

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. ATUL MANHARLAL CHOKSHI, MEMBER, AHMEDABAD STOCK EXCHANGE, SEBI REGISTRATION NO. INB020124619

1. M/s. Atul Manharlal Chokshi (hereinafter referred to as "the broker") is a member of Ahmedabad Stock Exchange, ("ASE") registered with SEBI as a stock broker under section 12 of SEBI Act, 1992 with SEBI Registration No. INB020124619.
2. Inspection of the books of accounts, documents and other records of the broker was carried out by SEBI for the periods April 2000-March 2001, April 2001-March 2002 and April 2002 to January 6, 2003 and certain irregularities were observed.
3. A copy of the Inspection Report was sent to the broker. On considering his reply dated 11.4.03, an Enquiry Officer (EO) was appointed vide SEBI Order dated March 8, 2004 under Regulation 5 of SEBI (Procedure for holding enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as the 'said regulations') to enquire into the alleged contraventions observed during the inspection of books of accounts of the broker. The EO after conducting the enquiry in terms of the said regulations submitted his report on 21.12.04 and concluded that most of the irregularities are technical or procedural irregularities and therefore, recommended that a warning be issued to the broker based on the mitigating factors as discussed in the Enquiry Report.
4. A copy of the Enquiry Report was sent to the broker on 03.01.05, in terms of Regulation 13(2) of the said Regulations, advising him to show cause as to why the penalty as recommended by the Enquiry Officer should not be imposed. The broker replied vide letter dated 03.02.05 and submitted that he does not dispute or prefer to challenge the recommendation of the Enquiry Officer. However, he submitted that even minor penalty of 'warning' should not be imposed on him.
5. I have carefully examined the facts and circumstances of the case, the Enquiry Report and the submissions of the broker thereto. I find that fair and reasonable opportunity was given to the broker in accordance with the provisions of the said Regulations.
6. With regard to irregularities in the issuance of contract notes like contract notes not bearing pre-printed serial numbers on annual basis, non mentioning of client numbers for few clients, contract notes not bearing clients' acknowledgement, the EO was of the view that these are minor procedural irregularities in a few cases. I agree with the findings of the EO.
7. With regard to the execution of off market transactions, the inspection report has identified 28 such transactions which are outside the trading system of the exchange. The EO concluded that these transactions are not in compliance with SEBI Circular No.SMDRP/Policy/CIR-32/99 dated 14.9.99. However, he concluded based on the inspection report that there was no deficiency of service or loss suffered by the clients and there was no price manipulation and recommended that it may be treated as unintentional lapses.
8. With regard to incomplete client database, the EO observed that most of the deficiencies are procedural deficiencies like non-obtaining client photos on few registration forms etc and took into account the member's submissions that the lapses have since been rectified. I agree with the views of the EO.
9. As regards non-segregation of clients and own funds, the EO noted that the payments made from the clients account is relatively small having regard to the brokerage income which was also credited in the said account. In the absence of any allegation of misuse of clients money, the EO had viewed it leniently.
10. With regard to installation of terminals at places other than its registered office, the EO observed that the issue is to be addressed by the stock exchanges and further observed that SEBI Circular No. SMDRP/Policy/Cir-49/2001 dated October 22, 2001 addresses the issue of misutilisation of trading terminals for unregistered sub-broking activities and in the present case, no such instances have been highlighted.
11. **The following are considered as the mitigating factors by the EO.**
 - a. The inspection report does not mention any client complaints alleging deficiency of service, misuse of clients money or assets;

- b. There is no mention of repetitiveness of the discrepancies;
 - c. There is no mention in the inspection report of any instance(s) of reported failure of payment of margin to the exchange;
 - d. There is no mention of misuse of settlement system.
12. I find from the above that the violations committed by the brokers are minor procedural lapses, excepting execution of off the floor transactions and non-segregation of funds, which are in violation of SEBI Circulars dated 14.9.1999 and 18.11.1993. However, considering the mitigating factors considered by the Enquiry officer, I am of the view that a warning to the broker would be sufficient and justified.
13. Now, therefore, in exercise of the powers conferred upon me in terms of Section 19 of the SEBI Act read with Regulation 13(4) of the said Regulations. I hereby warn M/s. Atul Manharlal Chokshi, member, Ahmedabad Stock Exchange, bearing SEBI Registration No. INB020124619 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.
14. This order shall come into force with immediate effect.

PLACE: MUMBAI

DATE : 28.12.2005

MADHUKAR

WHOLE TIME MEMBER

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