

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s.ASHOK KUMAR KISHORILAL DAMANI, MEMBER - NATIONAL STOCK EXCHANGE, SEBI REGISTRATION NO. INB230001119 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 Ashok Kumar Kishorilal Damani (hereinafter referred to as the 'broker') is a member of National 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 INB230001119.
- 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. V Parekh & Associates, Chartered Accountants appointed by SEBI vide letter no.SMD/DBA-1/Pre-Insp/AK/17726/2002 dated September 11, 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 2.4.2003 an Enquiry Officer was appointed 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 by the Enquiry Officer. The broker appeared for a personal hearing before the Enquiry Officer on 24.12.2004. The enquiry officer conducted the enquiry in terms of the said Regulations and the broker was given a fair and reasonable opportunity to make its submissions. After considering the reply and the submissions made at the time of personal hearing the Enquiry officer submitted his report dated 24.1.2005 and recommended caution to the broker to be more careful.

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 25.4.2005, 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 noted significant points, as under :
- a) During the inspection, irregularities such as non-maintenance of order book, non-issuance of printed order / trade confirmation slip, discrepancies in contract notes and know-your-client forms were observed. The broker submitted that it was not maintaining a separate order book but as and when orders were received, they were punched into the trading terminal. The broker also submitted that contract numbers were generated by computer system for each settlement and the system was modified to generate continuous serial numbers. The Enquiry Officer found the violations noted by the inspection team only technical or procedural violations. The Enquiry Officer observed that the broker had taken necessary steps to rectify the discrepancies.
 - b) With regard to the allegations that delivery of securities were not made within 48 hours, scrips remained in pool account for more than 4 days, payments were made to clients even though the client account reflected debit balance, the broker submitted that the deliveries were withheld either on account of non receipt of payment or against written instructions of clients. The Enquiry Officer observed that there were no complaints from investors against the broker for delayed pay-out of securities, hence the contention of the broker is acceptable.
 - c) As regards the allegation that in some cases the payment of own obligations were made out of client account, the broker submitted that some minor expenditure was paid out of the client account by oversight. It further stated that there was no amount outstanding to any client and therefore money lying in the account was against brokerage. The Enquiry Officer however found the broker guilty of making petty payment from such account which is a technical violation of SEBI circular, and hence recommended for cautioning the broker to be careful in future.

4.2 In view of the above, I have no substantive reason to differ with the findings and the recommendation of the Enquiry Officer .

5.0 **ORDER**

5.1 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 direct M/s Ashok Kumar Kishorilal Damani (INB230001119), Member – National Stock Exchange, 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 effect immediately.

Place: Mumbai

Date: 13.1.06

Madhukar

Whole Time Member

Securities and Exchange Board of India