

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 MANGAL KESHAV SHARE & STOCK BROKERS LTD, MEMBER, THE STOCK EXCHANGE, MUMBAI, IN THE MATTER OF NATURAL EXPO AGRO INDUSTRIES LTD.****BACKGROUND**

1. M/s. Mangal Keshav Share & Stock Brokers Ltd (formerly known as Mangaldas Keshavlal and hereinafter referred to as "said broker") is a member of The Stock Exchange, Mumbai and is registered with the Securities and Exchange Board of India (hereinafter referred to as "SEBI ") as a stock broker.
2. M/s Natural Expo Agro Industries Ltd. (hereinafter referred to as "NEAL") came out with a public issue in the year 1995 and its shares were listed for trading on the Ahmedabad, Mumbai and Vadodara stock exchanges.
3. SEBI had received complaints regarding delay in transfer of shares by the company and also regarding price manipulation in the company's shares. It was observed by SEBI that the price of NEAL's shares went up from Rs. 22 to Rs. 87 during the book closure period. It was also seen that BSE had levied special margins on the scrip on various occasions and trading in the scrip was also suspended by BSE on 20.11.95, 06.12.95, 05.01.96 and 09.02.96, on account of abnormal price rise.
4. On account of these observations, Chairman, SEBI, ordered investigations into the affairs relating to dealings in the shares of NEAL. Details of trading in the shares of NEAL were called for from the exchanges. It was observed that the said broker had dealt in the shares of NEAL, at BSE, in large quantities.

ENQUIRY PROCEEDINGS

5. In view of the above findings, an enquiry officer was appointed vide order dated 23.11.2000, to conduct an enquiry into the dealings of the said broker in the shares of NEAL and to look into possible violations of the provisions of the SEBI (Stock Brokers and Sub-Brokers) Rules and Regulations, 1992 (hereinafter referred to as 'the said Regulations') and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations,1995 (hereinafter referred to as "the FUTP Regulations").
6. The enquiry officer, after conducting an enquiry as per the procedure laid down under Regulation 28 of the said regulations, submitted a report dated 17th October, 2001 and recommended that a warning be issued to the broker. Pursuant to receipt of the report, a show cause notice dated 25th October, 2001 was issued to the broker, along with a copy of the enquiry report. The said broker was advised that in case his reply to the show cause notice was not received within 21 days from the receipt of the notice, it would be presumed that he had nothing to say in the matter and SEBI would be free to take such action as deemed fit. A reply was received from the broker, wherein he had inter alia made the following submissions :
 - i. The volume of business handled by them in case of NEAL was miniscule as compared to their total business.
 - ii. A broker is not in a position to nor is required to check and verify and investigate the intentions of his clients.
 - iii. The said broker also submitted that he did not wish to avail the opportunity of personal hearing before SEBI.

FINDINGS

7. I am convinced that adequate opportunities have been provided to the said broker to make his submissions with respect to the allegations made against him. Hence, I proceed on the basis of the material available on record, including the enquiry report, the contents of the show cause notice and the submissions made by the said broker.
8. Natural Expo Agro Industries Ltd (NEAL) came out with a Public Issue of Rs. 275 lacs in February-March, 1996, in order to part-finance the project for manufacturing Jaquard Woven Furnishing and Curtain Fabrics. The shares of the company were thereafter listed on the stock exchanges at Ahmedabad, Mumbai and Vadodara.
9. SEBI received complaints regarding delay in transfer of shares and price manipulation in the shares of NEAL. Preliminary enquiries by SEBI revealed that there was delay in transfer of shares as well as in dispatch of the shares after transfer. Further, it was observed that the price of the scrip of NEAL went up from Rs.22/- to Rs.87/- during the book closure period, on account of which The stock exchange, Mumbai (BSE) levied special margins on various dates upto a level of Rs.27/- on various occasions and the trading in the scrip was suspended by BSE for a day each on 20.11.1995, 6.12.1995, 5.1.1996 and 9.2.1996 due to abnormal price rise.

10. Chairman, SEBI, ordered investigations in the case to inquire into the affairs relating to dealing in shares in respect of Public Issue of NEAL. The details of trading in the NEAL scrip were obtained from BSE and ASE by SEBI.
11. The shares of NEAL had listed on BSE at Rs.19/- on 07.03.95. The share price went up to Rs.50/- on 18.07.95. After being in the range of Rs.30/- to Rs.50/- till 01.09.95, the price fell to Rs.15/- on 18.09.95. It varied in the range of Rs.26/- and Rs.50/- between 25.09.95 and 8.12.95. The opening price on 04.01.96 was Rs.48/-. Thereafter, the price of the scrip showed an increasing trend and went up to Rs.88.75 on 20.02.96, from where it showed a continuous downtrend to end at Rs.9.25 on 13.05.96.
12. From the details obtained from BSE it was seen that the said broker was one of the major brokers who had dealt in the scrip of NEAL.
13. The said broker has submitted that he had traded in the shares of NEAL, on BSE, for its clients Galav and Raj Investments. Raj Investments had stated to SEBI that they had traded in the scrip of NEAL in the name of Galav, which was found to be a front entity of one Mr. D.K. Dalal, who was found to have traded heavily in the shares of NEAL.
14. The dealings of the broker for these 2 entities were as follows :

