

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER UNDER REGULATION 13 (4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST M/s KANDOI SECURITIES PVT. LTD., MEMBER OF CALCUTTA STOCK EXCHANGE.

1. M/s Kandoi Securities Pvt. Ltd. is registered with SEBI as a stock broker (hereinafter referred to as 'member') bearing SEBI registration no. INB 030757437 and is a member of Calcutta Stock Exchange (CSE). An inspection of books of accounts, documents and other records of the member was conducted on 14.06.2002. During the inspection, it was found that the member had indulged in off the floor transactions with other brokers in large scale. The data collected by the inspection team indicated that the broker had indulged in off the floor transactions with the brokers Sanjay Khemani, Pradeep Kumar Dhelia and C.K. Tibrewala & Co. Inspection of sauda book of the member revealed that the member indulged in self to client off the floor transactions. Further, on the inspection of the ledger and the bank book of the member, it was observed that the member indulged in fund transfers with other brokers like Sanjay Khemani, D.K. Singhania, H.C. Biyani and A.K. Poddar groups. It was found that the fund transfers were not backed by any transactions.
2. The findings of the inspection report were forwarded to the member vide letter dated 23.07.2002 advising the member to file his comments if any, on the findings of the inspection. The member vide letter dated 12.8.02 replied to the said findings of the inspection report. On not being satisfied with the reply filed by the member an Enquiry officer was appointed vide order dated 16.09.2002 to enquire into allegations of violations against the member, inter alia, to the following:
 - (a) Violation of CSE's notice dated September 16, 1999 and CSE's Byelaws 332 and 334 (iii).
 - (b) Violation of Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.
 - (c) Violation of Rule 4 (b) of SEBI (Stock Brokers and Sub Brokers) Rules, 1992, and Regulation 7 of SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 read with Clauses A (1,4 & 5) of Code of Conduct stipulated in Schedule II of the said regulations.
 - (d) Violation of Rule 8(1)(f) of Securities Contracts (Regulation) Rules, 1957
3. The Enquiry Officer submitted his report on 01.07.2003. In his report the EO found that the member indulged in off-the-floor transactions, negotiated deals and lending of funds and recommended suspension of certificate of registration of the member for a period of 1 year.
4. Consequent upon above, in terms of regulation 13(2) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'the said regulations') a show cause notice dated 03.07.2003 was issued to the member to show cause as to why the penalty as recommended by the enquiry officer should not be imposed on him. The member was advised to submit his reply, if any, within 15 days of the receipt of the show cause notice failing which it would be presumed that the member has no explanation to offer. The member was also asked to intimate along with the reply whether he desires a personal hearing. The member vide letter dated 17.07.2003 replied to the show cause notice dated 03.07.2003. The member made the following submissions:
 - a) The member stated that there was no such intention to deliberately violate/contravene any rules and regulations of SEBI as well as bye-laws/regulations of CSE. Member agreed that some deviation/omissions had taken place coupled with misconception/misunderstanding, but not intentionally. Member assured that in future no such incident would happen.
 - b) Member requested, in view of the facts and circumstances, to take a lenient view into the matter and not to take such harsh action, which would greatly affect their existence.

The member did not seek any personal hearing while submitting as above.

5. I have carefully examined the facts and circumstances of the case. I have also carefully considered the Enquiry Report and the submissions made by the member vide letter dated 17.07.2003. On appreciating the facts and circumstances of the case the findings are as under:

- 5.1 I find that the member had indulged in off the floor transactions with other brokers. The member had done off the floor transactions with Sanjay Khemani as under:

I. Name of the Broker : Sanjay Khemani

Name of the Scrip	Date of transaction	Settlement No.	Buy / Sell	Quantity	Price (Rs)
HFCL	2/2/01	2001145	SELL	50000	1081.10
HFCL	2/2/01	2001145	SELL	50000	1076.10
HFCL	5/2/01	2001145	SELL	60000	1022.60
HFCL	7/2/01	2001145	BUY	80000	934.00
HFCL	8/2/01	2001145	BUY	50000	964.80
HFCL	8/2/01	2001145	BUY	30000	964.50
NET AMOUNT RECEIVABLE AS PER DIFFERENCE STATEMENT Rs. 17322600.00					

Name of the Scrip	Date of transaction	Settlement No.	Buy / Sell	Quantity	Price (Rs)
SATYAM	16/2/01	2001147	SELL	50000	384.05
SATYAM	20/2/01	2001147	SELL	75000	373.05
SATYAM	22/2/01	2001147	BUY	40000	325.75
SATYAM	22/2/01	2001147	BUY	25000	326.85
SATYAM	22/2/01	2001147	BUY	30000	326.95
SATYAM	22/2/01	2001147	BUY	30000	327.45
GLOB TELE	16/2/01	2001147	SELL	50000	653.10
GLOB TELE	16/2/01	2001147	SELL	40000	651.10
GLOB TELE	22/2/01	2001147	BUY	75000	503.90
GLOB TELE	22/2/01	2001147	BUY	15000	501.90
NET AMOUNT RECEIVABLE AS PER DIFFERENCE STATEMENT Rs. 19727525.00					

Name of the Scrip	Date of transaction	Settlement No.	Buy / Sell	Quantity	Price (Rs)
HFCL	23/02/01	2001148	SELL	50000	810.10
HFCL	23/02/01	2001148	SELL	50000	811.10
HFCL	27/02/01	2001148	BUY	50000	592.90
HFCL	28/02/01	2001148	BUY	50000	554.70
ZEE	23/2/01	2001148	SELL	75000	230.05
ZEE	23/2/01	2001148	SELL	25000	228.05
ZEE	28/2/01	2001148	BUY	60000	151.95
ZEE	28/2/01	2001148	BUY	40000	152.95
NET AMOUNT RECEIVABLE AS PER DIFFERENCE STATEMENT Rs. 31401500.00					

5.2 In addition to the above transactions, it was also found that the member had done off-the floor transactions with other brokers. The instances of the same are given below:

I. Name of the Broker : Pradeep Kumar Dhelia

Name of the Scrip	Date of transaction	Settlement No.	Buy / Sell	Quantity	Price (Rs)
HFCL	7/8/00	20011205	SELL	279	1210.00
HFCL	7/8/00	20011205	SELL	721	1210.00
HFCL	7/8/00	20011205	SELL	1000	1210.00
HFCL	8/8/00	20011205	SELL	200	1282.60
HFCL	8/8/00	20011205	SELL	500	1275.00
HFCL	9/8/00	20011205	BUY	125	1405.10
HFCL	10/8/00	20011205	BUY	275	1407.00
HFCL	10/8/00	20011205	BUY	50	1512.00
HFCL	10/8/00	20011205	BUY	100	1508.00
HFCL	10/8/00	20011205	BUY	100	1495.00
HFCL	10/8/00	20011205	BUY	100	1520.00
HFCL	10/8/00	20011205	BUY	150	1512.00
HFCL	10/8/00	20011205	BUY	300	1490.00
HFCL	10/8/00	20011205	BUY	500	1508.70
HFCL	10/8/00	20011205	BUY	500	1491.70
HFCL	10/8/00	20011205	BUY	500	1503.50
NET AMOUNT PAYABLE AS PER DIFFERENCE STATEMENT Rs. 702192.50					

II. Name of the Broker : C.K. Tibrewala & Co.

Name of the Scrip	Date of transaction	Settlement No.	Buy / Sell	Quantity
HFCL	9/10/00 to 12/10/00	2001128	BUY	3530
HFCL	29/9/00		SELL	3530
NET AMOUNT PAYABLE AS PER DIFFERENCE STATEMENT Rs. 876159.80				

5.3 Further, it is found that the broker had also indulged in self to client transactions which have been done off-the floor of the CSE. The instances of the same are as under:

a. Self toClient

Name of scrip	Date of transaction	Bought from	Buy Qty	Rate	Sold to	Sell Qty	Rate
HFCL	2/2/01	BIHARJI SECURITIES	50000	1081.00	SANJAY KHEMANI	50000	1076.00
HFCL	5/2/01	BIHARJI SECURITIES	57500	1022.50	SANJAY KHEMANI	57500	1022.50
HFCL	7/2/01	SANJAY KHEMANI	80000	934.10	BIHARJI SECURITIES	80000	934.10
DSQ	7/2/01	SELF	20000	443.90	B.GUPTA	20000	443.90

Name of scrip	Date of transaction	Bought from	Buy Qty	Rate	Sold to	Sell Qty	Rate
HFCL	8/2/01	SANJAY KHEMANI	27500	964.60	BIHARJI SECURITIES	27500	964.60
DSQ	8/2/01	B.GUPTA	20000	418.20	SELF	20000	418.20
HFCL	9/2/01	B.GUPTA	10000	1018.40	SELF	20000	1018.40
HFCL	12/2/01	SELF	25000	931.00	VINOD KR KANDOI	25000	931.00
HFCL	12/2/01	SELF	5000	931.60	BIHARJI SECURITIES	5000	931.60
HFCL	12/2/01	SELF	5000	933.30	BIHARJI SECURITIES	5000	933.30
DSQ	12/2/01	SELF	22000	408.20	BIHARJI SECURITIES	22000	408.20
DSQ	12/2/01	SELF	20000	407.80	BIHARJI SECURITIES	20000	407.80
HFCL	14/2/01	B.GUPTA	10000	971.70	SELF	10000	971.70
HFCL	15/2/01	VINOD KR KANDOI	10000	1009.90	SELF	10000	1009.90
HFCL	15/2/01	VINOD KR KANDOI	15000	1012.60	SELF	15000	1012.60
HFCL	15/2/01	BIHARJI SECURITIES	10000	1005.80	SELF	10000	1005.80
DSQ	15/2/01	BIHARJI SECURITIES	15000	459.50	SELF	15000	459.50
DSQ	15/2/01	BIHARJI SECURITIES	27000	459.50	SELF	27000	459.50
SBI	27/2/01	SELF	2000	226.00	BACCATE SECURITIES	2000	226.00
RIL	27/2/01	SELF	5000	404.60	JYOTI SEC	5000	404.60
HFCL	27/2/01	SELF	2500	591.00	NEM CHAND KANDOI	2500	591.00
HFCL	27/2/01	SELF	2000	580.80	RAJESH KR KANDOI	2000	580.80
HFCL	27/2/01	SELF	500	595.20	ANJANA PROJECTS	500	595.20
HFCL	27/2/01	SELF	1000	587.50	ARENA TEXTILES	1000	587.50
HFCL	27/2/01	SELF	1000	592.50	BHASKAR CHEMICALS	1000	592.50
HFCL	27/2/01	SELF	1000	582.00	BIHARJI COMMERCIALS	1000	582.00
DSQ	27/2/01	SELF	2500	331.30	GEMCO ENGG	2500	331.30
DSQ	27/2/01	SELF	2000	332.70	BAHUBALI LEASING	2000	332.70
GLOB TELE	27/2/01	SELF	2500	354.10	JANKI TEXTILE	2500	354.10
Satyam	27/2/01	SELF	4000	301.50	PANCHMUKI PROPERTIES	4000	301.50
L&Trustees	27/2/01	SELF	2500	259.20	VIJAY KR RAJAT	2500	259.20
Glob Te	27/2/01	SELF	1000	352.80	RAJAT KANDOI	1000	352.80

I find that the member admitted the above instances. Enquiry Officer in his report noted the contentions of the member that it was a practice in CSE. SEBI vide Circular dated 14.09.1999 banned all negotiated deals, cross deals etc. which include Off-the-floor transactions also. In the said circular it had been notified that all negotiated deals shall be permitted only if the said deals are executed on the screens of the Exchange i.e. the price and order match mechanism of the Exchange like any other normal trade.

The said decision was taken as negotiated deals are devoid of transparency requirements. They also do not contribute to price discovery at the stock exchange depriving the investors of the benefit of best price. Therefore, such deals militate against basic principals of stock exchange mechanism which is meant to bring large number of buyers and sellers together in a transparent manner. It is apparent from the above that the off the floor transactions as shown in para above were not put in the system of the Exchange by the member. This is in violation of SEBI Circular dated 14.09.1999. This kind of 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. Such deals are also in violation of item 5 of clause A of Code of Conduct read with regulation 7 of Broker Regulations.

5.4 I find that the member had indulged in fund transfer with other brokers. The fund transfers were not backed by any securities transactions. The member stated that these were short term funds, which were taken or given as loan to other brokers. Some of the instances are as below:

Name of Broker	Date	Paid / Recd	Amount
DK Singhania	2/3/00	Recd	3150000.00
DK Singhania	4/3/00	Paid	3150000.00
Gautam Bajoria	13/1/00	Recd	450000.00
Gautam Bajoria	29/3/00	Paid	450000.00
Gautam Bajoria	30/8/00	Paid	1000000.00
Gautam Bajoria	29/9/00	Recd	1000000.00
Omprakash Thard	24/2/00	Recd	1500000.00
Omprakash Thard	3/3/00	Recd	3500000.00

Name of Broker	Date	Paid / Recd	Amount
Omprakash Thard	8/3/00	Recd	2500000.00
Uttam Kr Bagri	21/3/00	Recd	1000000.00
Uttam Kr Bagri	23/3/00	Paid	1000000.00
Renu Poddar	23/2/00	Recd	350000.00
Renu Poddar	30/3/00	Paid	350000.00

5.5 I find that the member did not dispute the above money lending transactions by using clients funds. SEBI by Circular No. SMD/SED/Cir – 93/23321 dated 18.11.93 mandated that the funds of client should be segregated and that no broker should use funds of clients for lending or for any other purpose. This is also in violation of bye-laws of CSE. It is further in violation of rule 8 (1) (f) of SC(R) Rule 1957. Rule 8 (1) (f) reads as under:

Rule 8 (1) – No person shall be eligible to be elected as member if –

(a)

(b)

(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 recognized 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 organization, institution, association, company, or commodities or otherwise is carried on or is not engaged as a principal or employee in any such business;

6. I find that the member has lent monies to other brokers from his client's funds and thus violated SEBI circular dated 18.11.1993 and byelaws of CSE on client broker relationship.

6.1 The member as a consequence also violated rule 8 (1) (f) of SC (R) Rules 1957, by engaging in fund based activities. Rule 4 (b) of SEBI (Stock Brokers and Sub-brokers) Rules, 1992 and Regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 read with clause A of Code of Conduct stipulated in Schedule II of the said regulations.

6.2 Further, I find that by executing large off the floor transactions the member violated SEBI Circular dated 14.09.1999, CSE's notice dated September 16, 1999 and Bye Law 332 and 334 (iii) of the Calcutta Stock Exchange.

6.3 I also find that by executing negotiated deals member violated SEBI Circular No.SMDRP/Policy/Cir-32/99 dated September 14, 1999 which prohibits all negotiated deals unless such deals are executed on the screen of the exchange in the price and order matching mechanism of the exchange.

7. I have no hesitation to agree with the findings of the enquiry officer that the member indulged in large off the floor transaction which interferes with fair and smooth price discovery mechanism of the exchange. The said acts of the member militates against the very concept of a stock exchange which draws large number of investors before it to deal in a transparent atmosphere. Further, the member has used funds of client for lending to other members in breach of trust of client. Such practices shake confidence of investors in securities market. The violations cannot be taken lightly particularly when the same are in the nature of disturbing the equilibrium of the market and hindering the interest of investors and the development of capital market. In light of the findings I am not agreeable with the member's submission that there was no such intention to deliberately violate/contravene any rules and regulations of SEBI as well as bye-laws/regulations of CSE. As the violations committed by the member are of serious nature the intention of the member becomes irrelevant.

8. I am satisfied that this is a fit case to impose major penalty suspending the registration of the member. Therefore, in exercise of the powers conferred upon me by Sub Section (3) of Section 4 of SEBI Act, 1992 read with sub-regulation (4) of Regulation 13 of the said Regulations, I hereby suspend the certificate of registration of M/s Kandoi Securities Private Limited., for a period of one year. This order shall come into force after 3 weeks from the date of the order.

Place: Mumbai

Date : August 26,2003

G.N. BAJPAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA