

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 13 (4) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST PRAMOD KUMAR DROLIA & Co, MEMBER CALCUTTA STOCK EXCHANGE

CO/71/IES/07/2003

1.0 Pramod Kumar Drolia & Co, (hereinafter referred to as "member"), a Member of Calcutta Stock Exchange (hereinafter referred to as "CSE") holding SEBI Regn no 031108310 has his office at 7B, B Gangully Street, 3rd Floor, Kokatta – 700 001.

1.1 Based on the inspection report dated 11th July 2002, Securities and Exchange Board of India (hereinafter referred to as "SEBI"), vide Order dated 16th September, 2002 appointed an Enquiry Officer to enquire into the contraventions committed by the member of the following

- (i) CSE's notice dated 16th September 1999 and CSE's Bye laws 332 and 334(iii) (hereinafter referred to as "CSE Bye laws")
- (ii) Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Practices relating to Securities Market) Regulation, 1995, (hereinafter referred to as "FUTP Regulations")
- (iii) Rule 4(b) of SEBI (Stock Brokers and Sub-Brokers) Rules, 1992 (hereinafter referred to as "Broker Rules") and regulation 7 of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992, (hereinafter referred to as "Broker Regulations")
- (iv) Rule 8 (1) (f) of SC(R) Rules, 1957

2.0 Enquiry Officer submitted his report on 28th March 2003 and found that the member had done off-the-floor transactions in various scrips of Global Telesystems Limited (GTL), Himachal Futuristic Communications Limited (HFCL), Zee Telefilms Ltd and DSQ Software Ltd (DSQ). Following were few such instances where the member indulged in off-the-floor transactions

Name of the scrip: GTL

Date of transaction	Member's Buy / Sell	Quantity	Amount (As per difference bill)
02/02/2001	SELL	20900	1668880.00
08/02/2001	BUY	20900	
09/02/2001	SELL	54000	2115860.00
14/02/2001	BUY	54000	
16/02/2001	SELL	54000	8492200.00
22/02/2001	BUY	54000	
26/02/2002	SELL	20000	2107500.00
01/03/2001	BUY	20000	

Name of the scrip: HFCL

Date of transaction	Member's Buy / Sell	Quantity	Amount (As per difference bill)
02/02/2001	SELL	25500	1043400.00
06/02/2001	BUY	25500	
09/02/2001	SELL	45000	4239810.00
12/02/2001	BUY	45000	
16/02/2001	SELL	60000	14380660.00
22/02/2001	BUY	60000	
23/02/2001	SELL	61000	7365200.00
01/03/2001	BUY	61000	

Name of the scrip: ZEE TV

Date of transaction	Member's Buy / Sell	Quantity	Amount (As per difference bill)
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06/02/2001	SELL	30000	645960.00
08/02/2001	BUY	30000	
09/02/2001	SELL	45000	775540.00
12/02/2001	BUY	45000	
16/02/2001	SELL	36000	985140.00
19/02/2001	BUY	36000	
26/02/2001	SELL	80000	4427960.00
01/03/2001	BUY	80000	

Name of the scrip: DSQ

Date of transaction	Member's Buy / Sell	Quantity	Amount (As per difference bill)
09/02/2001	SELL	40000	1254620.00
13/02/2001	BUY	40000	

- 2.1 Enquiry Officer found that in the following instances member had made payments \ received funds from Khemani & Sons which were not backed by transactions

S. No	Name of the broker	Date of transaction	Cheque No.	Amount (Rs.)
1.	Khemani & Sons	29/12/2000	849836-Indusind	1, 00, 00, 000
2.	Khemani & Sons	08/02/2001	912335-Indusind	95, 00, 000
3.	Khemani & Sons	02/02/2001	337743-Indusind	63, 00, 000
4.	Khemani & Sons	28/02/2001	912679-Indusind	88, 00, 000
5.	Khemani & Sons	20/03/2001	326478-Indusind	4, 95, 00, 000

- 2.2 Enquiry Officer in his report recommended a penalty of suspension of registration of the member for a period of four months.
- 3.0 After considering the enquiry report, a show cause notice under regulation 13 (2) of the said Regulations dated 23rd April 2003 was issued to the member informing him of the enquiry officer's finding and requiring him to show cause as to why action should not be taken against him as recommended by enquiry officer. A copy of enquiry report was also annexed to the said show cause notice. It was also stated in the said show cause notice that if the member desired a personal hearing before the Chairman the same should be indicated in the reply. The show cause notice was delivered to the member through CSE on 28th April 2003.
- 4.0 Member did not respond to the above mentioned show casue notice.
- 4.1 I note that the member before the enquiry officer submitted that Notice issued by CSE was in September 1999 whereas they became a member only in June 2000 hence it is not applicable to them.
- 4.2 The member also took a stand before the enquiry officer that off-the-floor transactions were usual practice on CSE and in flurry of action on the exchange, they could not observe the changes made by CSE but there was no malafide intention. They also submitted before the enquiry officer that they did not gain anything by not reporting off-the-floor transactions to CSE nor had anything to lose by reporting the same.
- 4.3 Member also contended before enquiry officer that regulation 4 of FUTP Regulations is not attracted since one could create false or misleading appearance of trading on the securities market by trades on the screens of the stock exchange but not by off-the-floor transactions.
- 4.4 With regard to Rule 4(b) of Brokers Rules and regulation 7 of Brokers Regulations read with clauses A (1, 4 and 5) of the Code of Conduct stipulated in Schedule-II of Brokers Regulations, member contended that they had not reported off-the-floor transactions to CSE and have not created false market.
- 4.5 Member submitted that any violation of rule 8 (1) of Securities Contracts (Regulation) Rules was a mistake and due to inadvertent oversight.

- 5.0 I have carefully considered the findings of the enquiry and the records \ information relied upon by the enquiry officer, since the member did not prefer to file his reply and appear for a personal hearing. I proceed to pass the order with the material available on record.
- 5.1 The member has done off-the-floor transactions as established during the enquiry and admitted by the member. The member had indulged in off-the-floor transactions in the scrip of GTL to the tune of 2, 97, 800 shares amounting to Rs. 1, 43, 84, 440. Member dealt in HFCL to the tune of 3, 83, 000 shares amounting to Rs. 2, 70, 29, 070 and in Zee TV, member traded to the tune of 3, 82, 000 shares amounting to Rs. 68, 34, 600. The notice dated 16th September 1999 required all members to inform CSE about off-the-floor transactions done by them. Member's submission that non-reporting of off-the-floor transactions were due to flurry of action, is baseless and could not be accepted.
- 5.2 Off-the-floor transactions tamper with price discovery mechanism of the exchange and such trading leads to interference with the fair and smooth functioning of the market and is in violation of item 4 of clause A of Code of Conduct read with regulation 7 of Broker Regulations and SEBI Circular dated 16th September 1999.
- 5.3 The enquiry report had also brought out the instances where the member had made payments from client ledger and received funds from the other members of CSE but were not backed by transactions amounting to Rs. 8, 41, 00, 000.
- 5.4 Giving money as loan to other broker from the account of the client is in violation of byelaws of the exchange and SEBI circular no. SMD\SED\Cir\93\23321 dated 18th November 1993. It has been mandated in the said circular that a broker cannot use money of the client for any other purpose and the same has to be kept segregated only for his transactions. The member has thus violated the above mentioned circular and failed to be fair to his clients as required under items (6) of clause B of Schedule II read with regulation 7 of the Broker Regulations. The member has also entered into money lending transactions which is in violation of rule 8(1) (f) of SC(R) Rules of loan transactions like a professional lender of money.
- 6.0 In view of the above, I find that the Member is guilty of violating Rule 4 (b) of Securities and Exchange Board of India (Stock Brokers and Sub Brokers) Rules, 1992, rule 8(1)(f) of SC(R) Rules and regulation 7 of Broker Regulations read with Clauses A (1, 4 and 5) clause B (6) of Code of conduct stipulated in Schedule II of Securities and Exchange Board of India (Stock Brokers and Sub Brokers) Regulations, 1992 and SEBI circular mentioned above.
- 6.1 As a registered market intermediary, the member is under an obligation to abide by the Code of Conduct. Conforming to the Code of Conduct is a condition precedent for continuation of his registration. The misconduct of the member, therefore, warrants imposition of a penalty in terms of regulation 13 (1) (b) of the Securities and Exchange Board of India (Procedure for holding enquiry by enquiry officer and imposing penalty) Regulations, 2002.
- 6.2 Therefore, in the interest of the securities market and in exercise of the powers conferred upon me under sub-section (3) of Section 4 of the SEBI Act, 1992 read with sub-regulation (4) of regulation 13 of the Securities and Exchange Board of India (Procedure for holding enquiry by enquiry officer and imposing penalty) Regulations, 2002, I hereby order that the registration of Sri Pramod Kumar Drolia, (SEBI Reg No INB0311048310) Member, Calcutta Stock Exchange, be suspended for a period of four months.
- 6.3 This order shall come into effect after expiry of three weeks from the date of this order.

PLACE: MUMBAI

DATE : 04 July 2003

G. N. BAJPAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA