

WTM/MSS/MIRSD/NRO/80/2010
BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: M. S. SAHOO, WHOLE TIME MEMBER

In the matter of Rishabh Shares & Securities, Sub-broker

Appearances:

For Noticee: None

**For SEBI: Shri Aman Jain, Asstt. General Manager, and
Shri Amitesh Kumar, Asstt. Legal Advisor.**

ORDER

Under Regulation 28(2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008

1. While forwarding a copy of the enquiry report vide the show cause notice dated August 5, 2010 (SCN), SEBI called upon M/s. Rishabh Shares & Securities (Rishabh) [Registration No. INS230537925], a sub-broker of NSE, to show cause as to why its certificate of registration should not be cancelled in view of the enquiry findings. The enquiry report contained the following findings:
 - (a) Rishabh did not credit the accounts of clients for the money received, issue the contract notes to the clients and pay the dues of clients and thereby violated Clause A(1) and C(3) of Code of Conduct for sub-brokers as laid down under Regulation 15 of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 (Broker Regulations).
 - (b) Rishabh dealt in cash with its clients in violation of the provisions of the Circular No. SEBI/MRD/SE/Cir-33/2003/27/08 dated August 27, 2003.
 - (c) Though Rishabh was affiliated to the broker, M/s. MG Capital Services Ltd., it acted as unregistered sub-broker of other brokers and thereby violated Section 12 of the SEBI Act, 1992, Regulation 11 of the Broker Regulations and the Circular No. SMD/POLICY/CIRCULAR/11-97 dated May 21, 1997.
 - (d) Rishabh did not fulfill the basic parameters of a fit and proper person and thus violated the provisions of Regulation 3 of the SEBI (Criteria for Fit and Proper Persons) Regulations, 2004 read with Regulation 5A of the Broker Regulations.
2. The SCN was forwarded to NSE for delivery of the same to Rishabh. NSE affixed the SCN on Rishabh's premises as its office was found locked. No reply to the SCN was received. A personal

hearing was offered to Rishabh vide letter dated October 19, 2010. NSE pasted this letter on Rishabh's premises as its office was found locked. Rishabh did not appear for the personal hearing.

3. I have carefully considered the enquiry report, the SCN and other materials available on record. I find that this proceeding emanated from a joint (SEBI and NSE) inspection of Rishabh in May, 2007. At the time of inspection, neither Rishabh nor its partners were traceable. Inspection report was prepared on the basis of information obtained from complainants, brokers/sub-brokers, authorities like police, NSE and NSDL and that available on record. Enquiry followed the inspection. I find that several futile attempts were made to serve the enquiry notice on Rishabh and its partners. The authority prepared the enquiry report in the matter ex-parte on the basis of material facts available on record. Again attempts were made to serve the SCN on Rishabh and hear it. Rishabh could not be traced. Nor was there any response.
4. In the absence of any reply, I have no option but to rely upon the material available on record. I find that Rishabh did not credit the accounts of some clients for the money received from them. It did not issue contract notes to some clients for the trades undertaken on their behalf. It did not pay the sale proceeds of securities to some clients. It took payment in cash from some clients. It dealt in securities on behalf of some clients through brokers without being registered as their sub-broker. Neither Rishabh nor its partners were traceable since inspection till date. I, therefore, concur with the enquiry findings, as stated in Para 1 above. To me, the intermediaries like Rishabh are threat to the securities market and the investors and it is a fit case where the certificate of registration granted to Rishabh must be cancelled.
5. I note that pursuant to the notification of the SEBI (Intermediaries) Regulations, 2008 (Intermediaries Regulations), the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (Enquiry Regulations) have been repealed and in terms of Regulation 38(2) of the Intermediaries Regulations, notwithstanding such repeal, any enquiry commenced under the Enquiry Regulations, shall be deemed to have been commenced under the corresponding provisions of Intermediaries Regulations.

6. Taking into account the facts and circumstances of the case, I, therefore, in exercise of powers conferred upon me under Section 19 of the SEBI Act, 1992, read with Regulation 28(2) of the SEBI (Intermediaries) Regulations, 2008, hereby cancel the certificate of registration of M/s. Rishabh Shares & Securities [Registration no. INS230537925].
7. A copy of this Order shall be served on the NSE of which Rishabh is a sub-broker and M/s. MG Capital Services Ltd. to which Rishabh is affiliated as sub-broker for necessary action.
8. This Order shall come into force on the expiry of 21 days from the date of this Order.

DATE: November 23, 2010
PLACE: MUMBAI

M. S. SAHOO
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA