

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 28 (2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008 AGAINST JASHNANI LEASING & FINANCE LIMITED.

1. It was brought to the notice of Securities and Exchange board of India (hereinafter referred to as SEBI) that Jashnani Leasing & Finance Limited, a sub broker registered with Securities and Exchange board of India (hereinafter referred to as SEBI) and affiliated to the stock broker namely Networth Stock Broking Limited (hereinafter referred as the Broker), Member, Bombay Stock Exchange Limited had issued contract note dated May 27, 2005 to its client Mr. Suresh Pamnani and charged Service Tax and Securities Transaction Tax without entering into tripartite agreement with the said client as required under law. Jashnani Leasing & Finance Limited is hereinafter referred as the sub broker. Accordingly, SEBI advised the Broker to examine the books and records of the sub broker to verify and ascertain the short comings observed in its functioning. The Broker vide letter dated December 14, 2005 informed SEBI that the sub broker had refused to give access to its records. Thereafter, SEBI vide letter dated December 28, 2005 sought explanation from the sub broker as to why appropriate action may not be taken against it. A copy of the contract note dated May 27, 2005 was also forwarded to the sub broker alongwith the said letter. Though, the aforesaid letter was acknowledged by the sub broker on January 05, 2006, it failed to respond.

2. In view of the above, SEBI, vide orders dated February 24, 2006 and November 19, 2007 had initiated enquiry against the sub broker under the provisions of Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (since repealed). Thereafter, the Enquiry Officer/Designated Authority (hereinafter referred to as the Enquiry Officer) submitted the Enquiry Report dated June 09, 2009 recommending the cancellation of the certificate of registration of the sub broker. The Enquiry Officer found the sub broker guilty of *inter alia* violating the following:

- i. Clause C(4) of Code of Conduct for sub brokers as specified under schedule II of the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations 1992 (hereinafter referred to as the Broker Regulations)
- ii. SEBI circular dated August 26, 2004 read with subsequent circulars dated November 25, 2004, December 29, 2004 and March 31, 2005.

3. Pursuant to the submission of the Enquiry Report, a notice dated June 15, 2009 (enclosing a copy of the Enquiry Report) was issued to the sub broker requiring it to show cause as to why action should not be taken against it as recommended by the Enquiry Officer. The sub broker was also required to submit its reply within twenty one days from the date of receipt of the show cause notice. Though, the said show cause notice was acknowledged by the sub broker, no reply was filed by it, so far. Thereafter, an opportunity of personal hearing was also provided by SEBI to the sub broker on September 17, 2009. However, the letter communicating the date of hearing was returned undelivered with an endorsement "office shifted". Subsequently, another opportunity of hearing was granted to the sub broker on October 07, 2009 and the same was communicated to the sub broker by SEBI, vide letter dated September 07, 2009. The said letter was also returned undelivered. Simultaneously, an attempt was made to paste the notice at the address of the

sub broker. However, the persons available in the said address did not allow the same. In view of the above, the notice of hearing was posted on the SEBI website. In the facts and circumstances, I do not consider it necessary to grant another opportunity to the sub broker in the matter. Moreover, the sub broker had already acknowledged the show cause notice dated June 15, 2009 (along with the copy of the Enquiry Report) on which it has not to date taken any efforts to controvert the findings of the Enquiry officer. Therefore, I proceed with the matter on the basis of the available material on record.

4. The primary charge against the sub broker is that it had violated the SEBI circulars as mentioned above in this order. In paragraph 2 of the circular dated March 31, 2005 while reiterating the requirement of compliance with the model tripartite agreement, SEBI stipulated that:

“The requirements of the captioned Amendment Regulations relating to changes in role of sub-brokers and their main brokers, including the format of the Model Tripartite Agreement specified by the above circulars, shall be implemented strictly from April 1, 2005. Any violation of the said requirements after such date would be viewed strictly, entailing appropriate action”

5. The fact that the sub broker had issued contract dated May 27, 2005 to its client is not disputed. The sub broker had also charged service tax and Securities Transaction Tax in respect of the above transactions. However, it did not enter into a tripartite agreement as required under the above mentioned circulars. Besides, in terms of Clause C(4) of the Code of Conduct for sub brokers as mentioned in Schedule II of the Broker Regulations, a sub-broker shall enter into a Tripartite Agreement with his client and with the main stock

broker specifying the scope of rights and obligations of the stock broker, sub-broker and such client of the sub-broker. As mentioned above, entering into a tripartite agreement is a mandatory requirement, which was not complied with by the sub broker. Thereby, the sub broker has violated the above mentioned circulars and Clause C (4) of the Code of Conduct. I also find that the sub broker had not co-operated:

- a. with SEBI in the proceedings by not replying to its letter dated December 28, 2005, and by not allowing the Broker to access the books and records
- b. with the Designated Authority by not responding, when the proceeding was pending with him

6. The sub broker has also not made any effort to make its submissions before me. SEBI has been established *inter alia* to protect the interest of investors. The market participants shall strive towards this goal and those who access the securities market shall have to abide by the rules and regulations specified by SEBI. Otherwise, as a regulator, SEBI shall deal sternly with those who violate the rules and regulations laid down in the interest of investors. In the facts and circumstances, I agree with the findings and recommendation of the Enquiry Officer. The sub broker deserves to be punished sternly and I do so, as ordered hereinunder. As the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 was repealed with effect from the notification of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, this Order is being passed under the corresponding provisions of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

7. In view of the foregoing, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulation 28(2) of Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby cancel the certificate of registration of the sub-broker namely, M/s. Jashnani Leasing and Finance Limited (Registration No.INS011723330), affiliated to Networth Stock Broking Limited, Member, Bombay Stock Exchange Limited.

8. This order shall come into force immediately on expiry of twenty one days from the date of this order.

DR. K. M. ABRAHAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

Place: Mumbai

Date: October 12, 2009