

Before Amir M. Khan Afridi, Director/HOD (Adjudication-I)

In the matter of Show Cause Notice issued to Mr. Asif Jamal Malik

Dates of Hearing

September 07, 2021

Order-Redacted Version

Order dated March 03, 2022 was passed by Director/Head of Department (Adjudication-I) in the matter of Mr. Asif Jamal Malik. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated April 16, 2021.
2. Name of Respondent	Mr. Asif Jamal Malik (the "Respondent"), 786 Investments Limited (the "Company")
3. Nature of Offence	Alleged contraventions of <u>regulation 4 of the Listed Companies (Substantial Acquisition of Voting shares and Takeover) Regulations, 2017 (the Takeover Regulations) and Section 110 of the Securities Act read with Section 126 of the Securities Act, 2015 (the Act).</u>
4. Action Taken	<p>Key findings were reported in the following manner:</p> <p>I have considered both the written and verbal submissions made by the Respondent and the relevant legal provisions as mentioned above and observed that:</p> <p>a. With regard to the contention of the Respondent that it entered into a fixed return loan agreement with the securities broker on October 01, 2018 and was not aware of the transactions in his account carried out in the shares of the Company, it may be noted that such agreement does not have legitimate grounds as per the prevalent regulatory framework. The content and terms and conditions of the said agreement are void. A securities broker is not allowed to enter into a fixed rate of return agreement with its clients particularly individual clients. Further, the law does not envisage any provisions for lending agreement between a securities broker and its clients. In this regard, attention is drawn towards regulation 16(2) (ka) of the Securities Brokers (Licensing & Operations) Regulations, 2016 (the Securities Brokers Regulations) which are reproduced as under:</p>

	<p><u>"16. Duties and obligations of a securities broker.</u></p> <p>(2) A securities broker shall not:</p> <p>(ka) accept any money or deposit or borrowing by whatsoever name called and in whatsoever manner from any person including an individual or any segment of public or directors and sponsors of securities broker except in the following manner:</p> <p>(i) redeemable capital issued by a securities broker or under the Companies Act;</p> <p>(ii) finance obtained by a securities broker from a financial institution;</p> <p>(iii) Advance, application or subscription money for shares of a securities broker</p> <p>(iv) Subordinated loans from directors, sponsors, or substantial shareholders of a securities broker subject to the conditions as may be imposed by the Commission from time to time;"</p> <p>In light of the aforementioned legal provisions, a securities broker cannot accept money or deposit or borrowing in whatsoever name and manner from any segment of the public. Therefore, reliance may not be placed upon the content of the said agreement. The stance taken by the Respondent in this regard is not tenable.</p> <p>b. The Respondent's submission that he did not place trading orders to acquire 3.216 million voting shares in the Company (21.28% of the total paid up share capital of the Company) and was unaware of trading activity in his account is not acceptable. Since, trading was carried out in his trading account and he was regularly receiving trading execution summary/ details, on which he never objected, he is liable for trades carried out in his account.</p> <p>In view of the above and pursuant to Section 110 of the Act, the Respondent was required to disclose the aforesaid acquisition of more than 10% shares in the Company, on the format as provided in Schedule III Company, Pakistan Stock Exchange and the Commission within two days of the said acquisition. However, it was observed that no such disclosure was made by the Respondent. Thus, the Respondent has contravened the provisions of regulation 4(2) of the Takeover Regulations and Section 110 of the Act.</p> <p>Therefore, in terms of the powers conferred under Section 126 (3) of the Act, penalty of Rs. <u>100 000/- (Rupees One Hundred Thousand Only)</u> is hereby imposed on the Respondent.</p>
5. Penalty Imposed	Rs. 100,000/-
6. Current Status of Order	Penalty deposited and No Appeal has been filed by the respondents.

