

SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: Dr. T. C. Nair, Whole Time Member

Name of the noticee : M/s. Networth Stock Broking Limited

Date of hearing : 13-06-2006

Appearance of parties

For the noticee : Shri S. P. Jain, Managing Director of the noticee,
Shri J. J. Bhatt, Counsel for the noticee

For SEBI : Shri P. K. Bindlish, General Manager,
Shri Ashok Nimbekar, Manager and
Shri R. Ganapathy, Manager

ORDER

UNDER REGULATION 13 (4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY THE ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST M/S. NETWORTH STOCK BROKING LIMITED, IN THE MATTER OF M/S. SPANCO TELESYSTEMS AND SOLUTIONS LIMITED

WTM/TCN/ID3/88/02/2007

BACKGROUND

1. Spanco Telesystems and Solutions Limited (hereinafter referred to as "STSL") promoted by Shri Ashok Oberoi, Shri Bansilal Tandon, Shri V V Balakrishnan, Shri Vinod Kumar Nemani and Shri Jai Prakash Nemani was originally incorporated in 1984 as Kadambari Leasing Private Limited. Kadambari Leasing Private Limited had taken over business of STSL and adopted its name with effect from 11th November 1999. In 1984, the company had come out with a public issue of 1, 50, 000 shares at par and was listed on the Bombay Stock Exchange Limited (hereinafter referred to as "BSE").
2. Securities and Exchange Board of India (hereinafter referred to as "SEBI") received certain complaints about price rigging in the scrip of STSL. After receiving the observations relating to the same from BSE, SEBI conducted an investigation into the affairs of STSL for the period from 1st October 2000 to 31st July 2001 (hereinafter referred to as "investigating period"). The observations under the investigation are as under:
3. In an Extra Ordinary General Meeting held on 11th December 1999, STSL passed a resolution to allot 10,00,000 shares to its promoters and transfer its management control to Kapil Puri Group. The same day 10,00,000 preferential shares at Rs.10/- each were issued to Kapil Puri Group and others comprising individuals, not necessarily shareholders of STSL. The shares were listed on BSE on February 24, 2000. As on October 01, 2000, Shri Kapil Puri was Chairman of STSL.
4. From the distribution schedule of STSL as on August 24, 2001, it was observed that the public holding in STSL was only 5, 77, 000 equity shares amounting to 8.26%. FIIs, NRIs, and Banks together had a holding of less than 1%. Other Body Corporates held 29.80%, while Promoters of STSL held 61%. Out of 637 shareholders, 19 shareholders held 94.67% of the equity capital of STSL.

5. A preferential allotment of 22,50,000 shares at Rs.15/- each (premium Rs.5/-) was made under section 81(1A) of the Indian Companies Act, 1956, on February 16, 2000, to the parties as mentioned in the table below. These shares were listed on BSE on June 26, 2000.

Table 1

S.No.	Name of the Allottee	Shares Allotted
1	Shri Kapil Puri	8,00,000
2	Neha Equisearch Pvt Ltd	3,75,000
3	Smt Kavita Puri	2,55,000
4	Shri Rajesh Chhabria	2,30,000
5	Shri Mahendra G Shah	2,00,000
6	Shri Sanjeev Chainani	1,75,000
7	Shri Kishore Saigal	60,000
8	M/s Networth Stock Broking Ltd	50,000
9	Smt Chanderkanta Malik	50,000
10	Sarvpriya Leasing Pvt Ltd	20,000
11	Shri Sudanshu Tewari	20,000
12	Shri Naresh Bahri	15,000
	Total	22,50,000

6. Further, a special resolution was passed in an Extra Ordinary General Body Meeting convened on January 30, 2001 under section 81(1A) of Companies Act, 1956 to allot 30,00,000 equity shares at Rs.52/- each (premium Rs.42/-) on preferential basis to the following persons:

Table 2

S.No.	Name	Shares Allotted
1	Shyam Telecom Ltd	15,60,000
2	Shri Rajesh Chhabria	7,20,000
3	Shri Kapil Puri	7,20,000
	Total	30,00,000

7. Though the resolution was passed to allot shares in the above manner, no allotment was made within stipulated period of three months. An Extra Ordinary General Meeting was held on May 29, 2001 wherein a resolution was passed to allot 30,00,000 shares at Rs.10/- each for cash at a premium of Rs.27/- per share aggregating to Rs.11,10,00,000/- on preferential basis to the persons mentioned in the above table. It was observed that this premium structure was reduced from Rs.42/- to Rs. 27/- per share.
7. It was observed that there was an effort to create artificial volume in the scrip of STSL during the period of investigation, to influence the terms and conditions of the preferential allotment mentioned hereinabove. It was alleged that a set of brokers/members of BSE have traded in the scrip of STSL and indulged in creating artificial volumes thereby influencing the price of the said scrip. Accordingly, it is alleged that volumes in the scrip of STSL were high as compared to the volumes prior to and after investigation period. The price of the scrip on October 01, 2000 was Rs.50/- with a volume of 1,000 shares. The price had reached its peak of Rs.54.95/- on October 06, 2000 and the number of shares traded were 2,300 after which the price had come down to a low of Rs.18.80 with 14, 660 shares being traded on April 20, 2001. Further, it was noticed that the price of the scrip had started rising and by June 29, 2001; it had reached Rs. 44.55/- with a trade volume of 61,460 shares. After this period, the price of the scrip again started falling and at the end of the investigation period i.e., on July 31, 2001, the price of the scrip was hovering around Rs. 26/- whereas traded volume reported at the exchange on the same day was 7,600 shares.
8. A group of brokers at BSE had traded and indulged in creating the artificial volume and influencing the price of the scrip of STSL. M/s. Networth Stock Broking Limited (herein after referred to as "the broker" or "NSBL"), is a broker holding the membership of the Bombay Stock Exchange (BSE), National Stock Exchange (NSE) and Over The Counter Exchange of India (OTCEI). In the scrip of STSL the broker had traded on BSE. It was observed that the broker was allotted 50000 shares of STSL in the preferential allotment of 22,50,000 shares made on February 24, 2000 by the company to the Promoters, their friends, relatives, associates and others. It was further observed that the broker has linkages with the management of the STSL as Shri Suresh Jain, Director of NSBL was a friend of Shri Kapil Puri, Promoter of STSL. Also he was aware of the association of NEPL, one of the clients of NSBL, with the STSL as Shri Kishore Saigal, Director of NEPL, was known to Shri Jain personally and NEPL

was also allotted 375000 shares in the same preferential allotment where NSBL was allotted 50000 shares. Also Shri Kapil Puri was Promoter of NEPL before becoming the Director of STSL. The broker had traded in the scrip on its own account as well as on behalf of its various clients. It had bought 2,43,737 shares and sold 2,45,228 shares during the investigation period of 10 months i.e. from October, 2000 to July, 2001. The broker had also sold 30634 shares (on net basis) on its own account. It was also observed that volumes contributed by the broker in the scrip were 8.70% on buy side and 8.75% on sell side. The broker however had failed to obtain the client introduction form of the clients. The broker had also entered into off market transactions with NEPL, Shri Kishore Saigal and Shri Amiti K Vadalia. Thus it was alleged that NSBL was responsible for price manipulation on the one hand while failed to exercise due diligence in its dealings on the other. It had violated the provisions of regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 1995 and provisions of code of conduct as prescribed in schedule II under regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992. In order to enquire into the alleged violations by the broker, the enquiry proceedings were initiated by SEBI.

ENQUIRY PROCEEDINGS

- 10 In view of the alleged violations said to have been committed by the broker, SEBI vide order dated 13th October, 2003 appointed an Enquiry Officer to enquire into various acts of commissions and omissions by NSBL while transacting in the scrip of STSL.
- 11 The Enquiry Officer issued a notice dated April 30, 2004 to the broker in terms of Regulation 6(1) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (herein after referred to as 'Enquiry Regulations') whereby the broker was required to show cause as to why action should not be initiated against it for the alleged violations of the provisions of regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 1995 and provisions of code of conduct as prescribed in schedule II under regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992.
- 12 The broker made submissions to the notice vide its letter dated May 21, 2004. In the interim period, SEBI re-appointed the Enquiry Officer vide an order dated October 1, 2004. The newly appointed Enquiry Officer granted a hearing to the member on December 10, 2004. Mr. Girish V Dev, Head – Operations of the broker attended the hearing before the Enquiry Officer and reiterated the submissions made earlier. Broker made further written submissions before the enquiry officer vide its letter dated December 21, 2004.
- 13 The Enquiry Officer after conducting the Enquiry and considering the submissions of NSBL submitted an Enquiry Report dated March 17, 2005 to the Board. In the Report, the Enquiry Officer found that the broker indulged in manipulative, fraudulent and deceptive transactions which led to the disruption of the smooth functioning of the market and violated the provisions of Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 1995 and Code of Conduct as prescribed in Schedule II of Regulation 7 of SEBI (Stock Broker and Sub Broker) Regulations, 1992. In view of the above findings, the Enquiry Officer recommended that the certificate of registration granted to the broker be suspended for a period of thirty days.

NOTICE UNDER REGULATION 13(2) OF ENQUIRY REGULATIONS AND ITS REPLY

- 14 On receipt of the Enquiry Report, a notice dated March 22, 2005 in terms of Regulation 13(2) of the Enquiry Regulations was issued to the broker. The notice required the broker to show cause as to why appropriate penalty including penalty as recommended by the Enquiry Officer should not be imposed. The said notice required the broker to reply to the show cause notice, together with documents, if any, within 15 days of receipt of the notice. The notice also informed the broker that if it failed to reply within the stipulated time, it shall be construed that it had no explanation to offer and the Board shall be free to take such action as it may deem fit.
- 15 The broker replied to the show cause notice vide letter dated April 24, 2005. The submissions made by the broker were as under:

- The Show Cause notice was bad in law and ultravires the SEBI Regulations since Enquiry Report had not been considered by the Chairman or Member of SEBI prior to the issue of Show Cause Notice under Regulation 6 (2) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 as the notice has been issued within a short period of 5 days from the date of Enquiry Report;
- Documents relied upon by the Enquiry Officer had not been furnished;
- The conclusions arrived at by the Enquiry Officer in the report were based on conjectures, surmises and/or apprehensions, not supported by evidence;
- They denied each and every allegation and/or contention made by the EO in the report;
- STSL made a preferential allotment of 50000 shares to NSBL on 24.02.2000 @ Rs. 15/- per share as Shri Kapil Puri was a friend of Shri SP Jain, Director of the company and as the company was looking for the investment opportunities. The said allotment was a stand-alone allotment and in no way or manner whatsoever connected with the allotments to the other allottees. Investment in STSL was made as it was pioneer in the sunrise industry of call centres and the instrument was supported by an in-depth study of the fundamentals of the industry and the company. The fact that one Director was a friend of Shri Kapil Puri was only incidental and not the reason for an investment.
- No preferential allotment was made to NSBL in subsequent preferential allotment made by STSL and this would prove that they are not part of the promoter group entities.
- NSBL did not square off the transactions as mentioned in the Enquiry Report and the net receivable or deliverable quantity at the end of each settlement were received from or delivered to the exchange.
- NSBL had sold 30634 shares on net basis during the period from October, 2000 to July, 2001 as they were interested in booking profits and was in no way and/or manner whatsoever connected with the transactions of any other entity in STSL.
- NSBL acted as the broker and purchased and sold securities on specific instructions from the clients. NSBL was in no manner connected with the other entities except with the broker- client relation.
- NSBL denied any understanding as erroneously surmised by the Enquiry Officer. The trades were independent transactions executed by NSBL on the instructions of its clients and were at no point in time aware of any understanding tacit or otherwise that its clients might have had.
- The total purchase made by NSBL was only a small fraction of total shares i.e. 15,000 shares and that they were in no way or manner connected and/ or interested in NEPL.
- NSBL was not aware of or had knowledge that Shri. Kapil Puri had transferred his entire share holding in NEPL to Shri Kishore Saigal and his wife. The said transfer does not in any way bring any connection between them and the entities related to STSL.
- Shri Ketan Vadalia introduced Geeta Gala, Kabir Global Ltd., Kanchan p. Shah, Vimla Gala and Ratanben Shah and that they were dealing with them independently and payments for the purchases made by the said clients were made by cheques drawn from their respective accounts. The absence of a written authorization and Member/client agreement can at best be termed a venal error and does not merit harsh punishment.
- The broker is not aware of the contents of the statements of Shri Ketan Vadalia since a copy of the statement was not furnished to it
- NSBL had dealt with the clients independently and had exercised due diligence in its dealings.
- Smt. Amiti Vadalia was introduced to NSBL by her husband Shri Ketan Vadalia and not by Shri Navin Marvah as erroneously stated in the Enquiry Report.
- NSBL had no knowledge of investments of Rashmi Investments. NSBL had also no knowledge whatsoever of whether Shri Kapil Puri knew Shri Navin Marvah.
- Trades of Smt. Amiti Vadalia could not be linked with the trades of Shri Navin Marvah in any manner as Smt. Amiti Vadalia was introduced by her husband and not by him. Further Shri Navin Marvah was not NSBL's client.
- M/s. Indumati Goda and Jignesh Shah were not NSBL's only clients or main clients during the investigation period. There were more than 500 clients during that period.

- The statement of Shri Sirish Shah was not furnished to NSBL and that no credence on the statement of Shri Shirish Shah could be taken as he has specifically stated that to the best of his knowledge the clients Indumati Goda and Jignesh Shah had not traded in any other scrip. However, these clients had been with NSBL since 2000 and had dealt in numerous scrip other than STSL.
- NSBL requested SEBI to produce Shirish Shah, Ajay Goda and Ketan Vadalía for cross examination in order to establish the hollowness of their statements.
- NSBL was not aware of and had no information whatsoever of the trades done by Shirish Shah on behalf of other clients. He had introduced only two clients i.e. Indumati Goda and Jignesh Shah.
- NSBL denied having acted in connivance with Shri Shirish Shah to manipulate the scrip of STSL by executing squared off transactions for creation of artificial volumes and false appearance of trading in the market.
- With reference to NSBL's purported off market deals done, only 22813 shares were transacted finally in the market and this small quantity could not have created an artificial market. On the basis of this findings itself, it could be seen that the shares acquired by Smt. Vadalía either through off market transaction or otherwise were retained by her and were not in any manner sold in the market and therefore could not be said to have influenced the volume or the price in the market. Further Smt. Amiti Vadalía had a shareholding of around 1,77,575 shares in STSL as on August 24, 2001 i.e. after conclusion of investigation period.
- The non-collection of client introduction forms at best would be a venal error and did not merit punishment of suspension of business.
- With respect to the non collection of margin money, clients were having running accounts and therefore specific margins were not taken. None of NSBL's clients had defaulted in the settlement system and always made the payments and/or tendered deliveries within the time frame stipulated.

- 16 The noticee has concluded that it had conducted its business in accordance with the highest code of conduct, that it had not violated any rules or regulations of SEBI, and that the show cause notice should be discharged. The noticee also requested for a personal hearing. A notice dated May 02, 2006 was issued thereafter to the broker requiring it to appear before me for a personal hearing on May 18, 2006. This hearing was subsequently postponed to June 13, 2006 on the request of the broker.
- 17 On June 13, 2006, the broker was represented by its Managing Director, Shri S P Jain and its counsel, wherein the earlier submissions were once again reiterated. After the hearing, broker made further submissions vide letter dated June 15, 2006. The submissions were as under:
- i) For non execution of client broker forms adjudicating officer had already imposed a penalty of Rs. 10,000/- which had been duly paid.
 - ii) The clients had traded in scrips other than STSL also.
 - iii) NSBL's trading in STSL scrip compared with its daily total volume was small & insignificant.
 - iv) NSBL's trading in the scrip of STSL was delivery based and out of total volume of 4,88,965 shares, delivery was made for 1,92,767 shares spread over 37 settlements.
 - v) The orders originated from clients and were carried out in the normal and ordinary course of business.
 - vi) With regard to non-collection of margin, it was clarified that shares bought were not released till payments were made by the clients.
 - vii) With regard to not crediting securities to client account, it was clarified that it was based upon client instructions.
 - viii) The allotment of 50,000 shares of STSL was in the name of the company and not in the individual name of the promoter/ directors. As the NSBL is a listed company, the benefit was to the shareholders and not to any individual. Besides, though the shares were allotted in Feb, 2000 the shares were sold as late as in July, 2001. Also, in the subsequent preferential allotment by STSL as well as in the right cum public offer in 2004, NSBL had not participated. This proved that it was a stand alone transaction.

CONSIDERATION OF ISSUES

18 I have perused the Enquiry Report, the Show Cause Notice and the submissions made by the broker. On a detailed study of the instant case, the following issues come up for consideration:

- a) **Whether the broker was related to STSL and facilitated the trades for their clients which were artificial in nature thereby creating a false appearance in the market leading to movement in the price of the scrip of STSL?**
- b) **Whether the broker had obtained proper client introduction forms as required?**
- c) **Whether the broker has collected the required margin money from their clients with respect to the trades executed?**
- d) **Whether shares received in pay-out of one settlement have been used for making pay-in for the subsequent settlements without crediting the clients dematerialized account?**
- e) **Whether the broker by entering into off-market deals has violated SEBI Circular no. SMDRP/POLICY/CIR-32/99 DATED September 14, 1999?**

19 have perused the reply dated April 24, 2005 of the Broker and their written submissions dated June 15, 2006. The broker in its reply dated April 24, 2005 had specifically stated that the Enquiry Officer had relied upon certain statements that were not furnished to it and that since they were not provided with any opportunity to rebut or refute, the show cause notice should be discharged. On perusing the Enquiry Officer's report I find that Enquiry Officer in addition to the statement of Shri S P Jain has also relied on the statements of Shri Ketan Vadalia, Shri Sirish Shah and Shri Ketan Chouksi. I opine that even having no regard to these statements which the broker submitted, there is ample material to come to a conclusion in the matter.

Now I proceed to deal with the issues mentioned in paragraph 18.

20. The broker has admitted in its reply that its Director, Shri S P Jain knew both Shri Kishore Saigal and Shri Kapil Puri personally but denied that they had any knowledge of Shri Kapil Puri transferring his entire shareholding in NEPL to Shri Kishore Saigal and his wife. In any case broker had admitted that that Shri Kishore Saigal and Shri Kapil Puri were known to them. However from the submissions made by the broker I find the allotment to the NSBL in preferential allotment was a stand alone transaction. The dealing of Neha Equisearch through NSBL in the scrip of STSL has been insignificant i.e 16,000 shares during the period of investigation. Hence I find that connection of NSBL with STSL if any, does not have any bearing on the role of NSBL in the dealing in the scrip of STSL.

21 It has been alleged that NSBL facilitated the trades for their clients, which were artificial in nature thereby creating a false appearance in the market leading to movement in the price of the scrip of STSL. It has been brought out in the enquiry report that NSBL bought 2,43,737 shares and sold 2,45,228 shares of STSL during the period under investigation. All these trades were squared off except for 1,491 shares; hence these trades were taken as artificial for the purpose of creating volumes. I have examined the trading data of NSBL in the scrip of STSL and also the submissions of NSBL. I have noted that NSBL had done 37 settlements during the period of settlement and in most of the settlements; it appeared to be a net buyer on a net seller and in no settlement squaring off was noticed except in settlement No. 50 wherein 2000 shares were bought and sold. NSBL had submitted that their trading in the scrip of STSL was delivery based and out of total volume of 4,88,965 shares, delivery was arranged for 1,92,767 shares spread over 37 settlements. Hence, I do not find that the NSBL facilitated the trades for their clients which were artificial in nature thereby creating a false appearance in the market leading to movement in the price of the scrip of STSL.

22 With regard to the charge that the broker had indulged in off – market transactions, the broker had submitted that only a meager quantity of 22813 shares were transacted in the market. The Enquiry Officer had found that Shri Kishore Saigal had transferred 20,000 shares and 17589 shares of STSL on August 18, 2000 and October 10, 2000 respectively to the account of NSBL by way of off market deals. The DP account of Kishore Saigal revealed that at the end of investigation period, the shares were returned to him by several clients who had traded in the scrip of STSL during the investigation period.

23 Further, the broker had submitted that the shares acquired by Smt. Amiti Vadalia either in off market or otherwise, were retained by her and not in any manner sold in the market and therefore could not be said to have influenced the volume of the scrip in the market. I do not find the explanation of the broker satisfactory and by indulging in such off market trades, the broker had violated the provisions of SEBI Circular SMDRP/POLICY/CIR – 32/99 dated September 14, 1999.

24 I note that the broker failed to collect the client introduction forms for the following clients, viz. Geeta K Gala, Kabir Global Limited, Kanchan P Shah, Vimal P Gala, Ratanben M Shah, Hitesh C Shah and Rashi Investment. The broker vide their reply dated April 24, 2005 have submitted that persons known to the company at that point of time introduced the clients and that the non-collection of forms is at best a venal error and which do not merit harsh punishment of suspension of business. I find that adjudicating officer has already imposed a penalty of Rs. 10,000/- on the broker, which has been duly paid by the broker. I do not therefore find any further penalty is required to be imposed on the broker for this violation.

25 I also note that the broker had not collected the requisite margin from their clients. In their reply the broker has stated that as their clients had running accounts, specific margins were not taken. They have also submitted that none of their clients had defaulted in the settlement system and had always made the payments and/or tendered deliveries within the time frame stipulated and that in the said circumstances they have not violated any rules or regulations. It has also been submitted that shares bought were not released till payments were made by the clients. In this regard the relevant portion of SEBI circular SMD/SED/CIR/93/23321 dated November 18, 1993 is reproduced below:

"4. Member Brokers shall buy securities on behalf of client only on receipt of margin of minimum 20 percent on the price of the securities proposed to be purchased, unless the client already has an equivalent credit with the broker. Member may not, if they so desire, collect such a margin from Financial Institutions, Mutual Funds and FII's.

5. Member brokers shall sell securities on behalf of client only on receipt of a minimum margin of 20 percent on the price of securities proposed to be sold, unless the member has received the securities to be sold with valid transfer documents to his satisfaction prior to such sale. Member may not, if they so desire, collect such a margin from Financial Institutions, Mutual Funds and FII's"

The collection of margin money is one of the risk containment measures formulated by SEBI. Any non-adherence to such measures cannot be and should not be given a casual approach. Non-default by their clients in settlement cannot be a valid defense for such non-compliance. Thus by non-collecting the requisite margin money the broker has violated the above mentioned circular.

26 I also note that the broker has not credited the securities into the client's account as found out by the Enquiry Officer. The relevant portions of the relevant circulars have been reproduced below for easy reference:

a) SEBI Circular - SMDRP/POLICY/CIR-11/99 dated May 7, 1999

"It has further been decided that stock brokers/clearing house members shall give instructions to clearing house/clearing corporations for transferring the securities lying in the broker's pool accounts/transit accounts to the respective beneficiary accounts immediately after the pay-out of each settlement. Stock brokers/clearing house member shall also ensure that the respective balance in their pool account/transit account maintained with the depository is brought to nil within fifteen days from the pay-out of the settlement".

b) SEBI Circular - SMDRP/Policy/Cir-05/2001 dated February 01, 2001

"Please refer to SEBI circular no. SMDRP/Policy/Cir-11/99 dated May 7, 1999 advising stock brokers/clearing members to transfer the securities from their respective CM Pool account to the respective beneficiary account of their clients within 15 days from the pay-out day of the settlement.

1. *It has now been decided that with effect from February 12, 2001, clearing member shall be required to transfer the securities from their respective CM Pool account to the respective beneficiary account of their clients within 6 calendar days after the pay-out day, instead of the existing time limit of 15 days.*
2. *The securities lying in the pool account beyond the above period would not be eligible for delivery in the subsequent settlement(s) and would also not be eligible for pledging or stock lending purpose, until the same is credited to the beneficiary accounts.*
3. *The securities lying in the pool account beyond 6 calendar days would attract a penalty at the rate of 6 basis point per week on the value of securities. The penalty so collected by the depositories shall be credited to a separate account with the depository and earmarked for defraying the expenses in connection with the investors' education and awareness programs conducted by the depository.*
4. *The securities, which are lying in these accounts beyond the specified time period, shall initially be identified based on FIFO (First-In First-Out) basis. However, with effect from March 5, 2001, the securities shall be identified based on the settlement number basis. The clearing corporation/houses of the stock exchanges shall provide the settlement-wise details of securities to the depositories and the depositories shall maintain the settlement-wise records for the purpose.*
5. *Further with effect from April 2, 2001, stock exchanges shall introduce the settlement system for direct delivery of securities to the investors. Clearing corporation/clearing house (CC/CH) shall ascertain from each clearing member, the beneficial account details of their respective clients who are due to receive pay out of securities. Based on this, the CC/CH shall send pay out instructions to the depositories so that the client receives pay out of securities directly to the extent of instructions received from the respective clearing members. To the extent of instruction not received, the securities shall be credited to the CM pool account.*
6. *With effect from April 2, 2001, the time limit of 6 calendar days after the pay-out day for transferring the balances to the beneficiary accounts of clients shall be reduced to 4 calendar days or 2 working days, whichever is later. The penal provisions mentioned above shall be applicable on the balances lying in the pool account after this period.*

The above decisions would not be applicable to the securities lying in CM Pool account maintained with clearing corporation/house of the stock exchange for the purpose of vyaj badla and/or ALBM/BLESS transactions.

Stock exchanges/depositories are advised to implement the above decisions, under intimation to us".

The above circulars have been made to ensure that the securities purchased by the clients are credited into their dematerialized account within a short period of time so that they can sell or otherwise deal with and take advantage of the market movement. It has been submitted by the broker that with regard to not crediting securities to client account, it is clarified that it was based upon client instructions. However, I note that no documentary evidence for the same has been submitted. Hence, I agree with the findings of the Enquiry Officer in this regard and hold NSBL guilty for this violation.

- 26 From the above discussion, I find that there is not sufficient material on record to substantiate that that trades executed by NSBL were manipulative and that it has violated the provisions of SEBI(Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995. I find that by not collecting margin from clients, entering into off market transactions and not crediting the shares to the accounts of the clients the NSBL has violated the provisions of SEBI circular SMD/SED/CIR/93/23321 dated November 18, 1993, SEBI Circular SMDRP/POLICY/CIR – 32/99 dated September 14, 1999, and SEBI Circular - SMDRP/Policy/Cir-05/2001 dated February 01, 2001. Hence the broker has violated the code of conduct prescribed for the stock brokers.
27. I note that the enquiry officer has recommended that the certificate of registration of NSBL be suspended for a period of 30 days. As the charge of manipulation has not been proved against the broker, the penalty as recommended by the Enquiry Officer is found to be harsh. I find that the broker has contravened the SEBI circulars cited supra and the code of conduct and therefore I am of the view that a penalty of censure on the broker would meet the ends of justice for their lapses.

5.0 ORDER

5.1 In view of the above findings, I, in exercise of powers conferred upon me by virtue of Section 19 of the Securities and Exchange Board of India Act, 1992 and Regulation 13 (4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby Censure M/s. Networth Stock Broking Limited, member of Bombay Stock Exchange with SEBI Registration No. INB 010638634.

Place: Mumbai
Date: 22.2.2007

T C Nair
Whole Time Member
Securities and Exchange Board of India