

IN THE HIGH COURT OF SINDH AT KARACHI
(Company Jurisdiction)

J.C. Misc. No. 30 of 2017

In the Matter of Companies Act 2017

Additional Registrar of Companies,
Securities & Exchange Commission of Pakistan,
Company Registration Office, 4th Floor,
State Life Building No.2, Wallace Road,
Off: I. I. Chundrigar Road, Karachi.

----- Petitioner

Versus

Javed Omer Vohra & Company Limited,
Incorporated under the Companies Ordinance 1984,
having registered office at 507-511, Stock Exchange
Building, Stock Exchange Road, Karachi.

----- Respondent

**PETITION U/S 301 READ WITH SECTION 304 OF THE
COMPANIES ACT, 2017 AND RULE 75 OF THE
COMPANIES (COURT) RULES, 1997.**

The petitioner above named most respectfully submits as under:

1. That, the address of the Petitioner for service of all notices, processes, etc. is Securities and Exchange Commission of Pakistan, Company Registration Office, 4th Floor, State Life Building No.2, Wallace Road, Off: I. I. Chundrigar Road, Karachi.
2. That, the Respondent is a Company incorporated as a Public Limited Company on 29.12.1992, under the Companies Ordinance 1984 (now the Companies Act 2017) as Javed Omer Vohra & Company Ltd.

A copy of Certificate of Incorporation dated 29.12.1992 is filed herewith as Annexure A/1.

3. That, the registered office of the respondent as per record of the Petitioner is situated at 507-511, Stock Exchange Building, Stock Exchange Road, Karachi. The Authorized Capital of the Respondent Company is Rs.750,000,000/- divided into 75,000,000 shares of Rs.10/- each. Whereas,

Paid up Capital of the Respondent Company is Rs.508,200,000/- divided into 50,820,000 shares of Rs.10/- each.

Copy of Form A made up to 30.10.2010 is filed herewith as Annexures A/2

4. That, the main objects of the Respondent Company as per Memorandum of Association are "to act as a member of the Stock Exchanges(s) and to carry on the business of brokers in stocks, shares, securities, commodities, commercial paper, modaraba certificates, bonds, obligations, debenture-stocks, foreign currencies (including Foreign Exchange Bearer Certificates) Treasury bills and/or any financial instruments under licence or with the permission or approval of any recognized association, committee, authority stock exchange or other market whether in Pakistan or abroad." Etc.

Copies of Memorandum and Articles of Association of the Respondent Company are filed herewith as Annexures A/3 and A/4

5. That before filing this petition, the petitioner had approached the Commission (SECP) for grant of sanction in terms of section 309 (b) read with section 305 of the Companies Ordinance 1984 (now Section 304 (b) read with section 301 of the Companies Act 2017) to present a petition before this Hon'ble Court for winding up of the Respondent Company as it has failed to hold Annual General Meetings for the year ended June 30, 2011, 2012 and 2013 and to submit its quarterly and annual accounts and that the Company had suspended its business for a whole year.
6. That the competent Authority issued a Show Cause Notice dated 19.5.2014 to the CEO / Directors of the Respondent Company as to why Office of the Additional Registrar, Company Registration Office Karachi may not be given sanction to present a petition for winding up of the Respondent Company on the ground of failure of the Respondent Company to hold Annual General Meetings for the years ended June 30, 2011, 2012 and 2013 and suspension of its business for a whole year. The Respondent Company

submitted its reply to the aforesaid Show Cause Notice vide its letter dated 29.9.2014.

Copy of Show Cause Notice dated 19.5.2014 and Respondent Company's response dated 29.9.2014 are filed herewith as Annexures A/5 and A/6.

7. That pursuant to Show Cause Notice dated 19.5.2014 Respondent Company was provided hearing opportunity on 7.5.2015. The authorized representative of the Respondent Company vide letter dated 6.5.2015 stated that Respondent Company has preferred an Appeal before the Appellate Bench of SECP against Order dated 25.2.2015 passed by the Director Securities Market Division SECP whereby application of the Respondent Company for issuance of brokerage license was refused due to deficiencies including negative Net Capital Balance of Rs.307,970,652/- and requested that hearing may therefore be scheduled subsequent to a decision of the Appellate Bench SECP. It is important to mention here that previously the Respondent 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 (hereinafter referred to the 'Rules').

A copy of Order dated 25.2.2015 passed by the Director Securities Market Division SECP is filed herewith as Annexure A/7.

8. That the Appellate Bench SECP vide its Order dated 15.10.2015 remanded the case to the Director Securities Market Division SECP to decide the case afresh. The Director Securities Market Division vide its Order 21.10.2016 again refused the application of the Respondent Company for registration as broker in term of Rule 5(5) of the Rules.

Copy of Order dated 15.10.2015 of the learned Appellate Bench SECP and copy of Order dated 21.10.2016 passed by the Director Securities Market Division SECP are filed herewith as Annexures A/8 to A/9.

9. That the Respondent Company was provided an opportunity to appear on 10.2.2016 on which day the authorized representative appeared before the competent Authority. During the hearing, it was decided that the Respondent Company will submit revival plan, status of AGM for the year 2015 and status of settlement with the banks and the case will be reheard. The representative of the Respondent Company submitted written submissions 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 are in process.*
- c. *In 2011, brokerage activities of the Company were suspended by KSE (Karachi Stock Exchange) due to inadequacy of net capital balance.*
- d. *The Company had held the AGMs for the years ended June 30 2011, June 30 2012, 30 June 2013 and June 30 2014 respectively.*
- e. *The non-compliance was due to force majeure owing to filling of winding up petition by the lenders.*

Copies of Written Submissions, Attendance Sheet of Representative of Respondent Company and letter dated 10.2.2016 of SECP addressed to the Respondent Company are filed herewith as Annexures A/10, A/11 and A/12.

10. That another hearing opportunity was afforded to the Respondent Company on 5.9.2016 to follow up regarding the revival of the Company where the respondent's authorized representative was present and again submitted written submissions wherein information as previously provided was reiterated and it was informed that currently the assets were being transferred to the bank as part of settlement agreements and that the winding up petition may not be filed as the mentioned non-compliance was due to *force majeure* and beyond the company's control. However, the authorized representative also stated that after withdrawal of these petitions by the Banks the Company held all the AGMs and he submitted all the required

annual accounts. However, it was observed that the brokerage activities of the Respondent Company were still suspended.

11. That hearing was again fixed on 14.11.2016 on which date no one appeared on behalf of Respondent Company. The hearing was re-fixed for 28.11.2016 which was adjourned at the request of Respondent Company. The hearing was again held on 22.12.2016 on which date representative of Respondent Company appeared and submitted written submissions and copy of settlement agreements were provided. Further, the information and arguments as given in previous hearing were repeated. A final opportunity of hearing was fixed for 3.4.2017 which was attended by the authorized representative of the Respondent Company. It was decided therein that the Respondent Company would provide revival plan. However, no revival plan was submitted.

Copy of Notice dated 27.3.2017 for hearing on 3.4.2017 along with its Attendance sheet are filed herewith as Annexure A/13 and A/13-1

12. That the Auditor of the Respondent Company namely Naveed Zafar Ashfaq Jaffery & Co., Chartered Accountants, in their report to members for the financial year ended June 30, 2015 while making qualifications about going concern stated that brokerage activities of the Company were suspended since 23.11.2009 due to its inability to maintain the minimum net capital balance requirement in accordance with Rule 2(d) and Third Schedule to the Securities and Exchange Rules, 1971. Furthermore, the Company had failed to come up with a revival plan which remains un-submitted till today. This prima facie also confirms the fact that operations of the Company remained suspended since 2009 for which provisions of Section 301 (m) of the Companies Act 2017 are attracted.

