

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s.FORTUNE EQUITY BROKERS (INDIA) LTD., MEMBER - NATIONAL STOCK EXCHANGE, MUMBAI, SEBI REGISTRATION NO. INB230653830 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 Fortune Equity Brokers (India) Ltd (hereinafter referred to as the 'broker') is a member of National Stock Stock Exchange, (hereinafter referred to as 'NSE') 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 INB230653830.
- 1.2 An Inspection of the Books of Accounts, Documents and other records maintained by the broker for the period April 2000 to August 2002, was carried out by M/s. Jain & Jain, Chartered Accountants appointed by SEBI vide letter no.SMD/DBA-1/Pre-Insp/AK/14877/2002 dated August 6, 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 December 20, 2002 an Enquiry Officer was appointed vide Order dated 10.3.2004 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 22.6.2004 was issued to the broker under Regulation 6 (1) of the said regulations. The broker submitted its replies vide letter dated 29.7.2004 and appeared for a personal hearing before the Enquiry Officer on 30.11.2004. The enquiry officer conducted the enquiry in terms of the said Regulations and the broker was given a fair and reasonable opportunity to make its submissions. After considering the reply and the submissions made at the time of personal hearing the Enquiry officer submitted its report dated March 23, 2005 and recommended a minor penalty of 'censure' on 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 April 4, 2005, in terms of Regulation 13(2) of the said Regulations calling upon it to show cause as to why appropriate penalty including the penalty as recommended by the Enquiry Officer should not be imposed on it.

4.0 CONSIDERATION OF ISSUES

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

4.2 a) Non-maintenance of clients' database / order book

The broker submitted that in the online trading system, orders were received over phone and verbal confirmations were given to the clients on execution followed with printed contracts at the end of the day, which are acknowledged by the client and further that it maintained the order log generated by the exchange. However, it did not maintain a separate manual order book for each order received from client which is now made optional by NSE vide its circular dated October 17, 2002. As regards the non-maintenance of clients' database, the Enquiry Officer accepted the explanation of the broker that the 43 instances pointed out by the inspecting authority where the Know Your Client forms were not complete, have duly been rectified.

b) Non delivery of securities / payments within the stipulated time

As regards this charge, the broker submitted that the clients had instructed the broker to adjust / holdback shares purchased by them as margin towards future purchases to be made by them and the same to be delivered to them only on receipt of specific instructions to that effect. In support of its contentions, the broker also filed documentary evidence i.e. letters from clients to this effect. The Enquiry Officer found the explanation of the broker acceptable.

c) Non segregation of client / own funds

As per the inspection report, it is alleged that the broker has not segregated clients and its own funds. The broker submitted that out of 33 instances pointed out by the inspection, only in one case the client's money was deposited in its account and that too because of some dispute between the broker and the client. The broker further submitted that at all

times it has utilized its own funds for meeting pay-in obligations since recovery from clients took longer time. The Enquiry Officer found the explanation of the broker acceptable.

d) **Dealing with unregistered sub brokers**

The broker stated that it is perfectly legal for it to trade with the sub-broker in his capacity as a client. In support of the said contention, the broker furnished copies of client registration forms of the said entities. After examining the same, the Enquiry Officer did not find the broker guilty for the said charge.

e) **Contract notes were not signed**

With regard to the said charge, the broker himself has admitted that the contract notes were not signed due to oversight / negligence. According to SEBI circular it is a mandate on the broker to issue contract notes within 24 hours to his client. Further, as a matter of proof the broker must maintain the dispatch register which clearly states the exact date of dispatch date of contract note. The Enquiry Officer observed that the broker dealing in securities market with huge client base approx. 900 clients should not commit such negligence. The Enquiry Officer thus concluded that the broker had violation Regulation 7 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 by not adhering to SEBI Rules, Regulations, and Guidelines issued from time to time.

- 4.3 On a careful consideration of the above and the submissions made by the broker, I am inclined to agree with the findings and the recommendations of the Enquiry Officer.

5.0 ORDER

- 5.1 Now, therefore, in exercise of powers conferred upon me in terms of Section 19 of SEBI Act, 1992 read with Regulation 13(4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulation 2002, I hereby censure M/s. Fortune Equity Brokers (India) Ltd, (INB230653830), Member, National Stock Exchange.

- 5.2 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