



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN  
(Securities Market Division)

Before the Director (Securities Market Division)

In the Matter of Show Cause Notice issued to

Zafar Securities (Pvt.) Limited

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

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Number and Date of Notice	No. MSW/SMD/LSE/1(5)2006/76 dated September 04, 2007
Date of Hearing	September 13, 2007
Present at the Hearing:	Syed Asim Zafar – Chief Executive Ahson Masood – Manager Muhammad Zubair – CDC Manager
Date of Order	January 10, 2008

ORDER

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1. This order shall dispose of the proceedings initiated through Show Cause Notice bearing No. MSW/SMD/LSE/1(5)2006/76 dated September 4, 2007 ("**the SCN**") issued to Zafar Securities (Pvt.) Limited ("**the Respondent**"), member of the Lahore Stock Exchange (Guarantee) Limited ("**LSE**") by the Securities and Exchange Commission of Pakistan ("**the Commission**") under Rule 8 of the Brokers and Agents 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 the 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 Ford Rhodes Sidat Hyder & Co. ("**the Enquiry Officer**") was appointed as the Enquiry Officer under the above mentioned Section for the following:
    - (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



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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 the Enquiry Officer's report was sent to the Respondent on May 24, 2007 which required the Respondent to provide explanations on the observations of the Enquiry Officer together with supporting documents.
4. After perusal of the Respondent's replies to the above mentioned letter, which did not adequately explain the position in respect of some instances, 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 to 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 Securities and Exchange Commission of Pakistan Act, 1997 ("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 September 04, 2007, the Respondent was called upon to show cause in writing within seven days and appear before the undersigned on September 13, 2007 for a hearing, to be attended either in person and/or through an authorized representative.
6. The hearing was attended by Syed Asim Zafar, Chief Executive, Mr. Ahson Masood, Manager and Mr. Muhammad Zubair, CDC Manager of the Respondent who argued the case and also submitted written reply dated September 12, 2007.
6. A summary of the contentions and objections that were raised by the Respondent in its written submissions and during the hearing and findings and conclusions of the Commission on the same are as follows:
7. **Blank Sales ( Issue No. 1)**
- 7.1 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"



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9.2 The findings of the Enquiry Officer revealed 69 instances of Blank Sales during the Review Period.

9.3 The Respondent made the following submissions on the issue:

- The Respondent in its written reply dated September 12, 2007 stated that all the trades given in Annexure – A ("the Annexure") of the SCN relate to Mr. Jabir Ali who is a regular employee of the Respondent and is engaged in arbitrage business. He was allowed by the Respondent to sell the shares only up to the extent of shares held by the Respondent in its house account. The Respondent asserted that it had sufficient balances of shares in its house account on the date mentioned in the Annexure. The Respondent provided CDC Account Balance Reports of House Account from April 10, 2007 to April 17, 2007 in support of its claim.

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

- The Respondent stated that Mr. Jabir Ali is its employee and was engaged in the business of arbitrage and the Respondent provided CDC balance statements of House Account to show that it had sufficient balance against the sales made by Mr. Jabir Ali. Based on the assertion of the Respondent and documents provided it is clear that the Respondent had sufficient pre-existing interest against the sales made in scrip of FCCL and PPL mentioned at serial nos. 1-58 of the Annexure. Further, the claim of the Respondent that Mr. Jabir Ali is its employee is also true as Enquiry Officer had also mentioned his name in the list of employees at Appendix – G of the Enquiry Report. However, after considering the CDC balance statements for the scrip of Lucky Cement ("LUCK") it has been observed that the Respondent had only 2,500 shares as opening balance and after considering the same it was noted that sales mentioned at serial nos. 60-69 of the Annexure were made over and above the opening balance of 2,500, since the Respondent did not provide any further evidence of pre-existing interest against these trades therefore, it is clear that these trades were Blank Sale.

9.5 Considering the above facts and the contentions of the Respondent, it is an established fact that on 10 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 and in terms of 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.

9.6 In light of the above i.e. the fact 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



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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. 10,000 (Rupees Ten Thousand only) is hereby imposed on the Respondent under Rule 8 (b) of the Brokers Rules.

10. **Account Opening Forms ("Issue No: 2")**

10.1 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 Forms ("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 that List of Transaction fee, Commission to be charged by the Broker and other CDC charges to be levied should be attached with the AOFs.

10.2 Findings of the Enquiry Officer revealed that List of Transaction fee, Commission to be charged by the Respondent and other CDC charges to be levied was not attached with the AOFs.

10.3 The Respondent made the following submission on these issues:

- With reference to violation of not attaching list of charges with the AOFs, the Respondent stated that commission rates are flexible and vary from client to client therefore, list of charges was not attached with AOFs, however, it will now comply with the requirement.

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

- I have considered the contentions of the Respondent regarding missing list of charges with AOFs and do not agree with the Respondent plea that due to different commission charges for different clients, list of same can not be attached with AOFs. It may be noted that it is the requirement of SAOF that a list of commission charges must be enclosed with the AOFs, further 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. In case any dispute arises between them all the matters can be resolved on the basis of clauses of the AOF. Therefore, by not attaching the said list with the AOFs the Respondent has failed to comply with the directives of the Commission.

10.5 Considering the above facts and the contentions of the Respondent, it is established that Respondent has failed to comply with Commission's directive and General Rules and Regulations of the LSE. In terms of Rule 8 of the Brokers Rules, more particularly sub rule (iii), (iv) and sub rule (v) therefore, where the Commission is of the opinion that a broker has inter alia failed to comply with requirements of 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, to take action under Rule 8(a) or (b) of the Brokers Rules.



10.6 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 Respondents 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.

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

11.1 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."

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

11.3 The Respondent made the following submission on aforementioned issue.

- The Respondent in its written reply asserted that electronic ledger as maintained today fulfills the requirement of abovementioned Rule. The Respondent further stated that it is impossible to maintain such a manual register in the current market due to massive volumes.

11.4 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 record those orders that are placed by the Respondent into LOTS and not all the orders which were received from the clients and not entered into LOTS. Further, the said log only records the time of placement of orders into the system and not the time of receipt of orders.

11.5 The 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 neither the brokerage house nor LSE were 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.



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11.6 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 is made of all the laws, regulations and directives of the Commission in future for avoiding any punitive action under the law.

12. As stated above, the Respondent is penalized as follows:

- a) As regards Issue No1, as stated above, a penalty of Rs. 10,000/- (Rupees Ten Thousand only) is imposed.
- b) No punitive action is taken in relation to Issue No. 2 and 3 and a simple caution will suffice.

12.1 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  
Securities Market Division