Copy of the Annual Accounts 2015 are filed herewith as Annexure A/14.

13. That the Respondent Company has violated the mandatory provisions of the Companies Ordinance, 1984 now replaced with Companies Act 2017 ('the Act') and is liable to be wound up in terms of section 301 of the Companies Act 2017 (section 305 of the Companies Ordinance, 1984).
14. That the Competent Authority (Executive Director Corporate Supervision Department) after providing opportunity of hearings as stated above vide order dated 25.5.2017 has granted sanction to the petitioner to file the present petition for winding up of the respondent Company.

A copy of Order dated 25.5.2017 passed by the Executive Director SCD SECP is filed herewith as Annexure A/15

15. That this Hon'ble Court has jurisdiction to entertain this Petition as the Registered Office of the Respondent Company is situated at Karachi.
16. That the instant petition has been drafted in accordance with the Companies (Court) Rules, 1997 and the necessary documents are annexed with the Petition.
17. That in view of the foregoing circumstances and facts so elucidated hereinabove, the Respondent is liable to be wound up by this Honorable Court under the provisions of the Act on the following grounds:

GROUNDS

- A. That the respondent Company has violated the mandatory provisions of clause (c) of section 305 of the then Companies Ordinance 1984 now clause (m) of Section 301 the Companies Act 2017 and has failed to discharge its legal obligations as enshrined in the statutory provisions.
- B. That respondent company has suspended its business activities since 2009.
- C. That the business activities of the Respondent have remained suspended and the Respondent has failed to submit any revival plan to this date. More importantly, the Auditors while giving adverse audit opinion in the Annual Report 2015 of the Company have categorically observed that brokerage

activities of the company have remained suspended since November 23, 2009.

- D. That the Auditor of the Respondent Company has given adverse opinion in Annual Report for the year ended June 30 2015.
- E. That the petitioner has obtained sanction from the competent authority in term of section 309 of the then companies' ordinance 1984 (now Section 304 of the Companies Act 2017).
- F. The Petitioner craves the leave of this Honorable Court to urge further/additional grounds at the time of hearing

PRAYER

It is therefore, prayed that this Honorable court in the circumstances and in the interest of the justice may be pleased to Order:

- i. That the above named Respondent Company be wound up under the provisions of the Companies Act, 2017.
- ii. That any person other than the Official Assignee may kindly be appointed as an Official Liquidator since he is already the official Liquidator in numerous companies and in terms of section 315 (2) of the Companies Act 2017, no person can be appointed as an Official Liquidator in more than three (03) companies at one point of time.
- iii. Such other order as this Honorable High Court deems just and proper in the circumstances of the case.
- iv. Grant costs of the petition.


Advocate for Petitioner


For & behalf of Petitioner

Karachi
Dated: October 2017

MUHAMMAD NAEEM KHAN
Additional Registrar Of Companies
Company Registration Office
Securities & Exchange
Commission Of Pakistan
Karachi.

VERIFICATION

I, Muhammad Naeem Khan son of Muhamad Ayyub Khan, Muslim, adult, the Additional Registrar of Companies / In charge Company Registration Office, Karachi, of Securities and Exchange Commission of Pakistan having office at 4th floor, state life Building No.2, Wallace Road, Off: I. I. Chundrigar Road, Karachi, do hereby state on oath that whatever is stated hereinabove is true and correct to the best of my knowledge, information and is based on the record available with me.



DEPONENT
Cell No.0321-3780223
CNIC No.42301-4668408-9

ASSISTANT REGISTRAR-V
AFFIDAVIT & IDENTITY BRANCH
HIGH COURT OF SINDH

Identified by me.



ADVOCATE

Stated on oath before me at Karachi on 01 day of October 2017 by the deponent above named who is identified to me by Syed Imran Ali Shamsi Advocate who is known to me personally.

COMMISSIONER FOR TAKING AFFIDAVITS

To be attached with Affidavit as last Page

IN THE HIGH COURT OF SINDH, KARACHI

Judicial Companies Misc. No: - of 2017

Additional Registrar of Companies ----- PETITIONER

VERSUS

Javed Omer Vohra & Co Ltd ----- RESPONDENT

AFFIDAVIT IN SUPPORT OF SUPPORT OF PETITION

Mr. Muhammad Naeem Khan Son of Muhammad Ayub Khan, resident of House No.33 Street No.5 Jinnah Abad No.II Siddique Wahab Road Karachi Having Office at 4th Floor State Life Building No.II Wallace Road Off II Chundrigar Road Karachi, affirmed on oath before me at Karachi on this 07-NOV-2017 in the 'Identity Section' of this court.

Photograph of Deponent



Signature of Deponent

CNIC: 42301-4668408-9

Cell No. 0321-3780223

Email: NIL

Original CNIC verified by Bar Code Reader

Photo taken at I.S.

Biometric Attendance done at I.S.

Video recording done at I.S.

CNIC verified through NADRA

Finger Prints verified through NADRA

ASSISTANT REGISTRAR-V
AFFIDAVIT & IDENTITY BRANCH
HIGH COURT OF SINDH

COMMISSIONER FOR TAKING AFFIDAVIT

Tag ID: 071117330492

No. of Affidavit : 2/2

Cost received : Rs. 50

Printed on: 07-NOV-2017 at 11:30 am



Electronic Finger Print taken at I.S.

For immediate use

IN THE HIGH COURT OF SINDH AT KARACHI

JCM No. 30 of 2017

Additional Registrar of Companies

----- Petitioner

Versus

Javed Omer Vohra & Company Limited

----- Respondent

AFFIDAVIT IN SUPPORT OF PETITION

I, Muhammad Naeem Khan son of Muhammad Ayub Khan, Muslim, adult, having office at 4th Floor, State Life Building No.2, Wallace Road, Off: I. I. Chundrigar Road, Karachi, do hereby state on oath as under:-

1. That I am Additional Registrar of Companies, Company Registration Office, Karachi, Securities and Exchange Commission of Pakistan, duly authorized to file the accompanying petition for winding up against Javed Omer Vohra and Company Limited and I am fully conversant with the facts of the matter.
2. That the accompanying Petition has been drafted and filed under my instructions, contents whereof are true and correct which may be read as part and parcel of this Affidavit for brevity sake.
3. I say that it is in the best public interest that the Respondent Company be ordered to be wound up by this Hon'ble Court.

Whatever stated above is true and correct to the best of my knowledge and belief.

Deponent
CNIC No.42301-4668408-9
Cell No.0321-3780223

To be attached with Affidavit as last Page

IN THE HIGH COURT OF SINDH, KARACHI

Judicial Companies Misc. No: - of 2017

Additional Registrar of Companies ----- PETITIONER

VERSUS

Javed Omer Vohra & Co Ltd ----- RESPONDENT

AFFIDAVIT IN SUPPORT OF VERIFICATION OF PETITION

Mr. Muhammad Naeem Khan Son of Muhammad Ayub Khan, resident of House No.33 Street No 5 Jinnah Abad No II Siddique Wahab Road Karachi Having Office at 4th Floor State Life Building No. II Wallace Road Off I.I Chundrigar Road Karachi, affirmed on oath before me at Karachi on this 07-NOV-2017 in the 'Identity Section' of this court

Photograph of Deponent



Signature of Deponent

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COMMISSIONER FOR TAKING AFFIDAVIT
ASSISTANT REGISTRAR-V
AFFIDAVIT & IDENTITY BRANCH
HIGH COURT OF SINDH

Tag ID: 071117330492

No. of Affidavit: 1/2

Cost received: Rs. 50

Printed on: 07-NOV-2017 at 11:30 am



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