

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI**

**CONSENT ORDER**

**ON THE APPLICATION SUBMITTED BY**

**GAUTAM N. JHAVERI**

**IN THE MATTER OF  
IRREGULARITIES RELATING TO INITIAL PUBLIC OFFERINGS  
(CONSENT APPLICATION NO.307/2007)**

1. As a part of its on going surveillance, SEBI had launched an investigation under section 11C of the SEBI Act, 1992 into the alleged irregular dealings in the shares issued through Initial Public Offerings (IPO's) during 2003-05 before these were listed on the Stock Exchanges. The preliminary investigations *prima facie* revealed that a few entities, including Gautam N. Jhaveri, Proprietor, M/s. Rajesh N. Jhaveri (hereinafter referred to as the 'applicant') cornered the shares meant for retail individual investors in several IPOs and made unlawful profits on the sale of such shares immediately after listing. It was, therefore, alleged that the applicant violated section 12A of the SEBI Act, 1992, Regulation 3 of the SEBI (Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 and the provisions of the SEBI (Disclosure and Investor Protection) Guidelines, 2000.
2. Based on these findings, SEBI initiated following actions:-
  - a) It passed an ad interim *ex parte* Order dated April 27, 2006 under section 11B of the SEBI Act, 1992 directing the applicant not to buy, sell or deal in the securities market, including IPO's, directly or indirectly, till further orders. After granting a personal hearing to the applicant on March 14, 2007 and after considering his reply dated December 25,

2006, SEBI passed another order against the applicant on March 27, 2007 confirming its earlier order dated April 27, 2006.

- b) It initiated adjudication proceedings against the applicant under Chapter VIA of the SEBI Act, 1992. The adjudicating officer issued show cause notices dated June 14, 2006 and June 19, 2006 to the applicant.
- c) It launched prosecution proceedings against the applicant vide CC No.57/SW/2006 before the Hon'ble 47<sup>th</sup> ACMM Court, Mumbai under section 68A(1) of the Companies Act, 1956, section 24 (1) of the SEBI Act, 1992, section 13, 16 read with section 23 (i)(h) of the Securities Contract (Regulations) Act, 1956 and section 20 of the Depositories Act, 1996 for the alleged irregularities in several IPOs.
- d) It contemplated prosecution proceedings in regard to irregularities in the IPOs of TCS, Shoppers Stop, Nectar Lifesciences, SPL Industries and IL&FS.
- e) It filed Protest Petition No.63/2008 before the Hon'ble CBI Court for non-filing of charge sheet against the applicant.

3. While the above proceedings were in progress, the applicant, vide letter dated November 23, 2007, proposed settlement of the said proceedings through a consent order in terms of SEBI circular No. EFD/ED/Cir-1/2007 dated April 20, 2007. The High Powered Advisory Committee, constituted by SEBI, considered the consent terms proposed by the applicant and, after taking in to account the period of restraint already undergone by the applicant, recommended the case for settlement. With regard to the Protest Petition No.63/2008 filed by SEBI in the CBI Court, HPAC recommended that the decision to withdraw the same may be taken by SEBI, as deemed appropriate.

As per the terms of settlement, the applicant shall pay as under:-

| <b>Sl.No</b> | <b>Particulars</b>            | <b>Amount (Rs.)</b> |
|--------------|-------------------------------|---------------------|
| 1            | Disgorgement of unlawful gain | 2,36,49,980         |
| 2            | Settlement charges            | 23,64,998           |
| 3            | Compounding charges           | 9,00,000            |
| 4            | Legal Charges                 | 1,00,000            |
| <b>Total</b> |                               | <b>2,70,14,978</b>  |

SEBI accepted the recommendations of the Committee and communicated the same to the applicant vide letter dated February 12, 2009.

4. Accordingly, the applicant without admitting or denying the charges, has remitted a sum of Rs.2,70,14,978 (Rupees two crore seventy lakh fourteen thousand nine hundred and seventy eight only) vide demand drafts payable at Mumbai as under:

| <b>Sl. No</b> | <b>Demand draft No.</b> | <b>Date</b> | <b>Amount (Rs.)</b> | <b>Drawee Bank</b>    |
|---------------|-------------------------|-------------|---------------------|-----------------------|
| 1             | 032253                  | 17.02.2009  | 1,50,14,978         | HDFC Bank             |
| 2             | 032396                  | 06.04.2009  | 70,00,000           | HDFC Bank             |
| 3             | 016876                  | 06.04.2009  | 30,00,000           | Central Bank of India |
| 4             | 016945                  | 13.06.2009  | 20,00,000           | Central Bank of India |
| <b>Total</b>  |                         |             | <b>2,70,14,978</b>  |                       |

5. In view of the above, it is hereby ordered that this consent order disposes of the pending proceedings under section 11B of the SEBI Act, 1992 as well as the adjudication proceedings against the applicant.

6. It is further ordered that:
  - a) No prosecution shall be launched against the applicant in respect of the alleged irregularities in the IPOs of IL&FS Ltd., Nectar Life Science Ltd. and FCS Ltd.
  - b) SEBI shall file an application in the CBI Special Court, Mumbai for withdrawal of the Protest Petition No. 63/2008 against the applicant.
  - c) SEBI shall not oppose compounding of prosecution case CC No.57/SW/2006 pending before the 47th ACMM Court, Mumbai as against the applicant. It shall, withdraw the complaint filed against the applicant under section 68A of the Companies Act, 1956 in accordance with law.
  
7. This order is without prejudice to the right of SEBI to initiate enforcement actions, including commencing or reopening of the proceedings pending against the applicant, if:
  - a. any representation made by the applicant in this consent proceeding is subsequently discovered to be untrue; or
  - b. the applicant breaches any of the consent terms or undertakings filed in this consent proceeding.
  
8. This consent order is passed on this day, the 25<sup>th</sup> of June, 2009 and shall come into force with immediate effect.

**M. S. SAHOO**  
**WHOLE TIME MEMBER**

**K. M. ABRAHAM**  
**WHOLE TIME MEMBER**