

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 13(4) SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST M/s H R INVESTMENT LTD., SUB BROKER OF NAMAN SECURITIES & FINANCE LTD., MEMBER BSE (SEBI REG. NO. INB 010301310-08082) FOR IRREGULAR TRANSACTIONS IN THE SCRIP OF V.B. DESAI FINANCIAL SERVICES LTD.

BACKGROUND

1. M/s H R Investment Ltd. (hereinafter referred to as “the Sub Broker”) is a Sub Broker of Naman Securities & Finance Ltd., member, BSE. M/s H R Investment Ltd. is sole proprietary concern of Shri H R Shroff.
2. SEBI vide order dated 28.01.2003 appointed an Enquiry Officer under the provisions of Regulation 5 of SEBI (procedure for holding enquiry by enquiry officer and imposing penalty) Regulations, 2002 (hereinafter referred to as “Regulations”) to inquire into the alleged irregular transactions in the scrip of V.B. Desai Financial Services Ltd (hereinafter referred to as VBF) done by the Sub Broker and also for the alleged violation of Clause A (1) to (4) and Clause B (1) of the Code of Conduct as specified in Schedule II read with Regulation 7 of SEBI (SB & SB) Regulations 1992 (hereinafter referred to as Stock Broker Regulations) and Regulation 4 of SEBI (FUTP) Regulations, 1995 (hereinafter referred to as FUTP Regulations) .

ENQUIRY REPORT AND RECOMMENDATION

3. The enquiry officer, after conducting the enquiry as per the procedure laid down in the said Regulations submitted a report dated August 19, 2004.
4. The Enquiry Officer found that the Sub Broker has not exercised due care and caution and the conduct of the Sub Broker is in violation of Clause A (1) to (4) and Clause B (1) of the Code of Conduct as specified in Schedule II read with Regulation 7 of SEBI (SB & SB) Regulations 1992 and Regulation 4 of SEBI (FUTP) Regulations, 1995 and recommended a minor penalty of the suspension of the certificate of registration of the Sub Broker for period of 30 days.

SHOW-CAUSE NOTICE AND REPLY

5. A Show Cause Notice (SCN) dated August 25, 2004 bearing the reference No. IVD/ID 1/PKN/SS/18775/04 was issued to the Sub - Broker along with a copy of the Enquiry Report, calling upon to show cause, in terms of Regulation 13(2) of the Regulations, as to why action as recommended by the Enquiry Officer should not be taken against him.
6. The Sub Broker through its proprietor, Shri Shroff replied to the above said SCN vide letter dated 11.09.2004 and stated that it is a sole propriety concern and solely dependent on it for his livelihood. He further added that he consistently had a good track record and suspension of his certificate of registration for the recommended period would cause undue hardship to him. The mistakes alleged to have been committed, if any, are the first mistakes and should be viewed leniently. The Sub Broker also requested to restrict the period of suspension to a maximum period of 7 days.

CONSIDERATION OF ISSUES AND OSERVATIONS

7. I have considered the facts of the case, the findings of the Enquiry Officer and the reply of the Sub Broker to the show cause notice.
8. I observe that there was sudden spurt in volumes traded in the scrip of VBF on BSE which recorded high of 50,300 shares on 26.11.99. Prior to this period the volumes traded were very low in the region of 500 – 1000 shares per day. Together with the jump in volumes, the prices too had recorded high although there was no company announcement or change in economic fundamentals of the company. The price of the shares which was just Rs. 4/- on 04.10.99 had shot up to Rs 31.35 on 27.12.99. In view of the unusual movements in the price of the share and volumes traded an examination was conducted in the matter and I observe Mr Kamlesh J Shroff who is the nephew of PR Shroff, MD of VBF, had sold the shares of VBF held by promoters and directors in off market deals through Maxwrth Finlease Pvt Ltd, a broking firm in which Mr Kamlesh Shroff was a Director. The purchasers in turn sold the shares so bought from Mr Kamlesh Shroff in the market whereas Mr Kamlesh Shroff was simultaneously buying at the other end which resulted in creation of artificial volumes and rise in prices. Mr. Kamlesh Shroff and entities associated with him bought 8,79,500 shares of VBF, in the aforesaid period, constituting 63.52% of the traded volumes and sold 891,800 shares, constituting 64.41% of the traded volumes. Further, it is not in dispute that the Sub Broker had executed transactions in the scrip of VBF for the client Mr Kamlesh Shroff, between settlement No. 31 and 53. The Sub Broker had bought 3, 42, 800 shares and sold 13, 300 shares on behalf of the client during the period as under:

	Sett.No.	Buy	Sell	Net
Kamlesh J Shroff	31	1600	0	1600
Kamlesh J Shroff	38	14400	0	14400
Kamlesh J Shroff	39	300	0	300
Kamlesh J Shroff	40	23700	6700	17000
Kamlesh J Shroff	41	4800	4800	0
Kamlesh J Shroff	42	40100	0	40100
Kamlesh J Shroff	43	14600	0	14600
Kamlesh J Shroff	44	6200	1800	4400
Kamlesh J Shroff	45	16600	0	16600
Kamlesh J Shroff	46	50000	0	50000
Kamlesh J Shroff	47	30000	0	30000
Kamlesh J Shroff	48	50000	0	50000
Kamlesh J Shroff	49	10400	0	10400
Kamlesh J Shroff	50	22300	0	22300
Kamlesh J Shroff	51	10000	0	10000
Kamlesh J Shroff	52	5700	0	5700
Kamlesh J Shroff	53	42100	0	42100
	Total	342800	13300	329500

From the above table I observe that the client was a major purchaser of the shares of VBF, however, in the books of the Sub Broker large sums were paid to the client. It is probable that the purchases were financed by the Sub Broker under the circumstances. As per the statement of H R Shroff, the client Kamlesh Shroff was dealing with him for nearly 3 years and his father and Kamlesh Shroff's father are known to each other. That being so it is also probable that the Sub Broker is aware that his client Mr

Kamlesh Shroff is the nephew of the Managing Director of VBF, the company whose shares were being purchased heavily by his client as detailed above.

9. I note that, under these circumstances, wherein the client for whom the Sub Broker had traded heavily between sett. No 31 and 53 during the period when there was price manipulation with a net purchases of 3,29,500 shares of VBF which is otherwise an illiquid scrip and without there being any change in economic fundamentals or major company related developments, it should have aroused the suspicion of the Sub Broker as to the motives of the client particularly when there are reasonable grounds to believe that the client is related to the promoters of the company whose shares are being dealt with. Hence, it cannot be said that the Sub Broker has exercised due skill and diligence for transactions in the scrip of VBF for a client who is linked with the promoters of the company against the background of unusual movements in the volumes traded and prices of the scrip.
10. At this juncture, I note that the applicable provisions for this case are Clause A(1) and (2) and D (4) and (5) of Code of Conduct of Stock Broker Regulations but not Clause A (1) to (4) and Clause B (1) as mentioned in the enquiry report. I note that Clause A(1) and (2) and D (4) and (5) of Code of Conduct of Stock Broker Regulations read as under:
 - A. (1) Integrity: A sub broker shall maintain high standards of integrity, promptitude and fairness in the conduct of all investment business;
 - (2) Exercise of due skill and care: A sub broker shall act with due skill, care and diligence in the conduct of all investment business.

- D (4) Manipulation: A sub broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.
- (5) Malpractices: A sub broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the public interest or which leads to interference with the fair and smooth functions of the market mechanism of the stock exchanges. A sub broker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.

11. I also note that Regulation 4 of FUTP Regulations reads as under

4 No person shall

- (a) effect, take part in, or enter into, either directly or indirectly, transactions in securities, with the intention of artificially raising or depressing the prices of the securities and thereby inducing the sale or purchase of securities by any person;
- (b) indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities markets;
- (c) indulge in any act, which results in reflection of prices of securities based on transactions that are not genuine trade transactions;
- (d) enter into a purchase or sale of any securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress, or cause fluctuation in the market price of securities;

12. I observe that, in sett. No 31, the Sub Broker had keyed in a purchase order at Rs. 9.70 when shares were available at lower price. The explanation of the Sub Broker that this was done at the instructions of the client is not satisfactory. It is unfair to punch a purchase order for a higher price when shares are available at a lower price. By this method, Sub Broker is trying to establish a said price or create artificial demand to push up the prices. This practice is calculated to interfere with the true and fair price discovery process in the order matching mechanism at the exchange and with a view to set the prices at artificially higher level which is in violation of Regulation 4 of SEBI (FUTP) Regulations. I also note that the high/low price for the said settlement was Rs 10 and Rs 5.30/- respectively. I note that the Sub Broker had done the transaction at a price which was not reflective of the genuine market price and interfered with the true price discovery process in the exchange.
13. I further note that it was claimed that the amount of Rs 22 lacs owed by the client to the Sub Broker was for other trades, there is no material in support of the same. Having regard to the quantity of purchases made which is a net purchase of 3, 29,500 shares and the amount due from the client to the Sub Broker, it can reasonably be concluded that these dues had arisen from the client to the Sub Broker due to non collection of up front margins.
14. In view of the above, I hold that the broker has violated Clause A (1) to (2) and D (4) and (5) of the Code of Conduct read with Regulation 15 of Stock Broker Regulations also read with Regulation 4 of FUTP Regulations read with Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003. I am,

therefore, convinced that it is a fit case to impose a minor penalty of suspension for a period of 30 days.

ORDER

15. In View of the above and considering the gravity of the charges, a minor penalty of suspension of the certificate of registration of the Sub Broker for a period of 30 days would be adequate in the facts and circumstances of the case. Therefore, in exercise of the powers conferred upon me in terms of Section 19 of the SEBI Act, 1992 read with Regulation 13(4) of said Regulations, I hereby suspend the certificate of registration of M/s H R Investment Ltd. for a period 30 days.
16. This order shall come into effect after the expiry of 21 days from the date of this order.

DATE : DECEMBER 30, 2005

MADHUKAR

PLACE : MUMBAI

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA

