

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI
CORAM: PRASHANT SARAN, WHOLE TIME MEMBER**

IN THE MATTER OF OASIS MEDIA MATRIX LTD.

In respect of FMS Securities Ltd.

(SEBI Registration no. INB 011079838)

Date of hearing: April 21, 2010

Appearances

For Noticees: Mr. Vikas Aggarwal, Company Secretary, FMS Securities Ltd.
Mr. Ankur Jain, Asst. Company Secretary, FMS Securities Ltd

For SEBI: Mr. Mridul Rastogi, Manager
Mr. Pradeep Kumar, Legal Officer

ORDER

**Under Regulation 28(2) read with Regulations 38 (2) of Securities and
Exchange Board of India (Intermediaries) Regulations, 2008**

1. Securities and Exchange Board of India (hereinafter referred as 'SEBI') had conducted investigation into the buying, selling and dealing in the shares of Oasis Media Matrix Ltd. (hereinafter referred as 'OMML') during the period April 8, 2002 to July 9, 2002.
2. During the period under investigation, the price of the scrip opened at Rs.15.10 on April 8, 2002, touched a high of Rs.37.95 on July 9, 2002 and closed at Rs.35.50 on July 9, 2002. The volume traded during the period of investigation was 6,45,492 shares in 64 days. It was alleged that the stock broker viz. FMS Securities Ltd. (hereinafter referred to as 'noticee'), registered with SEBI as stock broker, bearing SEBI registration no. INB 011079838 had entered circular/ reversal trades on behalf of its clients with other brokers which created artificial volume and price rise in the shares of OMML.

3. Based on the findings of the said investigations, SEBI initiated enquiry proceedings as against the noticee in terms of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'Enquiry Regulations'), by appointing an Enquiry Officer under Regulation 5(1) of Enquiry Regulations vide order dated August 23, 2007, read with subsequent order dated December 10, 2008. SEBI appointed the Enquiry Officer, to enquire into the alleged violation of the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 (since repealed) read with SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as 'PFUTP Regulations') and the Code of Conduct specified under Schedule II of SEBI (Stock Brokers and Sub-Broker) Regulation, 1992 (hereinafter referred to as 'Broker Regulations'). As the Enquiry Regulations were repealed with effect from the notification of Securities and Exchange Board of India (Intermediaries) Regulations, 2008, the Enquiry Officer/ Designated Authority (hereinafter referred to as the Enquiry Officer) submitted his Report dated December 23, 2009, in terms of Regulation 27 of SEBI (Intermediaries) Regulations, 2008 recommending thereby warning to noticee for violating Clause A (2) of Code of Conduct specified under Schedule II of the Broker Regulations.
4. Subsequently, a Show Cause Notice (hereinafter referred to as 'SCN') under Regulation 28(1) of Intermediaries Regulations dated January 19, 2010, was issued by SEBI to the noticee, asking it to show cause as to why the appropriate penalty including penalty recommended by the Enquiry Officer should not be imposed. The noticee was advised to reply to the SCN, together with the documents that it may choose to rely upon in support of his reply within twenty one days of the receipt thereof. It was also informed that in case of failure, it would be presumed that it had no explanation to offer and SEBI shall be free to take such action in the manner as it deemed fit. A copy of the Enquiry Report was also forwarded to the noticee along with the said SCN.

5. The noticee replied to the SCN vide its letter dated February 11, 2010 and sought a personal hearing. Accordingly, an opportunity of personal was granted to the noticee before me on April 21, 2010. On the date fixed Mr. Vikas Aggarwal Company Secretary and Mr. Ankur Jain, Assistant Company Secretary appeared before me as the authorized representative of the noticee and reiterated the submissions made vide letter dated February 11, 2010.
6. The submissions of the noticee in brief are:
- Transactions in the scrip were carried out in the normal course of business and the orders were entered in good faith.
 - The client had traded in as many as 32 scrips during the relevant period and was quite regular in pay-in obligation.
 - No connection/ link/ relation between it and the client/ counterparty client/ broker.
 - Had not done any proprietary trading in the scrip of SNL.
 - Had exercised due skill, care and diligence while acting as a stock broker.
 - Had traded for 5 days out of 64 days and contribution to the gross market turnover was meager 2.29% only.
 - Inconsistencies in trade-order log provided by SEBI.
 - Had taken third party delivery prior to SEBI circular.
7. I have carefully considered the Enquiry Report, the SCN issued to the noticee and the reply dated February 11, 2010. I note that the Enquiry Officer has dropped the charge of violation of PFUTP Regulations. However, the Enquiry Officer has found the noticee guilty of violation of Clause A (2) of Code of Conduct specified under Schedule II of the Broker Regulations, as it has failed to exercise due skill, care and diligence in the conduct of business.
8. The noticee in its reply to the SCN has raised a preliminary objection to the proceedings that the data provided herein i.e. the trade and order log contains several inconsistencies. I have seen the data provided and also the instances given by the noticee in its reply, from the same, I find no

discrepancy as stated and the same appears to be a misinterpretation by the noticee. In view of this, I find no merits in the argument of the noticee.

The noticee has also argued that BSE has started providing the list of illiquid scrips from July 04, 2008. To this, I note that the price volume data of all scrips listed at BSE was available at the BSE website showing the concentration/ liquidity in the scrips. The noticee was expected to have knowledge of the same, which they seemed to have neglected as per their plea.

The noticee has also argued that the SEBI Circular prohibiting the brokers to take third party deliveries came after the period of investigation. To this argument, I note that the present proceedings are not for complying with the SEBI Circular. A broker being a registered intermediary operating in an active market should be alert at all times and should have enquired its clients before accepting any third party deliveries. In the present case, the noticee has failed to raise any such objection upon noticing that its client is giving third party deliveries.

9. I note that, the Enquiry Officer has not found any evidence to show the link/ collusion between the noticee and other brokers involved in the synchronized/ reversal trades. No incident of knowledge to the noticee regarding fraudulent nature of trades has been found by the Enquiry Officer. The Enquiry Officer in his report has concluded that it was the responsibility of broker to verify the transaction of its clients to ensure that no malpractice is taking place.
10. I have seen the trades entered and the pattern followed by the client of the noticee while trading in the scrip of OMML, which appears to be synchronized/ reversal in nature. It is a fact that the client of the noticee had dealt substantially in thinly traded scrip, which would have alerted the noticee on the dealings of its client. I note that the noticee has not done any proprietary trading in the scrip of OMML during the relevant period of time. However, I find that it was the responsibility of the noticee to verify the

transactions of its client and was expected to ensure that no malpractice is taking place on its terminals by exercising proper skill, care and diligence. I note that during the relevant point of time as discussed above it had failed to perform its duties as specified in the code of conduct for stock brokers in the Broker Regulations.

- 11.** In view of above, I agree with the findings of the Enquiry Officer and conclude that the noticee had failed to act with due skill, care and diligence in the conduct of his business and has contravened the provisions of Regulation 7 read with clause A (2) of the Code of Conduct prescribed for stock brokers in the Broker Regulations. In view of this, I dispose of the present Enquiry proceedings as ordered herein below:
- 12.** I note that pursuant to the notification of the SEBI (Intermediaries) Regulations, 2008, the Enquiry Regulations have been repealed and in terms of Regulation 38(2) of the SEBI (Intermediaries) Regulations, 2008, notwithstanding such repeal, any enquiry commenced under the Enquiry Regulations, shall be deemed to have been commenced under the corresponding provisions of SEBI (Intermediaries) Regulations, 2008.
- 13.** Taking into the facts and circumstances of the case, 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 28(2) of Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby warn the noticee, FMS Securities Ltd. (SEBI Registration No. INB 011079838) [PAN: AAACF 6462E], to be careful and cautious in the conduct of its business and to adhere to and comply with all the statutory provisions while carrying out its activities in the securities market.

DATE : 10/MAY/2010
PLACE: MUMBAI

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA