

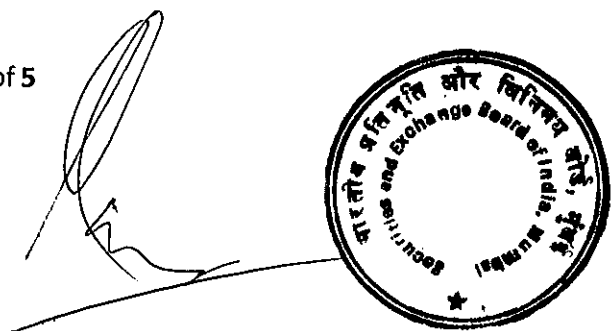
BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

CORAM: S. RAMAN, WHOLE TIME MEMBER

ORDER

Under Section 12(3) of SEBI Act and Regulation 28(2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 in the matter of Action Financial Services (India) Limited [SEBI Registration No. for BSE - INB 010749233 and for NSE - INB 230749237] PAN: AAACA4423G.

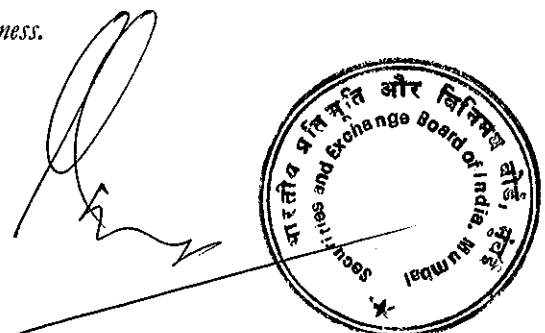
1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted an investigation into the buying, selling and dealing in shares of Pyramid Saimira Theatre Ltd. (hereinafter referred to as 'PSTL/company') and passed an *Ad-interim Ex-parte* Order dated April 23, 2009 restricting certain persons / entities from buying, selling or dealing in securities market. Pursuant to said order of SEBI, it was observed that M/s Action Financial Services (India) Limited (hereinafter referred to as "Noticee") a SEBI registered Stock Broker executed trades on April 24, 2009, on behalf of its client viz., Mr. Nitin R. Goradia who was restrained from buying, selling or dealing in securities market vide the aforesaid Order dated April 23, 2009 of SEBI.
2. Subsequently, SEBI initiated proceedings under SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as 'Intermediaries Regulations') against the Noticee and appointed the Designated Authority ("DA") to enquire into the alleged violations of provisions of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as "Brokers Regulations").
3. The DA conducted the proceedings to enquire into the above mentioned allegations. The DA after completing the proceedings submitted the Enquiry Report dated March 30, 2012 ("the Report") in terms of Regulation 27 of Intermediaries Regulations.
4. In the Report, DA stated that the Noticee had violated Regulations 27 (xv) & 27(xvii) read with Regulations 26(xv) of Brokers Regulations and Clauses A(1), A(2) and A(5) of Code of Conduct



for Brokers as specified in Schedule II under Regulation 7 of Brokers Regulations. On account of the violation, DA recommended that the Certificate of Registration of the Noticee may be suspended for a period of seven (7) days.

5. After considering the report, a Show Cause Notice dated April 17, 2012 ("SCN") under Regulation 28 of Intermediaries Regulations was issued to the Noticee to show cause as to why the appropriate penalty including the penalty as recommended by the DA should not be imposed upon it. A copy of the Report was also forwarded to the Noticee along with the said SCN. The Noticee vide letter dated May 15, 2012 and October 08, 2013 replied to the said SCN and *inter-alia* submitted as under :

- a. *It denied that any provisions of law as alleged in SCN and Report has been violated.*
- b. *Late in the evening of April 23, 2009 SEBI passed ad-interim ex-parte order dated April 23, 2009 restricting some persons / entities from buying, selling or dealing in securities market until further orders pending investigation. On April 24, 2009 its personnel had started identifying the clients who were debarred vide said order for blocking their trading accounts.*
- c. *While, on April 24, 2009 morning its personnel were in the process of identifying the clients who were debarred vide order dated April 23, 2009 and blocking their accounts, its client Mr. Nitin R Goradia had placed orders for trades on NSE. The concerned dealer who executed the trades as per the instructions of Nitin R Goradia was unaware of the order passed by SEBI. Post execution of the transaction, immediately on becoming aware of the embargo imposed on Mr. Nitin Gorardia, it had squared off the positions of Nitin R Goradia.*
- d. *Position of Mr. Nitin R Goradia was squared off suo-moto without any regulatory fiat on becoming aware of the same. Mr. Nitin Goradia had executed two transactions at 9:59:47 and at 10:00:20 which were squared off by the Noticee immediately on becoming aware at 10:00:20 and at 10:02:42 respectively.*
- e. *It deposited ₹10,027/-, the positive close out difference, which arose as a result of squaring off of positions in the account of Mr. Nitin Goradia with NSE.*
- f. *On the same matter NSE also conducted enquiry in terms of its rules, byelaws and regulations and after taking into account the nature of violation, the surrounding circumstances etc., had decided not to impose any fine or penalty on it.*
- g. *The transactions executed by it on behalf of the said client were not actuated by any malafide or sinister intent / motive. It had not acted deliberately in defiance of SEBI Order. It had maintained high standard of integrity, promptitude, and fairness etc in the conduct of its business.*



- h. Any suspension of its registration for the alleged violations would result in enormous misery not only to it but also to its customers as it will be hugely disproportionate to the gravity of alleged violations and also at variance with the penalties imposed by SEBI in the past for similar violations.*
- i. The Noticee made improvements so that recurrence does not happen. It had never traded in PSTL Scrip either itself or for its debarred client. Debarred client had traded in F & O segment for highly liquid scrip. Client position was squared off within 10 minutes of the trade done by the client and within 3 minutes of information and knowledge of the debarred client list. There is no repetition of such event and this was the only incident in its history and requested for a lenient view.*

6. Considering the reply, the Noticee was thereafter granted an opportunity of personal hearing and was advised to appear before me on December 05, 2013. The Noticee's Chairman cum Managing Director Mr. Milan R. Parekh appeared before me on the said date and reiterated its earlier submissions.

Consideration of Issues and findings:

7. I have considered the Enquiry Report dated March 30, 2012, the SCN dated April 17, 2012 issued by SEBI, the replies filed by the Noticee and the submissions made by its authorized representative during the course of personal hearing before me. In light of the same, I shall now proceed to deal with the charges alleged against the Noticee. As per the SCN, the Noticee had allegedly violated Clauses A(1), A(2) and A(5) of Code of Conduct for Brokers as specified in Schedule II under Regulation 7 of Brokers Regulations.
8. Before dealing with the aforesaid charges, the relevant legal provisions, the contravention of which have been alleged in this case may be reproduced hereunder for the purpose of reference :

Regulation 7 of Broker Regulations:

Stock-Brokers to abide by Code of Conduct.

The stock-broker holding a certificate shall at all times abide by the Code of Conduct as specified at Schedule II.



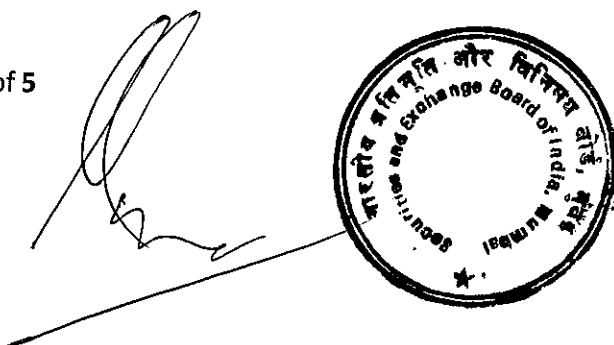
Relevant Clauses of the Code of Conduct -Schedule II

Clause (1) ***Integrity:*** *A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.*

Clause (2) ***Exercise Of Due Skill And Care:*** *A stock-broker, shall act with due skill, care and diligence in the conduct of all his business.*

Clause (5) ***Compliance With Statutory Requirements:*** *A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the stock exchange from time to time as may be applicable to him.*

9. It is noted that the Noticee has executed trades for its debarred client viz. Mr. Nitin R. Goradia who was restrained from buying, selling or dealing in the securities market vide an *Ad-interim Ex-parte* Order dated April 23, 2009 issued by SEBI. The Noticee's client dealt in F&O segment on April 24, 2009 at 9:59:47 and 10:00:20 which are stated to have been squared off by the Noticee immediately on becoming aware at 10:00:20 and 10:02:42 respectively. It is noted from the submissions of the Noticee that client position was squared off within 10 minutes of the trade. It is noted that there were several entities / persons who were debarred from securities market vide SEBI's *Ad-interim Ex-parte* Order dated April 23, 2009. The gross traded value of the scrips was ₹20.68 lakh and the positive square off difference earned by the client was only ₹10,027/-. The Noticee has admitted the lapse on its part and stated that such mistake occurred as the dealer who executed the trades was not aware of the said debarment Order issued against its client. On the basis of the admission by the Noticee that it has inadvertently carried out the trades on behalf of its client who was restrained from buying, selling or dealing in securities, it is obvious that the Noticee failed to exercise due skill, care and diligence, fairness in the conduct of its business and therefore, violated Regulations 7 of Brokers Regulations read with Clause A(1), A(2) & A(5) of Code of Conduct for Stock Brokers as specified in Schedule II of Brokers Regulations.
10. The next issue is the penalty that could be levied on the Noticee for the violations of the above mentioned provisions of the Broker Regulations. I note that the Noticee vide its reply dated May



15, 2012 has cited certain cases where SEBI had issued warning to the brokers for the violations of aforesaid provisions and requested for a lenient view in the present case. It is also noted that NSE had not levied any penalty on the Noticee after considering the facts, circumstances and submissions. It is pertinent to mention that the Noticee has taken corrective steps as soon after they realized the mistake of trades executed for the debarred client, the client's position was squared off within ten minutes of the said trades. Further, it is also submitted by the Noticee that they have rechecked and improved their systems so that such recurrence does not happen. The volume of the transactions executed and considering the action of the Noticee in squaring off the same within ten minutes and depositing the said amount with NSE, the violation may not attract a heavy penalty.

11. Considering the abovementioned facts and circumstances of the present case, I am of the view that it would meet the ends of justice if a strong warning is issued to the Noticee for executing trades on behalf of the client who was debarred by the *Ad-interim Ex-parte* Order dated April 23, 2009 passed by SEBI thereby violating Clause A(1), A(2) & A(5) of Code of Conduct for Stock Brokers as specified in Schedule II under Regulation 7 of Brokers Regulations.

Order

12. I, therefore in exercise of the powers conferred upon me by virtue of Section 19 of Securities and Exchange Board of India Act, 1992 read with Regulation 28(2) of the Intermediaries Regulations, hereby warn the Noticee, 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. Any future lapse on its part in complying with the said provisions shall invite stringent action.

Place: Mumbai
Date: August 20, 2014


S. RAMAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

