

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Securities and Investment Law
Semester-IX (Batch: 2011-16)

End Semester Examination: Oct-Nov. 2015

Date: 29th October, 2015

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- Answers should be legible.
- Support your answers with relevant provisions and judgments etc.

Attempt any five questions

Marks

- Q.1 Only those markets are successful and flourishing in the world that enjoy highest level of confidence of the investor. Investors put their capital to work – and put their fortunes at risk – because they trust that the market place is honest. They know that securities laws require free, fair, and open transactions. (10)

"Insider trading" is a term subject to many definitions and connotations. It is one of the most infamous violations of securities law and the violators usually include high profile people. This may be one of the reasons that it has caught Hollywood's as well as Bollywood's imagination.

Regulators throughout the world are discovering that governments can ill afford to turn a blind eye to insider trading, if at all they hope to promote an active securities market and attract not only international investment but even shore up domestic investment.

Explain, through relevant judicial decisions, to what extent *scienter* (fraudulent intent) is relevant in insider trading in India as distinguished from US.

- Q.2 Discuss the conclusions reached by the Securities Appellate Tribunal (SAT) in *Ketan Parekh v. Securities & Exchange Board of India*, regarding the following issues– (5+5=10)
- (a) Whether Ketan Parekh controlled the other three entities namely - Classic Credit Ltd.; Panther Fincap & Management Services Ltd; and Saimangal Investrade Ltd.?
- (b) Whether there was price manipulation in the scrips of Lupin Laboratories Limited by Ketan Parekh?

- Q.3 The shareholders of Sahara AMC, as per the statement of additional information filed by Sahara AMC dated 01/04/ 2015, were as follows - (10)

Name of the Shareholder	Type of Holding	Holding (%)
Sahara India Financial Corporation Limited (Sahara Sponsor)	Equity	40.12

Sahara India Corp Investment Limited	Equity	9.99
Sahara Prime City Ltd. (formerly Sahara India Investment Corp. Ltd.)	Equity	9.99
Sahara Care Limited	Equity	27.89
Sahara India Commercial Corporation Ltd.	Preference	10.84
Sahara Care Ltd	Preference	1.16

Total 100%

The following table shows the equity shareholding pattern of Sahara AMC :

S. No.	Name of Shareholder	Type of Shares	% of total equity share capital
1	Sahara Sponsor	Equity	46
2	Sahara India Corp Investment Limited	Equity	11
3	Sahara Prime City Limited	Equity	11
4	Sahara Care limited	Equity	32

Total 100%

Following were the Directors of Sahara AMC:

- i) Mr. Om Prakash Srivastava, Associate Director
- ii) Mr. Subrata Roy Sahara, Associate Director
- iii) Mr. Ramesh M. Joshi, Independent Director
- iv) Mr. Subhah Chander Gupta, Independent Director
- v) Mr. Chandrakant Kamdar, Independent Director

The equity shareholding details of Sahara Sponsor as on 28/02/2014 was as follows:

S.No.	Name of Shareholder	% Equity Holding
1	Mr. Subrata Roy Sahara	79.80
2	Ms. Swapna Roy	8.72
3	Mr. O.P. Srivastava	5.61
4	Mr. Joy Broto Roy	5.61
5	Mr. Ishtiaque Ahmad	0.02
6	Mr. D.K. Srivastava	0.02
7	Mr. S.K. Singh	0.02
8	Mr. Abdul Dabeer	0.02
9	Mr. Zia Qadri	0.02
10	Mr. Vivek Sahai	0.02
11	Mr. Tridip Narain Roy	0.02
12	Mr. A.K. Srivastava	0.02
13	Mr. Ashok Roy Chaudhary	0.02
14	Mr. Jarnal Ahmad Khan	0.02
15	Mr. S.K. Sharma	0.02
16	Mr. K.K. Sarkar	0.02

The preference shareholding details of Sahara Sponsor as on 28/02/2014 was as follows:

S.No.	Name	%Preference Holding
1.	Mr. Subrata Roy Sahara	53.34
2.	Mr. O P Srivastava	23.33
3.	Mr. Joy Broto Roy	23.33

Mr. Subrata Roy Sahara was the Director of Sahara AMC till 03/09/2014. Although Mr. Subrata Roy Sahara resigned from the post of Managing Worker and Chairman of Sahara Sponsor on 02/09/2014. He was later appointed as an Additional Director on the Board of Directors of Sahara Sponsor on 03/11/2014.

SEBI ordered that Sahara Mutual Fund along with Sahara AMC & its Trustees and Sahara Sponsor no longer satisfied the 'fit and proper person' criteria of the SEBI (Mutual Funds) Regulations, 1996 to carry on the business of a Mutual Fund and accordingly cancelled certificate of registration of Sahara Mutual Fund.

The above-mentioned order of SEBI is challenged by Sahara Mutual Fund along with Sahara AMC & its Trustees and Sahara Sponsor before Securities Appellate Tribunal (SAT) on various grounds. Dispose the appeal on merits.

- Q.4 Sahara India Real Estate Corporation Limited (SIRECL) and Sahara Housing Investment Corporation Limited (SHICL) are the companies controlled by Sahara Group. They decided to raise funds through issuing unsecured Optionally Fully Convertible Debentures (OFCDs) by way of private placement to friends, associates, group companies, workers/employees and other individuals associated/affiliated or connected in any manner with Sahara Group of Companies without giving any advertisement to general public. The Red Herring Prospectus (RHP) specifically stated that they did not intend to get their securities listed on any recognized stock exchange and only those persons to whom the Information Memorandum (for short 'IM') was circulated and/or approached privately and who were associated/affiliated or connected in any manner with Sahara Group, would be eligible to apply. They succeeded in collecting huge amount of money from a large number of investors in India. (10)

SEBI received a complaint from "Professional Group of Investors Protection" alleging that SIRECL was issuing convertible bonds to the public throughout the country for the past several months and the same had not been disclosed in the Draft Red Herring Prospectus (DRHP). SEBI had also come to know of the large scale collection of money from the public by Saharas through OFCDs, while processing the Red Herring Prospectus (RHP) submitted by Sahara Prime City Limited, for its initial public offer.

SEBI initiated inquiry, conducted hearing and ordered that money so collected should be paid back to the people from whom it was collected. SAT also upheld order of SEBI.

Supreme Court while upholding the orders of SEBI as well as SAT refused to grant bail to Mr. Subrata Roy Sahara.

Discuss the reasons given by the Supreme Court in support of such refusal due to which Mr. Subrata Roy Sahara continues to languish in jail. How far are you convinced as a student of law with the reasons so given by the Supreme Court?

- Q.5 Discuss, whether the following, falls within the purview of the term "securities" under the Securities Contracts (Regulation) Act, 1956? Discuss. (5+5=10)
- Letter of allotment
 - Optionally Fully Convertible Debentures(OFCDs)
- Q.6 Explain the following terms – (2+4+4=10)
- Settlement Cycle
 - Circular trading
 - Arbitrage

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