

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under regulation 13 (4) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 against Shri. Bhupendra Meghji Bheda, Member, INB 010002515, The Stock Exchange, Mumbai, in the matter of M/s. Eonour Software Limited.

1.0 Background

- 1.1 In January 1996, M/s. Eonour Software Limited (hereinafter referred to as "ESL") had come out with a public issue of 12, 50, 000 shares of Rs.10/- each at a premium of Rs.20/- per share aggregating to Rs.375 lacs. Shares of ESL were listed at The Stock Exchange, Mumbai (hereinafter referred to as "BSE"), Madras Stock Exchange, Madhya Pradesh Stock Exchange, and Ahmedabad Stock Exchange.
- 1.2 The scrip of ESL was listed at BSE on 13th March 2000 and the first trade was reported on 12th June 2000 at a price of Rs. 520/- which went up to Rs. 634.75 by 7th July 2000. A total of 2, 22, 600 shares were traded during the period 1st December 1999 and 31st July 2000 at BSE. The maximum quantity traded on BSE on a particular day during the said period was on 22nd June 2000, number of shares traded being 11, 700 shares.
- 1.3 Securities and Exchange Board of India (hereinafter referred to as "SEBI") had conducted an investigation into the trading of the scrip of ESL.
- 1.4 Investigations revealed that brokers mentioned in following Table-1 were the top ten brokers in terms of gross quantity traded during the period June 2000 to December 2000 at BSE. These brokers were selected on the basis of their Gross Purchases, Gross sales and Gross position.

Table -1

Name of Broker	Purchases	% of Total	Sales	% of Total	Gross
Shilpa Stock Brokers P Ltd	45900	20.62	45600	20.49	91500
Bhupendra M. Bheda	43500	19.54	43500	19.54	87000
Joindre Capital Ltd.	42900	19.27	42900	19.27	85800
M. J. Doshi	20700	9.30	20700	9.30	41400
Indo Share & Fintrade Ltd.	15300	6.87	15300	6.87	30600
Anantrai A. Parekh	15100	6.78	15100	6.78	30200
Suresh Rathi Sec. P. Ltd.	10800	4.85	10800	4.85	21600
J. N. Jhaveri	9700	4.36	9700	4.36	19400
Dinesh J. Shah	9200	4.13	6700	3.01	15900
GSB Capital Markets Ltd.	6800	3.05	6800	3.05	13600
Others	2700	1.21	5500	2.47	8200
Total	222600	100.00	222600	100.00	445200

- 1.5 From the records submitted by these brokers of BSE mentioned in Table - 1, it was seen that most of the clients of these brokers were linked to each other in some way or the other and had predominantly traded in the scrip of ESL and that most of these clients had not paid margin/deposits to the brokers for the trades executed by them but had traded through them in substantial quantities. Further, they were squaring off their positions not only at the end of settlement but also almost on the same day. It was observed during 1st June 2000 and 31st December 2000 that deliveries in the scrip were less than 5% of the total trading volume of the scrip of ESL on BSE. The total quantity traded by the clients / entities of these brokers is given in Table -2 as under

Table -2

Sr.No	Name of the Entity	Purchases	Sales	Gross
1.	F. T. Traders	67900	65300	133200

2.	Prashant Investment	46400	46400	92800
3.	K. N. Traders	33500	33300	66800
4.	Jem Fiscal Ltd.	17600	17600	35200
5.	K. P Investment	17200	17200	34400
6.	Hakeem Auto Ltd.	3100	2200	5300
	Total	185700	182000	367700

- 1.6 It can be seen from Table – 1 that the gross quantity traded i.e. buy and sell, in the scrip at BSE during June 2000 to December 2000 was 4,45,200 shares, out of which 3,67,700 shares were traded by the entities named in the above Table-2, which constituted approximately 83% of the trading in the scrip.
- 1.7 Investigations revealed that Shri. Bhupendra Meghji Bheda, member of BSE, (hereinafter referred to as “Broker”) had traded for an entity, M/s. F T Traders (hereinafter referred to as “the Client”). From the trading pattern of the Client it is evident that trades were mostly squared off at the end of each settlement or within the same settlement period. From the records submitted by the Broker it is seen that he had not collected any money from FT Traders towards Initial Margin.
- 1.8 It was alleged that the Broker had not shown due skill, care and diligence while dealing with the Client which is a violation of clause A (2) of Code of Conduct as specified under Schedule II read with regulation 7 of Securities and Exchange Board of India (Stockbrokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as “Brokers Regulations”). Further, the trades done by the Broker on behalf of the Client were alleged to be in violation of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 (hereinafter referred to as “FUTP Regulations”) and the Broker by trading on behalf of the Client had aided and abetted market manipulation done by the Client which is a violation of regulation 4 (b) and (d) of FUTP Regulations.

2.0 Enquiry Proceedings

- 2.1 In view of the alleged irregularities committed by the Broker, Chairman, SEBI, vide order dated 18th February 2002, appointed an Enquiry Officer (hereinafter referred to as “Enquiry Officer”) to enquire into the affairs of Broker. The Enquiry Officer after considering the reply given by the Broker and giving him an opportunity of personal hearing, submitted a report dated 31st March 2004 to SEBI. The Enquiry Officer found the Broker guilty of violating Clause A(2) of Code of Conduct laid down under Schedule II of Broker Regulations and Regulation 4 (b) and (d) of FUTP Regulations and recommended that a minor penalty of suspension of certificate of registration for a period of one month be imposed on Broker.

3.0 Show cause notice and reply

- 3.1 Subsequent to the said Enquiry Report, as per regulation 13 (2) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, (hereinafter referred to as “Enquiry Regulations”), a show cause notice dated 13th April 2004 was issued to the Broker and the Broker vide his letter dated 12th May 2004 responded to the said show cause notice inter alia submitting that in February 2000, FT Traders was introduced to him by his remiser, Shri Yogesh F Patel with whom the Broker was associated for 20 years. After trading for about four months when FT Traders requested for a BOLT terminal from the BSE to be installed, Broker did not see any reason for not to accede to the said request. Broker submitted that he is free to install a BOLT terminal wherever he deems fit. However, the same was disconnected when the Broker received intimation from BSE stating that the trades done by certain clients were appearing to be fictitious, which included trades done by FT Traders. Further, the Broker submitted that compared to his own turn over, the trading done by FT Traders was insignificant hence, he did not suspect the intentions of FT Traders. Broker added that he was not aware that FT Traders was involved in market manipulation in the scrip of ESL or any other scrip.
- 3.2 Broker denied that he had violated any regulations as alleged by Enquiry Officer and requested SEBI not to impose any penalty on him including penalty as recommended by Enquiry Officer.

4.0 Consideration of Issues and findings

- 4.1 I have carefully considered the Enquiry Report, show cause notice issued to the Broker and reply of the Broker to the same.
- 4.2 As regards the contention of the Broker that the volume of trading done by FT Traders when compared to his own volumes was insignificant hence, he did not feel the necessity to doubt the intention of FT Traders, I am of the view that the comparison made by the Broker is inappropriate. Being a registered intermediary, Broker should know that it is not necessary for turnover of client to be high to manipulate the market. If seen in this context, it is observed that all the trading done by the Broker in the scrip of ESL was only for one client i.e., FT Traders. The trading pattern of FT Traders should have alerted the Broker and he ought to have taken adequate steps to mitigate the trading strategy of FT Traders. The fact that the Broker had allotted a BOLT terminal to FT Traders and failed to monitor the functioning of the same calls

into question the exercise of due diligence by the Broker and more so the intention of the Broker to comply with Broker Regulations in respect of due diligence, which is observed from the hands-off attitude of the Broker. Broker had contended that he is free to install a BOLT terminal wherever he deems fit. The terminal of the stock exchange can be installed by the Broker after complying with rules, regulations and bye laws of the concerned stock exchange and the terminal has to be under the control of the Broker. The terminal cannot be used by the client at his sweet will as has been the position in the present case i.e. the terminal was given to the client and was under the control of the client. Besides, Broker is responsible for all the trading done through such terminal.

- 4.3 Broker's act of not being diligent enough allowed FT Traders in indulging acts calculated to create a false and misleading appearance of trading in the scrip of ESL, which resulted in building up of artificial volumes and price in the scrip of ESL. This is detrimental to the interest of investors and the orderly development of the securities market. The broker contended that the trading of Rs.59 crore done by the Client was insignificant compared to his own turn over and that the Client was not even among his top ten clients hence, he did not find anything alarming in the trading of the Client. Being a registered intermediary, Broker is under positive obligation to be more diligent while dealing with his clients, which he failed in the instant case resulting in violation of Clause A (2) of the Code of Conduct specified for brokers, in Schedule II in terms of Regulation 7 of Broker Regulations.
- 4.4 From the material before me I observed that FT Traders has traded only in the scrips of ESL, M/s. Morepen Hotels Ltd and M/s. Veronica Laboratories Ltd, all of which were illiquid scrips. The scrip of ESL has been made liquid by placing artificial volumes and price by certain connected clients including that of the clients of the Broker. Broker has allowed new clients to trade in such scrip, even without collecting margins. These clients have entered into continuous speculative transactions without any genuine interest in giving or taking delivery of shares. This has resulted in creation of artificial volumes and price rise in the scrip which otherwise had no interest from the general investors. FT Traders has shown no inclination of picking up or giving delivery. Broker should have been more diligent in his dealing especially when FT Traders were trading in an illiquid scrip and squaring off their position on the same day without much profit or loss as the unsuspected innocent investors would be trapped by such false appearance of trading in securities. This is detrimental to the interest of investors and the orderly development of the securities market. Further, the Broker having allowed the client indulging acts as aforesaid led to create a false and misleading appearance of trading in the scrip of ESL, which is in violation of Regulation 4 (b) and (d) of FUTP Regulations.
- 4.6 The Broker while replying to the show cause notice had sought for a personal hearing. I observe that there is no provision for personal hearing under Enquiry Regulations. Further, I have noted that the Enquiry Officer had already heard the Broker in person. In addition the Broker has been given opportunity to file written submissions to the show cause notice issued along with a copy of enquiry report. Therefore I find that natural justice requirement has been met with. I do not find any substantive reason / justification furnished by the Broker warranting a personal hearing again.

5.0 Order

- 5.1 Therefore, in the light of the above, I agree with the recommendation of enquiry officer and in exercise of powers conferred upon me in terms of Section 19 of the Securities and Exchange Board of India Act, 1992 read with regulation 13 (4) of Securities and Exchange Board of India (Procedure for holding Enquiry by Enquiry Officer and imposing penalty) Regulations, 2002, I hereby impose a minor penalty of suspension of certificate of registration on Shri Bhupendra Meghji Bheda for a period of one month.
- 5.2 This order shall come into effect after the expiry of three weeks from the date of the order.

PLACE: MUMBAI
DATE: 27 DECEMBER 2005

MADHUKAR
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA