

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s JHP SECURITIES PVT LTD., MEMBER, THE STOCK EXCHANGE, MUMBAI SEBI REGISTRATION NO. INB010990036 UNDER REGULATION 13(4) SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002

1.0 **BACK GROUND**

- 1.1 M/s JHP Securities Pvt Ltd (hereinafter referred to as the 'broker') is a member of the 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 INB010990036.
- 1.2 An Inspection of the Books of Accounts, Documents and other records maintained by the broker for the period April 2000 to September 14, 2002, was carried out by M/s. A J Shah & Co, Chartered Accountants appointed by SEBI vide letter no.SMD/DBA-1/Pre-Insp/AK/14877/2002 dated 06/08/2002. 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 dated 12.12.2002, an Enquiry officer was appointed vide order dated January 9, 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 Show Cause Notice dated July 22, 2004 was issued to the broker under Regulation 6 (1) of the said regulations. The broker submitted its replies dated September 10, and September 27, 2004 and appeared for personal hearing before the enquiry officer on September 29, 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.
- 2.3 After considering the reply and the submissions made at the time of personal hearing, the Enquiry officer submitted his report dated 30.9.04 recommending imposition of a 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 January 18, 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 THE ENQUIRY REPORT**

- 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) **Multiple client codes assigned to client**

With regard to the above allegation, the broker submitted that earlier there were few instances of assigning two client codes to the same client on the instructions of the client to differentiate between his trading and investment portfolio etc. and presently it had completely stopped allotting more than one client code to the same client since long time. The broker further submitted that unique client codes of its clients including the clients of its sub brokers were uploaded to the server of BSE and the income tax PAN and other details of client were mapped to the unique client code allotted to the client in its back office software. The Enquiry officer contended that in view of the satisfactory reply of the broker and in the absence of any record or reason to disbelieve the contentions of the broker, he is not inclined to find the broker guilty of violating the aforesaid circular.

b) **Bankers Certificate not obtained from any of the clients**

With regard to the said allegation, the broker submitted that most of its clients were reluctant to provide a bankers certificate inspite of its repeated advises to them to do so. The client registration form prescribed by the SEBI circular no.SMD/Policy/CIR/5-97 dated 11.4.1997 clearly makes it mandatory on the part of the client for furnish bankers certificate to the broker along with a duly filled in client registration form. The Enquiry Officer found that by not insisting on the

clients to furnish the bankers certificate before opening the clients' account, the broker abetted the violation of the circular dated April 11, 1997.

c) **Client Registration forms and broker client agreements not available for 11 clients and some of the client registration forms and broker client agreements were incomplete**

The broker submitted that it regrets the non-availability of some of client registration forms since the 11 clients identified by SEBI stopped dealing with it since last three years. The broker further submitted that as of date it obtained the details required in the client registration forms and the client agreements in case of all active clients. The Enquiry Officer found the explanation given by the broker acceptable.

d) **In some instances forms meant for individuals were used for non-individual clients or vice-versa**

With regard to the above allegation, the broker submitted that this happened only in a few cases involving client entities that were sole proprietorships. The broker further submitted that it subsequently took care and used relevant client registration forms for the relevant entity. The Enquiry Officer found the explanation of the broker satisfactory.

e) **Three clients were acting as unregistered sub brokers and one of the said clients was allotted BOLT terminal**

With regard to the aforesaid charge and considering the submissions of the broker, the Enquiry Officer noticed that even though the broker dealt with certain entities which were acting as sub brokers without obtaining proper certificate of registration with SEBI for a certain period of time, subsequently such entities were granted certificate of registration. In the case of M/s.Capital Market, the broker itself stopped its dealings as it was noticed that it was acting as an unregistered sub-broker. In support of its contentions, the broker also filed documentary evidence. The Enquiry Officer found the violation noted by the inspection team a technical violation.

f) **Contract Notes bear computer generated serial numbers on settlement basis / daily basis instead of annual basis**

With regard to this charge, the broker submitted that the issues related to contract notes were minor systemic lapses and it had already rectified the deficiencies pointed out by inspection team by making necessary changes to its system i.e. it had already commenced serial numbering of contract notes on an annual basis and printing of income tax PAN on the contract notes. The broker further submitted that it might be due to oversight some of the office copies of the contract notes were not signed which was unintentional. The broker also submitted that all originals of the contract notes were duly signed by an authorized official of the broker. Since the broker had already undertaken remedial measures to ensure the contract notes are serially numbered on annual basis, the Enquiry Officer did not find the broker guilty of violating the provision of law.

g) With regard to other allegations like not giving the details of vyaj badla transactions to the inspection team, the Enquiry Officer after considering the material on record did not find the broker guilty. Further, on the charge of direct transactions between a couple of clients, the Enquiry Officer did not enquire into the same on the ground that the matter is under investigation.

4.3 On a careful consideration of the above and the submissions made by the broker, I have no substantive reason to differ with the recommendation 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 impose a minor penalty of 'censure' on M/s. JHP Securities Pvt Ltd, (INB010990036), member Mumbai Stock Exchange.

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