

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 SPARTEK FINANCIERS AND INVESTMENT PVT. LTD.****1.0 BACKGROUND**

1.1 Spartek Financiers and Investment Pvt. Ltd. (hereinafter referred to as the Broker) is a member of the Calcutta Stock Exchange (hereinafter referred to as CSE) and is registered with the Securities and Exchange Board of India (hereinafter referred to as SEBI) vide registration no. INB031136139.

1.2 An investigation was conducted in the matter of buying, selling and dealing in the scrip of Offshore Finvest Ltd. (OFL). Investigation, inter alia, revealed that the Broker has played a role in the alleged price manipulation in the scrip of OFL and pursuant to the findings of the investigation, in terms of Regulation 5(1) of SEBI(Procedure for Holding enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as "the said Regulations") read with Regulation 13 of SEBI(Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 [hereinafter referred to as SEBI (FUTP) Regulations]an Enquiry Officer was appointed vide order dated 17.07.03 to enquire into the alleged contravention, if any, 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 21.07.2004.

2.2 The Enquiry Officer found that the Broker has entered into cross deals and the buy and sell orders were matched in terms of order quantity, price and the time of punching orders and hence were irregular and defeated the purpose of normal order matching system in the price discovery mechanism in the Exchanges and is violative of Regulation 4 of SEBI (FUTP) Regulations, 1995. However, in so far as maintenance of client database and client registration form by the Broker, the Enquiry Officer was of the view that violations of SEBI Circulars No. SMD/POLICY/IECG/1-97 dated 11/02/1997 and No. SMD/POLICY/CIR/5-97 dated 11/04/1997 by the Broker are not established. In the light of the above, the Enquiry Officer recommended a minor penalty of the suspension of the certificate of registration of the Broker for a period of 15 days.

3.0 SHOW-CAUSE NOTICE AND HEARING :

3.1 Pursuant to the above a Show Cause Notice dated 30.07.2004 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.

4.0 REPLY TO THE SHOW CAUSE NOTICE :

4.1 The broker submitted a reply vide letter dated 16.08.2004 stating that :

- a. they have executed the trades ordered by their registered clients at the prevailing market price and it has in no way resulted in price rigging or price manipulation.
- b. the difference between the higher and the lower price traded by the Broker between 28.08.2001 to 30.10.01 was just about Rs. 1.90, which means they were not indulged in any act which resulted in reflection of prices of securities as not genuine.
- c. the fact that buyer and seller belonged to the same group was a coincidence and due to time constraint it's difficult to know the intention of the clients each time on receiving orders to be executed on the exchange and further there was nothing abnormal so as to arouse suspicion about the genuineness of the transaction.
- d. the trades were executed in the normal course of business and even a minor penalty would tarnish their business profile and hence pleaded a lenient view 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 I find that between July 2001 and October 2001 there was unusual movement in the prices and volumes traded in the scrip of OFL. As a result of price manipulation the price of the scrip had shot up from Rs.15.70 to Rs.50.95 between Settlement No.2002117 and No.2002121 with low volumes. The price increased to Rs.70.50 in Settlement No.2002127 along with increase in volumes also.

The total volume of OFL traded at CSE between settlement numbers 2002115 and 2002129 was 15,49,400 shares. Out of this 14,44,400 shares, constituting 93.22% of the volumes were traded through three members, including the

Broker.

The Broker had traded in 1,40,000 shares of OFL between Settlement No.20002123 and No.2002125 constituting 9.04% of the total volumes. It is alleged that the entire volumes of transactions were executed by way of matching transactions by which the order quantity, price and time were matched with both buying and selling client belonging to the Broker. These cross deals were executed through the same terminal.

The details of such transactions are as under:-

OrderNo	Qty	Price	BuyOrSell	TraderDate	Trade time	MemberName
Settlement no2002123 (27/8/2001 – 31/8/2001)						
31609909	10000	69.3	S	29/08/2001	2:47:48 PM	SFIL
31609913	10000	69.3	B	29/08/2001	2:47:48 PM	SFIL
31609928	10000	69	S	29/08/2001	2:49:31 PM	SFIL
31609933	10000	69	B	29/08/2001	2:49:31 PM	SFIL
Settlement no 2002124 (3/9/2001 – 7/9/2001)						
31620560	10000	69.8	S	5/9/2001	12:31:03 PM	SFIL
31620607	10000	69.8	B	5/9/2001	12:31:03PM	SFIL
31623039	10000	70	S	6/9/2001	2:50:27 PM	SFIL
31623086	10000	70	B	6/9/2001	2:50:27 PM	SFIL
Settlement no 2002125 (10/9/2001 – 14/9/2001)						
31626600	10000	70	S	10/9/2001	2:41:34 PM	SFIL
31626605	10000	70.1	S	10/9/2001	2:46:58 PM	SFIL
31626642	10000	70.2	S	10/9/2001	2:48:30 PM	SFIL
31626650	10000	70	B	10/9/2001	2:41:34 PM	SFIL
31626694	10000	70.1	B	10/9/2001	2:46:58 PM	SFIL
31626705	10000	70.2	B	10/9/2001	2:48:30 PM	SFIL

The above transactions were cross deals wherein both the buyer and the seller belonged to the same Broker. The orders were also executed through the same terminal. The ordered quantity, price and time were matched and there was no delivery obligation to the Exchange.

I find that there have been substantial number of transactions in which the order quantity, the price and the order time were completely matched. Since the buy quantity and sell quantity of the Broker were matched, there was no obligation for delivery to the Exchange. Both the buying and selling clients belong to the Broker who had entered buy and sell orders for the same quantity of shares almost simultaneously.

The value and volume of such transactions are also quite high. Mr. Binod Kumar Singh of the Broker vide his statement dated 22/07/2002 had submitted that Dindayal Poddar, Mahesh Poddar, Shiv Bhagwan Poddar were placing orders on behalf of the Poddar group who were his clients and they were introduced by Shri Annad Kumar Garg. In the aforesaid transactions both the buyer and the seller belonged to the Poddar family. In view of the frequent churning of the shares amongst the members of the same family who acted as clients to the broker and often appeared on both buy and sell side, the Broker should have exercised due diligence and questioned the clients on these type of transactions.

5.3 I further find that transactions wherein the buy and sell orders were entered as cross deals and matched in terms of order quantity, price and the time of punching orders are highly irregular and defeat the purpose of normal order matching system in the price discovery mechanism in the Exchanges and would also be in violation of Regulation of 4 of SEBI (FUTP) Regulations, 1995.

5.4 I note that the steep increase in the price had occurred between settlements 2002117 and 2002121 when the price had moved from Rs.15.70 to Rs.50.95 with negligible volumes. However, it may be seen that the Broker had traded in the scrip between 28/8/2001 and 30/10/2001 in the price range of Rs.69 and Rs.70.90 when the difference

between the higher and lower range was just Rs.1.90. This is considered as a mitigating factor. Further there is no evidence to suggest that the Broker had also traded in settlement No.2002127 when the price had increased. Although, the conduct of the Broker in executing the matched transactions are irregular for the reasons stated above, in view of the fact that his dealings in the scrip were between Rs.69 and Rs.70.90 only and the Broker being not present in other settlements when there was price rise, benefit of doubt can be given to the Broker.

5.5 As far as maintenance of client database and client registration form is concerned, I find that the Broker had already submitted the same to the stock exchange vide his letter dated 18/1/2002, a copy of which was filed by him. Similarly, copies of client registration form were also submitted to the Exchange vide letter dated 12/12/2001, a copy of which was also filed by him. In view of the above, the violations of SEBI Circular dated 11/2/1997 and 11/4/1997 are not established.

6.0 ORDER

6.1 In View of the above and considering the gravity of the charges, a minor

penalty of suspension of the certificate of registration of the Broker for a period of 15 days would be adequate. Therefore, I , in exercise of the powers conferred upon me in terms of Section 4(3) of the SEBI Act, 1992 read with Regulation 13(4) of SEBI (Procedure for holding Enquiry by Enquiry Officer and Imposing penalty) Regulations, 2002, hereby suspend the certificate of registration of Spartek Financiers and Investment Ltd. for a period of 15 days.

6.2 This order shall come into effect after the expiry of 21 days from the date of this order.

DATE : September 20, 2004
PLACE : MUMBAI

G. N.BAJPAI
CHAIRMAN
SECURITIES AND EXCHANGE BOARD OF INDIA