

SECURITIES AND EXCHANGE BOARD OF INDIA

Dr. T. C. NAIR, WHOLE TIME MEMBER

ORDER

UNDER REGULATION 13(4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002, AGAINST M/S. NARENDRA S TANNA, SUB-BROKER, (SEBI REGISTRATION NO. INS 010828510 & INS 01058128) AFFILIATED TO M/S. SKSE SECURITIES LIMITED, MEMBER, BOMBAY STOCK EXCHANGE LIMITED AND THE NATIONAL STOCK EXCHANGE AND SUB-BROKER TO M/S. HEM SECURITIES LIMITED, MEMBER, BOMBAY STOCK EXCHANGE LIMITED IN THE MATTER OF M/S. SPANCO TELESYSTEMS AND SOLUTIONS LIMITED

WTM/TCN/ID3/91/02/2007

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.

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

S.No.	Name of the Allottee	Shares Allotted
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:

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.
8. 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, 2007, 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.
9. M/s. Narendra S Tanna, sub-broker to M/s. SKSE Securities Limited (SEBI Registration No. INS 01058128) and M/s. Hem Securities Limited (SEBI Registration No. INS 010828510) had traded in the scrip of STSL for one of its clients Shri P B Sudarshan, through both these brokers. In performing these transactions, the sub-broker had failed to exercise due care and skill in his dealings thereby violating the provisions of Schedule II read with Regulation 15 of SEBI (Stock Broker and Sub-broker) Regulations, 1992. Also, the sub-broker had violated the provisions of Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair trade Practice relating to Securities Market) Regulations, 1995. It was alleged that the sub-broker had not collected margin money from the client which was in violation of SEBI Circulars SMD/SED/CIR/93/23321 dated November 18, 1993, SMDRP/POLICY/CIR-35/98 dated December 12, 1998, SMDRP/POLICY/CIR-7/1999 dated February 04, 2000 and SMDRP/POLICY/CIR-33/2000 dated July 27, 2000.

10. In view of the aforesaid findings of investigation, an enquiry was recommended against the sub-broker.

ENQUIRY REPORT, FINDINGS AND RECOMMENDATIONS

11. An Enquiry Officer was appointed by SEBI vide its order dated October 13, 2003 to inquire into the aforesaid allegations against the sub-broker. The Enquiry Officer after conducting the inquiry following the due procedure laid down in this regard had submitted his report to the Board on June 01, 2005. Vide the said report, the Enquiry Officer found the sub-broker had not acted in good faith and without negligence or that he had exercised due skill and care. By virtue of this, the sub-broker's conduct was found to be not in conformity with the Code of Conduct prescribed in Schedule II read with Regulation 15 of SEBI (Stock Broker and Sub-broker) Regulations, 1992. In view of the aforesaid findings, the Enquiry Officer recommended a minor penalty of Censure, to be levied on the sub-broker.

SHOW CAUSE NOTICE AND REPLY

12. The Board, after considering the recommendations of the enquiry officer, issued a notice dated June 13, 2005 enclosing a copy of the enquiry report, asking the sub-broker to show cause as to why a penalty as recommended by the Enquiry Officer should not be imposed on it. It was also mentioned that if the sub-broker failed to reply within 15 days of the receipt of the notice, then it would be presumed that the sub-broker had no explanation to offer and the Board shall be free to take such action as it deems fit. No reply was received from the sub-broker, in response to the show cause notice issued by SEBI.

CONSIDERATION OF ISSUES

13. I have taken note of the findings of the investigation against the sub-broker. I have also gone through the Enquiry report and its findings. I have seen that the sub-broker has chosen not to reply to the show cause notice issued by SEBI. Therefore, I proceed to consider the findings of the Enquiry Officer and decide, ex-parte.
14. I have noted that the sub-broker had dealt for one, Shri P B Sudarshan, in the scrip of STSL. A total of 1,83,169 shares were purchased and 1,81,063 shares were sold resulting in a net purchase position of 2,106 shares, over a ten month period. All these transactions were put through by the sub-broker as per the instruction of one Shri Shirish C Shah. The sub-broker was aware of the fact that Shri Shah was the de-facto dealer in the scrip of STSL though for the records, Shri Sudarshan, was shown to be dealing in the shares. Almost 99% of these transactions have been of a squaring off nature, resulting in a purchase obligation of only a meager number of shares.
15. Also, the KYC formalities for admitting Shri Sudarshan as a client was also not done with due care. Vital information relating to the financial capability of the client has been left blank in the KYC forms to be filled up by the client. Without this information, it would not be possible for the sub-broker to assess the financial viability of the transactions put through for the client. Another cog in the wheel is the fact that the member has failed to collect adequate margins from the client for the purpose of ensuring the compliance of the obligations under the contract for purchase/ sell.
16. A consolidated view of the whole scheme of actions by the sub-broker only goes to put across the utter complicity of the sub-broker in the conduct of its business. Also, just because of the fact that the sub-broker was eager to facilitate the transactions for Shri Shah, does not mean all the procedural requirements, in this regard, could be given an absolute go-by.
17. The sub-broker has a responsibility under the SEBI regulations to ensure the integrity of the market and in this direction to be more vigilant about the kind of clients with whom it deals with. Here, the sub-broker had dealt with a client, just because of being known to it and facilitated a huge volume of transactions in the scrip of STSL, to influence the price and volume in the scrip. I note that the Enquiry Officer had observed that the trades were squared-off and did not result in deliveries and that the dealing of the clients only in the scrip of STSL should have aroused suspicion in the sub-broker. The Enquiry Officer had also observed that the preponderance of probabilities suggest towards the complicity of the client in the price manipulation of the scrip and the failure of the sub-broker in exercising due care and diligence in dealing for such a client. I am in agreement with the observation of the Enquiry Officer and thus hold that the sub-broker had failed to act with due skill and care that would be expected of a market intermediary of his stature. These actions of the sub-broker have to be dealt with appropriately. To this end, I find that a minor penalty of censure, upon the sub-broker, is adequate.

ORDER

18. Therefore, in exercise of powers conferred upon me by virtue of Section 19 of the Securities and Exchange Board of India Act, 1992, read with regulations 13 (4) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, I hereby order that a penalty of censure be levied on M/s. Narendra S Tanna, Sub-broker, (SEBI Registration No. INS 010828510 & ins 01058128) to M/s. SKSE Securities Limited, Member, Bombay Stock Exchange Limited and the National Stock Exchange and M/s. Hem Securities Limited, Member, Bombay Stock Exchange Limited.

DATE: 22.2.2007

PLACE: MUMBAI

T C NAIR
WHOLE TIME MEMBER
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