

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: Mr. V.K.CHOPRA, WHOLE TIME MEMBER

AGAINST M/S. PATNI SHARES AND DERIVATIVES CO AND SHRI ASHISH PATNI AND SHRI UJWAL PATNI

WTM/VKC/MIRSD/DPS-1/83/07

DATE OF HEARING: 28.05.2007

Appearance:

For Noticee : None appeared

For SEBI : Mr. Sugadev C, Manager

ORDER

[Under Section 11(1), Section 11(4)(b) and Section 11B of the SEBI Act, 1992 against M/s. Patni Shares and Derivatives Co and Shri Ashish Patni and Shri Ujwal Patni]

1.1 SEBI received a complaint dated 26.07.2004 from Shri Sarju Prasad Mandal (hereinafter referred to as the complainant) stating that he had traded in F&O and Cash Segment through M/s. Patni Shares and Derivatives Co. (hereinafter referred to as Patni), a franchise of M/s. Appollo Sindhoori Capital Investment Ltd (hereinafter referred to as ASCIL). He alleged that he had not received the payments, his accounts were not settled, not received statement of accounts and covered certain positions without his knowledge.

2.0 Preliminary Findings

2.1 The enquiries made by SEBI prima facie revealed the following:-

- Patni, a franchise of ASCIL based at Bhilai was managed by Shri Ashish Patni and Shri Ujwal Patni.
- The complainant traded in both cash and derivatives segment and placed his orders through Patni.
- Though the complainant was not directly registered as a client of ASCIL, the trades on behalf of the complainant were placed by Patni through the client code of Shri Ujwal Patni, who was a client of ASCIL and with whom ASCIL had entered into a member-client agreement. It was found that Shri Ujwal Patni was the brother of Shri Ashish Patni.
- The complainant was asked to transfer his shares into the BO ID 10158354 which apparently was the BO ID of Shri Ashish Patni's brother Shri Ujwal Patni. Hence, the trades on behalf of the complainant were placed by Patni through the client code of Shri Ujwal Patni. It was also found that Shri Ujwal Patni was registered as a client of ASCIL.
- It was also evident from the examination of the transaction statements of the complainant and Shri Ujwal Patni that shares were also transferred from the BO ID of Shri Ujwal Patni to the demat account of the complainant (BO ID 11282844 maintained with IDBI Bank Ltd).
- Shri Ashish Patni also issued confirmation memos/bills to the complainant in the name of M/s. Patni Shares and Derivatives Co. for his transactions.

2.2 Though the complainant had dealt with an unregistered entity, on receipt of the complaint, SEBI had taken up the matter with ASCIL for an amicable settlement of the grievance. NSE also informed vide letter dated 16.05.2005 to SEBI that they had taken up the grievance with ASCIL for resolving the same administratively. However, on account of conflicting claims and counter claims made by the complainant and the trading member, NSE had advised the complainant to file arbitration case against ASCIL.

3.0 Show cause notice and the submission of M/s.Patni Shares and Derivatives Co and Shri Ashish Patni and Shri Ujwal Patni

3.1 SEBI issued a notice dated 02.03.2006 to Shri Ashish Patni and Shri Ujwal Patni separately calling upon them to show cause as to why appropriate action should not be taken upon them for violating Section 12(1) of SEBI Act, 1992 and Rule 3 of SEBI (Stock Brokers and Sub-brokers) Rules,1992 and to reply to the said notice within 15 days of the receipt of the notice failing which it would be presumed that they had no explanation to offer and that SEBI would be constrained to proceed ex-parte. Shri Ashish Patni and Shri Ujwal Patni failed to reply to the above said notice.

3.2 Again show cause notice was sent on 23.02.2007 to Shri Ashish Patni and Shri Ujwal Patni and also to the un-registered entity M/s.Patni Shares and Derivatives Co. But there was no reply from them. Thereafter, an opportunity of hearing was

given to them vide letter dated 09.05.2007 to appear before me on 28.05.2007. But inspite of receiving the notices, they failed to reply to the said show cause notices and also failed to avail the opportunity of personal hearing before me.

4.0 Consideration of issues

4.1 I have carefully examined the facts and circumstances of the case, materials available on record and my findings are as follows:

4.2 As may be seen from the information and details gathered and enquiries made, Shri Ashish Patni and Shri Ujwal Patni were dealing on behalf of the complainant. All the orders on behalf of the complainant were placed in the client code of Shri Ujwal Patni. Bills were issued to the complainant in the name of M/s. Patni Shares and Derivatives Co for his orders. The shares of the complainant were transferred to the DP account of Shri Ujwal Patni and further, shares were also transferred from the DP account of Shri Ujwal Patni to the DP account of the complainant.

4.3 M/s. Patni Shares and Derivatives Co, Shri Ashish Patni and Shri Ujwal Patni were not registered with SEBI as a sub-broker. As per Section 12(1) of SEBI Act,

"No stock broker, sub-broker----- and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act."

As per Rule 3 of SEBI (Stockbroker and Sub-brokers) Rules, 1992, which was in force at the relevant time,

"No stock broker and sub-broker shall buy, sell, deal in securities, unless he holds a certificate granted by the Board under the regulation."

The dealings of Shri Ashish Patni and Shri Ujwal Patni as an unregistered sub- broker in the name of M/s. Patni Shares and Derivatives Co., is in violation of Section 12(1) of SEBI Act, 1992 and Rule 3 of SEBI (SEBI Stock Broker and Sub-broker) Rules, 1992 (which was in force at that relevant time).

4.4 I have noted from NSE report dated 08.10.2004 that Shri Ashish Patni had paid an amount of Rs.11,25,173/- to the complainant, as per the Settlement Agreement dated 22.05.2004 entered between the complainant and Shri Ashish Patni, vide four cheques dated 24.05.2004, 05.06.2004, 15.06.2004 and 30.06.2004. However, the dispute of the complainant had not been fully resolved. As per the complainant's version, as on May, 2004, an amount of Rs.22,76,217/- is still due from Shri Ashish Patni to the complainant. It is apparent that M/s. Patni Shares and Derivatives Co., Shri Ashish Patni and Shri Ujwal Patni have acted as an unregistered sub-broker and also defaulted towards the client. As they had not replied to the show cause notices nor appeared before me for the personal hearing to present their case and I am inclined to take an adverse inference against Patni, Shri Ashish Patni and Shri Ujwal Patni.

4.5 On a careful perusal of the charges, and the findings as recorded above, I am of the view that it is a fit case to pass directions under Section 11 (1) and 11(4)(b) read with Section 11B of SEBI Act, 1992 against M/s. Patni Shares and Derivatives Co., Shri Ashish Patni and Shri Ujwal Patni and prohibit them from buying, selling or dealing in securities in any manner whatsoever for a period of two years.

5.0 ORDER

5.1 Now, therefore, in exercise of the powers conferred upon me in terms of Section 11(1), Section 11(4)(b) read with Section 11B and Section 19 of the SEBI Act, 1992, I hereby restrain M/s. Patni Shares and Derivatives and Co., Shri Ujwal Patni and Shri Ashish Patni from buying, selling or dealing in securities in any manner whatsoever for a period of two years.

5.2 This order shall come into force with immediate effect.

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PLACE: MUMBAI

V.K.CHOPRA

DATE : 06.07.2007

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA