

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER
FINAL ORDER**

**Under Sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India
Act, 1992**

**In Re: Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair
Trade Practices Relating to Securities Market) Regulations, 2003**

In respect of:

Sl. No.	Name of the Entity	PAN
1.	Mr. Jitendra Kumar Pratihast	APWPP9146B
2.	Mr. Johar Pal Singh	AMBPS8591F
3.	JMD Telefilms Industries Limited (presently known as JMD Ventures Limited)	AAACA4340C
4.	Mr. Jagdish Prasad Purohit	AFQPP2675H
5.	Mr. Kailash Prasad Purohit	AFSPP1444E

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1. JMD Telefilms Industries Limited (presently known as JMD Ventures Limited; hereinafter referred to as “**JMD / the Company**”) was incorporated in 1984 as Avtar Finance & Management Consultants. In 2001, the company diversified from finance to regional entertainment industry and changed the name to JMD Telefilms Ltd. The company is engaged in various businesses viz., entertainment, digital, ecommerce, education, distribution, retail, investment, infrastructure, media, trading & services

sectors. The company is listed on Bombay Stock Exchange since 2001 and its registered office is at “Unit No.323 & 324,3rd Floor, Bldg No.9, Laxmi Plaza, New Link Road, Andheri West, Mumbai- 400053”.

2. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) conducted an investigation into the trading and dealings in the scrip of JMD pursuant to a reference received from the Principal Director of Income Tax (Investigation), Kolkata and Chandigarh, to inquire into the alleged manipulation of price of the scrip.
3. SEBI’s investigation revealed that during the investigation period, the price of the scrip opened at Rs.67.1, reached a high of Rs.317.90 and closed at Rs.306.05 i.e. an increase of 356.11% during April 02, 2009- June 12, 2009 (hereinafter referred to as “**Patch1**”), and two entities viz., Mr. Jitendra Kumar Pratihast and Mr. Johar Pal Singh who were connected to the Company sold shares during Patch 1 and contributed 26.90% and 4.11% respectively to the positive LTP increase of Rs 238.95 in the scrip. Further, during the period June 15, 2009 to July 02, 2009 (hereinafter referred to as “**Patch 2**”) the price of the scrip opened at Rs.299, reached a low of Rs.191.3 and closed at Rs.251.8. (Patch 1 and Patch 2 are hereinafter collectively referred to as “**the period**”). It is observed that Mr. Jitendra Kumar Pratihast who is connected to the Company was instrumental in the price fall in the Scrip.

Show Cause Notice:

4. Pursuant to the investigation, a common Show Cause Notice dated December 11, 2017 (hereinafter referred to as “**SCN**”) was issued to Mr. Jitendra Kumar Pratihast, Mr. Johar Pal Singh, JMD Telefilms Industries Limited, Mr. Jagdish Prasad Purohit and Mr. Kailash Prasad Purohit (hereinafter collectively referred to as “**Noticees**” and individually by their names”) *inter alia* alleging the following:
 - i. Mr. Jitendra Kumar Pratihast and Mr. Johar Pal Singh sold shares in small quantities (i.e. mostly less than 10 shares per sell order) over a period of 2-3 months at higher prices and together they contributed 31.01% to the market positive LTP.

By indulging in such manipulative and non-genuine trades they have allegedly violated regulations 3(a),(b), (c) and (d) and 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 “**PFUTP Regulations, 2003**”).

- ii. During Patch 2, Mr. Jitendra Kumar Pratihast repeatedly placed sell orders for large quantity as compared to the number of shares held by him and allegedly caused a decrease in the price of the scrip by Rs. 84 when the net price fall was Rs. 47.20. He contributed to 21.69% of the negative LTP during the patch. By indulging in such manipulative trades Mr. Jitendra Kumar Pratihast allegedly violated Regulations 3(a),(b), (c) and (d) and 4(1), (2) a), (b), (e) & (g) of PFUTP Regulations, 2003.
 - iii. Since Mr. Jitendra Kumar Pratihast and Mr. Johar Pal Singh were connected to the company through financial transactions/common directorship, it is alleged that the company, its directors viz., Mr. Kailash Prasad Purohit -Managing Director and Mr. Jagdish Prasad Purohit, along with Mr. Jitendra Kumar Pratihast and Mr. Johar Pal Singh have violated the Regulations 3 (a),(b),(c),(d) and Regulations 4(1), 4(2) (a), (b), (e) & (g) of SEBI (PFUTP) Regulations, 2003.
5. In view of the above, the Noticees were advised to show cause as to why suitable actions/directions in terms of Sections 11(1), 11(4) and 11B of SEBI Act should not be initiated against them for the alleged violation of the provisions of PFUTP Regulations. Further, Noticees were also advised to submit a reply to the SCN within 21 days from the date of receipt of the SCN. The SCN was served to all the Noticees through Speed Post with Acknowledgement.
6. In response to the SCN, Noticees vide separate but identical letters, each dated January 24, 2018, sought extension of time to file reply.
- 6.1 Thereafter, Mr. Jitendra Kumar Pratihast vide letter dated April 07, 2018 submitted

the following reply on merits to the SCN:

- i. *“The Noticee is an individual investor. The Noticee has been investing/trading in the securities market since long through his broker viz. Ashika Stock Broker Limited, in the ordinary course with an objective of maximizing his profit. The Noticee have independently invested and traded in various scrips, including the alleged scrip, in the ordinary course of his business without any manipulative intent. The Noticee has always complied with the requirements of all applicable laws and has never delayed in payment / delivery obligation pertaining to the trade transacted in the securities market.*
- ii. *It is pertinent to note that the Noticee have been regularly trading in the securities market in ordinary course in huge quantities and volumes. During the period Noticee has traded in various scrips viz. Amar Remedies Ltd, Hindustan Motors, Jaiprakash Power, Jaiprakash Associates, Mirza Int, Power Grid, Titis Technologies, Warner Multimedia.*
- iii. *From the said details it would be evident that the Noticee has been investing/trading in the securities market since long in the ordinary course of business. Therefore, based on the trading done by the Noticee in the scrip of JMD it cannot be alleged that Noticee is connected to JMD. There is no means at all to suggest that the Noticee was connected to JMD or traded as per the instructions of JMD as alleged in the SCN.*

Para wise Reply to SCN:

Positive LTP Contribution during Patch 1 - 02/ 04/ 2009- 12/06/2009

- iv. *The Noticee had sold shares of JMD in the ordinary course. It is SEBI’s own case that there was an increase of 356.11% in the scrip of JMD. It may be appreciated that since the price of the scrip quoting in the market was decent and fetching good return on notice's investment, the Noticee decided to sell his share. Significantly, all his trades were delivery based wherein he had delivered the shares and received the payouts.*

- v. *The Noticee is not aware of the entities/ individuals who had traded in the scrip of JMD during the relevant time.*
- vi. *The following connections have been alleged in Para 10 to which the Notice's reply is as follows:*
- Allegation- An entity Prime Capital Market Pvt Ltd. ("Prime") conducted Financial Transactions with JMD and Jitender Kumar Pratihast conducted Financial Transactions with Prime.*
- Response- It is submitted that I am not aware about the financial transactions between JMD and Prime and the same is of no concern to me. Further it is submitted that I had no financial transaction with Prime during the relevant period. Therefore, based on the same no adverse inference can be drawn against me.*
- vii. *The sales were carried out by Noticee's broker on the screen based mechanism of the stock exchanges. At the relevant time the Noticee was not aware of other persons/ entities who were trading in the scrip and the same is of no concern to the Noticee. Based on their trading no adverse inferences can be drawn against the Noticee.*
- viii. *It is denied that the trades carried out the Noticee on the sell side contributed to market positive LTP as alleged. Noticee's sales cannot be alleged to have resulted in creation of positive LTP. As a consequence of sale price will decrease and not increase.*
- ix. *It is denied that the Noticee repeatedly placed sell orders for small quantity at upper limit of daily price band of the scrip. It is submitted that, at the relevant time, the Noticee had instructed his broker to sell shares of JMD at the prevalent market price. Accordingly, Noticee's broker had sold the shares on the market at the prevalent market prices. Here it may be appreciated that a prudent Broker / Investor would never sell all of his clients holding on one shot, especially if the price of the scrip is on a bullish trend.*

- x. *In light of the foregoing, it is denied that while dealing in the scrip the Noticee was observed to be with a manipulative intent to increase the price of the scrip of JMD. Further, it is denied that the Noticee contributed to positive LTP during Patch I as alleged. As per the SCN, the Noticee has traded as follows:*

	<i>Qty</i>	<i>No. of Trades</i>
<i>Zero LTP</i>	<i>1,863</i>	<i>25</i>
<i>Negative LTP</i>	<i>682</i>	<i>6</i>
<i>Positive LTP</i>	<i>450</i>	<i>11</i>
<i>Total</i>	<i>2,995</i>	<i>42</i>

- xi. *From the aforesaid, it is clear that, save and except 6 trades, balance trades were at Zero LTP i.e. market price (5 trades) or at Positive LTP i.e. above market price (11 trades). Based on 6 stray trades below LTP, serious allegation of depressing the price has been leveled which is totally unjustified and unwarranted.*
- xii. *It is submitted that during Patch 2, Noticee traded in 2,995 shares of JMD, but three trades involving mere 682 shares, have been unfairly cherry picked in order to somehow level the allegation.*
- xiii. *It may be noted that while doing trading in the scrip of JMD the Noticee had no intention to manipulate the market. Further, all the trades were executed by the dealers at the prevailing market price as displayed on the trading platform of the exchange. It is denied that, the Noticee violated the provisions of Regulations 3 (a), (b), (c), and (d), 4(1), 4(2)(a) (b), (e), (g) of PFUTP Regulations as alleged.”*

6.2 Mr. Johar Pal Singh vide letter dated April 07, 2018 submitted identical reply on merits to the SCN which are not reproduced hereunder for the sake of brevity. Additional points of submissions of the Noticee are as follows:

- i. *“The Noticee is an individual investor. The Noticee has been investing/trading in the securities market since long through his broker viz. East India Securities Limited, in the ordinary course with an objective of*

maximizing his profit. The Noticee has independently invested and traded in various scrips, viz. Geefcee Finance Limited, Scan Infrastructure Limited, Unisys Softwares & Holding Industries Limited, Ramkrishna Fincap Limited, Prime Capital Market Limited including the alleged scrip, in the ordinary course of his business without any manipulative intent. The Noticee has always complied with the requirements of all applicable laws and has never delayed in payment / delivery obligation pertaining to the trade transacted in the securities market.

- Allegation- Noticee and Jagdish Prasad Purohit (director of JMD) are common directors in Unisys Softwares and Holding Industries Limited. Additionally, they were also common directors in Prime Capital Market Pvt Ltd during 2005- 2008*
- ii. Response- It is submitted that I was appointed as an Independent director in Unisys Software's and Holding Industries Limited on 13/08/2010. However, I was not involved in the day to day activities of the company. The relationship with Mr. Jagdish Purohit was in professional terms only. Based on the same no adverse inference can be drawn against me. Further, it is submitted that I was never being a director in Prime Capital Market Pvt. The allegation that they were also common directors in Prime Capital Market Put Ltd during 2005- 2008" is absurd and illogical. Based on the same no adverse inference can be drawn against me."*

6.3 JMD vide letter dated March 19, 2018 submitted the following reply on merits to the SCN:

- i. That the allegations made in the Notice, make no case for any proceedings against us. Further, there is not a single specific adverse fact about us either in the SCN that would draw adverse inference against us.*
- ii. Charges in the Notice are based on trading done by Jitendra Kumar Pratihast and Johar Pal Singh in the scrip of JMD Telefilms Industries Limited ("JMD/Company").*

There is nothing in the SCN to suggest that we had any role to play in the trading done by various entities/individuals in the scrip of JMD or the trades were done by various entities/individuals in at our behest. Further, there is nothing in the SCN to suggest any involvement of the Company in the alleged violations in the SCN. In the absence of the same no proceedings can be initiated against us.

- iii. We had no role to play in the trading done by them and we have erroneously been lumped with them based on some farfetched connections viz. fund transfers, common directors etc. It is submitted that based on alleged tenuous connections serious charges of violating provisions of FUTP Regulations have been levelled, which is legally untenable and unsustainable.*
- iv. With regard to Jitendra Kumar Pratihast adverse inference has been drawn against us based on his financial transaction with Prime Capital Market Private Limited ("Prime"). It is submitted that we are not aware of any financial transactions between Jitendra Kumar Pratihast and Prime and the same is of no concern to us. Further, there is nothing in the Notice to suggest that the alleged financial transactions were on our behalf. With regard to our financial transaction with Prime it is submitted that there was no financial transaction with Prime during the relevant period, the financial transaction took place post investigation period i.e. after December 31, 2010. Further it is submitted that the same was in the ordinary course and based on the same no adverse inference can be drawn against us.*
- v. With regard to Johar Pal Singh adverse inference has been drawn against us based on him being a common director with Jagdish Prasad Purohit in Unisys Softwares and Holding Industries Limited ("Unisys") and Prime it is submitted that nothing turns on the same and based on that no adverse inferences can be drawn against us.*

Para wise comments:

- vi. With regard to observations in Para 1 of the Notice, it is submitted that, we were not aware of the investigations conducted by SEBI. At no point of time, SEBI sought any information from us during the course of investigation.*

- vii. *With regard to observations in Para 2 of the Notice, it is submitted that the observations in the Para are a matter of record. Here it may be noted that the preferential allotment and stock split had the approval of the shareholders and stock exchanges.*
- viii. *With regard to observations in Para 3 of the Notice, it is submitted that the price/ volume movement of the scrip of the Company during the period from April 02, 2009 to December 31, 2010 is a matter of record. We submit that we had no role whatsoever to play in the trading done by various entities/ persons (as set out in the Notice) in the scrip.*
- ix. *With regard to observations in Para 4 of the Notice, it is submitted that the details of directors of the Company during the period is a matter of record.*
- x. *With regard to observations in Para 5 & 6 of the Notice, it is submitted that the details of Financial Result of the Company from quarter ending March 2009 to quarter ending March 2011 is a matter of record. It is denied that the financials of the company did not justify the considerable rise in the scrip price during the Investigation Period as alleged. It is SEBI's own case that the Company had made various corporate announcement viz. preferential allotment, financial results, stock split, declaration details of dividend, business developments and AGM results during the Investigation Period. Definitely, the said announcement would have impacted the price and volume in the scrip. In any event, same is a highly subjective assessment. Further, even if the price of the scrip prevailing in the market was not justified it may be noted that we had no role to play in the same. Admittedly, neither the Company nor its directors /promoters have dealt in the shares of the company during the Investigation Period. Further, we are not aware of the entities/individuals traded in the scrip during the relevant time. Based on the trading done by them no adverse inference can be drawn against us.*
- xi. *With regard to observations in Para 7 of the Notice, it is submitted that the price and volume in the scrip of the Company during the Investigation Period is a matter of record. We may point out that we had no role to play in the same. We had no role*

whatsoever to play in the trading done by various entities/ persons (as set out in the Notice) in the scrip during the investigation period viz. April 02, 2009 to December 31, 2010. Significantly, at the relevant time neither SEBI nor stock exchange raised any grievance about the same.

xii. With regard to observations in Para 8 to 22 of the Notice:

- It is submitted that the observations in the Para pertains to trading by others with which we are not concerned, therefore we have no comments to offer. Further, there is nothing in the SCN to suggest that we had any role to play in the trading done by various entities/individuals in the scrip of JMD or the trades were done by various entities/individuals in at our behest. Further, there is nothing in the SCN to suggest any involvement of the Company in the alleged violations in the SCN. In the absence of the same no proceedings can be initiated against us.*

xiii. In so far as purported connections as set out in Table 5, the following be noted:

- With regard to our financial transaction with Prime, as stated hereinbefore it is submitted there was no financial transaction with Prime during the relevant period, the financial transaction took place post investigation period i.e. after December 31, 2010. Further it is submitted that the same was in the ordinary course and based on the same no adverse inference can be drawn against us.*
- Further we are not aware about the financial transactions between Jitendra Kumar Pratihast and Prime and the same is of no concern to us. Further, there is nothing in the Notice to suggest that the alleged financial transactions were on our behalf.*

xiv. With regard to the allegation that Johar Pal Singh and Jagdish Prasad Purohit are common directors in Unisys and Prime it is submitted that nothing turns on the same. Therefore, no adverse inference can be drawn against us.

xv. From the aforesaid, it is clear that the purported connections are farfetched, tenuous, flimsy and same cannot become the basis for drawing adverse inferences against us. It

is quite evident that art effort has been made to somehow cobble together a group in order to arrive at preconceived conclusions and fasten the liability of other entities.

- xvi. It is submitted that we are not aware about the mode and manner of trading of Jitender Kumar Pratihast & Johar Pal Singh in the scrip of JMD during the relevant time and based on their trading no adverse inferences can be drawn against us. It is submitted that we had no role to play in the trading done by them and we have erroneously been lumped with them based on some farfetched connections viz. fund transfers, common directors etc.*
- xvii. Here it may be appreciated that the company has no control over the persons/ entities who traded in its scrip in the market or the manner in which they trade. It is reiterated that trading by Jitender Kumar & Johar Pal was not on our behalf or at our behest. Therefore, no adverse inference can be drawn against the company or its directors of JMD.*
- xviii. It is denied that neither the Company nor its directors /promoters have violated the provisions of Regulations 3 (a), (b), (c), and (d), 4(i), 4(2)(a), (b) (e) and (g) of PFUTP Regulations as alleged.”*

6.4 Mr. Kailash Prasad Purohit and Mr. Jagdish Prasad Purohit vide letters dated March 19, 2018 submitted the identical but separate replies to the SCN. Since the submissions of these Noticees are identical, hence, the same are not reproduced hereunder for the sake of brevity.

7. **Hearing and submissions:** Vide hearing notice dated October 15, 2018, Noticees were granted an opportunity of hearing on January 08, 2019. The hearing notices were served to all the Noticees through Speed Post with Acknowledgment. In response to the same, vide letters dated January 04, 2019, Mr. Jitendra Kumar Pratihast, JMD and Mr. Kailash Prasad Purohit, waived their opportunity of personal hearing granted to them. I also note that no one appeared on behalf Mr. Johar Pal Singh and Mr. Jagdish Prasad Purohit in the matter.

8. In view of the same, I am constrained to proceed the matter with material available on record such as Investigation Report, SCN, replies to the SCN, etc.
9. I have perused the SCN, Reply of the Noticees to the SCN and other materials available on record. On perusal of the same, the following issues arise for consideration. Each question is dealt with separately under different headings.
- (i) *Whether the Noticees have manipulated the price in the scrip and have created a misleading appearance of trading in the scrip of JMD?*
 - (ii) *If answer to issue No. (i) is in affirmative, whether the Noticees have violated the provisions of PFUTP Regulations?*
 - (iii) *If answer to issue Nos. (ii) is in affirmative, what directions should be issued against the Noticees?*

ISSUE No. 1- *Whether the Noticees have manipulated the price in the scrip and have created a misleading appearance of trading in the scrip of JMD during ‘the Period?’*

10. I have perused the charges alleged against the Noticees vide the SCN dated December 11, 2017 and written submissions of the Noticees along with the documents contained therein and other materials available on record and observe the following:

Price Manipulation:

11. I note that the SCN alleges that the Noticees viz., Mr. Jitendra Kumar Pratihast and Mr. Johar Pal Singh sold their shares in small quantities at progressively higher prices during Patch 1 of the investigation period and manipulated the price of the scrip of JMD. Also, the SCN alleges that Mr. Jitendra Kumar Pratihast repeatedly placed sell orders for large quantity as compared to the number of shares held by him and thereby, caused a decrease in the scrip price during Patch 2 of the investigation period.
12. As regards the said allegation, I note the following:

12.1 During the investigation period, the price of the scrip opened at Rs.67.1, reached a high of Rs.317.90 and closed at Rs.306.05 i.e. an increase of 356.11% during 02/04/2009-12/06/2009 (hereinafter referred to as “**Patch1**”). Further, during the period 15/06/2009 to 02/07/2009 (hereinafter referred to as “**Patch 2**”) the price of the scrip opened at Rs.299, reached a low of Rs.191.3 and closed at Rs.251.8. (Patch 1 and Patch 2 are hereinafter collectively referred to as “**the period**”). The price and volume in the scrip during the period is as follows:

Patch	Period	Description	Open	High	Low	Close	Average Volume
Patch 1	02/04/2009-12/06/2009	Price rise	67.1	317.9	67.1	306.05	277.71
Patch 2	15/06/2009-02/07/2009	Price fall	299	321	191.9	251.80	1358.87

Cumulative Price Volume details for the period are as follows:

Period	Dates		Opening Price (volume) on first day of the period(Rs)	High Price(volume) during the period (Rs.)	Low price(volume) during the period (Rs.)	Closing price (volume) on last day of the period (Rs.)	Avg. no. of (shares) traded daily during the period.
During Investigation	02/04/2009-02/07/2009 Pre split	Price	67.1	321 (15/06/09)	67.1 (13/04/09)	251.8	483
		Vol	5	3102 (01/07/09)	1 (04/06/09)	1910	

12.2 During the period of Patch I, there were a total of 224 trades for 9442 shares on 34 trading days with only a single trade on 20 trading days. 23 entities bought and 30 entities sold during the patch and the price of the scrip opened at Rs.67.1, reached a high of Rs.317.90 and closed at Rs.306.05 i.e., an increase of 356.11%, with a net increase in Last Traded Price of Rs.238.95 for such trades.

Mr. Jitendra Kumar Pratihast

12.3 I note that trades executed by Mr. Jitendra Kumar Pratihast, during Patch 1 contributed 26.90% to the positive LTP increase of Rs.238.95 in the scrip.

12.4 The details of trading and LTP contribution of Mr. Jitendra Kumar Pratihast during Patch 1 are as follows:

Seller PAN	Seller Name	Net LTP			Positive LTP		
		LTP	Qty.	Percent	LTP	Qty.	Percent
APWPP9146B	Jitendra Kumar Pratihast	102.55	53	42.92%	102.55	46	26.90%

12.5 It is also noted that despite there being large demand (buy order quantity) for shares, Mr. Jitendra Kumar Pratihast repeatedly placed sell orders for small quantities at higher prices as compared to the last traded price of JMD.

12.6 The sell orders placed by Mr. Jitendra Kumar Pratihast during Patch 1 are as follows:

Order date	Order time	Order No.	Client Name Sell	Sell order rate	sell order qty.	pending buy order at this price	LTP variation	Share holding at the time of order
29/04/2009	10:13:28	91221500000280249	Jitendra Kumar Pratihast	98.9	15	42044	4.7	60
04/05/2009	10:13:56	91221600000279016	Jitendra Kumar Pratihast	103.8	5	41700	4.9	45
06/05/2009	10:46:46	91221500000282421	Jitendra Kumar Pratihast	108.95	5	42500	5.15	40
08/05/2009	13:38:18	91221600000282657	Jitendra Kumar Pratihast	120.05	5	2150	5.7	35
11/05/2009	15:18:50	91221600000283819	Jitendra Kumar Pratihast	126.05	2	2225	6	30
12/05/2009	11:31:51	91221600000284143	Jitendra Kumar Pratihast	132.35	2	1400	6.3	28
13/05/2009	11:42:05	91221600000284885	Jitendra Kumar Pratihast	138.95	2	1150	6.6	26
14/05/2009	10:54:06	91221600000285617	Jitendra Kumar Pratihast	145.85	1	1100	6.9	21
15/05/2009	13:48:23	91221500000288730	Jitendra Kumar Pratihast	153.1	2	1850	7.25	16
19/05/2009	12:16:44	91221500000289902	Jitendra Kumar Pratihast	160.75	2	1300	7.65	14
20/05/2009	13:29:38	91221500000291234	Jitendra Kumar Pratihast	168.75	2	1625	8	12
29/05/2009	13:44:25	22000043023231	Jitendra Kumar Pratihast	215.3	1	1480	10.25	10
02/06/2009	13:40:40	16000033029124	Jitendra Kumar Pratihast	237.35	1	1660	11.3	9
04/06/2009	10:57:35	12000041015799	Jitendra Kumar Pratihast	249.2	1	1045	11.85	8

12.7 The trades of Mr. Jitendra Kumar Pratihast contributed Rs. 102.55 to the market positive LTP, which is 26.9% of market positive LTP in Patch 1 with a very low volume of

trading. It is noted that during Patch I, there were a total of 224 trades for 9442 shares on 34 trading days with a single trade on 20 trading days indicating complete lack of liquidity in the shares. In such an illiquid scrip where in 20 trading days only one trade was done, Mr. Jitendra Kumar Pratihast having a regular exposure in trading in other scrips, would be expected, as a rational investor to utilize the available opportunity to sell his holding. It is noted that while pending buy orders are even in the range of 40,000, he sold only miniscule number of shares of 5 each at some instances while his shareholding was more than 40. Such trading cannot be viewed as genuine trades done for the purpose of investment/profit. In this present case, this trading pattern wherein he marked a new high price every day with the lowest possible volume coupled with the absence of economic rationale for his trading, only leads to the preponderance of probability of manipulative nature of increasing the price by creating an appearance of price increase.

12.8 During Patch 2, the price of the scrip opened at Rs. 299, reached a low of Rs.191.3 and closed at Rs.251.8 i.e., a decrease of Rs 47.20 (18.74%) in LTP. As regards the trades of Mr. Jitendra Kumar Pratihast during Patch 2 is concerned, I note the following details:

Net LTP			Positive LTP			Negative LTP			Zero LTP		% of Negative LTP to Total Market Negative LTP
LTP impact	QTY traded	No of trades	LTP impact	QTY traded	No of trades	LTP impact	Qty traded	No of trades	QTY traded	No of trades	
-84.00	2995	42	16.05	450	6	-100.05	682	11	1863	25	21.69

12.9 It is noted that Jitendra Pratihast was holding 7 shares in his demat account at the beginning of the Patch 2. During the Patch, he traded for a total of 2,995 shares and caused negative LTP movement of Rs 100.05, contributing 21.69% to the total market negative LTP.

12.10 I note that Mr. Jitendra Kumar Pratihast repeatedly placed sell orders for large quantity

as compared to the number of shares held by him and thereby, caused a decrease in the scrip price by Rs. 84. Mere short-selling cannot by itself be manipulative in nature, unless the pattern of short-selling shows the manipulative nature. However, if such short selling is combined with something more to create a false impression of how market participants value the securities, the same would qualify a manipulative practice. The “something more” is anything that distinguishes a transaction made for legitimate economic purposes from a manipulation. In the present case, Mr. Jitendra Kumar Pratihast on single day while holding only 7 shares continuously short sold for the entire day. By way of just 11 trades he was able to contribute Rs.100 negative LTP with the trade quantity of 682 shares. What distinguishes the trading pattern in this case is that there is no squaring off of his trades at any point of time on the day. Since he was not able to deliver the shares at the end of the day, his pay-in-obligations later went for close out by the Exchange as shown in his transaction statement furnished by his Broker viz., Ashika Stock Broking Ltd. In the 15 instances when the sell orders were placed below the LTP, in 4 instances, the orders were placed at the LTP difference of Rs-21.60 to -24.30. The Noticee has not furnished any economic rationale for such a trading pattern.

I further note from the trade log for the period from April 13, 2006 to June 29, 2006, the average traded volume is only 382 shares. It is difficult for a rational short seller, given the average traded volume, to build such a huge short position of 2995 shares, while expecting to close his position by buying at lower price. Further, I note that on the date of his short sale, he sold 2,995 shares of JMD as a seller while the total number of shares traded on that day was only 3,102 indicating that for 96.5 percentage of total shares, Jitendra Kumar Pratihast is the lone seller; further indicating that there were not enough sellers on that date for him to buy the shares at a lower price. This trading pattern leads to the preponderance of probability that Jitendra Kumar Pratihast’s short selling on July 1, 2009, was non-genuine and manipulative in nature.

As per his own case, he traded in several scrips during the period. Such a person having regular exposure to the market cannot be considered to have indulged in this trading pattern without knowing the consequence. In this present case, this trading

pattern coupled with the absence of any economic rationale leads to the preponderance of probability of manipulative nature of trades; decreasing the price by way of making an appearance of price fall in the scrip of JMD.

12.11 I note from the submissions of Mr. Jitendra Kumar Pratihast that he used to invest in large quantity of shares in various scrips during the normal course of business. However, considering the above mentioned facts and circumstances as detailed in paragraph 12.7 and 12.10, I note that in the present matter Noticee's trading behavior in the scrip does not justify his trading in JMD which has already been held to be manipulative. In view of the same, I find that Mr. Jitendra Kumar Pratihast indulged in manipulative and non-genuine trades and his trades which contributed 26.9% to the market positive LTP resulted in manipulation of the price of scrip.

Mr. Johar Pal Singh

12.12 As regards the trades executed by Mr. Johar Pal Singh during Patch 1 is concerned, I note the following:

Seller PAN	Seller Name	Net LTP			Positive LTP		
		LTP	Qty.	Percent	LTP	Qty.	Percent
AMBPS8591F	Johar Pal Singh	15.65	1205	6.55%	15.65	25	4.11%

12.13 Despite there being large demand (buy order quantity) for shares, Mr. Johar Pal Singh repeatedly placed sell orders for small quantities at higher prices as compared to the last traded price of JMD. The sell orders placed by Mr. Johar Pal Singh during Patch 1 are as follows:

Order date	Order time	Order No.	Client Name Sell	Sell order rate	sell order qty.	pending buy order at this price	LTP variation	Share holding at the time of order
16/04/2009	10:13:31	318600100000015474	Johar Pal Singh	73.95	5	1610	3.5	3195
21/04/2009	14:09:37	318600100000015651	Johar Pal Singh	81.45	5	3370	3.85	2195
22/04/2009	10:34:08	318600100000015661	Johar Pal Singh	85.5	5	1400	4.05	2195
23/04/2009	10:36:49	318600100000015709	Johar Pal Singh	89.75	15	3980	4.25	2195

12.14 I note that the trades of Mr. Johar Pal Singh contributed Rs. 15.65 to the market positive LTP trades, which is 4.11% of market positive LTP with a very low volume of trading in Patch 1. I note from the submissions of Mr. Johar Pal Singh that he used to invest in large quantity of shares in various scrips during the normal course of business. However, I note that during this period he has traded only in three scrips including JMD and Unisys where he was a director along with Mr. Jagdish Prasad Purohit who was director of JMD. In the present matter, Noticee has not offered any rationale for his trading behavior. It is noted that while pending buy orders are even in the range of 3300, he sold only miniscule shares of 5 each at some instances while his shareholding was more than 2100. Such trading cannot be viewed as genuine trades done for the purpose of investment/profit. In this present case, this trading pattern wherein he marked a new high price every day with the lowest possible volume coupled with the absence of any economic rationale, only leads to the preponderance of probability of manipulative nature of increasing the price by creating an appearance of price increase.

13. In the context of trading by Mr. Jitendra Kumar Pratihast and Mr. Johar Pal, it may be relevant to refer to the observations of the Hon'ble Securities Appellate Tribunal in its order dated 14.7.2006 in *Ketan Parekh Vs. SEBI*, wherein it was held that: *"When a person takes part in or enters into transactions in securities with the intention to artificially raise or depress the price he thereby automatically induces the innocent investors in the market to buy /sell their stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is being manipulated the person doing so is necessarily influencing the decision of the buyer / seller thereby inducing him to buy or sell depending upon how the market has been manipulated. We are therefore of the view that inducement to any person to buy or sell securities is the necessary consequence of manipulation and flows therefrom. In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy*

or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged. This, in our view, clearly flows from the plain language of Regulation 4(a) of the Regulations.”

14. I also note that trades at higher than LTP, undoubtedly have a potential of raising the price of the scrip and the same gives a wrong impression about the price of the scrip in the market based on miniscule quantities traded. It must not be forgotten that every trade establishes the price of the scrip and trades executed at higher than LTP results in the price of the scrip going up which may influence the innocent/gullible investors. In cases of market manipulation, admittedly, no direct evidence would be forthcoming/available. Manipulative transactions are to be tested on the conduct of parties and abnormality of practices which defy normal logic and laid down procedures. What is needed, is to prove that in a factual matrix, preponderance of probabilities indicate a fraud. In this regard, the observations of Hon’ble Supreme Court of India in *SEBI Vs. Kishore R Ajmera et.al.* decided on February 23, 2016 wherein the Hon’ble Court while deciding the matter under SEBI Act and PFUTP Regulations where there was no direct evidence forthcoming, observed as follows:

“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 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...”

15. In view of the above, the findings that have been gathered from various circumstances for instance overall trades executed in the scrip including the average volume at the time of Noticees trading and during the period, volume of the trade effected by the Noticees vis-

à-vis their holding, the period of persistence in trading in the scrip, the particulars of the buy and sell orders, trading behavior in other scrips, the totality of the picture that emerges leads to the conclusion that Noticees by executing the aforesaid sell trades have manipulated the price of the scrip and have created a misleading appearance of trading in the scrip.

Role of JMD in the price manipulation:

Connection:

16. I note that SCN alleges that Mr. Jitendra Kumar Pratihast and Mr. Johar Pal Singh who were connected to the Company through financial transactions/common directors had traded in the scrip of JMD and manipulated the price of the scrip during the investigation period. I note that SCN alleges the following connection between the Noticees:

- i. Mr. Jitendra Kumar Pratihast conducted financial Transactions with an entity viz., Prime Capital Market Pvt Ltd which also conducted financial Transactions with JMD;
- ii. Mr. Johar Pal Singh and Mr. Jagdish Prasad Purohit (director of JMD)) are common directors in Unisys Softwares and Holding Industries Limited (“**Unisys**”). They were also common directors in Prime Capital Market Pvt. Ltd. (“**Prime**”) during 2005-2008.

16.1 Mr. Jitender Kumar Pratihast contended that he is not aware about the financial transactions between JMD and Prime and stated that the same is of no concern to him. He has also submitted that he had no financial transaction with Prime during the relevant period. Therefore, he has contended that based on the same no adverse inference can be drawn against him.

16.2 Mr. Johar Pal Singh submitted that he was appointed as an Independent director in Unisys on August 13, 2010, however, he was not involved in the day to day activities of the company. It is also submitted that the relationship with Mr. Jagdish Purohit was in professional terms only and based on the same no adverse inference can be drawn. Further, he has denied the fact that he was a director in Prime during 2005- 2008.

16.3 JMD submitted that they are not aware of any financial transactions between Mr. Jitendra Kumar Pratihast and Prime and the same is of no concern to them. Further, there is nothing in the Notice to suggest that the alleged financial transactions were on their behalf. With regard to financial transaction with Prime it is submitted that there was no financial transaction with Prime during the relevant period, the financial transaction took place post investigation period i.e. after December 31, 2010. Further it is submitted that the same was in the ordinary course and based on the same no adverse inference can be drawn against them. Further, it is submitted that adverse inference has been drawn against the Company based on the fact that Mr. Johar Pal Singh and Mr. Jagdish Prasad Purohit are common directors in Unisys and Prime and the based on the same no adverse inferences can be drawn against the Company.

16.4 I note that though Mr. Jitender Kumar Pratihast denied knowledge of financial transaction between JMD and Prime, he has admitted the financial transaction entered into with Prime.

16.5 I note that the Company has not denied the financial transactions with Prime. However, in my considered view the circumstantial evidence of financial transaction between Mr. Jitendra Kumar Pratihast and Prime where one of the directors of JMD namely Mr. Jagdish Prasad Purohit is also director alone cannot be sufficient to indicate the involvement of the Company and directors in the market manipulation done by Mr. Jitendra Kumar Pratihast. Therefore, I give a benefit of doubt in respect of the involvement of the company and directors for the manipulation done by Mr. Jitendra Kumar Pratihast.

16.6 As regards the contention of Mr. Johar Pal Singh that he was never a director of Prime, I note from the perusal of the MCA records that he was a director of Prime from December 16, 2005 to May 16, 2008. However, I note that he has not offered any evidence to substantiate his claim to the contrary. Hence, I am not inclined to accept the contention of Mr. Johar Pal Singh. I also note that Mr. Jagdish Purohit (JMD director) is the managing director of Unisys wherein Mr. Mr. Johar Pal Singh is also a director. Mr. Kailash Purohit, MD of JMD, was also a director of Unisys

from December 06, 1996 to February 20, 2010. MCA records also shows that Mr. Johar Pal Singh has joined JMD post investigation period i.e. on December 11, 2014. Considering the above facts, I note the connection between the Companies through its directors with Mr. Johar Pal Singh stands established.

16.7 Detection of securities market fraud is essential to safeguard the integrity of the market. The market infected by the securities market fraud undermines the investors' confidence in the market and has serious ramifications for the development of the securities market. The commission of such frauds are perpetrated increasingly in a way to make the detection of such frauds difficult. Masking of fraudulent transactions as genuine and perpetration of fraud by fronts causes severe stress on the collection of direct evidence to prove fraud. In those scenario of securities fraud being committed by the front entities, the circumstantial evidence of such entities being connected to those who are behind the screen are very vital for detection of securities fraud.

16.8 There is an allegation in the SCN that the market manipulation was done as a scheme and such manipulation cannot happen without the involvement of the company. In this context, the connection of the directors of JMD to Mr.Johar Pal Singh assumes importance in the involvement of the Company in the whole scheme of market manipulation. I note that Mr.Jagdish Prasad Purohit and Mr.Johar Pal Singh are known to each other and connected among themselves as directors in the same company viz., Unisys. Further Mr.Jagdish Prasad Purohit and Mr.Johar Pal Singh are also directors in Prime.

16.9 Mr.Johar Pal Singh is in fact director in both the companies viz., Prime and Unisys where Jagdish Prasad Purohit is also a director. In view of the connections as stated above between Mr.Johar Pal Sing and other directors of JMD, namely Mr.Jagdish Prasad Purohit (WTD since March 22, 2007), Mr.Kailash Prasad Purohit (MD from April 01, 2002 to April 08, 2019), I find that these circumstantial evidence of connection leads to the preponderance of probability of involvement of the Company and its directors, Mr.Jagdish Prasad Purohit and Mr.Kailash Prasad Purohit in the

manipulation done by Mr. Johar Pal Singh.

17. In view of the above discussion, I find that the Noticees have manipulated the price in the scrip and have created a misleading appearance of trading in the scrip of JMD during the relevant period.

ISSUE No. 2- *If answer to issue No. (i) is in affirmative, whether the Noticees have violated the provisions of PFUTP Regulations?*

18. Before embarking upon the necessary discussions, I would like to reproduce the relevant provisions of PFUTP Regulations:

Regulation 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.

Regulation 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;

(b) dealing in a security not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in the price of such security for wrongful gain or avoidance of loss;

(e) any act or omission amounting to manipulation of the price of a security;

(g) entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security;

19. In view of the conclusion arrived at paragraphs 12.7, 12.9, 12.10, 12.13 and 12.14 wherein it has been held that the trades for miniscule quantity executed by the Noticees higher or below the LTP in the scrip are manipulative and misleading in nature, it is also held that such trades are fraudulent in nature and would operate as deceit upon any person trading in the extant scrip. Further, as discussed in preceding paragraphs, by virtue of the trading in the scrip at price higher than the LTP during Patch 1 and trading at a negative LTP during Patch 2 by the Noticee viz., Mr. Jitendra Kumar Pratihast caused to inflate/depress the price of the scrip and also created false and misleading appearance of trading in the in the market. Hence, I hold him liable for the violations of Regulations 3(a),(b), (c) and (d) and 4(1), (2) a), (b), (e) & (g) of PFUTP Regulations, 2003. Further, by virtue of trading in the scrip for small quantities at higher prices by the Noticee viz., Mr. Johar Pal Singh created false and misleading appearance of trading in the in the market and thereby manipulated the price of the scrip. Hence, I hold him liable for the violations of Regulations 3(a),(b), (c) and (d) and 4(1), (2) a) and (e) of PFUTP Regulations, 2003. Since the Company is connected through its directors with Mr. Johar Pal Singh, I hold that the Company and its directors viz., Mr. Kailash Prasad Purohit and Mr. Jagdish Prasad Purohit are involved in the price manipulation carried out by Mr. Johar Pal Singh, hence

they are also liable for violations of Regulations 3 (a),(b),(c),(d) and Regulations 4(1), 4(2) (a), (e) & (g) of SEBI (PFUTP) Regulations, 2003.

ISSUE No. 3- If answer to issue Nos. (ii) is in affirmative, what directions should be issued against the Noticees?

20. Section 11 of SEBI Act casts a duty on the Board to protect the interests of investors in securities and to promote the development of and to regulate the securities market. For achieving such object, it has been authorised to take such measures as it thinks fit. Thus, power to take all measures necessary to discharge its duty under the statute which is a reflection of the objective disclosed in the preamble has been conferred in widest amplitude. Pursuant to the said objective, PFUTP Regulations have been framed. The said Regulations apart from other things aims to preserve and protect the market integrity in order to boost investor confidence in the securities market. By executing manipulative trades, as has been executed by the Noticees in the instant matter, the price discovery system itself is affected. It also has an adverse impact on the fairness, integrity and transparency of the stock market. In view of the same and considering the violations committed by the Noticees, I find that it becomes necessary for SEBI to issue appropriate directions against the Noticees.

ORDER

21. In the facts and circumstances of the case, I, in exercise of the powers conferred upon me in terms of Section 19 read with Sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992, hereby issue the following directions:

- i. Mr. Jitendra Kumar Pratihast, Mr. Johar Pal Singh, JMD, Mr. Kailash Prasad Purohit and Mr. Jagdish Prasad Purohit are restrained from accessing the securities market for a period of **two** years from the date of this order and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period

of two years, from the date of this order.

- ii. Mr. Jitendra Kumar Pratihast, Mr. Johar Pal Singh, Mr. Kailash Prasad Purohit and Mr. Jagdish Prasad Purohit are also restrained from associating themselves with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI, for a period of **two** years from the date of this order.
- iii. Needless to say, in view of prohibition on sale of securities, it is clarified that during the period of restraint, the existing holding, including units of mutual funds, of the Noticees shall remain frozen.

22. The order shall come into force with immediate effect.

23. A copy of this order shall be served upon all recognised Stock Exchanges, Depositories and the Registrar and Share Transfer Agents to ensure compliance with the above directions.

DATE: May 31, 2019

PLACE: Mumbai

**MADHABI PURI BUCH
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**