



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Javed Omer Vohra and Company Limited

Number and date of notice:	EMD/233/635/2002/1794-1801 dated May 19, 2014
Date of hearing:	February 10, 2016, September 5, 2016, December 22, 2016, April 3, 2017
Present:	Mr. Ashfaq Tola, Partner, Naveed Zafar Ashfaq Jaffery & Company, Chartered Accountants (Authorized Representative)

ORDER

UNDER SECTION 309 READ WITH SECTION 305 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of proceedings in the matter of show cause notice dated May 19, 2014 (*the "SCN"*) under Section 309 read with Section 305 of the Companies Ordinance, 1984 (*"Ordinance"*) issued to Javed Omer Vohra and Company Limited (*"Company"*) and directors of the Company (*the "Respondents"*).

2. The facts leading to this case, briefly stated, are that the Commission had initiated proceedings against the Company under section 309 of the Ordinance for filing winding up petition against the Company in the High Court. The proceedings were initiated mainly on the following two counts:

- a. Company failed to hold its AGMs for the years 2011, 2012 and 2013; and
- b. Company suspended its business for a whole year. The brokerage license of the Company was cancelled by Securities Market Division of the Commission (*"SMD"*) owing to non-maintenance of minimum capital balance and the Company does not hold Trading Right Entitlement Certificate (*"TREC"*).

3. Previously the Company's broker registration was automatically cancelled in 2009 due to its failure to apply for renewal of registration under the Brokers and Agents Registration Rules, 2001 (*the "Rules"*). The Company had made an application to SMD for issuance of brokerage license however it was refused through SMD order dated February 25, 2015 due to deficiencies including negative Net Capital Balance. The Company filed an appeal with the Appellate Bench of the Commission against SMD's order. It may be mentioned that respondents were earlier



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provided with a hearing opportunity in the subject matter on May 7, 2015 in light of the SCN issued. The hearing was adjourned for May 15, 2015. The authorized representative vide letter dated May 6, 2015 stated that the appeal of the Company before the Appellate Bench was pending against the order of Director/HOD (MSRD) and the hearing may therefore be scheduled subsequent to a decision as regards the appeal filed. The Appellate Bench of the Commission through order dated October 15, 2015 set aside the SMD's Order wherein the SMD had refused to grant the registration as broker in terms of Rule 5 (5) of the Rules. The Appellate Bench remanded back the case to the SMD to decide it afresh. A final order in the matter has been issued by SMD on October 21, 2016 whereby the application of the Company for registration as broker was refused in terms of Rule 5 (5) of the Rules.

4. The respondents were given an opportunity to appear on February 10, 2016 wherein the authorized representative appeared before the undersigned and written submission were made which are briefly stated as follows:

- a. Winding-up petition was filed by the lender banks in 2011, hence it was beyond the control of the company to start business and to comply with the legal and regulatory requirement as all the efforts of directors were concentrated on making out of court settlement with the lenders.
- b. Winding-up petitions were withdrawn by the lender banks in June 2014 through settlement agreements which is in process.
- c. In 2011 brokerage activities of the Company were suspended by KSE due to inadequacy of net capital balance.
- d. The Company had held the AGMs for the years ended June 30, 2011, June 30, 2012, June 30, 2013 and June 30, 2014 respectively.
- e. The non-compliance was due to force majeure owing to filing of winding-up petition by the lenders

5. It was decided in the hearing that the Company will submit revival plan, status of AGM for the year 2015 and status of settlement with the banks and the case will be re-heard.

6. Another hearing opportunity was scheduled for September 5, 2016 which was attended by the authorized representative and written submissions were made. Therein the information as previously provided was reiterated and it was informed that currently the assets are being



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previously provided was reiterated and it was informed that currently the assets are being transferred to the banks as per the settlement agreements and that the winding-up petition may not be filed as the mentioned non-compliance was due to force majeure case owing to winding-up petition filed by the lender banks. However, after the withdrawal of these petitions by banks the company duly held all the AGMs and submitted all the required annual accounts. It was observed that the brokerage activities of the Company were still suspended.

7. A hearing was fixed for November 14, 2016, however no one appeared therein. The hearing was re-fixed for November 28, 2016 for which an adjournment request was received from the authorized representative. The hearing was held on December 22, 2016, which was attended by the authorized representative in which written submissions were presented and copy of settlement agreements were provided with current status of the said agreements. Further, the information and arguments as given in previous hearing were repeated. A final opportunity of hearing was fixed for April 3, 2017 which was attended by the authorized representative. It was decided therein that the Company would provide a revival plan. It has however been observed that the Company has not presented any revival plan despite passage of more than six weeks.

8. It may be mentioned that Naveed Zafar Ashfaq Jaffery & Company, Chartered Accountants, the auditors of the Company have given an adverse opinion on the accounts of the Company for the year ended June 30, 2015.

9. It is necessary to advert to the following relevant provisions of the Ordinance:

Clause (b) of section 305 of the Ordinance states that a company may be wound up by the Court if default is made in delivering the statutory report to the registrar or in holding the statutory meeting or any two consecutive annual general meetings;

Clause (c) of section 305 of the Ordinance states that a company may be wound up by the Court if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;

Section 309 of the Ordinance states that an application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), or by any contributory or contributories, or by all or any of the aforesaid parties, together or separately, or by the registrar, or by the Commission or by a person authorised by the Commission in that behalf.

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In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 309 of the Ordinance have been delegated to Executive Director (Corporate Supervision Department).

10. Before proceeding further, I would like to highlight that the SCN in the matter was issued on two counts which included non-holding of AGMs and for suspension of business activity. The first issue has been resolved by the Company as the relevant AGMs have been held. The business activity of the Company however remains suspended. This is primarily due to the fact that Company has not been able to have itself registered as a broker and it does not possess TREC. The financial statements for the year ended June 30, 2015 in note 1.2 to the accounts mention this fact that the brokerage activities of the Company were suspended since 2009 due to inability of the company to maintain the required net capital balance in accordance with Rule 2(d) and Third Schedule to the Securities and Exchange Rules, 1971. Further, Naveed Zafar Ashfaq Jaffery & Company, Chartered Accountants, the auditors of the Company in their report on the accounts for the year ended June 30, 2015, while giving an adverse audit opinion have also highlighted this fact and stated that the brokerage activities of the company were suspended on November 23, 2009. The respondents have also not submitted any revival plan which could support the case for an early resumption of business activities. It is therefore established that the business operations of the Company have been suspended attracting the provision 305(c) of the Ordinance. I, therefore, in exercise of the powers conferred on me under section 309 of the Ordinance, hereby authorize the Additional Registrar, Company Registration Office, Karachi to present a petition for winding up of Javed Omer Vohra and Company Limited.

Abid Hussain
Executive Director

Announced:
May 25, 2017
Islamabad