

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 VICTORY PORTFOLIO LTD., MEMBER, NATIONAL STOCK EXCHANGE, SEBI REGISTRATION NO. INB230781930.

1.0 BACKGROUND

- 1.1 M/s.Victory Portfolio Ltd. (hereinafter referred to as "the broker") is a member of National Stock Exchange, Mumbai ("NSE") registered with SEBI as a stock broker under section 12 of SEBI Act, 1992 with SEBI Registration No. INB230781930.
- 1.2 Inspection of the books of accounts, documents and other records of the broker was carried out by SEBI 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 5, 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 08.09.04 recommending for imposition of a minor penalty of warning on the broker.
- 2.2 A copy of the Enquiry Report was sent to the broker on 15.09.04, in terms of Regulation 13(2) of the said Regulations, advising it 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 vide letter dated 24.09.04 stated that its reply dated 31.5.04 already filed may be considered in support of its request to take a liberal view.

3.0 CONSIDERATION OF ISSUES

- 3.1 I have carefully considered the findings of inspection, Enquiry and the submissions made by the broker and my observations are as under :

a) **Contract Notes not signed**

It has been alleged that the broker had not signed the contract notes in some of the cases on April 7, 2003. The broker replied that due to oversight only one contract note was not signed but the same bore the round stamp which was affixed on all contract notes. The said mistake was rectified by affixing the broker's signature. The EO observed that though corrective steps were taken by the broker, it should have been cautious while issuing contract notes.

b) **Failure to segregate clients funds from own funds**

It was alleged that there was transfer of funds to and from the clients accounts for purposes like share application money, providing funds to sister concerns to overcome shortage etc. The broker submitted that during the period 8.7.02 to 8.8.02, it had received Rs.65,00,000 towards share application money. The broker admitted that it should have credited the money to own account and not to the client account. However, it had not utilized client funds or transferred money from the client account. The money was subsequently refunded from the client account itself. On the issue of providing funds to sister concerns the broker submitted that the inspecting authority had pointed out instances of payment of Rs. 2,00,000 and Rs. 3,50,000 to Clean Finance & Investment.

The broker further submitted that the inspection report clearly stated that the payments were made on the instructions of Emm Kay Share & Stock Ltd. However, written instructions were not available for verification at that time and hence enclosed copies of letters received from Emm Kay asking it to make payment on their behalf.

With respect to payment received from Jindal Oil and Fats Ltd., the broker submitted that the amount was received as margin from the client towards purchase transactions to be carried out. Subsequently Jindal did not carry out any trade with the broker and the said amount was refunded back to Jindal. Thus, the broker stated that there was no failure to segregate client funds nor has there been any funding transactions.

The EO found that though there does not appear any misutilisation of client funds, the broker needs to be more cautious in ensuring clear cut segregation of clients funds with its own funds.

- c) With respect to the allegation that serial numbers on the contract notes are allotted on a daily basis instead of running serial number on a yearly basis, the broker submitted that the software has been rectified and after consultation with NSE, printing of contract note numbers since the beginning of the financial year has been re-arranged. The EO found that the broker has taken corrective steps and that this was technical violation
- d) As regards the other allegations like non-maintenance of certain statutory books, not obtaining acknowledgement on counter foils, adjustment entries from one clients account to another, prescribed form of agreement not being used, dealing with unregistered sub-brokers etc., the EO after considering the material on record and the submissions made by the broker did not find the broker guilty of any violations.

4.0 In the facts and circumstances of the case, I have no substantive reasons to differ with the findings of the EO.

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. Victory Portfolio Ltd., member, NSE bearing SEBI Registration No. INB230781930 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 : 13.1.06

MADHUKAR

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA