

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 28(2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008 AGAINST M/S SURESH KUMAR

1. The Securities and Exchange Board of India (hereinafter referred to as SEBI) had received a reference (dated September 9, 1998) from the office of Additional Deputy Commissioner of Police, Crime Branch, New Delhi which *inter alia* stated that Mr. B. B. Sharma, the promoter of the Hoffland Group of Companies (hereinafter referred to as the Hoffland Group) had been arrested and that he had disclosed the details of certain stock exchange memberships held by him in different names including M/s Suresh Kumar (hereinafter referred to as the Broker), member, the Uttar Pradesh Stock Exchange Limited (hereinafter referred as UPSE). The aforesaid letter further stated that the amount utilized for the purpose of the stock exchange memberships was diverted from the money collected from the public by the Hoffland Group. Thereafter, SEBI carried out an investigation to *inter alia* find nexus, if any, between certain entities including the Broker and the Hoffland Group. The aforesaid investigation conducted by SEBI *prima facie* revealed that the Broker was a front company of the Hoffland Group and was not a “fit and proper person” in terms of the Securities and Exchange Board of India (Criteria for Fit and Proper Person) Regulations, 2004 (hereinafter referred to as the Fit and Proper Regulations). It was also found that the Broker had defaulted in paying turnover fees to SEBI. Subsequently, SEBI, vide order dated October 22, 2008 read with a subsequent order dated December 7, 2008 initiated an enquiry in terms of the provisions of the Securities and Exchange Board of India

(Intermediaries) Regulations, 2008 (hereinafter referred to as the Intermediaries Regulations) to enquire into the alleged violations of Regulations 5(A), 5(e), 6(A)(a) and 6A(d) of the Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations 1992 (hereinafter referred to as the Broker Regulations) read with Regulation 38(3) along with Schedule II of the Intermediaries Regulations. The Designated Authority (hereinafter referred to as the Enquiry Officer), vide Report dated March 24, 2010, while recommending the cancellation of the certificate of registration of the Broker observed that the Broker had contravened Regulation 5(A), 5(e) and 6A(d) of the Broker Regulations.

2. Thereafter, SEBI sent a notice dated April 15, 2010 to the Broker advising it to file its written representation within twenty one days as to why action as recommended by the Enquiry Officer should not be imposed against it. The said notice was sent through UPSE. Subsequently, UPSE, vide letter dated May 3, 2010 informed that the Broker could not be located and therefore, the said notice was pasted at the address of the Broker. UPSE had also forwarded the report of the affixture of the said notice. Thereafter, SEBI had also sent the show cause notice on July 9, 2010 to the Broker through UPSE which was affixed by UPSE on the address of the Broker and a report on the same was also sent by UPSE, vide letter dated August 3, 2010. As stated above, though the Broker was afforded with sufficient opportunities, no reply was submitted by it. Subsequently, an opportunity of hearing was also given to the Broker on December 3, 2010. The said letter was affixed by UPSE and a copy of the report on the service of notice was also forwarded by UPSE to SEBI on October 18, 2010. However, the Broker did not appear on the said date. As the Broker did not file its submissions despite various opportunities, I do not consider it necessary to grant another opportunity to it and the present enquiry proceeding is considered and disposed of on the basis of the available

material on record. One of the allegations leveled against is that the Broker is not a “*fit and proper person*” for the following reasons:-

- a. The Broker was a benami company of Hoffland Group and Hoffland Group had defaulted in payments to various investors.
- b. The conduct of the Hoffland Group had been investigated by the police and several prosecution cases had been initiated against it.
- c. The Broker had not paid SEBI turnover fees of ₹2,67,995/- including an interest of ₹3,47,261. (As on November 23, 2010, principal amount outstanding was ₹2,67,995/- and the interest was ₹4,71,273/- (total ₹7,39,268/-)

3. The available address of the Broker was FF-12, Som Dutt Plaza, The Mall, Kanpur. Som Dutt Builders Private Limited, vide letter dated November 17, 2003 have stated that they had rented the said premises to Hoffland Share Shoppe Limited, vide lease agreement dated March 14, 1996. The said agreement was signed by Mr. Rakesh Mishra on behalf of Hoffland Group. It was also learnt that the aforesaid office of the Broker had been one of the collection centers for deposits of the Hoffland Group. Further, Mr. Suresh Kumar is shown as an employee of the Hoffland Finance Limited in their printed profile. As per an intimation u/s 143(1)(a) of Income Tax Act 1961, for the assessment year 1995-96, the address of the Broker was given as 301, Sagar Complex, Preet Vihar Delhi which was also the branch of the Hoffland Group as per the copy of the brief profile of Hoffland Finance Limited. Further, from the letter dated July 28, 2003 received by SEBI from Mr. N C Pandey, director of Bharatendu Financial Services Private Limited (another Hoffland group entity) it was stated that Mr. Suresh Kumar was one of the individuals in whose name the membership of stock exchanges was acquired. This had been confirmed by Mr. B. B Sharma, Chairman Hoffland Group before the police. Further, it was also observed that for the purchase of the said membership, ₹ 4,00,000/- by means of demand draft (no. 063342) dated June 13, 1996 drawn on Oriental Bank of Commerce, Safdurjung Enclave, was paid to Mr. Ashwin Dand, the

seller of the ticket (membership of the Broker). It has been confirmed by the said Bank that the aforesaid demand draft was issued from the account no. 1984 of Hoffland Securities Limited. It stands established that Hoffland Group had financed the purchase of the said ticket and had acquired the said membership in the name of Mr. Suresh Kumar, who was also their employee. Thus, it clearly establishes that there were close linkages between the Broker and the Hoffland Group. It is also observed that the modus operandi in the instant case was similar to that followed by Hoffland group in acquiring other memberships around that time. I note that the conduct of the Hoffland Group has been investigated by the Police and that it is learnt that several prosecution cases have been initiated against it. Further, Hoffland Group has defaulted in payments to its investors. It stands established that the Broker does not fulfill the basic parameters such as financial Integrity, good reputation, character, etc to be considered as "Fit and proper Person" for the purpose of acting as a registered stock broker with SEBI. It is thus established that the Broker is not a fit and proper person as required under 5(e) of the Broker Regulations which required the member to be a "Fit and Proper Person". The Broker is not a fit and proper person in terms of the Fit and Proper Person Regulations as well as the Intermediaries Regulations and failed to comply with the requirements of Regulation 5(A) and 5(e) of the Broker Regulations read with Regulation 38(3) along with Schedule II of the Intermediaries Regulations. It was further observed by the Enquiry Officer that the Broker has violated Regulation 6A(d) of the Broker Regulations, as it had not paid the turnover fees including an interest, as stated above in this Order. In this regard, I note that SEBI, vide order dated February 3, 2010 suspended the certificate of registration of the Broker till the time it pays the outstanding fees to SEBI.

4. On the basis of the above findings, linkages of the entity with the Hoffland Group, incriminating facts pertaining to the Hoffland Group, available

evidence, facts and circumstances of the case and applicable provisions of law, I conclude that the Broker is not a "Fit and proper Person" in terms of the Broker Regulations read with the provisions of the Intermediaries Regulations. Though, sufficient opportunities were provided to the Broker it did not avail of the same and instead kept itself away from the enquiry proceeding. Such a person, in the facts and circumstances deserves no leniency.

5. 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 of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby cancel the certificate of registration granted to the stock broker, M/s Suresh Kumar (Registration no. INB 100943418), Member, Uttar Pradesh Stock Exchange Limited.

6. 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: MARCH 8, 2011**