

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 28(2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008 AGAINST BHARATENDU INVESTMENT & FINANCIAL SERVICES PRIVATE LIMITED

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 Bhartendu Financial Services Private Limited (hereinafter referred to as the Broker), member, the Bombay Stock Exchange Limited (hereinafter referred as BSE). 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 29, 2010, while recommending the cancellation of the certificate of registration of the Broker observed that the Broker had contravened Regulation 5(e) (read with 5A) 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 BSE. Subsequently, BSE, vide letter dated April 23, 2010 informed that the registered/correspondence address of the Broker (R-417, Rotund A Building, 4th Floor, Bombay Samachar Marg, Fort, Mumbai-40023) had been locked. Therefore, SEBI, vide letter dated May 4, 2010 requested BSE to paste the aforesaid notice along with the necessary enclosures at the registered/correspondence address of the Broker. Accordingly, BSE had affixed the letter of SEBI dated May 4, 2010 along with all its enclosures on the door of the registered/correspondence address of the Broker on May 6, 2010. BSE had also sent the photograph taken at the time of affixing the letter on the aforesaid address. It had also forwarded the copy of the Report on service. Thereafter, SEBI had also sent the show cause notice on July 9, 2010 to the Broker through BSE which was affixed on the registered/correspondence address of the Broker. A copy of the said report on service and the photographs taken at the time of affixation was also forwarded by BSE to SEBI, thereafter. As stated above, though, the Broker was afforded sufficient opportunities, no reply was submitted by it. Subsequently, an opportunity of hearing was also afforded to the Broker on December 3, 2010. The said letter was affixed by BSE on the registered/correspondence address of the Broker and a copy of the report on the service of notice and the photographs taken at the time of affixture were also forwarded by BSE to SEBI on October 14, 2010. Though, SEBI had taken

reasonable steps to serve the notices on the Broker, the Broker failed to appear on the date of hearing. 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.

3. 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 the turnover fees of ₹1,16,990/- to SEBI. (As on November 23, 2010, principal amount outstanding was ₹69,530/- and the interest was ₹1,11,293/- (total ₹1,80,823/-)

4. The findings of the investigation *inter alia* revealed various linkages between the Broker and the Hoffland Group. This has been explained in detail in the Enquiry Report. As per information obtained from BSE, the Broker was incorporated by Mr. N.C. Pandey and his wife, Mrs. Urmila Pandey who were also its first directors. The directors of the Broker were the following:

Sl. No.	Name of the Director	Address
1.	Col. (Retd.) Narendra Kumar Joshi	D-804, Dara Enclave, Sector 9, AWHO, Nerul, Mumbai - 400 706.
2.	Mr. N.C. Pandey	404, Welfare Chambers, Turbhe Vashi Road, Vashi, Navi, Mumbai
3.	Mr. Pranesh Verma	A-2, New Vinay, CST Road, Opp. University Campus, Santacruz, Mumbai - 400 092.
4.	Mr. Vinod Pant	734, Type II B & C Quarters, JNU Campus, New Delhi - 110067.

This has been confirmed to SEBI by Mr. N.C. Pandey, vide letter dated July 28, 2003. It was also stated in the said letter that that during his tenure, Hoffland Management had directed to incorporate more companies or get companies into its fold by transfer of management and by inducting employees as directors and accordingly, Bhartendu Financial Services Private Limited was incorporated on December 13, 1995, as per the said directions.

It was also stated in the letter that Bhartendu Financial Services Private Limited was dormant till December 14, 1996 and thereafter, Mrs. Urmila Pandey had resigned to pave way for Hoffland employees to be inducted as directors, while Mr. N.C. Pandey continued as director. Mr. N.C. Pandey further stated *“During 1996-97, under the Scheme of things of HFL Management, the dummy directors were told that a membership ticket of stock exchange, Bombay has been negotiated The interviews were held during March '97 in the stock exchange, Mumbai (BSE) where a full-fledged interview board consisting of representatives from Reserve Bank of India, Securities & Exchange Board of India and others were present and transfer of membership ticket in favour of the said above company was approved and SEBI registration was granted”*.

5. SEBI had also taken the statement of the other director of the Broker, Mr. N.K. Joshi on June 20, 2003. He stated that he came in contact with Mr. B.B. Sharma of Hoffland, during one of the seminars. The relevant extracts of his statement is as under:

‘In one of the seminar Sh. B.B. Sharma mentioned to me that he is trying to obtain BSE ticket for his group companies and he asked me since you are not doing anything I will make you a part-time director of this company. I told him that I knew nothing about share broking and he said you need not have any experience or knowledge of share broking, you only have to be present at BSE once or twice for obtaining the membership of BSE. He also promised that at a later date he could consider some remuneration for the services rendered. Since I was in the need of job, I agreed to the same. Further Sh. Sharma also made me a advisor to Hoffland Finance Ltd. This can be observed from photocopy of the brochure of Hoffland Finance, which being enclosed herewith. As agreed upon, I went to BSE for an interview in the month of March 1997 with other directors of the said company, namely Sh. Naval Chand L. Pandey, Sh. Vinod Pant and Sh. Pranesh R. Verma. But the BSE authorities rejected the request of membership. Then again towards the end of March 1997, we went to BSE (in terms of the directions of Sh. B.B. Sharma who also accompanied us to Bombay for the purpose of BSE membership) and this time without any hitch in a very short time the request for membership was accepted. After this I have no knowledge as to what trading was carried out or any other activity of the company. I did not attend any board meeting and even I do not recollect signing any paper, cheque etc. Apparently, my directorship was in this company to only ensure safe acceptance of BSE membership.’

6. Further, according to Mr. N.K. Joshi, the Mumbai operations of the Broker were carried out from the address of Mr. Pranesh Verma (one of the directors of the Broker) at A-2, New Vinay Kalina, CST Road, Opp. University Campus, Santa Cruz, Mumbai-400098. He also stated that almost all the shareholders of Broker were the employees of the Hoffland Group and that as per his knowledge, Bhartendu Financial Services Private Limited was an associate/front company of Mr. B.B. Sharma and the Hoffland Group. Though, Mr. Pranesh Verma, did not appear before SEBI pursuant to a summons dated June 11, 2003, however informed SEBI, vide letter dated July 5, 2003, that he had subsequently shifted his address to I-234, Bapu Nagar, Bhilwara, Rajasthan-311001. Further, he expressed his inability to come as he was physically handicapped and did not have any income since his accident in 2000. He further stated that he was willing to provide whatever information was being sought. Subsequently, in his letter dated January 11, 2004 Mr. Pranesh Verma stated the following:

.... "I was a director in the said company "Bhartendu Investment and Financial Services Pvt. Ltd. " on the paper so as to say . I had never received any remuneration or any other fees from the said company. Nor I had attended even a single board meeting of its board of directors. In fact I am not aware nor ever visited its registered office in New Delhi. I do not even have nor ever had a single share of the said company physically. I was appointed a director in the said company solely for the reason that rules of Bombay Stock Exchange required that the directors to get its membership should be Bombay based and as I was a Bombay based employee I was appointed a director in the said company. The records and other details of the above said company may either be lying in its registered office or at its stock exchange office or any other office, the company might be having, of which I am not ware the Stock Exchange office has been sealed by the Bombay police and as such I do not have any records with me personally. Also please note that I was made a director in the said company just before the company took the membership of Bombay Stock Exchange, again highlighting the fact that I was made a director solely for fulfilling the requirement of BSE. More information regarding as to how the company was formed when it was formed, from where various funds were arranged are not available with me. Also looking at the above facts you are requested to drop enquiry against me, as it is I am a handicapped person going through difficult time in my life."

7. Thus, majority of the directors of the Broker stated to SEBI that the Broker is an associate of Hoffland Group. This was also confirmed by Mr. B. B. Sharma before the police as mentioned above. Thus, it stands established that Bharatendu Investments & Financial Services Private Limited was a front company of 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 in stock exchanges around that period. I note that Hoffland Group has defaulted in payments to various investors. The conduct of the Hoffland Group has been investigated by the police and it is learnt that several prosecution cases have been initiated against it. As stated earlier, the instant investigation too was based on one such reference. The Enquiry Report had given detailed findings as to why the Broker was not found to be a fit and proper person from continuing as such a Broker. As stated earlier, despite affording numerous opportunities, the Broker failed to respond to the notices issued by SEBI. In view of the above, 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.

8. Thus I find that the Broker is not a fit and proper person in terms of the Fit and Proper Person Regulations as well as the Intermediaries Regulations. Therefore, I find that the Broker had 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 and it does not have locus to continue as a stock broker. 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 of ₹1,80,823/-. In this regard, I note that, SEBI, vide an Order dated February 3, 2010 suspended the certificate of registration of the Broker till the time it pays the outstanding fees to SEBI.

9. On the basis of the above findings, the linkages of the entity with the Hoffland Group, incriminating facts pertaining to the Hoffland Group and allegations against the said 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. I agree with the recommendation of the Enquiry Officer. 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.

10. 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, Bhartendu Financial Services Private Limited (Registration no. INB 010960839), Member, Bombay Stock Exchange Limited.

11. 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**