

IN THE SPECIAL COURT OF MPID AT SESSIONS  
COURT AT MUMBAI

Misl. Application No. 59 / 2015

KETAN ANIL SHAH

.....Complainant

Versus

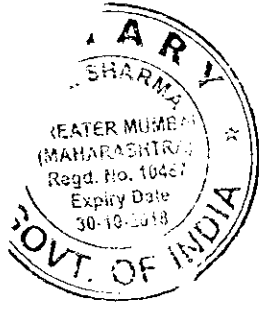
Motilal Oswal Wealth Management Pvt. Ltd & 11 Ors.

..... Respondent

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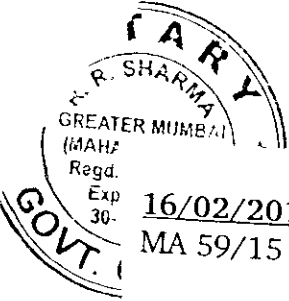




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ROZNAMMA

A



16/02/2015 Spl. Judge MPID & Addl. Sessions Judge D.P. Surana C.R.36  
MA 59/15

Matter newly assign to this court.

SPP Adv. Avhad for state absent.

Adv. Mishra h/f Adv. Kotian for applicant present.

On perusal of complaint its seems that, in para no.32, page no.15, there are avarnment that, EOW -5 is handling and investigating CR no. 89/13 hence issue notice to EOW-5 to report about the status of their investigation in CR 89/13.

Applicant to serve copy of application with documents to EOW-5.

Adjd for report of IO in CR.89/13 on 7/3/2015

Complied  
on 17/2/15



IN THE SPECIAL COURT OF MPID AT SESSIONS  
COURT AT MUMBAI

Misl. Application No. 59 / 2015

KETAN ANIL SHAH

Residing at 44-B, Rajul Apartment  
Napeansea Road, Mumbai 400006

... Complainant

Versus

1. Motilal Oswal Wealth Management Pvt. Ltd.
2. Motilal Oswal Financial Services Ltd.
3. Motilal Oswal Securities Ltd.
4. Motilal Oswal Commodities Brokers P.Ltd.
5. Mr. Motilal Oswal
6. Mr. Ramdeo Agarwal
7. Mr. Rakesh Parekh

All above having office at :-

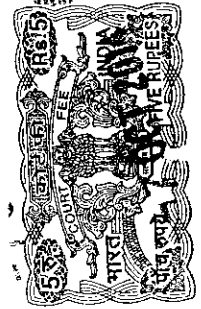
Palm Spring Center, 2<sup>nd</sup> Floor, New Link Road,  
Malad (W), Mumbai- 400 064

8. Philip Capital India Pvt. Ltd.
9. Philip Commodities India Pvt. Ltd.
10. Mr. Vinit Bhatnagar
11. Mr. Kunal Dave,
12. Mr. Ping Seng Wong

All above having office at :-

C-1, Modern Mills Compound,  
101, K.K. Marg, Mahalaxmi, Mumbai - 400011

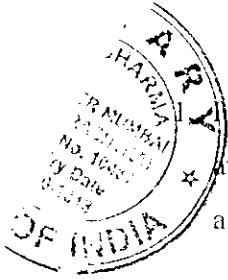
.. Accused



Criminal Complaint u/s. 156(3) of  
The Code of Criminal Procedure for the  
Offences punishable u/s. 420, 409, 467, 468,  
r/w 34, 120(B) of Indian Penal Code R/W.  
Sec.3 of MPID Act r/w. section 66 of  
Information and Technology Act.

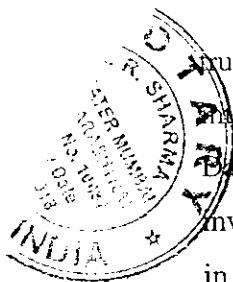
MAY IT PLEASE YOUR HONOUR:

It is most respectfully submitted on behalf of the Complainant above named  
as under :



Mr. Ketan Shah, residing at the above address and having my office at the address mentioned herein above do hereby state on solemn affirmation as under:

2. I say that I am engaged in the business of Export of Engineering Components and I have built up yeoman credentials in my business field, with an annual turnover ranging up to nearly Rs. 50 Crores thereby earning valuable foreign exchange to the country and also generating the revenue to the state exchequer by way of taxes amounting to crores of rupees. I am a law abiding, honest, taxpaying citizen of Mumbai with no criminal antecedents whatsoever to my discredit.
3. I say that the accused above named are severally and jointly responsible for a well calculated fraud perpetuated on me, as demonstrated hereinafter along with the compilation of documents. I say that accused no. 5,6 and 7 are connected to accused no. 1,2,3 and 4. I say that accused no.10,11 and 12 are connected to accused no. 8 and 9. I say that collectively accused no. 5 to 7 are responsible for the day to day management of accused nos. 1 to 4, and in that capacity, had made various representations to me there by inducing me to part with my hard earned money by making various representations oral as well as written, pursuant to the conspiracy hatched by them and thereby making me wrongfully lose an amount of about Rs. 7.8 crores. Similarly accused nos. 10 to 12 are directors/ principal officers responsible for the day to day functioning of accused nos. 8 and 9 and they had also made me part with my money similarly by making various oral and documentary inducements resulting in my wrongfully losing an amount of Rs. 7.8 Crores.
4. I say that I had been trading in equities, currency, etc. on the National Stock Exchange (NSE) utilizing the broking services of Philip Capital (India) Pvt. Ltd (earlier known as MF Global Sify securities India Limited) for about 4 years. Using or rather misusing and abusing the

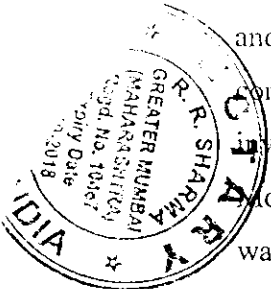


must that they had ostensibly created in my mind during these years of interaction, accused no. 8, through their representative Mr. Kunal Dave, i.e. accused no. 11, who time to time had handled my investments, strongly suggested and relentlessly pursued me to invest in commodity business of which I had no idea or clue whatsoever.

5. I say that in or around May 2012, accused no. 11, viz. Mr. Kunal Dave, strongly impressed upon me through various representations, that I should invest in the commodities market through NSEL for good returns on investments and informed me that their subsidiary company Phillip Commodities India Pvt. Ltd. was a member of NSEL. He further stated that such investments in NSEL scheme of arbitrage are extremely safe and it could fetch a good rate of return of about 13-15% p.a. and are backed by solid stocks. For this allegedly strong investment he sent me a mock investment sheet on 30<sup>th</sup> May 2012. Hereto annexed and marked as **Exhibit "A"** collectively. It would be pertinent to mention here that the mock sheet of investment was an annexure to the email sent to me, through which I was induced to invest in the scheme. Mr. Kunal Dave further stated that NSEL was transparent and regulated like BSE and NSE and is backed up by Govt. through NAFED. He also assured me that this exchange is run by a billionaire called Jignesh Shah of FTIL group who is very close to their organization and is personally in day to day touch with Mr. Vineet Bhatnagar, who is their M.D. To further create confidence in my mind, Mr. Kunal Dave made me talk to Mr. Bhatnagar to confirm that my investments with NSEL is absolutely safe and secure. It was during these talks with Mr. Bhatnagar, that although my relationship and interaction was always with Philip Capital (India) P Ltd. But for their convenience, my trades were routed through their subsidiary Philip Commodities India Pvt. Ltd. only for their internal convenience and not mine.

Exhibit A  
Colly

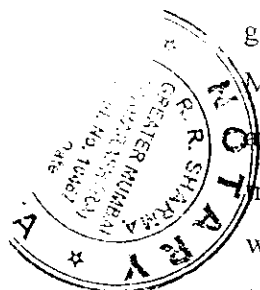
6. I say that accordingly, since the market and products offered were new to me, I enquired with Mr. Kunal Dave if trading on NSEL was a secure option and if the exchange was regulated. Mr. Kunal Dave informed me that NSEL was regulated just like BSE and NSE markets,



and that in fact trading on the commodities market was more secure as compared to the equity-currency market, since the returns on investments were better and safer than the equity or currency market. More so when the trades were backed by solid physical stocks, which was allegedly monitored, verified and confirmed by them on a day to day basis. Mr. Kunal Dave informed me that being members of NSEL, Philip Commodities, especially, accused nos. 8 and 9, i.e. Philips Capital and Philips Commodities, were well seized of the procedure for verification and valuation of stocks and ensured that the commodities were valued, verified and stored in certified warehouses. Mr. Kunal Dave further explained to me the mechanism for the execution of a trade and also forwarded to me the brochures of NSEL, which claimed to be a national level, institutionalized, electronic, transparent spot market providing facilities for risk free and hassle free purchase and sale of various commodities across the country. Hereto annexed and marked as **Exhibit "B"** is the copy of the said brochure. When asked about physical existence of commodities, Kunal Dave and Mr. Bhatnagar i.e. Accused no. 11 and 10, kept on assuring me at different points of time, that they had conducted various checks on various warehouses of NSEL and the commodities did exist as per the exchange claims. These claims were duly flashed on NSEL website were shown to me to further augment the authenticity of their false claims. Both of them also confirmed that warehouse receipts and stocks will be taken care by them, especially through the institutional support of Accused Nos. 8 and 9. It is pertinent to point out here that accused nos. 10, 11 and 12 were directly connected with accused nos. 8 and 9 in different capacities and they assured me that I need not worry about it on any account.

Exhibit  
B Colly

7. I say that in the year 2012, specially in the second half, certain reports started appeared in the press casting doubts on the activities of NSEL. I say that at this stage, one Mr. Rakesh Parakh belonging to Motilal Oswal Wealth Management, i.e. Accused no. 1, approached me in or around October 2012, and whom I had known earlier. He also suggested that I should invest in commodity market through NSEL for



good returns on my investments through their subsidiary company Motilal Oswal Commodities Brokers Private Ltd. i.e. accused no. 4, and represented that the same was safe, secure, regulated and transparent and that Motilal Oswal Wealth Management Pvt. Ltd. would ensure that my investments were sound and safe. I pointed out to him an article in Economic Times dated 3<sup>rd</sup> October 2012, about NSEL's activities and Ministry of Consumer Affairs' Show Cause Notice which had cast doubts in my mind about NSEL's products and legality of its operations. This made me nervous and I personally contacted Rakesh Parekh, who replied that this was the work of disgruntled elements and in support Rakesh Parekh sent me an email, dated 4<sup>th</sup> October 2012 which had an alleged clarification about the NSEL article of Economic Times and falsely assured me about safety of the product and induced me to invest money in NSEL. It is Marked and annexed herewith as **Exhibit "C"**. As I was still not convinced he made me talk to Mr. Motilal Oswal i.e. accused no. 5, on phone who reiterated that their company had done good research on NSEL and they themselves had hugely invested in NSEL products and told me that I must make investments in NSEL. There was a spate of calls from Motilal Oswal group to me, especially accused nos. 5, 6 and 7, to make me invest in NSEL products and Mr. Oswal personally assured me that their commodity risk management team had done multiple checks on NSEL warehouses and the product had zero risk and he even compared it with Bank FD products. My relationship and daily interaction was only with Motilal Oswal Wealth Management Pvt. Ltd. and for their internal convenience they routed my trades on NSEL through Motilal Oswal Commodities Brokers P Ltd. I was induced to part with my hard earned money on the following false representations which they knew to false at the time they were making it :

Exhibit  
C Colly

- ( a ) That investing in contracts being traded on NSEL. was a "Arbitrage Opportunity" and was completely safe.
- ( b ) That NSEL and trades executed therein were regulated by various Government Authorities like Forward Market Commission ( FMC ), State APMC, Ware House Development Regulatory Authority ( WRDA).





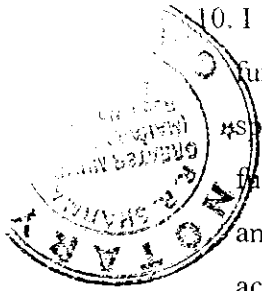
- ( c ) A safe and secured pre-tax return of 12 - 16 %.
- ( d ) That all such trades executed would be backed by goods of equal amount.
- ( e ) Existence of a Settlement Guarantee Fund (SGF) to reimburse in case of any default.
- ( f ) That as per the FMC rules, all trades, that Motilal Oswal was marketing to us, would result in compulsory delivery and that the warehouses where the goods would be kept were accredited by NSEL and by various financial institution including Motilal Oswal.
- ( g ) That the stocks were regularly and physically verified by them at various warehouses.

8. I most humbly submit that the inducements were oral as well as by SMS on my mobile phone. Hereto annexed and marked as **Exhibit-“D” collectively** are the copies of the said messages by SMS.

Exhibit D  
Colly

9. I say that Subsequently Mr.Motilal Oswal and Rakesh Parekh asked me to sign a power of attorney in their favour which believing in their representations, I did. This POA and Client Registration form, Hereto annexed and marked as **Exhibit “E” collectively**, gave them the power to take all necessary steps on my behalf in order to give effect to the trades conducted through NSEL. This included giving/receiving delivery instructions for the commodities, discharging the financial obligations undertaken by me, to pledge the commodities, handling the warehouse receipts and any other acts necessary to give effect to trading with NSEL. Mr. Motilal Oswal and Rakesh Parekh i.e. accused nos. 5 and 7 also opened my DMAT account with accused no. 3, to handle warehouse receipts and assured me I don't have to worry about anything and they will take care of all the nitty gritty of commodities. I say that under the pretext of protecting my interests, both the accused nos. 5 and 7 used the power of attorney and client registration form to further their conspiracy with NSEL, to my financial detriment as I have suffered a loss of around Rs. 7.6 crores only because I was lured by their false representations.

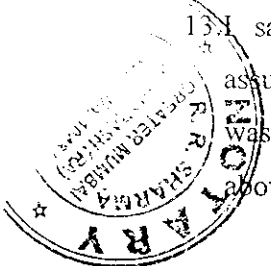
Exhibit  
E Colly



10. I say that thereafter when Mr. Parekh was constantly trailing me for further investments and sensing my reluctance, he made Mr. Oswal to speak to me where in, where he explained further assuring me about functioning of NSEL. When I specifically asked him about the checks and balances of the mode of functioning of NSEL, both the above accused, emphatically assured me that their research team had personally visited the warehouses of NSEL spread along the nook and corner of the country and had personally verified the stocks. He further assured me that as the stocks were physically verified by them, my investment was 100 % safe and secure. This created lot of confidence in me and as a condition precedent of further investment, he told me that the power of attorney which he had taken earlier would be used by him to handle the transactions for which I agreed.

11. I further say that around 2<sup>nd</sup> week of July, more specifically on 10<sup>th</sup> July 2013, Mr. Parekh took me personally to meet Mr. Oswal, wherein he further endorsed the earlier representations made to me and re-assured me that all my investments through him are safe and sound. In fact on the same day, he sent me an sms from his mobile no. 9821011446 to my mobile no. 9892582470 which I crave to rely on and refer to.

12. I say that periodically when I was in constant touch with the above accused, I was constantly assured that not only had the trading commenced and doing exceptionally well, but they had documentary evidences in the form of warehouse receipts, invoices, etc. duly inspected and checked by them, which they would be retaining to ensure the safety of my investments. Both the accused came and represented to me, that being an arbitrage product, the trades were done simultaneously locking the returns with extreme safety with no market volatility or stock risk. Both the above accused assured me that they had ensured that the commodities were properly checked, stored, valued, and therefore, would retain the warehouse receipts personally with them, in order to periodically keep a stringent watch on the quality as well as the quantity of the goods stored therein.

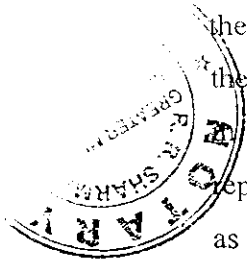


13.I say that being induced by these various assertions, promises, assurances, clarifications all backed by their personal instructions, I was induced to part with a sum of around Rs. 15.7 crores between the above accused collectively, in the NSEL trades.

14.I say that Being a C & F agent and holder of my power of attorney, Motilal Oswal was entrusted with my DMAT Account, Warehouse Receipts, Principal amount etc. to be paid to NSEL for all trades undertaken by me. Being responsible for the commodities and the warehouse receipts, Motilal Oswal ought to have ensured to check the delivery or the existence of the Commodities and the Warehouse receipts, which were never there. Thus Motilal Oswal not only committed a Criminal Breach of Trust but did so in concert and conspiracy with the NSEL, IBMA and other defaulting members of NSEL. Similarly Mr. Kunal Dave of Philips Capital P Ltd, repeatedly assured me that the goods were existent, and subsequently I came to know that a company called IBMA which is a sister company of FT/ NSEL/ MCX is handling C&F for them. However they did not take my consent before assigning the C & F to them nor did they ever share any tax invoices from IBMA with me.

15.In fact both the brokers recovered from me charges like VAT/ Transaction Charges/ Delivery Charges/ Warehouse Charges/ Service Charges and fraudulently enriched themselves on my investments. I say that it was such a serious breach of trust, as neither were there any goods in existence nor were there any warehouses also, in some cases. Thus they defrauded me and induced me to part with my hard earned money without even securing title of my goods.

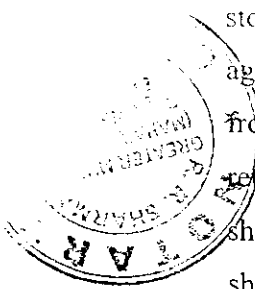
16.I say that solely relying on the representations of the accused to be true, which the accused at the time of making those representations, the accused knew them to be false, I entrusted my hard earned money amounting to more than Rs. 15 crores which they knowingly parted that amount to NSEL and through NSEL to the Borrowers whose entire particulars they knew at the relevant time. In fact it is clear from



the sequence of events that inspite of the above accused knowing that there was neither genuine receipts nor stocks nor warehouses existing in some cases yet the above accused through their false representations, persistently, with their communication, written as well as oral, induced me to part with my money, thereby enriching themselves, NSEL and the so called borrowers with wrongful gain to them and equivalent wrongful loss to me. I crave leave to refer to and rely upon the series of emails and other legally admissible evidences including video recordings and transcripts of the same, which can be provided when required.

17. On 12<sup>th</sup> July 2013 the Department of Consumer Affairs issued a directive to the NSEL requiring it to submit certain undertakings to the effect that (a) new contracts would not be launched until further instructions from the concerned authority; (b) existing contracts should be settled on the due date. However, in the Press Note subsequently issued by NSEL on 15<sup>th</sup> July 2013, NSEL clarified that the business in the running contracts traded on spot exchanges will continue without any disruption. The same was reconfirmed in the circular issued by NSEL on 16<sup>th</sup> July 2013. Further to the same, NSEL also issued a circular dated 22<sup>nd</sup> July 2013 making changes to the settlement procedures for trades with effect from 23<sup>rd</sup> July 2013. Though I was nervous because of these developments at NSEL and I wanted to back out, Kunal Dave repeatedly induced me informing me that now (after 12 July 2013) the trades are absolutely legal and I must invest more money. Here to annexed and marked as **Exhibit "F"** is the copy of an email substantiating the same, dated 23/7/2015, claiming that the media reports are false and assuring me false safety. He also had induced me by saying that if I increased my NSEL exposure he would offer me a free foreign trip to an exotic location. As late as on 30<sup>th</sup> July 2013 evening Kunal Dave visited my office and asked me for more funds to be invested in NSEL assuring me of total safety and asked me to cross the figure of Rs 10 Crores to be eligible for a free foreign trip offer. After my lot of convincing Kunal Dave, in connivance with Mr. Bhatnagar, put my money aside or in liquid funds when I asked him to

Exhibit F  
Colly



stop trading on NSEL. but within 2 days, inspite of my reservations, again invested my money on NSEL. I crave leave to refer to an email from Kunal Dave dated 19<sup>th</sup> September 2013, giving me liquid fund returns on my capital for 3 days when produced. This email clearly shows that inspite of my reservations and insistence that the money should be retained only in liquid form, against my wish, he invested my funds again in NSEL. This email clearly establishes that my money which was lying in liquid fund from 21/7/2013 to 23/7/2013 was taken out and re-invested against my wish. Here to marked and annexed herewith as **Exhibit "F-1"** is the copy of the same.

Exhibit F-1
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18. I say that to my shock and surprise, I learnt of the scam on 1<sup>st</sup> August 2013, through press articles that contrary to all the assertions provided to me by the brokers the authenticity of the transactions were not only questionable but non existing. And the Government of India vide Ministry of Consumer Affairs stopped all further transaction. I was shocked and desperately tried to contact both the above accused but not only was I assured by both the above accused that the transactions were not only genuine but only a minor glitch has been highlighted by the vested interests in the market and in order to further bolster my confidence Mr. Oswal asked me to watch TV on 2<sup>nd</sup> August 2013 where in on CNBC Awaz Channel, he had personally appeared on Television and re-iterated not to worry and there are only rumors in the market there is no fear of default or any problem.

19. I say that to my great dismay, as the regulatory authorities started scrutinizing the activities of NSEL, a plethora of illegalities which were not only contrary to the so called facts, which were presented to me by both the above accused but were also fraudulent per se was out in public domain as the transactions were void from the inception. My sustained queries through market reports, press publications and government notifications, revealed not only a concerted, collective, conspiracy hatched by the promoters of NSEL jointly in conjunction with the brokers, but the brokers themselves had gained a huge amount

from these fraudulent, illegal shady deals, at the cost of innocent gullible, honest investors like me.



I say that as these accused also had strong credentials in the market, I relied on their representations and relying upon their strong representations, and persistent pleading with me, I had invested my hard earned money, otherwise I would not have parted with my hard earned money in a tainted bogus, sham transaction resulting in a loss of about 16 Crores of Rupees to me.

21. I say that after realizing that I was cheated by the above accused, I filed my complaint with EOW wing of Mumbai police . I also followed up my complaint against these brokers with the highest authorities in the Mumbai Police Force, including the Commissioner of Police and Jt. Commissioner of Police. I have followed it up with written complaints to the Jt. Commissioner of Police. Hereto annexed hereto and marked as **Exhibit "G"** collectively is the copy of the said written complaint. Besides sending timely reminders I have personally followed up with the investigating officers and the senior police officers innumerable times during the course of which even my statements have been recorded and yet for reasons best known to the police authorities, no action whatsoever has been initiated by them against the above accused.

Exhibit  
G Colly

22. In the meantime on 6<sup>th</sup> August 2013, when I was relentlessly pursuing the above accused, Mr. Motilal Oswal sent me a sms from his mobile number 9821011446 to my mobile number 9892582470 which stated "NSEL update. My Colleagues met Minister and Seccy of Consumer Affairs as well as finance yesterday and meetings were fruitful. Due to that the Minister called Jignesh bhai of FT to push for early payments. Today we met FMC (Forward Markets Commission) again for speedy action. Motilal Oswal". Hereto annex and marked as **Exhibit "H"** is the copy of the same.

Exhibi  
t H

23. I say that to camouflage the whole episode of cheating, forgery and criminal breach of trust, the accused Motilal Oswal attempted to lend a tinge of legitimacy by creating separate ledger accounts. Here to annexed and marked as **Exhibit "I and J"** are those ledger accounts. But even these ledger accounts are manipulated with the sole intention to defraud me. these For example, accused Motilal Oswal created two ledger accounts in my name for the same period and in one account he has attempted to transfer the liability to NSEL showing a balance of zero, where as for the same period the earlier ledger account showed a balance of crores of Rupees. In spite of my persistent queries to reconcile the two, the accused have failed and neglected to do so and in fact have been giving evasive answers to my persistent queries.

Exhibit I  
& J  
Colly

24. I say that during my personal inquiries after the scam broke out, I was shocked to learn that during the trades, an invoice no. 908, was issued to me by Motilal Oswal showing transactions worth Rs. 96691455/- out of which my share in the transactions was only 22629915/-. This is annexed and marked as **Exhibit "K"**. This was contrary to my understandings/ arrangement with them as I had not given them any authority whatsoever to merge my trading with other parties. This leads to only one irresistible conclusion that accused had already conducted the trade and the document tendered to me was a post facto justification for the illegal act. Here to annexed and marked as **Exhibit "L"** is the copy of the said email communication dated 27/8/13. This document clearly establishes that having already completed the transaction in his own account, he lived it off to innocent, gullible investors like me, there by enriching himself to my financial detriment and loss. This document enunciates that the whole transaction was bogus and Mr. Motilal Oswal and Philip Capital as the brokers were the master mind in controlling and manipulating the exchange. Moreover the accused made me believe that the trades on NSEL were investment arbitrage trades to be executed simultaneously. However it is found that accused brokers kept a gap of 15 minutes to 6 hours. In certain cases the sale has happened first and the purchase has been done later. A copy of the said time statements of both brokers is

Exhibit  
K

Exhibi  
t L

marked as **Exhibit "M" collectively**. Although Collective Buying was illegal, Motilal Oswal had also brought goods for me along with the other client codes like H14571, H14967 and Y04094. This was in direct contravention to the NSEL bye-laws, and it proves the broker's complicity in the fraud. Not only did they make bulk purchases, they also changed the Unique Client Code, (which is permitted only under special circumstances), on a routine basis and the purchase was affected in a dummy code/ proprietor code, without giving any information to me. This clearly shows the full involvement of the accused in this scam and in manipulating the market.

Exhibit  
M  
Colly

25. Furthermore, there were 18-19 borrowers/ sellers on one side and 13000 odd investors, like me, on other side. It was found that many of these were only fake and dummy companies. In fact Motilal Oswal knew about the fact that this is a dummy exchange and a Ponzi Financing scheme. For instance, Motilal Oswal bought material from Astha Alloycorp and sold the material to Astha Minmet and thus they were merely funding Astha. This financing acts they knew by virtue of being C & F agents and being recipients of invoices on regular basis showing identity of shady borrowers who were habitual defaulters in the market. This is reflected in documents at **Exhibit "N" collectively**.

Exhibit  
N  
Colly

26. The fact that the entire transaction has not only being tainted from its inception but was the result of a well hatched conspiracy is evident from the fact that the particulars of the borrowers were hidden from the investors like me while all the accused knew about the identity of the borrowers on NSEL. This was a deliberate act on the part of the accused because had there been a timely revelation of the name, even a layman could have known that the borrowers were by themselves having a negative track record in the market as some of them were already registered with BIFR and they were also habitual and notorious defaulters. Not only that the transaction were made to revolve around the sister companies of the notoriously defaulters borrowers.



27. I say that the manifestation of the efforts of the above accused to camouflage the tainted nature of the transaction is truly reflected in Exhibit "O" collectively where in the above accused have levied various charges to me like delivery allocation charge, Clearing and forwarding charges, warehouse receipts transfer charge, without any actual delivery taking place. It has subsequently come to light that some of the warehouses were also non-existent. (It is also believed that the brokers were being paid cash incentives by FTIL group as confirmed in EOW statement of Mr. Anhani Sinha the CEO-MD of NSEL)

Exhibit  
O Colly

28. The identify of borrowers was carefully hidden from me and tax invoices or VAT invoices were never given to me. Whenever I had asked, I was told this is an anonymous screen based trading platform where the prices are market discovered and buyers and sellers are anonymous. I was merely given contract notes where the buyers name was never mentioned. Hereto annexed and marked as Exhibit "P" collectively are some copies of the contract notes issued to me by Philip Capital Group and Motilal Oswal group. I crave to refer to and rely upon the bunch of contract notes sent to me by above said 2 groups as and when produced.

Exhibit  
P Colly

29. It is pertinent to note that the negotiable title of my goods i.e. warehouse receipts were never taken for me by accused brokers but in lieu of that they furnished me a bogus and sham statement called 'Delivery allocation reports' which was printed by them in their own offices. It is very shocking that the same were furnished to me after the scam on my persistent requests. These delivery allocation reports were not title to my goods but they were forged and bogus documents. Hereto annexed and marked as Exhibit "Q" collectively are some of the copies of the 'Delivery Allocation reports' sent by email to me by above mentioned brokers. I crave to refer to and rely upon the bunch of 'Delivery Allocation Reports' sent to me as and when produced.

Exhibit  
Q Colly

30. I say that the brokers knew about NBFC activity being carried out at NSEL as the prices were not discovered by live bids and offers as it

should have been in any commodity/currency/equity exchange but the prices were more or less fixed and controlled from the backend. Different yields were given to different investors at the same time knowing the knowledge and collusion of the aforesaid accused brokers with NSEL management/Jignesh Shah and other accused persons.

31. I say that accused are the main culprits who have duped the complainant and many other people and though they have committed serious offences punishable u/s . 420, 409, 467, 468, r/w 34, 120(B) of Indian Penal Code R/W. Sec.3 of MPID Act r/w. section 66 of Information and Technology Act, the police have not bothered to investigate complaint of the complainant. Motilal Oswal and Philips Capital were hand in hand with NSEL and FTIL and had a common intention to cheat and defraud me into investing my hard earned money for their personal enrichment. They have wrongfully gained from their blatant acts of cheating me. Therefore it is just and necessary in the interest of justice that an appropriate order / direction be given to the EOW Unit V, to initiate stern and immediate action against the accused above named so that the entire modus operandi can be effectively investigated in the above crime and action as per law can be initiated.

32. I say that I am a layman and have no power to investigate and only an Agency which has powers to record the statements of the persons can unimpeachably lead to the well calculated and consulted crime pursuant to the conspiracy with NSEL committed by the accused above named. Further, only police have powers to make discoveries / recoveries, investigation and interrogations. Therefore it is just and necessary that my complaint needs to be thoroughly investigated by the police. That Unit -V of Economic Offences Wing of Mumbai Crime Branch has all the powers and jurisdiction to make investigation in above matter as they are handling and investigating the fraud vide C.R. No. 89 / 2013. It is humbly submitted that as my repeated requests against the above named accused have gone to deaf ears, hence I am constrained to move this Hon'ble Court by way of the present Application.

33. I say that I had filed a previous complaint bearing M. A. No. 303/ 2015 in this Hon'ble Court but the same was withdrawn by me with liberty to file a fresh one because the documents annexed in the present application could be retrieved by me only after filing of that application. All those documents are annexed herewith to the present application which not only bolsters the allegations against the accused but prima facie documentarily establishes them as many of them have originated from the accused themselves.

34. I say that I have not filed this complaint in any other court and this Hon'ble Court has jurisdiction to try and entertain this complaint.

35. I crave leave to add, amend, alter, delete any part of this application with the kind permission of this Hon'ble Court if necessary.

Under the above circumstances it is most humbly prayed:

( a ) That this Hon'ble Court may be pleased to refer this complaint to The Senior Inspector of Police, E.O.W., Unit -V, Crime Branch, Mumbai for investigation and Inquiry under section 156 (3) of The Code of Criminal Procedure and direct them to investigate the crime of the accused persons and their directors and other persons involved in the fraud and to initiate necessary action as per law.

( b ) This Hon'ble Court may be pleased to try the accused for offences punishable u/s 406, 420, 467, 468, r/w 34, 120 (B) of the Indian Penal Code, r/w Sec. 3 of the MPID Act, r/w Sec. 66 of the Information and Technology Act and be pleased to sentence all the accused to the maximum punishment in accordance with law.

( c ) Any other and further relief as this Hon'ble Court may deem fit and proper.

AND FOR THIS ACT OF KINDNESS COMPLAINANT SHALL  
EVER PRAY

DATE : 12/2/15

Place : Mumbai

  
Advocate for Complainant

VERIFICATION

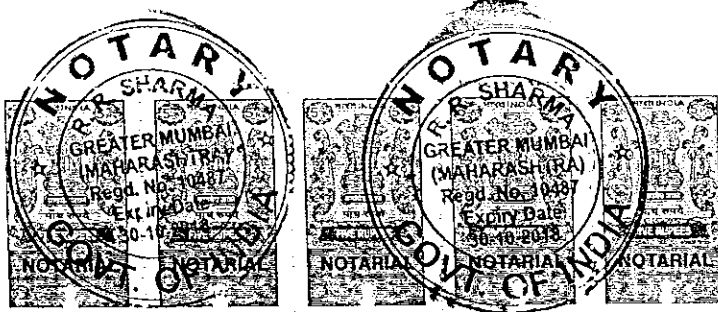
KETAN ANIL SHAH, aged 47 years, residing at 44-B, Rajul Apartment, Napeansea Road, Mumbai 400006, do hereby solemnly affirm and say that whatever stated herein above is true and correct to the best of my knowledge and belief and I believe the same to be true.

Solemnly affirmed on this 12<sup>th</sup> day of February 2015 at Mumbai.

Identified by me

Advocate for Complainant

Deponent



BEFORE ME  
*R.R. Sharma*  
12-2-2015  
R. R. SHARMA  
B.S. LL.B.  
ADVOCATE & NOTARY  
FLAT No. 2, SHREE SAIC... SANDOOK  
WALA COMP... DEPOSIT  
SAH... 400 025.

12 FEB 2015  
NOTED & REGISTERED.  
Sr.: 796/2015  
Date: 12 FEB 2015

