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SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN**Adjudication Department-I****Adjudication Division**

Order	
Name of the Company:	M/s. Bunny's Limited
Number and date of Show Cause Notice (SCN):	2(345)SMD/Adj-1/2022-61 Dated: February 15, 2024
Name of Respondent(s):	i. Mr. Omar Shafiq Chaudhry; ii. Mrs. Saadia Omar; iii. Ms. Mahnoor Chaudhry; and iv. Ms. Mahnan Omar.
Date(s) of Hearings:	i. March 26, 2024; ii. May 27, 2024; and iii. November 21, 2024
Present at the Hearings:	Mr. Rashid Sadiq, Corporate Consultant (the Authorized Representative)
Provisions of law involved:	Section 126(3)(c) read with Section 111(b) of the Securities Act, 2015
Order dated:	June 04, 2025

This Order shall dispose of the proceedings initiated against Mr. Omar Shafiq Chaudhry, Mrs. Saadia Omar, Ms. Mahnoor Chaudhry, and Ms. Mahnan Omar (**the Acquirers/ Respondents**) through Show Cause Notice No. 2(345)SMD/Adj-1/2022-61 dated February 15, 2024 (SCN) under Section 111(b) of the Securities Act, 2017 (**the Act**) read with Section 126(3)(c) thereof.

2. In terms of Section 111(a) of the Act, no person shall directly or indirectly acquire voting shares which (taken together with voting shares, if any, held by such person) would entitle such person to more than 30% voting shares in a listed company, unless such person makes a public offer to acquire voting shares of the listed company. Furthermore, Section 111(b) of the Act requires that a person already holding more than thirty (30) percent but less than fifty-one (51) percent of the voting shares of a listed company shall also be required to make a public offer in case of acquisition of any additional shares directly or indirectly; where such public offer has not been previously made with a period of twelve months. Moreover, Section 111(c) of the Act prescribes the similar requirement of public offer where the person acquires control of a listed company.

3. Brief facts of the case are that the review of announcements made by M/s. Bunnys Limited (**the Target Company**) on Pakistan Stock Exchange (PSX) under clause 5.6.1(d) of the PSX Regulations revealed that Mr. Omar Shafiq Chaudhry (**Chief Executive Officer and the Acquirer**) bought significant number of shares of the Target Company during the period of August 12, 2022 till July 12, 2023 through Negotiated Deal Market (NDM) and Ready Market, which resulted in an increase in his individual shareholding beyond the thresholds specified in Section 111(a) and 111(b) of the Act. Moreover, as per pattern of shareholding disclosed in the Annual Report/Annual Audited Accounts of the Target Company for the year ended June 30, 2022, the Acquirer was holding 16,222,377 constituting 24.28% shares of the total outstanding voting shares of the Target Company i.e. 66,805,269 shares. On February 08, 2023, the Acquirer by purchasing 29,500 shares of the Target Company from the Ready Market, crossed the threshold of thirty (30) percent as provided under section 111(a) of the Act, 2015 (**the Act**). Subsequently, on February 08, 2023, the

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consolidated shareholding of the Acquirer stood at **20,050,877** constituting a **30.01%** of the total outstanding voting shares of the Target company.

4. In view of the exigent circumstances the Commission, vide its letter dated January 03, 2024, sought explanation from Mr. Omar Shafiq Chaudhry on, *prima facie*, non-compliance of Section 111(a) of the Act by failing to make a public offer for acquisition of shares. In this regard, Mr. Omar Shafiq responded vide letter dated January 17, 2024, where he made submissions, *inter alia*, as under:

“The requirement to make an announcement is only triggered where an acquirer seeks to acquire more than 30% voting shares in a listed company but not where they may already hold 51% or more voting rights in a listed company. In this regard, it is submitted that control as well as more than 51% voting shares of the Company are held by me and my relatives/family as under:

Name	Relation	No. of shares held	% Shareholding
Mr. Omar Shafiq Chaudhry	Self	22,184,377	33.21%
Mrs. Saadia Omar	Spouse	2,579,860	3.86%
Ms. Mahnoor Chaudhry	Sister	6,399,780	9.58%
Ms. Mahnan Omar	Daughter	3,199,891	4.79%
Total		34,363,908	51.44%

5. In light of the above furnished response, Mr. Omar Shafiq Chaudhry (Respondent No. i) contended that the Acquirer /he along with his family members who may be construed as “Persons Acting in Concert” in light of Section 108(d)(ii)(d) of the Act already held more than 51% voting shares of the Target Company therefore, individual breach of threshold of 30% of by Mr. Omar would not attract provisions of Section 111(a) of the Act i.e. obligation to hold public offer before acquiring more than 30% voting shares of the Target Company.

6. In order to evaluate the response of the Acquirer, the pattern of shareholding as disclosed in Annual Report (audited financial statements) of the Target Company for the year ended June 30, 2022 (*i.e. prior to the additional acquisitions made by Omar Shafiq in the instant matter*) was reviewed which revealed that the collective shareholding of the persons claimed by the Acquirer to be acting in concert in the Target Company stood at **42.42%** with details tabulated as under:

Name	No. of shares held as at June 30, 2022	Percentage
Mr. Omar Shafiq Chaudhry	16,222,377	24.28%
Mrs. Sadia Omar (Spouse)	2,517,860	3.77%
Ms. Mahnoor Chaudhry (Sister)	6,399,780	9.58%
Ms. Mahnan Omar (Daughter)	3,199,891	4.79%
Total	28,339,908	42.42%
Total issued Voting Shares of the Target Company	66,805,269	100.00%

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7. In view of the above and as per records reviewed by the Commission in the instant matter, the collective shareholding of the Acquirer along with persons claimed to be acting in concert as of June 30, 2022 (i.e. before the acquisitions made by Mr. Omar Shafiq Chaudhry) stood at **42.42%** which increased to **31,639,908 (47.36%)** after acquisitions made by Mr. Omar Shafiq Chaudhry. However, it has been observed that Acquirers have not made any Public Announcement of Intention leading to Public Offer in accordance with Section 111(b) of the Act before acquiring additional voting shares of the Target company from the period August 12, 2022 to August 02, 2023 which resulted in an increase in cumulative shareholding of the Consortium from **42.42%** to **47.36%** which, prima facie, was in contravention to the requirements of Section 111(b) and attracted a penal action in terms of Section 126 of the Act.

8. Keeping in view the aforementioned facts, Mr. Omar Shafiq Chaudhry, Mrs. Saadia Omar, Ms. Mahnoor Chaudhry and Ms. Mahnan Omar (**collectively to be referred as Acquirers and/ or Persons acting in Concert**) were required to hold mandatory public offer before acquisition of additional voting shares of the Target Company. However, in the instant case, the Acquirers were, prima facie, non-compliant with the requirements of Section 111(b) of the Act by not holding the public offer before acquiring additional voting shares of the Target Company which resulted in an increase in collective shareholding of the Acquirers from **42.42%** to **47.36%**.

9. The Commission while taking cognizance of the aforementioned non-compliance served SCN upon the Respondents, requiring them to submit their written reply within 14 days of the date of the SCN. In response to SCN, the Authorized Representative on behalf of the Acquirers vide letter dated March 05, 2024, *inter alia*, submitted as under:

"We write on behalf of Bunny's Limited (the 'Company') in response to the show cause notice dated 15.02.2024 bearing reference No. 2 (345) SMD/Adj-1/2022-61 (the 'SCM') issued by the Securities and Exchange Commission of Pakistan (the 'SECP' or 'Commission') to Mr. Omar Shafiq Chaudhry, Mrs. Saadia Omar, Ms. Mahnoor Chaudhry and Ms. Mahnan Omar, the shareholders of the Company, collectively referred in the SCN as the Acquirers/consortium members (the 'Respondents'). The SCN requires them to show cause as to why penalty may not be imposed on them under Section 126 (3) (c) of the Securities Act, 2015 (the 'Act') for contravening the requirements of Section 111(b) of the Act to make a mandatory public offer where one of the Consortium members namely Mr. Omar Shafiq Chaudhry allegedly acquired additional voting shares of the Company which resulted in increase in collective shareholding of the Consortium from 42.42% to 47.36% in the Company.

I. Backgrounds Facts – Consortium

1. It is respectfully averred that the following individuals who are directors and / or shareholders of the Company are the sponsors who control as well as hold more than 51% of the voting shares of the Company ('Consortium') prior to acquisition of shares by Mr. Omar Shafiq Chaudhry i.e. on 30.06.2022:

S. No.	Name	No. of shares
1.	Omar Shafiq Chaudhry	17,584,377
2.	Saadia Omar	3,879,860

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3.	Yusuf Shafiq Chaudhry (late)	3,199,980
4.	Mahnoor Chaudhry	6,399,780
5.	Mahnan Omar	3,199,981
	Total	34,263,978

2. The collective shareholding of the Consortium as of 30.06.2022 i.e., prior to acquisition of further share by one of the members of the Consortium, Mr. Omar Shafiq Chaudhry, was 51.29% of the total outstanding voting shares of the Company.

II. Submissions

3. To the extent that Paragraph 1 of the SCN refers to the announcement of the Company on the Pakistan Stock Exchange Limited (the 'PSX') regarding acquisition of shares by Mr. Omar Shafiq Chaudhry, the contents thereof are not denied. It is, however, vehemently denied that the Company is a target company within the meaning of the definition of 'target company' embodied in Section 108(i) of the Act. The same is reproduced here below for ease of reference:

"108. Interpretation.

(i) **'target company'** means a listed company or holding company if a listed company whose voting shares or control are directly or indirectly acquired or intended to acquired. "

4. The term '**control**' has been defined in Section 2(xiii) of the Act to the following effect:

"(xiii) 'control' includes the right to appoint majority of directors or to control management or policy decisions, exercisable by a person individually or through any person acting in concert, directly or indirectly, whether by virtue of his shareholding, management right, shareholders agreement, voting agreement or otherwise"

5. You will appreciate that the term 'target company' only becomes relevant where there is an actual intent to acquire additional voting shares or control. For the majority of the provisions contained in Part IX, the term used 'listed company' and not 'target company'. It is submitted that the use of the term target company coincides with the actual intent of an acquirer to target a listed company as the object of its intended acquisition and control. It is only once an acquirer is minded to acquire control or additional voting shares above the threshold that, a company becomes target company. In the case at hand, there is no requisite intent to attract provisions of 111 (b) of the Act.

6. Furthermore, Section 111(b) of the Act is not applicable for the purposes of further acquisition by the Consortium which controls as well as holds over 51% voting shares of a listed company. Therefore, the Company cannot be treated as 'target company' for the purposes of further acquisition by the Consortium. The reference in Paragraph 1 of the SCN to the Company as target company, therefore, is contrary to the takeover provisions contained in Part IX of the Act.

7. To the extent that Paragraph 2 of the SCN refers to the shareholding details as per pattern of shareholding (Form 34) as of 30.06.2022, the contents thereof are not denied. However, it is submitted the actual voting shareholding of Mr. Omar Shafiq Chaudhry as on 30.06.2022 was

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comprising of 16,222,377 shares reflected in Form 34 plus 1,362,000 shares held in the account of his broker, M/S Growth Securities (Private) Limited. Similarly, the actual voting shareholding of Mrs. Saadia Omar as on 30.06.2022 was 3 879,860 comprising of 2,517,860 shares reflected in Form 34 plus 1,362,000 shares held in the account of her broker Growth Securities (Private) Limited. The above shares were under financing arrangement which stipulates that 'corporate entitlements of the margin finance securities shall accrue to the client.'

8. To the extent that Paragraph 3 of the SCN avers that the shareholding of Mr. Omar Shafiq Chaudhry (one of the Consortium members) would individually cross the 30% threshold, the observation is not denied, however, it is submitted that Mr. Omar Shafiq Chaudhry is a part of the Consortium that collectively holds over 51% shareholding in the Company and that there is no restriction by the Consortium on further acquisition in terms of Section 111(b) of the Act. The SCN also recognize the Consortium by issuing notices to four (4) members of the Consortium. It is reiterated that the Company is not a 'target company' and that acquisition by Mr. Omar Shafiq Chaudhry does not attract the provisions of Section 111(b) of the Act. Hence, there is no cause of action under Section 126(3)(c) of the Act.

