

**Before the Director (Broker Registration & Investor Complaints Wing)
Market Supervision & Capital Issues Department
Securities Market Division
Securities and Exchange Commission of Pakistan**

In the matter of Show Cause Notice dated February 17, 2012, issued to
M/s. Khalid Javed Securities (Pvt.) Ltd., Ex-Member of the Lahore Stock
Exchange (G) Limited

Date of Hearing :	March 8, 2012
Present at the Hearing: <u>Representative of Khalid Javed Securities (Pvt.) Ltd.</u>	1. Mr. Javed Gulzar, Chief Executive/Director of the Respondent 2. Mr. Khushnood Ahmed Gulzar, Director of the Respondent
Absent during the Hearing	1. Mrs. Samina Javed, Director of the Respondent

ORDER

This Order shall dispose of the proceedings initiated through Show Cause Notice dated February 17, 2012 issued to M/s. Khalid Javed Securities (Pvt.) Ltd. (**“the Respondent”**), Ex-Member of the Lahore Stock Exchange (G) Ltd. (**“the LSE”**) and its directors under Section 22 read with Section 18 of the Securities and Exchange Ordinance 1969 (**“the Ordinance”**).

2. Brief facts of the case are that the Respondent was a member of the LSE and registered with the Securities & Exchange Commission of Pakistan (**“the Commission”**) as a broker under the Brokers and Agents Registration Rules, 2001 (**“the Rules”**). Mr. Javed Gulzar (**“Chief Executive”**), Mr. Khushnood Ahmed Gulzar and Mrs. Samina Javed were directors on the Board of the Respondent (**hereinafter referred to as “Directors”**). Through letter dated March 25, 2011 and March 29, 2011, the LSE informed the Commission that the Respondent has filed a winding-up petition (Civil Original No. 20 of 2011) before the Hon’able Lahore High Court and closed its offices registered with the LSE without any prior intimation in violation of regulation 10 of the Regulation Governing LSE Members’ Office(s)/Branch Office(s) for conducting the business and trading of shares and securities within/outside the Exchange. In view thereof, the LSE switched off all trading terminals of the Respondent. The LSE through said letters also informed the Commission regarding

receipt of investor complaints/claims against the Respondent. The Commission took necessary steps vide letters dated March 29, 2011, March 31, 2011 and April 01, 2011 and sought necessary information from the Central Depository Company of Pakistan Limited (“CDC”) and the LSE. Further, the Respondent vide letter dated March 30, 2011, was advised to settle all outstanding complaints before initiating the winding up proceeding of the company and was further advised to attend a meeting on Tuesday, April 5, 2011 at 11.00 a.m. through video conferencing at the Company Registration Office of the Commission at Lahore. The said meeting was held as per schedule but the Directors failed to provide any concrete arrangement for the settlement of claims/complaints. On April 12, 2011, the Commission directed the CDC to withhold movement of shares from the sub-accounts maintained under the Participant ID of the Respondent. The LSE vide letter dated April 19, 2011 informed that the Respondent has been expelled from the membership of the exchange with immediate effect. Subsequently, CDC also suspended admission of the Respondent to the Central Depository System.

3. In view of the above, the Commission conducted initial scrutiny of the documents, record and the contents of the winding up petition filed by the Respondent, which revealed the following issues and discrepancies:-

- a. As per statement made by the Respondent in the winding up petition, an amount of Rs. 39.84 million was payable to 174 investors of the Respondent, whereas as per CDC record, only shares worth estimated Rs. 6.4 million were actually available in investors’ sub-accounts and shares worth approximately Rs.33.44 million were apparently unaccounted for.
- b. The Respondent in the winding up petition stated that there were 174 investors/clients, whereas as per information received from CDC, there were 384 sub-accounts holders.
- c. As per financial statements for the last two years, the Respondent’s receivables went down from Rs. 92.970 million to Rs. 80.794 million. As of June 30, 2010, net positive equity of the Respondent was Rs. 86.405 million (Paid up capital Rs.50.00 million and Reserves Rs. 36.405 million). No loan of any bank or broker was outstanding against the Respondent.
- d. The Commission and the LSE received 25 complaints against the Respondent. The complainants alleged *inter alia* that the Respondent had utilized their shares unlawfully and withdrawn shares from their sub-accounts without their permission.

4. In view of the *prima facie* violations, non-compliances and pending investor claims against the Respondent, the Competent Authority, in exercise of the power delegated through SRO No. 1076(1)/2010 dated November 29, 2010, ordered an enquiry under Section 21 of the Ordinance read with Section 29 of the Securities and Exchange Act, 1997 through an order dated April 22, 2011. The following officers of the Commission (**collectively referred to as “the Enquiry Officers”**) were appointed to enquire into the matter relating to

outstanding investor claims against the Respondent, to inspect the books and record and to investigate the trading activity and practices of the Respondent and do all such things as were necessary or incidental thereto:

- 1) Mr. Tahir Mahmood Kiani, Deputy Director (SD)
- 2) Mr. Muhammad Ali, Deputy Director (SD)
- 3) Ms. Saima Shafi Rana, Deputy Director (SD)

5. Through the aforesaid enquiry order, the Respondent was directed to fully cooperate with and assist the Enquiry Officers in conducting and completing the enquiry. The Respondent was also directed to provide any information and documents as required by the Enquiry Officers from time to time. The Respondent and its Directors were advised that in case of their failure to provide the required information, appropriate action would be initiated against them under the law.

6. The Enquiry Officers submitted their interim report on February 13, 2012 to the Competent Authority, perusal of which transpires that the Respondent submitted false and incorrect information/statements during the course of the enquiry and also failed to provide the relevant record and information as directed by the Enquiry Officers despite repeated directions. On the basis of the interim report of the Enquiry Officers, the undersigned took cognizance of the non-compliance of the directions, non-provision of information and, false and incorrect statements made before the Enquiry Officers by the Respondent and its Directors and issued a Show Cause Notice dated February 17, 2012 to the Respondent and its Chief Executive/Directors, the contents of the SCN are reproduced as under:

Sub: SHOW CAUSE NOTICE UNDER SECTION 22 READ WITH SECTION 18 OF THE SECURITIES AND EXCHANGE ORDINANCE, 1969

*WHEREAS, in exercise of its powers under Section 21 of the Securities and Exchange Ordinance, 1969 ("the Ordinance") read with Section 29 of the Securities and Exchange Commission of Pakistan Act, 1997 ("the Act"), the Securities and Exchange Commission of Pakistan ("the Commission") vide Order No. 4(BRL-70)/SE/SMD/2001 dated April 22, 2011 appointed the following three Enquiry Officers to enquire into the matter relating to outstanding investor claims against **M/s. Khalid Javed Securities (Private) Limited** ("the Company"), Ex Corporate Member of the Lahore Stock Exchange (G) Limited ("LSE"):*

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|-----------------------------------|-----------------------------|
| <i>1. Mr. Tahir Mahmood Kiani</i> | <i>Deputy Director (SD)</i> |
| <i>2. Ms. Saima Shafi Rana</i> | <i>Deputy Director (SD)</i> |
| <i>3. Mr. Muhammad Ali</i> | <i>Deputy Director (SD)</i> |

(Hereinafter referred to as "Enquiry Officers")

2. *WHEREAS, the Enquiry Officers vide letter dated May 4, 2011 directed the Company to provide information and necessary record pertaining to the matter under*

enquiry and investigation including the Standardized Account Opening Forms of the clients ("SAOFs"), general ledger, trail balance, loan agreements and pledge reports, details of pending and unsettled claims etc., on or before May 20, 2011. The Company through its Chief Executive vide letter dated May 19, 2011, responded that all the computers, back office record, SAOFs etc., are in the custody of the Court Auctioneers as per the order dated May 10, 2011 of the Hon'ble High Court, Lahore ("the Court") in C.O. 20 of 2011, Khalid Javed Securities vs. LSE and others.

