

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s.R M SHARES TRADING PVT LTD., MEMBER - THE STOCK EXCHANGE, MUMBAI SEBI REGISTRATION NO. INB011044436 UNDER REGULATION 13(4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002.

1.0 **BACK GROUND**

- 1.1 M/s R M Shares Trading Pvt Ltd (hereinafter referred to as the 'broker') is a member of The Stock Exchange, Mumbai (hereinafter referred to as 'BSE') 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 INB011044436 .
- 1.2 An Inspection of the Books of Accounts, Documents and other records maintained by the broker for the period April 1, 2000 to September 30, 2002, was carried out by M/s. Patni & Co, Chartered Accountants appointed by SEBI vide letter no.SMD/DBA-1/Pre-Insp/AK/21372/2002 dated October 30, 2002. During the inspection, certain irregularities found to have been committed by the broker were observed.

2.0 **ENQUIRY PROCEEDINGS**

- 2.1 The Inspection Report was forwarded to the broker on completion of inspection. After considering the broker's reply dated 19.5.2003 an Enquiry Officer was appointed vide Order dated 16.12.2003 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 14.07.2004 was issued to the broker under Regulation 6 (1) of the said regulations by the Enquiry Officer. The broker submitted its reply vide letter dated 03.08.2004 and appeared for personal hearing on 27.08.2004. 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. After considering the reply and the submissions made at the time of personal hearing the Enquiry officer submitted his report dated 30.9.04 and recommended a minor penalty of 'warning' to the broker.

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 05.10.04, in terms of Regulation 13(2) of the said Regulations calling upon it to show cause as to why appropriate penalty including the penalty recommended by the Enquiry Officer should not be imposed on it.

4.0 **CONSIDERATION OF ISSUES**

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- 4.1 I have carefully considered the findings of the Inspection, enquiry and the submissions made by the broker, and note the significant points, as under;

a) As per the inspection report, the books, viz. Share ledger, Complain book, Order book, Activity log, order cancelled today, outstanding orders today, order confirmation slip and order modification slip were not properly maintained by the broker and thereby it violated the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992. The broker submitted that it maintained all the primary books and all the transactions were maintained in primary book i.e. sauda register. It further submitted that it has a small number of clients numbering 51 and there are no complaint from the clients, hence complaint book is not maintained. However, immediately after inspection, the broker started maintaining complaint book. It further submitted during the hearing that all books are not required to be maintained in BSE.

b) The next allegation leveled against the broker is that out of total 51 clients, the broker had not entered into agreement with 11 clients. The broker submitted that it lost the entire file containing client / broker agreement and FIR was lodged with MRA Marg Police Station, Mumbai on 18.9.2000. In this connection, I observed that out of 51 client registration forms only 11 forms were missing for which proper FIR was lodged by the broker and the broker did not enter into any transactions with these clients after the date of lodgment of FIR with police. Further, it was observed that out of total 40 broker agreements, 15 agreements were not complete in all respects. In a few instances, the broker started dealing with the clients before agreement was entered into and has not obtained banker's certificate from any of its clients. In its reply dated 18.10.2004 to the show cause notice, the broker admitted the lapses and stated that they were unintentional. The broker further stated that it had already taken corrective measures and assured that these lapses will not happen in future.

c) As regards the charge that the broker was engaged in providing short term finance to its clients viz. Shri R R Damani and Shri Ratan Baheti, in violation of Regulation 8(1)(f) and (f) of Securities Contract (Regulations) Act and SEBI Circular No.SMD/SED/Cir/93/23321 dated November 18, 1993, the broker submitted that only on a few occasions funds were provided by it. Even during the hearing, the broker submitted that only on a few days indulgence were granted to the clients who are related to the brokers firm. The Enquiry Officer found that Shri Damani is one of the directors of the broker and in respect of Shri Ratan Baheti, no relation has been explained by the broker.

d) The Enquiry officer had found the broker guilty for non segregation of own account and client account which was in violation of SEBI circular dated 18.11.1993. However, the Enquiry Officer found the same a technical violation as there was no misuse of client funds.

e) It has been alleged that the broker had entered into few off market deals and the same were not reported to the concerned stock exchange. The broker submitted that these are proprietary transactions and therefore, not reported. The Enquiry Officer found that whether off the floor trades are proprietary or not, same should be reported in terms of SEBI Circular dated 14.3.1995. The broker has therefore not followed the said circular.

f) Regarding the charge that one of the clients of the broker acted as unregistered sub-broker, the broker submitted that due to technical reasons SEBI had not approved the application and after rejection the broker had stopped trading with the said client.

g) With regard to other allegations like delay in payment of money / securities and dealing in unquoted shares, the Enquiry Officer, after considering the facts and circumstances of the case and the submissions made by the broker recommended for a lenient view. It was also found by the Enquiry Officer that in some instances, contract notes were not acknowledged by the clients, which is a minor lapse.

5.0 The Enquiry Officer has also mentioned in his report that he was also appointed as the Adjudicating Officer to conduct adjudication under Section 15A(c), 15B and 15F of SEBI Act, 1992 with respect to certain charges, which are also the subject matter of this enquiry proceedings. However, both the proceedings are separate proceedings and both the remedies are available to SEBI under the Act. He imposed a penalty of Rs.10,000/- in the adjudication proceedings. In view of this, considering the gravity of the charges, and the submissions made by the broker, the Enquiry Officer recommended a minor penalty of warning on the broker in these proceedings.

6.0 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.

7.0 **ORDER**

7.1 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 R M Shares Trading Pvt Ltd (INB011044436), Member The Stock Exchange, Mumbai 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 its part in complying with the said provisions would invite stringent action.

7.2 This order shall come into effect immediately.

Place: Mumbai

Date: 5/1/06

Madhukar

Whole Time Member

Securities and Exchange Board of India