

Before the Director (Market Supervision & Registration Department)
Securities Market Division
Securities and Exchange Commission of Pakistan

In the matter of Show Cause Notice Dated April 26, 2013 issued to
Mr. Muhammad Hashim, Member of Pakistan Mercantile Exchange Limited

Date of Hearing: May 15, 2013

Present at the Hearing: Mr. Muhammad Hashim

Representing (MSRD): Mr. Murtaza Abbas (Deputy Director - MSRD)

ORDER

This Order shall dispose of the proceedings initiated through a Show Cause Notice No. 4/BRC-252/PMEX/SMD/2013 dated April 26, 2013 ("**the SCN**") issued to Mr. Muhammad Hashim ("**the Respondent**") under Rule 12 (4) of the Commodity Exchange and Futures Contracts Rules, 2005 ("**the rules**").

2. Brief facts of the case are that the Respondent is a Member of the Pakistan Mercantile Exchange Limited ("**PMEX**"). PMEX vide letter dated November 28, 2012 forwarded the application of the Respondent for grant of certificate of registration as "broker" under the rules. While reviewing the application it was observed that the Respondent misstated with regards to his experience and, therefore, the Commission advised PMEX to provide a valid experience certificate of the Respondent. In response, PMEX provided the experience certificate of the Respondent issued by M/s. Akhai Securities (Pvt.) Limited, Trading Right Entitlement Certificate holder of Karachi Stock Exchange Limited. Given this fact that rather than clarifying the apparent misstatement regarding his initial experience certificate from Hum Securities Limited ("**HSL**"), the Respondent submitted another certificate from M/s. Akhai Securities (Pvt.) Limited, which led to the Commission to believe that respondent has *prima facie* submitted a fake certificate to prove his experience.

3. In view of the facts stated above, the Commission issued a SCN to the Respondent, the contents of which are reproduced below:-

“SUBJECT: HEARING NOTICE IN THE MATTER OF APPLICATION FOR GRANT OF CERTIFICATE OF REGISTRATION AS BROKER UNDER THE COMMODITY EXCHANGE AND FUTURES CONTRACTS RULES, 2005”

THAT, Mr. Muhammad Hashim (“the applicant”) applied to the Securities and Exchange Commission of Pakistan (“the Commission”) for grant of certificate of registration as Broker under the Commodity Exchange And Futures Contracts Rules, 2005 (“the rules”).

2. *WHEREAS, Pakistan Mercantile Exchange Limited (“PMEX”) while forwarding the said application provided a letter of recommendation wherein it was stated that the information contained in the application was true to the best of their knowledge and consistent with all the record maintained by them.*

3. *WHEREAS, while reviewing the said application, it was observed that the applicant submitted the experience certificate from M/s. Hum Securities Limited. According to the said certificate the applicant worked with M/s. Hum Securities Limited as equity dealer from July 1, 2005 till November 25, 2011. However, the Karachi Stock Exchange Limited reported that as per their record the applicant did not work as employee of M/s. Hum Securities Limited.*

4. *WHEREAS, consequent to this apparent misrepresentation, the Commission vide letter dated January 10, 2013 advised PMEX to provide valid experience certificate of the applicant. In reply to the said letter, PMEX provided the experience certificate dated March 1, 2013 of the applicant from M/s. Akhai Securities (Pvt.) Limited.*

5. *WHEREAS prima facie it appears that the applicant by submitting fake experience certificate to the Commission provided false and misleading information and violated the provisions of Rule 26 of the Rules. For ease of reference the said rule is reproduced below.*

“No person shall, in any document, paper, accounts, information or explanation which he is, by or under these rules, required to furnish, or in any application made under these rules, make any statement or give any information which he knows or has reasonable cause to believe to be false or incorrect in any material particular.”

6. *AND WHEREAS, Rule 12 (4) of the rules provides that:*

“No application made under sub-rule (1) of rule 11 shall be refused except after giving an applicant a reasonable opportunity of being heard.”



7. **NOW THEREFORE**, you are hereby called upon to show cause in writing by May 2, 2013, as to why action as provided in Rule 12 (4) of the rules may not be initiated for violation as indicated above. You are further directed to appear in person or through an authorized representative (with documentary proof of such authorization), on May 7, 2013 at 10.00 a.m. at the SECP Headquarters – Islamabad. You are advised to bring all relevant record in original, which you may consider necessary for clarification/defense of your stance. This notice sufficiently discharges Commission's obligation to afford the applicant an opportunity of hearing in terms of rule 12 (4) of the rules and in case of failure to appear on the stated date of hearing it will be deemed that the applicant has nothing to say in his defense and the matter will be decided on the basis of available record.

Hasnat Ahmad
Director”

4. Pursuant to the said SCN the Respondent requested the Commission to adjourn the hearing for a week and accordingly the hearing was rescheduled for May 15, 2013. In addition PMEX was also directed to join the proceedings through video conference from the Karachi office. Accordingly, the Respondent appeared on May 15, 2013 for hearing and also submitted his written comments before the undersigned. In his comments, the Respondent asserted that he never worked with HSL as “equity dealer” rather he was a client of HSL. The word “equity dealer” was wrongly and unintentionally quoted by HSL in his experience certificate. The Respondent is an ex-banker with over 25 years of experience in banking sector and is also running a family owned registered company with the name “Three Star Enterprises” since 1998. The scope of business activities include commodities trading, ship breaking brokerage, textile unit, dealing in metals mining, dealing in agricultural products, cotton, cloth and timber etc. and the company offices are located in Pakistan, Saudi Arabia, United Arab Emirates and Malaysia.

5. The representative of PMEX who joined the proceedings through video conference also endorsed the comments of the Respondent and requested that based on vast experience of the Respondent, certificate of registration as broker may be granted under the rules.

6. I have examined the facts, evidences and documents on record, in addition to written and verbal submissions made on behalf of the Respondent. Looking into the facts of the case the following two issues were framed to decide the matter:-

- a) To verify the relevant experience of the Respondent with regards to commodities trading; and
- b) To check the veracity of the experience certificate submitted by HSL.

7. As far as the first issue regarding relevant experience of the Respondent is concerned it is

quite clear from the documents on record that he possesses necessary experience of dealing in securities and trading in commodities. The experience certificate of the Respondent received from M/s. Akhai Securities (Pvt.) Limited does provide enough evidence of his experience of dealing in securities and the business activities covered under the ambit of Three Star Enterprises does also support his experience in commodities trading. In addition, endorsement by the representative of PMEX also supports his point of view.

8. As far as the second issue is concerned, Respondent's stance that the word "equity dealer" in the experience certificate provided by HSL was inadvertent and not willful is acceptable. This fact was also confirmed from the Karachi Stock Exchange Limited and as per their record Respondent's name was not appearing in the list of employees of HSL.

9. In view of the submissions and documents on record I am of the considered opinion that the Respondent has provided sufficient evidence to the Commission against the SCN issued to him and therefore the subject SCN stands disposed off.


Hasnat Ahmad
Director (MSRD)

Announced on May 22, 2013
Islamabad.

