

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

AGAINST M/s.RAMA SECURITIES PVT. LTD., MEMBER - CALCUTTA STOCK EXCHANGE, SEBI REGISTRATION NO. INB031017730 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 Rama Securities Pvt. Ltd (hereinafter referred to as the 'broker') is a member of Calcutta Stock Exchange, (hereinafter referred to as 'CSE') 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 INB031017730.

1.2 An Inspection of the Books of Accounts, Documents and other records maintained by the broker for the financial year 2001- 2002 was carried out by SEBI pursuant to the Order dated May 17, 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 August 08, 2002 an Enquiry Officer was appointed vide Order dated December 3, 2003 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 April 30, 2004 was issued to the broker under Regulation 6 (1) of the said regulations enclosing therewith a statement of the findings of the inspection and the contraventions alleged to have been committed by the broker. The broker vide its letter dated July 29, 2004 submitted a reply to the aforesaid show cause notice and appeared for personal hearing on July 30, 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 October 30, 2004 and recommended a minor penalty of 'suspension of certificate of registration' of the broker for a period of one month.

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 November 4, 2004, 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. The broker replied to the show cause notice vide its letter dated November 22, 2004.

4.0 PERSONAL HEARING

4.1 An opportunity of personal hearing was granted to the broker on April 12, 2006. Shri.Navin Khemka, Authorised Representative of the broker, appeared for the hearing before me and made submissions on behalf of the broker.

5.0 CONSIDERATION OF ISSUES

5.1 I have carefully considered the findings of the Inspection, Enquiry and the submissions made during the personal hearing and my observations are as under :

5.2 a) **Acting as unregistered sub broker of Lohia Securities and Kripa**

Finance

With regard to the aforesaid charge, the broker submitted that after purchase of shares from Lohia Securities and Kripa Finance & Estates, sales were made by it from its portfolio for which Form B Contract Notes were issued. The Enquiry Officer observed that the details of the above transactions were not furnished in the inspection report and hence in the absence of volume and value of transactions undertaken by the broker, it would be difficult to discern the trading pattern so as to arrive at a definite finding. Hence, the EO gave the benefit of doubt to the broker. I agree with the EO that in the absence of proper details regarding the nature and volume of transactions, no inference can be drawn.

b) **Non segregation of client / own funds**

With regard to the above charge, the broker admitted that in three instances it was due to an error and in other cases, it was due to inter se transfer made by the bank, unilaterally. The EO found that the transfer of funds from clients account to the proprietary account and receiving of funds from the client directly in the proprietary account was not in order and hence found the broker guilty of violating the SEBI Circular dated November 18, 1993.

SEBI Circular cited supra envisages that brokers should keep the clients money separately. No money other than those required for payment to or on behalf of clients should be withdrawn from the client account. In the present case, the broker has admitted that due to clerical errors or bank mistake, there had been instances where clients' payments were deposited directly in the proprietary account and payments were made therefrom. However, in the absence of any finding of misappropriation of client funds or any complaints/grievances, I am inclined to take a lenient view in the matter.

c) **Non-payment of fees to SEBI**

The broker stated to the EO that the writ petition in Calcutta High Court was withdrawn on 29.7.04 and the payment would be made after the issue was clarified by SEBI. The EO found that it is not known as to why the broker had not paid the fees even thereafter and hence found that non-payment of fees is not in conformity with Regulation 10 read with Schedule 3 of SEBI (Stock Brokers & Sub-Brokers) Regulations, 1992 and SEBI Circular No.SMD/Policy/Cir/07/2002 dated August 28, 2002. However, the broker vide letter dated 22.11.04 stated that payment towards turn-over fees to the tune of Rs.12,63,344/- was made to SEBI and enclosed copies of the Demand Drafts in this regard. In view of the subsequent developments, I do not find any case warranting punishment. In the eventuality of any deficit being found in the payment of turnover fees, appropriate action would be initiated in accordance with the provisions of the Regulations.

5.3 In the facts and circumstances of the case, I do not find this a fit case for suspending the certificate of registration of the broker. A minor penalty of "censure" would be appropriate and sufficient.

6.0 ORDER

6.1 Now, therefore, in exercise of powers conferred upon me in terms of Section 19 of SEBI Act, 1992 read with Regulation 13(4) of the said Regulations, I hereby "censure" M/s.Rama Securities Ltd., Member, Calcutta Stock Exchange, bearing SEBI Registration No. INB031017730.

6.2 This order shall come into force with immediate effect.

Place: Mumbai

Date: 28/4/06

T.C.NAIR

Whole Time Member

Securities and Exchange Board of India