

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s LOHIA SECURITIES LIMITED., MEMBER NATIONAL STOCK EXCHANGE, SEBI REGISTRATION NO.INB230777836 UNDER REGULATION 13(4) SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002.

MO/54/MIRSD/12/2005

1.0 **BACK GROUND**

- 1.1 M/s Lohia 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 INB230777836.
- 1.2 The broker is having his Registered Office at 6, Lyons Range, First Floor, Kolkata-700 001. SEBI conducted inspection of books of accounts, documents and other records of the said broker vide Order dated 24.03.2003 under section 19(1) of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 for the period 01.04.2001 to 30.04.2003.
- 1.3 During the Inspection certain irregularities in maintaining the Books of accounts and records, anomalies in the form and issue of Contract Notes, delay in payment to the clients, improper use of client's accounts and defects in client registration forms were observed.

2.0 **APPOINTMENT OF ENQUIRY OFFICER**

- 2.1 An Enquiry Officer was appointed vide order dated 08.01.2004 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 13.07.2004 was issued to the broker under Regulation 6 (1) of the said regulations by the Enquiry Officer. The broker submitted his reply vide letters dated 24.07.2004, 10.08.2004 and 11.10.2004 and appeared for personal hearing on 06.10.2004. 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 After considering the reply and the submissions made at the time of Personal hearing the Enquiry officer submitted his report dated 22.12.2004 finding that the said broker has committed violations of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 which are as under:
 1. Delay in transfer of shares from broker's beneficiary account to clients account.
 2. Punching error while punching the orders for Institutional Clients
 3. Non segregation of own account and client account.

The Enquiry Officer has recommended for issuance of a 'warning' to the said broker.

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 03.01.2005 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 24.01.2005.
- 3.2 I have carefully considered the findings of the Inspection, Enquiry and the submissions made by the broker.
- 3.3 As regards the delay in transfer of shares from broker's beneficiary account to client's account, it is admitted by the broker that in two instances shares belonging to the clients were erroneously transferred to the beneficiary account of the broker. It is noted that the broker had rectified the same in May 2003 itself. With regard to the finding of the Enquiry Officer that the broker had failed to punch 'W' in orders on behalf of the institutional clients, the broker submitted that all the trades done by the broker for the institutional clients were not warehousing trades and therefore, the broker had not punched 'W' while punching all the orders. The broker further submitted that the inspecting CA had misinterpreted the single contract notes for the trades done on behalf of the institutional clients as warehousing of trades since as per the practice followed by institutional client a broker issues single contract notes for the trades done on behalf of the institutional clients on weighed average price and accordingly a single contract sheet issued. Letters addressed to the broker from the institutional clients

like SBI and United India Insurance Company Ltd requesting the contract notes in the said fashion had been annexed with reply. In view of the above, I find him entitled to a benefit of doubt with regard to this charge.

3.4 The Enquiry officer had found the broker guilty for non segregation of own account and client account but the same was found to be a technical violation as there was no misuse of client funds. However, by not maintaining separate accounts the broker violated SEBI Circular dated 18.11.1993.

3.5 With regard to other charges like irregularities in maintenance of books of accounts, contract notes, dealing with clients, payment to clients and indulgence in fund based activities, Enquiry officer after considering the submissions of the broker did not find the broker guilty except in few charges. In these charges also, the Enquiry Officer found that the violations are either result of genuine errors or are only procedural irregularities which are technical in nature. I have no substantial reason to differ with the finding of the Enquiry Officer.

3.6 The following are considered as the mitigating factors :

1. The broker had rectified the anomalies pointed out in the inspection report.
2. There are no complaints against the broker from the clients with regard to any of the transactions referred above.

3.7 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 Lohia Securities Limited, member National Stock Exchange and direct it 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 their 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: 30.12.05

Madhukar

Whole Time Member

Securities and Exchange Board of India