



Securities and Exchange Commission of Pakistan  
Securities Market Division

Before the Commissioner (SMD)

In the matter of Show Cause Notice Issued to  
Zafar Moti Capital Securities (Pvt.) Limited

*Date of Hearing(s)*

*October 11, 2017, December 4, 2017  
and February 9, 2018*

*Present at the Hearing*

*Representing*

*Zafar Moti Capital Securities (Pvt.) Limited  
Mr. Zafar Siddiq Moti*

*Mr. Muhammad Khurram Jah*

*Chief Executive Officer,  
Zafar Moti Capital Securities (Pvt.)  
Limited  
Representative  
Zafar Moti Capital Securities (Pvt.)  
Limited*

*Assisting the Commissioner (SMD)*

- (i) Ms. Musarat Jabeen  
(ii) Mr. Salman Arshad*

*Executive Director (ADJ)  
Deputy Director (ADJ)*

**ORDER**

This Order shall dispose of the proceedings initiated through Show Cause Notice (SCN) bearing No. 2(84) SMD/PRPD/2017 dated September 22, 2017. The SCN was served on M/S Zafar Moti Capital Securities (Pvt.) Limited ("**Respondent**") by the Securities and Exchange Commission of Pakistan (**Commission**) under section 150 of the Securities Act, 2015 (**Securities Act**). The Respondent is a Trading Right Entitlement Certificate ("**TREC**") holder of Pakistan Stock Exchange ("**PSX**") and is licensed as a securities broker with Commission.

2. Brief facts of the case leading to the issuance of SCN are that on October 24, 2016, PSX received a complaint from Mr. Mazhar-Ul-Haq, for non-payment and unauthorized movement of funds by Mr. Wamiq M. Yousuf (WY) an alleged agent of the Respondent. PSX conducted initial enquiry which revealed that WY was maintaining an office in Room 74, Old Stock Exchange Building, Karachi (**SE Building**) and impersonating himself to be an agent of the Respondent. PSX requested the Commission for blocking/freezing outward movement of all funds/cash/securities belonging to WY and to take regulatory/enforcement action(s).

3. The Commission vide order dated November 10, 2016, in exercise of powers conferred under Section 139 of the Securities Act read with all enabling provisions of the Securities and Exchange Commission of Pakistan Act, 1997 ordered investigation into the matter to determine:-

- i. Whether WY was acting as an alleged illegal broker/agent.
- ii. Whether brokerage house with whom WY was maintaining accounts were involved in his alleged illegal trading.





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iii. Any other matter which the investigation team deems fit to reach final conclusion into the matter.

4. The investigation team submitted its report (**Investigation Report**) to the Commission on May 9, 2017. The Investigation Report revealed that:-

- a) WY had multiple single/joint accounts in multiple brokerage houses including Respondent.
- b) The investigation team obtained trading data of WY from January 01, 2008 to October 30, 2016 (**Review Period**) and observed that during Review Period, he traded 1,361 million shares of different companies worth Rs. 77,102 million through 322,893 orders. The analysis of trading data revealed that 65.40% of the total trade were executed through the Respondent during the specified period.
- c) The analysis of WY trading through Respondent revealed that overwhelming majority of trade was conducted through the Respondent till 2012. Year-wise detail of trade executed by WY through the Respondent in terms of percentage is as under:-

Years	Trading %
	Respondent
2008	93.43%
2009	80.35%
2010	90.36%
2011	96.45%
2012	76.71%
2013	16.56%
2014	0.45%
2015	0.61%
2016	0.11%

- d) WY started stock business with the Respondent in the year 2001. The Respondent allegedly established an office for WY in room 67, SE Building and installed therein its trading terminal. Later on WY also established his own office in room 74 of SE building.
- e) WY used to accumulate trade orders from clients and placed orders with the Respondent in his own name. During the Review Period, WY traded 890.126 million shares of Rs. 49,321.90 million, through the Respondent, by placing 179, 529 trade orders. Out of 179,529 orders about (97.92%) 175,791 orders were executed through Respondent's trading Terminal MEM03206. Summary of trade executed by WY through Respondent's different trading terminals is as under:-

TERMINAL ID	Trades		Orders	
	No.	%		
MEM03201	553	0.16%	262	0.15%





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TERMINAL ID	Trades		Orders	
MEM03202	3,746	1.07%	2,411	1.34%
MEM03205	64	0.02%	32	0.02%
<b>MEM03206</b>	<b>345,069</b>	<b>98.33%</b>	<b>175,791</b>	<b>97.92%</b>
MEM03207	111	0.03%	56	0.03%
REM03203	1,380	0.39%	977	0.54%
<b>Grand</b>	<b>350,923</b>		<b>179,529</b>	

- f) The above facts showed that about 98% of WY's trading was conducted through Respondent's trading terminal MEM03206.
- g) About 99.52% trade conducted on terminal MEM03206 (from January 2008 till 12<sup>th</sup> May, 2015) belonged to WY/his employees, which implied that said trading terminal was exclusively used by WY. Summary of trading conducted on terminal MEM3206 in terms of trade orders is as under:-

Name of Client	No. of Orders	%
WY	175,802	92.84%
Clients/employees of WY	12,641	6.68%
<b>Subtotal</b>	<b>188,443</b>	<b>99.52%</b>
Others	920	0.48%
<b>Total</b>	<b>189,363</b>	

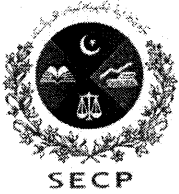
- h) The Respondent earned significant part of its brokerage income/commission from WY as is evident from the following:-

Year ended	Respondents Commission income		
	As per Audited Accounts*	From Wamiq	
		Amount	%
2008	25,200,021	1,758,727	6.98%
2009	6,726,637	2,299,239	34.18%
2010	10,590,000	1,116,749	10.55%
2011	5,055,526	2,549,732	50.43%
2012	10,837,784	2,239,869	20.67%
<b>Total</b>	<b>58,409,968</b>	<b>9,964,316</b>	<b>17.06%</b>
<b>*Its total revenue, audited accounts do not provide breakup of revenue</b>			

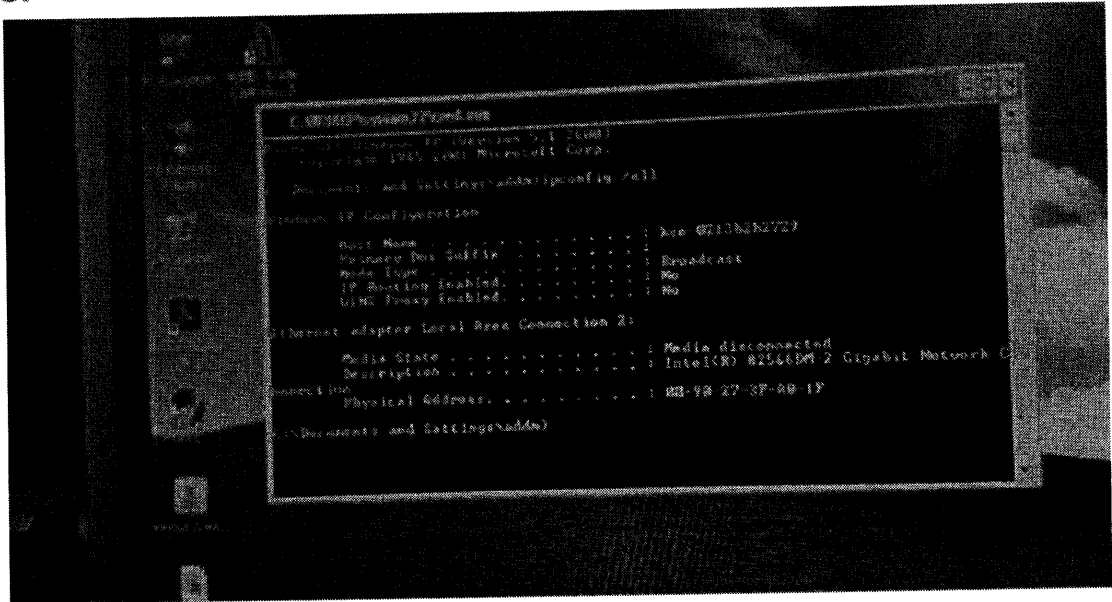
- i) MAC number of computer located in room 74 was found matching with Respondent's terminal MEM 3206. Scanned image showing MAC address of the computer is pasted hereunder:-



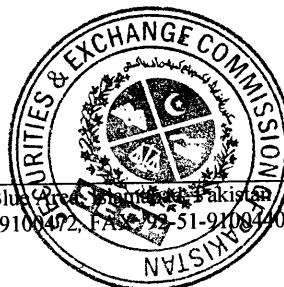
*[Handwritten signature]*



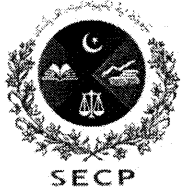
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- j) The computer available in room 74 (office owned by WY) was connected through cable with room 54/55, which is registered office of the Respondent.
- k) Computer having MAC address 00-0F-FE-84-94-DB located in room 74 contained back office software.
- l) The back office record maintained by WY and provided to the clients on periodical basis, contained title of the Respondent.
- m) The Federal Investigation Agency (“FIA”) inspected Room 74 and seized record including trade logs of KATS (KATS format).
- n) A complaint dated June 30, 2014 was received from Mr. Mohammad Ahmed alleging therein unauthorized trading by WY, being an agent of the Respondent along with copies of WY’s back office records. The complaint was forwarded to the Respondent for comments, however, no response was received from the Respondent. The Commission sent a reminder to the Respondent with the directive to resolve the complaint and report compliance status by July 18, 2014. Thereafter, the complainant, vide his letter dated July 18, 2014, informed the Commission that his complaint has been resolved amicably as there was a misunderstanding between him and WY. The resolution of the complainant revealed that the Respondent facilitated the clients of WY.
- o) WY was maintaining his personal single account with the Respondent. Besides, WY was also joint account holder in some of the trading accounts, maintained with the Respondent. The SAOFs of said joint accounts contain contact details viz. cell number and email id of WY, as under:-



*[Handwritten signature]*



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SECP

Principal	Joint Holder 1	Joint Holder 2	Joint Holder 3	Cell #	Email ID
Name/UIN	Name/UIN	Name/UIN	Name/UIN		
Wamiq Muhammad Yousuf/ 4210113902969	Zubair Hamid/ 421010884701 1	-	-	0300824447 1	<u>wamiqmy</u> <u>@</u> <u>yahoo.co</u> <u>m</u>
Wamiq Muhammad Yousuf/ 4210113902969	Sobia Zaheer/ 422017606067 0	Naveed Asghar Sheikh/ 421011373141 5	Sheikh Azeem-Ud-Din/ 4210143052 135	0300824447 1	<u>wamiqmy</u> <u>@</u> <u>yahoo.co</u> <u>m</u>
Wamiq Muhammad Yousuf/ 4210113902969	Abid/ 423010747032 5	Waseem Bari/ 423016835127 1	Muhammad Khurram/ 4230126304 013	0300824447 1	<u>wamiqmy</u> <u>@</u> <u>yahoo.co</u> <u>m</u>
Wamiq Muhammad Yousuf/ 4210113902969	Muhammad Raees/ 421012338576 5	-	-	0300824447 1	<u>wamiqmy</u> <u>@</u> <u>yahoo.co</u> <u>m</u>
Wamiq Muhammad Yousuf/ 4210113902969	Abdul Majeed Rehmani/ 422010442437 7	Abdul Hamid Rehmani/ 422010438027 5	Imran Ilyas Sarwana/ 4220113123 689	0300824447 1	<u>wamiqmy</u> <u>@</u> <u>yahoo.co</u> <u>m</u>
Wamiq Muhammad Yousuf/ 4210113902969	Iqbal Ahmed/ 422011878304 7	Sultana Jahan/ 422010384065 8	-	0300824447 1	<u>wamiqmy</u> <u>@</u> <u>yahoo.co</u> <u>m</u>
Wamiq Muhammad Yousuf/ 4210113902969	Afsar Ali Khan/ 420000450429 7	Ambreen Nasir/ 415040600241 4	Naseema Raees/ 4210123475 708	0300824447 1	<u>wamiqmy</u> <u>@</u> <u>yahoo.co</u> <u>m</u>
Wamiq Muhammad Yousuf/ 4210113902969	Muhammad Farhat Bilal/ 421010151498 1	Rahila Bilal/ 421016966578 6	-	0300824447 1	<u>wamiqmy</u> <u>@</u> <u>yahoo.co</u> <u>m</u>
Wamiq Muhammad Yousuf/ 4210113902969	Syed Muhammad Mujahid/ 421011839050 7	Imran Ahmed Khatri/ 423018478695 5	-	0300824447 1	<u>wamiqmy</u> <u>@</u> <u>yahoo.co</u> <u>m</u>

p) In the below mentioned accounts WY was not a joint account holder, but his email id or cell phone number was entered in contact details:-

Principal	Joint Holder 1	Cell #	Email ID
Name/UIN	Name/UIN		





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Muhammad Ahmed/ 4210159619519	Shaheen/ 4210116051306	0305213679 7	wamiqmy@ yahoo.com
Abdul Rashid Awan/ 4220104047601	-	0300824447 1	wamiqmy@ yahoo.com

- q) In SAOF of Mr. Waseem Bari, the email id of Mr. Zafar Moti, CEO, of the Respondent was entered while cell number of WY was given, as under:-

Principal Name/UIN	Joint Holder 1 Name/UIN	Cell #	Email ID
Waseem Bari/ 4230168351271	Saima/ 4230173071620	03008244471	zafarmoti@hotmail.com

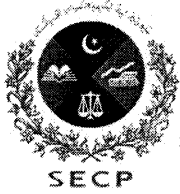
- r) The documents related to the following banks accounts/instruments of WY show the relationship of WY with the Respondents as is given hereunder against each:-

Bank	Account/ Instrument No	Branch	Observations from account opening forms
Habib Metropolitan Bank	6-1-21-20301- 714-130882	Hyderi, Karachi	WY is a Senior Dealer Equities at the Respondent.
	6-99-64-29301- 714-170560	North Nazimabad Branch, Karachi	WY is a Senior Dealer Equities at the Respondent.
	6-1-18-20311- 714-115600	Stock Exchange Branch, Karachi	WY Associates (Commission Agent Stock Broker) Introducer: Siddiq Moti
Faysal Bank	(Credit Card) 4025-8200- 0390-7007	-	WY is a Senior Dealer Equities at the Respondent
Bank Alfalah	1005097389	Stock Exchange Branch, Karachi	Reference letter issued by the Respondent stating that WY is a Senior Client
	0012-02001032	North Nazimabad Branch, Karachi	Reference letter issued by the Respondent states that WY is working as Chief Marketing officer with the Respondent and his monthly remuneration is Rs. 100,000/-

5. It appeared from the foregoing that the Respondent *prima facie* was running unregistered branch office though unaccredited agent viz. WY in violation of PSX Rule Book.

6. The Commission took cognizance of the aforementioned alleged violations and served the SCN under section 150 of the Securities Act to the Respondent. The Respondent was directed to file written reply within 7 days of the receipt of the SCN. Mr. Zafar Siddiq Moti, Chief Executive of the Respondent (**CEO of the Respondent**) vide letter dated October 4,

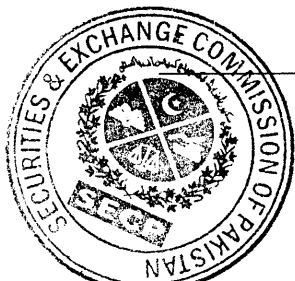




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2017 filed written reply to the Notice. Besides, the case was scheduled for hearing before the Authorize Officer on October 11, 2017 and December 4, 2017. CEO of the Respondent attended both hearings through video link from Commission's regional office Karachi and stated that the Respondent has not committed any of the alleged violation, as WY has worked with it as a client rather than agent. Re-hearing was scheduled on February 9, 2018 due to the change in Authorize Officer. CEO of the Respondent Mr. Zafar Siddiq Moti and the representative Mr. Khurram Jah attended the hearing through video link from Commission's regional office Karachi. The CEO of the Respondent restated that the Respondent has not committed any of the alleged violations, as WY has worked with it as a client rather than agent. The submissions made by the Respondent in response of the SCN and verbally during the course of hearing be summarized as under;-

- a) *It is admitted that a complaint was received on October 24, 2016 from Pakistan Stock Exchange, which was replied in which we have categorically stated that the complainant, Mr. Mazhar ul Haq does not maintained account with us.*
- b) *WY was neither our agent nor the company itself has any kind of responsibility in regard to the affairs of WY, it is stated that he was only our client in regard to sale and purchase of shares.*
- c) *The purported investigation report was not shown to us as the said team has called me/ CEO of the company and in that regard I have given my full stance that WY is not part of the company.*
- d) *The respondent neither has established any office for WY as reply of the letter sent by investigation team in regard to the office no 67 in which it has been categorically stated that office no 67 has not been taken on rent from the owner i-e. Mr. Qurban Merchant whom have been called by the investigation team and he endorsed what the respondent has already said to the team.*
- e) *Neither any KATS terminal were installed in Room no 67 and 74, it is submitted that in 2004 a letter was sent to PSX the then KSE for shifting of KATS terminal in room no 67 but due to high rent it was never ever taken from the owner. It is further submitted that MEM 3206 is operated through office no 55, 1<sup>st</sup> floor PSX Building and not from any where else and the other account i-e MEM11106 doesn't pertain to us hence for want of knowledge denied.*
- f) *It is admitted that FIA visited and seized records from Room no 74, it is submitted that the FIA has cleared the CEO/ Respondent from the above said allegation proper letter can be obtained from the FIA.*
- g) *No cables were been provided to WY. It is contended that the company is been operating since 2001 and holds prestige among customers and never ever have indulged themselves in any sort of illegal activities.*
- h) *The MAC addresses cannot practically been given to a person who is not a member and the MAC addresses are currently been used in the company. That the KATS*





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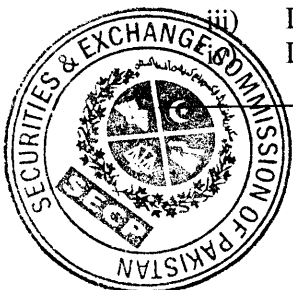
*terminal MEM 3206 has been operated in the Respondent 'office and WY used to trade on the same in room no 55 as a client not as an agent.*

- i) It's a universal practice in PSX that a person who trades on the KATS terminal as a client has to give commission to the company and this procedure has been adopted by the Respondent.*
- j) With regard to opening of joint accounts by WY it is admitted that these account were opened with Respondent in 2011, but has never been operated.*
- k) The allegation of email of CEO of the Respondent and email and cell number of WY in three clients SAOF is denied as the SAOF has to be filled by the clients not by the respondent whatever details provided by them is made part of the record and it has nothing to do with the company. Moreover, the statement given by WY is false.*
- l) Bank accounts related documents, which show a relationship of WY with the Respondent are partly admitted to the extent of the letter head but those letter heads were only provided to WY to exceed his credit limits in the concerned banks and not otherwise but the real which has been narrated above is that WY was working only as a client of respondent.*

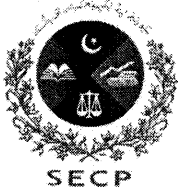
7. The Respondent has established office for WY in room 67 of SE Building. On Respondent's request, PSX activated terminal MEM3206 in room 67. In 2009 after promulgation of Regulations Governing PSX Members' Office(s)/Branch Office(s) for conducting the business and trading of shares and securities within and outside the Exchange (**Branch Office Regulations**), on the request of Respondent, the said terminal was shifted to room 55 i.e. registered office of the Respondent. Room 74 i.e. an office of WY was connected through cables with room 55. MAC address of computer located in room 74 was matching with terminal MEM03206. The record seized by FIA from room 74, inter alia contained trade logs of terminal MEM03206. Besides, another computer available in room 74 was containing back office software.

8. I have heard the arguments presented by CEO and Representative of the Respondent during the hearing. Additionally, I have perused the available record, existing regulatory framework, written response filed by the Respondent. The primary allegation against the Respondent is that it was running unregistered branch office through its unaccredited agent viz. WY. The Respondent has denied the allegations with the contention that WY was only its client. I have considered the submissions made by the Respondent in writing/verbally during hearing, reply of the SCN and reviewed the available record including investigation report. In my opinion, for the purposes of arriving at decision, the following issues are needed to be discussed in detail.

- i) What type of standard of proof is required to establish contravention of provisions of regulatory framework administered by the Commission?*
- ii) Did Respondent establish an office for WY in room 67?*
- iii) Did the Respondent's office was connected with room 74 through cables?*
- Did Respondent's terminal MEM 3206 was exclusively used by WY?*







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- v) Did the record seized by FIA contain trade log of Respondent's terminal MEM3206?  
vi) Did the Respondent issue Reference Letters in favour of its any other client as were issued in favour of WY?

9. The above-framed issues are discussed hereunder in seriatim:-

(i) **The issue of Standard of Proof.** The CEO of the Respondent stated that no third-party cheque have been taken taken or given by the Respondent in its dealing with WY and all cheques were issued in favor of WY and the Respondent. The Commission in order to establish the alleged violations is required to prove money trail between WY and the Respondent since last five years. Before proceeding further, it seems necessary to discuss the nature of standard of proof, required to establish any violation of regulatory framework administered by the Commission. Section 41A of the Securities and Exchange Act, 1997 is pertinent in the matter, which provides as under:-

*41A. Standard of proof.— (1) Where it is necessary for the Commission to establish or to be satisfied, for the purposes of the Act or any administered legislation, that any person has contravened:*

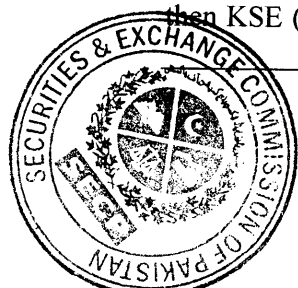
- (a) any provision of the Act or any administered legislation or subordinate legislation;  
(b) any notice, direction or requirement given or made under or pursuant to any provision of the Act or any administered legislation;  
(c) any of the terms and conditions of a registration granted under the Act or any license or registration granted under any administered legislation;  
(d) any other condition imposed under or pursuant to any provision of the Act or any administered legislation,  
it shall be sufficient for the Commission to establish, or to be satisfied as to the matters referred above on the standard of proof applicable to civil proceedings in summary manner in a court of law.

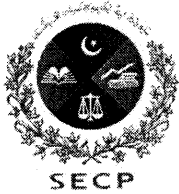
It is stated that the matter in hand is civil in nature, therefore, it would be decided in the light of case decided by the Honourable Supreme Court of Pakistan, reported as 2013 CLC 203, wherein it was held that:-

*Civil. Cases---Proof---Required standard of proof in civil cases is quite different as compared to that in criminal cases: In the civil cases, the principle of law is to record findings in favour of the party, in whose favour the material brought on record would create preponderance of probability.*

The instant case would be decided in the light of principle of preponderance of evidence, as applied by the honorable courts, in civil matters.

(ii) **Activation of Respondent's terminal in room 67:** It was alleged in the SCN that the Respondent established an office for WY in room 67, SE Building and installed therein its KATS terminal. The Respondent denied it with the contention that "neither office 67 was taken on rent from its owner i.e. Mr. Qurban Merchant nor it established office for WY in said room". In order to arrive at decision, I have reviewed the available record and noticed that as per PSX vide letter dated February 27, 2017, room 67 is licensed to Merchant Investment (Pvt.) Limited, a TRE holder of the Exchange. The record further showed that Board of Director of then KSE (PSX), in its meeting No. 5 of 2003, allowed its members to sublet their rooms to





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any other member, for installation and operation of KATS terminals, subject to prior approval of the exchange. Pursuant to said decision of BOD, Mr. Afroz Ali Merchant vide letter dated May 10, 2004 sought permission from PSX for subletting room 67 to the Respondent, for installation and operating trading works station. On same date, the Respondent vide letter dated May 10, 2004, also authorized PSX to cancel its terminal, if Mr. Afroz failed to complete the procedural requirements in the matter. PSX accepted the request and Respondent's terminal MEM 03206 was activated, therein on June 4, 2004. The terminal was connected with computer having IP address 172-16-134-184 and MAC Address 0050-DA2C-9195. After promulgation of Branch Office Regulations, PSX on July 29, 2009, on the request of the Respondent, shifted the said terminal from room 67 to room no 55 (the registered office of the Respondent).

The record further reveal that the investigation team, on April 28, 2017, recorded statement of Mr. Afroz Ali Merchant who stated before the investigation team that "*I became member of stock exchange in 2003 and Merchant Investment was established in 2009. Before July 2009 I was working full time with Agha Khan University and after voluntary retirement I started full time working at Merchant Investment in 2009.----- Regarding the letting of room no. 67 Old Building Stock Exchange, I sublet this room to Zafar Moti Capital Limited for installation of KATS. However, the relevant documents are not available with me, since the matter is too old*".

It is evident from the foregoing that the Respondent's terminal MEM3206 was installed in room 67. This room was in use of WY. The contention of the Respondent that its trading terminal was never activated in room 67 has, therefore, no merit.

**(iii) Linkage of room 74 with room 55 through cables:-** Before addressing the issue in hand, it seems imperative to discuss brief history of room 74. As per available record, on November 13, 2003, the under reference room was transferred to WY under Leave and License Agreement. On June 18, 2004, trading work station of Mr. Siddiq Moti was activated therein. On January 27, 2009, on the request of Mr. Siddiq Moti, PSX suspended the trading terminal installed in room 74. (On April 09, 2009, PSX due to sad demise of Mr. Siddiq Moti, cancelled the registration of registration of Sadiq Moti).

Now I revert to the issue of linkage of room 74 through cable with room 54/55. It was alleged in the SCN that room 74 was connected with Respondent's office through Ethernet cables. The Respondent denied it with the contention that he is not aware of it. I have reviewed the available record, which reveals that on April 20, 2017, the investigation team along with officials of PSX, conducted a survey of Room 74. During said visit, the team identified that Ethernet cables were coming out of said Room and heading towards unidentified location. The investigation team and officials of PSX investigated it together and identified that destination of said cable was Room 54/55, which is registered office of the Respondent. The Investigation team and officials of PSX together prepared and signed report in the matter. A Scanned image of the said report prepared is pasted hereunder:-





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Dated: April 20, 2017

Survey Report

AMA-XXXIII

A team of SECP officials along with PSX Officials surveyed room No. 67 and 74 of the Old building of PSX.

During the said survey it was noticed that two ethernet cables were coming out of room # 74. Upon inspection with the help of two technician (Mr. Abdul Razaque & Muhammad Tariq Nisar) of PSX, it transpired that one of the cable was disconnected from the entrance of old building of PSX, whereas the other ethernet cable was traced to enter room # 54 and 55 of the main Building through a hole in window frame.

The above survey was conducted in presence of following SECP & PSX Officials.

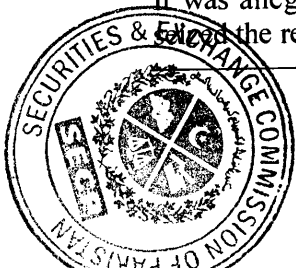
1. Mohammad Tanweer (Investigation Officer-SECP)
2. Kashif Ali (Investigation Officer-SECP)
3. Danish Raza (Investigation Officer-SECP)
4. Nisar Ahmed Qazi (DGM, Administration-PSX)
5. Taha Ahmed Iqbal (Senior Manager ITSS-PSX)
6. Syed Athar Hussain (Assistant Manager ITSS-PSX)

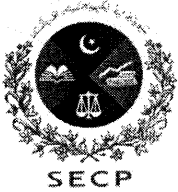
The above survey report jointly signed by the investigation team and officials of PSX shows that room 55 i.e. Respondent's office was connected through cables with room 74, which is owned by WY. The purpose of linkage of room 74 with room 54/55 would be discussed later part of this Order.

**(iv) Exclusive use of trading terminal MEM03206 by WY:** It was alleged in the SCN that Respondent's terminal MEM 3206 was exclusively used by WY as during Review Period WY traded 890.126 million shares worth Rs. 49,321.90 million, through the Respondent, by placing 179, 529 trade orders, out of which about 98% total orders were executed through said terminal. The Respondent stated that WY used the terminal as client from room 55. The Respondent further stated that it is a universal practice in PSX that a person who trades on the KATS terminal as a client has to give commission to the company and this procedure has been adopted by the Respondent.

The Respondent has admitted exclusive use of terminal MEM3206 by WY, with the contention that the same was used by WY as a client rather than agent. Now question arises, whether a client can use trading terminal of a brokerage house. Rule 2 (c) of Members' Agents and Traders (Eligibility Standards) Rules, 2001 is pertinent, which provides that a trader who is an employee of a member is authorized to execute trade of the investors. Thus, a client cannot use trading terminal of a brokerage house. The contention that WY used the terminal as client has, therefore, no merit. The claim of the Respondent that WY was using trading terminal from room 55 would be addressed in later part of the Order.

**(v) The record seized by FIA, which *inter alia* includes trade logs of terminal MEM 03206:** It was alleged in the SCN that on February 16, 2016, FIA visited room 74. The FIA Team seized the record of the said room, which *inter alia* include daily trade log since 2004 to 2015.





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It is worth mentioning that trades logs are directly downloaded, by the brokers, from KATS, for updating back office records. The FIA shared seized records with the investigation team, *inter alia* includes trade logs of Respondent's terminal MEM3206. It was further alleged in the SCN that MAC address of a computer located in room 74 was found matching with terminal MEM 03206. It was further alleged that terminal MEM3206 was practically being used from room 74. The Respondent admitted that FIA visited and seized records from Room 74, with the contention that FIA has cleared the CEO/ Respondent from the allegation of connivance with WY. The Respondent further contended that MAC addresses cannot practically be given to a person who is not a member and the MAC addresses are currently being used in the company. Before analyzing the allegation of usage of terminal MEM3206 from room 74 and response submitted by the Respondent, it seems imperative to briefly explain how does a trading terminal work? In this regard, it is pointed out that:-

- a) KATS Terminal is a combination of KATS software and computer which runs said software. KATS software may be installed by PSX or by broker himself from downloading it from PSX's intranet website, but, first the computer on which software is to be installed is required to be registered with PSX via its MAC Address.
- b) An Input/Out connection switch is installed at broker's premises. The particulars of said switch are bounded and cannot be altered by any one except PSX. That switch is directly connected with PSX's core trading network.
- c) PSX's binds the MAC and IP address of computer connected with that switch. MAC cannot be altered, as this is supplied by the computer manufacturer.
- d) Only way to move an active KATS from its prescribed location is to lengthen the cable wire that connects the computer with active switch located at broker's registered office.
- e) If the broker wants to change a computer which has active and connected KATS software, than the broker has to submit a request to PSX for change the MAC address of old machine with new machines. PSX binds MAC address of new machine on active I/O switch from old one. New machines becomes KATS Terminal for all the purposes.

Before addressing the issue in hand, history of terminal MEM3206 is given herein briefly:-

- 1) On June 07, 2004, the aforesaid KATS was activated and installed in Room 67, which was used by WY.
- 2) In view of promulgation of Branch Regulation, on the Request of the Respondent, on July 29, 2009, the said trading terminal was shifted from room 67 to 55. In other words, I/O switch was shifted from Room 67 to 55.
- 3) On August 08, 2011, the Respondent requested to PSX for change of MAC address of MEM 3206 from 00-5—BF-42-33-52 to new MAC i.e. 00-90-27-3F-A0-1F. The computer having MAC address 00-90-27-3F-A0-1F was located in room 74.

Now reverting to the issue, it was noted that the Respondent did not explicitly deny the allegation of trade log being part of seized record. Scanned image of trades loges of terminal MEM3206 dated December 12, 2011, found part of record seized by FIA is given under, for reference and sampling.





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03012011 ALL  
Daily Trade Log for 03/01/2011, from 00:00:00 to 23:59:00 as per 03/01/2011,  
15:47:18  
MEM03206,"Reg","DSFL","701","","09:30:00","88551491","Filled","sell","6000","4000"  
"10000","3.00","dc","15741340","","18000.0000"  
MEM03206,"Reg","MCB","701","","09:30:45","88552870","Filled","sell","100","900","1"  
000","226.95","dc","15741887","","22695.0000"  
MEM03206,"Reg","AHCL","701","","09:31:07","88553504","Filled","sell","500","500",""  
1000","24.30","dc","15742043","","12150.0000"  
MEM03206,"Reg","AHCL","701","","09:31:18","88553504","Filled","sell","500","0","10"  
00","24.30","dc","15742109","","12150.0000"  
MEM03206,"Reg","JSL","701","","09:33:55","88556445","Filled","sell","2000","0","2"  
000","10.69","dc","15743017","","21380.0000"  
MEM03206,"Reg","AICL","701","","09:36:05","88558486","Filled","sell","100","0","10"  
0","86.25","dc","15743704","","8625.0000"  
MEM03206,"Reg","PSO","701","","09:36:07","88558525","Filled","sell","500","0","500"  
,"293.60","dc","15743712","","146800.0000"  
MEM03206,"Reg","BYCO","701","","09:36:16","88558661","Filled","sell","2000","0","2"  
000","11.10","dc","15743767","","22200.0000"  
MEM03206,"Reg","LOTPTA","701","","09:36:30","88558871","Filled","sell","5000","0",""  
5000","13.42","dc","15743834","","67100.0000"  
MEM03206,"Reg","JSIL","701","","09:38:40","88558327","Filled","sell","1","2999","3"  
000","6.50","dc","15744367","","6.5000"  
MEM03206,"Reg","NML","701","","09:38:50","88560621","Filled","sell","300","0","300"  
,"18873.0000"

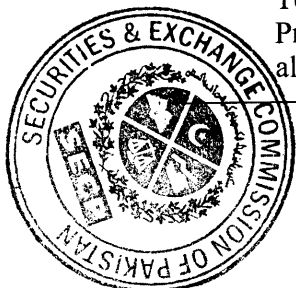
While narrating history of terminal MEM3206 it was stated that on Respondent's request PSX on August 08, 2011, changed MAC address of 3206 from 00-5—BF-42-33-52 to new MAC i.e. 00-90-27-3F-A0-1F. The computer having MAC address 00-90-27-3F-A0-1F was located in room 74. It has been also been established in above part of the Order that room 74 was connected through cables with room 54/55. Availability of trade logs of terminal MEM3206 in room 74, having computer in room 74 whose MAC address was tied up with terminal MEM3206, connectivity of room 74 with room 54/55 through cables, clearly establish that terminal MEM3206 was used by WY in connivance of the Respondent from room 74. In-fact Input/ Output switch was installed in room 55. KATS software was installed on computer, located in room 74 having MAC address 00-90-27-3F-A0-1F, which was tied up with Input/ Output switch located in room 55. The said Input/ Output switch was linked through lengthen cable with computer having KATS software in room 74. Thus, for all practical purposes terminal MEM3206 was being used by WY from room 74 instead of room 55. As per available record it was used by WY till May 12, 2015. Therefore, the plea of the Respondent that the said terminal was used from 55 has no merit.

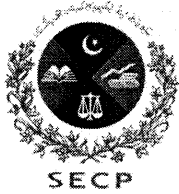
(vi) **Issue of Reference letter by Respondent in favour of WY:** It was alleged in the SCN that the Respondent has issued reference letter in favour of WY, wherein it was stated that "WY is working as Chief Marketing officer with the Respondent and his monthly remuneration is Rs. 100,000/". The Respondent has stated that the under reference letter was issued only in favor of WY for increasing his credit limit.

10. In order to arrive at overall decision, I have considered the following regulatory framework and facts of the case:-

- a) Pursuant to regulation 3(iv) of the Branch Office Regulations, "Office(s) or Branch Office(s)" means "an Office/Branch/Shop opened and maintained by a member within or outside the premises of the Exchange for conducting the business and trading of shares and securities and includes Member's Main Office but excludes the Member's Telephone Booth.

Provided that the operation of KATS Terminal within or outside KSE Building shall also be treated as Office(s)/Branch Office(s) for the purpose of these Regulations.





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- b) Pursuant to clause 2.4 (xiii) of PSX Rule Book “broker” means a TRE Certificate Holder of the Exchange engaged in the business of executing transactions in Securities for his own account or on account of his clients and is registered with the Commission as a Broker.
- c) Pursuant to Rule 2 (c) of Members’ Agents and Traders (Eligibility Standards) Rules, 2001 only a trader who is an employee of a member is authorized to execute trade of the investors.
- d) Pursuant to clause 2.4(ii) of PSX Rule Book “agent” means a person appointed by a Broker to act on his behalf for the purposes recognized by the Exchange and registered with the Commission under the Brokers and Agents Registration Rules, 2001.
- e) Respondent’s terminal MEM3206 was activated in room 67. The room 67 was used by WY for trading activities. After shifting of the terminal from room 67 to 55, the said terminal was used directly by WY from room 74.
- f) Admittedly, the terminal MEM3206 was exclusively used by WY. During Review Period WY traded 890.126 million shares of Rs. 49,321.90 million, through the Respondent, by placing 179, 529 trade orders. Out which about 98% orders were executed through Respondent’s trading Terminal MEM3206.
- g) Respondent trading terminal MEM3206 was activated in 2004 in room 67. The said room was used by WY for trading activities. The said trading terminal was used by WY till May 12, 2015.
- h) On request of the investigation team, PSX conducted physical verification of all KATS pertaining to the Respondent. The report submitted by PSX on December 05, 2016 *inter alia*, stated that the Respondent claimed that below mentioned its two KATS were not in use. PSX, therefore, checked their last login details and its findings were as follows:

Terminal	Last Login
MEM3201	January 01, 2015
MEM3206	May 12, 2015

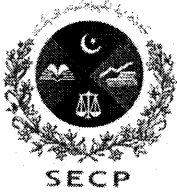
The comparison of aforesaid last login details of terminal MEM3206 with WY’s trading pattern showed that said KATS was being used only by WY. It is evident from the record that WY ended his trading from the said terminal on May 12, 2015. Thereafter it has not been login by any trader/employee of the Respondent.

- i) During the Review Period, WY referred significant business to the Respondent, which is evident from the Respondent’s brokerage income generated through WY’s trading as under:-

Year ended	Respondents Commission income		
	As per Audited Accounts*	From Wamiq	
		Amount	%
2008	25,200,021	1,758,727	6.98%
2009	6,726,637	2,299,239	34.18%
2010	10,590,000	1,116,749	10.55%
2011	5,055,526	2,549,732	50.43%
2012	10,837,784	2,239,869	20.67%
<b>Total</b>	<b>58,409,968</b>	<b>9,964,316</b>	<b>17.06%</b>

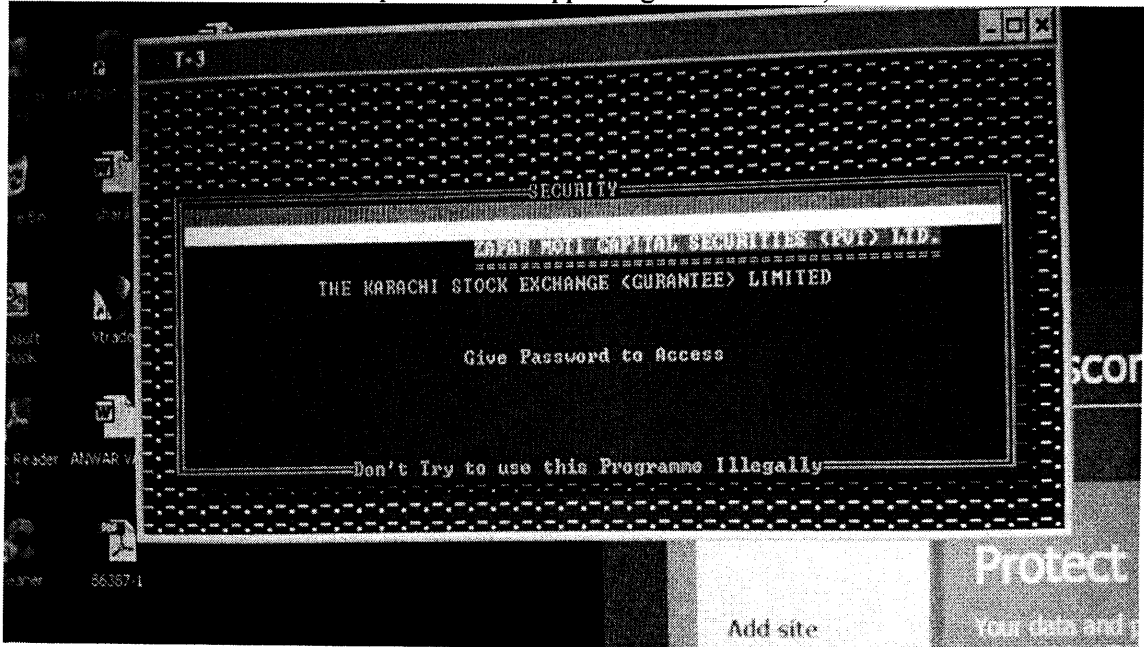
\*Its total revenue, audited accounts do not provide breakup of revenue





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- j) WY provided back office record to the clients on periodical basis, which contained title of Respondent. Further back office software was found installed on a computer located in room 74 and title of the Respondent was appearing on the screen, as under:-

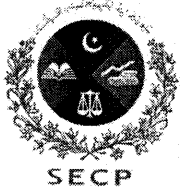


- k) Whenever, complaints were received against Respondent, alleging therein WY as Respondents' agent, the same were sent to the Respondent alongwith supporting documents (containing back office record of the Respondent), for comments, and resolution, The Respondent denied the allegation of WY as agent with the assertion that supporting documents were fake. But, later on the complaints were withdrawn by the complainants. The Respondent did not take any legal action against WY for using fake Respondent's back office record, which established that WY was carrying out his trading activities in connivance with the Respondent. It is further established the Respondent was operating its branch office in room 74 without approval of PSX and using services of WY as agents for investors, without approval of PSX and the Commission, without creating its obligations and liability.
- l) WY was maintaining his personal single account with the Respondent. Besides, WY was also joint account holders in some of the trading accounts, maintained with the Respondent. The SAOFs of said joint accounts contain contact details viz. cell number and email id of WY. In this regard the Respondent stated that these accounts were opened in the 2011, but has never been operated and were subsequently closed in 2012. However KATS data showed that some of the clients have traded through Respondent's brokerage house as under:-

Trading		NAME	Quantity	Member	UIN
from	To				
27/02/2013	27/02/2013	Waseem Bari	434,500	Zafar Moti Capital Sec.	4230168351271



*[Handwritten Signature]*



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18/09/2014	26/07/2016	S.M Mujahiduddin	64,000	Zafar Moti Capital Sec.	4210118390507
10/6/2013	7/12/2016	Abdul Rashid Awan	181,400	Zafar Moti Capital Sec.	4220104047601
7/5/2008	16/09/2008	Sheikh Azeem-Ud-Din	903,900	Zafar Moti Capital Sec.	4210143052135
26/09/2012	16/09/2015	Imran Ilyas Sarwana	1,846,800	Zafar Moti Capital Sec.	4220113123689

11. It is worth mentioning that the prevailing regulatory framework prohibits the brokers to operate from an unregistered location and deployment of any person who is not registered or licensed as agent with the Commission. It is evident from the foregoing that WY was performing the functions of an agent, which is a regulated and licensed activity. Besides, the Respondent in terms of Branch Office Regulations was operating branch office in room 74. WY in connivance with the Respondent has defrauded the public.

12. Based on the circumstantial evidences and chain of events mentioned above, I have reasons to conclude that it is established that the Respondent was guilty of misconduct in terms of section 150(5) of the Securities Act, as:-

- a) The Respondent, in violation of section 74 of the Securities Act has failed to observe a high standard of integrity, fair dealing, act with due care, skill and diligence.
- b) The Respondent was running an unregistered branch in Room No. 74 of Old Building, in violation of regulation 16(2)(g) of the Brokers Regulation, 2016 and regulation 22 of the PSX Rule Book.
- c) The Respondent allowed WY to work as unaccredited agent in violation of regulation 4.12 of the PX rule Book.

13. In view of the foregoing, violations of the regulatory framework committed by the Respondent are established. I considering the severity of violations, in exercise of the powers conferred upon me by virtue of section 150 of the Act, hereby impose a penalty of **Rs. 200,000/- (Rupees Two Hundred Thousand Only)** on the Respondent.

14. The Respondent is directed to deposit the aforesaid penalty in the account of the Commission being maintained in the designated branches of MCB Bank Limited within 30 days of the date of this Order and furnish Original Deposit Challan to this office.

15. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law on matter subsequently investigated or otherwise brought to the knowledge of the Commission.

Announced on March 5, 2018  
Islamabad.



(Zafar Motiullah)  
Commissioner (SMD)