

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 SKSE SECURITIES LIMITED, MEMBER, NATIONAL STOCK EXCHANGE OF INDIA LIMITED AND BOMBAY STOCK EXCHANGE LIMITED**

- 1.1 SKSE Securities Limited (hereinafter referred to as the Broker), Member, National Stock Exchange of India Ltd. (hereinafter referred to as NSE) and Bombay Stock Exchange Ltd (hereinafter referred to as BSE) is registered with Securities and Exchange Board of India (hereinafter referred to as SEBI) as a stock broker. SEBI conducted an inspection of the books of accounts, records and other documents of the Broker during September 23, 2002 to September 28, 2002 for the period January 28, 2000 to September 23, 2002 (hereinafter referred to as the relevant period). The inspection carried out by SEBI observed certain irregularities / deficiencies committed by the Broker during the relevant period. It was inter alia observed that the Broker had allowed certain sub brokers to trade without the certificate of registration and that it had allowed a sub broker to trade during his suspension period. Besides, the inspecting authority had also observed discrepancies in the stock broker – sub broker agreement.
- 2.1 Pursuant to the aforesaid inspection, an Enquiry Officer was appointed by SEBI vide order dated April 24, 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 Enquiry Regulations) to enquire into the alleged irregularities/ deficiencies committed by the Broker during the relevant period. The Enquiry Officer issued a notice dated June 30, 2003 to the Broker under Regulation 6 (1) of the Enquiry Regulations asking it to show cause as to why actions under the Enquiry Regulations should not be initiated against the Broker. The Broker filed its reply and also made submissions before the Enquiry Officer. The Enquiry Officer, vide report dated November 30, 2004 recommended to impose a penalty of the suspension of the certificate of registration of the Broker for a period of thirty days.
- 3.1 Pursuant to the Enquiry Report, a notice dated December 21, 2004 was issued to the Broker in terms of Regulation 13(2) 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. A copy of the Enquiry Report was also forwarded to the Broker with the said show cause notice.
- 3.2 The Broker vide its letter dated January 4, 2005 inter alia stated that only once it had permitted a sub broker to trade before obtaining the certificate of registration. The broker claimed that subsequently, it had taken proper care not to repeat such mistakes. It also enclosed the list of sub brokers with the date of commencement of trading vis – a – vis the date of registration. The Broker added that, it had allowed the sub broker viz. Shri Anil Gandhi (also a stock broker registered with SEBI), to trade during the latter's suspension period, due to an error of mis representation of "no limit" as "no trading limit" granted to him by its junior official. The Broker added that as and when the same was noticed, Shri Anil Gandhi was called upon and advised not to create any new positions. In respect of contract notes without pre printed serial numbers, the Broker stated that it had started issuing the digitally signed contract notes. With regard to the permission of higher exposure limit without the renewal of bank guarantees, the Broker claimed that it had levied the penalty of Rs.1000/- to each member as per the decision of its governing board. The Broker stated that after giving total credit of margin against Rs.3.5 lacs, none of the members had exceeded the allowable exposure and turnover limits prevailing at the relevant time. It further added that though, the total limit allotted to sub brokers was Rs.7,399 lakhs which was above the limit allowed by BSE (6,068.84 lakhs), the actual limit utilized by the sub brokers was only Rs.4,152.84 lakhs. Finally, the Broker requested to drop the charges taking into account the improved compliance level and also in view of the fact that the observations of the inspection report were already implemented in letter and spirit. The Broker also claimed that it had ensured that none of the observation of the SEBI report was repeated again.
- 3.3 SEBI granted an opportunity of hearing to the Broker on April 18, 2007. Shri Amit Bhalodi, the Chief Executive Officer of the Broker alongwith its directors viz. Shri S C Shah and Shri Alok Chakramal appeared before me and made submissions on behalf of the Broker. Submissions were made on the lines of the reply of the Broker dated January 4, 2005. They also submitted that SEBI had taken lenient view against stock brokers in respect of the similar violations. The Broker had also submitted written submissions (dated April 17, 2007), in which it was inter alia stated that since June 1, 2005 it had adopted the tripartite agreement involving the Broker, sub broker and the client. The Broker further added that it had taken corrective measures to strengthen its functioning and to avoid any kind of lapses.
- 4.1 I have carefully examined the inspection report, the Enquiry Report, the show cause notice issued to the Broker, the oral as well as the written submissions of the Broker and other relevant materials available on record. I note that the Enquiry Officer,

while accepting the explanation of the Broker in respect of certain alleged violations had inter alia observed that the Broker had committed the following irregularities/ deficiencies.

- i) Permitting the sub brokers to trade without obtaining the certificate of registration.
- ii) Trading during the suspension period.
- iii) Issuance of contract notes without serial number.
- iv) Permissions of high exposure without renewal of bank guarantee.
- v) Enhancement of turnover limits and high exposure limits.
- vi) Allocation of high exposure as compared to the ceiling limit fixed by BSE.

vii) Failure of early pay in instructions.

- 4.2 I note that the inspection conducted by SEBI found that the Broker had allowed certain sub brokers viz. Shital Securities, Shree Vallabh Fiscal Services Pvt. Ltd., Golden Stock Holdings India Pvt. Ltd. and Elegant Equity Pvt. Ltd. to trade before the said sub brokers obtained the certificate of registration from SEBI. The details of the first trade of the said sub brokers and their date of SEBI registration are as follows:

Sub Broker	SEBI Registration Date	First trade date
Shital Securities	04/05/2000	12/04/2000
Shree Vallabh Fiscal Services (P) Ltd.	01/11/2001	22/10/2001
Golden Stock Holdings (I) Pvt. Ltd.	30/11/2001	12/04/2000
Elegant Equity Pvt. Ltd.	04/05/2000	12/04/2000

- 4.3 In respect of Elegant Equity Pvt. Ltd., the Broker stated that the sub broker was allowed to trade only from June 12, 2000, after the said sub broker was granted the certificate of registration. The Broker added that it did not allow the said sub broker to trade from April 12, 2000 as alleged. I note that the said explanation of the Broker was accepted by the Enquiry Officer. As regards the allegation pertaining to Golden Stock Holdings (I) Pvt. Ltd., I note that the Enquiry Officer accepted the explanation provided by the Broker that the said Golden Stock Holdings (I) Pvt. Ltd. was a converted corporate entity of another sub broker of the Broker viz. Shri Vasant J. Babaria. In respect of the sub brokers viz. Shital Securities and Shree Vallabh Fiscal Services (P) Ltd., the reply of the Broker was that the said sub brokers were allowed to trade before few days of SEBI registration certificate as it was learnt that their application for the certificate for registration was almost cleared by SEBI. In terms of section 12 (1) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the said Act), inter alia no sub broker shall buy, sell or deal in securities except under, and in accordance with the conditions of a certificate of registration obtained from SEBI in accordance with the said Act. Subsequently, vide circular dated January 15, 2001, SEBI inter alia advised all the exchanges to inform all stock brokers and sub brokers that the sub brokers were permitted to start business only after the clearance and receipt of certificate of registration from SEBI. It was further advised in the said circular that, if any person contravenes or abets to contravene the said rule, they shall be liable for prosecution under section 24 (1) of the said Act.

- 4.4 In the present matter, I note that the Broker had allowed its sub brokers viz. Shital Securities and Shree Vallabh Fiscal Services Pvt. Ltd. to trade on April 12, 2000 and October 22, 2001 respectively, whereas SEBI granted the certificate of registration to the said sub brokers only on May 4, 2000 and November 1, 2001 respectively. As an intermediary operating in the securities market, the Broker is duty bound to comply with the statutory provisions including various circulars issued by SEBI from time to time. He has a duty towards the securities market. The various requirements under the Act and Regulations in respect of an intermediary are conceived in the interests of investor protection and further to ensure that the business and conduct of the intermediaries are undertaken on the basis of sound business principle. An intermediary is inter alia required to maintain high standards of promptitude and fairness while conducting his business. Further, the Broker had allowed Shri Anil A. Gandhi (sub broker), to trade during the period of his suspension. The Broker contended that the said error occurred due to certain technical errors and the same was immediately rectified. Allowing a sub broker, who was under suspension, to trade even if it was for a short period, is a matter of concern. By permitting the said sub brokers to trade before the grant of certificate of registration, the Broker had violated provisions of section 12 of the said Act read with the SEBI circular dated January 15, 2001.

- 4.5 I note that the Broker had issued contract notes not bearing pre printed serial numbers. SEBI, vide circular dated August 5, 1996 had advised all the stock exchanges to inform all its members about certain common irregularities/ deficiencies observed during the course of inspection of its members for their rectification. One of the deficiencies specified in the said circular was the contract notes not having pre printed serial numbers. It was advised in the said circular that any deficiencies (which were mentioned in the said circular) would be viewed seriously, if such deficiencies were observed during the future inspections of the stock brokers by SEBI. Despite the said advice, the Broker admittedly failed to comply with the provisions of the said circular and therefore it is fairly established that the Broker had violated SEBI circular dated August 5, 1996.
- 4.6 I note that the Broker had permitted high exposure limits to certain sub brokers without the receipt of /or renewal of bank guarantee, as detailed herein below.

Sub-broker	Date of expiry of BG***	BG Renewal date
Sanjay L Mehta	27.03.02	26.07.02
Jitesh Kumar P Shah	09.04.02	27.07.02
Mukesh P Doshi	16.02.02	15.03.02
Harshad N Seth	26.02.02	06.05.02
Bharat R Raiyarela	23.05.02	Not renewed as on date
V.P.Securities*	22.04.02	Not renewed as on date
H B Baldev**	24.07.02	Not renewed as on date

* The director of VP Securities is also the chairman of the Broker

** Director of the Broker

*** Bank Guarantee

- 4.7 The Broker had not disputed the fact that the above sub brokers were allowed to trade before the renewal of the bank guarantee. The Broker stated that penal actions were taken against the said sub brokers for late submission of bank guarantee. The action of the Broker in permitting the sub brokers to trade before the renewal of their bank guarantees could not be accepted as the tenure of the bank guarantee is known in advance and the Broker could have taken necessary steps in advance to renew the same. Otherwise, the exposure limits would be unsecured and might adversely affect the interests of the investors and the securities market.
- 4.8 As regards the allegation that the Broker had allowed its sub brokers, a higher turnover limits (higher than that allowed by BSE), it was submitted that on May 29, 2002, the turnover limit allowed to the Broker by BSE was Rs.6,068.84 lakhs while its sub brokers were allotted Rs.7,399.00 lakhs. According to the Broker, the actual limit utilised was only Rs.4,152.84 lakhs. The Broker further stated that it had got a sanctioned overdraft of Rs.99 lakhs with Bank of India. I do not accept the above explanation of the Broker in the interest of securities market. It cannot be justified to give higher exposure than what was allowed by BSE itself. Further I note that on a single date i.e May 29, 2002, the over exposure was to the tune of Rs.13.31 crore. In the facts and circumstances, the act of the Broker could endanger the safety and integrity of the securities market.
- 4.9 In the facts and circumstances the relaxation in margins in cases where the early pay-in instructions of transfer securities had failed was not in the interest of securities market. Thus, it is reasonably established that the Broker had violated the provisions of the Act read with the provisions of the Broker Regulations and the SEBI Circulars, as specified. As an intermediary operating in the securities market, the Broker is duty bound to comply with the statutory provisions including various circulars issued by SEBI from time to time. He has a duty towards the securities market. The various requirements under the Act and Regulations in respect of an intermediary are conceived in the interests of investor protection and further to ensure that the business and conduct of the intermediaries are undertaken on the basis of sound business principle. An intermediary is inter alia required to maintain high standards of promptitude and fairness while conducting his business. Taking into account the circumstances of the present case, the mitigating circumstances and the view taken in comparable cases, the instant case calls for a penalty as ordered hereinunder.

- 5.1 In view of the foregoing, I, in exercise of the powers conferred upon me in terms of Section 19 of the 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 impose a minor penalty of censure on the stock broker viz. M/s. SKSE Securities Limited, Member, National Stock Exchange of India Ltd. (Registration no. INB231076036) and Bombay Stock Exchange Ltd. (Registration no. INB 011076032).

G ANANTHARAMAN

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA

Place: Mumbai

Date: February 26, 2008