SEC/Enforcement/1176/2013/ **January , 2014**

SEC/Enforcement/1176 /2013/84 **By Special Messenger**
January 30, 2014

PFI Securities Limited
63, Dilkusha C/A (3rd floor)
Dhaka-1000

Attention: Managing Director/CEO

Subject: Penalty Order: Non compliance of Section 17 (e) (v) of Securities and Exchange Ordinance, 1969 in connection with trading in shares of CVO Petrochemical Refinery Ltd.

Dear Sir,

Commission's penalty order No. SEC/Enforcement/1176/2013/83 dated January 30, 2014 is enclosed herewith for your kind information and necessary action.

For Bangladesh Securities and Exchange Commission

Mustari Jahan
Deputy Director (Enforcement Dept.)

Copy for Distribution:
Chief Executive Officer, Dhaka Stock Exchange Limited
Chief Executive Officer, Chittagong Stock Exchange Limited

Copy for information:
P.O to Commissioner (Enforcement), BSEC
P.O to Executive Director (SRI), BSEC
P.O to Executive Director (MIS), BSEC
Chairman's office, BSEC

SEC/Enforcement/1176/2013/ January , 2014

Order

Whereas, on the basis of the investigation report of Dhaka Stock Exchange Limited on trading in shares of **CVO Petrochemical Refinery Limited**, a show cause-cum-hearing notice No. SEC/Enforcement/1176/2013/595 dated October 13, 2013 was issued to PFI Securities Limited to appear at the hearing accusing for violating section 17 (e)(iii)(v) of the Securities and Exchange Ordinance, 1969 (XVII of 1969). Hearing has been conducted with the accused. In the show cause-cum-hearing notice following have been mentioned among others;-

Quote

Whereas, as per section 2(i) of the Securities and Exchange Ordinance, 1969 (XVII of 1969), PFI Securities Limited is a member of Dhaka Stock Exchange Limited;

Whereas, the Securities and Exchange Commission issued Stock Dealer & Stock Broker Registration Certificates to PFI Securities Limited under aviv 10(1) of the wmwKDwiwUR I G·‡PÄ Kwgkb AvBb, 1993, read with wewa 5 (5) of the wmwKDwiwUR I G·‡PÄ Kwgkb (÷K-wWjvi, ÷K-‡evKvi I Ab‡gvw`Z cwZwbwa) wewagvjv, 2000, to conduct securities trading related activities under certain terms & conditions stipulated in the said certificates;

Whereas, as per section 17(e) (iii) and (v) of the Securities and Exchange Ordinance, 1969 (XVII of 1969),"No person shall, for the purpose of inducing, dissuading, effecting, preventing or in any manner influencing or turning to his advantage, the sale or purchase of any security, directly or indirectly,-

do any act or practice or engage in a course of business, or omit to do any act which operates or would operate as a fraud, deceit or manipulation upon any person, in particular-

effect any transaction in such security which involves no change in its beneficial ownership;

directly or indirectly effect a series of transactions in any security creating the appearance of active trading therein or of raising of price for the purpose of inducing its purchase by others or depressing its price for the purpose of inducing its sale by others;"

Whereas, an investigation has been conducted by DSE regarding trading in shares of CVO Petrochemical Refinery Ltd. Among others the following is mentioned in the report;

"Prime Finance Capital Management Ltd., PFI Securities Ltd. (Dealer Account) and PFI Securities Ltd. Employee Provident Fund

Observations:

1. Upon examining the relevant documents collected from PFI Securities Ltd. it was found that Prime Finance Capital Management Limited (Client Code 1170) along with one of its subsidiary PFI Securities Ltd.'s dealer account (client code 307) and PFI Securities Ltd. Employee Provident Fund (Client Code-1234) traded 1709900 shares of CVOPRL in these three accounts.

(**Annexure: 3-** Trade details of Prime Finance Capital Management Ltd., PFI Securities Ltd. (Dealer Account) and PFI Securities Ltd. Employee Provident Fund along with instrument ledger and Account opening forms)

2. As per DSE trade data it was found that for 88,500 shares of CVOPRL, Prime Finance Capital Management Limited (Client Code 1170) along with one of its subsidiary PFI Securities Ltd. dealer account (307) and PFI Securities Ltd. Employee Provident Fund (Client Code-1234) acted as counter party of each other.

   (**Annexure: 4**- DSE trade data of CVOPRL on different date for client Code# 1170, client code# 307 and client code# 1234 of PFI Securities Ltd.)"

Contravention: "It is appeared to us that ……………, PFI Securities Ltd. (Dealer Account) and PFI Securities Ltd. Employee Provident Fund have violated Section 17 (e)(iii) and (e)(v) of Securities and Exchange Ordinance, 1969, by performing the following acts:

1. Created an appearance of active trading by directly and indirectly conducting a series of transaction in the shares of CVOPRL and simultaneously buying and selling from different account; and

2. Traded 88500 shares of CVOPRL in such a manner which involves no change in its beneficial ownership."

Whereas, copy of relevant annexures of the report is enclosed herewith.**Unquote**

Whereas, Investigation Team reported the following among others;

Quote

Basic Information of CVO Petrochemical Refinery Ltd.:

Particulars	Details
Authorized Capital(mn)	1,500.0
Paid Up Capital (mn)	180.0
Total no. of Securities	18,000,000
No. of Free Float Share	**78,02,310**
% of Free Float Shares in respect of total shares	43.35%
Face Value	10
Market Lot	100
Market Category	A
Share Percentage (As on June, 2012)	Sponsor/Director: 50.00, Govt.: 0, Institute: 9.47, Foreign: 0, Public: 40.53.
Details of Share Holdings	• Sponsor/Director: 50% i.e 9,000,000 no. of shares, • Private corporate bodies/Individuals (Holding more than 5%)- 11,97,690 no. shares

- Lock- in shares – 101,97, 690 no. of shares
- No. of Sponsors- 13

Unquote

Quote

Position of Net Income & EPS:

Year / Particulars	2013(up to nine month)	2012	2011	2010	2009	2008
Net income (mn)	16.94	47.88	54.05	21.69	-24.38	-4.62
EPS (in Tk.)	0.94	3.19	4.50	2.17	-24.38	-4.62
Dividend		20%B	25%B	20%B	n/a	n/a

Unquote

Quote

In the Audited Financial Statements for the year ended 30 June 2010 it has been mentioned that "Previously the company manufactured soyabean oil from crude oil imported by them and sold the same in the market. Due to incurring of continuous loss in the nature of business the production of the company closed for a long period. After that, the company has diverted its business by manufacturing Petro-chemical oil from the fuel oil purchased locally." **Unquote**

Whereas, from the report following is found among others;

Date	PFI Securities Ltd.(Dealer A/C), Code-307 of PFI Securities Ltd.				PFI Securities Ltd. Employee Provident Fund Code-1234, of PFI Securities Ltd.				Total buy by PFI	Total sell by PFI	Total Trade by PFI	Total Trade volume in the market	Percentage of Total Trade
	Buy	Avg Rate	Sell	Avg Rate	Buy	Avg Rate	Sell	Avg Rate					
11-Apr-2013	5,000	124.34							5,000	0	5,000	52,660	9.49%
15-Apr-13	4,500	146.62							4,500	0	4,500	33,726	13.34%
16-Apr-13	5,000	139.02							5,000	0	5,000	53,230	9.39%
22-Apr-13			8,000	163.04					0	8000	8,000	47,820	16.73%
23-Apr-13			6,500	164.44					0	6500	6,500	45,330	14.34%
25-Apr-13	20,000	179.7							20,000	0	20,000	158,120	12.65%
28-Apr-13	10,000	181.92							10,000	0	10,000	107,390	9.31%
2-May-13					1,600	208.36			1,600	0	1,600	118,240	1.35%
5-May-13	20,500	239.51							20,500	0	20,500	178,920	11.46%

8-May-13	600	36.3							600	0	600	157,050	0.38%
13-May-13							1,600	226.52	0	1600	1,600	95,020	1.68%
28-May-13					400	260.81			400	0	400	236,350	0.17%
29-May-13					19,000	281.48			19,000	0	19,000	216,870	8.76%
30-May-13					100	281.88			100	0	100	135,690	0.07%
13-Jun-13					500	336.61			500	0	500	120,890	0.41%
22-Aug-13			50,000	600			2,800	597.9	0	52800	52,800	158,450	33.32%
25-Aug-13							1,000	603.58	0	1000	1,000	115,320	0.87%
27-Aug-13							10,400	632.78	0	10400	10,400	124,890	8.33%
2-Sep-13							400	602.88	0	400	400	75,600	0.53%
3-Sep-13							5,400	575.96	0	5400	5,400	51,000	10.59%
4-Sep-13			1,100	616.22					0	1100	1,100	54,800	2.01%
10-Sep-13	31,000	700			13,200	702.45			44,200	0	44,200	201,800	21.90%
Total	96,600		65,600		34,800		21,600		131,400	87200	218,600		

Whereas, PFI Securities Limited has submitted the following explanation to the Commission;

<u>Quote</u>

01. 01.In the Show Cause Notice it has been alleged that Prime Finance Capital Management Limited (Client Code 1170) along with one of its subsidiary PFI Securities Ltd's Dealer Account (Client Code 307) and PFI Securities Ltd Employee Provident Fund (Client Code 1234) traded 1709900 shares of CVOPRL (CVO Petrochemical Refinery Ltd) in the said three accounts. In this connection it is stated that from the trade details you have annexed as Annexure-3 it is not clear as to how the alleged trading was held. It is further stated that Prime Finance Capital Management Limited does not hold any shares in the capital of PFI Securities Ltd, as such PFI Securities Ltd is in no way a subsidiary of Prime Finance Capital Management Limited. It is also stated that PFI Securities Ltd Employee Provident Fund is a Provident Fund of the employees of PFI Securities Ltd and the said Provident Fund is administered and managed by the Trustees of the said Provident Fund and as such PFI Securities Ltd does not have any control over and/or is not responsible for, any investment of the said fund made by the Trustees in any securities or otherwise. Thus, Prime Finance Capital Management Limited (Client Code 1170), PFI Securities Ltd's Dealer Account (Client Code 307) and PFI Securities Ltd Employee Provident Fund (Client Code 1234) are three separate entities/fund.

02.You have also alleged that as per DSE trade data it was found that for 88,500 shares of CVOPRL, Prime Finance Capital Management Limited (Client Code 1170) along with one of its subsidiary PFI Securities Ltd's Dealer Account (Client Code 307) and PFI Securities Ltd Employee Provident Fund (Client Code 1234) acted as counter party of each other. In this connection it is reiterated that Prime Finance Capital Management Limited (Client Code 1170), PFI Securities Ltd's Dealer Account (Client Code 307) and PFI Securities Ltd Employee Provident Fund (Client Code 1234) are separate entities/fund.

03.You have further alleged that PFI Securities Ltd's Dealer Account and PFI Securities Ltd Employee Provident Fund have violated section 17(e)(iii) and e(v) of the Securities and Exchange Ordinance 1969 by performing the following acts:

1) Created an appearance of active trading by directly and indirectly conducting a series of transaction in the shares of CVOPRL and simultaneously buying and selling from different account; and

2) Traded 88500 shares of CVOPRL in such a manner which involves no change in its beneficial ownership.

04.Your first allegation of violation is with regard to section 17(e)(v) of the Securities and Exchange Ordinance 1969, which provides as follows:

"No person shall, **<u>for the purpose of inducing, dissuading, effecting, preventing or in any manner influencing or turning to his advantage, the sale or purchase of any security</u>**, directly or indirectly, (e) **<u>do any act or practice or engage in a course of business, or omit to do any act which operates or would operate as a fraud, deceit or manipulation upon any person</u>**, in particular

(v) directly or indirectly effect a series of transactions in any security creating the appearance of active trading therein or of raising of price for the purpose of inducing its purchase by others or depressing its price for the purpose of inducing its sale by others"

In this connection it is stated that you are aware that the Dealer Account is the account through which shares are purchased/sold for self and not for any client. From the trade data sent by you along with your Notice it appears that PFI Securities Ltd purchased for itself in its Dealer Account 5,000 shares of CVOPRL on 11.04.2013, 4,500 shares on 15.04.2013, 5,000 shares on 16.04.2013, 20,000 shares on 25.04.2013, 10,000 shares on 28.04.2013, 20,500 shares on

05.05.2013, 600 shares on 08.05.2013 and 31,000 shares on 10.09.2013. Thus during the said period PFI Securities Ltd purchased in its Dealer Account a total of 96,600 shares. PFI Securities Ltd has not sold any shares of CVOPRL from its Dealer Account on any of the above dates, but sold 8,000 shares on 22.04.2013, 6,500 shares on 23.04.2013 and 50,000 shares on 22.08.2013. Thus during the aforesaid period a total of 64,500 shares were sold from the Dealer Account.

It is pertinent to mention here that on the aforesaid dates of purchase, no shares of CVOPRL were sold from the account of Prime Finance Capital Management Limited (Client Code 1170), except 6,600 shares were sold on 16.04.2013 and 1,29,200 shares were sold on 10.09.2013 and on those two dates PFI Securities Ltd purchased in its Dealer Account 5,000 shares and 31,000 shares respectively. Similarly, on the aforesaid dates of sale, no shares of CVOPRL were purchased in the account of Prime Finance Capital Management Limited (Client Code 1170), except 80,100 shares were purchased on 22.08.2013 and on that date PFI Securities Ltd sold from its Dealer Account 50,000 shares only.

On the other hand, on the aforesaid dates of purchase, no shares of CVOPRL were sold from the account of PFI Securities Ltd Employee Provident Fund (Client Code 1234) and on the aforesaid dates of sale, no shares of CVOPRL were purchased in the account of PFI Securities Ltd Employee Provident Fund (Client Code 1234), except 2,800 shares were purchased on 22.08.2013 and on that date PFI Securities Ltd sold from its Dealer Account 50,000 shares.

As such, from the aforesaid transactions during the aforesaid period it is clear that there was no simultaneous buying and selling of shares of CVOPRL from different accounts.

05.Your second allegation of violation is with regard to section 17(e)(iii) of the Securities and Exchange Ordinance 1969, which provides as follows:

“No person shall, **for the purpose of inducing, dissuading, effecting, preventing or in any manner influencing or turning to his advantage, the sale or purchase of any security**, directly or indirectly, (e) **do any act or practice or engage in a course of business, or omit to do any act which operates or would operate as a fraud, deceit or manipulation upon any person**, in particular

(iii)effect any transaction in such security which involves no change in its beneficial ownership”

In this connection it is reiterated that Prime Finance Capital Management Limited (Client Code 1170), PFI Securities Ltd's Dealer Account (Client Code 307) and PFI Securities Ltd Employee Provident Fund (Client Code 1234) are separate entities/fund. The said three accounts are not beneficially owned by a single person.

As such, from the aforesaid transactions during the aforesaid period it is clear that there was no transaction in the shares of CVOPRL which involves no change in its beneficial ownership.

06.Please note that section 17 of the Securities and Exchange Ordinance 1969 prohibits fraudulent acts, etc., and the "purpose" as enunciated in section 17 of the Securities and Exchange Ordinance 1969 is a prerequisite for constitution of a fraudulent act within the meaning of that section. In the instant case, PFI Securities Ltd has not made any transaction in the shares of CVOPRL **for the purpose of inducing, dissuading, effecting, preventing or in any manner influencing or turning to its advantage, the sale or purchase of the shares of CVOPRL** and from the aforesaid transactions during the aforesaid period it cannot be construed that, the aforesaid transactions in the shares of CVOPRL were made by PFI Securities Ltd for any of the said purposes.

07.Please also note that in order to constitute a prohibited act under sub-section (e) of section 17 of the Securities and Exchange Ordinance 1969 it requires any act or practice or engagement in a course of business, or omission to do any act which operates or would operate as a **fraud, deceit or manipulation upon any person**. In the instant case, PFI Securities Ltd has not made any transaction or has not omitted to do anything which operates or would operate as a **fraud, deceit or manipulation upon any person** and from the aforesaid transactions during the aforesaid period it cannot be construed that, PFI Securities Ltd has made any transaction or has omitted to do anything which operates or would operate as a **fraud, deceit or manipulation upon any person**.

08.It is also submitted that there was no deliberate and/or clear contravention of any securities law on our part.

In the circumstances we hope and pray that the above explanation would suffice to satisfy you to come to a conclusion that there was no violation on our part of section 17(e)(iii) and/or 17(e)(v) of the Securities and Exchange Ordinance 1969 and accordingly, we hope and pray that we may be absolved from any further measures under section 22 of the Securities and Exchange Ordinance 1969.**Unquote**

SEC/Enforcement/1176/2013/ January , 2014

Whereas, considering the alleged's explanation, allegation for violating section 17 (e) (iii) of the Securities and Exchange Ordinance, 1969 (XVII of 1969) has been disposed off by the Commission.

Whereas, during the reported period PFI Securities Limited has bought the said company's share from Tk.124.34 to Tk.702.45 (Face value is Tk.10.00) par share despite knowing of the fact that the EPS of the Company was deteriorating than the previous years, the Price Earning ratio was too high and the Company has not started the production of the new product (Petro-chemical oil from the fuel oil) till then. On 25-Apr-13 ,5-May-13, 29-May-13, 10-Sep-13 it's irrational bulk trade has reflected it's bad motive for manipulation. Since number of free float share is only 78,02,310 the bulk trade had impact on price and volume of the said shares. The accused has allured the other investors through it's trading technique and pumped the price and volume of the said shares ultimately to turn self advantage. PFI Securities Limited has explained among others that it had not any bad motive to influence the buy sale of the said shares; it had not made any transaction which operates as a **fraud, deceit or manipulation upon any person**. It's explanation has not been accepted by the Commission due to the aforesaid ground.

Whereas, the aforesaid activities are tantamount to non-compliance of securities law that appears deliberate and clear contravention of the section 17 (e) (v) of the Securities and Exchange Ordinance, 1969 (XVII of 1969) attracting penal provision of section 22 of the Securities and Exchange Ordinance, 1969.

Whereas, to protect the discipline and transparency of the capital market along with it's development the Commission deems it appropriate and necessary to impose penalty upon the PFI Securities Limited.

Now, therefore, Bangladesh Securities and Exchange Commission, in exercise of the power conferred by section 22 (amended by the Securities and Exchange (Amendment) Act, 2000) of the Securities and Exchange Ordinance, 1969 (XVII of 1969) hereby imposes penalty for Tk.05.00 (Tk.Five) Lac upon PFI Securities Limited. which is to be deposited to the Commission in the form of Bank Draft/Payorder favouring 'Bangladesh Securities and Exchange Commission' within 15 days from the date of issuance of this order.

By order of the Bangladesh Securities and Exchange Commission

Professor Dr. M. Khairul Hossain
Chairman

SEC/Enforcement/1176/2013/ January , 2014

Convict

alleged

victim

Distribution:
Prime Finance Capital Management Limited (Merchant Bank)
63 Dilkusha C/A
Dhaka-1000

SEC/Enforcement/1176/2013/ **January , 2014**