



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN
(Securities Market Division)

Before the Joint Director (Securities Market Division)

In the matter of Show Cause Notice dated 02.09.2005

Issued to Mars Securities (Pvt) Limited

Date of Hearing

19th September 2005

Present at the Hearing:

Representing Mars Securities (Pvt) Limited:

Syed Hussain Fatmi, Director.

ORDER

1. The present matter arises out of a Show Cause Notice bearing No. SMD/SCN/18/2005 dated 02.09.2005 issued to Mars Securities (Pvt) Limited, a Corporate Member of the Karachi Stock Exchange (G) Ltd. (the "Respondent").
2. Brief facts of this case are that between 07.03.2005 and 18.03.2005, the Respondent carried out 8 trades involving total 22,000 shares of Oil & Gas Development Company ("OGDC"), Pakistan Oil Field Limited ("POL"), Pakistan Telecommunication Company Limited ("PTC"), Pakistan State Oil Limited ("PSO") and National Bank of Pakistan ("NBP") through the Karachi Automated Trading System ("KATS") on behalf of 4 of its clients.
3. In the course of these trades, the Respondent purchased and sold, on behalf of the said 4 clients, 1,000 shares of OGDC, 500 shares of POL, 16,000 shares of PTC, 500 shares of PSO and 4,000 shares of NBP. Each of these trades cancelled each other out with the effect that there was no change in the beneficial ownership of the shares.
4. The Securities and Exchange Commission of Pakistan (the "Commission") obtained the KATS data from the Karachi Stock Exchange (G) Ltd. ("KSE") for the relevant period, which revealed that during the month of March 2005 the Respondent had executed the following trades which cancelled each other out and did not result in change of beneficial ownership:



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| DATE | CLIENT CODE | NAME OF SHARE | NUMBER OF SHARES | PURCHASE AND SALE RATE | TIME OF EXECUTION |
|------------|-------------|---------------|------------------|------------------------|-------------------|
| 09/03/2005 | 8C | NBP-REG | 500 | 157.4 | 1159380054 |
| 18/03/2005 | CMS | NBP-REG | 500 | 148.5 | 957280087 |
| 18/03/2005 | CMS | NBP-REG | 3000 | 148.5 | 957280088 |
| 9/03/2005 | 8C | OGDC-REG | 1000 | 159.5 | 1358200008 |
| 8/03/2005 | 8C | POL-REG | 500 | 336 | 1120250123 |
| 17/03/2005 | X205 | PSO-REG | 500 | 436 | 1042180009 |
| 07/03/2005 | M01 | PTC-REG | 10000 | 79 | 1149250074 |
| 09/03/2005 | 8C | PTC-REG | 6000 | 90.3 | 1330170034 |

5. In view of the preceding a Show Cause Notice was issued to the Respondent on 26.08.2005, detailing the aforesaid facts and asking it as to why action should not be initiated against it under Brokers and Agents Registration Rules, 2001 (the "Rules"). A copy of the KATS data was also sent to the Respondent in order to allow it an opportunity of answering the same. The Respondent was asked to submit a written reply within 7 days from the date of the Show Cause Notice and the hearing was fixed in Islamabad for 19.09.2005.
6. The Respondent submitted a written reply dated 08.09.2005 to the Show Cause Notice and also appeared in person through its authorized representatives Syed Hussain Fatmi. The main points raised by the Respondent in its written reply and in the course of hearing were as follows:
- (a) The Respondent asserted that Mr. Athar Ausaf is its client bearing Code 8C. He is running his account with the Respondent since 12 January 2005. All his orders are placed according to his own will and these trades do not possess any significant volume, which represents wash trades. Further during the course of hearing the Respondent produced a letter signed by the aforesaid client stating therein that he is maintaining his account with the Respondent and all trades in his account were executed under his instructions including the trades mentioned in the Show Cause Notice.
- (b) During the course of hearing the Respondent further asserted that the record of the clients accounts shows massive trading on each particular day involving buying and selling of hundreds of shares. The transactions in question form far less than even 1% of the daily trading in the said accounts. Therefore, it is highly improbable that the clients could gain any huge advantage in such a minimal number of transactions or affect the market prices of the share.
- (c) Further the Respondent asserted that during the month of March the market was very volatile requiring investors to change their decisions very rapidly. Therefore in the



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aforesaid scenario sometimes it is not possible for the client or the KATS operator to keep track of their unexecuted orders. Due to this it is possible that the client's new order may be squared up with another order previously placed by the same client. Furthermore due to volatility of the market the clients want their new order to be placed first before withdrawing their unexecuted order this may also result in squaring up of client's unexecuted order with the new one.

- (d) Furthermore Respondent vide his aforesaid written reply stated that the Account Bearing Code X025 is being maintained in the name of Ms. Nagma Zahid and a copy of account opening form was also provided in this regard. Vide the aforesaid written reply the Respondent asserted that the trade appearing against the Code Number X025 in the data annexed to the aforesaid Show Cause Notice was mistakenly entered by the KATS operator as buy against sell and was immediately squared up. However during the hearing, the Respondent asserted that the account bearing Code X025 is an account where all the trades wrongly entered by the KATS operator or traders disputed by the clients are placed "Mistake Account".
- (e) Further during the hearing the Respondent was asked to explain how the trade in question occurred in the account bearing code X025, if it were a Mistake Account. The Respondent explained the same quoting the following examples;
- a. "Suppose Client "A" placed an order for Purchase of 500 shares of PSO however due to error of KATS operator the order was placed as Sell order on the KATS and was executed in the market. However the mistake was pointed out buy the client. In order to rectify the error the KATS operator immediately places another order for Purchase of 500 at the same price, which also get executed in the market. At the end of the day both the trades are taken to Account Bearing Code X025 where both the Trades match. Due to this the Trades are appearing in the Data Annexed with the Show Cause notice and are result of mistake on the part of KATS operator."
- b. "Suppose Client "A" places an order for Purchase of 500 shares of PSO however due to error the KATS operator instead of entering clients code enters Code X025 which is a Mistake Account. The order gets executed in the market. However later on when the KATS operator comes to know of the error he enters another order of sale of 500 shares in the same account. As a result both the Purchase and Sale orders get squared up".
- (f) Further vide the aforesaid written reply to the Show Cause Notice the Respondent asserted that Account Bearing Code "M01" and "CMS" are being maintained in the



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name of Mr. Syed Hassan Imam Abidi and Syed Hasan Haider Naqvi. The Respondent further explained that Mr. Syed Hassan Imam Abidi is working as Respondents Agent whereas Syed Hasan Haider Naqvi is a Trader. Both these persons are placing their client's orders on KATS through their own Code and not through individual client Codes, allotted to each client at the time of opening of their account. At the end of the day all the trades are distributed/bifurcated into the account of respective clients. The trades in question appearing against the aforesaid two clients occurred due to placement of orders of different clients of the same Trader/Agent at the same price which result in squaring up of orders. However the change in beneficial ownership of these shares, involved in trades in question, did take place.

7. On the basis of the aforesaid the Respondent requested that the Show Cause Notice be withdrawn as it had not violated any of the clauses of the Rules.
8. I have heard the Respondent at length after carefully examining the record and 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:

(a) Whether the acts of commission and omission as alleged against the Respondent constitutes a breach of the Rules? If so, up to what extent?

9. In the course of its written as well as oral contentions, the Respondent has neither generally nor specifically denied the fact of carrying out all 8 trades detailed in the Show Cause Notice. However the Respondent during the course of hearing and in written reply has asserted that the trades given in the Show Cause Notice constitute a nominal percentage of the total traded volume of a particular day and therefore cannot in any way affect the market price of shares is not accepted. The aforesaid assertion of the Respondent may be correct up to the extent that the trades in question might have not affected the price of a share in the instant matter however the fact that these trades did become a part of the over all trading volume at the time of execution cannot be ignored.
10. Further, the plea of the Respondent that the accounts in question had very high trading volume during the month of March because of which it is possible in some cases that a particular order may be squared up with another order previously placed in the market, by the same client as he may not be able to keep track of his unexecuted orders is not tenable. It is the duty of the



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Respondent to inform the client about his unexecuted orders and abstain from placing a new order on the KATS. Moreover, this also proves the negligence on the part of the Respondent and clearly shows that the Respondent did not at all times maintain high standards of integrity, promptitude and fairness in the conduct of all its transactions as required under the Code of Conduct prescribed in the Third Schedule to the Rules.

11. Further, the Respondent vide his written reply stated that account bearing Code X025 is being maintained in the name of Ms. Nagma Zahid and later also provided Account Opening Form (“AOF”) as a proof of the same. However during the course of hearing the Respondent stated that the aforesaid account is a “Mistake Account” and disputed trades or trades erroneously entered in the system are placed in this account. This clearly shows that the Respondent mis-stated during the course of hearing that the aforesaid account is a proprietary account whereas the AOF provided by the Respondent proves that account is maintained by one Ms. Nagma Zahid.
12. Further the Respondent’s assertion that the trade in question occurred due to error of the KATS operator proves that the Respondent failed to put in place proper system and controls and exercise due skill care and diligence in the conduct of his business.
13. Further, the explanation given by the Respondent during the course of hearing regarding the occurrence of trade in the “Mistake Account” does not hold true as in both the examples quoted by the Respondent stated that the two legs of the trade i.e. buy and sell were executed in the market separately. If both the legs of the trades were executed in the market separately the trades in question would have not occurred. The Data annexed to the Show Cause Notice clearly shows that the buy and sell orders of the same client were executed simultaneously and were not executed in the market with other market players.
14. Further vide the written reply to the Show Cause Notice the Respondent Stated that Mr. Syed Hassan Imam Abidi is working as Agent of the Respondent whereas the record shows that the aforesaid Agent is not registered with the Commission.
15. Further the Respondent stated that its Agents and Traders are using their own codes while entering their client’s orders on the KATS instead of client’s code and further stated that at the end of the day the shares are divided/bifurcated into the accounts of the clients. The Respondent also provided copies of clients Daily Trade Sheets showing such bifurcation. However, the Trader Codes appearing in the Daily Trade Sheets i.e. 54, 01, 22 and AZ are different from the Respondents trades Syed Hasan Haider Naqvi Code i.e. CMS appearing in the Trades annexed to the Show Cause Notice. Therefore the aforesaid Daily Trades Sheets are not acceptable as proof of change in beneficial ownership of shares.



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16. It is evident from the facts detailed above that the Respondent failed to follow the requirements of the Code of Conduct prescribed for brokers in that by executing and permitting to execute trades which cancelled each other out and did not result in the transfer of beneficial ownership.
17. In failing to ensure that a proper system was in place to avoid repeated occurrence of these trades where buy and sell orders by the same client cancel each other out, the Respondent has failed to act with due skill, care and diligence in the conduct of its business. Consequently, the Respondent has failed in its duty to maintain high standards of integrity, promptitude and fairness in the conduct of all its business and acted in gross violation of Rule 8(iv) read with Rule 12 of the Rules.

(b) *What should the order be?*

18. From the aforesaid it is clear that the Respondent has failed to maintain high standards of integrity, exercise due skill and care in the conduct of business, comply with the statutory requirements and has engaged in transactions which distorted the market equilibrium. This conduct of the Respondent is a violation of General provisions 1, 2, 4 and 5 of the Code of Conduct prescribed for the broker in the Rules in violation of Rule 8(iv) read with Rule 12 of the Rules. The violation of the Rules is a serious matter which entitles the Commission to suspend the Respondent's license or impose fine however, keeping in view the nominal number of trades and shares involved in these trades I have elected to take a lenient view by not exercising these powers at present under the Rule 8 (a) & (b) of the Rules, and direct the Respondent to exercise utmost care in the conduct of his business and follow the applicable rules and regulations.
19. In addition to the aforesaid, I hereby direct the Respondent to put proper system and controls in place in order to avoid reoccurrence of such trades, which do not result in a change in the beneficial ownership of the shares, failing which action will be taken against him in accordance with the law. Further the Respondent is also instructed to abstain from carrying out its business through unregistered agents.
20. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

Ikram Ul Haque
Joint Director (SM)

Date of Order: 30.09.2005