

In Re: N. Khemani and Co.

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SooperKanoon Citation : sooperkanoon.com/57601

Court : SEBI Securities and Exchange Board of India or Securities Appellate Tribunal SAT

Decided On : Feb-26-2004

Judge : G Bajpai

Appellant : In Re: N. Khemani and Co.

Judgement :

G.N. Bajpai, Chairman 1. M/s N Khemani & Co. is a member of the Calcutta Stock Exchange and is registered with SEBI as a stock broker with Registration No.INB031085815.

2. The Securities and Exchange Board of India (hereinafter referred to as SEBI) initiated investigation against Shri Ketan Parekh and some entities associated with him (hereinafter referred to as KP Group) and also some brokers of the Calcutta Stock Exchange (hereinafter referred to as the CSE) including M/s N Khemani (hereinafter referred to as the broker) for alleged market manipulation. During the course of investigation, SEBI prima facie found that several lapses and violations have been found committed by the broker, which resulted in market manipulation.

3. A show cause notice dated November 7, 2002 was issued to the broker, stating the alleged lapses and violations, to show cause as to why appropriate directions should not be issued under sections 11 and 11B of the SEBI Act, 1992 restraining him from trading or dealing in securities market pending completion of investigations. The main allegations in the Show cause notice are interalia as under : (1) That the broker by transacting in huge volumes of off the floor

transactions organized a parallel stock exchange for the purpose of assisting in, entering into or performing contracts in Securities and also by concealing these off the floor transactions, appears to have acted in violation of Section 19(1) of the Securities Contract Regulations Act, 1956.

(2) That by concealing the dealings of the clients including the KP Group and by giving wrong declarations to CSE, the broker avoided compliance with the prudential exposure limits and margin requirements of CSE prevailing during the relevant period and thereby, interfered with the fair and smooth functioning of the market in violation of Regulation 4(b) of SEBI (Prohibition of Fraudulent & Unfair Trade Practices relating to Securities Market) Regulations, 1995.

(3) Violation of Regulation 7 of SEBI (Stock Brokers & Sub Brokers) Regulations, 1992 read with Clause A (1, 4 & 5) of Code of Conduct stipulated in Schedule II of the said Regulations.

4. Opportunity of hearing was given to the broker twice on 30.11.2002 and 18.12.2002. The broker failed to avail the opportunity of hearing.

After carefully considering the submissions of the broker made vide letters dated 18.11.2002 and 17.12.2002, an interim order dated 21.01.2003 was passed debarring the broker from associating with securities market activities and dealing in securities market till the completion of investigation and enquiry. During the said period, the broker was directed not to buy, sell or deal in the securities market directly or indirectly.

5. SEBI vide order dated 15.11.02 appointed an Enquiry Officer to enquire into the alleged violations of - (i) Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 1995; (ii) Rule 4 (b) of SEBI (Stock Brokers and Sub Brokers) Rules, 1992, Regulation 17(1)(k) of SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 and regulation 7 of the Regulations read with 2 clauses A(1), (4) & (5) of the Code of Conduct stipulated in Schedule II of the Regulations; (iii) Section 19 (1) of the Securities Contracts (Regulation) Act, 1956; (iv) CSE's Notice dated 16th September, 1999 and CSE's bye-laws 332 and 334 (iii); (v) Violation of SEBI Circular:- (a) SMDRP/Policy/Cir-

32/99 dated September 14th , 1999 on negotiated deals, off-the-floor transactions, synchronized deals, cross deals etc, 6. The Enquiry Officer after conducting the enquiry according to the procedure laid down in the SEBI (Procedure for holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as the "Enquiry Regulations") submitted his report dated 18.06.2003 recommending a penalty of suspension of the certificate of registration for a period of two years.

7. After submission of the said Enquiry Report, a show cause notice dated July 03, 2003 as per Sub Regulation (2) of Regulation 13 of Enquiry Regulations was issued to the broker. The broker replied vide his letter dated 17.07.2003 to the said show cause notice making, inter-alia, the following submissions.

7.1 The broker submitted that it had not been provided with the relevant documents and further that it doesn't know as to how the figures of buying value of Rs.32,49,35,189.00 and selling value of Rs.32,58,39,928.00 = turnover of Rs. 65,07,75,117.00 has been arrived at. Further, the broker stated that the said figures have been worked out as a result of investigation carried out by SEBI and the data furnished by it and the data only reflected the debit and credit and it did not contain the separate value of off floor transaction not reported. The figure ought to have been worked out by comparing the data furnished by it and the figures obtained or supplied by CSE. Hence, the broker stated that, it is absolutely necessary to know the data obtained from CSE in this regard to ascertain the anomaly / discrepancy, if any.

7.2 The broker submitted that though the Enquiry Report contains a mechanical reproduction of its contentions, it does not deal with the contentions to conclusively prove the alleged violation. The Enquiry Report also does not state or mention the documents relied by the Enquiry Officer to hold that the broker is in violation of the Act, Regulation or the Circulars mentioned therein. The broker further submitted that neither the show cause notice nor the enquiry report shows how this figure is arrived at. It is also silent as to the documents relied upon to arrive at this figure. Even the Tables provided in the show cause notice and the Enquiry Report do not reveal how these figures are arrived at.

7.3 The broker stated that the data furnished by it contained inter alia, the client ledger account reflecting the transactions of debit and credit. It appears that the debit and credit are interpreted as buying and selling or vice versa. With regard to the alleged off floor transaction, the broker submitted that the same amounts to the compulsory carry forward on account of book closure and market Badla done in the CSE, which are not accountable to off floor deals as elaborated by the following chart.:

Settl No.	Qty.	Share & Rate	Sale Value	Buy Value
2001123	65679	HFCL, @ 1434.70	94229661.00	103187416.00
127872	Zee, @522.70	66838694.00	64915668.00	2001124
55679	HFCL,@ 1627.60	90623140.00	87266436.00	127872, Zee,@543.50
69498432.00	64915668.00	Total	321189927.00	320285188.00

7.4 The broker submitted that the above can also be verified from (a) The Delivery and receipt Instruction received from CSE for the settlement numbers referred above and (b) the Carry Forward Badla Sheet (Badla Break up Report for Settlements) from CSE Association Ltd. The broker alleged that both the documents, though produced by the broker along with the Reply dated 17.12.2002, was blatantly overlooked by the Enquiry Officer, without offering any reason.

7.5 The broker admittedly stated that it has not carried any off floor transaction apart from a transaction of 2000 shares of HFCL, as shown below :

Qty	Share & Value	Buy Value
29.1.01 2000, HFCL, @ 1265	2530000.00	SOLD 2000, HFCL, @ 1060
2120000.00	TOTAL 4650000.00	

7.6 The broker submitted that the off floor transaction of 2000 shares of HFCL valued at Rs.25,30,000.00 is merely 0.016% of its total turnover from the starting till date. The broker stated that the above remained to be reported by mistake, which was unintentional error should not be made a ground to penalize it who has always made timely payment, margin and all other obligations of a broker.

7.7 The broker submitted that the Enquiry Officer has come to the conclusion that the total off market deals came to Rs.65.07 crores by adding the total buy value of Rs.32.49 crores and total sale value of Rs.32.58 crores with the admitted off floor transaction of Rs.46.5 lakhs (32.49 crores + 46.5 lakhs = 65.07 crores). Thus the broker stated that the above tables show that the off floor deals comes to just Rs.46.5 lakhs, which is admitted by the broker.

7.8 With regard to the alleged violation of Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities market) Regulations, the broker submitted the acts of the broker does not fall under any of the clauses (a) to (d) of the said regulation and with regard to SEBI (Stock Brokers and Sub Brokers) Rules and Regulations, 1992 and the code of conduct, the broker submitted that it has maintained high standards of integrity, promptitude and fairness in the conduct of the business and has honoured all the deals and thereby proved beyond doubt that it has more than adequate capital, which is fully commensurate with its financial soundness.

7.9 With regard to Section 19 (1) of the Securities Contracts (Regulation) Act, 1956, the broker submitted that out of the alleged off floor transaction, only two remained to be reported to the CSE. This was an unintentional mistake due to oversight, which was never repeated. With regard to the alleged violation of SEBI Circular No.SMDRP/POLICY/CIR-32/99 dated 14.9.1999, the broker submitted that the said circular deals with negotiated deals, which was not entered into by the broker and moreover, there is no finding in the Enquiry Report, which conclusively proves that it has entered into such deals.

7.10 The broker submitted that the concerned Authorities sealed its Office and hence they could not receive the letters intimating the hearing dates. But the letters sent to the residential address was duly received. The broker further stated that though the present address was provided, the Enquiry Officer did not intimate any hearings, and proceeded to complete the enquiry and submit the Report. The broker submitted that this very act of the Enquiry officer is violative of natural principals and fair trial.

7.11 The broker submitted that the recommended penalty of 2 years suspension of registration in the Report against it is unreasonable and unfair. The quantum of the off floor transaction as alleged, forms an insignificant part of the total volume of the transactions. The broker further stated that as there is no intentional and / or deliberate violation of the regulations, the recommended penalty therefore has no nexus with the offence if any, which the broker denies.

8. Subsequently, an opportunity of hearing was given to the broker on 20.10.2003. Ms. Sony Jose George, Mr. Advait Sethna, Ms. Geeta Mathur and Mr. Sugata Gosh of Singhania & Co. attended the hearing and made submissions. On request, 7 days time was given to file their written submissions containing the submissions made during the hearing. The broker vide letter dated 27.10.2003 furnished its reply. Most of the submissions were reiterating its earlier submissions made vide letter dated 18.07.2003. The submission in addition, inter-alia, are as follows: (1) The broker stated that it has been the consistent case of N. Khemani that the transactions mentioned as off floor by the Enquiry Officer is not so, but are compulsory carry forward transactions on account of book closure and market badla done in the CSE. In evidence the broker had produced the documents generated by the CSE Association Ltd.: i. The Delivery and Receipt Instruction for settlement nos. 2001123 and 2001124 (Final Receipt Statement and Member wise daily margin position Report) and ii. The Carry Forward Badla Sheet (Badla Break Up Report For Settlements) (2) The broker stated the above documents will reveal the relevant details of the transactions such as the Settlement Number, Scrip, Book Closure Date, Quantity, Member Name, Delivery Number, Rate, Value etc. The details mentioned in the document correspond to the transactions mentioned by SEBI as off the Floor. Moreover, since the CSE itself has generated these documents, the trades cannot be termed as Off the Floor as the primary requirement to term any transaction to be Off Floor is that it has to be done outside CSE system.

(3) Further, at the time of inspection on 18th August 2003, the broker stated that it was provided with the individual transactions which are considered to be Off Floor by SEBI. The reason stated for considering these trades as Off Floor was that the trade IDs of these transactions was not available in the data provided by N. Khemani to SEBI. The broker further submitted that these transactions being carry forward trades, the Trade IDs will be available in the previous settlement from which these trades were carry forwarded.

i. The broker stated that the alleged Off Floor transactions are of 01.09.2000 and 08.09.2000. In the previous settlement dates, i.e.

25.08.2000 and 01.09.2000, the Trade IDs of these transactions can be identified from those settlement dates.

ii. The Trade IDs so identified from the previous settlement, the date of trade and the settlement number along with the data provided by the SEBI at the time of inspection was produced as "Exh. D". The broker stated that the column No.1 to 10 has been retained as they were provided by SEBI (as Exh. C) and column No.11 has been inserted and the same provides the corresponding Trade ID of the transactions.

iii. The broker stated that now that the Trade IDs of the transactions found to be Off Floor by SEBI are also available with SEBI, these trades cannot be termed as Off floor.

iv. The broker admitted that it has done Off Floor transaction of 2000 shares of HFCL, (the last four trades in Exh. C and D). The transaction of 2000 shares of HFCL amounts to merely 0.016% of the total turnover. That the above remained to be reported by mistake, which was unintentional. The broker further stated that that this was unintentional and one time error should not be made a ground to penalize it who has always made timely payment, margin and its obligations as broker.

v. The broker stated that a combined reading of Exh. A, B and D will reveal that these transactions were done through CSE only. In these circumstances, the broker requested that the penalty of suspension of two years may be set aside.

9. I have carefully considered the Enquiry Report and the submissions made by the broker before me and vide letters dated 18.07.2003 and 27.10.2003. My findings are as under: 9.1 Regarding the submission of the member that it has not been provided any material data to which it is legally entitled and that the enquiry cannot go beyond the show cause notice and the show cause notice dated 11.12.2002 was deficient in as much as the same did not disclose the material facts relating to the charges enumerated in the Enquiry Report, I find no merit in the submissions of the member. An Enquiry Officer was appointed vide order dated 15.11.2002. The findings as per regulations/allegations was furnished with

the showcause notice dated 11.12.2002 containing detailed charges and allegations. It also cited the instances of violations and also gave particulars and details of transactions such as off market deals, matching transactions etc.

The Enquiry Officer in the course of the proceedings gave several opportunities of personal hearing. After the submission of the Enquiry Report dated 18.6.2003, a show cause notice dated 3.07.2003 was issued to the broker, enclosing a copy of the Enquiry report, seeking comments of the broker on the findings of the Enquiry Officer. Subsequently, the broker was given an opportunity of personal hearing before me on 20.10.2003. In all the aforesaid instances, the broker never appeared in person to explain its case.

9.2 Further, the data collected from the broker on which SEBI relied to pass interim order dated 21.01.2003 was provided to the broker vide SEBI letter dated 05.12.2002. Also, as requested by the broker the inspection of documents that were relied upon by the Enquiry Officer were provided on 18.08.2003 to the broker. Therefore, there is no truth in the submissions of the broker that he was not provided with any material or the enquiry was conducted beyond the scope of show cause notice.

9.3 I find that the broker traded on behalf of Ketan Parekh entities on a large scale. The total trades of the broker categorized according to groups viz., the brokers(self) & its group entities, Ketan Parekh & his entities and Other clients and the groupwise trade details are as below:

B_QNTY	Self & Group	3827927
1919687969	1931455945	3851143914
23.62	KP entities	10659596
6398177893	5555099627	11953277519
73.32	Other clients	Outside CSE
0	321189928	321189928
1.97	Other clients	at CSE
253129	176662522	1.08
Total trades	14740652	8404226868
7898047016	16302273884	100.00

9.4 It is seen from the above table that Ketan Parekh entities constitutes 73.32% of total trades done by the broker during 2000-2001 and the Self and group entities constitutes only 23.62% of the total trades done by the broker during 2000-2001. Further the clients' trades (other than self and Ketan Parek's group trades) were only 1.08% at CSE and 1.97% outside CSE by way of off-the floor transactions during 2000-2001.

SILVERLINE 29-09-00 SILVERLINE 29-09-00C 49207 SILVERLINE 19-01-01
 SILVERLINE 26-01-01 SILVERLINE 02-02-01 SILVERLINE 02-02-01C 0
 SILVERLINE 09-02-01 SILVERLINE 09-02-01C 184017 SILVERLINE 16-02-01
 SILVERLINE 16-02-01C 36317 02-02-01C 0 09-02-01C 31500 16-02-01C 39000
 28-07-00C 100000 04-08-00C 50000 11-08-00C 0 18-08-00C 115000 25-08-00C
 91872 01-09-00O 127872 08-09-00C 0 38-09-000 127872 15-09-00C 2872 26-10-
 00C 0 03-11-00C 57500 17-11-00C 0 24-11-00C 172000 01-12-00C 162000 08-
 12-00C 152000 15-12-00C 152000 22-12-00C 160000 29-12-00C 170000 05-01-
 01C 170000 12-01-01C 45000 19-01-01C 210000 26-01-01C 178000 02-02-01C
 25000 09-02-01C 10500 16-02-01C 62500 9.7 I find settlementwise delivery
 details of Panther Fincap with the broker during 2000-2001 are as under:- Date
 Narration Qnty 923409.00 0.00 1722710.00 0.00 3621568.10 0.00 156720.00 0.00
 235140.00 0.00 133288.50 0.00 1568900.00 0.00 784500.00 0.00 12731677.40
 0.00 42505470.00 0.00 2277750.00 0.00 3117025.00 0.00 3806250.00 0.00
 152540.00 0.00 31046976.00 0.00 2294250.00 0.00 3825750.00 0.00
 24944089.00 0.00 1074800.00 0.00 336100.00 0.00 2276238.50 0.00 672650.00
 0.00 2018100.00 0.00 18367603.00 0.00 673700.00 0.00 1968697.50 0.00
 269540.00 0.00 605476.50 0.00 6745000.00 0.00 134940.00 0.00 3420982.50
 0.00 1417710.00 0.00 4339864.20 0.00 3679840.00 0.00 53067897.50 0.00
 3438500.00 0.00 17166240.00 0.00 5596710.00 0.00 3447250.00 0.00
 10807003.00 0.00 13938000.00 0.00 2760400.00 0.00 21946770.00 0.00
 F2001127, DLVD 4831400.00 0.00 36122163.00 0.00 276700.00 0.00
 1384400.00 0.00 7166172.00 0.00 6924500.00 0.00 15235000.00 0.00 692550.00
 0.00 4155600.00 0.00 18008900.00 0.00 14685240.00 0.00 60151482.50 0.00
 1460832.10 0.00 274767.50 0.00 545102.30 0.00 1995297.00 0.00 392950.00
 0.00 3143800.00 0.00 7733159.90 0.00 15974550.00 04-01-01 4478600.00 0.00
 GLOBAL TELE 734.89 3674450.00 0.00 GLOBAL TELE 734.90 7349000.00 0.00
 323130.00 0.00 10452720.00 0.00 6287500.00 0.00 3783000.00 0.00
 22290400.00 0.00 9720000.00 22-02-01 GLOBAL TELE 635.60 5720400.00 22-
 02-01 GLOBAL TELE 636.10 3816600.00 Total 560375251.40 35231550.00 9.8 It
 is observed that the broker had transacted around Rs.385 crores which is around
 23.62% of his total trades during 2000-2001. The segmentwise trades viz., carry
 forward transactions, trades done at CSE and trade done outside the CSE trading

system (off-the floor) details are given below: SELF + KHEMANI GROUP
 TRADES TYPE PERCENTAGE Carry Forward 3500 CSE Trades 3820427
 1909701344 1921483495 3831184839 99.48 Off the Floor 4000 Grand Total
 3827927 1919687969 1931455945 3851143914 100 It is seen from the above
 table that the broker had done 99.76% of his self & his group trades at CSE and
 around 0.24% only at outside CSE trading System by way of off-the floor
 transactions during 2000-2001.

9.9 I find the scripwise trading details of the broker and his associate group/entities
 in 2000-01 are as under: SCRIP 388752227 400439505 789191732 20.49
 379492879 375645965 755138843 19.61 308582219 309360613 617942832
 16.05 271043390 271818829 542862219 14.10 GLOBAL TELE 255074
 266096458 267465966 533562424 13.85 SILVERLINE 555500 154667371
 156059693 310727064 8.07 133624777 3.47 102509215 2.66 PENTASOFT
 81866 1919687969 1931455945 3851143914 100.00 It may be seen from the
 above table that the broker and its group/associate entities had done considerable
 trades in HFCL, Relinace, Zee TV, Satyam, Global Tele & Silverline having
 20.49%, 19.61%, 16.05%, 14.10%, 13.859% & 8.07% respectively of the total
 volume of his trades of Rs.385.11 crores.

9.10 I find the settlement wise trading details of the broker and his associate
 group/entities in 2000-01 for all scrips are as below: SCRIP SETT DATE B_QNTY
 GLOBAL TELE 21-07-00 GLOBAL TELE 01-09-00 GLOBAL TELE 26-10-00
 GLOBAL TELE 03-11-00 GLOBAL TELE 15-12-00 GLOBAL TELE 02-02-01 11-08-
 OOC 0 18-08-OOC 3500 26-01-010 4000 HIMAFUTU , 09-02-01 PENTASOFT
 18-08-00 PENTASOFT 03-11-00 SILVERLINE 14-07-00 SILVERLINE 01-09-00
 SILVERLINE 29-09-00 SILVERLINE 19-01-01 SILVERLINE 26-01-01
 SILVERLINE 02-02-01

9.11 The Enquiry Officer had found that that member has
 indulged in off the floor transaction in violation of SEBI circular
 No.SMDRP/POLICY/CIR- 32/99 dated September 14, 1999 in scrips of Global
 Tele, Himachal Futuristic, ITC, RIL Satyam, Silverline, Zee TV etc., stating that the
 broker had around 4 % of his total transactions as Off-the- floor transactions in the
 year 2000-2001. The Enquiry Report shows that most of these trades are entered
 with clients who are brokers of the CSE or other Stock Exchanges.

9.12 The break-up details of total clients (excluding self & Khemani group and Ketan Parekh & his group) trades at CSE and outside CSE as appearing in the brokers books during 2000-2001 as given in the Enquiry report are as below:

OTHER THAN KETAN PAREKH & GROUP AND KHEMANI GROUP TRADES
 TYPE PERCENTAGE CSE Trades 253129 176662522 35.48 Off the Floor 0
 321189928 321189928 64.52 Grand Total 253129 86361006.8 411491444
 497852451 100 Name of the persons and their scripwise & Settlementwise trade
 details of the off-the-floor transactions done by parties other than the broker (self)
 & its group and Ketan Parekh & his group entities during 2000-2001: client SETTLE
 DATE B_QNTY CHANDRAVADAN DESAI HFCL 08-09-000 0 CHANDRAVADAN
 DESAI Zee TV 08-09-000 0 PANKAJ D SHAH HFCL 01-09-000 0 RELIANCE
 SH & ST ER Zee TV 01-09-000 0

9.13 The broker stated that the data furnished by it contained inter alia, the client ledger account reflecting the transactions of debit and credit. It appears that the debit and credit are interpreted as buying and selling or vice versa. With regard to the alleged off floor transaction, the broker submitted that the same amounts to the compulsory carry forward on account of book closure and market Badla done in the CSE, which are not accountable to off floor deals as elaborated by the following chart.: Settl No.Qty., Share & Rate Sale Value Buy Value 2001123 65679, HFCL, @ 1434.70 94229661.00 103187416.00 127872, Zee, @ 522.70 66838694.00 64915668.00 2001124 55679, HFCL,@ 1627.60 90623140.00 87266436.00 127872, Zee,@543.50 69498432.00 64915668.00 Total 321189927.00 320285188.00

9.14 The broker submitted that the above can also be verified from (a) The Delivery and receipt Instruction received from CSE for the settlement numbers referred above and (b) the Carry Forward Badla Sheet (Badla Break up Report for Settlements) from CSE Association Ltd. The broker alleged that both the documents, though produced by the broker along with the Reply dated 17.12.2002, was not considered by the Enquiry Officer.

9.15 I find that the broker vide its letter dated 27.10.2003 submitted that the alleged off-the-floor transactions are of 01.09.2000 and 08.09.2000 that was provided by SEBI to the broker. I find that SEBI alleged the transactions as off-the-floor as the trade ID's of these transactions was not available in the data provided by the broker to SEBI. In this regard, I find that the broker submitted that these

transactions being carry forward trades, the Trade ID's will be available in the previous settlement from which these trades were carry forwarded. The broker provided the trade ID's identified from the previous settlement except for the transaction of 2000 shares of HFCL which the broker admitted as off-the-floor transactions.

client PURC_SALE Value PANKAJ D. SHAH 65679 94229661.30 RELIANCE
SHARE & STOCK BR 127872 66838694.40 Panther Fincap & Manageme 20
Panther Fincap & Manageme 421 670274.10 Panther Fincap & Manageme 5
Panther Fincap & Manageme 500 796050.00 Panther Fincap & Manageme 100
159210.00 Panther Fincap & Manageme 1000 1592100.00 Panther Fincap &
Manageme 1000 1592100.00 Panther Fincap & Manageme 1000 1592100.00
Panther Fincap & Manageme 9BO 1560258.00 Panther Fincap & Manageme
1000 1592100.00 Panther Fincap & Manageme 100 159210.00 Panther Fincap &
Manageme 1400 2228940.00 Panther Fincap & Manageme 1000 1592100.00
Panther Fincap & Manageme 3891 6194861.10 Panther Fincap & Manageme 200
288420.00 Panther Fincap & Manageme 1000 1442100.00 Panther Fincap &
Manageme 100 144230.00 Panther Fincap & Manageme 2000 2888000.00
Panther Fincap & Manageme 1311 1893084.00 Panther Fincap & Manageme
3953 5708527.30 Panther Fincap & Manageme 1436 2073727.60 Panther Fincap
& Manageme 51 Panther Fincap & Manageme 675 1075342.50 Panther Fincap &
Manageme 1000 1593100.00 Panther Fincap & Manageme 100 159390.00
Panther Fincap & Manageme 344 548336.00 Panther Fincap & Manageme 99
157806.00 Panther Fincap & Manageme 10 Panther Fincap & Manageme 500
797000.00 Panther Fincap & Manageme 2000 3188200.00 Panther Fincap &
Manageme 500 797050.00 Panther Fincap & Manageme 250 398525.00 Panther
Fincap & Manageme 200 318820.00 Panther Fincap & Manageme 100 159410.00
Panther Fincap & Manageme 500 797050.00 Panther Fincap & Manageme 876
1396431.60 Panther Fincap & Manageme 5000 7970500.00 Panther Fincap &
Manageme 400 637640.00 Panther Fincap & Manageme 250 398525.00 Panther
Fincap & Manageme 435 693433.50 Panther Fincap & Manageme 53 Panther
Fincap & Manageme 2000 3188200.00 Panther Fincap & Manageme 1000
1594100.00 Panther Fincap & Manageme 160 255056.00 Panther Fincap &
Manageme 1000 1594100.00 Panther Fincap & Manageme 1000 1594100.00

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 Fincap & Manageme 25000 13085000.00 SANJAY KHEMANI 2000 2530000.00
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 650775117.38 9.16 The broker admittedly stated that it has conducted off floor
 transaction of shares of HFCL, as shown below : SAN JAY KHEMANI 2000
 2530000.00 Self 2530000.00 Self 2120000.00 SANJAY KHEMANI 2000
 2120000.00 10 I find that the broker itself had admitted that it had conducted off-
 the-floor transactions to the tune of Rs. 93,00,000/-. I have considered the
 submissions made by the representative of the broker during the course of

personal hearing before me on 20.10.2003 that the off-the-floor transactions except for the admitted transactions are carry forward trades. However, I also note that the broker failed to co-operate during the entire proceedings conducted against it particularly the proceedings before the Enquiry Officer. It is observed that despite of several opportunities given by the Enquiry Officer to the broker, it failed to avail the same.

11 As per SEBI circular No.SMDRP/POLICY/CIR-32/99 dated September 14, 1999 all negotiated deals (including cross deals) are prohibited and all such deals shall be executed only on the screens of the exchanges in the price and order matching mechanism of the exchanges just like any other normal trade. The negotiated deals avoid transparency, do not contribute to price discovery and some investors do not have benefit of the best possible price and militate against the basic concept of stock exchanges, which are meant to bring together a large number of buyers and sellers in an open manner. In other words, all trades other than exchange screen based trades are prohibited for the above reasons.

12 I find that the broker had indulged in off-the-floor transactions to the tune of Rs 93,00,000/- in violation of the above stated circular.

Further, I find that the broker was one of the groups through which Ketan Parekh and his group/associate entities have done substantial trading in Kolkata. I find that 73.32% of the total turnover for the year 2000-01 of the broker is accounted by transactions done on behalf of Ketan Parekh entities. As per the declarations made by the broker at the time of executing orders through CSE's online trading system, all the transactions executed by the broker were declared as self or proprietary trades and the existence of clients including the Ketan Parekh entities behind these transactions have been concealed.

13 I have no hesitation to agree with the findings of the Enquiry Officer that entering into off the floor transactions is to be viewed seriously as it interferes with fair and smooth working of the market and price discovery mechanism and shakes the confidence of investors.

However, I have also considered the submissions of the broker during the course of personal hearing and vide letter dated 27.10.2003 regarding the carry forward transactions. Hence, I find that the recommendation of the Enquiry Officer suspending the certificate of registration of the broker for a period of two years is on higher side.

Further, I also note that the broker itself had admitted that it had entered into off-the-floor transactions as enumerated above and also not denied that it had dealt with Ketan Parekh entities.

14 Therefore, in exercise of powers under Section 4(3) of the SEBI Act read with Regulation 16(5) of the Enquiry Regulations, I hereby suspend the certificate of registration of the Stock Broker, N Khemani & Co.

for a period of 14 months instead of two years as recommended by the Enquiry Officer. SEBI passed an interim order dated 21.01.03 debarring the broker from associating with securities market activities and dealing in securities market till the completion of investigation and enquiry. Taking into account the period since the date of coming into effect of the interim order, the broker's certificate of registration is suspended upto 20.03.04.

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