

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 13(4) OF THE SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST M/S MUNJAL ONLINE STOCK ACCESS, DEALER, OVER THE COUNTER EXCHANGE OF INDIA, HAVING SEBI REGISTRATION NUMBER INB200870116.

1.0 FACTS OF THE CASE

1.1 M/s Munjal Online Stock Access (hereinafter referred as “the said broker”) is a dealer of the Over the Counter Exchange of India (hereinafter referred to as “OTCEI”) and is registered with the Securities and Exchange Board of India (hereinafter referred to as “SEBI”) under certificate of registration No.INB200870116.

1.2 Inspection of the books of accounts and other records of the broker was carried out by SEBI in July 2001 and the inspection related to the activities of the said broker for the years 1998-1999, 1999-2000 and 2000-2001 (till the date of the inspection). In the course of the inspection, the following violations were observed:

- (a) The said broker had dealt as a sub broker without obtaining registration from SEBI.
- (b) The said broker had failed to submit books of accounts required to be maintained by them under Rule 15(2) of the Securities Contract

(Regulation) Rules, 1957 (hereinafter referred to as “SCRR”) and Regulation 17 of the SEBI (Stock brokers & Sub brokers) Regulations, 1992 (hereinafter referred to as the “Broker Regulations”).

- (c) The said broker had failed to redress investor grievances.
- (d) The said broker had not given access to the inspecting team to its registered office.

1.3 A copy of the inspection report was forwarded to the broker for his comments, on 25.1.2002. The said broker submitted his reply vide letter dated 10.5.2002. The response of the broker was found to be unsatisfactory. Hence, an enquiry officer was appointed, vide order dated 22.1.2003, to conduct an enquiry as per the provisions of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as “Enquiry Regulations”).

2.0 ENQUIRY PROCEEDINGS

2.1 The Enquiry Officer issued a show cause notice to the said broker on 10.3.2003, under Regulation 6 of the Enquiry Regulations, delineating the violations alleged to have been committed by them and advised them to show cause as to why appropriate penalty should not be levied on them for the said violations. An opportunity of personal hearing before the Enquiry Officer was also offered. Shri Sanjay Munjal, Director of the said broker, appeared before the Enquiry Officer on 26.5.2003 and sought further time to make submissions. Accordingly, another hearing was granted before the Enquiry Officer on 9.6.2003.

2.2 The Enquiry Officer, after considering the submissions made by the said broker, submitted her report on 10.7.2003, with the recommendation that a major penalty of suspension of certificate of registration for a period of 6 months may be imposed on the broker. In her report, the Enquiry Officer has found that the following violations/irregularities were committed by the said broker:

- i. Non-maintenance of books of accounts other than "All ledger Accounts".
- ii. Non-maintenance of copies or counterfoils of contract notes / confirmation memos issued to clients.
- iii. Non-redressal of investor grievances.
- iv. Dealing as sub broker, without obtaining registration as such.

3.0 SHOW CAUSE NOTICE AND PERSONAL HEARING

3.1 A show cause notice dated 29.7.2003 was issued to the said broker, advising them to show cause as to why appropriate penalty, including penalty as recommended by the Enquiry Officer, should not be imposed on them. The said broker sought an extension of time for submitting a reply to the show cause notice. This request was acceded to by SEBI and the said broker was advised to submit his reply latest by 14.10.2003. The said broker finally submitted his reply to the show cause notice on 28.10.2003.

3.2 In his reply dated 28.10.2003, the said broker had submitted as under:

- (a) The enquiry officer was shown the ledger accounts of the said broker, which included via journal entries, detailed bank book, cash book, journal client ledger, general ledger and details of shares and

securities, even though they were not even trading at OTCEI. The enquiry officer had inferred from the above that these books should have been maintained individually. There is no such mention in Rule 15 of SCRR and Regulation 17 and 18 of SEBI Broker Regulations and on the basis of this enquiry officer had gone on to state that they had violated code of conduct as well.

- (b) They had tried to explain to the enquiry officer that they were not operating on OTCEI as dealers nor were they dealing in any transaction, so there was no need to maintain any contract notes or counterfoils.
- (c) It was obvious that they had in fact redressed the complaint of R.C. Sardana to the best of their ability and offered to pay him what was not even due to him.
- (d) They had not dealt with / as unregistered sub broker or broker. They were registered with OTCEI, LRM Securities Ltd was member of the DSE and Munjal Leasing Ltd was a member of NSE, all duly registered with SEBI.

3.3 An opportunity of personal hearing was granted to the said broker on 18.11.2003. On the said date, the said broker appeared before me and made submissions. Further to the said hearing, the said broker also furnished written submissions on 30.11.2003.

4.0 CONSIDERATION OF ISSUES

4.1 I have taken into consideration the facts and circumstances of the case, the material available on record, including the show cause notices issued to the said broker, the enquiry report, the submissions made by them in reply to the notices and during the hearings and all the documents furnished by them. My findings on the allegations made against the member-broker are as follows :

4.2 **Non maintenance of books of accounts/copies of contract notes/confirmation memos**

4.2.1 I note that the said broker has maintained records such as bank book, cash book, journal client ledger, general ledger and details of shares and securities in a single book. In this regard, the said broker had submitted that although he had not maintained separate books, all details that are required to be maintained under Rule 15 of the SCRR and Regulation 17 and 18 of the Broker Regulations were contained in the book maintained by them.

4.2.2 Regarding non maintenance of copies of contract notes/confirmation memos, the said broker had submitted in their reply that they were not operating on OTCEI as dealers and were not entering into any transactions and hence they did not have to maintain any contract notes or counter foils.

4.2.3 I find that the said broker had not been issuing contract notes or confirmation memos to clients. This has also been submitted by him in his reply.

4.3 **Non-redressal of investor complaints**

4.3.1 I note that the complaint of one of the clients of the said broker, Shri R.C. Sardana, has not been redressed within the stipulated time and continues to be pending. In this regard, the said broker had submitted that they had redressed the complaint to the best of their ability and also offered to pay the complainant an amount over and above what was due to him. They had also suggested that the matter should have been referred to arbitration.

4.3.2 In this regard, the enquiry officer had observed that it may not be possible to invoke the arbitration mechanism of OTC since the said broker had not been granted a trading ID at OTC. The said broker had replied that as per the bye laws of OTC, it was not necessary for a dealer to be issued trading ID, to be subject to the arbitration process at the exchange.

4.3.3 I find that the complaint of Shri R.C. Sardana remains un-redressed. Also, it is not for the said broker to determine whether the client should refer a complaint for arbitration. Rather, the Code of Conduct and Broker Regulations require the brokers to redress all complaints without any delay. Thus, I find that by failing to redress the complaint of R.C.Sardana, the said broker has violated Rule 4(e) of the SEBI (Stock Broker and Sub Broker) Rules, 1992 (hereinafter referred to as the "Broker Rules") and the Code of Conduct for Stock Brokers, as specified in the Brokers Regulations.

4.4 **Dealing as unregistered sub-broker**

4.4.1 I note that the said broker had dealt as a sub broker of LRM Securities Ltd., member, Delhi Stock Exchange and Munjal Leasing Ltd, member, National stock Exchange, on behalf of its clients, without obtaining registration from SEBI to act as such. In this regard, the said broker had merely stated that they had not dealt with/as unregistered sub-brokers and that both LRM Securities and Munjal Leasing Ltd were registered

with SEBI as brokers. I find that the said broker has not offered any explanation as to why they had dealt as sub brokers, without obtaining registration from SEBI. He seems to be of the view that routing the transactions of the clients of one registered broker through another registered broker is in order. However, as per the various circulars issued by SEBI in this regard, a broker of one exchange cannot execute transactions of his clients through the members of other exchanges, unless he is registered as a sub-broker to the broker, through whom the transactions are sought to be executed.

4.4.2 In view of the above, I find that the said broker has acted in violation of the directives of SEBI, issued vide circulars dated 14.3.1996, 31.3.1997 and 16.1.1998, The said broker has also violated the provisions of Section 12 of the SEBI Act, 1992, read with Rule 3 of the Broker Rules and clause A(5) of the Code of Conduct of Stock Brokers, read with Regulation 7 of the Broker Regulations.

4.5 I find that the said broker has :

- i) failed to comply with several requirements in respect of issue of contract notes,
- ii) acted as sub-broker without obtaining registration from SEBI as such,
- iii) failed to redress investor complaints.

4.6 In view of the above, I find that that the penalty of suspension of registration for a period of six months, as recommended by the Enquiry Officer, is adequate, considering the facts and circumstances of the case.

5.0 ORDER

Therefore, I, in exercise of powers conferred on me under Section 19 of the SEBI Act, 1992, read with Regulation 13 (4) of the Enquiry Regulations, do hereby suspend the certificate of registration bearing No. INB200870116 granted to M/s Munjal Online Stock Access, for a period of six months. This Order shall come into effect on the expiry of 21 days from the date of this Order.

Place: Mumbai

Date: June 9th 2004

A K BATRA

Whole Time Member

Securities and Exchange Board of India