BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OFINDIA

ADJUDICATION ORDER NO. BD/NR/2020-21/8008-8012

UNDER SECTION15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of

1. Devang Mukundray Patel *(PAN: AMUPP7312C)* B/87, C P Nagar, Vibhag 2 Near Hira Bag Society Bhuyangdev Char Rasta Ahmedabad – 380061.	2. Sonal Devang Patel *(PAN: AODPP3226Q)* B/87, C P Nagar, Vibhag 2 Near Hira Bag Society Bhuyangdev Char Rasta Ahmedabad – 380061.
3. Manishaben Maheshkumar Patel *(PAN: ANEPP0155A)* 47, Alkangarh, B/H Purvadeep High, Jogeshwari Road Amraiwadi, Ahmedabad – 380026.	4. Rajesh Kumar *(PAN: ASDPK2245G)* H. No. 9/76, Baghichi Galli Block No. 9, Vishwas Nagar Shahdara, Delhi – 110032.
5. Kishor Sharma *(PAN: AYXPS1396Q)* 5/900, Khumran Khalapar Shimla Niwas, Mohalla Mushran Saharanpur – 247001.	

(The aforesaid entities are hereinafter referred to by their respective names/serial numbers or collectively as “the Noticees”)

In the matter of Cupid Trades and Finance Ltd.,

BACKGROUND

1. Securities and Exchange Board of India (*hereinafter referred to as “SEBI”*) conducted an investigation into the trading activities of certain entities in the scrip of Cupid Trades & Finance Ltd., *(hereinafter referred to as “CUPID” / “Company”)* and its trading pattern and into the possible violation of the provisions of the SEBI Act, 1992 and the relevant Rules and Regulations made thereunder, during the period January 6, 2010 to December 31, 2014 *(hereinafter referred to as “Investigation Period” / “IP”*). The investigation revealed that during the period November 6, 2013 and December 26, 2013, Devang Mukandray Patel (Noticee 1*),* Sonal Devang Patel (Noticee 2),

Manishaben Maheshkumar Patel (Noticee 3), Rajesh Kumar (Noticee 4) and Kishor Sharma (Noticee 5), through their execution of buy trades, have contributed to negative Last Trade Price (*hereinafter referred to as "negative / (-) ve LTP")* in the scrip of CUPID and thereby found to have violated the provisions of Regulations 3 (a), (b), (c), (d), 4 (1), (2) (a) and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 {*hereinafter referred to as "SEBI (PFUTP) Regulations"*}

APPOINTMENT OF ADJUDICATING OFFICER

2. Pursuant to investigation, SEBI initiated Adjudication Proceedings against the Noticees and appointed the undersigned as the Adjudicating Officer vide Order dated July 3, 2017 under Section 15I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **"*SEBI Adjudication Rules"***) to inquire into and adjudge under Section 15HA of the SEBI Act for the alleged violation of provisions SEBI Act and SEBI (PFUTP) Regulations.

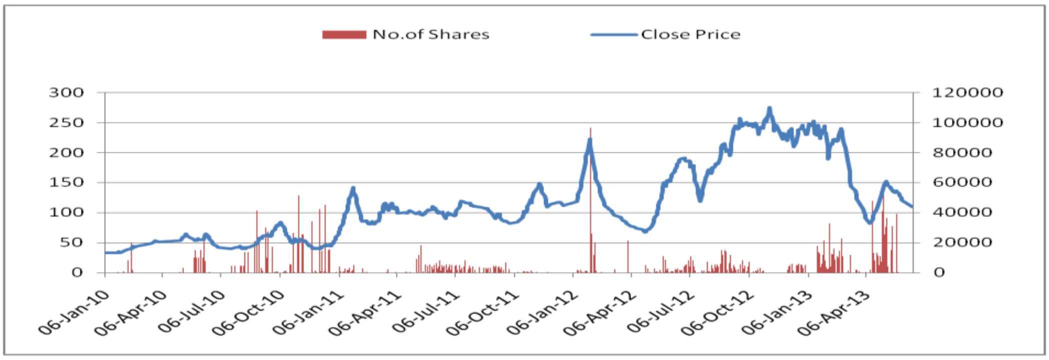
SHOW CAUSE NOTICE, REPLY AND HEARING

3. A Show Cause Notice (hereinafter referred to as **"SCN"**) dated October 16, 2017 was issued to all the Noticees under Rule 4 of the SEBI Adjudication Rules to show cause as to why an inquiry be not held against them in terms of Rule 4 of the SEBI Adjudication Rules and penalty be not imposed under section 15HAof the SEBI Act, 1992 for the violation alleged to have been committed by them.

4. The following are facts of the case and allegations made in the SCN:

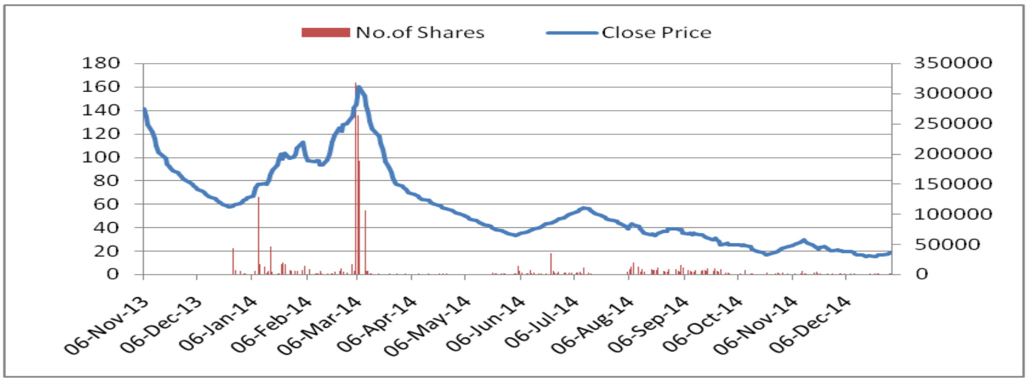
   (a) The shares of CUPID were listed at The Bombay Stock Exchange (BSE). The investigation was conducted for two periods i.e., January 06, 2010 to June 17, 2013 (hereinafter referred to as IP-1) and November 06, 2013 to December 31, 2014 (hereinafter referred to as IP-2).

   (b) During IP-1, 24,81,472 shares were traded through 21,141 trades. Price volume chart during the IP-1 is given as below:



(c) From the price/volume table and above chart, it is observed that the scrip price increased from opening price ₹ 33.05 on January 06, 2010 to ₹ 275.00 on November 06, 2012. Subsequently, the scrip price started decreasing and reached ₹ 81.85 on April 11, 2013 and closed at ₹ 109.50 on June 17, 2013.

(d) During IP-2, 19,71,506 shares were traded through 26,225 trades. Price volume chart during the IP-2 is given as below:



(e) From the price/volume table and above chart, it is observed that the scrip price decreased from opening price ₹141.60 on January November 06, 2013 to ₹ 58.40 on December 26, 2013. Subsequently, the scrip price started increasing and reached ₹ 160.05 on March 07, 2014. Afterwards, the price of the scrip starts decreasing again and reached a low of ₹15.00 on December 18, 2014 and closed at ₹ 18.80 on December 31, 2014.

(f) In view of the above, the entire IP was divided into 5 patches as follows:

Patch 1 - January 06, 2010 to November 06, 2012
Patch 2 - November 08, 2012 to June 17, 2013
Patch 3 - November 06, 2013 to December 26, 2013
Patch 4 - December 27, 2013 to March 07, 2014
Patch 5 - March 10, 2014 to December 31, 2014

(g) *The Open, Close, Low and High price in the scrip of CUPID before, during and after the period of investigation are as under:*

Patches	Period	Particulars	Open	High	Low	Close	Total Volume (Average Volume)
Pre-IP	October 06, 2009 to December 22, 2009 *	Price in ₹	51.95	51.95 (06.10.2009)	31.50 (22.12.2009)	31.50	1034 (79)
		Volume	50	528 (04.12.2009)	1 (15.12.2009)	15	
Patch I	January 06, 2010 to November 06, 2012.	Price in ₹	33.05	275 (06.11.2012)	33.05 (06.01.2010)	275	1659582 (3292)
		Volume	25	96329 (01.02.2012)	1 (Multiple dates)	1	
Patch II	November 08, 2012 to June 17, 2013	Price in ₹	261.30	271.25 (08.01.2013)	77.80 (15.04.2013)	109.50	821890 (6737)
		Volume	2	53341 (02.05.2013)	1 (Multiple dates)	1	
Patch III	November 06, 2013 to December 26, 2013	Price in ₹	141.60	141.60 (06.11.2013)	56.20 (26.12.2013)	58.40	48519 (1386)
		Volume	29	43244 (26.12.2013)	2 (23.12.2013)	43244	
Patch IV	December 27, 2013 to March 07, 2014	Price in ₹	59.55	160.05 (07.03.2014)	59.55 (27.12.2013)	160.05	1205513 (24110)
		Volume	8011	318213 (05.03.2014)	167 (06.02.2014)	188875	
Patch V	March 10, 2014 to December 31, 2014	Price in ₹	161.00	167.00 (10.03.2014)	15.00 (18.12.2014)	18.80	717503 (3642)
		Volume	106829	106829 (10.03.2014)	142 (21.07.2014)	1545	
Post-IP	January 01, 2015 to January 06, 2015 **	Price in ₹	18.05	18.95 (01.01.2015)	16.30 (06.01.2015)	16.30	5438 (1359)
		Volume	634	2406 (02.01.2015)	634 (01.01.2015)	1243	

(h) *To verify price manipulation in the scrip of CUPID, Last Trade Price (LTP) analysis was carried out for the entire investigation period. It was observed that during Patch-3 i.e., from November 6, 2013 to December 26, 2013, there was a drastic fall in the price of the scrip. It was observed that the scrip price opened at ₹141.60 (previous close price ₹149.00), reached a low of ₹ 56.20 and closed at ₹ 58.40. The net decrease in the scrip price was ₹90.60 (decrease of 60.80%).*

(i) *The investigation revealed that the Noticees have been instrumental in establishing a price lower than the last traded price and have contributed to decrease in scrip price with each of their trades.*

(j) *Based on the KYC details, the Noticee 1 (Devang Mukundray Patel) and Noticee 2 (Sonal Devang Patel) are connected to each other. It was observed that the Noticees 1 & 2 by cumulatively executing 10 trades of 147 shares during the relevant Investigation Period, have contributed to* *negative LTP of ₹18.95 (20.42% of total negative LTP during the relevant Investigation period) in the scrip of CUPID. Since sell orders for large quantities were available in the system, it was alleged that Noticees 1 and 2 by their trading pattern matched the prices of prevailing sell orders which were placed at a lower price than the last traded price and thereby consistently contributed to the decrease in the price of the scrip with each of their trades.*

(k) It was also observed that the Noticee 3 (Manishaben Maheshkumar Patel) contributed to negative LTP of ₹20.60 (22.20% of total negative LTP during the relevant Investigation period) through 4 trades executed by her during the relevant period. It was observed that each of the 4 buy orders was placed by the Noticee for a quantity of 1 share only when the respective sell order quantity was available in the range of 989-1903 shares. By executing these trades in miniscule quantities, it was alleged that the Noticee 3 deliberately placed her buy orders only to match the prices of prevailing sell orders which were placed at a lower price than the last traded price and thereby has contributed to the decrease in scrip price with each of her trades.

(l) It was further observed that during the relevant Investigation Period, the Noticee 4 (Rajesh Kumar) has contributed to negative LTP of ₹7.15 (7.70% of total negative LTP) by executing 6 buy trades and each of his 6 buy orders was placed for a quantity of 1 share only when the corresponding sell order quantities were very large.

(m) The Noticee 5 (Kishor Sharma) also has contributed to negative LTP of ₹16.75 (18.05% of negative LTP) through 3 buy trades and each of the 3 buy trades was placed for quantity of one share only when the corresponding prevailing sell order quantity was available in the range of 1000-1987 shares.

(n) The investigation found that by executing buy trades in the manner as narrated above, the aforesaid 5 Noticees have deliberately matched the prices of prevailing sell orders which were already placed at a lower price than the last traded price and thereby contributed to the decrease in share price of the Company with every successive buy trade executed by these Noticees.

(o) It is thus alleged that the Noticees have manipulated the scrip price downwards and have created a misleading appearance of trading in the scrip by executing such fraudulent trades. Such acts of the Noticees have been alleged to be in breach of the provisions of Regulation 3(a), (b), (c), (d) and Regulation 4 (1), 4 (2) (a), (e) of SEBI (PFUTP) Regulations.

5. I note that the SCN sent through Registered Post was served on all the Noticees, except the Noticee 5. The SCN sent to the Noticee 5 returned undelivered. Therefore, the SCN was served through hand delivery on the Noticee 5 on December 8, 2017.

6. In response to the charges alleged in the SCN, the Noticee 4 (Rajesh Kumar) furnished his reply vide letter dated October 24, 2017, by enclosing a copy of the reply dated October 10, 2017, which was submitted earlier in response to the SCN issued under Section 11B of SEBI Act, in the same matter for which the instant Adjudication proceedings have been initiated and requested to take the same on record. The reply furnished by the Noticee 4 is summarized hereunder:

   (a) The Noticee is a small investor and therefore while buying any stock, only small quantities have been purchased. Even the quantity traded in the scrip of Cupid was very small.

   (b) The Noticee has no connection with the other Noticees in the instant matter, by any means whatsoever.

   (c) The buy transaction of 1 share each during the relevant period of investigation was done without any intention of manipulation and it was purely unintentional.

7. The Noticee 5 (Kishor Sharma) vide vakalatnama dated December 21, 2017 authorized Joby Mathew & Associates, Advocates (*hereinafter referred to as "Authorized Representative")* to act, appear, and plead on his behalf in the instant Adjudication proceedings. The Authorized Representative vide letter dated December 21, 2017 sough inspection of the documents referred to and relied upon while issuing the SCN dated October 16, 2017, besides seeking copy of investigation period. Vide email dated January 17, 2018, the Authorized Representative was informed that all the documents which were relied upon and referred to in issuing the SCN were provided along with the SCN and for the purpose of carrying out inspection, the Authorized Representative was directed to conduct the same by January 31, 2018. Further, I note that the Noticee 5 filed an application settlement of the alleged violations under the extant consent mechanism of SEBI Regulations; however

the said consent application culminated in rejection, which was conveyed to the Noticee vide letter dated March 14, 2019. Pursuant to rejection of consent application, vide communique dated March 19, 2019; the Noticee was given an opportunity to file his reply to the SCN, by April 12, 2019. I note that the Noticee 5 did not his reply. I also note that the Noticees 1, 2 and 3 did not file their replies.

8. Thereafter, vide notice dated May 4, 2020; all the Noticees were given final opportunity to file their respective replies by May 18, 2020, besides providing with an opportunity of hearing through video conference on May 20, 2020. The notice dated May 4, 2020 was sent to all the Noticees to their respective Email IDs through digitally signed email, in terms of Rule 7 (b) of SEBI Adjudication Rules and I note that the said email did not bounce. I note that on behalf of the Noticees 1 & 2, the Noticee 1 vide email dated May 16, 2020 sought extension of time to furnish reply and to appear for hearing, in view of Covid-19 pandemic. The request made by the Noticees 1 & 2 for extension of time was considered and accordingly, were given time till June 10, 2020 to furnish their reply, which was communicated vide email dated May 22, 2020. Vide email dated Jun 6, 2020, the Noticees 1 & 2 submitted their reply, which is summarized hereunder:

(a) Vide Order dated March 18, 2020, the Hon'ble Whole Time Member, SEBI, in the same matter and for the same set of alleged violations, restrained us from being associated with securities market and further restrained us from buying, selling, or otherwise dealing in securities, directly or indirectly for a period of one year. We are in the processing of challenging the said Order before the Competent Authority, but due to the pandemic situation and resultant lockdown imposed in Maharashtra, the Appeal could not be filed.

(b) That we have been punished for the same set of violations, the instant proceedings be dropped as the same is absolutely against the principles of double jeopardy.

9. In the interest of natural justice and in terms of Rule 4 (3) of SEBI Adjudication Rules, the Noticees 1 & 2 were given an opportunity of hearing through video conference on June 17, 2020, which was communicated vide email dated

June 12, 2020. Vide email dated June 13, 2020, the Noticees authorized Mr. Dhanvin K Punj, Advocate *(hereinafter referred to as "Authorized Representative")* to appear on their before for the hearing. I note that on the scheduled date of hearing i.e., June 17, 2020, the Authorized Representative appeared on behalf of the Noticees 1 & 2 through WhatsApp video call and reiterated the earlier submissions made by the Noticees. The Authorised Representative undertook to make additional submission by June 22, 2020 and also sought one more opportunity of personal hearing on the same day at 11AM, which was acceded to.

10. The Noticees 1 & 2 vide email dated June 22, 2020 made additional submissions, which are summarized hereunder:

(a) The allegation in the SCN is that Devang Patel has purchased 72 shares during IP2. As a matter fact, Devang Patel had purchased 129 shares as investment. At no point of time, Devang Patel had purchased 2 shares on 18.11.2013. Devang Patel had invested in the scrip by purchasing 129 shares on different occasions and later on same are sold earning meagre profit on the scrip. The quantity purchased by Devang Patel cannot by any stretch of imagination control the price of the scrip. No fraudulent practice worth the name is committed by Devang Patel as on 18.11.2013, if there are1948 shares to be sold at price of Rs. 99.35, no illegality or fraudulent practice is committed by Devang Patel by purchasing and investing by buying 5 shares and in the same way on different dates the investments were made by Devang Patel by purchasing quantities in the range of 10 to 20 shares.

(b) Devang Patel had also purchased shares of different companies on the same day and invested the amount. The quantity traded as mentioned in the IP2 was 19,71,506 and the quantity traded by Devang Patel was merely 129 shares and which would surely miniscule to influence the price of any share. Devang Patel had purchased shares at the price quoted by the sellers on screen on that day and Devang Patel was not an instrumental to fall in price of the scrip. As mentioned in Para 3 of the SCN, the financial condition of the company has taken a nosedive from 2013 onwards and that was the only reason for reduction in price of the scrip.

(c) The allegation in the SCN is that Sonal Patel has purchased 75 shares. As a matter fact, Sonal Patel had purchased 100 shares as investment. At no point of time, Sonal had meagre quantity of shares. Sonal Patel had invested in the scrip by purchasing 100 shares on different occasions and later on same are sold earning meagre profit on the scrip. The quantity purchased by Sonal Patel cannot by any stretch of imagination control the price of the scrip. No fraudulent practice

worth the name is committed by Sonal Patel as on 28.11.2013, if there are 600 shares to be sold at price of Rs. 81.97, no illegality or fraudulent practice is committed by Sonal Patel by purchasing and investing by buying 25 shares and in the same way on different dates the investments were made by Sonal Patel by purchasing 25 shares. Sonal Patel had also purchased shares of different companies on the same day and invested the amount. The quantity traded as mentioned in the IP2 was 19,71,506 and the quantity traded by Sonal Patel was merely 100 shares and which would surely miniscule to influence the price of any share. Sonal Patel had purchased shares at the price quoted by the sellers on screen on that day and Sonal Patel was not an instrumental to fall in price of the scrip. As mentioned in Para 3 of the SCN, the financial condition of the company has taken a nosedive from 2013 onwards and that was the only reason for reduction in price of the scrip. Therefore, allegations levelled against Devang Patel and Sonal Patel are far from truth and therefore, the present proceedings may kindly be dropped in the interest of justice.

(d) We further state and submit that the charge levelled against us is that we have cumulatively contributed to negative LTP of Rs. 18.95 through 10 trades. The allegation is that we have placed the buy orders for the quantity 2-25 shares only when the respective sell order quantity was in the range of 100-4000. We have not lowered the price as alleged and in fact purchased the shares and invested the amount at the rate offered by the sellers. We have invested as per our investing capacity and available funds and have not indulged in any fraudulent practice as alleged. As a matter of fact, the sellers were the persons who were responsible in lowering the price by making the shares available at rate less than the previous day price or the negative LTP. We were not having enough funds to buy the entire quantity and the transactions depend upon the wisdom and availability of the funds with the traders. We have not committed any fraudulent practice as alleged. It is incorrect to state that we were not acting as genuine buyers and had no bonafide intention to buy because in-spite of sufficient sell orders with abundant quantity being available in the market, we had placed buy orders for miniscule quantities only in each transaction and performed not more than one transaction a day. It is incorrect to state that we were instrumental in establishing a price lower than the last traded price and thus contributed to decrease in scrip price with each of the trades. We have purchased shares at a price offered by the sellers. The quantity we had purchased as per our financial capacity and therefore, it is incorrect to state that we have manipulated the scrip price and created a misleading appearance of trading in scrip by such trades.

(e) We have purchased the shares in the months of November- December, 2013 and later on sold those shares in 2014 and Devang Patel and Sonal Patel made the profit of Rs. 5203.76 and Rs. 7330 respectively. As mentioned in Para 4 of SCN, after we purchased the shares, the price of the scrip went down to Rs. 58.40 and luckily the price recovered and we could sell the shares by making profit as mentioned above. There is no intention on our part to lower the price after investing our hard earned money into it.

(f) In above view of the matter, we being the genuine investors and who have made investment in shares by purchasing the shares at the rate offered by the sellers and after holding the shares for several months we have made profit of Rs. 5203/- and Rs. 7330/- only, we have not committed or Indulged into price manipulations or fraudulent practice.

(g) We further state and submit that Devang Patel and Sonal Patel are husband and wife. We don't have any contact or connection with other Noticees and we don't even know them. We have never transacted together and we don't know anything about them. There is nothing on record to even suggest that we have any connection with other Noticees.

(h) We state and submit that there was no violation of any law in the present case and the allegations are mere speculation, conjecture and surmises and are hypothetical and proceedings to levy of penalty on that allegations is unsustainable in law. In this regard, we rely on the judgment of the Hon'ble Supreme Court in the matter of An Advocate v. Bar Council of India, MANU/SC/0023/1988 : 1989 Supp(2) SCC 25 wherein it was held as under:

> *"As a logical corollary it follows that the Disciplinary Committee empowered to conduct the enquiry and to inflict the punishment on behalf of the body, in forming an opinion must be guided by the doctrine of benefit of doubt and is under an obligation to record a finding of guilt only upon being satisfied beyond reasonable doubt. It would be impermissible to reach a conclusion on the basis of preponderance of evidence or on the basis of surmise, conjecture or suspicion. It will also be essential to consider the dimension regarding mens rea".*

11. Further, the Authorized Representative for the Noticees 1 & 2 appeared through Webex video conference on June 22, 2020 and reiterated the submissions made by the Noticees 1 & 2 vide email dated June 22, 2020.

12. I note that despite receipt of SCN and notice of hearing, the Noticees 3 & 5 did not file their replies and also not attended the hearing. I also note that the Noticee 4 did not attend the hearing. In this context, I would like to rely upon the observations of The Hon'ble Securities Appellate Tribunal (SAT) in the matter of Classic Credit Ltd. vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006) wherein Hon'ble SAT inter-alia observed that - *"........... the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show-cause notice were admitted by them".*

13. The Hon'ble SAT has again in the matter of Sanjay Kumar Tayal & Others v SEBI (Appeal No. 68 of 2013 decided on February 11, 2014), inter-alia, observed that – *"……………….As rightly contended by Mr. Rustomjee, learned senior counsel for respondents, appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices…………….".*

14. In view of the above, I am of the opinion that the SCN and Notices of hearing have been duly served on the Noticees 3 &5, but they failed to reply and also failed to avail the opportunity of hearing. I also note that the Noticee 4 despite receipt of notice of hearing did not attend the hearing. I am convinced that the principle of natural justice has been duly followed in the matter, as enough opportunities were provided to the Noticees 3, 4 and 5 to reply to the SCN and to appear for hearing *(as the case may be)*. Therefore, I am inclined to decide the matter ex-parte in respect of Noticees 3 and 5 taking into account the evidence / material available on record.

CONSIDERATION OF ISSUES

15. After perusal of the material available on record, I have the following issues for consideration viz.,

    I. Whether the Noticees have violated the provisions of Regulations 3 (a), 3(b), 3(c), 3 (d), 4 (1), 4 (2) (a) and 4 (2) (e) of SEBI (PFUTP) Regulations, 2003?

    II. Whether the Noticees are liable for monetary penalty under Section 15HA of the SEBI Act?

    III. If so, what quantum of monetary penalty should be imposed on the Noticees?

FINDINGS

16. On perusal of the material available on record and giving regard to the facts and circumstances of the case and submissions of the Noticees, I record my findings hereunder.

ISSUE I: Whether the Noticees have violated the provisions of Regulations 3 (a), 3(b), 3(c), 3 (d), 4 (1), 4 (2) (a) and 4 (2) (e) of SEBI (PFUTP) Regulations, 2003?

17. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI Act and SEBI (PFUTP Regulations), 2003 which reads as under:

Regulation 3 of SEBI (PFUTP) Regulations: - Prohibition of certain dealings in securities

3. 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 thereunder.

Regulation 4 of SEBI (PFUTP) Regulations: - 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;
(e) any act or omission amounting to manipulation of the price of a security;

18. Before going into the merits of the case, I would like to first deal with the primary contention raised by the Noticees 1 and 2 that they are subjected to multiple enforcement actions under Section 11 (1), 11 (4) & 11 B of SEBI Act besides the instant Adjudication proceedings for the same cause of alleged violations. In this regard, I deem it appropriate to mention the Hon'ble SAT's observations in the matter of Sunita Gupta Vs. SEBI in the Appeal No. 193 of 2016 decided on April 21, 2017, which reads as under:

> *"Where a person violates the provisions contained in the SEBI Act and the regulations made thereunder, then, SEBI is empowered to initiate penalty proceedings against that person under Chapter VIA of SEBI Act and also issue directions in the interests of investors or securities market as it deems fit under Chapter IV of SEBI Act. Thus, the powers conferred on the Board under Chapter IV are independent from the powers to impose penalty under Chapter VIA of SEBI Act. Accordingly, in the present case, since the appellant had indulged in synchronized/ circular trades in gross violation of SEBI Act/ PFUTP Regulations and the same was detrimental to the interests of the investors and securities market, the Board deemed it fit to issue direction under Chapter IV in addition to the penalty imposed under Chapter VIA of SEBI Act. Therefore, in the facts of present case, initiation of proceedings under Chapter IV even after initiating proceedings under Chapter VIA cannot be faulted.*

19. Therefore, in light of the above, the principle of double jeopardy does not apply to the present proceedings, as the proceedings under Chapter VIA of SEBI Act and Chapter IV of SEBI Act are independent and accordingly I find no merit in the argument put forth by the Noticees 1 and 2.

20. Further, I note that there is no stay on the instant Adjudication proceedings and therefore I see no reason to keep the instant proceedings in abeyance just because the Noticees 1 and 2 intend to file an Appeal against the Order passed by the Hon'ble WTM for the same set of alleged violations, in view of the fact that both the proceedings are independent and separate. .

21. It has been alleged that the Noticees had executed buy trades in minuscule quantity and indulged in manipulative trades by contributing to negative LTP in the scrip of CUPID repeatedly during the relevant Investigation period i.e.,

November 6, 2013 to December 26, 2013. The method and the manner in which the trades were executed are the most important factors to be considered in these circumstances and the motive, thereafter, automatically falls in line.

22. It is a matter of record that during the relevant period of investigation i.e., Patch-3 of IP-2 (November 6, 2013 to December 26, 2013), the price of CUPID opened at ₹141.60 (previous close price ₹149.00), reached a low of ₹56.20 and closed at ₹58.40. The net decrease in the scrip price was ₹90.60 (decrease of 60.80%). The price volume data for the period November 6, 2013 to December 26, 2013 is as under:

Date	Open Price (₹)	High Price (₹)	Low Price (₹)	Close Price (₹)	No. of Shares traded	No. of Trades
06-Nov-13	141.60	141.60	141.60	141.60	29	4
07-Nov-13	134.55	134.55	134.55	134.55	203	4
08-Nov-13	127.85	127.85	127.85	127.85	53	3
11-Nov-13	121.50	121.50	121.50	121.50	3	3
12-Nov-13	115.45	115.45	115.45	115.45	39	5
13-Nov-13	109.70	109.70	109.70	109.70	2	2
14-Nov-13	104.25	104.25	104.25	104.25	39	5
18-Nov-13	99.05	99.05	99.05	99.05	45	8
19-Nov-13	94.10	94.10	94.10	94.10	1105	11
20-Nov-13	92.25	92.25	92.25	92.25	184	8
21-Nov-13	90.45	90.45	90.45	90.45	38	6
22-Nov-13	88.65	88.65	88.65	88.65	352	10
25-Nov-13	86.90	86.90	86.90	86.90	70	7
26-Nov-13	85.20	85.20	85.20	85.20	35	3
27-Nov-13	83.50	83.50	83.50	83.50	37	3
28-Nov-13	81.85	81.85	81.85	81.85	45	3
29-Nov-13	80.25	80.25	80.25	80.25	125	2
02-Dec-13	78.65	78.65	78.65	78.65	36	3
03-Dec-13	77.10	77.10	77.10	77.10	75	3
04-Dec-13	75.60	75.60	75.60	75.60	426	5
05-Dec-13	74.10	74.10	74.10	74.10	42	6
06-Dec-13	72.65	72.65	72.65	72.65	35	2
09-Dec-13	71.20	71.20	71.20	71.20	370	4
10-Dec-13	69.80	69.80	69.80	69.80	410	5
11-Dec-13	68.45	68.45	68.45	68.45	2	2
12-Dec-13	67.10	67.10	67.10	67.10	36	3
13-Dec-13	65.80	65.80	65.80	65.80	60	3

16-Dec-13	64.50	64.50	64.50	64.50	201	4
17-Dec-13	63.25	63.25	63.25	63.25	729	6
18-Dec-13	62.00	62.00	62.00	62.00	75	6
19-Dec-13	60.80	60.80	60.80	60.80	8	4
20-Dec-13	59.60	59.60	59.60	59.60	66	3
23-Dec-13	58.45	58.45	58.45	58.45	2	2
24-Dec-13	57.30	57.30	57.30	57.30	298	5
26-Dec-13	56.20	58.40	56.20	58.40	43244	121

23. The details of such buy trades executed by the Noticees and the impact of their trades on the LTP of CUPID scrip during the relevant Investigation Period *(henceforth to be referred as November 6, 2013 to December 26, 2013*) are tabulated hereunder:

Name of the buyer	**All trades**			**LTP Diff. >0**			**LTP Diff. < 0**			**LTP Diff. =0**		**% of negative LTP to mkt negative LTP (₹92.80)**
	Net LTP	**QTY traded**	**No. of trades**	**LTP impact**	**QTY traded**	**No. of trades**	**LTP impact**	**QTY traded**	**No of trades**	**QTY traded**	**No of trades**	
Devang Mukundray Patel	-14.25	154	18	0	0	0	-14.25	72	7	82	11	15.36
Sonal Devang Patel	-4.70	100	4	0	0	0	-4.70	75	3	25	1	5.06
Manishaben Maheshkumar Patel	-20.60	4	4	0	0	0	-20.60	4	4	0	0	22.20
Rajesh Kumar	-7.15	8	8	0	0	0	-7.15	6	6	2	2	7.70
Kishor Sharma	-16.75	4	4	0	0	0	-16.75	3	3	1	1	18.05
Total	**-63.45**	**270**	**38**	**0**	**0**	**0**	**-63.45**	**160**	**23**	**110**	**15**	**68.37**
Remaining entities	**-27.15**	**48249**	**236**	**2.2**	**2009**	**5**	**-29.35**	**491**	**12**	**45749**	**219**	**31.63**
Total - market	**-90.60**	**48519**	**274**	**2.20**	**2009**	**5**	**-92.80**	**651**	**35**	**45859**	**234**	**100.00**

24. I note from the above table that during the relevant Investigation period, the Noticees have cumulatively executed 38 trades in the scrip of Cupid out of which in respect of 23 trades, they have contributed negative LTP of ₹63.45 which constitutes 68.37% of the total market negative LTP of ₹92.80 witnessed by the scrip during the period. I also observe from the table that such negative LTP of ₹63.45 was contributed by the 5 Noticees from trading in only 160 shares which was just 0.32% of the total number of shares traded in the market during the said relevant Investigation Period i.e. 48,519 shares in the scrip of CUPID. The aforesaid trading data which depicts that the Noticees have contributed to more than 60% of total negative market LTP from

less than 1% of the total trades in the market during the said period in the scrip of CUPID raises a compelling suspicion on the intent of the Noticees, from the very trading pattern adopted by these Noticees.

25. I note that as per the KYC details of the Noticees 1 and 2, they share a common address and hence based on such common address, it can be reasonably concluded that these two Noticees are connected entities. Moreover, the allegations of their connections based on their common address have not been disputed by any of them, which further establish that the Noticees 1 and 2 have not disputed to their inter-connectedness as observed from the investigation. It is an admitted fact that the Noticees 1 & 2 are husband and wife by relation. Further, from the trade details, I note that both Noticees 1 and 2 have contributed to negative LTP in the trades executed by them in the scrip of CUPID during the relevant Investigation Period, the details of which are tabulated below:

Name of the Noticee	Trade Date	Buy order quantity	Sell order quantity	Trade quantity	LTP contribution (In ₹)	LTP contribution in %age to total market negative LTP during patch (₹92.80)
Devang Mukundray Patel	18/11/2013	2	**1948**	2	-5.20	5.60
	21/11/2013	10	**797**	10	-1.80	1.94
	27/11/2013	10	**600**	10	-1.70	1.83
	05/12/2013	10	**400**	10	-1.50	1.62
	10/12/2013	10	**438**	10	-1.40	1.51
	12/12/2013	10	**300**	10	-1.35	1.45
	13/12/2013	20	**850**	20	-1.30	1.40
Total contribution of LTP by Noticee 1				**72**	**-14.25**	**15.36**
Sonal Devang Patel	28/11/2013	25	**600**	25	-1.65	1.78
	02/12/2013	25	**100**	25	-1.60	1.72
	09/12/2013	25	**4000**	25	-1.45	1.56
Total contribution of LTP by Noticee 2				**75**	**-4.70**	**5.06**
Combined contribution of Noticees 1 and 2				**147**	**-18.95**	**20.42**

26. I note from the table that the Noticee 1 had executed 7 buy trades in the scrip of CUPID for a total number of 72 shares and thereby contributed to negative LTP of ₹14.25 which was 15.36% of total market negative LTP during the relevant Investigation period in the scrip of CUPID. Similarly, the Noticee 2 had executed 3 buy trades in the scrip CUPID for 25 shares each for a total number of 75 and thereby contributed to negative LTP of ₹4.70 which was 5.06% of total market negative LTP during the relevant Investigation period in

the scrip of CUPID. From the combined trades details of the Noticees 1 and 2 as mentioned in pre-paragraphs 23 and 25 above, it is noted that out of the 22 trades executed by the Noticees, the Noticees have cumulatively contributed to negative LTP of ₹18.95 in 10 trades consisting of 147 shares, which was 20.42% of total market negative LTP during the relevant investigation period. I also note that in respect of the remaining 10 trades, the same were executed by the Noticees at LTP (difference=0). I further note from the records that all the aforementioned 10 trades which have resulted into contribution of negative LTP, were the first trades of the day in the scrip of CUPID and were matched with offer price of the existing sell orders in the system, whereas none of the remaining 12 trades executed by Noticee 1 and 2 was first trade of the day. It is further noted from the above table that Noticees were found to be placing buy orders in minuscule quantity, while there were more number of shares in the range of 100 to 4,000 shares available on the sell side. It is seen from the above table that, when the Noticee 1 placed buy order for 2 shares on November 18, 2013, there were 1,948 shares available for sell from the respective seller. Similarly, when the Noticee 2 placed buy order for 25 shares on December 9, 2013, there were 4,000 shares available for sell from the respective seller.

27. It is pertinent to note that through the aforementioned 10 trades the Noticees 1 & 2 have dealt in only 147 shares, which constitutes only 0.3% of total number of shares (48,519 shares) traded in the scrip of Cupid during the relevant Investigation Period, however with these small number of shares traded by them, their total contribution to negative LTP was 20.42% of the total negative LTP in the scrip during the relevant Investigation Period. It is evident from the aforementioned trading pattern that the intention of the Noticees was only to pull the price of the scrip lower and not to enter into any actual buy transactions as a genuine investor of the securities market. I also note that neither of these two Noticees has been able to provide any plausible justification as to what or which event/information induced them so much so to buy the shares of Cupid. It is also seen that the Noticees have taken turns while executing trades and have executed one transaction at a time on different trading days which resulted in steady fall in the price of the share of

the Company. The two Noticees have not placed any order or executed any trades together on the same day and rather have acted apparently under a preconceived scheme on the basis of which they have placed order turn by turn on different days. It is also observed from the trading details that though the price of the scrip was falling, the Noticees have not placed any buy order first, to exhibit their intent to buy the scrip as a genuine investor. There is nothing on record to show that they have also placed any other buy orders in the course of the day. They have rather entered into the market with their buy orders of miniscule quantity only to match the price of an already existing sell order which was pending in the system for execution for wait of a matching buy order. In the absence of any plausible explanation justifying their action of buying the stock in such miniscule quantities and executing only one trade in a day coupled with other attendant materials relating to the poor fundamental of the Companies, the trades executed by Noticee no 1 & 2 cannot be held to be trades executed fairly as genuine investors of securities market in the normal course of trading in securities.

28. In respect of the Noticee 3, I note from the table at para 23 above that the Noticee has contributed to negative LTP of ₹20.60 (22.20% of market negative LTP) through 4 trades. The details of the trades executed by Noticee no. 3 in the scrip of Cupid during the relevant Investigation Period are tabulated below:

Name of the Noticee	Trade Date	Buy order quantity	Sell order quantity	Trade quantity	LTP contribution (In ₹)	LTP contribution in %age to total market negative LTP during patch (₹92.80)
Manishaben Maheshkumar Patel	07/11/2013	1	**989**	1	-7.05	7.60
	11/11/2013	1	**989**	1	-6.35	6.84
	14/11/2013	1	**1000**	1	-5.45	5.87
	25/11/2013	1	**1903**	1	-1.75	1.89
TOTAL				**4**	**-20.6**	**22.20**

29. I note from the trade details of the Noticee as tabulated above, that by executing only 4 trades (all at price below LTP) the Noticee 3 has contributed to negative LTP in the scrip of Cupid. Further, I note that when the buy orders for only 1 share at a time were placed by the Noticee 3, the corresponding sell order quantities available in the stock exchange system were in the range of

989-1903 shares. It is seen that, when the Noticee executed her 4 trades of 1 share each, there were 4,881 shares available for sell from the respective sellers. Even if it is considered that the Noticee was interested in purchasing the share of Cupid, no rationale has been advanced to justify such a trading pattern of purchasing only 1 share every time, despite the fact that large quantities of shares of Cupid were available in the market, for purchase. However, for reasons best known to the Noticee, she was placing buy orders only for 1 share at a time just to match the sell price of the sell orders which were pre-existing in the system and waiting for a matching buy order for execution of a trade at that price.

30. It is pertinent to note that by executing trades for only 4 shares, which is only 0.008% of total number of shares (48,519 shares) traded in the scrip of Cupid during the relevant Investigation Period, the Noticee 3 has contributed to 22.42% of negative LTP in the scrip. I further observe from the records that all the aforementioned 4 trades executed by the Noticee 3, were the first trades of the day in the scrip meaning thereby, the first trades in the scrip were executed on those 4 trading days only after the Noticee placed her buy order for 1 share each, to match the existing sell price offered by the seller. It is evident from the trading pattern of the Noticee 3 that by placing buy orders to match the sell orders pending at prices below the LTP of the scrip, she has contributed significantly to the market negative LTP of ₹20.60 which constituted 22.20% of total market negative LTP in the said scrip. The above discussed trading pattern signifies that the intention of the Noticee 3 was not genuine and that she had no bonafide intention to buy the shares of Cupid. I also observe from the record that the alleged 4 trades were the only trades executed by the Noticee 3 during the relevant investigation period. The trades of this Noticee also do not coincide with the trades executed by the Noticees 1 & 2 i.e. her trading days were different from the trading days of the Noticees 1 & 2 and it is a strange coincidence that none of the three Noticees i.e. Noticee nos. 1, 2 and 3 placed buy orders and traded on the same day. Buying stock of the company at a price lower than the preceding day price would not ipso facto make an entity liable for wrong doing since a prudent buyer would always prefer to buy at lower price, however, the very unusual way of placing

buy orders and placing those buy orders in such a fashion only to match with the pending sell orders render the acts or trades executed by the Noticee as unfair trades having an element of manipulation of price of the scrip of Cupid.

31. I note that since the Noticee 3 had placed matching buy orders for 1 share for four days and with each of her trades caused further fall in the price of the scrip of Cupid without any bonafide intent, it is difficult to accept that the Noticee was interested to buy the scrip of Cupid but at the same time did not wish to buy more than 1 share at a time since such a purchase behaviour, without any concrete reason being offered to substantiate it, cannot be called a normal prudent trading behaviour in the securities market. It is also important to note that Noticee's trades were the first trades of the respective trading days and during the rest of those days, no further orders were placed by the Noticee. When the price of the stock was steadily falling, the Noticee did not even wait to watch the movement of the price, so as to analyse the movement during the day before placing her orders. It rather become clear that had the Noticee 3 not placed her buy order for 1 share each so as to match with the existing sell orders, there would not have been any trade executed on those days and price of the scrip would not have fallen due to such trades. The Noticee 3 by executing the buy order for one share each on four occasions has ostensibly exhibited her intent of not being genuinely interested in buying the stock and instead, in the process of buying 1 share in each of her trades has cause in grievously distorting the established norms of market mechanism and in creating misleading appearance of trading in the said scrip while in the reality there was no genuine trades taking place in the scrip.

32. With regard to the trades executed by the Noticee 4, I note that the SCN has alleged that he has also contributed negative LTP of ₹7.15 (7.70% of total negative LTP) in the scrip of Cupid by placing orders in miniscule quantities. It is noted from the trade details from Para 23 above that the Noticee 4 (Rajesh Kumar) has executed in total, 8 buy trades of one share each in the scrip of Cupid during the relevant Investigation Period and out of these 8 trades, the Noticee had contributed to negative LTP through 6 trades. Trade details of such 6 trades executed by the Noticee 4 are tabulated below:

Name of the Noticee	Trade Date	Buy order quantity	Sell order quantity	Trade quantity	LTP contribution (In ₹)	LTP contribution in %age to total market negative LTP during patch (₹92.80)
Rajesh Kumar	16/12/2013	1	**100**	1	-1.3	1.40
	17/12/2013	1	**3630**	1	-1.25	1.35
	19/12/2013	1	**1833**	1	-1.2	1.29
	23/12/2013	1	**1825**	1	-1.15	1.24
	24/12/2013	1	**1823**	1	-1.15	1.24
	26/12/2013	1	**2901**	1	-1.1	1.19
TOTAL				**6**	**-7.15**	**7.70**

33. I note from the table above that the Noticee 4 has placed orders for only 1 share on various occasions although the corresponding sell orders, with which his buy orders got matched for execution, were available in the range of 100-3630 shares. During the period when, the Noticee 4 executed his 6 trades of 1 share each which resulted in the negative LTP contribution in the scrip of Cupid, there were in total 16,993 quantities of shares available for sell by the respective sellers out of which the Notice picked up only 6 shares to buy through 6 trades executed by him. I further note that no reason has been advanced by the Noticee no. 4 in his reply justifying the placing of purchase orders of 1 share every time, despite the fact that large amount sell quantities were available in the market.

34. The Noticee 4 has taken a plea that the quantities bought by him were very few and therefore it is very difficult for one to manipulate the price of the scrip by trading in such small quantities. The submissions of the Noticee may appear to be convincing on the face of it, however, when one looks at the pattern and methodology adopted by him to trade in the scrip, it becomes clear that such an explanation cannot conceal the unfairness in the trades executed by the Noticee. I note that though the contribution to negative LTP in the scrip of Cupid by each of the trades executed by him is small, the cumulative impact of such small contributions has resulted in contribution of 7.70% of the total market negative LTP in the scrip of Cupid. This is further evident from the fact that though the Noticee had traded in 6 shares, which is only 0.01% of total

number of shares (48519 shares) traded in the scrip of Cupid during the relevant Investigation Period, the contribution to fall in price in the scrip by executing trades for only 6 shares was ₹7.15 which is 7.70% of total negative LTP in the scrip of Cupid.

35. I observe from the records that all the aforementioned 6 trades of the Noticee 4 which have caused contribution to negative LTP, were the first trades of the day in the scrip and after executing those trades for 1 share each, the Noticee has not placed any other buy order during rest of those trading days. The aforementioned trading pattern strongly suggest that the intention behind executing those 6 trades was to bring the price of the scrip down and not to enter into any actual buy transactions as a genuine investor of the securities market.

36. The Noticee 5 i.e., Kishor Sharma like the other four Noticees, has also contributed to negative LTP of ₹16.75 (18.05% of negative LTP) by executing 3 buy trades of 1 share each. The details of the trades executed by the Noticee 5 are tabulated below:

Name of the Noticee	Trade Date	Buy order quantity	Sell order quantity	Trade quantity	LTP contribution (In ₹)	LTP contribution in %age to total market negative LTP during patch (₹92.80)
Kishor Sharma	12/11/2013	1	**1987**	1	-6.05	6.52
	13/11/2013	1	**1000**	1	-5.75	6.20
	19/11/2013	1	**1000**	1	-4.95	5.33
TOTAL				**3**	**-16.75**	**18.05**

37. I note from the table above that all the 3 buy orders which have resulted in negative LTP contribution were placed for 1 share each only, although the corresponding sell order quantity available in the system for execution was in the range of 1000-1987 shares. I see no reason on the record to ascertain as to why the Noticee was interested in buying only one quantity of share of Cupid and he bought only 3 shares by executing 3 trades, while there were almost 4000 quantities of shares being offered by the respective sellers in the scrip of Cupid. As noticed in the case of other Noticees, in this case too, all the 3

trades were executed on 3 different trading days during the relevant Investigation period and each such trade has resulted in a lower LTP. Since in each of his trades, the Noticee has merely matched his buy order price with the pre-existing sell order price so as to execute somehow a trade that would pull down the price of the scrip of Cupid.

38. On an analysis of trade details of the Noticee 5 as mentioned in Para 23 above, I find that by executing trades in only 3 shares, which is only 0.006% of the total number of shares (48,519 shares) traded in the scrip of Cupid during the relevant Investigation Period, the Noticee 5 has contributed to 18.05% of negative LTP in the scrip. Further, all the afore-stated 3 trades executed by the Noticee 5 were the first trades of the day in the scrip and after executing these trades the Noticee did not evince any interest in the said scrip during rest of those trading days. It is evident from the trading pattern of the Noticee 5 that by placing buy orders at prices below LTP for the scrip, he deliberately matched his buy orders with the sell orders and in this process, he has contributed significantly to the market negative LTP of ₹16.75 which constituted 18.05% of total market negative LTP in the said scrip. Such an abnormal trading pattern signifies that the intention of the Noticee 5 was not genuine and that he had no bonafide motive to buy the shares of Cupid and has placed his buy orders only to help the existing sell orders get executed at a price lower than the LTP and but for his 1 share buy orders, the sell orders would not have been executed on those days, and would not have caused any negative impact on the LTP of the scrip.

39. As already pointed out earlier, in-spite of sufficient sell orders with abundant quantity being available in the market, the Noticee 5 placed buy orders for only 1 share in each transaction and executed not more than one transaction a day and by executing these trades, he was instrumental in establishing a price lower than the last traded price and thus contributed to decrease in scrip price with each of his trades.

40. From the foregoing discussions and analysis of trading pattern displayed by each of the five Noticees, I find that through their abnormal trading behaviour,

all the 5 Noticees have indulged in executing very unusual patterns of trades to deliberately manipulate the price of the scrip. Their trading pattern of buying very few shares (mostly 1 share at a time) in one trade on a number of occasions and their decision each time to place buy orders in a manner that they get matched with existing sell orders available for prices lower than the LTP, further manifests their intention that they were not interested in buying the stock like a genuine buyer or prudent trader in the securities market and instead, their trading behaviour clearly unravels their malicious intention to trade only to distort the market equilibrium with respect to the scrip of Cupid.

41. From the details of the trades executed by the 5 Noticees, I note that all the 5 Noticees have adopted almost identical strategy in trading in the scrip of Cupid. I am of the view that it is not necessary to have any direct connection with the counter party especially in illiquid stock with low floating stock, as volumes and value of trading involved would be miniscule. Even if either party is manipulative, it is sufficient to manipulate, as unsuspecting gullible investors would be attracted to deal in the scrip who could be counterparties. It is necessary to examine trading patterns of parties with respect to their strategy and rationale for such dealings. It is a strange co-incidence that all the 5 Noticees have taken turns on different trading days while placing their buy orders in the scrip and on no single trading day, more than one Noticee come to the market with buy order. Such an exceptional coincidence of trading in the scrip of Cupid in an identical but unique and unusual way of placing miniscule buy order of 1 share at a time on continuous basis over the period and at the same time placing buy orders by each of the 5 Noticees on different trading days, leave no doubt in my mind that the manner of trading done by these 5 Noticees was not fair and was designed only to create a misleading appearance of trade in the scrip and at the same time to trigger a fall in the price of the scrip over a long period of time. Such an abnormal trade practice as exemplified by the trading pattern of these five Noticees fall within the realm of violation of SEBI (PFUTP) Regulations, 2003. It is noteworthy that trades of all the 5 Noticees which have resulted into contribution of negative LTP in the scrip of Cupid were not only executed on different trading days but also were the first trades of the day in the scrip. A date-wise analysis of all such trades

which contributed to negative LTP in the scrip and were the first trades of the respective trading days, is presented below:

Name of the Noticee	Date of trades of the Noticee which contributed to negative LTP
Devang Mukundray Patel	18/11/2013
	21/11/2013
	27/11/2013
	05/12/2013
	10/12/2013
	12/12/2013
	13/12/2013
Sonal Devang Patel	28/11/2013
	02/12/2013
	09/12/2013
Manishaben Maheshkumar Patel	07/11/2013
	11/11/2013
	14/11/2013
	25/11/2013
Rajesh Kumar	16/12/2013
	17/12/2013
	19/12/2013
	23/12/2013
	24/12/2013
	26/12/2013
Kishor Sharma	12/11/2013
	13/11/2013
	19/11/2013

42. It can be seen from the table above that none of the Noticees contributed to negative LTP on same day and all the first trades were executed on different days, by different Noticees. The table above portrays a clear-cut picture of the identical pattern of trading adopted by the five Noticees on different days by taking turns, which further proves that there has been a unity of malafide intention of the Noticees to bring the price of the scrip of Cupid lower and lower through every single trade that each of them has executed in the months of November and December 2013. It is also pertinent to mention here that the sell orders already available and pending in the stock exchange system, would not have been able to make any manipulative impact on the price of the scrip on their own, if the Noticees had not placed those buy orders in the miniscule quantities matching the sell prices offered in the pending sell orders. In fact, in the absence of the buy orders of small quantities placed by the 5 Noticees,

no transaction would have fructified on those trading days and no negative LTP would have been formed. The manipulative intent of the Noticees gets further exposed from the fact that instead of buying larger quantities of shares when large quantities of sell orders were already available in the trading system, the Noticees were buying small/miniscule number of shares (mostly 1 share at a time) which shows that they had no real enthusiasm to buy the scrip of Cupid or to invest in the said Company. I note from the sequencing of buy & sell orders and the trading pattern adopted in these trades by the Noticees, the preponderance of probability suggests that the Noticees have placed their buy orders not on business prudence but with a fraudulent intent of pulling down the price of the scrip.

43. The Noticees 1 and 2 in their submissions referred to a judgment of the Hon'ble Supreme Court in the matter of An Advocate v. Bar Council of India, MANU/SC/0023/1988 :1989 Supp(2) SCC 25 on consideration of mens rea while inflicting punishment. In this connection, I note that the Adjudication proceedings initiated under Chapter VIA of SEBI Act are civil proceedings. The SEBI Act and the Regulations made thereunder, are intended to regulate the Securities Market and the related aspects, the imposition of penalty, in the given facts and circumstances of the case, cannot be tested on the ground of "no mens rea, no penalty". For breaches of provisions of SEBI Act and Regulations made thereunder, are civil in nature, therefore mens rea is not essential. Thus, the contentions raised by the Noticees 1 and 2 devoid of any merit.

44. The Noticees 1 & 2 contended that their trades in minuscule quantity cannot be regarded as having manipulative/fraudulent intent. Further, the Noticees 1, 2 and 4 contended that they are not connected to the counterparties of their trades which had resulted into negative LTP. In this context, I note that in the screen based trading, the manipulative or fraudulent intent can be inferred from various factors such as conduct of the party, pattern of transactions, etc. Vide its order dated July 14, 2006, in Ketan Parekh vs. SEBI (Appeal no. 2/2004), the Honble 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."

45. I find it apt to refer to and rely on the observations made by the Hon'ble Supreme Court of India, in the case of Securities and Exchange Board of India vs. Kishore R. Ajmera (supra), wherein Hon'ble Supreme Court, while dealing with the issue of degree of proof required to prove the culpability have observed that: *"...While the screen based trading system keeps the identity of the parties anonymous it will be too naive to rest the final conclusions on 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.... 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...."*

46. Keeping in view the afore-stated non-genuine trading pattern exhibited by the all Noticees and the discussions in the foregoing paragraphs, it may be relevant here to note that Hon'ble SAT, in the matter of Ketan Parekh v. SEBI (Appeal No. 2 of 2004 decided on 14.07.2006) had an occasion to deal with the propriety of non-genuine trades and have made the following observations:

> *"............Any transaction executed with the intention to defeat the market mechanism whether negotiated or not would be illegal. Whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances because direct evidence in such cases may not be available. The nature of the transaction executed, the frequency with which such transactions are undertaken, the value of the transactions, whether they involve*

circular trading and whether there is real change of beneficial ownership, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn".

47. The Hon'ble Supreme Court of India in the case of SEBI v. Rakhi Trading Pvt. Ltd., (2018) 13 SCC 753 has appreciated that fairness, integrity and transparency are the hallmarks of the stock market in India and the stock market is not a platform for any fraudulent or unfair trade practice. The Hon'ble apex Court has further observed that *"The SEBI Act, 1992 was enacted to protect the interest of the investors in securities. Protection of interest of investors should necessarily include prevention of misuse of the market."*

48. In this connection, I would like rely on the observations of the Hon'ble SAT in the matter of Giriraj Kumar Gupta HUF Vs. SEBI (DoD: February 25, 2020), had, inter alia, observed that *"Having heard the learned counsel for the parties, we are of the considered view that the impugned transactions, in the facts and circumstances of the matter, would fall in the realm of violations of PFUTP Regulations. Individual argument that each entity's trade is miniscule and only on a few days alone etc., is not sufficient to rebut the findings in the impugned order".*

49. In the light of the aforesaid observations of the Hon'ble SAT and Hon'ble Supreme Court of India, and after considering the abnormal, unusual and blatantly unfair trading pattern exhibited by all the 5 Noticees whereby, I find that the Noticees have contributed both individually and collectively, to price fall in the scrip by repeatedly placing buy orders only to match the pending sell orders at a price lower than LTP thereby executing the first trades of the day so as to create a fresh LTP at lower price compared to the previous LTP. Under the circumstances, I conclude that the Noticees 1 to 5 were not acting as genuine buyers and had no bona fide intention to buy the shares of Cupid and instead, the orders placed by them are laden with all the ingredients to be held as unfair, misleading and thereby fraudulent. I therefore hold that the trading behaviour of the Noticees 1 to 5 in the scrip of Cupid has been glaringly

ill motivated, fraudulent and was intended towards manipulating the price of the shares of Cupid and therefore is in violation of the provisions of Regulations 3 (a), (b), (c), (d) and 4 (1), 4 (2) (a), (e) of SEBI (PFUTP) Regulations, 2003.

ISSUE -II: Does the violation, if any, attract monetary penalty under Section 15HA of SEBI Act.?

50. Pursuant to detailed analysis as brought out above, it is established that the Noticees were part of a scheme, device and artifice wherein they were instrumental in establishing a price lower than the last traded price and thus contributed to decrease in scrip price with each of their trades. In view of the repeated nature of such trades by the Noticees, it is concluded that the Noticees manipulated the scrip price and created a misleading appearance of trading in the scrip by such trades as explained above. I can clearly find that the trades of the Noticees are not executed in normal course of trading and investment in securities market. The Noticees have deliberately manipulated the price of the scrip and created a misleading appearance of trading in the scrip to induce innocent investors in the securities market thereby contravening the provisions of Regulations 3 (a), (b), (c), (d), 4 (1), 4 (2) (a), and 4 (2) (e) of SEBI (PFUTP) Regulations, 2003. Therefore, the Noticees are liable for monetary penalty under Section 15HA of SEBI Act, the provisions of which are reproduced hereunder:

Section 15HA of SEBI Act - Penalty for fraudulent and unfair trade practices

"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".

ISSUE – III: If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

51. While determining the quantum of monetary penalty under Section 15HA of SEBI Act, I have considered the factors stipulated in Section 15-J of SEBI Act, which reads as under:

Section 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.

52. The material made available on record has not quantified the amount of disproportionate gain or unfair advantage made by the Noticees and the loss suffered by the investors as a result of the Noticees' default. There is also no material made available on record to assess the amount of loss caused to investors or the amount of disproportionate gain or unfair advantage made by the Noticees as a result of default.

53. It is difficult, in cases of such nature, to quantify with mathematical precision the disproportionate gains or unfair advantage enjoyed by an entity and the consequent loss suffered by the investors. The Noticees 1 to 5, have contributed to price fall in a fraudulent manner by establishing the first trade of the day at a lower price by deliberately placing buy orders for one share only at a time only to match the below LTP sell price that was pending for execution in the system. General public and normal prudent investors could have been easily carried away by such unusual change in the volumes and prices in the scrip of Cupid and were bound to get induced into investing in the

said scrip looking at the fall in its price without realizing that the price fall was been artificially introduced by manipulative trades executed by the Noticees. This kind of trading behaviour seriously affects the normal price discovery mechanism in the securities market. People who indulge in manipulative, fraudulent and deceptive transactions, or abet in carrying out such transactions which are fraudulent and deceptive in nature, should be strongly dealt with for having committed such acts of omissions amounting to disruption of market equilibrium and market integrity.

ORDER

54. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act, 1992 read with Rule 5 of the SEBI Adjudication Rules, 1995, I hereby impose the following penalties on the Noticees under Section 15HA of the SEBI Act, 1992 for violation of the provisions of Regulations 3 (a), (b), (c), (d), 4 (1), (2) (a) and (e) of SEBI (PFUTP) Regulations, 2003.

Sl. No. of the Noticee	Name of the Noticee	Penalty amount in ₹ and words
1.	Devang Mukandray Patel	5,00,000/- (Rupees Five lakhs only)
2.	Sonal Devang Patel	5,00,000/- (Rupees Five lakhs only)
3.	Manishaben Maheshkumar Patel	5,00,000/- (Rupees Five lakhs only)
4.	Rajesh Kumar	5,00,000/- (Rupees Five lakhs only)
5.	Kishor Sharma	5,00,000/- (Rupees Five lakhs only)

55. The said penalty imposed on the Noticees, as mentioned above, shall commensurate with the violation committed and acts as a deterrent factor for the Noticees and others in protecting the interest of investors.

56. The Noticees shall remit / pay the said amount of penalty within 45 days from the date of this Order, either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the SEBI website **www.sebi.gov.in** on the following path by clicking on the payment link.

ENFORCEMENT → Orders → Orders of AO → PAY NOW

57. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department-I, DRA-II, SEBI, in the format as given in table below

Case Name	
Name of Payee	
Date of payment	
Amount Paid	
Transaction No	
Bank Details in which payment is made	
Payment is made for	Penalty

58. In the event of failure to pay the said amount of penalty within 45 days from the date of receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

59. In terms of Rule 6 of the SEBI Adjudication Rules, copies of this order are sent to the Noticees and also to SEBI.

Date: 25 June 2020
Place: Mumbai

B J DILIP
Adjudicating Officer