

## **SECURITIES AND EXCHANGE BOARD OF INDIA**

### **ORDER**

#### **UNDER REGULATION 13(4) SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST M. P. VORA SHARES & SECURITIES PVT. LTD., MEMBER, BSE, REGISTRATION No. INB 011044139 IN THE MATTER OF MANGALYA EXPORTS LTD.**

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#### **1.0 BACKGROUND**

- 1.1 M. P. Vora Shares & Securities Pvt. Ltd. ( hereinafter referred to as "the broker" ) is a member of the Stock Exchange, Mumbai (hereinafter referred to as "BSE") and is registered with Securities and Exchange Board of India (hereinafter referred to as "SEBI") vide registration No. INB 011044139.
- 1.2 SEBI conducted an investigation into the affairs relating to buying, selling and dealing in the scrip of Mangalya Exports Ltd. (hereinafter referred to as "MEL") for the period 17.05.2000 to 21.07.2000. Investigation revealed that MEL had been a continuously loss incurring company with a very small volume of turnover. The price of the scrip went up from Rs.96/- to Rs.194/- in a month's time in May-June 2000 and then declined to the same level of Rs.96/- in June-July 2000
- 1.3 Investigation revealed that the broker had executed orders put by sub broker Kirtikumar K Shah (presently known as M/s. V & U Securities Pvt. Ltd.) for the client Shri Nimesh Manharlal Shah. The total shares purchased were 3,100 shares and sold were 2,800 shares of the said scrip. Investigation revealed that during the settlement no.12, Nimesh Manharlal Shah had executed these trades through two sub-brokers viz. M/s. S J Securities Ltd. (broker M/s. Manashvi Securities Ltd.) and Kirtikumar K Shah ( presently known as M/s. V & U Securities Pvt. Ltd.) through the broker - M/s. M P Vora Shares & Securities Pvt. Ltd. by putting the buy and sell orders for same total quantity at same rates with minimum time difference ranging from 1 minute to 4 minutes in most of the trades. As Nimesh Manharlal Shah was the counter broker client, these trades were fictitious in nature and led to circular trading and accounted for 100% of the market volume of the respective days and as such inflated the price of the scrip from Rs.157 to Rs.176 and then deflated the price of the scrip from Rs.194 to 185, within a very short period of time. It is further observed that during the settlement no. 14, 15, 16 and 17 the client Nimesh Manharlal Shah sold shares in lots of 100 shares per day at lower circuit filter rates on 7 days which accounted for 100% of the market volume of the respective days which further deflated the price of the scrip to Rs.99. Thus the client Nimesh Manharlal Shah has dealt in securities which are circular in nature and were not intended to effect transfer of beneficial ownership (as he was the buyer and seller on both the sides), but intended to operate only as a device to inflate and deflate the price of the security which have created false and misleading appearance of trading in the securities market.

#### **2.0 APPOINTMENT OF ENQUIRY OFFICER AND ENQUIRY REPORT**

- 2.1 SEBI vide order dated 12.03.2004 appointed an Enquiry Officer under the provisions of Regulation 5 (1) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as the "said Regulations") to enquire into the alleged violation committed by the broker of the provisions of Regulation 7 read with clause A(2), Code of Conduct prescribed in Schedule II of the SEBI (Stock Brokers & Sub - Brokers) Regulations, 1992 (hereinafter referred to as "Stock Broker Regulations") while trading in the scrip of MEL.
- 2.2 The Enquiry Officer, after conducting the enquiry as per the procedure laid down in the said Regulations, submitted a report dated 28.10.2004. The Enquiry Officer found the broker guilty of not exercising due care and diligence as required under the code of conduct prescribed for stock brokers as the sub broker traded with unregistered broker and recommended that warning be issued to the broker to be careful in future.

#### **3.0 SHOW CAUSE NOTICE AND REPLY**

- 3.1 A Show Cause Notice dated 22.12. 2004 was issued to the broker along with a copy of the Enquiry Report, calling upon to show cause, in terms of Regulation 13(2) of the Regulations, as to why action as recommended by the Enquiry Officer should not be taken against it. \_
- 3.2 The Broker replied to the said show cause notice vide letter dated 11.01.2005 and reiterated its submissions already made vide it's letter dated 25.05.2004 and 30.06.2004 and at the time of personal hearing before the Enquiry Officer on 29 .06.2004. The Broker, inter alia, submitted that
- a) M/s. Kirtikumar Kantilal Shah is a Member of Ahmedabad Stock Exchange (ASE) and is registered with the SEBI. Since there was a separate Memorandum of understanding signed between BSE and ASE, at the time when they were trading for Kirtikumar Kantilal Shah, the Stock Exchange Officers told that there was no need of separate registration as Kirtikumar Kantilal Shah was already registered with SEBI and they can carry out transactions.

- b) The Stock exchange officers were not clear as to whether a separate registration was required for the other stock exchange. Subsequently, after a long time, they were told that separate registration was required.
- c) They had terminated sub-brokership of Kirtikumar Kantilal Shah as on 31.03.2002. They had no intention to deal with any unregistered sub-broker and they dealt with Kirtikumar Kantilal Shah as exchange officers were not clear about the interpretation of SEBI's Rules & Regulations and therefore the confusion prevailed at that time.

#### **4.0 CONSIDERATION OF ISSUES AND OBSERVATIONS**

4.1 I have considered the facts of the case, the findings of the Enquiry Officer and the reply of the broker to the show cause notice. The issue which arose for consideration and my observation are as follows:

4.2 I observe that the broker had executed orders in the scrip of MEL on behalf of its sub-broker Kirtikumar K Shah who traded for his client Nimesh Manharlal Shah. The details of buy and sell position of the sub-broker through the broker are as under:

|  | Date    | Buy Client       | Sub-broker         | Broker   | Qty                            | Price              | Sell Client      | Sub-broker        | Broker   | Qty                                               | Price                   |
|--|---------|------------------|--------------------|----------|--------------------------------|--------------------|------------------|-------------------|----------|---------------------------------------------------|-------------------------|
|  | 12.6.00 | Nimesh Shah N004 | KK Shah (V&U Secs) | MP Vora  | 3 orders of 300, 200, 200      | 165, 168, 172      | Nimesh Shah 2609 | SJ Sec            | Manashvi | 3 orders of 200, 200, 300                         | 172, 168, 165           |
|  |         | Nimesh Shah 2609 | SJ Sec             | Manashvi | 3 orders of 200, 300, 200      | 162, 165, 169      | Nimesh Shah N004 | KK Shah (V&U Sec) | MP Vora  | 3 orders of 200, 200, 300                         | 162, 169, 165           |
|  |         | Nimesh Shah 2609 | SJ Sec             | Manashvi | 3 orders of 200 each           | 157, 158, 159      | Nimesh Shah N004 | KK Shah (V&U Sec) | MP Vora  | 3 orders of 200 each                              | 159, 158, 157           |
|  |         | Nimesh Shah N004 | KK Shah (V&U Sec)  | MP Vora  | 4 orders of 300, 100, 100, 100 | 169, 170, 172, 173 | Nimesh Shah 2609 | SJ Sec            | Manashvi | 5 orders of 300, 100, 100, 100, 100               | 169, 170, 172, 173, 174 |
|  | 13.6.00 | Nimesh Shah N004 | KK Shah (V&U Sec)  | MP Vora  | 4 orders of 100, 300, 100, 100 | 162, 165, 168, 169 | Nimesh Shah 2609 | SJ Sec            | Manashvi | 5 orders of 100, 300, 100, 100, 100               | 162, 165, 168, 169, 170 |
|  |         | Nimesh Shah 2609 | SJ Sec             | Manashvi | 2 orders of 200, 300           | 172, 176           | Nimesh Shah N004 | KK Shah (V&U Sec) | MP Vora  | 3 orders of 200, 300 and 200                      | 172, 176, 177           |
|  | 16.6.00 | Nimesh Shah 2609 | SJ Sec             | Manashvi | 1 order of 100                 | 185                | Nimesh Shah N004 | KK Shah (V&U Sec) | MP Vora  | 1 order of 100                                    | 185                     |
|  | 28.6.00 | 1T001            | Deval N Seth       | SVS Sec  | 1 order of 100                 | 144.15             | Nimesh Shah N004 | KK Shah (V&U Sec) | MP Vora  | 1 order of 200 (1 <sup>st</sup> order of the day) | 144.15                  |
|  | 29.6.00 | S151             |                    |          | 1 order of 100                 | 132.65             | Nimesh Shah N004 | KK Shah (V&U Sec) | MP Vora  | Sale of order of previous day updated             | 132.65                  |

|         |                       |                      |             |                |                             |                       |                      |             |                                                   |        |
|---------|-----------------------|----------------------|-------------|----------------|-----------------------------|-----------------------|----------------------|-------------|---------------------------------------------------|--------|
| 4.7.00  | S10                   |                      |             | 1 order of 100 | 127.35                      | Nimesh Shah<br>N004   | KK Shah<br>(V&U Sec) | MP Vora     | 1 order of 100                                    | 127.35 |
| 10.7.00 | Yogesh Parekh<br>8060 |                      | ACME Shares | 1 order of 100 | 117.15 updated to<br>117.45 | Nimesh Shah<br>N004   | KK Shah<br>(V&U Sec) | MP Vora     | 1 order of 200 (1 <sup>st</sup> order of the day) | 117.45 |
| 17.7.00 | Yogesh Parekh<br>8060 |                      | ACME Shares | 1 order of 100 | 108.3                       | Nimesh Shah<br>N004   | KK Shah<br>(V&U Sec) | MP Vora     | 1 order of 100 (1 <sup>st</sup> order of the day) | 108.3  |
| 18.7.00 | Yogesh Parekh<br>8060 |                      | ACME Shares | 1 order of 100 | 104                         | Nimesh Shah<br>N004   | KK Shah<br>(V&U Sec) | MP Vora     | 1 order of 100 (1 <sup>st</sup> order of the day) | 104    |
| 19.7.00 | Yogesh Parekh<br>8060 |                      | ACME Shares | 1 order of 200 | 100                         | Nimesh Shah<br>N004   | KK Shah<br>(V&U Sec) | MP Vora     | 1 order of 100 (1 <sup>st</sup> order of the day) | 99.85  |
| 21.7.00 | Nimesh Shah<br>N004   | KK Shah<br>(V&U Sec) | MP Vora     | 1 order of 200 | 96                          | Yogesh Parekh<br>8060 |                      | ACME Shares | 1 order of 200                                    | 95.90  |

- 4.3 I observe from the above table that during Settlement No.12 on 12.6.00, the client Nimesh M Shah under client code 2609 sold 700 shares @ Rs.165-172 through SJ Securities, sub broker to Manashvi Securities Ltd. and purchased the same under client code N004 through Kirtikumar K Shah sub broker to the broker. This trade was reversed @ Rs.162 – 169 through the same sub brokers on the same day. Again Nimesh Manharlal Shah under client code N004 through Kirtikumar K Shah sub broker to the broker sold 600 shares @ Rs.157 – 159 and the same were purchased by Nimesh M Shah himself under client code 2609 through S J Securities, sub broker to Manashvi Securities Ltd. Thus, at the end of the day, this trade was reversed by Nimesh Manharlal Shah @ Rs.169 – 173 through the same sub brokers.
- 4.4 Similarly, on 13.6.00, the client Nimesh M Shah under client code 2609 sold 600 shares @ Rs.162-169 through SJ Securities, sub broker to Manashvi Securities Ltd. and the same were purchased by him under client code N004 through Kirtikumar K Shah sub broker to the broker. These transactions for 600 shares were reversed for 500 shares @ Rs.172- 176 on the same day and 100 shares @ Rs.185 on the last day of settlement i.e. 16.6.00. Thus, the client squared off his positions through the same sub brokers.
- 4.5 I observe that during Settlement No.14, 15, 16 and 17 the price of the scrip declined sharply to Rs.95.90. I also observe that during this period 1500 shares were traded, out of which 700 shares were sold by Nimesh Manharlal Shah under client code N004 through Kirtikumar K Shah, sub broker to the broker. These 700 shares were sold in the lots of 100 on 7 days with a decrease in price i.e. @ Rs.144.15 on 28.6.00 to Rs.99.85 on 19.7.00.
- 4.6 I observe that the Enquiry Officer's finding that there was no material to show that the broker was aware of the trades done by Nimesh Shah through his sub-broker and that the sub-broker effected the transactions through the BOLT terminal installed at his office In Ahmedabad. I observe that the broker had not indulged in the above transactions. I agree with the Enquiry Officer's finding that it was not possible to monitor the daily scrip wise transaction of their sub-broker done through another BOLT terminal installed in a different city.
- 4.7 I have, however, noted that the Kirtikumar Shah was not a registered sub-broker of the broker. When asked about this, the broker, at the time of the hearing before the Enquiry Officer and written submissions dated 11.01.2005, had stated that they had installed their terminal in the office of the Kirtikumar Shah under the belief that it was legally permissible to do so as he was a member of Ahmedabad Stock Exchange. I agree with the finding of the Enquiry Officer that the broker was guilty of not exercising due care and diligence as required in the code of conduct prescribed for stock brokers as he dealt with unregistered sub broker. I, therefore, find that the charge of non-exercise of due diligence is proved as far as this aspect is concerned.

4.8 I have further note the broker's contention that they had taken corrective measures and cancelled the sub-brokership and BOLT terminal of Kiritkumar Kantilal Shah.

4.9 I also observe that the BSE has imposed a fine of Rs.25,000/- on the member for entering into transactions of fictitious nature accompanied by establishment of higher prices mentioned scrip of MEL and thereby upsetting the equilibrium of the market. However, I do not agree with the contention of the broker that since they have been penalized by BSE, there cannot be multiple proceedings for the same offence. I agree with the observation of the Enquiry Officer that action, if any, taken by BSE against its broker will not preclude SEBI from taking action against the broker for violation of its Regulations. I am, therefore, convinced that it is a fit case to impose a minor penalty of warning against the broker as recommended by the Enquiry Officer.

## **5.0 ORDER**

5.1 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 said Regulations, in the facts and circumstances of the case, I hereby impose minor penalty of 'warning' against M P Vora Shares & Securities Pvt. Ltd.

**DATE : 31.01.2006**

**PLACE : MUMBAI**

**MADHUKAR**

**WHOLE TIME MEMBER**

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