



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. I

In the matter of

Appeal No. 63 of 2012

Khurram Inayat

... Appellant

Versus

Director (BR & ICW)

Securities and Exchange Commission of Pakistan

...Respondent No. 1

Live Securities Limited

...Respondent No. 2

ORDER

Date of hearing

01/01/15

Present:

Appellant:

Mr. Sheikh Azfar Amin, Advocate

Department representative:

Mr. Hasnat Ahmed, Director

Respondent No.2

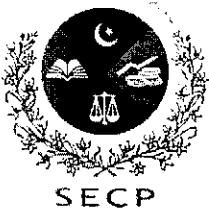
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1. This order shall dispose of appeal No.63 of 2012 filed under section 33 of the Securities and Exchange Commission of Pakistan (the "Commission") Act, 1997 ("SECP Act") against the order (the "Impugned Order") dated 09/05/12 passed by Respondent No. 1.
2. The brief facts of the case are that Live Securities Limited (the "Respondent No.2") is a corporate member of the Karachi Stock Exchange (Guarantee) Limited ("KSE") and is registered with the Commission under Brokers and Agents Registration Rules, 2001 (the "Rules"). During the period from July 2010 to September 2010, the Commission received a number of complaints from the following clients of Respondent No. 2.

Sr.No	Name of the Complainant	Date of Complaint
(i)	M/s Attock Refinery Ltd	September 25, 2010
(ii)	Mr. Khurram Inayat	July 20, 2010
(iii)	Mr. Muhammad Aslam Gohar	August 2, 2010 July 20, 2010
(iv)	Mr. Muhammad Nawaz Qureshi	
(v)	Mr. Imran Inayat & Ms. Huma Inayat	September 13, 2010
(vi)	Mr. Farhan Sabir & Ms. Hina Farhan	August 18, 2010
(vii)	Mr. Umair Hasan Shahid	August 18, 2010
(viii)	Mr. Mirza Shahid Hassan & Ms. Tabinda Naheed Shahid	August 18, 2010



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(Above mentioned Complainants are individually referred to as the Complainant (i), Complainant (ii), Complainant (iii), Complainant (iv), Complainant (v), Complainant (vi), Complainant (vi), Complainant (vii) and Complainant (viii) respectively and collectively as the "Complainants").

3. The Complainant (i) in its complaint stated that the Respondent No.2 is not transferring its shares of Attock Petroleum Limited (APL) to its investor account, despite repeated requests. The Complainant in its letter mentioned that the first request for transfer of shares was made in January 2009 and despite lapse of one and a half year its holdings have not yet been completely transferred to its investor account. The Commission vide letters dated 05/10/10 and 12/10/10 instructed the Respondent No.2 to immediately accede to the request of the Complainant (i). However, the Respondent No. 2 failed to comply with the directions of the Commission and further vide its letters dated 20/03/09 and 30/09/10 addressed to the Complainant (i) acknowledged the shares of the Complainant (i) were used by the Respondent No.2 for financing the operations of its brokerage house.
4. The Complainant (ii) in his complaint dated 20/07/10 stated that vide letter dated 27/05/10, he had requested Respondent No.2 to offload his position for adjustment of debit balance. However, the request of the Complainant (ii) was not acceded to, despite his repeated requests. The matter was taken up with the Respondent No. 2 and in response vide letter dated 20/08/10, the Respondent No.2 requested the Commission to advise the Complainant (ii) to



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clear his debit balance so that his entire holdings can be transferred. On further scrutiny it transpired that the Complainant (ii) vide letter dated 15/06/10 had already instructed the Respondent No.2 to sell/retain requisite number of shares so as to clear the debit balance and transfer the remaining shares to his investor account. In an effort to sort out the matter, a meeting was fixed on 08/09/10, which upon request of the Respondent No. 2 was held on 20/09/10. During the said meeting, the Respondent No. 2 agreed that if debit balance in the account of the Complainant (ii) is cleared, it will transfer the securities to investor account of the Complainant. Through letter dated 23/10/10, the Respondent No.2 was once again instructed by the Commission to accede to the request of the Complainant (ii). However, the Respondent No. 2 failed to comply with the direction of the Commission.

5. In reference to the Complainant (iii), Complainant (iv), Complainant (v), Complainant (vi), Complainant (vii) and Complainant (viii), the Commission vide letter dated 05/10/10 required the Respondent No. 2 to provide information as mentioned therein by 14/10/10. However, the Respondent No.2 failed to provide the required information. Further, the Commission vide letter dated 08/09/10 required the Respondent No.2 to provide trade confirmation which were issued to the Complainants in accordance to Rule 4(4) of the Securities and Exchange Rules, 1971 ("1971 Rules"). The Respondent No.2 failed to provide trade confirmations along with courier receipts of the same in reference to the trades executed in the accounts of the Complainants mentioned above.



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6. Show Cause Notice dated 21/10/10 ("SCN") was issued to the Respondent No.2 under Rule 8 of the Rules and section 22 of the Securities and Exchange Ordinance, 1969 (the "Ordinance"). The Respondent No. 2 chose not to provide written response to the SCN, however, on the date of the hearing, the representatives of the Respondent No.2 i.e. Raja Izhar Ahmed and Abdul Nisar appeared before the Respondent No.1 and informed that the Lahore High Court, Rawalpindi Bench has granted a stay order against the above mentioned SCN. Hearing on the matter, therefore, was adjourned in light of the stay order. Thereafter, a notice dated 06/11/10 was received from Deputy Registrar Judicial, Lahore High Court, Rawalpindi Bench informing the Respondent No.2 that the court has passed the order on the CM No.1/2010 in the Petition, as a result, the proceedings could continue before Respondent No.1 but no final order shall be passed.
7. In view of the above, a hearing notice in terms of above mentioned SCN was again issued to the Respondent No.2. The meeting was duly attended by the representatives of the Respondent No.2 on 13/12/10. The authorized representative failed to provide the information in respect to each complaint respectively.
8. After establishment of the Islamabad High Court, the Petition was transferred from the Lahore High Court, Rawalpindi Bench to Islamabad High Court. Subsequently, on the direction of Islamabad High Court, another opportunity of hearing was provided to the Respondent No.2 on 08/03/12. The Respondent was represented in the hearing by Mr. Raja Izhar Ahmed who made the submissions with regards to the Complainants. On



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15/03/12, the petition was disposed of by Mr. Justice Noor-Ul-Haq N. Qureshi of the Islamabad High Court and observed that in view of the withdrawal of the compliant by Complainant (i) and pendency of civil suit between the Respondent No.2 and the Complainants, the SCN proceeding shall be decided strictly in accordance with law and any order shall not in any way prejudice the rights of either party litigating with each other in the pending civil suit.

9. The Respondent No.1 held that the failure of the Respondent No. 2 to provide information implies that the Respondent No.2 has failed to maintain record of order placement and provide trade confirmations to the Complainants as required under the law. Therefore, the regulatory violations stand established and in strict reverence with the order of Honourable Islamabad High Court dated 15/03/12 in the petition, these findings will not in any way affect the rights of the parties involved in civil litigation regarding the matter directly or substantially in issue before the civil court. The violation of the Rules and Regulations is a serious matter which empowers the Commission to suspend registration of the Respondent No.2 as a broker but in view of the positive intent of the Respondent No.2 by settling the entire claim of the Complainant (i), this power is not being exercised at present. However, in exercise of the powers under section 22 of the Ordinance, a penalty of Rs. 500,000 was imposed on Respondent No.2 and was directed to ensure full compliance with the Ordinance, Rules, Regulations and directives of the Commission in the future.
10. The Appellant has preferred the instant appeal against the Impugned



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Order. The appeal was fixed for hearing on 01/01/15. The Appellant's counsel and Respondent No. 2 were called for hearing at 4:30 pm; the Appellant's counsel and the department representative were present, however, Respondent No. 2 failed to appear.

In view of the above, the Impugned Order is upheld. The appeal is dismissed with no order as to cost.

Tahir Mahmood
Commissioner (CLD)

Fida Hussain Samoo
Commissioner (Insurance)

Announced on: 19 JAN 2015