

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 SKC SHARE AND STOCK BROKING SERVICES PVT. LTD. , MEMBER CALCUTTA STOCK EXCHANGE

CO\97\IES\08\ 2003

1. SKC Share & Stock Broking Services Pvt. Ltd. is a member of Calcutta Stock Exchange and is a SEBI registered stock broker with a Reg. No. INB 031018436 (hereinafter referred to as the member)
2. The eastern regional office of SEBI conducted an inspection of the member and submitted a report. The said inspection report was submitted by the inspecting authority on 15.07.02. It has been prima facie found in the said inspection that the member involved in off the floor transactions in violation of, inter alia, provisions of the Calcutta Stock Exchange Association Rules and Bye laws and Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices in Securities Market) Regulations, Rule 4(b) of SEBI (Stock Brokers and Sub Brokers) Rules, 1992 (hereinafter referred to Stock Brokers Rule) and Regulation 7 of SEBI (Stock Broker and Sub Broker) Regulations, 1992 (hereinafter referred to Broker Regulations) and code of conduct stipulated in the broker regulations and Rule 8(1)(f) of SC (R) Rules, 1957. Therefore, Shri Ananta Barua had been appointed as Enquiry Officer vide orders of the Chairman dated 16.09.02 to enquire into the said violations.
3. The enquiry officer conducted the enquiry in terms of the order appointing the enquiry and Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as the said Regulations) and submitted his report on 07.05.2003. In his report the enquiry officer found the member guilty of indulging in off-the-floor transactions in violation of SEBI Circular dated 14.09.1999 and of indulging in financing transactions in violation of Rule 8(1) of SC(R) Rules, 1957. The enquiry officer recommended that the Certificate of Registration of the member be suspended for a period of one year.
4. A show cause notice under Regulation 13(2) of SEBI (Procedure Regulations), 2002 was issued to the member on 20.05.03 forwarding therewith a copy of the enquiry report with an advise to show cause as to why the penalty recommended by the enquiry officer should not be imposed. It was indicated in the said show cause notice that the member should reply to the show cause notice within 15 days of the receipt and to intimate in writing as to whether the member desire a personal hearing. The said show cause notice was delivered to the member through Calcutta Stock Exchange and the member acknowledged the receipt of it on 28.05.03.
5. The member however has not replied to the said show cause notice despite lapse of 70 days.
6. I find that the enquiry officer has given enough opportunity to the member and in compliance with the provisions of the said Regulations a show cause notice was issued enclosing therewith with a copy of enquiry report and the member chose not to reply. I am of the view that sufficient opportunity in compliance with principles of natural justice had been accorded to the member and it will be in the interest of justice to proceed further in the matter.
7. I find that the member had executed the following off the floor transactions with Shri Sanjay Khemani -

Settle-ment No.	Name of scrip	Purchased from you				Sold to you			
		Date	Buy/ Sell	Qty	Rate (Rs.)	Date	Buy/ Sell	Qty	Rate (Rs.)
141/2000-2001	HFCL	11.01.01	B	40000	1124.00	08.01.01	S	40000	1372.50
Balance due from Sanjay Khemani as per difference bill								Rs.99,08,000	

Settle-ment No.	Name of scrip	Purchased from you				Sold to you			
		Date	Buy/ Sell	Qty	Rate (Rs.)	Date	Buy/ Sell	Qty	Rate (Rs.)
142/2000-2001	GLOBAL	17.01.01	B	82000	628.20	12.01.01	S	50000	749.20
						-do-	S	32000	748.20
Balance due from Sanjay Khemani as per difference bill								Rs.99,09,200	

Settlement No.	Name of scrip	Purchased from you				Sold to you			
		Date	Buy/ Sell	Qty	Rate (Rs.)	Date	Buy/ Sell	Qty	Rate (Rs.)
143/2000-2001	HFCL	19.01.01	B	50000	1188.50	25.01.01	S	50000	1287.60
-do-	GLOBAL	19.01.01	B	50000	680.30	24.01.01	S	50000	780.70
Balance due from Sanjay Khemani as per difference bill								Rs.99,75,000	

Settlement No.	Name of scrip	Purchased from you				Sold to you			
		Date	Buy/ Sell	Qty	Rate (Rs.)	Date	Buy/ Sell	Qty	Rate (Rs.)
145/2000-2001	HFCL	08.02.01	B	55000	927.20	02.02.01	S	50000	1087.30
						-do-	S	5000	1087.50
Balance due from Sanjay Khemani as per difference bill								Rs.88,06,500	

8. The enquiry officer found that member had executed the above off the floor transactions with Sanjay Khemani in the scrip of HFCL and Global Tele. I have noted that the member did not dispute the fact of entering into such off market deals. SEBI vide circular No.SMDRP/POLICY/Cir-32/1999 dated 14.9.99 has banned all negotiated deals. As per the said Circular all such deals shall be permitted only if these are executed on the screens of the exchange in the price and order matching mechanism like any other normal trade. Such negotiated deals/off-market deals were banned as such deals tamper with price discovery mechanism and militate against concept of stock exchange.

I therefore agree with the finding of the enquiry officer that the member by executing such trade outside the exchange has violated the above circular dated 14.9.99 and item A(5) of Schedule II of Regulation 7 of Broker Regulations.

9. I find that the member had made payments to and received payments from Dinesh Kumar Singhania and Sanjay Khemani. It is further found that these are not backed by any transactions. Following are the instances the enquiry officer has noted in his report -

Date	Name of the member	Paid / received	Amount (Rs.)
26.05.2000	Dinesh Kumar Singhania	Received	33,00,000.00
17.06.2000	Dinesh Kumar Singhania	Paid	69,00,000.00
19.10.2000	Dinesh Kumar Singhania	Received	20,00,000.00
20.10.2000	Dinesh Kumar Singhania	Paid	20,00,000.00
18.04.2000	Sanjay Khemani	Paid	25,00,000.00
26.05.2000	Sanjay Khemani	Received	52,50,000.00
16.08.2000	Sanjay Khemani	Paid	39,00,000.00
20.10.2000	Sanjay Khemani	Received	1,11,00,000.00

10. Enquiry Officer found that the member had made advances from the client ledger and received funds which was not backed by any delivery of securities transactions. Giving of money to other broker/persons with or without interest from the fund of the client is in violation of SEBI circular No.SMD/SED/Cir-93/23321 dated 18.11.93 which mandates keeping of fund/securities of client in a separate account and not to use such fund/securities for any other purpose or person. Similar obligations have been cast under the byelaws of the exchange. I agree with the findings of enquiry officer that these deals shake the confidence of the investors in the securities market. In view of this, I find that the member has also entered into money lending transaction which is in violation of rule 8(1) (f) of S.C.(R)Rules, 1957.

- 11.1 Regulation 7 of SEBI (Stock Broker and Sub Brokers) Regulations, 1992 reads as under :

"7. The stock broker holding certificate shall at all times abide by the Code of Conduct as specified in schedule II."

- 11.2 The relevant portions of clause A of Schedule II mentioned above reads as under :

Item 5 : Compliance With Statutory Requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the stock exchange from time to time as may be applicable to him."

- 11.3 Rule 4(b) of SEBI (Stock Brokers and Sub Brokers) Rules, 1992 read as under :

"4. The Board may grant a certificate to a stock broker subject to the following conditions namely:

a...

b. He shall abide by the rules, regulations and bye laws of the stock exchange or stock exchanges of which he is a member."

11.4 Rule 8(1) of SC (R) Rules reads as under:

" 8. Qualifications

The rules relating to admission of members of a stock exchange seeking recognition shall, inter alia, provide that:

(1) No person shall be eligible to be elected as a member if -

(a)

(b)

(c)

(d)

(e).....

(f) he is engaged as principal or employee in any business other than that of securities except as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business:

Provided that the *Securities and Exchange Board of India* may, for reasons sufficient in the opinion of the said *Board*, permit a recognised stock exchange to suspend the enforcement of this clause for a specified period on condition that the applicant is not associated with or is a member of or subscriber to or shareholder or debenture holder in or connected through a partner or employee with any other organisation, institution, association, company or corporation in India where forward business of any kind whether in goods or commodities or otherwise is carried on or is not engaged as a principal or employee in any such business;"

12. In view of the above, I find that the member by indulging in the off the floor transactions has violated Rule 4(b) of SEBI (Stock Brokers and Sub Brokers) Rules, 1992 and Regulation 7 of SEBI (Stock Brokers and Sub Brokers) Regulations 1992 and Clause A 5 of the Code of Conduct stipulated in Schedule II of SEBI (Stock Brokers and Sub Brokers) Regulations. By indulging in finance transactions as narrated above the member has violated Rule 8(1)(f) of SC (R) Rules, 1957. This is also in violation of Rule 4(b) of SEBI (Stock Brokers and Sub Brokers) Rules, 1992.
13. As a registered market intermediary, the member is under obligation to abide by the concerned Regulations and Code of Conduct envisaged thereunder. Conforming to the Code of Conduct is a condition precedent for continuation of his registration under Rule 4(b) as above. The misconduct of the member, therefore, warrants imposition of a penalty in terms of regulation 13 (1) (b) of the said Regulations.
14. 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 SKC Share and Stock Broking Services Pvt. Ltd. (SEBI Reg No INB 031018436) Member, Calcutta Stock Exchange, be suspended for a period of one year.
15. This order shall come into effect after expiry of three weeks from the date of this order.

Place: Mumbai

Date : 13TH August, 2003

G. N. BAJPAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA

