



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

## Adjudication Department-I

### Adjudication Division

*Through Courier*

Before

**Abdul Rehman Warraich, Commissioner (SMD)**

In the matter of

**Chief Executive and Directors of Sardar Muhammad Ashraf D. Baloch & Co. (Private) Limited,  
Lilley International (Private) Limited and other Acquirers**

Number and date of Show Cause Notice	EMD/TO/102/2013 dated November 04, 2013
Date(s) of Hearing:	January 28, 2014 January 26, 2023 April 12, 2023
Present at the Hearing:	Mr. Jam Naveed, Advocate High Court, LEX FIRMA Advocates (Authorized Representatives on behalf of all Respondents)

### ORDER

**Under Show Cause Notice issued in terms of Section 26 read with Section 25 of the Listed  
Companies (Substantial Acquisition of Voting Shares and Takeovers) Ordinance, 2002.**

This Order shall dispose of the proceedings initiated against the Chief executive and Directors of Sardar Muhammad Ashraf D. Baloch & Co. (Private) Limited (**Respondent I**) and Lilley International (Private) Limited (**Respondent II**), Mr. Chaudhry Tahir Hussain (**Respondent III**), Mr. Imdad Ali (**Respondent IV**) (ex- directors of First Credit Investment Bank Limited), Syed Shoaib Khurshid (**Respondent V**) and Mr. Javed Ali Khan (**Respondent VI**), collectively referred to as the Acquirers, through Show Cause Notice No. EMD/TO/102/2013, dated November 04, 2013 (**the SCN**) under Section 26 read with Section 25 of the Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Ordinance, 2002 (**Takeover Ordinance**).

2. First Credit and Investment Bank limited (**Target Company**) is a public limited Company and is listed in Karachi Stock Exchange. The Company is licensed to undertake business of investment finance services.

3. It was been revealed from information provided by Central Depository Company (CDC), the directors of Target Company, the brokers and the statutory returns of the Target Company that during the period from October 7, 2010 to November 1, 2011, the Chief Executive and Directors of Respondent I and Respondent II have acquired 37% shareholding in the Target Company. These shares were not purchased these shares in their own name, but rather in the name of Respondent III, IV, V & VI who purchased these shares on behalf of Respondent I & Respondent II in the following manner:



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Name of the persons on whose name shares were purchased	Number of shares	Percentage	Date of Purchase of shares	Name of the Broker	Actual Purchaser
Chaudhry Tahir Hussain (ex-Director FCIBL)	1,907,249	10.16%	06-04-2011	Sherman Securities (Pvt.) Ltd.	Sardar Muhammad Ashraf D. Baloch & Co. (Pvt.) Limited
	4,697,997		01-11-2011		
	<b>6,605,246</b>				
Imdad Ali (ex-Director FCIBL)	1,000	9.99%	24-03-2011	Sherman Securities (Pvt.) Ltd.	Lilley International (Pvt.) Ltd.
	5,493,900		14-09-2011		
	1,000,000		01-11-2011		
	<b>6,494,900</b>				
Syed Shoaib Khurshid	6,296,478	9.68%	7-10-2010 to 29-11-2010	AKD Securities Ltd.	
Javed Ali Khan	4,601,703	7.38%	21-09-2011	We Financial Services Ltd.	
	200,000		23-09-2011		
	<b>4,801,703</b>				
Total Shares	<b>24,198,327</b>	<b>37.21%</b>			

4. The aforesaid acquisition of shares by the above persons who *prima facie* have acted in concert, is indicted by the corresponding transfer of funds/ settlement, duly been confirmed by acquirers, their brokers and other intermediaries, in their correspondence with the Commission is available on record.

5. Section 5 of the Takeover Ordinance, 2002 stipulate:

**"5. Additional acquisition of voting shares.** — (1) No person shall, directly or indirectly, acquire—  
a) voting shares, which (taken together with voting shares, if any, held by such person) would entitle such person to more than twenty-five per cent voting shares in a listed company; or  
b) control of a listed company, unless such person makes a public announcement of offer to acquire voting shares or control of such company in accordance with this Ordinance."

6. The acquirers while acting in concert with each other have acquired more than 25% shareholding that required compliance of the mandatory provisions of the Takeover Ordinance. The record available with the Commission indicates that the requisite compliance of Takeover Ordinance was not made by the Acquirer.

7. The Acquirers, *prima facie*, failed to comply with the following provisions of Takeover Ordinance, including but not limited to the following:

- Make a public announcement of offer to acquire voting shares of the Target Company as required under Section 5(1) of the Takeover Ordinance and send copies of offer letter to the Target Company, the Stock Exchange and the Commission as provided in Section 13(1).
- Appoint manger to the offer as required under Section 7(1).







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- c) Submit notice to the Commission for acquisition of voting shares beyond the threshold as required under Section 8(1).
- d) Publish public announcement and furnish a copy thereof to the Commission and the stock exchanges as required under Section 9(3).
- e) On or before the date of issue of public announcement, the acquirer shall create a security as required under Section 13(8) and as required under Section 19.
- f) Evidence of opening of account in compliance with Section 20(1) of the Takeover Ordinance.
- g) Evidence of completion of transaction as per the requirement of the Takeover Ordinance.

8. Provisions of Section 25 of the Takeover Ordinance provides that the Commission may, in interests of the securities market, give such directions as it deems fit including:

- a) directing the person concerned not to further deal in securities;
- b) prohibiting the person concerned from disposing of any of the securities acquired in violation of provisions of this Ordinance;
- c) directing the person concerned to sell the voting shares acquired in violation of the provisions of this Ordinance; and
- d) taking such action against the person concerned as may be necessary.

9. Provisions of clause (c) of sub-section (3) Section (26) of the Takeover Ordinance provides that if any person contravenes or otherwise fails to comply with the provisions of this Ordinance the Commission may, if satisfied, after giving the person an opportunity of being heard, that the refusal, failure or contravention was willful, impose penalty which may extend to fifty million rupees as may be specified in the order and, in the case of a continuing default, a further sum calculated at the rate of two hundred rupees for everyday after the issue of such order during which the refusal, failure or contravention continues.

10. In view of the aforesaid contraventions of the Takeover Ordinance, SCN was served on the Acquirers. In this regard, a written response was received from the Authorized representative of Respondent VI dated November 16, 2013, relevant extract of which is reproduced below:

"2. That the contents of Para 1 are self-explanatory and require no comment.

3. That the contents of Para 2 of the Show Cause Notice are admitted to the extent that our Client had purchased 4,801,073 shares of First Credit & Investment Bank Limited ['FCIBL'] and that these shares were bought on behalf of M/s. Sardar Muhammad Ashraf D. Baloch & Co. (Pvt.) Limited. Because of our clients expertise and invaluable experience in the business and financial sector, M/s. Sardar Muhammad Ashraf D. Baloch & Co. (Pvt.) Limited wanted our Client to be a Director in FCIBL and hence, these shares were bought by our Client on behalf of M/S. Sardar Muhammad Ashraf D. Baloch & Co. (Pvt.) Limited. It is submitted that our Client was not aware, until receipt of the Subject Show Cause Notice dated: 04-11-2013, that M/s. Sardar Muhammad Ashraf D. Baloch & Co. (Pvt.) Limited had also, as alleged by you, purportedly purchased shares in FCIBL in the names of other persons and/or entities. It is further submitted that since the shares purchased by our Client only accounted for 7.38% [i.e. less than 10%] of the total shareholding of FCIBL, the provisions of the Listed Companies (Substantial Acquisition of Voting Shares & Take-Overs) Ordinance, 2002 [hereinafter referred to as the 'Ordinance, 2002'], were not applicable at the time and it was understood by our Client that in the event that M/S. Sardar Muhammad Ashraf







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*D. Baloch & Co. (Pvt.) Limited acquired more shares in FCIBL, the provisions of the Ordinance, 2002, would be complied with.*

4. *That in reply to the contents of Para 3, it is submitted that our Client is not aware that M/S. Sardar Muhammad Ashraf D. Baloch & Co. (Pvt.) Limited had also purportedly purchased shares in FCIBL in the names of other persons and/or entities as alleged by you in the Show Cause Notice dated: 04-11-2013.*

5. *That in reply to the contents of Para 4, it is submitted that Section 5 of the Ordinance, 2002, is self-explanatory.*

6. *That in reply to the contents of Para 5, it is submitted that our Client has not acquired more than 10% of FCIBL and was not, until receipt of the Subject Show Cause Notice dated: 04-11-2013, even aware that M/s. Sardar Muhammad Ashraf D. Baloch & Co. (Pvt.) Limited had purportedly also purchased shares in FCIBL in the names of other persons and/or entities.*

7. *That in reply to the contents of Para 6, it is submitted that the provisions listed in Para 6 were not applicable to our Client since the shares purchased by our Client only accounted for 7.38% of the total shareholding of FCIBL and as far as our Client was aware, these were the only shares purchased on behalf of M/S. Sardar Muhammad Ashraf D. Baloch & Co. (Pvt.) Limited.*

8. *That in reply to the contents of Para 7, it is submitted that Section 25 of the Ordinance, 2002, is self-explanatory.*

9. *That in reply to the contents of Para 8 it is submitted that without prejudice to our Client's contention that the provisions of the Ordinance, 2002, are not applicable since the shares purchased by our Client only accounted for 7.38% of the total shareholding of FCIBL and that as far as our Client was aware, these were the only shares purchased on behalf of M/S. Sardar Muhammad Ashraf D. Baloch & Co. (Pvt.) Limited, any alleged failure or contravention of the provisions of the Ordinance, 2002, by our Client is completely bonafide and our Client did not intend on contravening or failing to comply with the Ordinance, 2002, or any other provision of law and, as the facts contained herein accentuate, any alleged contravention of the Ordinance, 2002, by our Client is neither wilful nor deliberate.*

10. *That through fax dated: 10-11-2013, our Client has acknowledged receipt of the Subject Show Cause Notice dated: 04-11-2013 and has already informed you that our Client will, either himself or through an authorized representative, in addition to this reply also appear in person before you in response to the Subject Show Cause Notice dated: 04-11-2013. It is requested that the hearing in relation to the Subject Show Cause Notice dated: 04-11-2013 takes place in Karachi.*

11. *That in view of the facts contained herein, it is requested that the Subject Show Cause Notice dated: 04-11-2013 be discharged to the extent of our Client."*

11. Further, a written response was also received from the Authorized Representative of Respondent I, Respondent II, Respondent III, Respondent IV & Respondent V dated December 23, 2013, relevant extract of which is provided as under:

### **"PRELIMINARY SUBMISSION:**

*That as per the preamble of the Listed Companies (Substantial Acquisitions of Voting Shares and Takeover) Ordinance, 2002 the scope, object and the purpose is to provide for a fair and equal treatment to all the investors as well as transparent system for substantial acquisition. Our clients firmly believe in fair and equal treatment for all the investors as well as a transparent and efficient system for substantial acquisition of voting shares and takeovers of listed companies.*







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*That it was never the intent to violate the provisions of the said Ordinance in any way whatsoever either directly or indirectly by our clients whom show cause notice has been issued. In order to prove that our clients acted in a bona fide manner, our clients are willing and keen to take any remedial measures as deemed necessary and appropriate by the Commission.*

*That it is further stated that it was also never the intention of our clients to acquire majority control of M/S First Credit Investment Bank Limited in terms of the definition given in the Ordinance. The controlling interest is still with National Bank of Pakistan Limited (NBP) and WAPDA (30.77% each) as is evident from the respective shareholding of these two public sector entities.*

*Without prejudice to the above, the following seriatum reply to show-cause is given hereunder:*

2. *That the contents of the corresponding paragraph are denied to the extent that our client has acted in concert to acquire 37.21% of the shareholding in the M/S First Credit Investment Bank Limited in violation of Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Ordinance, 2002.*

3. *That the contents of the paragraph 2 are re-iterated for the sake of brevity.*

4. *That the contents of the corresponding paragraph are self-explanatory.*

5. *That the contents are denied to the extent that client has acted in concert to acquire 37.21% of the shareholding in M/S First Credit Investment Bank Limited. Further, it is submitted that our client never had the intention to violate the relevant provisions of Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Ordinance, 2002.*

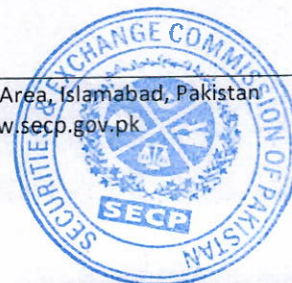
6 - 7. *That the contents of the corresponding paragraph are self-explanatory.*

8. *That our client is committed towards working for the betterment of M/S First Credit Investment Bank. The alleged violations of Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Ordinance, 2002 was neither willful nor intentional."*

12. Subsequently, a hearing in the matter was fixed on January 28, 2014 wherein Mr. Asad Ullah Sheikh (Consultant) attended the hearing as Authorized Representative on behalf of Respondent I-V before the Authorized Officer of the Commission. The Authorized Representative was inquired regarding the contravention of the provisions of the Takeover Ordinance. The Authorized Representative in the hearing submitted that a public offer in the matter would be futile, since National Bank of Pakistan (NBP) and Water and Power Development Authority (WAPDA) holding substantial numbers of shares were not interested in selling shares of the Target Company. The Commission vide letter dated March 28, 2014 advised the Authorized Representatives to submit documentary evidence to substantiate the claim in form of written denial by WAPDA and NBP to sell their shareholding. However, no such evidence was provided by the Respondent I and II.

13. Later on, hearing in the matter was fixed on June 30, 2022 and a hearing notice was issued to all the Respondents vide letter dated June 16, 2022. In response to the hearing notice, the Target Company vide letter dated June 20, 2022 informed that Respondent III and IV are no longer directors as they were removed from directorship in October, 2013 and also submitted that Respondent IV had passed away.

14. Another written response was also received from the Authorized Representative of Respondent VI, in reply to the hearing notice wherein the Respondent reiterated its earlier response dated November 16, 2013 and additionally submitted as under:







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"...a. The Subject Show Cause Notice refers to Show Cause Notice No. EMD/TO/102/2013-1028-1040 dated: 04-11-2013 which refers to a transaction which took place in 2010 — 2011. It is submitted that our Client replied to Show Cause Notice No. EMD/TO/102/2013-1028-1040 dated: 04-11-2013 on 16-11-2013 and after receipt of the same, no further proceedings or correspondence took place. Hence, the issue pertaining to Show Cause Notice No. EMD/TO/102/2013-1028-1040 dated: 04-11-2013 to the extent of our Client is a past and closed transaction which cannot be reopened after a period of 9 years. Therefore, the Subject Show Cause Notice is without jurisdiction, illegal, mala fide, and of no legal effect.

b. Without prejudice to the above, our Client replied to Show Cause Notice No. EMD/TO/102/2013-1028-1040 dated: 04-11-2013 on 16-11-2013. Following the submission of the aforesaid reply, no further proceedings or correspondence took place. Hence, it was deemed that our Client's reply was accepted as satisfactory and there was no reason to take any action against our Client. Now, after a period of almost 9 years since the reply, the issue has been re-agitated which is illegal and mala fide. Therefore, the Subject Show Cause Notice is without jurisdiction, illegal, mala fide, and of no legal effect.

c. Without prejudice to the above, the Subject Show Cause Notice has been issued under Section 26 read with Section 25 of the Listed Companies (Substantial Acquisition of Voting Shares & Take-Overs) Ordinance, 2002. However, vide the Securities Act, 2015, the aforementioned Ordinance has been repealed. Hence, the Subject Show Cause Notice has been issued under a statute which is no longer in existence. Therefore, the Subject Show Cause Notice is without jurisdiction, illegal mala fide, and of no legal effect.

d. Without prejudice to the above and without prejudice to our Client's contention that the Subject Show Cause Notice is illegal, mala fide and without jurisdiction it is submitted that any alleged failure or contravention of the provisions of the Ordinance, 2002 by our Client is completely bona fide and our Client did not intend on contravening or failing to comply with the Ordinance, 2002, or any other provision of law and, as the facts contained herein accentuate, any alleged contravention of the Ordinance 2002 by our Client is neither willful nor deliberate. Therefore, the Subject Show Cause Notice is without jurisdiction, illegal mala fide, and of no legal effect...."

15. Moreover, another written response was also received on behalf of Respondent-I vide letter dated June 29, 2022, relevant extract of which is provided as under:

"...a) The subject Show Cause Notice refers to Show Cause Notice No. EMD/TO/102/2013-1028-1040 dated November 04, 2013 which refers to a transactions which took place in 2010 -2011. It is submitted that we replied to the ..... after receipt of the same, no further proceedings or correspondence took place/ Hence, the issue pertaining to Show Cause Notice ... to the extent that our Company is a past and closed transaction which cannot be reopened after a period of 9 years. Therefore, the subject Show Cause Notice... is without jurisdiction, illegal, mala fide and of no legal effect.

b) Without prejudice to the above, our client replied to Show Cause Notice ... Following the submission of aforesaid reply, no further proceedings or correspondence took place.... Now, after a period of almost 9 years since the reply, the issue has been re agitated which is illegal and mala fide. Therefore, the subject Show Cause Notice is without jurisdiction, illegal, mala fide and of no legal effect.







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*c) Without prejudice to the above, the subject Show Cause Notice has been issued under Section 26 read with Section 25 of the Listed Companies... However, vide the Securities Act, 2015, the aforementioned Ordinance has been repealed. Hence, the subject Show Cause Notice has been issued under a statute which is no longer in existence. Therefore, the subject Show Cause Notice is without jurisdiction, illegal, mala fide and of no legal effect.*

*d) Without prejudice to the above, and without produce to our Company contention that the subject Show Cause Notice is illegal, mala fide and without jurisdiction. It is submitted that any alleged failure or contravention of the provisions of the Ordinance, 2002 by our Company is completely bona fide and our Company did not intend on contravening or failing to comply with the Ordinance, 2002 by our Company neither willful nor deliberate. Therefore, the subject Show Cause Notice is without jurisdiction, illegal, mala fide and of no legal effect.*

*2. That is view of the facts contained herein, it is requested that the subject Show Cause Notice No..... as well as well the Show Cause Notice dated 04-11-2013 be discharged to the extent of our Company. And also, you are requested to kindly allow us to sale or transfer of the Shares."*

16. The hearing fixed for June 20, 2022 was adjourned. Subsequently, another hearing notice was issued to all the Respondents vide letter dated January 11, 2023 and the hearing was fixed for January 26, 2023 before the Authorized Officer. The hearing was attended by Mr. Sikandar Ali Jatoy as Authorized Representative on behalf of Respondent-I and Mr. Taha Abdus Samad as Authorized Representative on behalf of Respondent-VI. However, no one appeared on behalf of Respondent II, III, IV and V.

17. The Representative of Respondent No. I reiterated the arguments as provided in its reply to the SCN. Key submissions hearing arguments of Respondent-I are summarized as under:

- i. That the subject SCN has been issued under a repealed Ordinance is without jurisdiction, illegal, mala fide and of no legal effect.
- ii. It was never intent to violate the Takeover Ordinance in anyways either directly or indirectly and shares in the Target Company were purchased purely for investment purposes from various individuals with no intent to Take Over the Company.
- iii. Respondent-I admitted that the said shares amounting to 37.21% of the Target Company were not purchased from one party but various individuals and were purchased for investment purposes only.
- iv. That the controlling interest is still with National Bank of Pakistan Limited and WAPDA (30.77%) each as is evident from the respective shareholding of these two public sector entities and they do not have control of the Target Company.
- v. That they intend to sell of their shareholding exit the business however, the shares are blocked by the Central Depository Company of Pakistan Limited (CDC).

18. The Representative of Respondent No. VI also reiterated the arguments as provided in its reply to the SCN. Key submissions hearing arguments of Respondent-I are summarized as under:

- i. 7.38% shares in the Target Company were purchased on behalf of Respondent-I and that he did not have knowledge of any additional purchase of shareholding in the Target Company by Respondent-I through any other person.
- ii. These shares were purchased as part of a mutual agreement between Respondent-I and Respondent-IV due to his expertise and invaluable experience in the field of business.







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- iii. The acquisition of 7.38% shares of the Target Company do not exceed the threshold as provided under the Takeover Ordinance. Therefore, contravention of Takeover Ordinance cannot be alleged against Respondent-IV.

19. Keeping in view non-representation on behalf of Respondent No. II, III, IV, V, another hearing was scheduled on April 12, 2023 to provide a final opportunity of hearing. The hearing was attended by Mr. Jam Naveed, Advocate High Court, LEX FIRMA Advocates as Authorized Representative (**the Representative**) on behalf of all the Respondents (I-VI) along with written reply dated April 11, 2023 The Representative submitted that their submissions during this hearing are final and should be considered for the conclusion of the case. Key submissions hearing arguments of Representative are summarized as under:

- i. The Representative admitted that the 37.21% shareholding in the Target Company was acquired by the Respondents however, it was unintentional and they did not intend to violate any provisions of the Takeover Ordinance and the law.
- ii. The Respondent-I & II do not participate in the management of the Company.
- iii. The Representative requested to take a lenient view.

20. I have considered the arguments presented by the Respondents in their reply to the SCN, submission made during the hearing by the Representatives of Respondent I-VI, provisions of the Ordinance and the material available on record and have observed that:

- i. Respondent-I made its contention regarding the applicability of Takeover Ordinance, since it has been repealed under the Securities Act, 2015 and hence argued that the subject SCN is without jurisdiction, mala-file and of no legal effect. The arguments provided by Respondent-I in the matter are not tenable. In this regard, it is pertinent to mention here that the transactions pertaining to acquisition of more than 25% shareholding in the Target Company belongs to the period between October, 2010 to November, 2011 i.e. before the promulgation of Securities Act, 2015. Therefore, appropriate regulatory framework for takeovers is invoked in the subject SCN as provided under the Takeover Ordinance which was applicable at the time of contravention. The Commission reserves the powers to enforce provisions of the Takeover Ordinance on the said transactions belonging to the period between October, 2011 to November, 2011 and therefore, the subject SCN is not without jurisdiction or illegal.
- ii. The Respondent-I during the hearing admitted that these shares were purchased by their family businesses (i.e. Sardar Muhammad Ashraf D. Baluch (Pvt.) Limited and Lilley International (Pvt.) Ltd.) for investment purposes also accepted that the shares were bought from the persons mentioned in the SCN which accumulated its shareholding to more than 25% in the Target Company however, they did not intend to contravene the provisions of Takeover Ordinance. The arguments thus provided by the Respondent-I are not justifiable. In this regard, Section 5(a) & (b) of the Takeover Ordinance clearly stipulates that *"no person shall, either directly or indirectly acquire more than 25% voting shares in a listed company or acquire control of a listed company without making a public announcement of offer to acquire voting shares or control of such company in accordance with the Ordinance."* However, the Respondent-I and II, being actual purchaser and beneficiary of 37.21% shareholding of the Target Company acquired control of the Target Company without making a public announcement of offer as required under Section 5(1)(a) of the Takeover Ordinance.







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- iii. Further, Respondent No. III vide its letter dated July 29, 2013 also submitted that shares of the Target Company were bought through a mutual agreement with Respondent-I and were eventually transferred to Respondent-I. Therefore, Respondent III, while acting in concert, has also contravened the provisions of Section 5(1)(a) of the Takeover ordinance.
- iv. Respondent IV also bought 9.99% shares of the Target Company as part of his mutual agreement with Respondent-I and the shares were kept in his personal CDC sub account. Respondent-I through its letter dated May 31, 2013 also confirmed that these shares were purchased on their behalf and have been placed in the CDC account of Respondent-IV. These shares were eventually transferred to Respondent-I. Therefore, Respondent IV, while acting in concert with Respondent-I, has also contravened the provisions of Section 5(1)(a) of the Takeover Ordinance.
- v. Moreover, the evidence available on record indicates that 9.68% shareholding of the Target Company bought by Respondent-V were eventually settled with Respondent-II
- vi. Respondent-VI, during the hearing also confirmed that 7.38% shares of the Target Company were bought on behalf of Respondent-I due to his expertise in the business and were eventually settled by Respondent-I. However, he did not have any knowledge of additional purchase of shares of the Target Company by Respondent-I. The Respondent-VI argued that the acquisition of 7.38% shareholding in the Target Company do not exceed the threshold as provided under the Takeover Ordinance hence, he may not be held accountable in the matter. The justification provided by Respondent-VI in this regard is not tenable. In this regard, attention is drawn towards the definition of persons acting in concert which is provided under Section 2(j) of the Takeover Ordinance which stipulates that "*person acting in concert*" means a person who co-operates with the acquirer to acquire voting shares or control of the target company;" Therefore, Respondent-VI while acting in concert with Respondent-I, acquired control of the Target Company and contravened the provisions of Section 5(1)(a) of the Takeover Ordinance.
21. Respondent-I and II, while acting in concert with each other acquired 37.21% shareholding of the Target Company between the period October, 2010 to November, 2011. These shares were indirectly acquired by Respondent I and II thus exceeding the shareholding limit of 25% in November 2011. The shares were purchased through aforementioned mutual agreements executed between the Respondents whereas, Respondent-III, IV, V, VI played the role as conduit to the acquisition of 37.21% shareholding of the Target Company by Respondent I & II. These shares were bought by Respondent-III, IV, V & VI during the period October, 2010 to November, 2011 and were eventually settled with Respondent-I and II. Respondent-I and II, being the actual purchaser and beneficiary of the aforesaid acquisition of shares have made unlawful acquisition of more than 25% shareholding in the Target Company without making a public offer and contravening the provisions of Section 5(1)(a) of the Takeover Ordinance.
22. Subsequent to the hearing held on April 12, 2023, the Representative made additional submission vide letter dated April 17, 2023 and informed that the Respondents are interested to keep their shareholding in the Company up to 29.9%.







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23. In view of the aforementioned arguments and material on record, it is evident that the Respondents have acted in concert as per the definition specified under Section 5(a) and (b) of the Takeover Ordinance which is evident from the corresponding transfer of funds/ settlement, duly confirmed by acquirers, their brokers and other intermediaries in their correspondence with the Commission and unlawfully acquired more than 25% shareholding of the Target Company. Therefore, contravention of Section 5(1)(a) have been established against Respondent I, II, III, IV, V & IV.

24. A thriving economy depends on a vibrant securities market, and restoring confidence in Pakistan's securities market and creating an environment conducive to its growth requires adequate protection of investors. The Legislature has declared that protecting the interests of investors, whether small or large, is an objective of the Commission. This objective is not unique to Pakistan, as it is an international phenomenon with ample precedent. For instance, the case of Securities and Exchange Board of India vs. Alka Synthetics Ltd, AIR 1999 Gujarat 221, discusses the powers of the Securities and Exchange Board of India ("SEBI") to regulate the speculative market and specifically refers to SEBI's powers under Sections 11 and 11-B of the Securities and Exchange Board of India Act. The Commission has similar powers under Section 20 of the Securities and Exchange Commission of Pakistan Act, 1997. The court held in the above case that SEBI must take appropriate measures as it deems necessary to combat situations in the speculative market, even if they were not anticipated in advance. The Commission performs similar functions as SEBI and has similar powers, and thus, the dicta laid down in Securities and Exchange Board of India vs. Alka Synthetics Ltd, AIR 1999 Gujarat 221, should be applied to protect investors in Pakistan.

25. Therefore, I, in terms of powers conferred upon me under Section 26(3)(c) of the Takeover Ordinance, impose an aggregate penalty of **Rs. 1,000,000/- (Rupees One Million Only)** in the following manner:

Respondent No.	Respondent Name	Amount of Penalty imposed (PKR)
I.	Sardar Muhammad Ashraf D. Baloch (Pvt.) Ltd.	500,000/-
II.	Lilley International (Pvt.) Ltd.	500,000/-
	<b>Total</b>	<b>1,000,000/-</b>

26. Moreover, Respondent No. III, V, VI are hereby strictly warned to refrain from indulging, directly or on behalf of any other person/entity, into any activity that may result in breach of the provisions of the Takeover laws. Furthermore, no adverse action is taken against Respondent IV as the material available on record indicates that he is deceased.

27. The Respondents are directed to deposit the aforesaid penalty in the account of the Commission being maintained in the designated branches of MCB Bank Limited within 30 days of the date of this Order and furnish Original Deposit Challan to this office.







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28. This Order is being issued without prejudice to any other action that the Commission may initiate against the Respondents in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

**Abdul Rehman Warraich**  
**Commissioner (SMD)**

**Announced:**

July 21, 2023  
Islamabad