Entity	Sett. No.	Buy	Sell	Net
Galav	18	4700	100	4600
	19	77400	82000	-4600
	20	10500	10500	0
	21	271700	271700	0
	22	274200	212600	61600
	23	93100	47400	45700
	24	3600	0	3600
	74	400	0	400
	78	32300	0	32300
	Total	767900	624300	143600
Raj Inv	21	4100	0	4100
	22	13200	13200	0
	23	7700	0	7700
	77	13200	0	13200
	Total	38200	13200	25000

I have observed that the said broker has not commented on the above transactions except for stating that their net dealings in the NEAL scrip for both the entities were 168600 shares in 10 settlements and assuming an average price between Rs.35-50 per share, the total value of their dealings would be around Rs.59-85 lacs, which was by no means an abnormally large dealings by them on behalf of their clients.

15. SEBI investigations into the dealings in the shares of NEAL had revealed that one Shri Devendra Kantilal Dalal had been dealing in the shares of NEAL through Galav and that the finances for these dealings were mostly routed through one M/s Vrushti Financial Services Ltd., a fact that has been confirmed by Vrushti to SEBI investigation team. The dealings of the said broker showed that he had also dealt for Galav and had also made the deliveries for Galav at the address of Vrushti Financial Services Ltd. (whose contact person was one Shri Devendra Kantilal Shah), where the deliveries were received by one Shri Jayesh Thakkar. Hence, it was alleged that the said broker had dealt for Shri D K Dalal (a broker of ASE, who had been declared a defaulter by the exchange), in violation of bye-law 358(vi) of the BSE Bye-laws, which is in turn a violation of Clause A(5) of the Code of Conduct prescribed in Schedule II of the said regulations.
16. It is also alleged that the said broker had facilitated the cornering of stock of NEAL and manipulated the shares price of NEAL, through buying and selling for DK Dalal in large volumes and had this abetted D K Dalal in manipulating the price of the scrip, in violation of regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.
17. With respect to the above allegations, I have noted that the said broker has inter alia made the following submissions :
 - i. They had traded in the shares of NEAL for both Raj Investments and Galav. However, they had no knowledge of Raj Investments having traded for Galav, as submitted by Raj Investments to SEBI. The said broker had further submitted that their dealings were restricted to execution of orders on behalf of their clients Galav and Raj Investments.
 - ii. As regards dealing for Shri DK Dalal was concerned, they had stated that they had traded for Galav, whose deliveries were given at the address of Vrushti Financial Services, where the contact person was Shri D K Shah. They denied having dealt with any D K Dalal. They further stated that they had neither knowledge nor the reasons to find out the dealings of Galav with any persons and more particularly Mr. D.K. Dalal, in the matter of either shares or funds.
 - iii. As regards the allegation that all the deliveries made by them to Galav being received by one Shri Jayesh Thakkar at Vrushti, they had submitted that this was done at the behest of Shri D K Shah. They further stated that on the

request of Shri Shah they had once given deliveries to Mr. Jayesh Thakker and an entity called Tarang Securities. They further submitted that they had no reason to know or inquire about the antecedents of these two entities, since Shri D K Shah, their contact person for deliveries on behalf of Galav had never raised any disputes in this regard.

- iv. They re-iterated that they were dealing with Galav and Mr Devendra Kantilal Shah in the said matter and not with any Mr D K Dalal. They further added that since they had not dealt with DK Dalal, a broker of ASE who was declared defaulter by ASE, they had NOT violated the bye-law 358 (vi) of the Stock Exchange, Mumbai or Clause A (5) of the Code of Conduct prescribed in Schedule II of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992.

18. I note that the said broker had, in response to the above allegations, denied having facilitated the cornering of stocks in NEAL and/or manipulating the price of the scrip through buying and selling for D K Dalal in large volumes, as they had not dealt with any D.K. Dalal. They had stated that their dealings with Galav in the NEAL scrip spread over 9 settlements were : Buy -7,67,900 shares, Sell - 6,24,300 shares and Net - 1,43,600 shares compared to the 1,09,96,800 shares which were issued, subscribed & paid-up. Further their volumes of dealings in the scrip of NEAL were for and on behalf of their clients, and they had no personal trading in the scrip.

19. I note that the said broker had stated that they had dealt in the scrip of NEAL for and on behalf of their client Galav. The details of monies received are given herein below :

DATE	AMOUNT	NAME OF BANK	BRANCH	CHEQUE/DD NO.
12.01.96	153025.00	CENTRAL BANK	AHMEDABAD	31402
05.02.96	900000.00	CENTRAL BANK	AHMEDABAD	32195
05.02.96	300000.00	CENTRAL BANK	AHMEDABAD	32197
05.02.96	900000.00	CENTRAL BANK	AHMEDABAD	32194
05.02.96	875000.00	CENTRAL BANK	AHMEDABAD	32196
	2975000.00			
09.03.96	2000000.00	BANK OF INDIA	AHMEDABAD	113706 (RECEIVED FROM TARANG SECURITIES)

DETAILS OF KAPLI (CREDIT NOTE) RECEIVED

DATE	AMOUNT	NAME OF BROKER
01.03.96	3000000.00	SUBHASH V. SHAH MEMBER OF THE STOCK EXCHANGE, MUMBAI, CLEARING NO.747

I have noted that between 12.1.96 and 5.2.96, the member has received 5 DD's drawn on Central Bank of India, Ahmedabad totaling to Rs.29,75,000/- Once, the said broker received a payment of Rs.20,00,000/- from Tarang Securities and a Kapli of Rs.30,00,000/- from another BSE member Subhash V Shah, both on behalf of their clients.

20. Regarding the credit note received from Subhash Shah, the said broker submitted during the hearing that their client had a pay-in at their end and a payout at Subhash V Shah. Hence, the client orally requested them to accept the Kapli as time would be lost if the client has to first encash the cheque received from Subhash V Shah and then make the payment to the member. Regarding the payment from Tarang, the said broker submitted that on repeated follow-up for their payment, Shri D.K. Shah sent this cheque for Rs.20.00 lacs of Bank of India which was honoured by the bank, for which they had credited the account of Galav. There was no reason to inquire into the antecedents of Tarang. There have been no claims/disputes for the said monies received by them and credited to the account of Galav.

21. I find that the said broker has been accepting third party delivery instructions from the clients. They have been making deliveries for trades done for Galav and Raj investments at Vrushti Financial Services, where they were dealing with Shri D K Shah. I also find that they have been accepting payments from third parties, for transactions of their clients. Admittedly, the clients or the third parties never raised any disputes regarding these payments or deliveries. The said broker had submitted that acceptance of oral instructions is more in the nature of industrial practice rather than negligence on their part.

22. However, I find that this behaviour of their clients should have raised some doubts in the mind of the member about the intentions of their clients. It is seen that the member did not have any such suspicion. All these third party deliveries were given on oral instructions from the clients.

23. I have noted the broker's contention that they had dealt with one Shri Devendra Kantilal Shah, as against the revelations of the SEBI investigations regarding the said broker having had dealt for Shri Devendra Kantilal Dalal, a member of ASE who was declared defaulter by ASE. In this connection, the member submitted that they had not dealt with any Shri D.K. Dalal, Member ASE and have dealt with only Shri Devendra Kantilal Shah who was their client. I find that there is no direct evidence on record to show that the member had dealt for Shri D.K. Dalal. There is also no evidence on record to show that the member could have known about the fact that the main person behind these operations was Shri D.K. Dalal. At the

same time, I also note that the member has also not produced any documents to show that they had dealt for Shri D.K. Shah and not D.K. Dalal. I would have expected the said broker to produce some document which shows the name or signature of Shri D.K. Dalal or D.K. Shah. In view of the lack of clarity on this issue, I am not able to conclude whether the member had dealt for D.K. Dalal or D.K. Shah.

24. However, the fact remains that the said member could not produce the member-client agreement with these clients, claiming that the matter was very old and they were not able to trace these documents. This document would have provided some clue as to whether the member had dealt for Shri D.K. Dalal or Shri D.K. Shah. As per the said Regulations (Regulation 17) a broker is supposed to maintain all the documents for a period of 5 years. The transactions under consideration in this case took place in January 96 and as such the documents should have been preserved till Jan 2001, a date much after commencement of SEBI investigations. I find that the member-client agreement has not been listed in the said Regulations. However, in keeping with the spirit of Regulations, the member should have preserved the agreement.
25. I find that the allegation that the member abetted manipulation in the price of the scrip of NEAL would have held good, if the allegation that they had done the transactions on behalf of Shri Devendra K Dalal, an ex-member of ASE, who was declared defaulter by ASE, has been substantiated. However, in the absence of any evidence to substantiate the latter, I hold the former allegation also as "not substantiated".
26. However, with respect to my observations at point 21 above, I am not convinced with the reply of the broker in as much as the role of the broker in acting on the basis of the client's oral instructions to make third party deliveries, accepting third party's cheques (and credit notes) are not in the best interest of broking business and the same are not healthy practices. To that extent I find that the member did not exercise due care and diligence in the conduct of their business. Hence, I am of the view that a warning ought to be issued to the said broker on this count.

ORDER

27. Therefore, in exercise of the powers conferred upon me by virtue of Section 19, read with Regulation 13(4) of SEBI (Procedure For Holding Enquiry By Enquiry Officer And Imposing Penalty) Regulations, 2002, I hereby pass an order issuing a warning to M/s Mangal Keshav Share & Stock Brokers Ltd, to the effect that the broker should be careful in future and exercise due care and diligence in the conduct of his affairs as a capital market intermediary.

PLACE : MUMBAI

DATE:31.08.2004

A.K.BATRA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA