

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s TWENTY FIRST CENTURY SHARES AND SECURITIES LIMITED., MEMBER NATIONAL STOCK EXCHANGE, SEBI REGISTRATION NO.INB230690931 UNDER REGULATION 13(4) SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002

MO/57/MIRSD/12/2005

1.0 **BACK GROUND**

- 1.1 M/s Twenty First Century Shares and Securities Limited (hereinafter referred to as the 'broker') is a member of the National Stock Exchange (hereinafter referred to as 'NSE') 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 INB230690931.
- 1.2 SEBI conducted inspection of books of accounts, documents and other records of the said broker vide Order dated 22.01.2003 under Regulation 19(1) of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992.
- 1.3 During the Inspection, violations/ irregularities such as default in maintaining the Order Book, irregularities in the issuance of Contract Notes and maintaining Client Database, delay in payment of funds and delivery of securities to the clients and delay in transfer of the client's securities from the pool account after the settlement beyond stipulated time were noticed.

2.0 **APPOINTMENT OF ENQUIRY OFFICER**

- 2.1 A copy of the inspection Report was forwarded to the broker and after considering his reply thereto dated 11.07.03, an Enquiry Officer was appointed vide order dated 11.12.2003 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 noticed during the inspection.
- 2.2 A Show Cause Notice dated 31.05.2004 was issued to the broker under Regulation 6 (1) of the said regulations communicating the detailed allegations. The broker submitted his reply vide letter dated 11.06.2004 and appeared for personal hearing before the enquiry officer on 25.10.2004. The enquiry officer conducted the enquiry in terms of the said Regulations and the broker was given a fair and reasonable opportunity to make his submissions.
- 2.3 The Enquiry Officer submitted his report dated 02.11.2004 recommending a minor penalty of warning on the broker.

3.0 **CONSIDERATION OF THE ENQUIRY REPORT**

- 3.1 A Show Cause notice dated 06.12.2004 under regulation 13(2) of the said Regulations was issued to the broker with a copy of the Enquiry Report. The said broker submitted his reply vide letter dated 15.12.2004. The broker has not disputed the findings of the enquiry officer but submitted that it has taken the remedial steps.
- 3.2 I have carefully considered the findings of inspection, enquiry and the submissions made by the broker. My findings are as under :
- i. With regard to the allegation of non maintenance of order book, the enquiry officer after considering the submissions that the orders are immediately fed into the system has concluded that as the order copies are available in the computer system, the violation of SEBI Circular SMD/POLICY/IECG/1/97 dated 11.2.97 are more of a technical nature.
 - ii. With regard to the maintenance of the contract notes like contract notes not having pre-printed serial number but computer generated, failure to obtain client acknowledgement on some of the contract notes and not issuing the same within 24hours, non-mentioning of PAN No.on the contract notes of value exceeding Rs.10 lakhs, issuance of consolidated contract notes for institutional clients without details of the trade executed etc, the enquiry officer has taken into account the submission that the above deficiencies have since been rectified and changes made in the software to ensure printing of PAN No. on the contract notes of the value of Rs.10 lakhs and above. As regards, institutional clients, the broker submitted that the details of trades were available in the trades done report as the broker submitted copies of contract notes with computer generated serial nos., and PAN generated automatically from Back up files, the enquiry officer concluded that no further action is needed as the procedural lapse has been rectified.
 - iii. With regard to deficiencies in the maintenance of client database like obtaining individual registration forms for corporate clients, Articles of Association not obtained in case of one corporate client and allowing clients to trade

before entering into the member client agreement, the enquiry officer observed that most of these procedural lapses have since been rectified and needs no further action.

- iv. With regard to non segregation of client and own funds, the inspection report cites 25 instances where transactions not pertaining to the clients were routed through the client's bank account. After considering the reply of the broker that out of the 25 instances, 17 are for the re-payment of EMI for the car belonging to the broker's holding company, non involvement of any outside clients, absence of any allegation in the inspection report regarding mis-utilisation of the client's money, and taking into account the rectification of the deficiencies has suggested that the broker may be warned for the irregular practice.
- v. With regard to the alleged delay in payment of funds and delivery of securities to the clients from the brokers pool account, it was found by the enquiry officer that in 2 such instances, the client purchased shares in the subsequent settlement and hence the credit got adjusted. Where there is delay in delivery of securities, most of the instances relate to the holding company of the broker which had a running account and in respect of others consent letters were obtained from the clients. In 21 instances of delay in payment, the shares were not transferred as the client did not pay the broker. In 5 instances, the transfer could not be done due to non furnishing of DP particulars by the clients. It was submitted to the enquiry officer that the broker has settled all the dues. Although the practice is irregular, in the absence of any investor complaints regarding delay in payment or transfer of securities and the clients involved are affiliates of the broker etc the Enquiry Officer has recommended that a warning may be given. As regards the payment of balance fees to SEBI, it was submitted to the Enquiry Officer that the balance fees would be paid within a month.
- vi. With regard to the irregularities in the wholesale debt market segment, the Enquiry Officer was of the view that the allegations pertain to the violations of the NSE circular and further Wholesale Debt Markets Segment (WDM) does not come under the jurisdiction of SEBI and therefore beyond the scope of the enquiry proceedings.

3.3 I find from the above that most of the violations are technical and procedural lapses. These are rectified by the broker as reported by the Enquiry Officer in his report. However, non-segregation of client funds with own funds, delay in payment of funds and delivery of securities are in violation of SEBI circulars. In the absence of investor complaints against the broker, I am inclined to agree with the recommendation of the Enquiry Officer for a warning to be given to the broker. With regard to irregularities in WDM segment, I am of the view that transactions in securities in WDM segment that are reported to the stock exchange are within the regulatory jurisdiction of SEBI. In the facts and circumstances of the case, I am of the view that a warning to the broker would be sufficient and meet the ends of justice. With regard to fee, an action in terms of the Regulations may be separately taken in case of default.

3.4 The following are considered as mitigating factors :

- i. rectification of deficiencies pointed out in the inspection report as noted by the Enquiry Officer.
- ii. No previous history of irregularities in the earlier inspection.
- iii. Absence of investor complaints
- iv. Absence of any arbitration cases or allegation of market manipulation.

4.0 **ORDER**

4.1 In view of the above, now, 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 Twenty First Century Shares and Securities Ltd (INB230690931), member National Stock Exchange and direct them 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 force with immediate effect.

Place: Mumbai

Date: 30.12.2005

Madhukar

Whole Time Member

Securities and Exchange Board of India