

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 16(5) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002, AGAINST HOMI N. DARUKHANAWALA, M/S. HORMUZD FINANCIAL AND INVESTMENT CONSULTANCY SERVICES.

1.0 BACKGROUND OF THE CASE :

- 1.1 Homi N. Darukhanawala, M/S. Hormuzd Financial And Investment Consultancy Services. (hereinafter referred to as the broker) is a member of Mangalore Stock Exchange (hereinafter referred to as MSE) and registered with Securities and Exchange Board of India (hereinafter referred to as SEBI) vide registration no. INB140615711.
- 1.2 An officer was appointed vide Order dated 28.02.2003 to conduct an enquiry into the possible violation of regulation 15 (c) of SEBI (Procedure For Holding Enquiry By Enquiry Officer And Imposing Penalty) Regulations, 2002, (hereinafter referred to as 'the said Enquiry Regulations') alleged to have been committed by the broker.

2.0 REPORT OF THE OFFICER AND RECOMMENDATION :

- 2.1 The officer issued a notice dated 13.03.2003 under regulation 16 (2) of the said Enquiry Regulations to the broker stating that the broker has ceased to be a member of the exchange and his registration is liable to be cancelled. It was further stated that if the broker failed to reply to the notice then it would be presumed that the broker has no explanation to offer and matter would be proceeded as per the regulations. The said notice was issued to the member and also a copy of the same was forwarded to MSE requesting it to serve the same upon the broker. MSE vide its letter dated 24.03.2003 informed that they had served the notice by registered post A.D. on the broker at their latest address. The officer in his report stated that he was satisfied that the said notice was duly served upon the broker. However, the member failed to submit any reply to the said notice.

The officer has concluded that the broker has ceased to be a member of the exchange and therefore his certificate of registration as a stock broker is liable to be cancelled under rule 4 (a) of SEBI (Stock Brokers and Sub-Brokers) Rules, 1992 (hereinafter referred to as 'the said rules') read with regulation 25 (a) of SEBI (Stock-Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as 'the said regulations') and regulation 15 (c) of the said Enquiry Regulations.

3.0 CONCLUSIONS :

- 3.1 I have perused the Report of the officer dated 30.05.2003 and do not find any reason to differ with the recommendation of the Officer inasmuch as the Mangalore Stock Exchange vide its letter dated 20.05.2002 informed that the broker was declared a defaulter on 12.01.2002 and ceased to be a member of the exchange for non-payment of annual subscription for the years 1999-2000 and 2000-2001, non-submission of audit report for the years 1997-98, 1998-99, 1999-2000, 2000-2001, non-maintenance of capital adequacy and non-payment of SBT contribution of Rs. 96,000/-. I am also convinced that the notice was duly served upon the broker.

Under Rule 4 (a) of the said Rules, one of the conditions for granting certificate of registration as a stock broker is that the broker should hold the membership of a stock exchange. Under regulation 25 (a) of the said Regulations, a broker is liable for action if he fails to comply with any conditions subject to which registration has been granted. Since the broker ceased to be a member of the exchange as confirmed by the Mangalore Stock Exchange vide its letter dated 20.05.2002, I am fully convinced that the broker has failed to comply with the above provisions of law, therefore, liable for action under regulation 25 (a) of the said Regulations read with regulation 15 (c) of the said Enquiry Regulations.

4.0 ORDER :

- 4.1 Therefore, in exercise of the powers conferred upon me by virtue of sub section (3) of section 4 of the Securities and Exchange Board of India Act, 1992 read with regulation 25 (a) of the said Regulations and also regulation 15 (c) and 16 (5) of the said Enquiry Regulations, I, G.N. Bajpai hereby order that the certificate of registration no. INB 140615711 of M/s. Homi N. Darukhanawala, M/s. Hormuzd Financial and Investment Consultancy Services, member of the Mangalore Stock Exchange be cancelled with immediate effect.

G. N. BAJPAI

PLACE: MUMBAI

CHAIRMAN

DATE : June 17, 2003

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