



Corporate Supervision Department
Company Law Division

Before Amina Aziz – Director

In the matter of

Mr. Hassan Ibrahim Ahmad, Director –Pervaiz Ahmed Securities Limited

Number and date of notice: CSD/ARN/136/2015-3482 dated April 25, 2017
Date of hearing: June, 7, 2017, August 10, 2017, September 13, 2017, September 27, 2017 and October 11, 2017
Present: Representatives of M/s Cornelius, Lane & Mufti ("CLM")- Legal Advisor and Authorized Representatives

ORDER

UNDER SECTION 189 READ WITH SECTION 187 & 476 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of the proceeding initiated against Mr. Hassan Ibrahim Ahmed ("respondent") through show cause notice (the "SCN") dated April 25, 2017 under the provisions of Section 189 read with Section 187 & 476 of the Companies Ordinance 1984 (the "Ordinance").

2. The facts leading to this case, briefly stated, are that, it has been observed that respondent is director of Pervaiz Ahmed Securities Limited ("Company") and Infinite Securities Limited since October 31, 2006 and he is also chief executive of ISL. The ISL is a brokerage house engaged in business of brokerage since July 24, 2008 and hold Trading Right Entitlement Certificate ("TREC").

3. Section 187 of the Ordinance provides that *no person shall be appointed as a director of a company if he-*

j) is engaged in the business of brokerage, or is a spouse of such person or is a sponsor, director or officer of a corporate brokerage house.

Provided that clauses (i) and (j) shall be applicable only in case of a listed company.

Section 189 of the Ordinance- *If a person who is not qualified to be a director or chief executive or who has otherwise vacated the office of director or chief executive describes or represents himself or acts as a director or chief executive, or allows or causes himself to be described as such, he shall be liable in respect of each day during which he so describes or represents or acts, or allows or causes himself to be described, as such, to fine which may extend to two hundred rupees.*



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4. The respondent was not qualified to act as director of the Company as he is director in a brokerage house, *prima facie*, contravened the provision of Section 189 of the Ordinance. Therefore, SCN was issued to the respondents under the provisions of Section 189 of the Ordinance.

5. In response to the SCN, authorized representative Cornelius Land & Mufti –Advocate and Solicitors submitted reply vide letter dated July 19, 2017. A brief of the reply relevant to the contents of the SCN is given below:

- The respondent did not have any knowledge of the prohibition contained under Section 187(j) till the receipt of notice and therefore continued to perform his duties as a director of the Company and ISL. It is however highlighted that during the tenure of his directorship in the Company and ISL, the respondent has performed his duties as a director of ISL and Company with unquestionable integrity, honestly and professional diligence.
- In view of foregoing and deference to the regulatory role of SECP, the respondent has tendered resignation from the post of the director of the Company with immediate effect. Further the respondent renders its unconditional apology for the unintentional and inadvertent violation of Section 187(j) of the Ordinance and requested for lenient view.

6. The respondents were provided opportunities of hearings on June, 7, 2017, August 10, 2017, September 13, 2017 and September 27, 2017 but hearings were adjourned on the request of the Authorized representative. Finally hearing was held on October 11, 2017 and Mr. Ali Rana of CLM appeared and reiterated the submissions made in the reply to SCN.

7. In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 189 of the Ordinance have been delegated to the Director (Corporate Supervision Department).

8. It is important to highlight here that the Ordinance has been repealed while promulgating Companies Act, 2017 ("Act"). However, provisions of Section 509(1)(f) of the Act clearly provides that the pending proceedings should be concluded as provided in the Ordinance;

509. Repeal and savings.—(1) The Companies Ordinance, 1984 (XLVII of 1984), hereinafter called as repealed Ordinance, shall stand repealed, except Part VIIIA consisting of sections 282A to 282N, from the date of coming into force of this Act and the provisions of the said Part VIIIA along with all related or



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connected provisions of the repealed Ordinance shall be applicable mutatis mutandis to Non-banking Finance Companies in a manner as if the repealed Ordinance has not been repealed;

Provided that repeal of the repealed Ordinance shall not-

- f) affect any inspection, investigation, prosecution, legal proceeding or remedy in respect of any obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such inspection, investigation, prosecution, legal proceedings or remedy may be made, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act has not been passed.*

9. I have analyzed the facts of the case, relevant provisions of the Ordinance, arguments put forth in writing and during hearing and observed that a person who engages in brokerage business and at the same time active engages as a director on the board of listed company increase the risk of market abuse. The provisions of Section 189 were introduced in the Ordinance to address this inherent risk. The respondent is director in the Company and at the same time actively involved in brokerage business as being chief executive of a brokerage house. The argument that the respondent was unaware of prohibition contained under Section 187(j) is not cogent as ignorance of law excuses no one. Section 187 of the Ordinance bars ineligible persons to become director and clause J of Section 187 specifically bars a person who is engaged in business of brokerage, or is a spouse of such person or is a sponsor, director or officer of a corporate brokerage house to become director of a listed Company. Section 189 of the Ordinance provides that if a person who is not qualified to be a director acts as a director he shall be liable in respect of each day during which he acts, to a fine which may extend to two hundred rupees.

10. For the foregoing reasons, I am of the opinion that the provision of Section 187 of the Ordinance has been violated by the respondent. Therefore, in exercise of the powers conferred by Section 189 of the Ordinance, I hereby impose a fine of Rs. 300,000/- (Rupees three hundred thousand only) on respondent for contravening the provisions of Section 187 of the Ordinance. The aforesaid fines must be deposited in the designated bank account maintained with MCB Bank Limited in the name of the "Securities and Exchange Commission of Pakistan" within thirty days from the receipt of this order and furnish receipted bank vouchers to the Commission. In case of non-deposit of the penalties, proceedings for recovery of the fines as arrears of land revenue will



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be initiated. It may also be noted that the said fines are imposed on respondent in his personal capacity; therefore, he is required to pay the said amount from personal resources.

Amina Aziz
Director (Corporate Supervision Department)

Announced:

December 6, 2017

Islamabad