

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s KANODIA STOCK BROKING (PVT) LTD., MEMBER CALCUTTA STOCK EXCHANGE, SEBI REGISTRATION NO. INB030878338 UNDER REGULATION 13(4) SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002.

1.0 BACK GROUND

- 1.1 M/s Kanodia Stock Broking (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') as a Stock broker under Section 12 of SEBI Act, 1992 with Registration Number INB030878338 .
- 1.2 The broker is having his Registered Office at 1, R.N.Mukharjee Road, Calcutta-700 001. SEBI conducted inspection of books of accounts, documents and other records of the said broker vide Order dated 21.12.2000 under section 19(1) of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 for the period 01.04.1999 to 31.03.2000.
- 1.3 During the Inspection, irregularities such as default in maintaining the Order Book and Margin Deposit Book, anomalies in the form and issue of Contract Notes, delay in payment to the clients, improper use of clients accounts and defects in client registration forms were observed.

2.0 APPOINTEMENT OF ENQUIRY OFFICER

- 2.1 Inspection Report was forwarded to the broker on completion of inspection. After considering his reply dated 11.04.2001 an Enquiry Officer was appointed vide order dated 24.07.2003 under Regulation 5(1) of SEBI (Procedure for Holding enquiry by enquiry officer and imposing penalty) Regulations, 2002 (hereinafter referred as the 'said regulations') to enquire into the alleged irregularities committed by the broker which were observed during the inspection.
- 2.2 A Notice dated 25.09.2003 was issued to the broker under Regulation 6 (1) of the said regulations by the Enquiry Officer. The broker submitted his reply dated 14.10.2003 and appeared for personal hearing on 29.12.2004. The enquiry officer conducted the enquiry in terms of SEBI (Procedure for Holding enquiry by enquiry officer and imposing penalty) Regulations, 2002 and the broker was given a fair and reasonable opportunity to make his submissions.
- 2.3 After considering the reply and the submissions made at the time of Personal hearing the Enquiry officer submitted his report dated 04.01.2005 finding that the said broker has committed violations of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 which are as under:
 1. Irregularities in maintaining client registration forms
 2. Delay in payment to the clients within the statutory period

The Enquiry Officer has recommended for issuance of a 'warning' to the said broker under regulation 13(1) (a) (i) of the said Regulations.

3.0 CONSIDERATION OF THE ENQUIRY REPORT

- 3.1 Based upon the Enquiry report and recommendation of the Enquiry Officer, a Show Cause notice dated 13.01.2005 under regulation 13(2) said Regulations was issued to the broker enclosing therewith a copy of the Enquiry Report. The broker submitted his reply vide letter dated 19.01.2005.
- 3.2 I have carefully considered the findings of the Inspection, Enquiry and the submissions made by the broker.
- 3.3 As regards the maintenance of client registration forms the Enquiry Officer has found that the client registration forms maintained by the broker do not contain details of the bank accounts, PAN number, introducer etc. With regard to the finding of the Enquiry Officer that the broker failed to make payments to the clients within the statutory period of 48 hours, the broker submitted that the clients specifically asked him to keep their funds. This contention is found unsatisfactory. During the hearing the broker produced authorization letters relating to the balances of adjustments towards future payments from three clients, though it was pointed out by the Enquiry Officer that those letters were not dated and were of general authorizations expected for usage during extra ordinary circumstances.
- 3.4 The broker vide his reply to Show Cause Notice dated 19.01.2005 has accepted the penalty imposed by the Enquiry Officer.

3.5 The following are considered as the mitigating factors

- 1 Trading with 12 clients who refused to fill the client registration forms had been discontinued after 2001.
- 2 There are no complaints against the broker with regard to the delay in payment to the clients.
3. The broker has stated that he rectified the anomalies pointed out in the inspection reports.

3.6 In view of the above, I am of the view that it would meet the ends of justice if a warning is given to the broker.

4.0 **ORDER**

4.1 Now, therefore, in exercise of powers conferred under upon me in terms of Section 19 of SEBI Act, 1992 read with Regulation 13(4) of the said Regulations, I hereby warn M/s Kanodia Stock Broking (Pvt) Ltd (INB030878338), member Calcutta Stock Exchange and direct him to be more cautious in future in its dealings with securities and to adhere to the provisions of SEBI Act, 1992 and the Rules and Regulations made thereunder. Any future lapse on its part in complying with the said provisions would invite stringent action.

4.2 This order shall come into effect immediately.

PLACE: MUMBAI
DATE : 27.12.2005

MADHUKAR
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA