

Before the Director (Market Supervision & Registration Department)
Securities Market Division
Securities and Exchange Commission of Pakistan

In the matter of Hearing Notice dated February 13, 2014 issued to M/s. Harvest Smartrend Securities (Private) Limited under Rule 8 of the Brokers and Agents Registration Rules, 2001 and Section 28 of the Central Depositories Act, 1997


Date of Hearing:	February 18, 2014
Representatives of the Respondent	1) Mr. Muhammad Gulraze Mir, Chief Executive 2) Mr. Shah Rukh Saeed, Director
Representing (BR&ICW)	Mr. Tahir Mahmood Kiani, (Deputy Director)

ORDER

This Order shall dispose of the proceedings initiated through Hearing Notice No. 4(BRL-28)/1/2001 dated February 13, 2014 issued to M/s. Harvest Smartrend Securities (Private) Limited, Trading Right Entitlement Certificate Holder of the Lahore Stock Exchange Limited (**“the Respondent”**) under Rule 8 of the Brokers and Agents Registration Rules, 2001(**“the Rules”**) and Section 24 of the Central Depositories Act, 1997 (**“CDC Act, 1997”**).

2. Brief facts of the case are that Lahore Stock Exchange Limited forwarded application of the Respondent for renewal of registration as a broker under the Rules. On scrutiny of the application, it was noticed that complaint from Mr. Sohail Ahmad (**“the Complainant”**) was pending against the Respondent. The said complaint was forwarded to the Respondent on December 12, 2013 for its resolution. The Respondent did not resolve the complaint despite its written commitment to the Commission that the complaint would be resolved within 30 days. Furthermore, CDC’s record revealed that most of the Complainant’s shares were not appearing in his CDC-sub-account and were moved without his permission/authority.

3. The Commission considering the above, took cognizance of the matter and served a Hearing Notice to the Respondent, the contents of which are reproduced below:


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**HEARING NOTICE UNDER RULE 8 OF THE BROKERS AND AGENTS
REGISTRATION RULES, 2001 AND SECTION 28 OF THE CENTRAL
DEPOSITORIES ACT, 1997**

SUBJECT:

This is with reference to your application duly forwarded by Lahore Stock Exchange Limited for renewal of Certificate of Registration of Harvest Smartrend Securities (Pvt.) Limited (“HSSPL”) as broker under the Brokers and Agents Registration Rules, 2001 (“the Rules”).

2. *Whereas, a investor complaint from Mr. Sohail Ahmad (“the Complainant”) was received against the HSSPL regarding non-transfer of his shares which was forwarded to the HSSPL on December 12, 2013 for its resolution. However, it has been noted with concern that despite the HSSPL’s undertaking to resolve the complaint within 30 days, the complaint has not been resolved.*

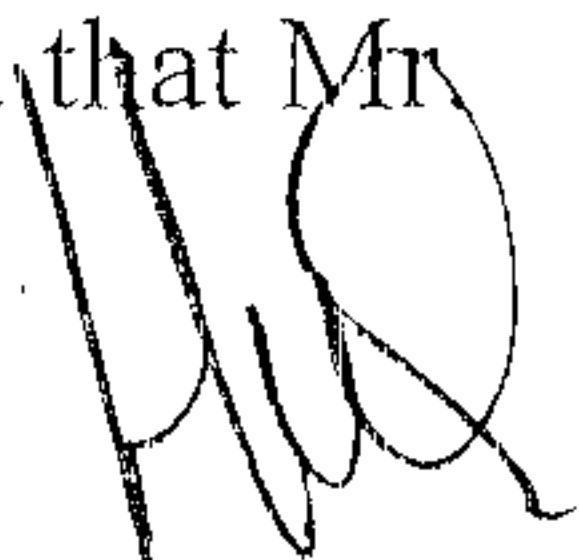
3. *Whereas, prima facie, it has been observed from the CDC’s record that most of the Complainant’s shares are not appearing in his CDC-sub-account and have been moved without his permission/authority.*

4. *In light of the above, it appears that HSSPL has failed to settle the investor complaint as specified under Rule 8(ix) of the Rules and the shares have been moved in violation of Section 24 of the CDC Act, 1997. Therefore, you are called upon to explain in writing by **February 18, 2014**, as to why action in terms of Rule 8 of the Rules and Section 28 of the CDC Act, 1997 may not be initiated against HSSPL for apparent violations as indicated above. You are further directed to appear in person or through an authorized representative (with documentary proof of such authorization) before the undersigned, on **February 20, 2014 at 11:00 a.m.** at the Commission’s Head Office at 9th Floor, NIC Building, Jinnah Avenue, Blue Area, Islamabad. You are advised to bring all relevant record in original, which you may consider necessary for your defense/clarification.*

Sd/

Hasnat Ahmad
Director (MSRD)

4. Pursuant to the said Hearing Notice, the Respondent submitted its comments. The Respondent confirmed that the complaint has been resolved. The Respondent also requested the Commission to adjourn the hearing and accordingly the hearing was re-scheduled for February 20, 2014. The Respondent appeared before the undersigned on the said date and stated that Mr



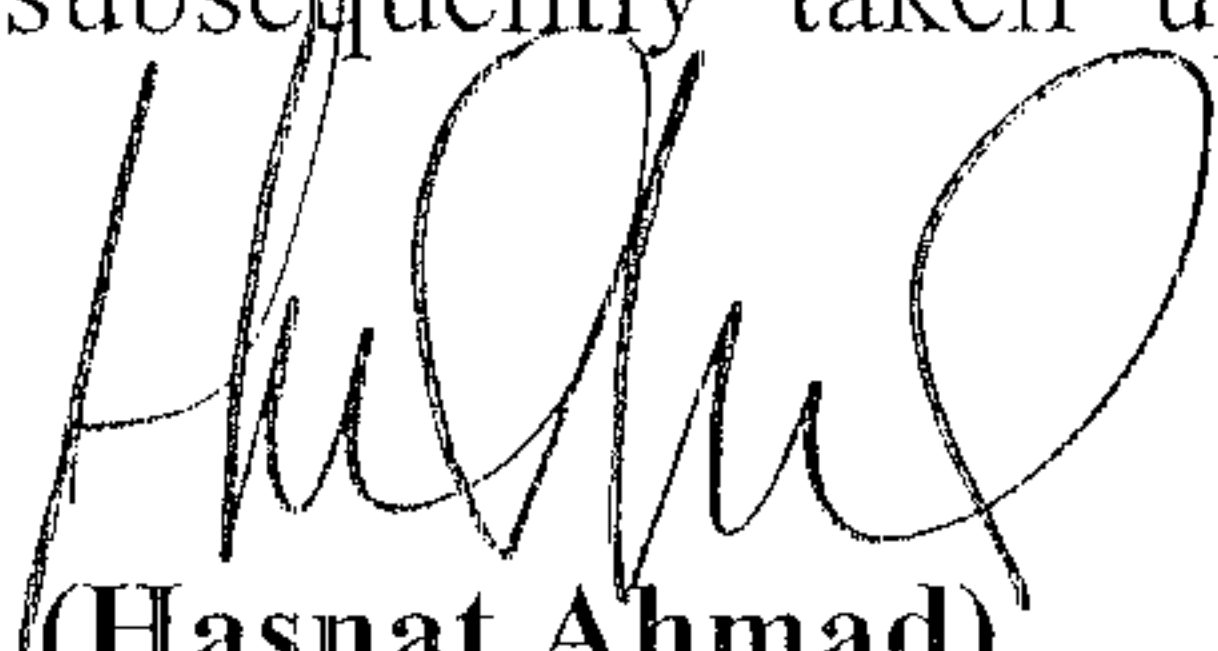
Sohail's complaint has been settled and an amount of Rs. 68,000/- has been paid to him as full and final settlement through cheque No. 1821673 drawn on HBL.

5. In response to the issue regarding non-availability of Complainant's shares in his sub-account and movement of shares without his permission/authority in violation of Section 24 of the CDC Act, 1997, the Respondent stated that it faced heavy losses due to stock market crisis in the year 2008. The Respondent further stated that despite crisis it settled many investors' claims by utilization of its own funds and no other complaint/claim is pending against it. The Respondent requested the Commission to take a lenient view and close the complaint without taking further action in this regard.

6. I have examined the facts, evidences and documents on record, in addition to written and verbal submissions made on behalf of the Respondent. The Respondent has submitted that the complaint has been settled and this fact has also been verified from the Complainant. Therefore, I am inclined to take a lenient view in the matter and will not take any punitive action under Rule 8 of the Rules. As such, I believe a caution in this matter to the Respondent would suffice and would further direct the Respondent to fully comply with all the Rules, Regulations and directives of the Commission in future for avoiding any punitive action under the law.

7. However, the Respondent failed to provide any evidence to prove that Complainant's shares were available in his CDC-sub-account maintained under the participant ID of the Respondent before disposal of the same and payment to the Complainant. It also failed to provide any authority/permission for movement of the Complainant's shares from his CDC-sub-account. Therefore, it has been proved that the Respondent moved shares of the Complainant in violation of Section 24 of the CDC Act, 1997, which explicitly prohibits the Respondent to handle book entry securities entered in the sub accounts without the authority of the sub account holders. This is a serious violation and settlement/payment of claim does not absolve the Respondent from consequences of the violation committed by it. Therefore, in exercise of the powers under Section 28(2) of the CDC Act, 1997, through this Order, I hereby impose a penalty of Rs. 20,000/- (Rupees Twenty Thousand only) on the Respondent to be deposited in the account of the Commission being maintained in the designated branches of MCB Bank Limited not later than thirty (30) days from the date of this Order and furnish copy of the deposit challan to the Commission.

8. The order is issued without prejudice to any other action that Commission may initiate against the Respondent in accordance with law on matters subsequently taken up or investigated and/ or brought to the knowledge of the Commission.


(Hasnat Ahmad)
Director (MSRD)



Issued on May 22, 2014
Islamabad