

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 13(1) SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002, IN THE MATTER OF M/s. BAMA SECURITIES LTD.

1.0 BACKGROUND

- 1.1 M/s. Bama Securities Ltd. (hereinafter referred to as the “Broker”) is a member of National Stock Exchange (hereinafter referred to as NSE) and is registered with the Securities and Exchange Board of India (hereinafter referred to as SEBI) vide registration no. INB 230939139.
- 1.2 SEBI vide order dated October 20, 2000 had directed the inspection of the books of accounts, documents and other records of the Broker to verify, inter alia, the following :
- a. whether the books of accounts and other documents are being maintained by the Broker in the manner specified by the Securities Contracts (Regulation) Rules, 1957 and the SEBI (Stock Broker and Sub-Brokers) Regulations, 1992;
 - b. whether the provisions of SEBI Act, Securities Contract (Regulation) Rules, 1957 and the provisions made there under are complied with by the broker; and

- c. whether adequate steps for redressal of grievances of the investors are being taken and the conditions of registration as a Broker are complied with.
- 1.3 The inspection of the books of accounts was conducted in the second week of January, 2001 by a team of SEBI officials under the provisions of Regulation 19 (1) of SEBI (Stock Brokers and Sub Brokers) Regulations, 1992.
- 1.4 The inspection report of SEBI pointed out certain irregularities on the part of the Broker. The irregularities pointed out were as follows:
 - a. irregularities in the issuance of the contract notes ;
 - b. clients' agreement and registration forms not available in few cases; and
 - c. the Broker has dealt with unregistered sub brokers.
- 1.5 Pursuant to the above irregularities observed by the SEBI officials while carrying out the inspection of the Broker, an Enquiry Officer was appointed by the Chairman under Regulation 5 (1) of SEBI (Procedure for Holding enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as "the said Regulations") to enquire into possible violations, inter alia, of SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 by the Broker .

2.0 ENQUIRY REPORT AND RECOMMENDATION :

- 2.1 The enquiry officer, after conducting the enquiry as per the procedure laid down in the said Regulations submitted a report dated 25.02.2004.
- 2.2 The Enquiry Officer found that the Broker has violated clause A(5) of the Code of Conduct read with Regulation 7 of the SEBI (Stock Broker and Sub Broker Rules) Regulations, 1992. Further he found that the Broker

has violated section 12 of the SEBI Act and Rule 3 of SEBI (Stock Broker and Sub Broker Rules) Regulations, 1992 and various circulars issued by SEBI. In the light of the above, the Enquiry Officer recommended that a **'warning'** may be issued to the Broker to be careful in future in adopting the systems and procedures.

3.0 SHOW-CAUSE NOTICE AND HEARING :

- 3.1 Pursuant to the above a Show Cause Notice dated 22nd March 2004 was issued to the Broker along with a copy of the enquiry report, wherein he was called upon to show cause in terms of Regulation 13(2) of the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 as to why the action as considered appropriate should not be taken against him. The hearing before the member has been dispensed with as the same is not considered necessary under the provisions of the said Regulations.

4.0 REPLY TO THE SHOW CAUSE NOTICE :

- 4.1 The broker submitted a reply vide letter dated 12th April 2004 stating that they have complied with the various requirements under the Securities Laws in the past and are willing to do the same in future and are following the best standards that are expected from a broking house. The Broker also expressed his desire for personal hearing in the matter.

5.0 CONSIDERATION OF ISSUES AND FINDINGS :

- 5.1 I have considered the facts of the case, the findings of the Enquiry Officer, the reply of the Broker to the show cause notice and other material on record.

5.2 As to the irregularities in the issuance of the contract notes i.e., the contract notes did not bear the pre printed serial number, they were not stamped in few cases, they did not contain the acknowledgement of the client and in some cases they were missing altogether, the Broker submitted that the serial numbers were generated on daily basis through computer software. The serial number were printed concurrently with printing of the contract notes . The NSE vide its circular dated NSE/CMPT/1620 dated 03.05.2000 had asked all the members to implement a running serial number from 01.07.2000, which the Broker has done. Further, I find that among other requirements, all the trading members of the Exchange were required to issue only pre-printed contract notes with separate running serial numbers of each type of the contract notes namely (1) contract notes issued by members acting for constituents as Brokers and Agents and (2) contract notes issued by members dealing with constituents as Principals . The trading members are permitted to issue contract notes with the contract numbers printed serially through their back office software system. The members are therefore required to issue contract notes bearing a continuous serial number.

The trading members were advised to issue serially numbered contract notes wherein the serial number should be initialized every year on January 01. Complying with this required change in the back office software and further the Broker contended that at the relevant time the Stock Exchange was not insisting on the pre printed serial numbers and directed its members to follow the same from July 1, 2000. I am of the view that since the Broker was following the circular of NSE, the benefit of doubt can be given to the Broker .

- 5.3 With regard to the charge that the contract notes were not time stamped, the Broker had to say that contract notes as per NSE Capital Market Regulations requires order number, trade number, trade time, quantity rate etc. to be stated. As per the Regulations, the contract notes met all these requirements and further added that the contract notes are as per Annexure 2 to Regulation 3.5 of the NSE, which have a requirement of trade time and the same has been always followed, hence the allegation leveled that the contract notes were not time stamped is not tenable. Since the Broker was following the Exchange's directions, I give him a benefit of doubt.
- 5.4 As regards the allegation that the contract notes GE13/38, GE13/58 , GE13/02 and GE13/62 were missing, the Broker stated that the contract note GE13/02 pertain to their propriety jobbing account and hence there was no requirement to issue a contract note for the same. As to the contract note GE13/38, they had to add that it pertains to their Jaipur branch and the relevant contract note was issued by the said branch directly to the ultimate client. For the reason mentioned, this did not reflect in the central data base maintained by them. Further as to the missing of contract notes GE13/58 and GE13/62, they put forth that the said contract notes were in fact issued but the counter foils of the same were missing at the time of the inspection. The Broker vide their letter dated 24.07.2003 submitted the copies of the said contract notes duly acknowledged by the concerned parties evidencing their receipts. It is not convincing as to why the broker failed to produce the same before the inspecting officials. I, therefore, am of the view that it is an afterthought and I hold the Broker guilty on this count for non co-operation with the inspecting officials.

- 5.5 I find that the Broker had not been obtaining acknowledgements from the clients. The inspection very clearly recorded that in the absence of acknowledgements from clients it becomes very difficult for any one to verify whether the same were issued within the prescribed time limit. Hence I am of the view that the Broker is guilty of not obtaining the acknowledgements.
- 5.6 With regard to the charge that the Broker was not maintaining client registration forms, he stated that the forms could be subsequently located and that he has been diligently following the 'Know Your Client' requirements. The Broker, further vide his reply dated 15.05.2003 enclosed copies of the registration forms which they could not produce before the inspecting officers. I fail to understand as to why the Broker failed to produce the same before the inspecting officials. I am of the view that this is an afterthought and hold the Broker guilty of non co-operation with the inspecting officials and non compliance with the said requirements.
- 5.7 As to the charge that the Broker acted through 13 unregistered Sub Brokers, he replied that out of the 13 accounts, in 4 instances the sub brokers were duly registered. The other 7 entities viz. Arvind Sanganerla, Creator & Co., Palombe Securities and Finance Ltd., Poonam Securities, Pratik Investment, Sagar Investment (Member PSE) and M G Share and Stock Brokers Ltd. were registered as client and not as sub brokers. The remaining two i.e., AM Financial Services Ltd. and C J Investment also were registered by duly filling up the clients registration forms and therefore there is no reason to believe that they were acting as sub brokers. Further as to Gajanan Investment (one of the 13 parties) the broker stated that he was a SEBI registered sub broker. I find that the inspection report does not talk about transactions undertaken by the

said entities being alleged as sub brokers. The Enquiry stated that there was no evidence on record to substantiate this charge and prove that the said entities were acting as sub brokers through the Broker. In the absence of evidence , I agree with the finding of the Enquiry Officer that the said charge is not established.

6.0 ORDER :

6.1 Taking into account all the above aspects I am of the view that this is a fit case for imposing a minor penalty of **warning** under Regulation 13(1)(a) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002. Accordingly , I hereby warn Bama Securities Ltd., member NSE to be careful in future in adopting the systems and procedures and direct that it shall be more diligent in future in complying with the SEBI Act , Rules and Regulations framed thereunder. I also direct the Broker to note that any instance of violation or non-compliance with the Act, Rules and Regulations in the future shall be dealt with stringently .

6.2 This order shall come into effect immediately.

DATE : JUNE 4, 2004

PLACE : MUMBAI.

G.N. BAJPAI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA