*

15. *In Para 11(a) of the Captioned SCN it is alleged that our company had executed trades 100% non-genuine trades in 13 contracts. We had executed 39 trades in 15 contracts. If we had executed non-genuine trades in option segment of BSE, all 39 trades in 15 contracts would have been non-genuine. Thus, there is an apparent contradiction in the SCN that were non-genuine trades and some were genuine trades. We are also not aware whether counterparties to our trades have also been held to have executed non-genuine trades as if a trade is a non-genuine trade, the trade of both the legs are to be held as non-genuine trades. However, in absence of the relevant data, we are totally unaware whether the entities which were counterparties to our trades have also been issued SCN or not.*

16. *The allegation contained in Para 11(b) of the Captioned SCN that a number of non-genuine trades executed by us has significantly contributed to the total number of trades to the market in 13 contracts as 0.32% to 100% of trades that happened in the above contracts were due to non-genuine trades executed by our company. In Para 11(c) of the Captioned SCN, it is further alleged that substantial 14% to 100% of the volume generated by our company in each of the 13 contracts had contributed to significant contribution of the total volume from the market in the said contracts.*
However, no details of 0.32% to 100% of the trades that happened on 13 contracts and no data of substantial 14% to 100% of the volume allegedly generated by our company in the said 13 contract have been provided to us.

17. *It is further submitted that these allegations are merely an eyewash as it does not take into consideration the number of trades and volumes generated in entire Option Segment in BSE in a particular Scrip on a particular day. It may be noted that the stock exchange platform at the relevant point of time gave a choice to write options at various strike prices as per the suitability of the trader. What has been considered in the SCN is only an option with a particular strike price and not the total trading on Option Segment in a particular scrip at the relevant point of time. Thus, the percentages shown in the SCN are misleading and cannot be relied upon.*

18. *It is submitted that the trades of the company have all traits of being genuine and therefore cannot be categorized as non-genuine. These trades were executed on the anonymous platform of the Exchange, without any knowledge of counter party, at price ranges that were permitted by the Exchange and SEBI and the obligations arising out of it have been settled through the clearing mechanism of the Exchange.*

19. *It is also submitted that, as none of the acts or trades executed by the company fall under the definition of fraud as provided in regulation 2(1)(c) of PFUTP Regulation, the genuineness of the trades executed by me cannot be questioned and therefore, I cannot be alleged to have violated any PFUTP Regulations.*

20. *We draw your attention to the following Judgments passed by the Hon'ble Tribunal in the following matters:*
    In the matter of KSL & Industries Ltd. vs. SEBI (Appeal No. 9 of 2003, Date of decision 30th September, 2003) it was inter alia held that:
    "I do not find any material on record in support of the said charge. A wild allegation of market manipulation, in particular the charge of fraudulent action unsupported with convincing evidence is not to be sustained. I fully agree with Shri Khambatta's submission in this regard that allegation of fraud' cannot survive on mere conjectures and surmises. "

    In the matter of Vintel Securities Pvt. Ltd. vs. SEBI (Appeal No. 219 of 2009, Date of decision 23rd November, 2009) it was inter alia held that:

"A serious charge of fraudulent and unfair trade practice has been established against the appellant without even dealing with the trades executed by it. The adjudicating officer has given no reasons whatsoever in support of his conclusion. He has found the appellant guilty in paragraph 14 of the impugned order which is as general as it could be without referring to the details of the trades executed by the appellant and without showing as to how it was acting in tandem with others. This is not the way in which such charges are established. It is not enough to say that the appellant is guilty of the charge. The impugned order must show how the charge stands established. The least that was required was that the adjudicating officer should have dealt with the trades executed by the appellant and demonstrated as to how the scrip in question was manipulated and the role which the appellant played in that manipulation. It is not in dispute that it was not only the appellant but several other entities were also involved in the manipulation. In the absence of any specific finding in regard to the manner in which the appellant traded in the scrip in question we cannot uphold the impugned order. Consequently, the same is set aside..."

Therefore, it is clear that the trades of the company in the BSE Stock Options Segment were completely genuine and without any intention to create false and misleading appearance of trading in the market and therefore the company could not be alleged to have violated PFUTP Regulations as alleged in the captioned notice.

21. *The Company further denies that it has violated the Regulation 3(a), (b), (c), (d) and 4 (1), (2)(a) of the PFUTP Regulations. In this context it is submitted as follows:*
   (a) *It has neither directly or indirectly bought or sold or otherwise dealt in securities in any fraudulent manner. As mentioned above the trades of the Company were completely genuine and are without any malafide intention of creating any false or misleading appearance of trading in the market.*
   (b) *It has not used or employed any manipulative or deceptive devise or contrivance in contravention of the provisions of the SEBI Act or the rules or the regulations made there under, the same has also not been specifically brought out in the captioned notice.*
   (c) *It has not employed any device, scheme or artifice to defraud anyone in the market*

and the same has also not been alleged in the captioned notice.

(d) It has not engaged in any act, practice, course of business which operated or would have operated as a fraud or deceit upon any person with any dealing in the market in contravention of the provision of the SEBI Act or the rules and the regulations made there under, it has also not been alleged in the captioned notice that the trades executed by the company has operated or would have operated as a fraud or deceit upon any person.

(e) It has not dealt in securities in a fraudulent manner or as indulged in unfair trade practice in the securities market. It is again reiterated that the trades executed by the company were in its normal course of business and were completely genuine.

(f) As submitted above the trades of the company were completely genuine and has not created any false or misleading appearance of trading in the securities market as alleged in the captioned notice.

Thus in view of the facts stated, arguments advanced and authorities cited, it is humbly prayed that the present proceedings be quashed since no primary violation of any PFUTP Regulations is made out against the company and the genuineness of the trades has also been explained hereinabove. Therefore the question of holding an inquiry against the company in terms of Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 and imposing penalty for the alleged violation does not arise…"

9. On the scheduled dated of hearing, i.e., on April 23, 2019, Dr. S. K. Jain and Shri Vikas Bengani appeared as the Authorized Representatives ("ARs") of the Noticee. During the course of hearing, the ARs reiterated the contents of the said letter dated April 15, 2019 submitted by the Noticee.

CONSIDERATION OF ISSUES

10. I have carefully perused the charges levelled against the Noticee, its reply and the documents / material available on record. The issues that arise for consideration in the present case are :

(a) Whether the Noticee has violated regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations?

(b) Does the violation, if any, attract monetary penalty under Section 15HA of the SEBI Act?

(c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act?

11. Before proceeding further, I would like to refer to the relevant provisions of the PFUTP Regulations as below:

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 there under;

(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 and 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;

12. I note that the Noticee has *inter alia* stated that the investigation report and complete trade log of option segment of BSE during the investigation period was not provided to it during inspection. In this respect, I note from available

records that the inspection of documents relied in the present matter have been provided to the Noticee. Further, the trade log of the Noticee in respect of the matter was already provided to the Noticee as annexure to the SCN. In view of the same, I am convinced that the principles of natural justice have been complied with in the present matter.

13. I note that the allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the Investigation period, the Noticee had executed reversal trades which were allegedly non-genuine trades and the same have resulted in the generation of artificial volume in stock option contracts at BSE. Reversal trades are considered to be those trades in which an entity reverses its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day. The said reversal trades are alleged to be non-genuine trades as they are not executed in normal course of trading, lack basic trading rationale, lead to false or misleading appearance of trading in terms of generation of artificial volumes, and hence are deceptive & manipulative.

14. I note from the trade log of the Noticee that it had traded in 15 unique contracts in the stock options segment of BSE during the investigation period. It is observed that the Noticee had executed 35 non-genuine trades in 13 contracts. I further note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of a total of 22,57,000 units in the said 13 contracts and the said trades have also resulted in a close out difference of approximately Rs. 1,21,10,000 against the Noticee. The Noticee has *inter alia* stated that it had executed trades in 15 contracts, but his trades in 13 contracts have only been considered as non-genuine and that this implies that the SCN is ambiguous. I am of the view that the said contention of the Noticee is devoid of any logic as it is not necessary that all trades of the Noticee have to be non-genuine. I note that the details of the non-genuine trades of the

Noticee have been provided to it as an annexure to the SCN. Summary of non-genuine trades of Noticee is as follows:

S. No.	Contract Name	Avg. Buy Rate (Rs.)	Total Buy Volume (No. of units)	Avg. Sell Rate	Total Sell Volume (No. of units)	% of Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non Genuine trades of Noticee in the contract to Total trades in the Contract	% 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	ACCL15APR1620.00PEW3	48.00	50000	24.00	50000	100%	100%	100%	100%
2	ASPL15APR780.00PE	12.30	91000	1.30	91000	100%	33%	100%	38%
3	ASPL15APR840.00CEW4	14.50	77000	1.50	77000	100%	43%	100%	66%
4	BOBL15APR155.00CE	10.00	100000	5.00	100000	100%	40%	100%	40%
5	BOIL15APR200.00PE	7.00	150000	3.00	150000	100%	60%	100%	54%
6	CESC15APR580.00PEW4	13.00	60000	3.00	60000	100%	25%	100%	33%
7	HNDL15APR130.00CEW4	7.00	120000	3.00	120000	100%	100%	100%	100%
8	HNDL15APR130.00PE	6.00	120000	2.00	120000	100%	100%	100%	100%
9	HNDL15APR135.00PE	7.50	100000	1.50	100000	100%	100%	100%	100%
10	MARU15APR3800.00CE	62.00	64000	23.00	64000	100%	0%	100%	14%
11	MARU15APR3850.00CE	45.00	15500	16.00	15500	100%	33%	100%	28%
12	PNBK15APR175.00PEW4	21.00	70000	11.00	70000	100%	20%	100%	23%
13	PNBK15APR200.00PE	45.00	111250	27.00	111250	100%	50%	100%	50%

15. I note from the trade log that the trades executed by the Noticee in a contract were squared up within a short span of time with the same counterparty. To illustrate, the Noticee on March 26, 2015 at 13:49:35 hrs entered into 1 sell trade with counter party viz. Ankita Makhijani for 1,00,000 units at rate of Rs. 1.50 per unit in the contract “HNDL15APR135.00PE”. Thereafter, on the same day, Noticee at 13:49:39 hrs entered into 1 buy trade with same counterparty for 1,00,000 units at the rate of Rs. 7.50 per unit in the same contract. It is noted that while dealing in the said contract during the I.P., the Noticee executed total 2 reversal trades (1 buy trade + 1 sell trade) with same

counterparty viz. Ankita Makhijani on the same day and with significant price differential in buy and sell rate. Thus, the Noticee, through its dealing in the contract viz. “HNDL15APR135.00PE” during the I.P, executed 2 non genuine trades which is 100% of the total trades from the market in the said contract during the I.P., and thereby, Noticee generated artificial volume of 2,00,000 units which is 100% of the volume traded in the said contract from the market during the I.P.

16. The Noticee has *inter alia* stated that the definition of reversal trade has not been provided. In this respect, I note that reversal trades are a trading pattern and they need not be defined. Further, it is stated in the SCN that reversal trades are considered non-genuine trades if it involves an entity reversing its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day. The non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no commercial basis as to why, within a short span of time, the Noticee reversed the position with his counterparties with significant price difference. I note from the trade log of the Noticee that the time taken by the Noticee for reversing its non-genuine trades ranged from 3 seconds to 1 minute & 10 seconds. The Noticee has argued that it traded in stock options on anonymous and electronic trading platform of stock exchange, which is provided by stock exchange, and its orders were matched in normal course. However, the fact that the transactions in a particular contract were reversed with the same counterparties indicates a prior meeting of mind with a view to execute the reversal trades at a pre-determined price. Since these trades were done in illiquid option contracts, there was no trading in the said contract and hence, there was no price discovery in the strictest terms. The wide variation in prices of the said contracts, within a short span of time, is a clear indication that there was pre-determination in the prices by the counterparties while executing the trades. Thus, it is observed that Noticee had indulged in reversal trades with

its counterparties in the stock options segment of BSE and the same were non-genuine trades.

17. It is not mere coincidence that Noticee could match its trades with the same counterparties with whom it had undertaken first leg of the respective trades. This is the outcome of meeting of minds elsewhere and it was a deliberate attempt to deal in such a fashion. Here I would like to rely on the judgment of Hon'ble Supreme Court in SEBI v Kishore R Ajmera (AIR 2016 SC 1079), wherein it was held that - "…*in the absence of direct proof of meeting of minds elsewhere in synchronized transactions, the test should be one of preponderance of probabilities as far as adjudication of civil liability arising out of the violation of the Act or provision of the Regulations is concerned. The conclusion has to be gathered from various circumstances like that volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. The illustrations are not exhaustive..."*

18. The Hon'ble Supreme Court further observed in the same matter that – *"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."*

19. The Noticee has *inter alia* stated that its trades had taken place only on 4 days during the 1.5 years of the investigation period and had it intended to carry out

non-genuine trades, the frequency of such trades would have been higher. I am of the view that the argument of the Noticee that it had traded only on 4 days out of 1.5 years of investigation period does not establish that the trades of the Noticee were genuine. I note that direct evidence is not forthcoming in the present matter as regards to meeting of minds or collusion of the Noticee with other entities. The Noticee has stated that its trades have matched with different entities and the counterparties were not related to it. The Noticee has made reference of certain case laws decided by the Hon'ble Securities Appellate Tribunal (SAT) viz. KSL & Industries Ltd. Vs. SEBI and Vintel Securities Pvt. Ltd. Vs. SEBI. However, I note that the trading behaviour of the Noticee makes it clear that aforesaid non-genuine trades could not have been possible without meeting of minds at some level. In this context, I deem it appropriate to refer to the Hon'ble SAT order dated July 14, 2006, in the case of Ketan Parekh vs. SEBI (Appeal no. 2/2004), wherein the Hon'ble SAT has observed that - *"The nature of transactions executed, the frequency with which such transactions are undertaken, the value of the transactions, 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."*

20. Further, I place my reliance on the judgment of Hon'ble Supreme Court in the matter in respect of SEBI v Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018), in which the Hon'ble Supreme Court observed that - *"Considering the reversal transactions, quantity, price and time and sale, parties being persistent in number of such trade transactions with huge price variations, it will be too naive to hold that the transactions are through screen-based trading and hence anonymous. Such conclusion would be over-looking the prior meeting of minds involving synchronization of buy and sell order and not negotiated deals as per the board's circular. The impugned transactions are manipulative/deceptive device to create a desired loss*

and/or profit. Such synchronized trading is violative of transparent norms of trading in securities…..”

21. The trading behaviour of the Noticee confirms that such trades were not normal and wide variation in prices of the trades in the same contract in a short time without any basis for such wide variation, all indicate that the trades executed by the Noticee were not genuine trades and being non-genuine, created an appearance of artificial trading volumes in respective contracts. In view of the above, I find that the allegation of violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations by the Noticee stands established. The Hon’ble Supreme Court of India in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) held that - *“In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant…”.*

22. In view of the same, I am convinced that it is a fit case for imposition of monetary penalty on the Noticee under the provisions of Section 15HA of the SEBI Act, which reads as under:

    [1]*[**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 [2]*[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].*

23. While determining the quantum of penalty under Section 15HA of the SEBI Act, it is important to consider the factors relevantly as stipulated in Section 15J of the SEBI Act which reads as under:-

    Factors to be taken into account by the adjudicating officer.

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[1] Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

[2] Substituted for the words —twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014

15J. 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.

Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E,clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.

24. Though the records available before me does mention about amount of gain/loss of the entities involved in the non-genuine trades including the Noticee. However, it is worth considering that entities involved in these non-genuine trades have either booked gains or loss and the gains or loss appears to be of notional in nature. Generally, there is nil or negligible participation of the public in the trading in illiquid stock option contracts. Hence, the impact of these non-genuine trade has been considered. When the impact of artificial volume created by the two counterparties is seen as a whole, it is not possible from the material on record to quantify the amount of disproportionate gain or unfair advantage resulting from the artificial trades between the counter parties or the consequent loss caused to investors as a result of the default. The Noticee has entered into 35 non-genuine transactions in 13 stock option contracts which demonstrates the repetitive nature of the default on his part.

<u>ORDER</u>

25. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of

Rs. 5,00,000 (Rupees Five Lakh only) on the Noticee viz. Royal Fincomm Private Limited under the provisions of Section 15HA of the SEBI Act.

26. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee. The amount of penalty shall be paid either by way of demand draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or by e-payment in the account of "SEBI - Penalties Remittable to Government of India", A/c No. 31465271959, State Bank of India, Bandra Kurla Complex Branch, RTGS Code SBIN0004380 within 45 days of receipt of this order.

27. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to "The Division Chief, Division of Regulatory Action-1, Enforcement Department (EFD1 – DRA I), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051":

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is	
7. Payment is made for : (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

28. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under Section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

29. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee viz. Royal Fincomm Private Limited and also to the Securities and Exchange Board of India.

Date: June 14, 2019 **K SARAVANAN**

Place: Mumbai **CHIEF GENERAL MANAGER &**

ADJUDICATING OFFICER