

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 Shri Rajesh N Jhaveri, sub-broker (Registration No: INS010949811), affiliated to M/s ASE Capital Market Ltd.

1.0 BACKGROUND

- 1.1 Shri Rajesh N Jhaveri is a sub broker having SEBI Registration No. INS010949811 (hereinafter referred to as the sub-broker), affiliated to M/s ASE Capital Market Ltd.
- 1.2 Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted an inspection of the books of accounts and other documents of sub-broker and observed certain irregularities allegedly committed by sub-broker.

2.0 ENQUIRY PROCEEDINGS

- 2.1 In view of the above, SEBI vide order dated March 01, 2004 appointed an Enquiry Officer under Regulation 5 of SEBI (Procedure for holding Enquiry by Enquiry Officer and Imposing penalty) Regulations, 2002 (hereinafter referred to as Enquiry Regulations) to enquire into the irregularities observed during the inspection of books of accounts of the sub broker. Subsequently another Enquiry Officer was appointed vide SEBI's order dated November 08, 2004 and the Enquiry Officer after conducting the Enquiry in terms of the Enquiry Regulations submitted his Enquiry Report dated March 30, 2005 and recommended a minor penalty of censure against the sub-broker.
- 2.2 A copy of the said Enquiry Report was forwarded to the sub-broker along with a Show Cause Notice dated April 04, 2005 advising it to show cause as to why appropriate penalty including the penalty as recommended by the Enquiry Officer should not be imposed on it.
- 2.3 The sub-broker however did not reply to the show cause notice and therefore I am proceeding in the matter on the basis of materials and records available.

3.0 CONSIDERATION OF ISSUES AND FINDINGS

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

- (a) It was alleged that the sub-broker has not maintained bank book and order book.

The sub-broker before the Enquiry Officer submitted that they are now maintaining the bank book and order book. The Enquiry Officer noting that in view of the admission of the sub-broker that there could have been some errors in maintaining the order book concluded that by not maintaining the books of accounts in the proper form, the sub-broker has violated the provisions of Rule 15 of the Securities Contracts (Regulations) Rules, 1957 and Regulation 17 of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992.

- (b) The sub-broker was alleged to have carried out off the floor transactions.

The sub-broker submitted before the Enquiry Officer that the transactions were entered into as cross deals between two of its clients because of the problems in the system on account of VSAT fault on disturbances in the telephone lines/modems. The Enquiry Officer after observing that any failure of the VSAT on landline as such do not permit the sub-broker to do the transactions off the floor found that the sub-broker has violated the provisions of SEBI Circular SMD/DRP/Policy/Cir-32/99 dated September 14, 1999 which stipulate that all negotiated deals (including cross deals) shall be executed only on the screens of the exchanges in the price and order matching system of the exchanges.

- 3.2 With regard to the other charges like discrepancies in the confirmation memos, non segregation of clients funds from own funds and delay in delivery of securities to clients, the Enquiry Officer did not find the sub-broker guilty of violation of any Circular or Regulation.
- 3.3 On a careful perusal of the charges, findings of inspection and enquiry and the submissions made by the sub-broker, I have no substantial reason to defer with the findings of the Enquiry Officer. Regulations, Rules and Circulars are primarily to ensure integrity of the capital market, which calls for full understanding and commitment of all concerned towards total compliance of Regulations. Sub-brokers being the important intermediary, are expected to do so flawlessly.

4.0 ORDER

- 4.1 Now, therefore, in exercise of the powers conferred upon me under section 19 of SEBI Act, 1992 read with Regulation 13(4) of SEBI (Procedure for Holding Enquiry by the Enquiry Officer and Imposing Penalty) Regulations, 2002, I censure Shri Rajesh N Jhaveri, sub-broker (Registration No: INS010949811), affiliated to M/s ASE Capital Market Ltd. and direct it to be more cautious in future in its dealings with securities and adhere to the provisions of SEBI Act, 1992, Rules and Regulations made thereunder. Any future lapse on the part of the sub-broker in complying with the said provisions would invite stringent action.
- 4.2 This order shall come into force with immediate effect.

DATE: 16.01.2006

PLACE: MUMBAI

MADHUKAR

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA