

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER AGAINST M/S SHRINE INVESTMENTS, MEMBER, THE PUNE STOCK EXCHANGE LTD., UNDER REGULATION 13(4) OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 FOR THE IRREGULAR TRANSACTIONS IN THE SHARES OF HOME TRADE LTD.

WTM/GA/ISD/111/12/06

1.0 BACKGROUND

- 1.1 M/s Shrine Investments (hereinafter referred to as the Broker) is a member of the Pune Stock Exchange Ltd. (hereinafter referred to as PSE) and is registered with the Securities and Exchange Board of India (hereinafter referred to as SEBI) as a stock broker under section 12 of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the said Act) with registration number INB110961310.
- 1.2 The shares of Home Trade Ltd. (hereinafter referred to as HTL) were listed at PSE on November 15, 1999 at Rs 250/- and at Bangalore Stock Exchange Limited (hereinafter referred to as BgSE) on November 16, 1999 at Rs.275/-. There was a very sharp rise in the price of the shares of HTL both at PSE and BgSE and it reached Rs. 315/- within two weeks of its listing, i.e. by December 06, 1999. Thereafter, the price of the said shares reached Rs.874/- on May 05, 2000. The maximum rise in the price of the shares of HTL took place between November 16, 1999 and March 31, 2000, when it moved from Rs.275/- to Rs.815/-. SEBI conducted an investigation into the buying, selling and dealings in the shares of HTL inter alia by the members (stock brokers) of PSE including the Broker in respect of the alleged price manipulation in the shares of HTL. It was observed that Broker alongwith other members of PSE had contributed more than 90% of the volumes at PSE wherein the shares were traded among themselves and rigging the prices by trades which were not genuine and thereby created artificial price in volumes in the shares of HTL. In view of the above, it was alleged that the Broker had contravened the provisions of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 1995 (hereinafter referred to as the FUTP Regulations) and Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as the Broker Regulations).
- 1.3 The investigation conducted by SEBI found that the Broker had traded in the shares of HTL on behalf of his clients, Shri Andhare Vilas, Shri Hemendra Paliwal and Smt Hetal Paliwal during the period April 01, 2000 to December 31, 2001. The Broker had also traded in the shares of HTL in his proprietary account. The total transactions executed by the Broker in the shares of HTL during the said period are mentioned below:

Period	Gross Purchase (shares)	% to the total buy volume at PSE	Gross Sales (shares)	% to the total sell volume at PSE
April 01, 2000 to March 31, 2001	1,53,900	22.05%	1,54,400	22.12%
April 01, 2001 to December 31, 2001	37,400	8.76%	39,700	9.30%

- 1.4 The client / proprietary wise trade details (in the shares of HTL) are as under:

Period	Client	Buy	Sell
April 1, 2000 to March 31, 2001	Andhare Vilas	62600	62600
	Hemendra Paliwal	45500	45500
	Hetal Paliwal	45000	45000
April 1, 2001 to December 31, 2001	Andhare Vilas	33000	33000
	Own Account	3700	2900

2.0 APPOINTMENT OF ENQUIRY OFFICER

- 2.1 SEBI appointed an Enquiry Officer, vide order dated May 28, 2003, under regulation 5(1) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as the 2002 Regulations) to enquire into the alleged irregular transactions of the Broker in the shares of HTL. The following allegations were leveled against the Broker:

"1. All the clients were not known to the broker and Shri. Veerkar used to place orders on behalf of the clients which is in violation of SEBI Circular No. SMD/POLICY/IECG/1-97 dated 11.02.97.

2. The broker had not issued contract notes to his clients but were sent to Shri Veerkar of HTL which is in violation of Clause B(2) of the Code of Conduct as specified in schedule II read with Regulation 7 of SEBI (SB&SB) Regulations, 1992.
3. The broker did not give deliveries to his clients which was given to Shri. Veerkar of HTL which is in violation of B(1) of the Code of Conduct as specified in Schedule II read with Regulation 7 of SEBI (SB&SB) Regulations, 1992.
4. It is alleged that the broker actively traded in the scrip of HTL and artificially created higher price and volumes in the scrip of HTL. The broker entered into transactions that are not genuine trade transactions. It is alleged that the broker contravened provisions of the Regulation 4(a)(b)(c) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and violated Clause A(3-4) of the Code of Conduct as specified in Schedule II read with Regulation 7 of SEBI (SB&SB) Regulations 1992".

2.2 The Broker furnished his reply and made his submissions before the Enquiry Officer. The Enquiry Officer conducted the enquiry in terms of the 2002 Regulations and, vide report dated December 31, 2004, he had recommended for the imposition of a minor penalty of suspension of the certificate of registration of the Broker for a period of 30 days.

3.0 CONSIDERATION OF ISSUES AND FINDINGS.

- 3.1 Based upon the recommendations of the Enquiry Officer, a notice dated January 12, 2005 was issued to the Broker under regulation 13(2) of the 2002 Regulations, asking him to show cause as to why the penalty as considered appropriate should not be imposed upon him. A copy of the Enquiry Report was also forwarded to the Broker with the said show cause notice. M/s Thakordas & Madgavkar, Advocates and Solicitors on behalf of the Broker, vide letter dated January 27, 2005 sought 15 days time for filing the reply to the said show cause notice. The aforesaid advocate, as instructed by the Broker (vide letter dated February 15, 2005), had again requested SEBI to extend the time for filing the reply by 15 days. As no reply was received from the Broker, vide letter dated February 13, 2006, SEBI had once again advised the Broker to file his reply to the said show cause notice. SEBI had also advised the Broker to inform as to whether he was desirous of attending personal hearing before SEBI. M/s Thakordas & Madgavkar, Advocates and Solicitors on behalf of the Broker, vide letter dated February 18, 2006, had again requested two weeks time for filing the reply. However, no reply was received from the Broker. From the above it is seen that sufficient opportunities were given to the Broker for submitting his reply to the show cause notice issued by SEBI. In these circumstances, it appears that the Broker is not interested in filing the reply and in availing the opportunity of hearing and that no useful purpose will be served in giving any further opportunity.
- 3.2 I have perused the Enquiry Report, show cause notice issued to the Broker, the letter dated February 13, 2006 issued by SEBI to the Broker, the letters received from Thakordas and Madgavkar, Advocates (as mentioned above) on behalf of the Broker and other relevant materials available on record. As the Enquiry Officer had not recorded any specific findings in respect of the violation of the provisions of FUTP Regulations, I deal with the other alleged violations attributed to the Broker. The transactions made by the Broker on behalf of his clients and on his proprietary account in the shares of HTL are not disputed.
- 3.3 One of the charges levelled against the Broker was that all the clients were not known to him and the orders on behalf of the said clients were placed by Shri. Veerkar, which was in violation of SEBI Circular dated February 11, 1997. I note that, in terms of the circular dated February 11, 1997, the stock brokers were advised to maintain a database [pertaining to 'Know Your Client' (KYC) norms/ guidelines] of their clients. SEBI, vide circular dated April 11, 1997, had once again advised the stock brokers to follow the circular dated February 11, 1997 and further advised that the brokers might seek additional information, if any, so as to satisfy themselves about the antecedents of the client and that it would be the responsibility of the stock brokers to provide for clients' details as and when need arose.
- 3.4 I observe that the Broker had entered into the member client agreement and the client registration forms with his clients. Though the client registration form was entered into by the Broker with all the clients, the details of the introducer was not mentioned in the said form(in respect of all the clients). The Broker had admitted before the Enquiry Officer that his clients, Shri Hemendra Paliwal and Smt Hetal Paliwal were introduced by Shri Veerkar and Shri Andhare Vilas was introduced by one Shri Bala. He had also submitted that one Shri Bala (an employee of Giltedge Securities of PSE) accompanied Shri Veerkar when the clients were introduced. This has to be viewed in the context of the admission made by the Broker before the Enquiry Officer (as observed in the Enquiry Report) that he had not met the clients. It can be inferred from the above that the clients accounts were opened by Shri Veerkar on behalf of the clients. Further, it is also noted that the annual income of the clients namely, Shri Hemendra Paliwal and Smt. Hetal Paliwal was not mentioned in the client registration form. The date of signing of the said forms in respect of all the clients, the net worth of the said clients were also not mentioned in the said forms. Being a market intermediary, the Broker was expected to comply with the requirements of rules, regulations, circulars etc. issued from time to time in relation to its business. Further, it is an admitted fact that some of the orders on behalf of the clients were placed by Shri Veerkar. In the facts and circumstances, it is noted that the clients were not properly introduced to the Broker and that the Broker had not obtained certain

requirements in the client registration form as required in terms of the SEBI Circular dated February 11, 1997. It is fairly established that the Broker had violated the said circular of SEBI.

- 3.5 It is also noted that the annual income of the client was not mentioned in the client registration forms. I note that the Broker had traded substantially in the shares of HTL on behalf of clients despite the fact that there was nothing on record to assess the financial capacity of its clients. It is one of the precautionary measures of a stock broker to verify the financial capacity of his clients before executing the trades on their behalf, which is one of the checks under the Know Your Client norms/guidelines. When a stock broker fails to perform the said primary requirement and further, if he happens to be transacting on behalf of such clients without knowing them personally and their financial capacity, he is putting the entire system in jeopardy. In the absence of any details of the financial capacity of the clients and considering the substantial trades made on behalf the clients, the Broker should not have executed trades on behalf of the clients. The assessment of financial capacity of the client can not be taken as irrelevant even when the trades were squared off. The Broker should have exercised due skill, care and diligence while trading on behalf of his clients. The above acts of the Broker clearly establishes that the Broker had failed to assess the financial capacity (one of the requirements under the KYC norms) of the clients before executing trades on behalf of them in the shares of HTL.
- 3.6 The second charge leveled against the Broker was that he had not issued the contract notes to his clients, but had sent them to Shri Veerkar which was in violation of Clause B(2) of the Code of Conduct as specified in Schedule II read with Regulation 7 of the Broker Regulations. I note that in terms of clause B(2) of the Code of Conduct of the Broker Regulations (as existed at the relevant time) , a stock broker shall issue the contract note for all the transactions to his client without any delay. In the present case, it was submitted by the Broker before the Enquiry Officer that one of the clients (Shri. Andhare Vilas) had told him not to send the contract notes. However, he could not produce any material/ document to substantiate his aforesaid contention. In the case of other clients (Shri Hemendra Paliwal and Smt. Hetal Paliwal), it was submitted by the Broker that Shri. Veerkar used to collect the contract notes from the office of the Broker and used to deliver back the acknowledgement receipts.
- 3.7 The Broker could not produce any documents to show that his clients had authorized Shri Veerkar to accept the contract notes on their behalf. The above submission clearly shows that the contract notes were not sent by the Broker to his clients, as required under the said clause {B(2)}. In certain cases (Shri Hemendra Paliwal and Smt. Hetal Paliwal), the Broker had admittedly issued the contract notes to a third party, without any authorization. In view of the above, it is fairly established that the Broker had violated clause B(2) of the Code of Conduct specified in Schedule II of the Broker Regulations. It was also alleged that the Broker did not give deliveries to the clients and accordingly, violated clause B(1) of Code of Conduct of the Broker Regulations. However, the Broker had submitted before the Enquiry Officer that there was no delivery as most of the transactions were squared off.
- 3.8 In the facts and circumstances as detailed above, It is fairly established that the Broker had violated SEBI Circular dated February 11, 1997 and Clause B(2) of the Code of Conduct as specified in Schedule II of Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992.
- 3.9 The Enquiry Officer in his report dated December 31, 2004 had also observed that despite of executing large transactions on behalf of the clients, the Broker had failed to obtain the acknowledgement copy of contract notes and therefore, the Broker had violated regulation 17(1) (i) of the Broker Regulations.
- 3.10 However, I note that there was no specific findings made by the Enquiry Officer to the effect that the Broker had violated the provisions of FUTP Regulations. In the facts and circumstances, I consider that a penalty of suspension of the certificate of registration of the Broker for a period of fifteen days would suffice in the matter.

4.0 ORDER

- 4.1 In view of the foregoing I, in exercise of the powers conferred vide regulation 13(4) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, hereby impose a minor penalty of suspension of the certificate of registration of M/s Shrine Investments Ltd., Member, The Pune Stock Exchange Ltd. (Registration number INB 110961310) , for a period of fifteen days.

This order shall come into effect on expiry of 21 days from the date of this order.

Place : Mumbai

Date : 08-12-06

G ANANTHARAMAN

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA