

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 ACCORD CAPITAL MARKET LTD. MEMBER, NATIONAL STOCK EXCHANGE, SEBI REGISTRATION NO. INB230776837

MO/77/MIRSD/01/06

1.0 BACKGROUND

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- 1.1 Accord Capital Market Ltd. (hereinafter referred to as "the broker") is a member of National Stock Exchange ("NSE"), and is registered with SEBI as a stock broker under section 12 of SEBI Act, 1992 with Registration No. INB230776837.
- 1.2 An Inspection of the Books of Accounts, Documents and other records maintained by the broker was carried out by M/s. G.P. Aggarwal & Company, Chartered Accountants appointed by SEBI. Certain irregularities were observed during the said inspection.

2.0 ENQUIRY PROCEEDINGS

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- 2.1 In view of the above, an Enquiry Officer (EO) was appointed vide Order dated November 13, 2003 under Regulation 5 of SEBI (Procedure for holding enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'said regulations') to enquire into the alleged contraventions observed during the inspection of books of accounts of the broker. The EO after conducting the enquiry in terms of the said regulations submitted his report on 26.08.04 and recommended that the member be warned for violation of SEBI Circular No.SMD/SED/Cir/93/23321 dated 18.11.93.

3.0 SHOW CAUSE NOTICE AND THE BROKER'S SUBMISSIONS

- 3.1 A copy of the Enquiry Report was sent to the broker along with a show cause notice dated 27.09.04, in terms of Regulation 13(2) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'the said regulations'), advising him to show cause as to why appropriate penalty including the penalty as recommended by the Enquiry Officer should not be imposed.

4.0 CONSIDERATION OF ISSUES

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- 4.1 I have carefully examined the findings of inspection, enquiry and the submissions made by the broker thereto. I find that adequate opportunity was given to the broker in accordance with the said Regulations.
- 4.2 The charge against the broker was that the broker had mis-used client's funds. The broker replied vide letter dated 23.09.04 that in one settlement they might have received payment from some clients and have to make payments to other clients. In the said settlement, it might have happened that the clients who were supposed to make payments to their company delayed the payment and in order to make payment to the other clients within the stipulated time, they had to provide their own funds or arrange funds from outside sources to meet the said obligation in time. Funds were transferred

from broker account to the clients bank account in order to avoid any delay in making payment, so it had issued the cheques from brokers account directly to the clients. With regard to payments made / received from Mehta & Ajmera, the broker has submitted that partners of Mehta & Ajmera are also the directors of the broker is not by itself a ground to allege that they have violated the regulations. Regarding the receiving of cash from clients, the broker has informed that the said clients were required to make payment to their company; upon follow up the said clients had duly cleared their account by making payment in cash and that such amounts were quite insignificant ranging from Rs.370 to Rs.8047 only. Since it was full and final settlement with the said clients, the same were duly received by us in cash. Since the amounts were not significant, the same were not deposited the clients bank account but retained by the company as cash in hand towards accumulated brokerage. Regarding the interest of Rs.3068 debited by the bank directly to the clients bank account towards interest on TOD (overdraft) granted to them under the said account, the broker has submitted that the TOD was utilized to meet the obligations in time and was for the purpose of the broking business of the company only. The broker has further submitted that the payments were made from clients account to meet the own obligations towards sale / differences and as such it cannot be treated as violation in any manner.

- 4.4 The Enquiry Officer found that there is truth in the reply of the member that inspection has not considered many factors viz. amount paid by broker towards client obligation, brokerage etc and in the absence of the same it is difficult to ascertain whether the member has made any mis-utilisation of clients money. The enquiry officer, however, is of the view that the broker should have been cautious in maintaining a clear cut segregation and wherever not possible should have recorded reasons for the same, and therefore has recommended for warning.
- 4.5 With regard to the other charges/allegations, the Enquiry Officer after considering the reply of the broker found that they are minor and trivial in nature. I am inclined to agree with the findings of the Enquiry Officer.
- 4.6 In the facts and circumstances of the case, I agree with the findings of the Enquiry Officer and a warning to the broker would be sufficient and meet the ends of justice.

5.0 ORDER

- 5.1 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 Accord Capital Markets Ltd, Member, National Stock Exchange, having SEBI Registration No. INB230776837 and direct him to be more cautious in future in his dealings with securities and to adhere to the provisions of SEBI Act, 1992 and the Rules and Regulations made thereunder. Any future lapse on his part in complying with the said provisions would invite stringent action.
- 5.2 This order shall come into force with immediate effect.

Place: Mumbai

Date: 5/1/06

Madhukar

Whole Time Member

Securities and Exchange Board of India