

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s BHUWALKA & SONS, MEMBER CALCUTTA STOCK EXCHANGE, SEBI REGISTRATION NO. INB030510318 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 Bhuwalka & Sons (hereinafter referred to as the 'broker') is a member of the Calcutta Stock Exchange (hereinafter referred to as 'CSE') 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 INB030510318.
- 1.2 SEBI conducted inspection of books of accounts, documents and other records of the said broker under section 19(1) of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992. During the Inspection, certain irregularities found to have been committed by the broker were observed.

2.0 APPOINTMENT OF ENQUIRY OFFICER

- 2.1 Inspection Report was forwarded to the broker on completion of inspection. After considering his reply, an Enquiry Officer was appointed vide order dated 13.11.2003 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 06.8.2004 was issued to the broker under Regulation 6 (1) of the said regulations. The broker appeared for personal hearing before the enquiry officer on 09.12.2004. 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.
- 2.3 After considering the submissions of the broker, the Enquiry officer submitted his report dated 20.12.2004 recommending a minor penalty of 'warning' on the said broker.

3.0 CONSIDERATION OF THE ENQUIRY REPORT

- 3.1 Based upon the Enquiry report and recommendation of the Enquiry Officer, a Show Cause notice 23.2.2005 under regulation 13(2) of the said Regulations was issued to the broker enclosing therewith a copy of the Enquiry Report. The broker submitted its reply vide letter dated 12.3.2005.
- 3.2 I have carefully considered the findings of the Inspection, Enquiry and the submissions made by the broker, and note significant points, as under :
 - a) It has been alleged that the broker has not segregated client's funds and its own funds. The broker has submitted that it is a mistake of clerical nature and it has assured that in future it will be more strict and vigilant so that possibility of such overlapping is removed all together. The enquiry officer found that the broker has not taken proper care to keep the client money separately from his own money though they have two accounts. The enquiry officer has also found that there were three instances where payment had been made from client's account and the same has been confirmed by the broker. Therefore, the enquiry officer found that the broker has violated SEBI Circular No.SMD/SED/CIR/93/23321 dated 18.11.93.
 - b) With regard to other charges like non maintenance of margin deposit book, deficiencies of client database, delay in making payment and delivery of securities to clients, dealing with unregistered sub broker, the enquiry officer after considering the material on record and the submissions made by the broker did not find the broker guilty of violating any rules.
- 3.3 In view of the above, I have no substantive reason to differ with the findings and the recommendation of the enquiry officer.

4.0 ORDER

- 4.1 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 Bhuwalka & Sons (INB030510318), member Calcutta Stock Exchange and direct him 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.
- 4.2 This order shall come into force with immediate effect.

Place: Mumbai

Date: 13.1.06

Madhukar

Whole Time Member

Securities and Exchange Board of India