

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. Fortune Share Brokerage Pvt. Ltd., sub-broker, SEBI Registration No. INS 230714037, Affiliated to OTCEI Securities Ltd., Member-NSE

Whereas, Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted an inspection of the books of accounts and other documents of M/s. Fortune Share Brokerage Ltd., a sub-broker, affiliated to OTCEI Securities Ltd., Member-NSE (hereinafter referred to as "sub-broker") into the alleged violations of provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act"), Rules, Regulations and Circulars made there under. The inspection revealed various irregularities and violations to have been committed by the sub broker including those of non segregation of client funds from its own funds and discrepancies in client agreement forms; and

whereas, vide order dated March 01, 2004 an Enquiry Officer was thus appointed by SEBI under Regulation 5 of SEBI (Procedure for holding enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as "Enquiry Regulations") to enquire into the alleged contravention of SEBI Act, SEBI (Stock Brokers & Sub-Brokers) Regulations, 1992 (hereinafter referred to as "Broker Regulations"), SEBI Circulars; and,

whereas, the Enquiry Officer after conducting the enquiry in terms of the Enquiry Regulations and while finding that in the facts and circumstances of the case and the reply of the sub broker, albeit the other charges against the sub broker can not sustain, concluded that the sub broker by not segregating client funds from its own funds is guilty of violating the provisions of SEBI Circular No. SMD / SED / CIR / 93 / 23321 dated November 18, 1993; and

whereas, the Enquiry Officer further observed that there were certain discrepancies in the client agreement forms viz. in most of the cases the banker certifying the account nos. were missing and also that only one proof of identity was furnished by the clients against the mandatory requirement of two and recommended a minor penalty of censure against sub broker vide his Enquiry Report dated October 29, 2004; and

whereas, a copy of the said Enquiry Report was forwarded to the sub broker along with a show cause notice dated November 04, 2004 advising it to show cause as to why appropriate penalty including penalty as recommended by the Enquiry Officer should not be imposed on it; and

whereas, the sub broker replied to the said show cause notice vide its letter dated November 24, 2004 and interalia submitted that the minor lapses which were noticed during the inspection will not be repeated and it will take utmost care in carrying out its profession; and

whereas, it is observed that the enquiry officer having considered the detailed submissions of the sub-broker, has recommended the minor penalty of censure against the sub broker and vide its reply dated November 24, 2004, the sub-broker has in fact, admitted the violations, noted by Enquiry Officer.

Now, therefore,

I, having considered the nature and gravity of the charges established, the facts and circumstances of the case, the recommendations of the Enquiry Officer, the submissions made by the broker thereto, and the mitigating factors as explained above, while agreeing with the findings of the Enquiry Officer, in exercise of powers conferred under Section 19 of the SEBI Act , read with Regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulation 2002, hereby censure M/s. Fortune Share brokerage Pvt. Ltd., a sub-broker bearing registration No. INS230714037, affiliated to OTCEI Securities Ltd., member-NSE and advise it to be careful in future in its dealings in the securities market and diligently adhere to the provisions of the SEBI Act,1992, the Regulations and Circulars made there under.

DATE : 30/12/2005

PLACE: MUMBAI

MADHUKAR

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA