

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA**CORAM: G. ANANTHARAMAN, WHOLE TIME MEMBER.****ORDER UNDER REGULATION 13(4) OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002 AGAINST JYOTI JAIN INVESTMENT & FINANCE COMPANY PRIVATE LIMITED, MEMBER, NATIONAL STOCK EXCHANGE OF INDIA LTD.**

- 1.1 Jyoti Jain Investment & Finance Company Private Limited (hereinafter referred to as the Broker), Member, National Stock Exchange of India Limited (for short, NSE) is registered with Securities and Exchange Board of India (for short, SEBI) as a stock broker (registration number INB 230782733). SEBI, vide order dated March 21, 2003 appointed an auditor viz. M/s J P Kapur & Uberoi (for short, the Inspecting Authority), in terms of the provisions of Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 (for short, Broker Regulations) to conduct an inspection of books of accounts, documents and other records of the Broker for the period April 2001 to June 2003. The Inspecting Authority, in its report had observed certain deficiencies /irregularities committed by the Broker. The said findings were communicated by SEBI to the Broker for its comments.
- 2.1 Thereafter, an Enquiry Officer was appointed by SEBI vide order dated March 10, 2004 under the provisions of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (for short, Enquiry Regulations) to enquire into the alleged deficiencies /irregularities (observed during the inspection) committed by the Broker. The Enquiry Officer after conducting the proceedings in terms of the Enquiry regulations, vide report dated January 14, 2005 recommended to impose a minor penalty of warning to the Broker.
- 3.1 Pursuant to the submission of the Enquiry Report, a notice dated January 27, 2005 was issued to the Broker by SEBI, in terms of provisions of the Enquiry 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 vide letter dated February 15, 2005 inter alia stated that it had not intentionally violated the rules and regulation of NSE/SEBI and that it had not caused any financial loss to any investor in any manner. Further, the Broker stated that the bank charges were debited in the client account in certain instances inter alia when the client requested for payment in the form of bank/ demand draft. It added that there were few transactions of wrong or non punching of client codes on trading terminals due to clerical errors and the same were rectified in the back office only with the intention to depict the correct financial status of the client accounts and not for the purpose of the transfer of profit or transfer of loss to clients.
- 3.2 I have considered the Enquiry Report, the show cause notice issued to the Broker, the reply of the Broker and other materials available on record. The Enquiry Officer had observed that the Broker had not segregated the clients funds with own funds. It was alleged that the payment towards bank charges and other own expenses were made from clients bank accounts and that the share application money was received in the clients account. The Broker in its reply inter alia stated that the bank charges were debited in the client account (in certain instances) only when the client had requested for payment in the form of bank/ demand draft. Further, there were repeated instances of bank charges being debited to the client account. The Broker could have rectified the same by way of an instruction to the bank. However, it had failed to do so. In terms of SEBI circular dated November 18, 1993, inter alia, it shall be compulsory for all stock brokers to segregate the money of the clients and their own money in a separate account and that no payment for transactions in which the stock broker was taking a position as a principal would be allowed to be made from the client's account subject to the conditions mentioned therein. Therefore, it is fairly established that the Broker had violated SEBI circular dated November 18, 1993. Further, the Enquiry Officer had observed that there was difference between the clients codes printed on contract note from the clients code in the trade text file. The Broker stated that, it had physical as well as procedural control on the transactions and that the procedural control includes control like verification of margin, client code etc. It admitted that there was wrong/non punching of client codes on trading terminals due to clerical errors. The said contention of the Broker is not acceptable, as, such practice would hamper the basic principle of unique client code and therefore, it is reasonably established that the Broker had violated the SEBI circular dated July 18, 2001 and clause A(5) of Code of Conduct as specified in Schedule II of the Broker Regulations. Besides, the Broker had allowed certain entities to transact as sub brokers without obtaining the certificate of registration from SEBI. The Enquiry Officer had observed that NSE had already imposed penalty on the Broker for the said violations. The Enquiry Officer had also observed that most of the deficiencies had been rectified by the Broker by streamlining and updating the system. Taking into account the circumstances of the present case, I hereby pass the following directions against the Broker.
- 4.1 In view of the foregoing, I, in exercise of the powers conferred vide section 19 of Securities and Exchange Board of India Act, 1992 read with regulation 13(4) of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, hereby direct Jyoti Jain Investment & Finance Company Private Limited,

Member, National Stock Exchange of India Ltd. (Registration number INB 230782733) to be careful and cautious while dealing in securities market.

G.ANANTHARAMAN

**WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**

Place: Mumbai

Date: January 23, 2008