

**SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN**  
NIC Building, Jinnah Avenue, Blue Area, Islamabad.

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**BEFORE THE DIRECTOR (SECURITIES MARKET DIVISION)**

**IN THE MATTER OF SHOW CAUSE NOTICE DATED 07/09/2005  
ISSUED TO MOTIWALA SECURITIES (PVT.) LTD., MEMBER-KSE**

**Date of Hearing**

**22<sup>nd</sup> September 2005**

**Present at the Hearing:**

*Representing Motiwala Securities (Pvt.) Limited*

*Mr. Shahid Ali Habib, Chief Executive*

**To Assist the Director (SM):**

*Mr. Shaukat Hameed, Joint Director*

**ORDER**

1. The matter arises out of a Show Cause Notice dated 07/09/2005 (hereinafter referred to as "the Notice") issued by the Securities and Exchange Commission of Pakistan (hereinafter referred to as "the Commission") to Motiwala Securities (Pvt.) Limited (hereinafter referred to as "the Respondent") Member-broker Karachi Stock Exchange (Guarantee) Limited (hereinafter referred to as "the KSE").
2. Brief facts of this case are that between 9<sup>th</sup> March 2005 and 31<sup>st</sup> March, 2005, the Respondent carried out 12 trades of the shares involving total 239,100 shares of Oil & Gas Development Company ("OGDC"), Pakistan Oilfields Limited ("POL"), Pakistan State Oil Limited ("PSO") and Pakistan Telecommunication Company Limited ("PTCL") through the Karachi Automated Trading System ("KATS") at KSE on behalf of its four clients.
3. In the course of these trades, the Respondent purchased and sold, on behalf of four clients, 236,000 shares of OGDC, 500 shares of POL, 100 shares of PSO and 2,500 shares of PTCL. Each of these trades cancelled each other out with the effect that there was no change in the beneficial ownership of the shares.
4. This practice on the part of the Respondent is likely to interfere with the fair and smooth functioning of the market by creating a false and misleading appearance of trading activity in the scrips mentioned hereinabove. Such

practices are contrary to the behavior expected of a broker and are detrimental to the investors' interests.

5. The Commission obtained the KATS data from the KSE for the relevant period which showed that during the month of March 2005 the Respondent had executed the following trades which cancelled each other out and did not result in a change in beneficial ownership:

<b>Date</b>	<b>Client Code</b>	<b>Name of Share</b>	<b>No. of Shares</b>	<b>Purchase &amp; Sale Rate</b>	<b>Time of Execution</b>
14/03/2005	AFTAB	OGDC-REG	17,400	172.55	1245080038
16/03/2005	AFTAB	OGDC-REG	30,000	190.60	1108520005
18/03/2005	AFTAB	OGDC-REG	2,600	170.30	1038170018
18/03/2005	AFTAB	OGDC-REG	125,000	167.90	1549430017
30/03/2005	2202	OGDC-REG	7,000	128.50	1350260050
30/03/2005	2202	OGDC-REG	50,000	117.40	1404440056
30/03/2005	2202	OGDC-REG	4,000	117.90	1405040005
9/03/2005	109	POL-REG	200	354.10	1400030118
16/03/2005	1823	POL-REG	100	337.15	1203470030
21/03/2005	1823	POL-REG	200	296.55	1048010038
31/03/2005	2202	PSO-REG	100	438.50	1212190007
31/03/2005	2202	PTC-REG	2,500	72.95	1213360011
		Total	239,100		

6. In view of the aforesaid data, the Commission issued the Notice to the Respondent. In this Notice, the details of the aforesaid facts were provided and the Respondent was asked to show cause as to why action should not be initiated against it under the Brokers and Agents Registration Rules 2001 ("the Rules"). A copy of the summary of the KATS data was also sent to the Respondent so that it would have the opportunity of answering the same. The Respondent was asked to submit a written reply to the Notice within seven days from the date of the Notice and first hearing was fixed in Islamabad for 22/09/2005.
7. The Respondent submitted a written reply to the Notice on 14/09/2005. Further, on the date of hearing, Mr. Shahid Ali Habib - Chief Executive of the Respondent appeared in person before me. The main points raised by the Respondent in its written reply and in the course of hearing are as follows:
- (a) The Respondent accepted to have executed all 12 trades detailed in the Notice dated 07/09/2005 in the scrips of OGDC, POL, PSO and PTC.

- (b) The Codes mentioned in the Annexure-A of the Notice are not “clients’ codes” but these are “dealers’ codes” allocated to different dealers of the Respondent.
- (c) The orders for purchase and sale of trades mentioned in Annexure-A to the Notice are owned by different clients and therefore these cannot cancel each other out. There is a change in beneficial ownership of the shares for each transaction mentioned in Annexure-A to the Notice.
- (d) The use of dealers’ codes in its house is temporary and after the trading hours these trades are posted in the back office to the respective clients’ accounts on whose behalf these orders have been executed by the dealers.
- (e) The Respondent informed that it has approximately 500 clients, out of which approximately 350 clients are active. Further, it has 14 equity dealers who take orders for purchase and sale of shares from the clients of the Respondent. These dealers are appointed on salary cum commission basis. The Respondent has 7 KATS operators in its house. The back office is maintained by 6 employees. The Respondent submitted copies of the appointment letters of four dealers and NICs, account opening forms and difference bills of the clients who traded through its dealers for the trades identified in Annexure-A of the Notice.
- (f) The Respondent during the hearing also contended that it uses client’s code and dealers’ code for entering orders into the KATS. For placing the orders into KATS, in almost 70% of the cases, the Respondent uses client code and for rest of the trades it uses dealers’ codes while entering the orders of its clients in KATS at the KSE. The Respondent further explained that dealers’ codes are used when there is high volatility in the market which requires promptness for entering the orders of the clients in KATS.
- (g) The Respondent also explained that after the close of the market, trading data for the house is downloaded from KATS by its back office staff and transferred / posted to back office record for the respective clients. The daily positions of clients where client codes are entered into KATS are updated automatically in the back office record on the basis of clients’ codes mentioned in the KATS sheet. However, for the trades

which bear dealers' code, trades carried out in the name of respective dealers are printed and handed over to dealers whereupon the dealers allocate trades to the respective clients in their handwriting on the basis of order sheets being maintained by them and then these trades are posted and allocated manually in the back office record to the respective clients accounts.

8. On the basis of the aforesaid contentions the Respondent stated that it has not failed to observe Code of Conduct for brokers as provided in the Rules. The Respondent emphasized that it has always maintained high standards of integrity, promptitude and fairness and exercised due care and skill in the conduct of its business and never indulged in activities which have interfered with the fair and smooth functioning of the market and have never been detrimental to the investor's interest. In view of the foregoing, the Respondent requested that no action be taken against it.
9. I have heard the views and contentions of the Respondent at length and after carefully examining the record, I find that the following issues arise out of this matter:
  - (a) Whether the acts of commission and omission as alleged against the Respondent constitute a breach of the Rules? If so, up to what extent?
  - (b) What should the order be?

Each of these issues has been examined seriatim:

- (i) In the course of written as well as oral contentions, the Respondent has admitted that the Respondent carried out all 12 trades detailed in the Notice. The Respondent during course of the hearing submitted difference bills of all the clients of the trades. Subsequently the Respondent also provided copies of NICs, account opening forms and ledger statements of the clients relating to the trades of Annexure-A of the Notice as proof of its contentions that change in beneficial ownership had taken place.
- (ii) The Respondent confirmed in its contentions during the hearing that it uses clients' codes and dealers' codes for its clients for entering orders for execution into KATS. The admission by the Respondent that it is in practice of using dealers' code and clients code is not understandable and highly objectionable as it follows two practices at its brokerage house that

is an inconsistent practice and against the norms of the market as it would be difficult to find out any trails of these trades where dealers' code is being used. Additionally, by entering dealers' code into KATS and at the day end transferring positions to the respective clients accounts, there exists a potential risk that the Respondent may change the trading positions of clients to cover any market abuse as this practice of the Respondent allows the broker to allocate trades to whom it desires. Further, the Respondent's practice of entering dealer's code compromises transparency and the record does not reflect the true and fair positions as trading is being carried out in the name of dealers and movement of securities would take place in the name and account of the respective client.

- (iii) The Respondent told during the hearing that there are 500 clients and out of which 350 clients are active. Having 14 dealers, average number of clients for each dealer comes out to be 25 which are quite manageable. The Respondent plea for entering dealers' codes on the pretext that it is difficult to memorize client codes and enter the same in the KATS swiftly where there is high volatility in the market is not tenable. This plea does not hold any weight as dealers and KATS operators are highly skilled personnel and their only job is to receive the order from the clients and placing the same through KATS operator into KATS and they are not entrusted with any other work except receiving orders. At this juncture, it is appropriate to point out that the job of even receiving the orders from the clients is the responsibility of equity dealers. It is generally accepted that dealers are highly experienced professionals and are very well trained for the job as they have to act on the orders of the clients and always within a very short time period. Therefore, the plea of the Respondent is rejected on this ground. For the sake of argument and without conceding the viewpoint of the Respondent, if the dealers are not highly skilled and experienced that too is a shortcoming on the part of Respondent as under the code of conduct annexed to the Rules, it is required that broker should have adequately trained staff and arrangements to render fair, prompt and competent services to its clients. As an experienced broker and as being employer of the dealers, it is the duty of the Respondent to ensure that adequate arrangements for proper conduct of its business are in place, to which it has failed.

- (iv) It is the duty of the Respondent to exercise due care and skill while entering information into the KATS. By not entering the correct and required information in the client code field of the KATS, the Respondent has failed to carry out its responsibility to provide accurate information on the KATS.
- (v) From the preceding facts it is clear that the Respondent has failed to follow the requirements of the Code of Conduct prescribed in the Rules. Therefore, the Respondent failed to maintain high level of integrity, promptitude and fairness in the conduct of its business and has in fact indulged in improper conduct on the stock exchange. The Respondent did not comply with the requirements according to the Code of Conduct of the Rules. Therefore the Respondent acted in violation of Rule 8(iv) read with Rule 12 of the Rules.
10. In view of what has been discussed above, I am of the considered view that the Respondent acted in violation of Rule 8(iv) read with Rule 12 of the Rules and therefore, in exercise of the powers under Rule 8(b) of the Rules, I hereby impose on the Respondent a penalty of Rs. 25,000/- (Twenty five thousand only) which should be deposited with the Commission not later than 30 (thirty) days from the date of this Order.
11. Additionally, I hereby direct the Respondent to refrain from practices such as entering dealers' code into KATS instead of clients' code as it makes it difficult to find the trails of these trades and other consequences discussed in the paras above. I am of the view that such practices should not be followed as these create hurdles in detecting market abuses, proper surveillance and smooth market functioning.
12. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

**(Imtiaz Haider)**  
**Director (SM)**

Date of the Order: **06/10/2005**