



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- II

Adjudication Division

BEFORE

**HAMMAD JAVED, ADDITIONAL DIRECTOR / HEAD OF DEPARTMENT
(ADJUDICATION DEPARTMENT – II)**

IN THE MATTER OF

M/S EMAN ALBARKA TRADING COMPANY (PRIVATE) LIMITED

Show Cause Notice	Adj-II/84/2/IAN-18/2023/-227 dated February 10, 2023	
Date on which hearing opportunity provided	Date	Attended by
	September 13, 2023	Adjourned as requested by Authorized Rep.
	October 19, 2023	Adjourned as requested by Authorized Rep.
	November 16, 2023	Mr. Imtiaz Haider, Authorized Representative
	February 12, 2024	Adjourned as requested by Authorized Rep.
	March 25, 2024	No one appeared to attended.
	April 23, 2024	No one appeared to attended.

**ORDER UNDER SECTIONS 84(2), 500 AND 502 FOR VIOLATION OF SECTIONS
84(1) AND 26(2) OF THE COMPANIES ACT, 2017**

The Securities and Exchange Commission of Pakistan (the '**Commission**') issued show cause notice No. Adj-II/84/2/IAN-18/2023/-227 dated February 10, 2023 (the '**SCN**') to **M/s Eman Albarka Trading Company (Private) Limited** having registered office at Office No. 5-5A, Mezzanine Floor, Benazir Plaza, Blue Area, Islamabad, Mr. Muhammad Ammar Yasir, CNIC No. 33402-0425950-5 Director/Chief Executive Officer and Mr. Muhammad Ashfaq CNIC No. 81202-6617149-9 Director, (collectively referred to as the '**Respondents**') under sections 84, 500 and 502 of the Companies Act, 2017 (the '**Act**'), for carrying on allegedly unlawful/prohibited business of inviting and accepting unauthorized deposits from the public, *prima facie*, in violation of sections 84(1) and 26(2) of the Act:

2. The Company was incorporated on January 19, 2021 under the Act with paid up capital of Rs100,000/- divided into 1000 shares of Rs100 each. The shareholding pattern of the Company is as under:

NAME	NO. OF SHARES	HOLDING %
Muhammad Ammar Yasir	500	50%
Muhammad Ashfaq	500	50%
Total	1000	100%

3. The principal line of business of the Company as mentioned in clause 3(i) of the Memorandum of Association ('**MoA**') is as under:



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'The principal line of business of the company shall be to carry on the business of services legally permissible, sale, purchase, imports, exports and to act as general traders, general order suppliers of product commodities, material legally permissible in any form or shape, manufactured, semi manufactured, raw material supplied by any company, firm, association of persons, body whether incorporated or not, individuals, governments semi government or any local authorities, as permissible under law but will not undertake MLM business or akin to allied that and others.'

4. In terms of clause 3 (iii) of MoA, the Company, its Chief Executive and Directors are restricted from indulging in banking, non-banking finance, stock brokerage business, etc.:

'Notwithstanding anything contained in the foregoing sub-clauses of this clause nothing contained herein shall be construed as empowering the Company to undertake or indulge, directly or indirectly in the business of a Banking Company, Non-banking Finance Company (Mutual Fund, Leasing, Investment Company, Investment Advisor, Real Estate Investment Trust management company, Housing Finance Company, Venture Capital Company, Discounting Services, Microfinance or Microcredit business), Insurance Business, Modaraba management company, Stock Brokerage business, forex, real estate business, managing agency, business of providing the services of security guards or any other business restricted under any law for the time being in force or as may be specified by the Commission.'

5. The Respondents in clause 3(iv) of MoA of the Company have undertaken not to engage in the following businesses:

- (a) engage in any of the business mentioned in sub-clause (iii) above or any unlawful operation;
- (b) launch multi-level marketing (MLM), Pyramid and Ponzi Schemes, or other related activities/businesses or any lottery business;
- (c) engage in any of the permissible business unless the requisite approval, permission, consent or licence is obtained from competent authority as may be required under any law for the time being in force.

6. The facts leading to the SCN are that the Commission received two complaints wherein it was alleged that the Respondents were raising unauthorized deposits from general public on the pretext of providing fixed profit, *prima facie*, in violation of Sections 84(1) and 26(2) of the Act read with clause 3 of the MoA of the Company. It was further alleged by the Complainants that the Respondents were operating through website "<https://albarkaholdings.com>" and Facebook page namely "Eman Al Barka Commercial Brokers" and the information available on the social media includes Certificate of Incorporation of the Company.

7. In order to ascertain the genuineness of the complaints, the Commission vide order dated June 15, 2022 investigated into affairs of the Company under Section 257 of the Act. The Investigation Team in the Investigation Report dated November 2, 2022 concluded that Respondents were engaged in the prohibited and unlawful business of inviting and accepting unauthorized deposits from the public on the pretext of providing 7% to 10% return on investment, *prima facie*, in violation of sections 84(1) and 26(2) of the Act, read with clause 3 of the MOA of the Company.



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8. Accordingly, the SCN dated February 10, 2023 was issued to the Respondents calling upon them to furnish submissions in writing to explain within ten (10) days of the date of the SCN, as to why

- (i) Penalties may not be imposed on the Company under sections 84(2) (a) & (b) and 502 of the Act, for violation of Sections 84(1) and 26(2) of the Act, respectively.
- (ii) Penalty may not be imposed on each Director of the Company under Section 500 of the Act, for alleged violation of Section 26(2) of the Act.

9. Further, the Respondents were advised to inform if they wanted to avail an opportunity of being heard in person or through authorized representative(s).

10. M/s Nazir Shaheen & Associates, Advocates & Corporate Consultants, the ("Authorized Representative") for submission of written reply to the SCN, requested this office vide letter dated March 20, 2023 for provision of (i) a copy of the investigation report dated November 2, 2022, (ii) copies of two complaints with the name of complainants, (iii) copies of complaints submitted/ recorded statements of the investors, proof of deposits/ receipt/ as mentioned in paras 8 and 13(vi) (vii) of the SCN.

11. The required copy of the Investigation Report dated November 2, 2022 was shared with the Authorized Representative of the Respondents vide letter dated May 23, 2023. The Authorized Representative vide letter dated April 4, 2023 again requested to provide particulars of the complainants. In reply, the Authorized Representative was informed vide letter dated June 27, 2023 that the required particulars of complainants / investors /claimants are given in the SCN as well as in the investigation Report.

12. The Authorized Representative vide letters dated April 4, 2024, June 16, 2023 and July 10, 2023 *inter alia* sought extension in time for filing of written submissions to the SCN, which were accepted and extension in time was granted each time. But written reply to the SCN remained awaited from the Respondents on one pretext or the other.

13. Six reminders were sent to the Respondents and their Authorized Representative through courier and at their email addresses for submission of written reply to the SCN, vide letters dated August 30, 2023, October 11, 2023, November 3, 2023, January 29, 2024, March 15, 2024 and April 15, 2024. But the required written response to the SCN could not be submitted. The reminders were sent at registered address and delivered at info@albarkaholding.com (Respondents' email) and haider.imtiaz@gmail.com (Authorized Representative email).

14. The Respondents were provided multiple opportunities of being heard. Hearings were fixed for September 13, 2023, October 19, 2023, November 16, 2023, February 12, 2024, March 25, 2024 and April 23, 2024. The outcome of the aforesaid hearing opportunities afforded to the Respondents through their Authorized Representatives is given in the following para.



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15. In response to the hearing scheduled on:
- i) **September 13, 2023**, the Authorized Representative of the Respondents vide letter dated 13.09.2023 requested adjournment of hearing because of their non-availability due to their professional commitment for a daylong event on 13.09.2023 and sought a next date after a fortnight.
 - ii) **October 19, 2023** the Authorized Representative sought adjournment over phone call stating he is ill and unable to attend the hearing. He also stated that Respondents are in the process of returning the deposits to the depositors.
 - iii) **November 16, 2023**, the Authorized Representative attended the hearing through zoom and informed that since the Respondents are in the process of settling all the claims with their investors/public, therefore, 10 days' time may be provided for submitting the same before the SECP. It was also assured that written reply to the SCN will be submitted at the time of filing of aforesaid Settlement Agreements with the SECP. The Authorized Representative was advised to ensure submission of the said information/ documents within 10 days. In reply to this hearing, the Authorized Representative while assuring positive outcome on behalf of the Respondents requested vide letter dated December 27, 2023 further extension in time till January 30, 2024. The Authorized Representative in the said letter stated that **"Our client has informed that he is currently engaged in meaningful discussions and negotiations with the complainants, additional time is necessary to ensure that all aspects of the settlement are thoroughly addressed. The extension in time will provide the client with the opportunity to reach a resolution that satisfies the interests of all parties involved. on client's instructions, we are writing to formally request an extension of time regarding the ongoing settlement for making payments to the complainants in the matter of purportedly deposit taking by our client. Our client has assured to reaching an equitable resolution with all complainants / parties involved and our client believes that a brief extension will facilitate a more comprehensive and mutually beneficial agreement. We understand the importance of resolving this matter promptly and assure you that we are diligently working towards a fair and satisfactory conclusion. We believe that the extension we are seeking will contribute to amicable settlement with complainants. Therefore, we request an extension till January 30, 2024."**
 - iv) **February 12, 2024**, the Authorized Representative vide email reply dated February 12, 2024 informed **"We are in the process of contacting client, however, no response is being received. In the circumstances, I request, the hearing may be adjourned and held next week, so that update received may please be submitted. Inconvenience caused is highly regretted"**
 - v) **March 25, 2024**, no one tuned up to attend the hearing. However, a letter dated March 21, 2024 was received from the Authorized Representative on March 26, 2024 wherein it was mentioned that **"we are not having any contact with our client and due to non-availability, the status and evidence of settlement agreement with**



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the complainants could not be obtained, therefore, it is requested that our client may be afforded another opportunity to provide the status and evidence of settlement agreements with the complainants.” The Authorized Representative further stated that the requested opportunity may be allowed and assured to keep this posted with any development made during the time.

- vi) April 23, 2024, no one tuned up to attend the hearing. Hence, another letter has been received in this office on April 24, 2024 from the Authorized Representative which states “It is to inform you that M/s Emaan Albarka Trading Company (Pvt.) Limited is not in contact with us, therefore, the matter does not relate to us. As regards authority letter for sending copies of communication is concerned it is just a copy delivered to us. Hence, we are unable to even deliver this letter to persons addressed in your above said letter. You may, therefore, approach them at the addresses in your record.

16. Since the Respondents showed their intention to make good the default, therefore in the best interest of public who deposited monies with the respondents, the request was accepted with the advice to share details with documentary evidences of refunding the deposits to the depositors/complainants. The Respondents were provided ample opportunities of hearing to defend their case and share documentary evidences of refunding the deposits to the depositors/complainants according to the assurance made by the Authorized Representative on their behalf. The Authorized Representative neither attended the hearings scheduled for March 25, 2024 and onward nor shared documentary evidence of refunding the funds to the depositors as per their stance taken on behalf of the Respondents during the proceeding of hearing held on November 16, 2023 and later vide email dated December 27, 2023.

17. The delivery status of the SCN, reminders and hearing notices sent to the Respondents through courier and email is as under:

#	SCN/Reminder	Name	Address	Delivery Status
1	<ul style="list-style-type: none">• SCN dated February 10, 2023• Reminder dated August 30, 2023• Reminder dated October 11, 2023• Reminder dated November 3, 2023	<p>M/s Eman Albarka Trading Company (Private) Limited through its Chief Executive</p> <p>Mr. Muhammad Ammar Yasir, CNIC No. 33402-0425950-5, Director and</p>	<p>Office No.5-5A, Mezzanine Floor, Benazir Plaza, Blue Area, Islamabad</p> <p>Sangra PO Khass Tehsil Lalian, District Chiniot.</p>	<p>SCNs, Reminders/ Hearing Notices returned undelivered.</p> <p>SCNs, Reminders/ Hearing Notices delivered.</p>



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	<ul style="list-style-type: none">• Reminder dated January 29, 2024• Reminder dated March 15, 2024• Reminder dated April 15, 2024	Chief Executive Officer		
		Mr. Muhammad Ashfaq CNIC No. 81202-6617149-9, Director	House No. ZB-B, Street 7, Moh. Fauji Colony, Pirwadhai, Rawalpindi	SCNs, Reminders/ Hearing Notices returned undelivered.
2	Email dated February 13 2023 (sent SCN Company). Email dated September 11, 2023 (Reminder/Hearing Notice), Email dated October 16, 2024 (Reminder/Hearing Notice), Email dated April 19, 2024 (Reminder/Hearing Notice),	The Company, its Chief Executive and directors.	(email address of the Company) info@albarkaholding.com ;	The emails were delivered as per message from Outlook, 'Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server'

18. With regard to service of SCN and reminders, section 53 of the Act provides “a document or information may be served on the company or any of its officers at the registered office of the company against an acknowledgement or by post or courier service or through electronic means or in any other manner as may be specified.”

19. It is evident from the foregoing that the Respondents were provided multiple opportunities to explain their position and share documentary evidence to substantiate their claim of refunding the funds to the depositors, but the Respondent failed to do so till date. Meanwhile, the Authorized Representative has withdrawn its Power of Attorney vide email dated April 23, 2024. The matter is therefore decided based on the material available on record.

20. I have gone through the facts of the case, record of the Company, documents available with the Commission including complaints received against the Respondents, findings contained in the Investigation Report and relevant provisions of law. My observations in this regard are as under:



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- (i) In terms of section 84 of the Act, all companies, excluding banking companies and such other companies or class of companies as the Commission may notify in this behalf, are prohibited from inviting, accepting or renewing deposits from the public. Further, the term deposit has also been defined in section 84 of the Act as any amount accepted or borrowed by a company other than a loan raised by issue of debentures or a loan obtained from a banking company or financial institution or an advance against sale of goods or provision of services in the ordinary course of business. Section 84 of the Act is reproduced below for ease of reference:

84. Prohibition on acceptance of deposits from public. — (1) *On and after the commencement of this Act, no company shall invite, accept or renew deposits from the public:*

Provided that nothing in this sub-section shall apply to a banking company and such other company or class of companies or such deposits as the Commission may, notify in this behalf.

Explanation. — *For the purposes of this section, "deposit" means any deposit of money with, and includes any amount borrowed by, a company, but shall not include a loan raised by issue of debentures or a loan obtained from a banking company or financial institution or an advance against sale of goods or provision of services in the ordinary course of business.*

- (ii) In terms of section 26(2) of the Act, a company shall not engage in a business which is (a) prohibited by any law for the time being in force in Pakistan; or (b) restricted by any law, rules or regulations, unless necessary licence, registration, permission or approval has been obtained or compliance with any other condition has been made. Deposit taking by companies is not only prohibited under the Act but also under the Banking Companies Ordinance, 1962. Accordingly, any company engaged in deposit taking commits violation of section 26(2) of the Act. Section 26(2) of the Act is reproduced below for ease of reference:

26. Business and objects of a company. — (2) *A company shall not engage in a business which is—*

(a) prohibited by any law for the time being in force in Pakistan; or

(b) restricted by any law, rules or regulations, unless necessary licence, registration, permission or approval has been obtained or compliance with any other condition has been made.

- (iii) In terms of clause 3 of MoA, the Respondents have undertaken that they shall not engage in any unlawful/prohibited business activities. Inviting and accepting deposits is unlawful/prohibited in terms of sections 84(1) and 26(2) of the Act.
- (iv) The Commission received the following complaint through email wherein the complainant alleged that the Respondents were raising unauthorized deposits from general public on



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the pretext of providing profit, *prima facie*, in violation of sections 84(1) and 26(2) of the Act read with clause 3 of the MoA of the Company:

Company Name	Name of Complainant	Date of Complaint	Nature of Complaint	Amount Invested (Rs.)
Eman Albarka Trading Company (Private) Limited	Anonymous	February 22, 2021	Illegal Deposit taking	-
	Muhammad Nadeem	March 23, 2021	Illegal Deposit taking	-

- (v) An officer of Company Registration Office Islamabad conducted an onsite visit on March 02, 2021, at registered address of Company. He submitted the following report: -

The undersigned visited the premises of the company on 02.03.2021 to ascertain the actual business activities of the company. It was however, revealed that the company was not maintaining its registered office address at the reported address and upon further inquiry from the block tenants the venue was never in use of such company. The undersigned rang at the phone number available in recorded Form 21 and got connected to a person who introduced himself as Muhammad Ammar Yasir (a member in the company). He was inquired as to whereabouts of the company however, he refused to share information and instead shared a number of another partner. The undersigned rang at the phone number but the receiver did not respond to the call.

The undersigned also inquired the apartments block watchman regarding the subject company. He informed that there is no as such company/business with this name.

- (vi) Company Registration Office, Islamabad vide letter dated March 31, 2021 sought comments on complaints from the Company. The Chief Executive Officer of the Company vide letter dated April 13, 2021 denied any relationship/link with website <https://albarkaholdings.com>. However, it has been noted the same website address has been mentioned by the Company at bottom of the letter dated April 13, 2021.
- (vii) In order to ascertain the genuineness of the complaints, the Commission vide order dated June 15, 2022 investigated the Company under Section 257 of the Act.
- (viii) On August 29, 2022, Investigation Team visited registered office address of the Company located at Office No. 5- 5A, Mezzanine Floor, Benazir Plaza, Blue area, Islamabad, but found no office of the Company at said location.
- (ix) The Investigation Team issued notices dated July 26, 2022, August 05, 2022, August 12, 2022 to the Chief Executive and Directors of the Company for recording of statements. A hand-written letter dated August 08, 2022 was received from directors of the Company claiming that upon receipt of first notice dated July 26, 2022, they came to the office of the Commission but were not allowed to enter the premises of SECP. Thereafter both directors neither appeared for statement recording nor any application/correspondence was made with Investigation Team.



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(x) The investigation team visited website [www.http://albarkaholdings.com](http://albarkaholdings.com) mentioned in letter head of the Company and observed the Respondents were offering different package of investment with guaranteed return to public as evident from the following:

ALBARKA HOLDING
(Eman Al Barka Commercial Brokers LLC)
www.albarkaholdings.com

THE COMPANY

UAE	
USA	
UK	
GERMANY	
AZERBAIJAN	
PAKISTAN	
INDIA	

www.albarkaholdings.com

PACKAGES

BASIC	MEDIUM	ADVANCE
Deposit Amount 50\$ To 999\$ Duration: 24 Months ROI: 7% To 10%	Deposit Amount 1000\$ To 9999\$ Duration: 24 Months ROI: 8% To 12%	Deposit Amount 10000\$ To 50000\$ Duration: 24 Months ROI: 10% To 15%

www.albarkaholdings.com



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- (xi) The investigation team noticed that Modus-operandi of the Respondents was that after receipt of deposits from investors, account IDs of the investors were opened on the website titled albarkaholdings.com. Thereafter, the invested amount in Pakistan Rupees was converted into US dollars and converted investment amount in US Dollars was shown in investor's ID/account, maintained on the website albarkaholdings.com. Investors were able to view their account balances (in dollars) on the said website against allocated IDs along with return/profit given by the Company on their principal amount.
- (xii) The investigation team noticed that the Directors of the Company after incorporation of the Company opened the below mentioned bank accounts in name of the Company, for acceptance of deposit from general public. As per banks record both Directors of the company were the authorized signatories of said bank accounts of the Company. The Respondents accepted deposit from general public through following bank account maintained by the Respondents, in the name of the Company: -

Name of Bank	Company Bank account No	Total Debits (Rs.)	Total Credits (Rs.)	Net Bal.
Faysal Bank Limited	Eman Albarka Trading Company (Pvt.) Ltd. 3306301000000530	242,216,308	242,216,308	0
Meezan Bank Limited	Eman Albarka Trading Company (Pvt.) Ltd 3170105109464	12,868,048	12,868,048	0

- (xiii) Deposits from the public amounting to Rs. **255 million** were received in the aforementioned bank accounts. Being the signatory to the accounts, Mr. Muhammad Ammar Yasir, Chief Executive/director of the Company and Mr. Muhammad Ashfaq, Director of the Company withdrew Rs. **255 million** from the bank accounts. They, *prima facie*, were beneficiary of the funds raised from the general public through illegal deposit taking.
- (xiv) The investigation team also contacted some of the investors/depositors including bank manager Faysal Bank Mr. Bilaj Yasin Bhatti, and investors namely Mr. Usman Akram, Mr. Muhammad Umer, Mr. Noman Shahid, Mr. Muhammad Jamil, Hafiz Muhammad Burhan Shahid and Mr. Dilshahd Ahmed recorded their statements before the Investigation Team. The Investors in their statements mentioned the amount invested by each of them and *inter alia* stated the Company was offering the following investment packages: -
1. Investment for less than \$ 1000 --- 7% return
 2. Investment of \$1000 to \$ 9999 – 8%
 3. Investment of more than \$ 10000 – 10%
- (xv) Examination of the bank statements of the Company revealed that the funds deposited by the following investors were deposited in the Company bank account No. 3306301000000530, maintained with Faysal Bank Limited, G-11, Islamabad: -



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Name of claimant	Date of Payment	Mode of Payment	Payment (Rs.)
Noman Shahid	23/02/2021	Direct cash in bank account/by hand cash	390,160
Umer Farooq	23/02/2021 and 12-10-2021	Direct cash in bank account	160,000
Muhammad Jameel	09/12/2021	Interbank transfer	160,000
Usman Akram	27/10/2021	Direct cash in bank account/by hand cash/interbank transfers	1,668,880
Dilshad Ahmad	01-04-2021 and 18-02-2021	Direct cash in bank account	161,000

- (xvi) The Respondents after receipt of deposits from above-named Investors opened their IDs/accounts on the website titled albarkaholdings.com, a UAE based company. Relevant data of IDs as provided by the Investors and downloaded from website www.http://albarkaholding.com are appended below: -



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USER	START DATE	EXPIRE DATE	AMOUNT
ABH-003555	2021-02-23	2023-02-23	500
ABH-003555	2021-10-12	2023-10-12	500

Dashboard
Welcome Muhammad Jamil
ID: ABH-008022
Ref Link Copy Here

Sold Package Request Remaining Days: **219 19 10 33**

Account Balances: \$ 1,286.42, \$ 0, \$ 1,000, \$ 272.30, \$ 2,455, \$ 0.46

Metric	Value
ROI P2 ROI	0\$
C-Balance P2 C Balance	66.89\$
T-Income P2 T Income	300.89\$
T-Withdraw P2 T-Withdraw	234.00\$
Active Deposit P2 Deposit	expired (109 85)
D-Bonus	0.00\$

Information

Name: Muhammad Jamil
Email: mj14805@gmail.com
Phone: 03335822183
User Type: ProUser

Initial Package: 2021-12-10
Starting Charges: 10985
Expiry: 2023-12-10
Status: Not Active
KYC Status: Approved



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https://albankaholdings.com/Admin/pac_history

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Search:

USER	START DATE	EXPIRE DATE	AMOUNT
ABH-007485	2021-10-13	2023-10-13	10000

Showing 1 to 1 of 1 entries

Previous Next

https://albankaholdings.com/Admin/incomes

Incomes

Cash For Withdraw 661.02\$

From: dd/mm/yyyy To: dd/mm/yyyy

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Search:

ID	From	To	Amount	Date	Type	Income Type
51369	ABH-007207	ABH-007485	7.85	2021-10-25 19:29:19	Team Income	Direct Bonus
51376	ABH-007207	ABH-007485	12.126	2021-10-25 19:31:01	Team Income	Direct Bonus
51383	ABH-007207	ABH-007485	128	2021-10-25 19:33:02	Team Income	Direct Bonus
51514	ABH-007207	ABH-007485	758	2021-10-27 07:28:37	Team Income	Direct Bonus
51521	ABH-007207	ABH-007485	12.63	2021-10-27 10:53:38	Team Income	Direct Bonus
51540	ABH-007207	ABH-007485	637.443	2021-10-27 14:58:14	Team Income	Direct Bonus
51553	ABH-007207	ABH-007485	77.285	2021-10-27 15:18:47	Team Income	Direct Bonus

https://albankaholdings.com/Admin/pac_history

User Upgradations

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Search:

USER	START DATE	EXPIRE DATE	AMOUNT
ABH-007707	2021-10-25	2023-10-25	65
ABH-007707	2021-10-25	2023-10-25	101
ABH-007707	2021-10-25	2023-10-25	100
ABH-007707	2021-10-27	2023-10-27	625
ABH-007707	2021-10-27	2023-10-27	105
ABH-007707	2021-10-27	2023-10-27	5312
ABH-007707	2021-10-27	2023-10-27	644
ABH-007707	2021-10-27	2023-10-27	206
ABH-007707	2021-10-27	2023-10-27	142
ABH-007707	2021-10-27	2023-10-27	118

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- (xvii) The Investigation Team in the Investigation Report dated November 2, 2022 concluded that the Respondents were engaged in the prohibited and unlawful business of inviting and accepting unauthorized deposits from the public on the pretext of providing 7% to 10% return on investment, *prima facie*, in violation of sections 84(1) and 26(2) of the Act, read with clause 3 of the MOA of the Company
- (xviii) The Authorized Representative claimed in written as well as verbal submissions that the Respondents were in the process refunding the deposits to the depositors, which tantamount to admission of the violation of section 84 and section 26 of the Act.

21. It is evident from the foregoing that the Company was incorporated on January 19, 2021. The directors of the Company after incorporation of the Company opened abovementioned banks accounts in name of the Company and accepted illegal and unauthorized deposit of Rs255 million from public through said bank accounts. The directors of the Company were beneficiary of the said bank accounts.

22. In view of the foregoing and considering (a) the complaints received from the public against the Respondents, (b) investigation findings revealing deposit taking by the Respondents along with deposit taking evidences, depriving the general public of their hard earned money amounting to at least **Rs255 million**, (c) advertisements published on website of the Company for inviting public to deposit funds with the Company, (d) claim of the Authorized Representative that the Respondents are in process of refunding the funds raised by them it is established that the Respondents were carrying on unlawful / prohibited business of inviting and accepting unauthorized deposits from the public in violation of sections 84(1) and 26(2) of the Act read with clause 3 of MoA of the Company. The violation of sections 84(1) and 26(2) attract penal provisions of sections 84(2) and 502 of the Act for the Company and section 500 for directors of the Company, which provide as under:

84. Prohibition on acceptance of deposits from public. - (2) Where a company accepts or invites, or allows or causes any other person to accept or invite on its behalf, any deposit, the company shall be punishable-

(a) where such contravention relates to the acceptance of any deposit, with penalty which shall not be less than the amount of the deposit so accepted; and

(b) where such contravention relates to the invitation for any deposit, shall be liable to a penalty of level 3 on the standard scale.

500. Penalty for carrying on ultra vires business. – If any business or part of business carried on or any transaction made, by a company is ultra vires of the company shall be an offence and every person who acted as a director or officer of the company and is responsible for carrying on such business shall be liable to a penalty of level 3 on the standard scale, and shall also be personally liable for the liabilities and obligations arising out of such business or transaction.



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502. Penalty where no specific penalty is provided.- If a company or any other person contravenes or fails to comply with any provision of this Act or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, for which no punishment is provided elsewhere in this Act, the company and every officer of the company who is in default or such other person shall be liable to a penalty of level 3 on the standard scale.

23. I, therefore, in exercise of the powers under sections 84(2), 500 and 502 of the Act, delegated to the undersigned vide S.R.O No. 1546(I)/2019, hereby impose the following penalties on the Company and its directors for carrying on unlawful/prohibited business of inviting and accepting unauthorized deposits from the public in violation of sections 26(2) and 84(1) of the Act:

Penalty			
Imposed on	Amount (Rs.)	Imposed under section	Description
M/s Eman Albarka Trading Company (Private) Limited	255 million	84(2)(a) of the Act	For acceptance of deposit of Rs 255 million in violation of section 84(1) of the Act.
M/s Eman Albarka Trading Company (Private) Limited	100 million	84(2)(b) of the Act	For invitation of deposit in violation of section 84(1) of the Act.
M/s Eman Albarka Trading Company (Private) Limited	100 million	502 of the Act	For carrying on unlawful /prohibited business in violation of section 26(2) of the Act.
Muhammad Ammar Yasir, CNIC No. 33402-0425950-5 Chief Executive Officer /Director M/s Eman Albarka Trading Company (Private) Limited	100 million	500 of the Act	For carrying on business <i>ultra vires</i> of the Company and signatory of bank account wherein deposit from general public was accepted.
Muhammad Ashfaq CNIC No. 81202-6617149-9 Director, M/s Eman Albarka Trading Company (Private) Limited	100 million	500 of the Act	For carrying on business <i>ultra vires</i> of the Company.

24. M/s Eman Albarka Trading Company (Private) Limited, Mr. Muhammad Ammar Yasir, and Mr. Muhammad Ashfaq are directed to deposit the aforesaid penalty in the account of the Commission being maintained in the designated branches of MCB Bank Limited or United



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Bank Limited within 30 days of the receipt of this Order and furnish Original Deposit Challan to this office.

25. This order is being issued without prejudice to any other proceedings or action that the Commission, National Accountability Bureau, Federal Investigation Agency or any other authority, bureau, agency or institution may initiate, in accordance with relevant provisions of law, against the Respondents or any other officer in respect of unlawful/illegal deposit taking activities undertaken by them.

A handwritten signature in blue ink, appearing to read 'Hammad Javed', is positioned above the official title.

(Hammad Javed)
Additional Director / Head of Department
Adjudication Department-II

Announced: May 15, 2024