



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN  
(Securities Market Division)

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Before The Director (Securities Market Division)

In the matter of Show Cause Notice issued to

Dosslani's Securities (Pvt.) Limited

Under Rule 8 read With Rule 12 of The Brokers and Agents Registration Rules, 2001

Number and Date of Notice	No. MSW/SMD/LSE/1(5)2006/52 dated August 29, 2007
Date of Hearing	September 07, 2007
Present at the Hearing:	Mr. Umair Butt - Director
Date of Order	December 27, 2007

ORDER

1. This order shall dispose of the proceedings initiated through Show Cause Notice bearing No. MSW/SMD/LSE/1(5)2006/52 dated August 29, 2007 ("**the SCN**") issued to Dosslani's Securities (Pvt.) Limited ("**the Respondent**"), member of the Lahore Stock Exchange (Guarantee) Ltd ("**LSE**") by the Securities and Exchange Commission of Pakistan ("**the Commission**") under Rule 8 of the Brokers and Registration Rules, 2001 ("**the Brokers Rules**") for violation of Rule 12 of the Brokers Rules and clause A5 of the Code of Conduct contained in the Third Schedule of the Brokers Rules.
2. The brief facts of this case are that the Respondent is a member of LSE and is registered with the Commission under the Brokers Rules. An enquiry was initiated by the Commission in exercise of its powers under Section 21 of the Securities and Exchange Ordinance, 1969 ("**the Ordinance**") and KPMG Taseer Hadi & Co. ("**the Enquiry Officer**") was appointed as the Enquiry Officer under the above mentioned section inter alia:
  - (a) to enquire into the dealings, business or any transaction by the Respondent during the period from April 01, 2006 to June 15, 2006 ("**the Review Period**").
  - (b) to identify any and all the acts or omissions constituting the violation of the Ordinance and the Rules made thereunder.
  - (c) to identify violations of any other applicable laws, including but not limited to the Brokers Rules, Regulations for Short Selling under Ready Market, 2002 ("**Short Selling Regulations**"), General Rules and Regulations of LSE, Securities and Exchange Rules 1971 ("**the 1971 Rules**") and directives issued by Commission from time to time.
3. The findings of the Enquiry Officer revealed several instances of potential non compliances with applicable laws and regulations. A copy of Enquiry Report was sent to the Respondent on May 14, 2007 which required Respondent to provide explanations on the observations of the Enquiry Officer together with supporting documents.



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4. After perusal of the Respondent's replies to the above mentioned letter, which did not adequately explain the positions, the SCN was issued to the Respondent under Rules 8 of the Brokers Rules stating that the Respondent has prima facie contravened Rule 12 of the Brokers Rules read with Clause A5 of the Code of Conduct contained in the Third Schedule of the Brokers Rules which are reproduced as under:

**Rule 12-** "A broker holding a certificate of registration under these rules shall abide by the Code of Conduct specified in the Third Schedule".

**Clause A5 of the Code of Conduct-** "A broker shall abide by all the provisions of the Act and the rules, regulations issued by the Commission and the stock exchange from time to time as may be applicable to him".

5. On August 29, 2007, the Respondent was called upon to show cause in writing within seven days and appear before the undersigned on September 07, 2007 for a hearing, to be attended either in person and/or through an authorized representative.
6. The hearing was attended by Mr. Umair Butt, director of the Respondent, who argued the case and also submitted written reply dated September 05, 2007.
7. A summary of contentions and objections raised by the Respondent in its written submissions and during the hearing and findings and conclusion of the Commission on the same is as follows:

8. **Blank Sales ("Issue No. 1")**

- 8.1 In terms of Regulation 4 of the Short Selling Regulations, Blank Sales are not permissible and in terms of Regulation 5 of the Short Selling Regulations, it is provided that:

"No Member shall make a Short Sale unless:

- a. Prior contractual borrowing arrangement has been made.
- b. The sale is made at an uptick, and
- c. The trade is identified as a Short Sale at the time of placement of order"

- 8.2 The findings of the Enquiry Officer's report revealed 330 instances of Blank Sales during the Review Period.

- 8.3 The Respondent made the following submissions on the issue:

- In its written reply the Respondent with reference to 124 instances given at serial number 1-20 and 37-140 of the Annexure – A ("**the Annexure**") stated that they were result of errors as its clients sold shares over and above their holding position by mistake.
- With reference to 190 instances of Blank Sales given at serial number 141-330 of the Annexure the Respondent in its written reply and during the hearing stated that the clients to whom these Blank Sales pertain informed the Respondent that they had shares available with other brokerage houses or in their CDC Investor Accounts and same will be transferred to the Respondent soon. However, later on the clients squared their positions.



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- With regard to 16 instances of Blank Sales mentioned at serial number 21 - 36 of the Annexure the Respondent stated that the client had holding of National Bank of Pakistan ("NBP") shares on the date of Blank Sales and same were pledged with the bank for margin financing. In this connection the Respondent vide letter dated September 11, 2007 submitted CDC statement of House Account for NBP shares dated April 25, 2006 showing pledge of 147,500 shares.
- The Respondent further stated that it has CTRF installed at its terminals which restricts execution of Blank Sales. However, during the review period CTRF malfunctioned as a result some Blank Sales were executed.
- The Respondent in his written reply and during the hearing further stated that the trades mentioned in the Annexure constitutes only 0.05% of the total transactions that took place at Respondent's house during the year in question, which shows that it has been able to keep a check on Blank Sales.

8.4 I have considered the contentions of the Respondent and the issues raised therein and the same are addressed by me below:

- With regard to the 124 instances of Blank Sales, where the Respondent has claimed that the same occurred due to error. It is clear that the Respondent executed the Blank Sales as reported in the Enquiry Report. However, the Respondent assertion that the said instances were result of mistake and problem with the CTRF does not absolve it from its obligation to comply with Short Selling Regulation. It may further be noted that Code of Conduct set forth under the Third Schedule of Brokers Rules requires that a broker should at all time exercise due care, skill and diligence and should ensure that proper system and controls are in place. Had the Respondent exercised due care, skill and diligence the trades in question would have not occurred.
- With reference to the 190 instances of Blank Sales where Respondent asserted that the clients had agreed to provide delivery from other houses or their CDC sub-account, I am of the view that this assertion can not be accepted on the ground that every trade executed from the Respondent's terminal is its responsibility. The Respondent should have been vigilant and obtained documentary evidence before hand from its clients to ensure that all the requirements of the applicable rules and regulations are met. The Respondent was provided ample time to arrange the said documentary evidence from its clients but it remained unable to provide the same.
- With regard to the 16 instances where Respondent claimed that the clients had delivery of shares before sale and same were under pledge with bank against margin finance, it was noted that the Respondent provided pledge statement of the house account and not the client's CDC-sub account. Further it is not possible to substantiate from the CDC statement that the shares pledged belonged to the client and whether same were pledged with the Bank or Stock Exchange. Therefore, the CDC statement can not be accepted as a sufficient proof that the client had pre-existing interest in the shares before sale.



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- Further the Respondent's contention that the trades in question only constitute a small percentage of the total number of trades executed by it during 2006 can not be accepted as a justification for execution of the Blank Sales. The Respondent should also keep in mind the fact that the Enquiry Report only covers a period of two and half months and keeping in view the time period covered by the Enquiry Report 330 instances of Blank Sales do represent considerable number of trades.

8.5 Considering the above facts and the contentions of the Respondent, it is an established fact that on 330 occasions Blank Sales have been made in violation of Regulation 4 of the Short Selling Regulations. In terms of Rule 8 of the Brokers Rules, sub rule (ii) where the Commission is of the opinion that a broker has inter alia failed to comply with any requirements of the Act or the Ordinance or of any rules or directions made or given thereunder, in terms of sub rule (iii) has contravened the rules and regulations of the exchange, in terms of and sub rule (iv) has failed to follow any requirement of the Code of Conduct laid down in the Third Schedule, the Commission may in the public interest, take action under Rule 8(a) or (b) of the Brokers Rules.

8.6 In light of the above i.e. the fact that the Respondent by making Blank Sales, has violated the Short Selling Regulations thereby attracting sub rule (iii) of the Rule 8 of the Brokers Rule and has also failed to comply with Clause A5 of the Code of Conduct contained in the Third Schedule to the Brokers Rules, thereby, attracting sub rule (iv) of the Rule 8 of the Brokers Rule. Accordingly, a penalty of Rs. 75,000/- (Rupees Seventy Five Thousand only) is hereby imposed on the Respondent under Rule 8 (b) of the Brokers Rules.

9. **Account Opening Forms ("Issue No. 2")**

9.1 In terms of Commission's Directive No. SMD/SE/2(89) 2003 dated July 23, 2003 which requires all the members-brokers to maintain Account Opening Form(s) ("the AOF(s)") in conformity with the Standardized Account Opening Form ("the SAOF") prescribed by the Commission and subsequent changes made to the SAOF vide letters No. SMD/SE/2(89) 2003, dated November 19, 2003 and January 20, 2004. Subsequently this SAOF was also made part of LSE General Rules and Regulations as Chapter VIII. The said directives of the Commission require:

- i) All the CNICs copies attached with the AOFs should be attested.
- ii) A list of Transaction fee, Commission to be charged by the Broker and other CDC charges to be levied should be attached with the AOFs.

9.2 Findings of the Enquiry Officer revealed that the Copies of CNICs of the customers attached with AOFs were not attested and list of Transaction fee, Commission to be charged by the Broker and other CDC charges to be levied was not attached with the AOFs.

9.3 The Respondent made the following submission on this issue:

- The Respondent in its earlier written reply contended that "formal approval of commission rates" is available on the account statement which is accepted by the clients. However, during the hearing the



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Respondent acknowledged that they are now complying with the requirement of attaching the list of charges with the AOFs and requested for a lenient view.

- In its written reply the Respondent stated that attestation of CNICs of clients is not its responsibility. The Respondent further asserted that he always indicate the attestation requirement to the clients, to which the clients showed their original CNIC.

9.4 I have considered the contentions of the Respondent and the issues raised therein and the same are addressed by me below:

- With regard to the contention of the Respondent about list of charges, I do not agree with the Respondent's point of view that giving commission rates on the account statement/trade confirmation suffices the requirement of attaching the list of charges with the AOFs. It may be noted that enclosing the list of charges with the AOF makes it part of the AOF which is the basic agreement between the broker and its clients and in any case of dispute between them all the matters can be resolved based on the basis of clauses of the AOF. Further, the point 5 of the enclosure requirements given at the end of the SOAF requires that the said list should be attached with the AOF. Therefore, by not attaching the said list with the AOF the Respondent has failed to comply with the directives of the Commission.
- With regard to the Respondent's assertion about attested copies of CNIC, I again do not agree with the Respondent. It may be noted that the point 1 of the enclosure requirements given at the end of the SOAF requires that attested copy of applicants' CNIC should be enclosed with the AOF. It was the responsibility of the Respondent that before opening of account he should insist on attested copy of CNIC.

9.5 Considering the above facts and the contentions of the Respondent, it is established that Respondent has failed to comply with Commission's directives and General Rules and Regulations of the LSE. In terms of Rule 8 of the Brokers Rules, more particularly sub rule (iii) and sub rule (v) therefore, where the Commission is of the opinion that a broker has inter alia failed to comply with any requirements of the any directions of the Commission and/or has contravened the rules and regulations of the Exchange and/or has failed to follow any requirement of the Code of Conduct laid down in the Third Schedule, it may in the public interest, take action under Rule 8(a) or (b) of the Brokers Rules.

9.6 In light of the above i.e. the fact the Respondent failed to comply with Commission's directive thereby attracting sub rule (v) of the Rule 8 of the Brokers Rule. However, based on the Respondent's statement that it has already taken corrective actions and assured the Commission that such violations will not occur in future, I am inclined, on this occasion, to take a lenient view in the matter and will not take any punitive action under Rule 8 of the Brokers Rules. As such, I believe a 'caution' in these instances to the Respondent would suffice and I would further direct the Respondent to ensure that full compliance be made of all rules, regulations and directives of the Commission in the future for avoiding any punitive action under the law.



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10. **Order Register ("Issue No. 3")**

10.1 In terms of Rule 4(1) of the 1971 Rules it is provided that:

"All orders to buy or sell securities which a member may receive shall be entered, in the chronological order, in a register to be maintained by him in a form which shows the name and address of the person who placed the order, the name and number of the securities to be bought or sold, the nature of transaction and the limitation, if any, as to the price of the securities or the period for which the order is to be valid."

10.2 The findings of the Enquiry Officer revealed that the register as mentioned above was not maintained by the Broker during the Review Period.

10.3 The Respondent made the following submission on the aforementioned issue:

- The Respondent in its written reply asserted that electronic ledger as maintained today fulfills the requirements of abovementioned section. The Respondent further asserted that the said section was incorporated when manual trading systems were prevalent in the stock market.
- During the hearing the Respondent stated that now a day due to high volume and speed of trading it is practically impossible to maintain order register. However, after the Enquiry it has started to maintain the Order Register.

10.4 I have considered the contentions of the Respondent and I am of the view that electronic ledgers or the Daily Activity Log as mentioned by the Respondent is not a substitute for the Order Register as required under the Rule 4(1) of the 1971 Rules. The aforementioned Logs only records those orders that are placed by the broker into LOTS and not the orders received from the clients. Further, the said log only records the time of placement of order into the system and not the time of receipt of order.

10.5 Commission is also cognizant of the practical difficulties associated with the maintenance of such an Order Register manually. However, it is noted with disappointment that the brokerage house and exchanges were not able to keep pace with evolution in technology and significant increase in trading activities whereby a system should have been developed to enable simultaneous recording of orders received from clients and their incorporation in a database to generate the Order Register as required under the Rule 4(1) of the 1971 Rules.

10.6 Considering the above motioned fact I am inclined, on this occasion, to take a lenient view in the matter and will not take any punitive action under Rule 8 of the Brokers Rules. As such, I believe that a caution in this instance to the Respondent would suffice and I would further direct the Respondent to ensure that full compliance be made of all the laws, regulations and directives of the Commission in future for avoiding any punitive action under the law.

11. **Separate Bank Account for Clients Funds ("Issue No. 4")**

11.1 In terms Commission's directive No. SMD/SE 2(20)/2002 dated March 4, 2005 states:



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"The exchanges are to ensure that brokers follow the practice of segregating clients' assets from the broker's assets in order to ensure that clients' assets are not misused.

For this purpose brokers should have one separate bank account which includes all the cash deposits of their clients along-with records/breakdown of client positions."

11.2 The findings of the Enquiry Officer revealed that the Respondent was not maintaining separate bank account for clients' funds.

11.3 The Respondent made the following submission on the aforementioned issue;

- Respondent stated that it is the client who always directs the Respondent and according to their directions funds are transferred fairly and transparently as prescribed under the law.
- Further, during different discussions and meeting in LSE and the Commission it has been highlighted that separate bank account for every clients' funds is practically impossible to operate in fluctuating business

11.4 I have considered the contentions of the Respondent and I am of the view that the Respondent has failed to understand the Commission's directive No. SMD/SE 2(20)/2002 dated March 4, 2005. The said directive requires the members to maintain one separate bank account in which only the clients' funds are to be placed in order is to keep the members from using clients' funds for their own purposes. The same fact was also put before the Respondent during the hearing to which the Respondent agreed to maintain a separate bank account as required under the said directive.

11.5 Considering the above motioned fact I am inclined, on this occasion, to take a lenient view in the matter and will not take any punitive action under Rule 8 of the Brokers Rules. As such, I believe that a caution in this instance to the Respondent would suffice and I would further direct the Respondent to ensure that full compliance be made of all the laws, Regulations and directives of the Commission in future for avoiding any punitive action under the law.

12 **Use of Wrong Client Code ("Issue No. 5")**

12.1 AND WHEREAS, in terms of Clause A 1 and A 2 of the Code of Conduct contained in the Third Schedule read with Rule 12 of the Brokers & Agents Registration Rules, 2001, it is provided that:

A- 1 "A broker shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business"

A-2 "A broker shall act with due skill, care and diligence in the conduct of all his business."

12.2 AND WHEREAS, findings of the Enquiry Officer revealed various instances where wrong client codes were entered into LOTS at the time of placing clients' orders.

12.3 The Respondent made the following submission on this issue:



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- The Respondent in its written reply stated that wrong client codes were not used intentionally. However, it has corrected the same and obtained confirmation of the clients on the same day.
- However, during the hearing the Respondent stated that the instances of wrong client codes belong to its clients who requested the Respondent to bifurcate his trades into different accounts being managed by him. However, no written proof of the client's request was provided by the Respondent.

12.4 I have considered the contention of the Respondent and the issues raised therein and am of the view that in order to ensure the practice of fair trade and due skill, care and diligence in conduct of business, it is imperative that correct client codes should be used for the clients while executing trades. Subsequent modification trades and their allocation to other customers create opportunities to disguise any violation of law and regulations that might have occurred. The subsequent bifurcation of trades among different customers also compromises the transparency in the trading and allows the brokers to bifurcation of trades as he deem fit thus jeopardizing the interest of clients. Therefore, by using wrong client's codes the Respondent has failed to exercise due skill, care and diligence and has also adopted a questionable practice.

12.5 In light of the above the Respondent has failed to comply the Clause A1 and A2 of the Code of Conduct contained in the Third Schedule to the Brokers Rules, thereby attracting sub rule (iv) of the Rule 8 of the Broker Rules. Accordingly, a penalty of Rs. 1,000 (Rupees One Thousand) is hereby imposed on the Respondent under Rule 8 (b) of the Brokers Rules.

13 As stated above, the Respondent is penalized as follows:

- a) As regards Issue No1 and 5, as stated above, a penalty of Rs. 76,000/- (Rupees Seventy Six Thousand only) is imposed.
- b) No punitive action is taken in relation to Issue No. 2, 3 and 4 and a simple caution will suffice.

13.1 The matter is disposed of in the above manner and the Respondent is directed to deposit the fine with the Commission not later than fifteen (15) days from the receipt of this Order.

Imran Inayat Butt  
Director (SM)  
Securities Market Division