

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN  
NIC Building, Jinnah Avenue, Islamabad

*Before*

**Commissioner  
(Securities Market Division)**

*In the Matter of*

Mr. Mahboob Rabbani, Member, Islamabad Stock Exchange.....*Complainant*

*versus*

1. Mr. Farooq Zafar,  
Member, Islamabad Stock Exchange, Islamabad..... *Respondent No. 1*
2. Mr. Ajmal Khan,  
Ex-Member, Islamabad Stock Exchange, Islamabad.....*Respondent No.2*
3. Mr. Abdul Waheed Jan,  
Member, Islamabad Stock Exchange, Islamabad.....*Respondent No.3*
4. Mian Muhammad Akram,  
Member, Islamabad Stock Exchange, Islamabad.....*Respondent No.4*
5. Ch. Rasheed Randhawa,  
Member, Islamabad Stock Exchange, Islamabad.....*Respondent No.5*

Date of Hearing: *Friday 4 May, 2001*

***Present:***

1. Mr. Mahboob Rabbani, Member, ISE.....*Complainant*
2. Mr. Farooq Zafar, Member, ISE on his own behalf  
and on behalf of Respondent No. 5 .....*Respondent No. 1*
3. Mr. Ajmal Shaikh, Authorized Representative of  
Mr. Ajmal Khan, Ex-Member, ISE .....*Respondent No.2*
4. Mr. Abdul Waheed Jan, Member, ISE..... *Respondent No.3*
5. Mian Muhammad Akram, Member, ISE ..... *Respondent No.4*
6. Mr. Ahmed Noman, Deputy Secretary, ISE

**ORDER**

1. This order shall dispose off *five* complaints/claims made by Mr. Mahboob Rabbani, Member, Islamabad Stock Exchange (ISE) made against each of the aforementioned Respondent Nos. 1, 2, 3, 4 & 5.
2. By letter dated *9<sup>th</sup> August, 2000*, the Complainant Mr. Mahboob Rabbani filed a complaint against Respondent No. 1 seeking to enforce contracts executed with him for the sale and purchase of shares in Kohat Cement Company Limited

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(KCCL) in *January and February, 1995*. By *four* separate letters, each dated *23<sup>rd</sup> October, 2000*, the complainant Mr. Mahboob Rabbani filed complaints against Respondent Nos. 2, 3, 4 & 5 seeking to enforce contracts executed with him for the sale and purchase in the shares of KCCL in *January and February, 1995*.

3. The prospectus of KCCL was published on *5<sup>th</sup> December, 1994* with a public offer of Rs.102.648 million. The minimum shares per application was specified to be 200 with issue price of Rs.52/= inclusive of premium of Rs.42/=. The subscription date was *15<sup>th</sup> December, 1994* which was over subscribed 6.6 times. Balloting was held on *24<sup>th</sup> December, 1994* and KCCL was provisionally listed on the KSE and LSE on the next date i.e. *26<sup>th</sup> December, 1994* with an opening rate of Rs.56.50/=.
4. During the period from *26<sup>th</sup> December, 1994* to *19<sup>th</sup> January, 1995*, the price of subscription gradually declined to Rs.40/= and the turnover during this period remained almost normal. From *23<sup>rd</sup> January, 1995* to *2<sup>nd</sup> February, 1995*, there was massive increased in trading volume and price volatility that warranted the calling of double halla, reverse double halla and two reverse hallas. During this period, numerous complaints were received by the CLA alleging irregularities in the provisional trading of KCCL's shares.
5. Consequently, the trading in the shares of KCCL was suspended from *7<sup>th</sup> to 16<sup>th</sup> February, 1995*. An enquiry to look into the transactions of KCCL on provisional counter was ordered under section 21 of the Securities and Exchange Ordinance, 1969. Mr. M. Ayub Qureshi, the then Director (C), CLA was appointed as enquiry officer and Mr. Sabir Hussain Jafri, the then Assistant Chief, CLA was deputed to assist the enquiry proceedings.
6. The Enquiry Committee submitted its report on *15<sup>th</sup> February, 1995* (Enquiry Report). The report comprises *thirteen* pages and *seven* pages of annexures. CLA by its order dated *6<sup>th</sup> March, 1995* suspended provisional trading in the KCCL's shares and directed that the provisional trading regulations of the LSE and KSE be held in abeyance till final decision in respect of these transactions.
7. Thereafter, Mr. Shamim Ahmed Khan, the then Chairman, CLA issued an order in respect of these transactions on *21<sup>st</sup> March, 1995* (the "Order").
8. The subject matter of the present complaint is in respect of contracts executed by the Complainant in the shares of KCCL with each of Respondent Nos. 1,2,3,4 & 5 outside the ambit of the clearing house since the KCCL's shares were not provisionally listed at ISE. The settlement of the said deals were not enforced by ISE as the erstwhile Corporate Law Authority (CLA) had declared all the transactions in the shares of the KCCL executed at ISE as irregular. The complaint against Respondent No. 1 had been taken up by the Floor Committee of ISE in its meeting held on *25<sup>th</sup> September, 1998* and, after hearing the parties, rejected the complaint and decision communicated vide ISE's letter no. CB-07(2)/3930 dated *28<sup>th</sup> September, 1998* to the complainant. He was also informed by the ISE vide their letter No. CB-07(2)/4336 dated *10<sup>th</sup> November,*

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1998 that his complaints against other ISE members 'could not be processed' by ISE since 'the CLA has declared void all transactions in the shares of Kohat Cement.'

9. In the Complainant's letters to the Commission including his letter dated 10<sup>th</sup> October, 2000 and letter No. MR/786 dated 15<sup>th</sup> November, 2000, the Complainant stated that the then Chairman, CLA went out of his way to emphasise the sanctity of the mutual deals in respect of transactions in the shares of KCCL and the need to honour them at all costs; according to him the CLA had issued clear cut directives to honour inter-member deals in the shares of the KCCL.
10. The Commission by its letters of 16 February, 2001 to the Complainant and the Respondent No. 1 directed them to resolve their differences mutually within *fourteen* days failing which a hearing of the subject complaint before the Executive Director (Securities Market) would be called to decide the matter. The Respondent No. 1 by his letter dated 28 February, 2001 to the Commission stated that the dispute with the Complainant had already been taken up with the Floor Committee who rejected the latter's claims. According to him, there is no outstanding matter. However he indicated that he would make himself available for a hearing of the subject complaint if the Commission felt that Mr. Rabbani's claim has merit.
11. Since there was no communication of the resolution of the dispute, the Commission called the parties to a hearing of the subject complaint on 29<sup>th</sup> March, 2001. However, the hearing was adjourned.
12. The matter came up for hearing before me on 4<sup>th</sup> May, 2001 since the Executive Director (Securities Market) was not available.
13. At this hearing the Complainant, Respondent No. 1, Respondent No. 3 and Respondent No. 4 appeared in person; Mr. Ajmal Sheikh represented Respondent No. 2; Respondent No. 1 represented Respondent No. 5. Deputy Secretary, ISE also attended. Mr. Aamer Masood, Director, Ms. Ayesha Shaikh, Deputy Director and Ms. Sumbul Naved Qureshi, Junior Executive represented the Securities Market Division of the Commission and facilitated the proceedings at the hearings.
14. The proceedings were recorded in long hand by Ms. Sumbul Naved Qureshi, Junior Executive, Securities Market Division of the Commission, which were duly confirmed at the conclusion of the hearing by affixation of their respective signature at the end and initials at the bottom of each page, and are being reproduced hereunder: -

Mr. Mahboob Rabbani stated as follows:-

- i. That certain transactions between other members of ISE in respect of the Kohat Cement shares have not been honored. The transactions related to the period early 1995.*

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ii. *That claims were lodged with each of the 5 brokers namely:-*

- a. *Mr. Farooq Zafar*
- b. *Mr. Rasheed Randhawa*
- c. *Mr. Waheed Jan*
- d. *Mian Muhammad Akram*
- e. *Mr. Ajmal Khan*

*on 24<sup>th</sup> September, 1996, with details of the contracts executed and the copy of the same forwarded to Chairman, Floor Committee, ISE and Chairman, ISE.*

iii. *That the Order dated 21<sup>st</sup> March, 1995 by the then Chairman, CLA was received and read by him.*

Mr. Farooq Zafar, Member, ISE (Respondent No. 1) stated as follows:-

- i. *That the inter member transactions relating to Kohat Cement shares were excluded from the purview of the Order dated 21<sup>st</sup> March, 1995 of Mr. Shamim Ahmad Khan, the then Chairman, CLA. Paragraph 9 of the said Order has spelt out the procedure of outstanding transactions to be followed vis-à-vis Kohat Cement shares.*
- ii. *That item iii(e) (Page 5) of the CLA Order states that transactions entered into by the Members among themselves can be treated as irregular.*
- iii. *Trades were entered into on behalf of his clients as was in the case of other members of ISE, and by virtue of the CLA Order dated 21<sup>st</sup> March, 1995, the members of ISE were stopped from making any inter-se settlements.*
- iv. *The list of all transactions, which rests with CLA, will reflect all transactions and the netting off of those transactions would show in its entirety that it is a zero sum game.*
- v. *That the directives of the then CLA were duly complied by all members. Two members Mr. Mahboob Rabbani and Malik Ejaz filed their complaints and wanted that the Kohat Cement transactions between ISE members and the shares be honored in disregard to CLA directive.*
- vi. *Malik Ejaz withdrew his complaint after receiving clarification of the CLA Order vide letter dated 10<sup>th</sup> July, 1996, issued by the then Chief, CLA Mr. Javed Panni.*
- vii. *That all the transactions relating to members of ISE inter-se in respect of Kohat Cement are contractual obligations which are valid and could be honored but for the fact that there was no provisional counter facility on the ISE and all transactions were executed privately outside the clearing house of ISE and in compliance of CLA Order.*

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- viii. *That these inter-se transactions by members of ISE have been excluded from settlement by virtue of paragraph 3(vi)(e) read with para 9(i)(a).*
- ix. *That if all transactions are seen in its entirety, my brokerage house has 3 lacs as a net recoverable from other members based on price of Rs.58/- on the date of settlement. In consequence of the CLA Order, on which the concerned members, approximately 38 in all agreed.*

Mr. Abdul Waheed Jan states as follows:-

- i. *That the point of view stated by Mr. Farooq Zafar is being adopted by him in substance.*
- ii. *That while Mr. Malik Ejaz sought clarification of the CLA Order dated 21<sup>st</sup> March, 1995 which was duly responded by Mr. Javed Panni vide letter dated 10<sup>th</sup> July, 1996. The complainant, Mr. Rabbani failed to seek any clarification or lodge any claim against any member or the ISE itself till 10<sup>th</sup> August, 1996.*

Mian Muhammad Akram states as follows:-

- i. *That he substantially adopts the view point stated Mr. Farooq Zafar and Mr. Abdul Waheed Jan.*
- ii. *That I have not dishonored any commitment with any member or any client and this proven track record is clearly verifiable and relates to all transactions through KSE, LSE and ISE.*
- iii. *That the complainant required to deliver 8000 Kohat Cement shares, despite follow up the shares were never available and the question of any payment does not arise.*
- iv. *That generally it was felt that there is dearth of physical shares available for delivery and, therefore, the settlement could not take place especially in the first two clearings.*

Mr. Ajmal Shaikh states as follows:-

- i. *That he substantially adopts the statements by Mr. Farooq Zafar and Mr. Waheed Jan.*
- ii. *That amounts or securities held on behalf of clients vis-à-vis of trade in Kohat Cement were duly returned to the respective clients in pursuance of the CLA Order dated 21<sup>st</sup> March, 1995.*
- iii. *That this fact of repayments to clients will be fully supported by documents which could be furnished in the next 3 days.*

Mr. Farooq Zafar representing Ch. Muhammad Rasheed Randhawa states that as spelt in all the previous paragraphs will bind Ch. Rasheed Randhawa and he will be held fully responsible.

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Mr. Ahmed Noman, Deputy Secretary, ISE will furnish copy of the Provisional Listing Regulations of the ISE duly authenticated and subsequent amendments made thereto.

15. Before framing this order, I am in receipt of the Complainant's letter bearing reference MR/786 dated 15 May, 2001 alongwith ten sets of enclosures marked Annexures A to J restating the enforceability of transactions in shares of KCCL entered into between him and each of the Respondent Nos. 1,2,3,4 & 5. Included in Annexure I is a copy of letter no. M-07/2000/9279 dated 13 November, 2000 of ISE addressed to the Complainant which clearly indicates that the rejection of his complaint by the Floor Committee of ISE was duly communicated to him letter of 28 September, 1998 and subsequently clarified by ISE's letter of 10 November, 1998 in respect of his trade in KCCL's shares.
16. The issues that require to be determined are as follows: -
  - i. Whether or not the complaints as lodged by the Complainant are maintainable.
  - ii. Whether or not the subject transactions are enforceable against each of the Respondent Nos. 1,2,3,4 & 5.
17. Paragraph 4 of the CLA Enquiry Report dated 15<sup>th</sup> February, 1995 on alleged irregularities committed by members of three stock exchanges in the provisional trading of KCCL is reproduced hereunder: -

*"The position of the ISE is absolutely different from the other two stock exchanges as the ISE has not as yet notified its regulations for the provisional trading and has not officially commenced the provisional trading in its stock exchanges. Thus, the members who have been indulging in trading had no control what so ever. The members have been trading either with their co-members in KSE or LSE but there have been complaints of massive trading amongst the members, which can not be recognized as lawful as provisional trading is allowed to members of a stock exchange after meeting certain requirements under the rules governing conduct of provisional trading. Delegates after delegate representing affected investors from Islamabad have vehemently alleged that members of ISE resorted to massive short-selling, which is prohibited under the law. Some of the requirements are mentioned below for elaboration."*
18. The Order, comprising nine parts, elaborates the factors encompassing the transactions in the shares of KCCL at all three bourses, viz, KSE, LSE & ISE in its first eight parts. Part 9 of the Order is the operative part of the Order. The following paragraphs throw light on the aspect of ISE members' inter-se transactions in the shares of KCCL: -

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Paragraph 3(vi)(e) :

*"the transactions entered into by the members of Islamabad Stock Exchange among themselves can be treated as irregular since the ISE has not yet introduced provisional listing of shares."*

Paragraph 9(ii) :

*"transactions between the Members outside the trading houses upto the date of suspension of the trading will be settled between the Members."*

19. The CLA vide its letter No. 1(11)MISC/SE/95(Part) dated 10<sup>th</sup> July, 1996 of Mr. M. Javed Panni, the then Chief (Securities) addressed to Malik Ejaz Anwar, Member, ISE clarified that *"trading among the members of the Exchange was thus not authorized."*
20. It is abundantly clear that KCCL's shares were not provisionally listed at ISE since no rules for provisional listing had been in force at the relevant time. Further, the ISE members' inter-se transactions were executed outside the framework of the Clearing house rules thereby rendering them irregular and unenforceable.
21. Since the Order has comprehensively tackled all aspects related to the transactions in the shares of KCCL made during *January and February, 1995* that encompasses the claims made in the subject complaints, the *five* complaints lodged by the Complainant against each of the Respondents 1, 2, 3, 4 & 5 are not sustainable.
22. For the above-mentioned reasons, the *five* complaints/claims made by Mr. Mahboob Rabbani, Member, ISE, the Complainant, made against each of the Respondents 1,2,3,4 & 5 are dismissed.

24 May, 2001

**N. K. SHAHANI**  
**Commissioner**  
**(Securities Market & Insurance Divisions)**