

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 LALKAR SECURITIES PVT. LTD., MEMBER, THE STOCK EXCHANGE, MUMBAI SEBI REGISTRATION NO. INB010991133.

1.0 BACKGROUND

1.1 M/s. Lalkar Securities Pvt. Ltd. (hereinafter referred to as "the broker") is a member of The Stock Exchange, Mumbai ("BSE") registered with SEBI as a stock broker under section 12 of SEBI Act, 1992 with SEBI Registration No. INB010991133.

1.2 Inspection of the books of accounts, documents and other records of the broker was carried out by SEBI for the period 2000-01, 2001-02 i.e till 31.8.2002 and certain irregularities found to have been committed by the broker were observed.

2.0 ENQUIRY PROCEEDINGS

2.1 In view of the above, an Enquiry Officer (EO) was appointed vide SEBI Order dated December 16, 2003 under Regulation 5(1) of SEBI (Procedure for Holding Enquiry) Regulations, 2002 (hereinafter referred to as the "said Regulations") to inquire into the irregularities 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 18.03.05 and recommended imposition of a minor penalty of censure on the broker.

2.2 A copy of the Enquiry Report was sent to the broker on 29.03.05, in terms of Regulation 13(2) of 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.

2.3 The broker replied vide letter dated 08.04.05 and sought extension of time upto 15 days and thereafter replied to the show cause notice vide letter dated 21.4.05. The broker submitted that it has not violated any of the rules, regulations and circulars of SEBI and therefore the Show Cause Notice should be discharged and no penalty of any nature whatsoever should be imposed on it.

3.0 CONSIDERATION OF ISSUES

3.1 I have carefully considered the findings of inspection, Enquiry and the submissions made by the broker. Though the inspection report lists a number of violations alleged to have been committed by the broker, the EO has found the broker guilty of only one violation, as follows:

3.2 It was alleged that the broker failed to report off the floor transactions to the exchange.

The broker submitted that the above finding refers to a single transaction of 50 shares of Ranbaxy done by clients without the specific permission or knowledge of the broker and that the broker was aware of it only through the inspection. The broker admitted the mistake and stated that it was not a negotiated deal or cross deal and the same should have been done on the exchange. The broker stated that there was no malafide intention and the brokerage earned was only Rs.57/-. An isolated transaction of 50 shares in a heavily traded scrip of Ranbaxy cannot be interpreted as an intentional violation of SEBI Circular. The EO found that even if the transaction is a single one, it is a violation of the SEBI Circular SMDRP/POLICY/CIR-32/99. In this regard the EO found that the broker is guilty of violating the Code of Conduct as enumerated in Regulation 7 of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 as he has failed to observe the provisions of SEBI Circular SMDRP/POLICY/CIR-32/99 with respect to reporting of the off market deal to the exchange.

3.3 With regard to other charges like not maintaining the statutory books in physical form/non-preservation of books of account for five years and dealing with unregistered sub-brokers, the EO did not find the broker guilty of violation of any Rules.

4.0 On a careful perusal of the charges, findings of inspection and enquiry and the submissions made by the broker, I have no substantive reason to differ with the findings of the EO. Although the broker felt that a solitary lapse that too unintentional may not be treated as a violation, I tend to agree with the EO's view. It should be understood that the concern behind the Regulations is primarily to ensure integrity of the capital market, which calls for full understanding and commitment of all concerned towards total compliance of Regulations. Brokers being the important intermediary, are expected to do so

flawlessly. As such, the frequency or numerous occurrences of violation are inconsequential and rightly so, the regulations have not built any scope for such consideration.

5.0 ORDER

5.1 Now, 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 the said Regulations, I hereby warn M/s. Lalkar Securities Pvt. Ltd., member, BSE bearing SEBI Registration No. INB010991133 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 the part of the broker in complying with the said provisions would invite stringent action.

5.2 This order shall come into force with immediate effect.

PLACE: MUMBAI

DATE : 12.1.06

MADHUKAR

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA