bs-GmBwm/Gb‡dvm‡g›U/1020/2012/354 ZwiLt 27 Rb 2012 Bs

GbweGj wmwKDwiwUR wjwg‡UW
wWGmB m`m¨ bs-203
18 w`jKkv ev/G
XvKv-1000|

welq: Av‡`k|

Kwgk‡bi 27 Rb 2012 Bs Zwi‡Li Av‡`k bs-GmBwm/Gb‡dvm‡g›U/1020/2012/353 Gi mZ¨wqZ Abwjwc AvcbviAeMwZ I c‡qvRbxq e¨e¯v Mn‡bi Rb¨ GZ`ms‡M msh³ Kiv n‡jv|

wmwKDwiwUR I G· ‡PÄ Kwgk‡bi c‡¶

gxi †gvkviid †nv‡mb †PŠaix
cwiPvjK

weZibt

cavb wbevnx KgKZv, XvKv óK G· ‡PÄ wjwg‡UW

AeMwZi Rb¨ Abwjwc:

1| wbevnx cwiPvjK, AvBb, GmBwm
2| wbevnx cwiPvjK, Gm Avi AvB, GmBwm
3| wbevnx cwiPvjK, GgAvBGm, GmBwm
4| †Pqvig¨vb g‡nv`‡qi `ßi, GmBwm

bs-GmBwm/Gb‡dvm©‡g›U/1020/2012/ ZvwiLt Rb 2012 Bs

Av‡`k

‡h‡nZ, Kwgkb, GbweGj wmwKDwiwUR wjwg‡UW (wWGmB m`m¨ bs-203) †K Zvi Av‡e`bµ‡g, wbawiZ kZ©vax‡b wmwKDwiwUR µq weµq KgKvÊ cwiPvjbv Kivi Rb¨ wmwKDwiwUR I G·‡PÄ Kwgkb (AZ:ci ÔKwgkbÕ e‡j DwjwLZ) wmwKDwiwUR I G·‡PÄ Kwgkb AvBb, 1993 (1993 m‡bi 15 bs AvBb) Gi 10(1) G c`Ë ¶gZve‡j wmwKDwiwUR I G·‡PÄ Kwgkb (÷K-wWjvi, ÷K-‡evKvi I Ab‡gw`Z cwZwbwa) wewagvjv, 2000 Gi wewa 5(5) mn cwVZ ÷K‡evKvi/wWjvi †iwR‡óªkb mwUwd‡KU c`vb K‡i‡Q;

‡h‡nZ, Rbve †gv: wMqvm DÏxb (†KvW-00977, weI wnmve bs-1203980018160236, GbweGj wmwKDwiwUR wjwg‡UW) GbweGj wmwKDwiwUR wjwg‡UW KZK AwZwi³ F‡Yi Kvi‡Y Aw_Kfv‡e ¶wZM¯— nIqvi weI‡q Kwgg‡b GKwU Awf‡hvM `wLj K‡i‡Qb;

‡h‡nZ, D³ Awf‡hv‡Mi wfwË‡Z Kwgkb Gi Av‡`k bs SEC/SRI/2009-05/1200/180 dated September 15, 2012 Gi gva¨‡g GbweGj wmwKDwiwUR wjwg‡UW G cwi`k‡bi Rb¨ GKwU KwgwU MwVZ nq Ges D³ cwi`kb KwgwUi `wLjKZ cwZ‡e`b Abhvqx findings and contraventions wbæi“c:

The inspecting officers have reviewed the complaints of Mr. Md. Giash Uddin and have collected necessary documents/information/explanation from NBL Securities Limited in this regard. Based on the review, analysis and examination of collected documents/information, the inspecting officers have found the followings:

Mr. Md. Giash Uddin opened a trading account and a Beneficiary Owners (BO) account with NBL Securities Limited (DSE Member # 203) on September 03, 2008. From the transaction ledger of the client, it appears that he had been enjoying margin loan facilities from the inception of account opening.

As per complaints of Mr. Md. Giash Uddin, the inspecting officers have examined portfolio statements of the client for the period from 20/10/2008 to 10/11/2008 and from 11/01/2009 to 25/01/2009. It appears form the portfolio statements that NBL Securities Limited allowed excess margin loan facilities to its client named Mr. Md. Giash Uddin beyond the approved limit. The account was in forced sale status over some reporting period. However, the stock broker continued allowing the client to buy securities using margin loan facilities. As on 20/10/2008, debit balance in the client's account was Tk. -5,52,14,087.50 which came down to Tk. -81,04,576.44 on 11/11/2008. Consequently, margin loan ratio also came down to 253% on 10/11/2008. The margin loan ratio enjoyed by the client during the period from 20/10/2008 to 10/11/2008 is given in the table below:

Sl. No.	**Date**	**Equity**	**Debit/Ledger Balance**	**Margin Ratio Enjoyed**	**Maximum Approved Limit**	**Remarks**
1	20/10/2008	63,89,120.01	-5,52,14,087.5	1:8.64	1:2	Excess Loan
2	21/10/2008	55,88,473.6	-5,54,25,636.4	1:9.91	1:2	Excess Loan
3	22/10/2008	60,23,283.12	-4,59,53,554.1	1:7.62	1:2	Excess Loan
4	23/10/2008	68,07,211.86	-4,60,09,093.1	1:6.75	1:2	Excess Loan

5	26/10/2008	62,46,412.96	-3,95,38,572	1:6.32	1:2	Excess Loan
6	27/10/2008	50,87,234.46	-4,18,55,173	1:8.22	1:2	Excess Loan
7	28/10/2008	56,52,979.8	-4,65,75,335.2	1:8.23	1:2	Excess Loan
8	29/10/2008	56,08,516.97	-4,32,83,538	1:7.71	1:2	Excess Loan
9	30/10/2008	58,45,729.11	-3,86,73,095.9	1:6.61	1:2	Excess Loan
10	2/11/2008	41,02,714.08	-4,05,23,525.9	1:9.87	1:2	Excess Loan
11	3/11/2008	35,64,053.78	-3,43,02,761.2	1:9.62	1:2	Excess Loan
12	4/11/2008	46,13,258.43	-2,36,71,433.6	1:5.13	1:2	Excess Loan
13	5/11/2008	40,94,910.28	-2,42,56,963.2	1:5.92	1:2	Excess Loan
14	6/11/2008	40,01,040.76	-2,08,57,043.5	1:5.21	1:2	Excess Loan
15	9/11/2008	30,77,169.92	-1,40,81,552.6	1:4.57	1:2	Excess Loan
16	10/11/2008	33,17,942.85	-83,94,482.15	1:2.53	1:2	Excess Loan

From the above table, it appears that the stock broker allowed excess margin loan facilities to the client at the ratio of above 1:5 where the maximum permitted limit was 1:2.

The margin loan ratio in the client's account came down to 1:2.53 on 10/11/2008. But the stock broker again started to give excess margin loan to the client after 11/11/2008. On 06/01/2009, debit balance in the client's account stood at Tk. - 6,78,23,758.02. In the second phase, margin loan ratio increased substantially and one point of time, equity in the client's account showed negative balance. Details of margin loan facilities as enjoyed by the client during the period from 11/01/2009 to 25/01/2009 are given below:

Sl. No.	Date	Equity	Debit/Ledger Balance	Margin Ratio	Maximum Approved Limit	Remarks
1	11/1/2009	-10,10,574.39	-6,76,41,881.9	-	1:2	Excess Loan
2	12/1/2009	-19,26,172.99	-6,74,21,455.5	-	1:2	Excess Loan
3	13/01/2009	-18,32,684.6	-6,74,27,340.9	-	1:2	Excess Loan
4	14/01/2009	-22,05,623.4	-6,73,23,555.9	-	1:2	Excess Loan
5	15/01/2009	-25,84,078.15	-6,73,20,629.4	-	1:2	Excess

						Loan
6	18/01/2009	-42,52,351.9	-6,73,20,629.4	-	1:2	Excess Loan
7	19/01/2009	-64,05,511.59	-6,74,71,808.6	-	1:2	Excess Loan
8	20/01/2009	-27,14,480.41	-6,65,89,135.4	-	1:2	Excess Loan
9	21/01/2009	-34,59,073.49	-6,67,71,154.7	-	1:2	Excess Loan
10	22/01/2009	-30,30,803.78	-6,65,10,291.5	-	1:2	Excess Loan
11	25/01/2009	-2,99,811.28	-6,38,63,137.5	-	1:2	Excess Loan

From the above table, it is observed that equity balance in the client's account was negative over some period. For that reason, margin loan ratios can not be calculated. However, the loan amount in the client's account was in excess of permitted limit.

In accordance with the provision of the Margin Rules, 1999, a member can extend credit facilities to its approved clients to the extent double of the clients margin/clients deposit (i.e. 1:2 basis). (Ref: Commission's letter no. SEC/Section/CMRRCD/2001-43/89 dated February 11, 2009).

Contravention: Through the aforesaid activities, NBL Securities Limited (DSE Member No. 203) has violated Margin Rules, 1999.

It appears that Mr. Md. Giash Uddin made profit amounting to Tk. 1,11,59,526.00 from the inception of account opening. NBL Securities Limited has provided huge amount of excess loan to the said client from the inception of account opening which raised up to Tk. 6,78,23,758.02 and go for force sale time to time. NBL Securities Limited has also declared a survival package for the customer but they did not do so. Due to the above Mr. Md. Giash Uddin lost his equity amounting to Tk. 58,47,324.00 out of 98,47,324.00;

It also appears that NBL Securities Ltd. already received interest, charges and commission from the client amounting to Tk. 2,47,77,361.00 which includes Tk. 4,15,724.00 for management fees for their portfolio management service;

Contravention: Through the aforesaid activities, NBL Securities Limited (DSE Member No. 203) has violated section 4 & 6 of 2nd schedule of Securities and Exchange commission (Stock-dealer, stock – broker and authorized representative) Rule, 2000.

‡h‡nZ, Kwgkb Dc‡iwjwLZ cwZ‡e`b Abhvqx wmwKDwiwUR AvBb cwicvj‡b e¨_Zvi `i“b GbweGj wmwKDwiwUR wjwg‡UW Gi eive‡i GKwU show-cause-cum-hearing notice mÎ bs- SEC/Enforcement/1020/2012/62 ZwiL 15 ‡deªyvix 2012 †ciY K‡i Ges 27 ‡deªyvix 2012 Zwi‡L kbvbxi w`b avh¨ K‡i Ges avh¨KZ Zwi‡L D³ †evKvi/wWjvi Gi cwZwbwa Dcw¯Z n‡q 27 ‡deªyvix 2012 Zwi‡Li c‡Î i gva¨‡g wjwLZ e³e¨ `wLj K‡ib| hv‡Z Ab¨v‡b¨i g‡a¨, wb‡gv³ welq¸wji D‡j L Av‡Q:-

"The notice has been issued upon the company leveling some allegations of non-compliance of the securities laws as under:

“The company has violated margin rules-1999 by providing margin loan to Mr. Md. Giash uddin, code no. 00977, one of our clients.”

“The company has violated section 4 & 6 of 2nd schedule of securities and exchange commission (stock-dealer, stock-broker and authorized representative) rules, 2000.”

We submit below our replies & explanation for your kind consideration.

Allegation no. (i):

Mr. Md. Giash uddin, opened his bo account with our company under code no. 00977 on 03.09.2008 and during the month of September 2008 he deposited an amount of tk. 70.00 lac and tk. 26.00 lac on 25.01.2009. Thus his total investment stood at tk. 96.00 lac. The client always made his buy-sell decisions at his own discretion based on his knowledge of the business.

At the time of opening the account mr. Giash uddin made a firm commitment to the **ex in-charge of the division** that, he would invest substantial amount through this account and requested to purchase more shares and the shortfall amount, if any, will be adjusted by depositing the fund at the earliest, but the client failed to maintain his commitment. In the context of falling market the margin loan remained unadjusted for a long period. It may be mentioned here that we have served several notices to adjust the excess loan liabilities but the client did not do so (copies enclosed). Considering his loss in the portfolio and several commitments to deposit fund, we never executed force/trigger sale in his account.

In the premises stated above we would like to leave ourselves at your kind disposal. We can only say that the allowing excess margin loan, as alleged in the notice, was not deliberate and we fervently request you to exonerate us from the allegation. We shall look into the matter very sincerely so that such type of violation may not occur in future.

Allegation no. (ii):

In the 1st week of november 2008 the client was in ‘sale mood’ assuming the bearish market in the coming days. Due to his continuous sale, the loan balance came down at tk. 83.94 lac on 10.11.2008 and at that time he lost his equity by tk. 36.83 lac (deposit of tk. 70.00 lac – equity 33.17 lac, portfolio dated 10.11.2008 is enclosed).

Subsequently he admitted his earlier assessment regarding the market trend was wrong and requested the authority to purchase shares by utilizing earlier sale proceeds in order to recover the said losses assuming the bullish trend of the market in the foreseeable future. Considering his plea & loss, he was allowed to buy shares time to time at his own discretion.

As an experienced as well as senior investor, mr. Md. Giash uddin, always made his investment (buy/sell) decisions at his own assessment and discretion. **Moreover, he remains physically present in the house during all his transactions**.

As a stock broker of dse, national bank limited has no scope to provide any investment counseling and/or maintaining clients portfolio and we meticulously follow the rules.

Due to bearish market situation during the period from september 2008 to april 2009 (at that time the dse index fell down from 3000 points to 2400 points), he lost his entire equity and as on 06.01.2009 his equity stood at tk. 8.33 lac (negative).

In that situation, he deposited an amount of tk. 26.00 lac on 25.01.2009 and thus his total investment stood at tk. 96.00 lac. The account remained with negative equity for a long period of time i.e. From 06.01.2009 to 17.05.2010 and we never executed force/trigger sale in his account.

In response to the securities and exchange commission's letter no. Sec/srmid/2009-051/1200/232 dated 20.12.2011, among others the following two statements (calculation) were submitted vide our letter no. Nbl sl/sec/2012/2006 dated 01.01.2012:

Sec req. No. 3:detail calculation of account within the loan limit as per margin rules, 1999 [19 pages].

Sec req. No. 5:profit and loss of client both within the loan limit and current position [66 pages].

Above statements show that the cause of the loss suffered in the account was due to investment (buy/sell) decisions taken by the client from time to time.

Notable that during the bullish market scenario the client had withdrawn tk.35.00 lac on 15.12.2010 and tk.5.00 lac on 13.03.2011 totaling tk.40.00 lac which has not been reinvested by the client in the account. Moreover, cash dividend amounting to tk.9.36 lac had been received by the client against holding of shares of different companies.

During the 1st week of december 2010, the equity position of client was improved upto tk. 91.37 lac (portfolio dated 05.12.2010 is enclosed) against total deposit of tk. 96.00 lac. Due to bullish sentiment of the client, he did not liquidate his portfolio to recover his investment. Subsequent huge volatility of the market put his portfolio into negative territory. Considering the overall market situation, investment friendly government initiatives and humanitarian ground, we refrain ourselves to execute force/trigger sale of the said account.

In the premises stated above we would like to leave ourselves at your kind disposal and fervently request you to exonerate us from the allegation of violation of section 4 & 6 of 2nd schedule of securities and exchange commission (stock-dealer, stock-broker and authorized representative) rules, 2000.

From the inception of the account, mr. Giash uddin made all buy & sale decisions at his own and was physically present during all his transactions. He was also aware of the leverage effect of margin loan as well as rate of interest, commission and charges which we have effectively communicated from time to time to all of our valued clients as per our standard norms & practices.

In view of the above, we would like to leave ourselves at your kind disposal and fervently request you to exonerate us from waiver of interest, commission and charges on excess loan and meet the business loss of the client.

Considering the prevailing volatility of the market & above mentioned facts, we ardently request you to absolve us from the actions against us.

Your prudence guidance shall enable us to provide services in the sector more efficiently."

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AZGe, †m‡nZ, Kwgkb, DwjwLZ hveZxq welq we‡ePbvceK, Securities and Exchange Ordinance, 1969 (Ordinance No. XVII of 1969) Gi section 22 [hv The Securities and Exchange (Amendment) Act, 2000 Øviv ms‡kwaZ] G c`Ë ¶gZve‡j GbwmeGj wmwKDwiwUR wjwg‡UW Gi Dci 10 (`k) j¶ UvKv Rwigvbv avh¨ Kij hv AÎ Av‡`‡ki ZwiL n‡Z 15 (c‡bi) w`‡bi g‡a¨ ÔwmwKDwiwUR I G·‡PÄ KwgkbÕ Gi AbK‡j Bm¨KZ e¨vsK WªvdU/†c-AW©v‡ii gva¨‡g Kwgk‡b Rgv Ki‡Z n‡e|

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