



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. I

In the matter of

Appeal No. 37 of 2014

Standard Capital Securities (Pvt) Limited

...Appellant

Versus

Director/HOD (MSRD)

...Respondent

ORDER

Date of hearing

09/01/15

Present:

For the Appellant:

M. Hanif Razzak, FCA

Mr. Naushad Chamdia

Department representative:

Mr. Mian M. Imran, Deputy Director

Ms. Najia Ubaid, Deputy Director

1. This order shall dispose of appeal No. 37 of 2014 filed under section 33 of the Securities and Exchange Commission of Pakistan (the "Commission") Act, 1997



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(“SECP Act”) against the order (the “Impugned Order”) dated 07/07/14 passed by the Respondent.

2. The brief facts of the case are that the Commission in exercise of its powers under section 6(1) of the Securities and Exchange Ordinance, 1969 (“Ordinance”) read with Rule 3 and Rule 4 of the Stock Exchange Members (Inspection of Books and Record) Rules, 2001 (“Inspection Rules”) ordered an inspection of the books and records required to be maintained by Standard Capital Securities (Private) Limited (the “Appellant”). The following officers of the Commission were appointed as inspectors (“Inspection Team”) for the purpose vide order dated 31/12/13:

- a) Mr. Muhammad Tanweer Deputy Director
- b) Mian Muhammad Imran Deputy Director

3. The Inspection Team submitted the report (“Inspection Report”) on 04/03/14 which was shared with the Appellant in accordance with rule 7 of the Inspection Rules. The response of the Appellant was received vide letter dated 20/03/14. Upon evaluation of the Inspection Report, irregularities in calculation of Net Capital Balance (“NCB”) as on 30/06/13 were observed and it appeared that NCB certificate was not in accordance with the Third Schedule of the Securities and Exchange Rules, 1971 (“SEC Rules”). Moreover, the Inspection Report further highlighted that the Appellant, did not have Know Your Customer (“KYC”) and Customer Due Diligence (“CDD”) Policy duly approved from the Board of Directors of the Appellant; failed to maintain segregations of clients’ assets; failed to maintain proper books of accounts and was involved in imposing late payment charges to its clients.

4. Show Cause Notice dated 29/04/14 (“SCN”) was issued to the Appellant dated 29/04/12 under section 22 of the Securities and Exchange Ordinance, 1969 (the “Ordinance”) and Rule 8 of the Brokers and Agents Registration Rules, 2001 (“Brokers Rules”). The Appellant submitted its written response to the SCN vide



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letter dated 17/05/14. Hearing in the matter of aforesaid SCN was held. The Respondent, dissatisfied with the response of the Appellant, held that after a detailed and thorough perusal of facts, evidence and information available on record, contentions and averments made by the Appellant's Representatives during the course of the hearing, it is evident that the Appellant failed to maintain segregation of clients' assets, failed to maintain proper books of accounts and was involved in imposing late payment charges. The use of clients' funds to either finance other clients (receivables) or to make own investments of the Appellant is prohibited under the regulatory framework. Therefore, in exercise of the powers under section 22 of the Ordinance, a penalty of Rs. 100,000/- was imposed on the Appellant. The Appellant was further directed to:

- a) Comply with the SEC Rules and the guidelines issued in letter and spirit; and
- b) Ensure segregation of clients' assets.

5. The Appellant has preferred to file the instant appeal against the Impugned Order. The Appellant's representative argued that the Appellant had informed the Respondent during the Inspection and during the hearing that it had separate records for client's funds and separate bank accounts. The purpose of providing data in comparative form was to enable the Respondent to see that there was no misuse of client's funds. It was further argued that with regard to imposing late payment charges to its clients, since November 2013 no such charges were imposed on the clients and the Appellant had opened a collateral account for the purpose of handling the transactions for which its clients fail to make settlement. It was prayed that the harsh penalty may be set aside and the Impugned Order may be disposed of.

6. The department representatives argued that that clients' money was not kept separate as is required under the regulatory framework. Furthermore, the funds were either utilized by the Appellant for financing its own investments or financing receivables of the



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Appellant. It was argued that the calculation given by the Respondent in para 7(d) of the Impugned Order proved that the Appellant was involved in using clients' funds for either financing the debtors from the money of other clients or for its own investments and/or other purposes.

7. We have heard the parties. During the proceedings of the appeal, the Appellant submitted a detailed position of trade payables and bank balance in clients' account starting from 19/08/14 till 31/12/14. Analysis of the information provided by the Appellant to the Appellant Bench during the course of hearing revealed that the Appellant is still not compliant with the applicable laws in letter and spirit even after the Impugned Order had been passed, however an effort has been made by the Appellant to improve its systems. No doubt the failure of the Appellant to maintain segregation of clients' assets is harmful and detrimental for the interest of its clients, market integrity and transparency, but, considering that the Appellant has made an effort to improve its existing systems as evident from the documents submitted during the hearing.
8. In view of the above, taking a lenient view in the matter, we set aside the penalty imposed on the Appellant and direct the Appellant to ensure strict compliance with the Ordinance and SEC Rules in letter and spirit.
9. Parties to bear their own cost.

(Fida Hussain Samoo)
Commissioner (Insurance)

(Tahir Mahmood)
Commissioner (CLD)

Announced on: **05 MAR 2015**