

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 SALASAR STOCK BROKING LTD., MEMBER, NSE (SEBI REGN No.INB230752635)

MO/55/MIRSD/12/2005

1.0 BACKGROUND

- 1.1 M/s Salasar Stock Broking Ltd. is registered with SEBI as a stock broker (hereinafter referred to as 'the broker') bearing SEBI registration no. INB 230752635 and is a member of National Stock Exchange (NSE). An inspection of books of accounts, documents and other records of the broker was conducted for the period from April, 2001 to April 2003. During the inspection, certain irregularities were found committed by the broker.
- 1.2 The findings of the inspection were communicated to the broker vide letter dated June 10, 2003 advising the broker to give its comments, if any. The broker vide letter dated July 08, 2003 replied to the said findings of the inspection report. On not being satisfied with the reply filed by the broker an Enquiry officer was appointed vide order dated 16.12.2003 to enquire into the alleged violations / contraventions specified in the said order.

2.0 ENQUIRY REPORT AND RECOMMENDATION :

- 2.1 The Enquiry Officer submitted his report on August 12, 2004. The Enquiry Officer found that the contract notes / agreements are not maintained properly, also broker has not done proper segregation of clients' securities from own securities, it is also alleged that broker has executed all trades in self account code and client codes were not punched at the time of execution of client sauda and thereafter those were transferred to client code, it was also found that broker engaged unauthorized persons to operate trade terminals, notice board installed was not of requisite size and the trading member did not have any written code for prevention of insider trading. After taking into account the irregularities that have been established against the broker, the Enquiry Officer recommended a minor penalty of warning on the broker.

3.0 SHOW-CAUSE NOTICE AND REPLY :

- 3.1 In terms of regulation 13 (2) of SEBI (Procedure For Holding Enquiry By Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'the said regulations') a show cause notice dated September 02, 2004 was issued to the broker to show cause as to why the penalty as recommended by the enquiry officer should not be imposed on him. The broker vide letter dated October 04, 2004 replied to the show cause notice dated September 02, 2004. The broker in its reply submitted that the report submitted by the Enquiry Officer is biased. It further submitted that it had adhered to all the guidelines, rules and regulations prescribed by SEBI and the Stock Exchange both in word and spirit. The broker also submitted that the penalty of warning recommended by the Enquiry Officer is too harsh as it believes that it did not break any rules and regulations and did strictly adhere to them.

4.0 CONSIDERATION OF ISSUES AND FINDINGS :

- 4.1 I have carefully considered the findings of inspection, enquiry and the submissions made by the broker. As per the inspection report, the records, viz. order confirmation slip, order modification slip and order book were not properly maintained by the broker and thereby it violated Securities Contracts (Regulation), Rules, 1957 and Reg. 17 of Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992. In reply, the broker submitted that all the said records were being maintained by it in electronic form. It was further submitted that NSE vide circular no.NSEIL/Legal/3686 dated October 17, 2002 amended the regulations 4.4.6, 4.4.7, 4.4.11 and 6.3 (reg.6.1.3 replaced with reg.6.1.3 A&B) wherein it was clarified that a trading member, if so desired may obtain the order confirmation/modification/cancellation to the constituents if so desired by the constituents. Similarly, for providing the trade confirmation slips, the trading member may provide the trade confirmation slip to the constituent if so desired by the constituent and hence, order confirmation/order modification, order cancellation and trade confirmation slips to the constituents were made optional and is presently provided to the constituents as and when required. The broker further submitted that Reg.17 (i) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 does not prescribe any order book but the orders that were being received by the clients were punched in the trading system by its dealers as soon as they were received by it and hence it did not violate any of the provisions of the aforesaid provisions of law. On a perusal of the inspection report, written submissions made by the broker, applicable provisions of law and the circular dated October 17, 2002 by NSE, I am inclined to take a lenient view.
- 4.2 As per the inspection report, instances were noticed where the broker did not obtain dated acknowledgement from its clients. The inspection report also alleges that there was delay in acknowledgement in one instance. The inspection report further alleges that the contract notes did not reflect order time and they were not numbered on annual basis and the numbers were post affixed. In view of this, the inspection report charges the broker of violating SEBI Circular

No.SMD/SED/CIR/93/23321 dated November 18, 1993, and SEBI Circular No.SMD/Policy/IECG/1-97 dated February 11, 1997. In reply to the said charge the broker submitted that several contract notes were issued to the clients every day and sending to the clients within 24 hours to all the clients. However, as per the broker, the date on which the contract note been received was not indicated by some of the clients and the same which may be due to paucity of time and unawareness of the clients. The broker further submitted that it was endeavoring to obtain the dates on the contract notes in addition to the signatures. On careful consideration of the inspection report and reply of the broker, I am of the opinion that there were only certain isolated instances of the aforesaid violations. In response to the next charge that the broker post affixed numbers on contract notes, the broker submitted that it was its understanding that running serial number appearing on the contract notes to be pre printed serial number which was reset every year. However, the broker submitted that it got the clarification from NSE and now it is having the pre- printed serial number on the contract notes in addition to the running serial numbers. I find the reply of the broker satisfactory in response to the charges leveled against it. Therefore, in my opinion, taking any action against the broker based on certain isolated instances where the date was not mentioned by the clients on acknowledgement of the confirmation slips would be unwarranted. However, the broker shall be warned to be cautious in future in this regard.

- 4.3 The next charge leveled against the broker was that some of the agreements with the clients were not complete in all respects and thereby it violated SEBI Circular No.SMD/Policy/Circular/5-97 dated April 11, 1997. In reply to the said charge the broker submitted that it rectified the deficiencies in the member-client agreements. In this connection, I have perused the sample agreements attached to the inspection report and found that the said agreements were not filled in completely. I noticed that on some of the said samples details like whether the client was registered with any other broker/member etc., were not filled in. However, I have considered the reply of the broker that it already rectified the set deficiencies and therefore no penalty for the aforesaid violation is called for. However, the broker shall be warned not to repeat such deficiencies.
- 4.4 As per the inspection report, the broker violated the provisions of SEBI Circular No.SMD/SED/CIR/93/23321 dated November 18, 1993 by failing to maintain proper records to segregate clients' securities from own securities. In reply to the said charge, the broker inter alia submitted that the securities were retained in the beneficiary account since the clients gave authorization to it to retain the funds and securities for future transactions and obligations. In support of its claim, the broker submitted a certified copy of the letter dated February 23, 2003 issued by Sedum Investments & Finance Private Limited. I have perused SEBI Circular No.SMD/SED/CIR/93/23321 dated November 18, 1993 and in terms of the said circular it shall be compulsory for all Member brokers to keep separate accounts for client's securities and to keep such books of accounts, as may be necessary, to distinguish such securities from his/their own securities. In view of the said stipulation of the aforesaid circular, not maintaining the securities in the beneficiary account of the client is a violation of the provisions of the said circular. However, in view of the fact that the inspection carried out by M/s. Patni & Co., on behalf of SEBI could find out only one instance pertaining to Sedum Investment & Finance Pvt. Ltd., and the broker obtained the written authorization from the said company, I am of the opinion that imposing any penalty based on an isolated case of violation of the provisions of a circular with the express consent of the client would be too harsh. However, the broker should be warned.
- 4.5 The next charge leveled against the broker was that all trades were executed in self account code and client codes were not punched at the time of execution of client sauda and thereafter those were transferred to client code and thereby violated SEBI Circular No.SMDRP/Policy/CIR/33/2000 dated July 27, 2000. Further, the inspection report also alleges that there were instances of trade transfers in violation of the aforesaid circular. In this connection, the broker replied that such instances took place erroneously due to high volatile market and there were negligible client volumes compared to its total turnover. The broker further submitted that there were no complaints received from the clients in this regard and it strictly instructed its dealers to put the proper client code in the system. In this connection, I have carefully perused the observation in the inspection report and the reply submitted by the broker. Since the broker admitted that the punching of self code was due to error, I am inclined to give a benefit of doubt in favour of the broker. However, the broker to be warned to be cautious in future.
- 4.6 Other miscellaneous charges leveled against the broker were that it engaged unauthorized persons to operate trade terminals, notice board installed was not of requisite size and the trading member did not have any written code for prevention of insider trading. In this connection, the broker replied that some persons who are alleged to be the unauthorized persons were trainees and it is for the same reasons their names were not mentioned in the salary register as they are paid stipend or out of pocket expenses. With respect to the size of the notice board the broker submitted that the notice board installed at their head office might be smaller than the prescribed dimensions. However, the same is due to lack of space and the notice board which is installed is readable by any investor who visits the head office. With respect to the written code for prevention of insider trading the broker submitted that it had framed the guidelines and it is being implemented.

5.0 ORDER

- 5.1 In view of my conclusions in the foregoing paragraphs, I am of the view that a warning to the broker would be sufficient and justified. 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 Salasar Stock Broking Ltd., member, The National Stock Exchange, bearing SEBI Registration No. INB230752635 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.
- 5.2 This order shall come into force with immediate effect.

PLACE: MUMBAI

DATE : 30.12.05

MADHUKAR

WHOLE TIME MEMBER

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