9. The contents of Paragraph 4 of the SCN that no Public Announcement of Intention ('PAI') was made by Mr. Omar Shafiq Chaudhry are denied and it is reiterated that the requirement to make a PAI is not applicable to Mr. Omar Shafiq Chaudhry who purchased the shares as part of the Consortium that continue to act in concert. As the Consortium already controls and holds more than 51% shareholding of voting securities of the Company, no question whatsoever of either the acquisition of control or the acquisition of voting shares arises. Accordingly, no PAI is required by the Consortium in terms of takeover provisions of Part IX of the Act.

10. To the extent that Paragraph 5 of the SCN notes that correspondence was exchanged between the SECP and Mr. Omar Shafiq Chaudhry the Company in relation to the non-compliance of Section 111 (a) of the Act, the contents thereof are not denied. It is, however, denied that there were any exigent circumstances requiring any action by the SECP in the matter. It is also clarified that Mr. Omar Shafiq Chaudhry could not provide all the details of shareholdings of the Consortium comprising over 51% voting shares in the Company, which has been provided hereinabove.

11. To the extent that Paragraph 6 of the SCN refers to the response of Mr. Omar Shafiq Chaudhry in response to SECP's communication, the contents are not denied as the same is the true legal position in the matter at hand.

12. To the extent that Paragraph 7 of the SCN notes that the collective shareholding of the Consortium as per Form 34 as of 30.06.2022 is 42.42%, the same is denied as the collective shareholding of Consortium as of 30.06.2022 was 34,263,978 shares comprising 51.29% shares in the Company as detailed hereinabove.

13. To the extent that Paragraph 8 of the SCN refers to the individual shareholding of Mr. Omar Shafiq Chaudhry, the same are not denied, however, it is respectfully stated that the collective shareholding of the Consortium as of 30.06.2022 as detailed hereinabove will have to be taken together and accordingly, the shareholding of the Consortium in the Company, as mentioned above is 51.29% as of 30.06.2022.

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14. The contents of the Paragraph 9 are denied that the collective shareholding of the Consortium was 42.42% which was increased to 47.36%. The fact of the matter is that the collective shareholding of the Consortium was 51.29% prior to acquisitions made by Mr. Omar Shafiq Chaudhry.

15. Where the contents of the Paragraph 10 of the SCN assert that the Consortium named in the SCN was required to make mandatory Public Offer in terms of Section 111(b) of the Act before acquiring further voting shares of the Company, the contents thereof are vehemently denied as no such requirement is attracted to further acquisition of shares in the Company by the Consortium that collectively holds more than 51% shareholding in as well as control of the Company.

16. Where Paragraph 11 of the SCN reproduces provisions of Section 111 of the Act, the same requires no comment except that it is vehemently avowed that the provisions of Section 111 of the Act are not attracted to the facts of the matter at hand.

17. The contents of the Paragraph 12 are vehemently denied as no such requirement is attracted to further acquisition of shares in the Company by the Consortium that collectively holds more than 51% shareholding in as well as control of the Company as explained herein on the basis of facts of the case. There is, thus, no violation of Section 111 (b) of the Act by the members of the Consortium to whom SCN has been issued by the Commission.

18. Where Paragraph 13 of the SCN reproduces provisions of Section 126(3)(c) of the Act, the same requires no comment except that it is vehemently avowed that the provisions of Section 111 of the Act are not attracted to the facts of the matter at hand. Accordingly, the provisions of Section 126(3)(c) of the Act are not attracted in the matter at hand.

19. Where Paragraphs 14 to 20 of the SCN relate to operational matters, they require no response.

III. Prayer

In light of the foregoing, it is submitted that the Company is not in violation of requirements of Section 111 (b) of the Act and, therefore, the SCN issued to four (4) members of the Consortium are entirely unwarranted and the same must be withdrawn without any further proceedings.

It is, therefore, prayed that in the interests of justice and fairness and to ensure the uniform application of the law, the SCN be withdrawn and no adverse action be taken against the Respondents."

10. In order to provide an opportunity of personal representation to the Acquirers, hearing in the matter was fixed on March 26, 2024. However, the hearing was adjourned on the request of the Authorized Representative of the Acquirers. In order to provide another opportunity of personal representation, another hearing in the matter was fixed on May 27, 2024, wherein Mr. Rashid Sadiq, Corporate Consultant, appeared before the Adjudicating/ Authorized Officer on the behalf of the Acquirers as Authorized Representative (**the Authorized Representative**). During the course of hearing, the Authorized Representative was advised to explain the reasons for the alleged non-compliances, as narrated in SCN. The Respondent reiterated the written arguments submitted earlier in response to SCN and, *inter alia*, further submitted as under:

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- a. The collective shareholding of the Consortium was 51.29% of the total outstanding shares of the Company whereas, the SCN did not incorporate the shareholding held by the father of Mr. Omar Shafiq Chaudhry who has been deceased.
 - b. Shares of Mr. Omar Shafiq Chaudhry and Mrs. Saadia Omar amounting to 1,362,000 each were under margin financing agreement held in the account of their broker which stipulates that "corporate entitlement of margin financing shall accrue to the client".
 - c. There has been no violation of requirements of Section 111 (b) of the Act keeping in view the shareholding of the consortium.
11. Subsequent to the hearing proceedings, the Authorized Representative vide its letter June 28, 2024 made further submissions, the relevant extract of which is provided as under:

(a) "The following individuals who are directors and /or shareholders of the Company are the sponsors who control as well as hold more than 51.29% of the voting shares of the Company ('Consortium') as on 30.06.2022 prior to acquisition of shares by Omar Chaudhry alleged in the captioned show cause notice.

1. Omar Shafiq Chaudhry	17,584,377
2. Saadia Omar	3,879,860
3. Yunus Shafiq Chaudhry (late)	3,199,980
4. Mahnoor Chaudhry	6,399,780
5. Mahnan Omar	3,199,981
	34,263,978

(b) The total voting shareholding of Mr. Omar Shafiq Chaudhry as on 30.06.2022 was 17,584,377 comprising of 16,222,377 shares reflected in Form 34 and referred in paragraph 7 of the show cause notice. He also has 1,362,000 shares held in the account of his broker; M/S Growth Securities (Private) Limited. These 1,362,000 shares were under margin financing agreement which stipulates that, "corporate entitlements of the margin finance securities shall accrue to the client." On the book closure date, these shares are transferred by the broker in the name of Mr. Omar Shafiq Chaudhry. Relevant book closure date was 21 October, 2022 and these shares were duly transferred as per agreement...

(c) Similarly, the actual voting shareholding of Mrs. Saadia Omar as on 30.06.2022 was 3,879,860 comprising of 2,517,860 shares reflected in Form 34 and referred in paragraph 7 of the show cause notice. She also has 1,362,000 shares held in the account of his broker; M/S Growth Securities (Private) Limited. These 1,362,000 shares were under margin financing agreement which stipulates that, "corporate entitlement of the securities shall accrue to the client." On the book closure date, the shares are transferred by the broker in the name of Mrs. Sadia Omar. Relevant book closure date was 21 October, 2022 and these shares were duly transferred as per agreement...

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- (d) Mr. Yunus Shafiq Chaudhry (late), the father of Mr. Omar Shafiq Chaudhry held 3,199,980 shares as of 30 June, 2022 as mentioned above. Mrs. Sadia Omar is the spouse of Mr. Omar Shafiq Chaudhry while Ms. Mahnoor Chaudhry is sibling of Mr. Omar Shafiq Chaudhry and Ms. Mahnan Omar is his daughter. Section 108 (d) of the Securities Act, recognize all of them as deemed acting in concert being relatives which is a term defined in Section 108(g) to mean spouse, real and half siblings and their children and lineal ascendants and descendants of a person.
- (e) It is reiterated that Mr. Omar Shafiq Chaudhry is a part of the Consortium that collectively held over shareholding in the Company as well as control of the Company since listing and that there is no restriction on the consortium on further acquisition in terms of Section 111(b) the Act. The SCN also recognizing the consortium by issuing notices to four members of the Consortium. Hence there is no cause of action under Section 126(3)(c) of the Act as the requirement to make a Public Announcement of Intention or Public Offer is not applicable to Mr. Omar Shafiq Chaudhry who purchased the shares as part of the Consortium that continue to act in concert.
- (f) It is also reiterated that 34 (Pattern of Shareholdings) is prescribed under the Companies Act, 2017 and it does not require that the shareholding be disclosed as per requirement of Securities Act, 2015. The shares held by the broker under margin financing agreement and were appearing in the name of broker as per margin financing regulations of the SECP, however, voting rights attached to these shares remained with the two shareholders mentioned above.

In light of the above, it is submitted that there has been no violation of requirements of Section 111 (b) of the Act and, therefore, the SCN issued to four members of the Consortium are entirely unwarranted and the same may please be withdrawn without any adverse orders."

12. Subsequent to the submissions of the Respondent and hearing in the matter, the shareholding records of the Target Company were obtained from the relevant Registrar of the Target Company to establish the factual position which revealed the shareholding as on June 30, 2022 as under:

S. No.	Name	No. of shares held on June 30, 2022	Percentage of shares held as of June 30, 2022	No. of shares held on August 02, 2023	Percentage of shares held as of August 02, 2023
1.	Mr. Omar Shafiq Chaudhry	16,222,377	24.28%	20,822,377	31.7%
2.	Mrs. Saadia Omar	2,517,860	3.77%	1,217,860	1.82%
3.	Mrs. Mahnoor Chaudhry	6,399,780	9.58%	6,399,780	9.58%
4.	Mrs. Mahnan Omar	3,199,891	4.79%	3,199,891	4.79%

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5.	Mr. Yunus Shafiq Chaudhry (late)	3,199,890	4.79%	3,199,890	4.79%
	Total		47.21%		52.15% (Approximately)

13. In order to provide a second opportunity of personal representation to the Acquirer, hearing in the matter was fixed again on November 21, 2024; wherein Mr. Rashid Sadiq, appeared on behalf of the Acquirers/ Persons Acting in Concert as Authorized Representative before the Adjudicating/ Authorized Officer. During the course of hearing, the Authorized Representative reiterated the arguments presented in the previous hearing.

14. I have considered the facts of the case based on the relevant provisions of the Act, available record of Company, as well as the submissions of the Authorized Representative. I have also pursued the provisions of Section 111 of the Act in a wholistic manner with regards to both aspects of (i) - the acquisition of additional shares as well as (ii) - the control of a listed Company. At this juncture, it is imperative to discuss the following legal and factual elements:

- i. In the instant matter it is observed that the Acquirers, namely Mr. Omar Shafiq Chaudhry, Mrs. Saadia Omar, Ms. Mahnoor Chaudhry, and Ms. Mahnan Omar, have been members of the Board of Directors since 2020. Mr. Omar Shafiq Chaudhry has additionally held the position of Chief Executive Officer since 2021, further underscoring his leadership role within the company. The Acquirers, who incidentally are members of the same family through close relationship, have been actively involved in the business for an extended period, demonstrating long-standing control and governance of the company. Given their established and reported presence on the Board, there is no indication that the Acquirers actually intended and proceeded to acquire additional control through the share acquisitions in the instant matter. Their continuous role in the company's management in capacities as directors negates the possibility of any substantive change in control of the Target Company. Moreover, as a family-run business, the Acquirers have always exercised control, rendering the notion of seeking additional control through share acquisitions both redundant and unreasoned. Therefore, acquisition of additional shares did not confer any new rights or benefits that could alter the existing dynamics of the company's control, governance or management.
- ii. It is also pertinent to observe that the term "**control**" is defined under Section 2(xiii) of the Act as "Control includes the right to appoint a majority of directors or to control management or policy decisions, exercisable by a person individually or through any person acting in concert, directly or indirectly, whether by virtue of their shareholding, management rights, shareholders' agreements, voting agreements, or otherwise". For the purposes of reference, it is noted that this definition closely aligns with the interpretation of control under the Indian jurisdiction, particularly as elucidated in Regulation 2(1)(c) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997. It underscores that control is a positive power, enabling the acquirers to take initiatives influencing management or policy decisions.

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- iii. The *M/s. Subhkam Ventures (I) Private Limited v The Securities and Exchange Board of India (SEBI)* case Appeal No. 08 of 2009, (date of decision 15.01.2010) (Securities Appellate Tribunal, India) clarified that control entails effective authority to influence management or policy decisions, directly or indirectly. The Tribunal emphasized that provisions such as nominee directors or affirmative voting rights, which are primarily intended to protect investments, do not constitute "effective control" unless they confer the ability to dictate overarching management or policy decisions. Notably, the Tribunal highlighted that control is a proactive power, characterized by the ability to drive an organization's decision-making and direction, rather than merely reacting to existing decisions or actions. The case further underscored that merely holding protective provisions, such as requiring affirmative votes for specific actions, does not equate to control. Instead, these provisions serve to safeguard the investor's interests without granting day-to-day operational authority. The Tribunal applied a practical test of control, comparing it to having command over the "steering, accelerator, gears, and brakes" of an organization. Unless the acquirer's influence extends to such a comprehensive level, they cannot be deemed to have effective control over the company. In applying this principle to Bunnys Limited, it is evident that the Acquirers have not gained or exercised any new level of control as a result of their recent share acquisitions. As longstanding members of the Board of Directors, they have been actively involved in the governance and decision-making processes of the company well before these acquisitions occurred. The protective mechanisms highlighted in the *Subhkam Ventures v SEBI* case, such as affirmative voting rights, align with the Acquirers' actions, which have been consistent with safeguarding their investment rather than obtaining overarching control.
- iv. It is important to observed that the practical test of control from the *Subhkam Ventures v SEBI* case demonstrates that the Acquirers' influence over Bunnys Limited does not extend to being the driving force behind its operations in a manner akin to controlling the "steering, accelerator, gears, and brakes" of an organization. Instead, the acquisitions have merely consolidated their pre-existing position without altering the management or operational framework of the company. This supports the conclusion that there was no substantive change in control and that the breach of Section 111(b) of the Act was procedural, with no intent or action to exercise new authority over the Target Company.
- v. In addition, a substantial portion of the total acquisition by Mr. Omar Shafiq Chaudhry i.e. 5.54% out of the total 6.89% shares acquired (*resulting in the breach of threshold of 30% in his personal/individual capacity*) were in fact executed through the Negotiated Deal Market (NDM), which are essentially privately negotiated transactions between consenting parties. And only 1.35% shares were acquired through Ready Market. It is pertinent to observe that unlike trades conducted in the Ready Market, transactions in the NDM do not influence the prevailing market price or trading volume, as they are executed outside the market trading system and are only reported subsequently.
- vi. Furthermore, as per the record available in the instant matter, no complaint or evidence is available on record indicating that the acquisitions adversely impacted investors, customers or other stakeholders neither it had a changing impact upon the control of the management.

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As also submitted by the Authorized Officer, M/s. Bunnys Limited has maintained uninterrupted operations without any negative implications attributable to the additional acquisition of shares by the Acquirers.

- vii. While it is observed that the acquisitions breached the threshold under Section 111(b) of the Act, especially in case of Respondent No. (i) and the overall threshold in respect of all Respondents as persons acting in concert, the absence of any material shift in control or management highlights that the breach can be termed as procedural non-compliance rather than substantive with an intent of takeover. The Acquirers have consistently argued that they acted as part of a Consortium already holding a majority and effectively exercising control of the company without intent to acquire control.
- viii. It is also pertinent to observe that the post-acquisition shareholding of Respondent No. (i) along with other Respondents, who are in fact related to each other and also enjoy BOD positions in the Company, reached 52.15 % by adding the shares held in the name of their late father as well, i.e., Mr. Younus Shafiq Choudhary, who passed away in March 2020. However, no legal document (*succession certificate for movable property*) has been presented by the Acquirers to establish their bona-fide right over such shares.

15. In light of the above findings and considering the facts of the case, I am of the view that while there has been a technical and procedural non-compliance with Section 111(b) of the Act, the circumstances do not warrant a penal action. The Acquirers have not exercised control in a manner that adversely impacts the Target Company or its stakeholders. Therefore, I, in terms of powers conferred upon me under Section 126(3) of the Act read with SRO 1545(I)/2019 dated December 06, 2019, **WARN** the Acquirers to ensure strict compliance with the provisions of the Act, in all future transactions. Any subsequent breach will attract stricter regulatory action. In view of the absence of adverse effects or material changes in the management and control of the Target Company, no penalty is imposed on the Acquirers.

16. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law(s) on matter subsequently investigated or otherwise brought to the knowledge of the Commission.



(Sohail Qadri)
Director/Head of Department
(Adjudication Department-I)

Announced:

June 04, 2025

Islamabad

