

ORDER AGAINST M/s DAGLIYA CONSULTANTS PVT LTD., MEMBER BANGALORE STOCK EXCHANGE, SEBI REGISTRATION NO. INB081033533 UNDER REGULATION 13(4) SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 FOR THE IRREGULAR TRANSACTIONS IN THE SCRIP OF HOME TRADE LTD.

WTM/GA/15/ISD/9/05

1.0 BACK GROUND

1.1. M/s Dagliya Consultants Pvt Ltd (hereinafter referred to as the ‘ said broker’) is a member of the Bangalore Stock Exchange (hereinafter referred to as ‘BgSE’) and is registered with the Securities and Exchange Board of India (hereinafter referred to as ‘SEBI’) as a Stock broker under Section 12 of SEBI Act, 1992 with Registration Number INB 081033533.

1.2. The scrip of Home Trade Ltd.(HTL) was listed at Pune Stock Exchange(PSE) and Bangalore Stock Exchange(BgSE). The scrip was listed at Pune Stock Exchange on November 15, 1999 at Rs 250/- and at BgSE on November 16, 1999 at Rs.275. There was a very sharp price rise in the scrip both at PSE and BgSE. The prices reached Rs.315 within two weeks i.e. by December 06, 1999. Thereafter, there has been a burgeoning increase in the prices of the scrip as under:

Date	Price in Rupees
December 30, 1999	525.00
January 31, 2000	735.00
March 31, 2000	809.00
April 31, 2000	825.25

The maximum rise in the price of the scrip took place between 16th Nov 1999 and 31st March 2000 when the price moved from Rs.275 to Rs.815/-. Thereafter the price fell to Rs. 640/- in September 25, 2000. Subsequently, the face value of the shares changed to Rs. 2/- and the price went up from a level of Rs. 123/- on September 26, 2000 to Rs. 171/- during February 2001. The scrip



SECURITIES AND EXCHANGE BOARD OF INDIA

continued to trade at around Rs. 150/- till September 14, 2001 and thereafter in the range of Rs. 170/- till January 2002.

1.3 Thus during the period of investigation i.e. November 1999 to March 2001 (hereinafter referred to as the period under consideration), three different periods of trading were identified as follows :

a. November 16, 1999 – March 31, 2000

Member Name	Gross Purchase	Gross Sales	% to the total buy volume at the exchange	% to the total sell volume at the exchange
Sakurthi Finvest	46,800	48,200	24.50	25.24
Swagath Sec.	34,300	34,100	17.96	17.85
Dagaliya Consultants	26,700	29,500	13.98	15.45
ICDS Sec.	23,800	23,700	12.46	12.41
M's Sec.	16,800	16,200	8.80	8.48
First Sec.	15,800	15,700	8.27	8.22
Total	1,64,200	1,67,400	85.97	87.65

The above six brokers contributed more than 85% of the total volume in the scrip of HTL during the above period when there was a maximum rise in the price of the scrip from Rs. 275/- to Rs. 815/-.

b. April 01, 2000 – March 31, 2001

Broker	Buy Qty	% buy to total vol. at exchange Sales	Sell qty	% Sell to total qty at exchange
M's Securities	161940	18.89	163450	19.07
Sakurthi Finvest	137200	17.31	132950	16.85
Harikrishna Stocks	119450	15.09	122250	15.36
Swagath Securities	119350	14.71	116250	14.32
Gayathri Securities	99600	13.01	99800	13.03
Dagaliya Consultants	77600	9.24	77850	9.25
Eco Stock Wycare	33000	4.07	33000	4.13
Uday Stocks	30500	4.11	31400	4.17
Marlecha Securities	23300	2.72	23300	2.72
	849840	99.15%	847620	98.89%

During the above period, the above nine brokers contributed more than 99% trading volume in the scrip of HTL at BgSE.

c. April 01, 2001 – December 31, 2001



SECURITIES AND EXCHANGE BOARD OF INDIA

Broker	Buy Qty	% buy to total vol. at exchange	Sell qty	% sell to total qty at exchange
Ganesh Stocks	48120	16.52	47370	16.26
Nereyeth Securities	46550		45950	15.77
Prasidhi Marketing	37850	13.00	37950	13.03
Indavra Securities	34950	12.00	34851	11.96
Hexagon Capital	34850	11.96	34801	11.94
M's Sec.	22900	7.86	23090	7.93
Dagaliya Consultants	18450	6.33	18700	6.42
Sakurthi Finvest	16985	5.83	14650	5.03
Gayathri Sec	14600	5.01	14600	5.01
Swagath Sec.	119000	4.08	11900	4.08
Total		98.57		97.43

During the period, the above ten brokers contributed more than 98% of the trading volume in the scrip of HTL at BgSE.

- 1.4 Investigation was conducted by SEBI into the affairs of buying, selling and dealings in the scrip of HTL by the members of PSE and BgSE including the said broker under the provisions of SEBI Act and its regulations. Investigations revealed that a set of brokers at PSE and BgSE including the said broker were involved in creation of abnormally high volumes, circular trading, price manipulation and false markets thereby contravening the provisions of SEBI Act and regulations including SEBI (Stock Brokers and Sub-brokers) Regulations, 1992. Investigation brought out the role played by these brokers including the said broker in price rise during the period of investigation through a phalanx of clients introduced by the itinerant and trusted employees of HTL. It was also alleged that the broker failed to observe the 'Know Your Client' norms.

2.0 APPOINTMENT OF ENQUIRY OFFICER

- 2.1 On completion of investigations, enquiry officer was appointed vide order dated November 27, 2002 under Regulation 5(1) of SEBI (Procedure for Holding enquiry by enquiry officer and imposing penalty) Regulations, 2002 to enquire into the alleged irregular transactions of the broker in the scrip of HTL.
- 2.2 I have noted that a Show Cause Notice encompassing alleged violation of Clause A(2), A (3-4) and B(1) of Schedule II under Regulation 7 of SEBI (Stock



SECURITIES AND EXCHANGE BOARD OF INDIA

Brokers and Sub Brokers) Regulations 1992; Clauses (a), (b), and (c) of Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair trade Practices relating to Securities Market) Regulations 1995 was issued to the Broker under Regulation 6 (1) of the regulation, payment not being made and received by the clients, by the enquiry officer and that the broker submitted his reply and appeared for personal hearing. The enquiry officer conducted the enquiry in terms of the regulation and the broker was given a fair and reasonable opportunity to make his submissions.

- 2.3 After considering the reply and the submissions made, the Enquiry officer submitted his report dated October 20, 2004. The Enquiry Officer observed that the broker contributed significantly to the traded volumes during the period under consideration in the scrip of HTL for clients viz. Prakash Patil, Dharmesh Sheth, Axiz Financial Services and Ashok Taleshra from Mumbai, who were strangers and were introduced for the first time by Mr. Rajneesh an employee of HTL. Further, the broker did not assess their financial capabilities and networth while failing to exercise due diligence in admitting the clients. The Enquiry Officer recommended a minor penalty of 'suspension of Certificate of Registration for a period of two months under regulation 13(1) (a) (iv) of the regulation.

3.0 CONSIDERATION OF THE ENQUIRY REPORT

- 3.1 After considering the Enquiry report, a Show Cause notice dated October 29, 2004 under regulation 13(2) of the regulation was issued to the Broker enclosing therewith a copy of the Enquiry Report. The broker submitted his reply and comments on the enquiry report vide letter dated November 13, 2004 and further appeared for personal hearing on February 11, 2005 and made oral submissions.
- 3.2 The details of purchase and sale by the broker in the scrip of HTL are given as under:



SECURITIES AND EXCHANGE BOARD OF INDIA

Period	Gross Purchases	Gross Sales	% to the total buy volume at the Exchange	% to the total sell volume at the Exchange
16-11-99 to 31-3-00	26,700	29,500	13.98	15.45
1-4-00 to 31-3-01	77,600	77,850	9.24	9.25
1-4-01 to 31-12-01	18,450	18,700	6.33	6.42

There was no dispute that the broker executed trades for the following clients in the scrip of HTL.

- 1) Prakesh Patil
- 2) Dharmesh Sheth
- 3) Axis Financial Services
- 4) Shri Ashok Taleshra

The trading details of these clients for the period from **Nov'99** to **March'00** when the price rise was rapid are as under:

Client	Gross buy	%gross buy to the total buy position of the broker	Gross sell	% gross sell to the total sell position of the broker
Prakash Patil	3,700	13.86	3,700	12.54
Dharmesh Sheth	5,200	19.48	5,700	19.32
Axis Financial	4,900	18.35	4,900	16.61
Ashok Taleshra	8,800	32.96	8,800	29.83
Own account	2,400	8.99	2,400	8.14

The trading details of these clients for the period from **April '00** to **March'01** are as under:

Client	Gross buy	Gross sell
Prakash Patil	11,200	11,200
Dharmesh Sheth	14,300	14,000
Axis Financial	32,000	31,750
Ashok Taleshra	11,300	11,300

For Axis Financial Services, the broker had purchased 18,450 shares and sold 18,700 shares from April'01 to December'01.

3.3 From the statement dated 3.9.02 of Shri Avinash Dagliya; Director of the M/s Dagliya Consultants, it transpires that :

- 1) The clients called up from Mumbai.
- 2) They wanted to deal only in the scrip of HTL.



- 3) The clients were not known to the broker except for Shri Ashok Taleshra, who was the brother of his neighbour Shri Hemendra Taleshra. It was stated by the broker that Hemendra Taleshra was accompanied by Shri Rajneesh at his residence. It is relevant to note that Shri Rajneesh is the employee of HTL.
- 4) The broker obtained the client introduction forms after commencing the trades.
- 5) There was no evidence to suggest that the clients have traded in any other scrip.

It was not disputed that all these clients were outstation clients (viz. Mumbai), and that they traded only in the scrip of HTL. On perusal of some of the KYC forms, subsequently obtained by the broker, lots of deficiencies were noticed in the said forms particularly, with regard to introduction and the network of the clients. The introduction column was blank in all the forms. It, therefore, cannot be said that the broker had acted in good faith and with due diligence before the commencement of trading for these clients. The client's trades appear to be in excess of their financial capabilities. Obtaining client registration form, in itself, is not a sufficient proof to suggest that the broker had acted diligently. Before executing series of transactions for his clients, any prudent broker would have ascertained the credentials and antecedents including the circumstances of their coming to trade at BgSE and further would have assessed the financial capabilities for whom he is trading. Further, before giving exposure to the client, a broker is bound to ensure the capacity of his client through parameters such as financial network etc.

- 3.4 In this connection, it would be relevant to refer to the order of the Hon'ble SAT in Madhukar Sheth Vs SEBI (Appeal No.46 of 2002). The following is extracted from the said order dated 18th September 2003:

“Before executing series of transactions for his client, any prudent broker would have gone a bit far to ascertain the goings around and also would have normally assessed the financial capability of the person for whom he was trading.....”



.....The Appellant's submission that he had taken client registration form, entered into agreement etc.by itself was not sufficient. Exercise of due diligence in ongoing transactions is a continuous process and it is not a one time measure to be adhered to while taking up the first transaction. The appellant's submission that it was B's dishonesty that created the problem did not absolve him of his failure to discharge his duties as a prudent broker.....

.....On the basis of the material available on record, it was difficult to conclude that the appellant had exercised due skill and care in dealing with 'B'. It was not that the appellant had carried on only few trade transactions for 'B' for a short period. He had transacted in huge volumes for 'B' and the association dated back to August 2000. If the appellant could not see any design or pattern in the transactions which 'B' was executing through the appellant during the period, then the appellant certainly deserved to be blamed for being indifferent and unconcerned and for that reason he was at fault for the failure to exercise due skill and diligence.....

.....It is true that a broker cannot act of his own against the instructions of the client. But no one can compel him to be a party to manipulate the market. No doubt a broker is supposed to protect the interest of his client, but he is also expected to protect the interest of the securities market in which he operates. It is his duty to ensure not to be a party to any market manipulation and that the market in which he operates is run on a health and non-manipulative basis."

- 3.5 From the materials on record, it emerges that all the clients were relatively new and hailed from far off place like Mumbai. Further, these clients traded significantly only in the scrip of HTL and contributed almost 14% of the volume traded at BgSE accompanied with a huge surge in price. Thus the trades executed by the broker for his clients are exorbitant and appear to be not innocuous transactions but one meant to rig the market as would be evident from the concentrated volume and sharp movement of price. It, therefore, cannot be said that the broker acted in good faith and with due diligence before considering of trading for these clients.



- 3.6 Considering the materiality of circumstances in their pith and essence and also in the context of what was happening in the market contemporaneously in relation to the scrip of HTL, the plea of innocence is not open to the broker, as he was fully aware of the goings on in the market and the manner in which the clients from a far away Mumbai were planted by the itinerant and the trusted employees of HTL in a manifest bid to jack up the price of HTL shares at Bangalore Stock Exchange. The sequence of material happenings as adumbrated supra clearly establishes that the broker was part of the tout ensemble operating in the market to create a make believe volume and equally ensnaring price rise in the scrip. The factual matrix of the present case has to be appraised in the back drop of what was happening in the market in its murky dynamics as captured above and not in isolation, in as much as the named brokers allowed themselves to be used as a cat's paw by the wily employees of HTL for obvious market manipulation and this thread runs through and underpins the entire gamut of transactions that took place in Bangalore Stock Exchange in the course of creating artificial market for HTL shares. In the brood of such material circumstances with their insightful portents as to the conduct of the market intermediaries playing the game at the behest of HTL employees, giving a short shrift to the time-tested and mandated requirements of KYC norms, due diligence, verification of financial capabilities and net worth of clients and a host of other reality checks meant to impart transparency and integrity to the market operations against any manipulative assemblage, the inexorable downside cannot be conjured away on the specious plea that the trade executed by the broker constituted a small proportion of the total trade. Any truncated view in such an extraordinary situation detracts a great deal from the gravity of irregularity, when the entire crafty and deceptive exercise of creating artificial market is seen as a whole, in all its manifestations, and with all the attendant consequences.
- 3.7 The trades by the broker constituted a significant percentage of the volumes at the exchange immediately after listing and during the period when there was unusual price rise in the scrip without change in economic fundamentals of the company.



SECURITIES AND EXCHANGE BOARD OF INDIA

The standard of proof required in a proceeding of this nature is at variance with the standard of proof required in criminal cases. It is sufficient if the preponderance of probabilities suggests towards the indulgence of the delinquent in the misconduct. The strict rules of Evidence Act and proof beyond reasonable doubt are not applicable to a proceeding of this nature. The Supreme Court's decision in Gulabchand vs Kudilal AIR, 1966, SC 1734 and the decision of the Special Court for trial of offences relating to transactions in securities in the matter of National Housing Bank versus ANZ Grindlays Bank, 1998 (2) LJ 153 is relied upon in this regard.

- 3.8 I note that the broker has executed off market trades in violation of SEBI circular no. SMDRP/POLICY/Cir-32/99 dated 14.09.1999 whereby all the trades shall be routed through the screen of the exchange in the price and order matching mechanism. The broker has admitted that the undermentioned off-market trades were done outside the normal exchange mechanism.

Date	Buyer	Seller	Qty
18.01.00	Swagath Securities	Ashok Kumar Khandelwal	100
31.01.00	Rajkamal Dagliya	Swagath Securities	100
31.01.00	Ashok Kumar Khandelwal	Swagath Securities	100
01.02.00	Swagath Securities	Rajkamal Dagliya	100
01.02.00	Swagath Securities	Ashok Kumar Khandelwal	100
07.02.00	Ashok Kumar Khandelwal	Swagath Securities	100
07.02.00	Rajkamal Dagliya	Swagath Securities	100
08.02.00	Swagath Securities	Rajkamal Dagliya	100

- 3.9 The broker vide his reply dated 13.11.2004 reiterated his earlier submissions before the Enquiry Officer as follows:

- Broker's trades in the scrip of HTL amounts only 1% of his total business.
- Broker has no proof to establish that the clients called up from Mumbai.



SECURITIES AND EXCHANGE BOARD OF INDIA

- c) The broker did not suspect the client's intention in trading through him in Bangalore since HTL scrip was not listed in BSE and NSE and the volumes traded were negligible. Clients did not trade in other scrip due to the same reason that those other scrips were listed in BSE and NSE.
- d) It is admitted that the broker did not know his clients except Sri Ashok Taleshra, who was personally known to the broker.
- e) Broker denied the finding that there had been delay in obtaining client introduction forms in all cases, it was stated that delay occurred in case of only two clients and during the period of delay the broker did only minuscule transactions for the clients.
- f) The broker denied that there were deficiencies in the KYC forms.
- g) Broker admitted that 700 shares were transferred by off market trades and the trade was not reported to the exchange since broker considered the same as a small volume.

During the personal hearing held on 11-02-2005 the broker contended that the finding regarding deficiencies in the KYC forms are not correct. But when it was specifically pointed out to the broker that in KYC form columns provided for PAN, address of the client and column details of the introducer were left blank, the broker admitted that the findings are correct. The broker also admitted the finding in the Enquiry Report that he undertook prohibited transactions in the off market and further assured that he would comply with the regulations in future.

- 3.10 I note that while recommending the minor penalty of suspension of certificate of registration for a period of two months, the enquiry officer has considered the submissions made by the broker during the course of hearing. Therefore, I agree with the recommendations of the Enquiry Officer that the trades executed by the broker for the clients, who were introduced by an employee of HTL, resulted in abnormally high volumes of over 14% traded at BgSE during



SECURITIES AND EXCHANGE BOARD OF INDIA

the period under consideration. This led to the creation of false market in the scrip of HTL coupled with surge in price of HTL. Further, failure of the broker to exercise due care and diligence in his dealings with the clients, who were introduced by the employees of HTL, allowed excessive speculation and creation of false market in the scrip of HTL. Thus broker has violated the provisions of Clause A(2), A (3-4), B(1) of Schedule II under Regulation 7 of SEBI(Stock Brokers and Sub Brokers) Regulations 1992; Clauses (a), (b), and (c) of Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair trade Practices relating to Securities Market) Regulations 1995, besides, SEBI circular no. SMDRP/POLICY/Cir-32/99 dated 14.09.1999 whereby all the trades shall be routed through the screen of the exchange in the price and order matching mechanism.

4.0 **ORDER**

Now, therefore, in exercise of powers conferred vide Regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby impose a minor penalty of suspension of certificate of registration for a period of 2 months in terms of Regulation 13(1)(a)(iv) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 on M/s Dagliya Consultants Pvt Ltd (INB081033533), member Bangalore Stock Exchange.

This order shall come into effect on expiry of 21 days from the date of the order.

Place: Mumbai
Date: 29-09-2005

G Anantharaman
Whole Time Member
Securities and Exchange Board of India