3. *WHEREAS, on the basis of the statement of the Chief Executive of the Company that the record and information required by the Enquiry Officers is with the Court Auctioneers in accordance with the order of the Court dated May 10, 2011, on application of the Commission for the access of record, the Court vide order dated July 25, 2011, directed the Court Auctioneers to provide Commission due access to the record of the Company.*

4. *WHEREAS, in light of the aforesaid order of the Court, the Enquiry Officers through letter dated August 9, 2011 requested the Court Auctioneers to facilitate the directors of the Company in providing back office record along with SOAF etc., to the Enquiry Officers.*

5. *WHEREAS, in furtherance thereof, in exercise of the powers conferred under Section 21(3) of the Ordinance, the Enquiry Officers issued notice dated September 21, 2011 directing the Chief Executive and the directors of the Company to ensure presence of an authorized representative of the Company on October 4, 2011 at the Company's office, Room No. 620, 6th Floor, LSE building, 19 Khyaban-e-Aiwan-e-Iqbal, Lahore to enable the Enquiry Officers to inspect and seize the record of the company in presence of the Court Auctioneers. Further, Managing Director LSE was directed to ensure presence of LSE representative and provide logistic support, if any. The Chief Executive of the company in response to the aforesaid notice, replied through letter dated September 23, 2011 and reiterated his response that all the record, computers and other relevant papers are with the Court Auctioneer. The Chief Executive of the Company further stated that the Company has handed over the required record to Mr. Mujahid Nadeem, Court Auctioneer.*

6. *WHEREAS, the Enquiry Officers along with officials of the LSE and the Court Auctioneer visited the LSE on the given date and time and examined the Company's record, available with the Court Auctioneers in presence of the Chief Executive Officer of the Company. Contrary to the submissions and statements made in writing by the Chief Executive of the Company vide letters dated May 19, 2011 and September 23, 2011, it was revealed that requisite original record (SAOFs, loan agreements, pledge reports and trail balance etc.) was not available with the Court Auctioneer. The Chief Executive of the Company managed to provide partial record through his personal USB which was available with him all along, but he failed to provide SAOFs, loan agreements, pledge reports in original.*

7. *WHEREAS, the Chief Executive of the Company was afforded adequate opportunity to provide the aforesaid documents. However, the Chief Executive refused to provide the same to the Enquiry Officers but undertook to submit the same with the Court Auctioneers. The Chief Executive was verbally directed by Mr. Tahir*

Kiani, one of the Enquiry Officers, in presence of Mr. Mujahid Nadeem, the Court Auctioneer, to submit the SAOFs of the account holders and other record etc., with the Court Auctioneer.

8. *WHEREAS, the Enquiry Officers vide letter dated December 21, 2011 requested the Court Auctioneer to provide copies of SAOFs of 23 major accounts holders. In response, the Court Auctioneer vide letter dated January 16, 2012 informed the Enquiry Officers that the Company has failed to submit/provide the desired record in original despite the explicit direction of the Enquiry Officers during their visit of LSE.*

9. *WHEREAS, as reported by the Enquiry Officers it appears that, the Company in its letters dated May 19, 2011 and September 23, 2011, has made statements and given information, which is false and incorrect in material particular by stating that the documents required by the Enquiry Officers are in possession of the Court Auctioneer. Further, the company has failed to provide information and record as directed by the Enquiry Officers and have also failed to comply with the directions of the Enquiry Officers, which tantamount to obstruction and hindrance in exercise of the lawful authority of the Enquiry officers.*

10. *WHEREAS, in terms of section 18 of the Ordinance, no person shall, in any document, paper, accounts, information or explanation which he is, by or under the Ordinance, required to furnish, or in any application made under the Ordinance, 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. Any contravention of section 18 of the Ordinance is punishable with penalty under section 22 of the Ordinance.*

11. *WHEREAS, in terms of section 21 (2) & (3) of the Ordinance any person and every member of the exchange (past or present) is duty bound to furnish such information and documents having bearing on the subject matter of the enquiry as the person conducting the enquiry may require. Any failure or refusal to furnish any document, paper or information required to be furnished by or under the Ordinance is punishable with penalty under section 22 of the Ordinance.*

12. *NOW THEREFORE, you are hereby called upon to Show Cause in writing by February 24, 2012, as to why penalty should not be imposed on you under Section 22 of the Ordinance, on account of failure to provide information and record as directed by the Enquiry Officers and providing information and making statements which are false and incorrect in material particular during the course of enquiry as required by the Ordinance. You are further directed to appear in person or through an authorized representative (with documentary proof of such authorization) before the undersigned, on February 27, 2012 at 10:30 a.m. at the Commission's Head office at 9th Floor, NIC Building, Jinnah Avenue, Blue Area, Islamabad. You are advised to bring all relevant record in original, which you may consider necessary for your defense/clarification.*



13. *In case of failure to appear on the said date of hearing the matter will be decided on the basis of available record.*

14. *This Show Cause Notice under section 22 of the Ordinance is issued in exercise of powers of the Commission delegated through SRO. 1076(I)/2010 dated 29th November, 2010 and SRO. 685(I)/2011 dated July 7, 2011.*

*Sd/-
(Hasnat Ahmad)
Director (MSCID)*

7. The Chief Executive/Directors of the Respondent or their authorized representative were afforded an opportunity to appear before the undersigned on February 27, 2012. On the said date no one appeared on behalf of the Respondent. However, a letter dated February 22, 2012 was received on February 27, 2012 from the Chief Executive of the Respondent, wherein a brief reply to the observations highlighted in the Show Cause Notice was submitted along with a request for adjournment of hearing. In the interest of justice, the undersigned acceded to his request and fixed hearing on March 8, 2012. The contents of the letter of the Chief Executive of the Respondent dated February 22, 2012 are reproduced below:-

Subject: SHOW CAUSE NOTICE UNDER SECTION 22 OF THE SECURITIES AND EXCHANGE ORDINANCE, 1969

Your show cause notice mentioned above refers to two failures on the part of undersigned, which is against facts. We have furnished all the details to SECP through and under various written letters, personally and via soft copies as and when required out of available record with the court auctioneers.

23 SAOF were never required by the SECP from the company, please intimate if through any letter of instructions under which 23 SAOF were required from the undersigned. As regards stance of the company that record is in the possession of court auctioneers, the same is correct as it was obtained by them directly from the office of the company. The inquiry officers also inspected the said record at LSE after de-sealing the same.

The contentions raised in the show cause are therefore not sustainable.

We remain committed to cooperate with SECP to ensure settlement of all claims through Winding up process pending in the Hon'able Lahore Court, Lahore.

You are also informed that on 27th February 2012, the membership card of the company is scheduled to be auctioned at LSE building, as per the orders of the Hon'ble Lahore High Court, Lahore for settlement of pending claims, therefore it would not be possible for the undersigned to appear on the said date.



As the proceedings in the Winding Up petition are due on 5th March 2012; any other date may be given for personal appearance, if so required.

I reiterate Company's commitment to co-operate with SECP in the larger interest of claimants and amicable resolution of the consequences after the Winding Up of the company.

*SD/-
Javed Gulzar
Chief Executive
Khalid Javed Securities Private Limited*

8. On March 8, 2012, Chief Executive and Mr. Khusnood Gulzar, one of the Directors appeared before the undersigned on behalf of the Respondent. During the course of hearing, initially the representatives of the Respondent denied allegations mentioned in the Show Cause Notice and argued that the Commission has not asked for twenty three Standardized Account Opening Forms (“SAOF”) of its clients from the Respondent and also stated that all record is with the Court Auctioneers. However, on being confronted with the facts and correspondences exchanged between the Enquiry Officers, the Court Auctioneers and the Chief Executive of the Respondent, which were clearly contrary to his arguments and contentions, the Chief Executive of the Respondent admitted before the undersigned that the original SAOFs of the clients are available with him. The detail of the correspondences and record which was confronted to the representative of the Respondent is as follows:

- a) Letters dated May 4, 2011 and September 21, 2011, wherein the Enquiry Officers directed the Respondent to furnish record (i.e. SAOFs of all clients, trial balance, ledgers, loan agreements/pledge record) from the Respondent.
- b) The responses of the Chief Executive of the Respondent dated May 19, 2011 and September 23, 2011 wherein incorrect and false information that all the back office record, computers, SAOFs etc. are in the custody of the Court Auctioneers as per the order dated May 10, 2011 of the Hon'able High Court Lahore, was submitted to the Enquiry Officers. During visit of the LSE on October 4, 2011, the Enquiry Officers observed that the requisite original record (SAOFs, loan agreements, pledge reports and trail balance etc.) was not available with the Court Auctioneers. The Chief Executive of the Respondent managed to provide partial record through his personal USB which was available with him all along, but failed to provide SAOFs of 174 clients, loan agreements, pledge reports etc. in original. The Enquiry Officers again directed the Chief Executive of the Respondent to submit all record to the Court Auctioneers, in the presence of the Mr. Mujahid Nadeem, Court Auctioneer. The Chief Executive of the Respondent undertook to provide the record which was purportedly available with him at home but failed to submit the required record as stated above.
- c) Letter dated December 21, 2011 of the Enquiry Officers addressed to Mr. Mujahid Nadeem, Court Auctioneer and his response dated January 11, 2012,



which was received to the Enquiry Officers on January 16, 2012, (the date on the letter was inadvertently mentioned as January 11, 2011) contents of which are reproduced as under:-

"Please note that the SECP's enquiry team would remind that during their visit to LSE to inspect the record of M/s. Khalid Javed Securities (Private) Limited (Expelled Member, LSE) had explicitly directed the company to produce the original Standardized Account Form of the account holders maintained with them and the other office record yet in their custody. The Commission is hereby informed the failure of the said company to provide the original record of the remaining accountholders despite the request of the enquiry team and the court auctioneer. Further stated, the record of SAOF of the desired accountholders has not yet been provided till date."

9. In view of the foregoing, it is evident that the Respondent has not only failed to provide the required information as directed in detail and in explicit manner by the Enquiry Officers but also made statements during the enquiry proceedings to the Enquiry Officers which were not only false and incorrect but deliberately aimed to stall and delay the enquiry proceedings. The arguments and contentions raised by the Respondent have no merits. The Chief Executive of the Respondent has during the course of the enquiry proceedings and the present proceedings made incorrect and self-conflicting statements and even admitted that the documents required by the Enquiry Officers were in his custody, which he previously stated to be with the Court Auctioneer. Numerous opportunities were afforded to the Respondent to furnish the required information and to comply with the directions of the Enquiry Officers but the Respondent and its Directors have failed to comply with the directions of the Enquiry Officers and failed to furnish information and record, which it was required to furnish under the Ordinance.

10. In view of the willful default of the Respondent and its Directors to provide the information/record as required by the Enquiry Officers, failure to comply with the directions of the Enquiry Officers and submission of statements which were false and incorrect despite having reasonable cause to believe it to be false and incorrect, contravention of section 21 and section 18 of the Ordinance stands established. I am of the considered view that the Respondent has failed to comply with requirements of the Ordinance and the Rules made thereunder and failed to furnish the requisite record and information which it was required to furnish under the Ordinance. Therefore, in exercise of the powers conferred under section 22 of the Ordinance, a penalty of Rupees Two Million (Rs. 2.0 Million) is imposed, payable jointly and severally by Respondent and its Directors. In addition thereof, in view of the false and incorrect statements made by the Chief Executive on behalf of the Company during the Enquiry proceedings and proceedings before this office and failure to comply with the provisions of the Ordinance, a penalty of Rupees One Million (Rs. 1.0 Million) is imposed on the Chief Executive of the Respondent in exercise of powers under section 22 of the Ordinance, which shall not be borne by the Respondent.

11. This matter is disposed of in the above manner and the Respondent and its Chief Executive are directed to deposit the fine/penalty as mentioned in paragraph 10 above in the



account of the Commission being maintained in the designated branches of MCB Bank Limited not later than thirty (30) days from the date of this Order and furnish the copy of the deposit challan to the undersigned.

12. The Order is issued without prejudice to any other action that Commission may initiate against the Respondent or its Directors in accordance with law on matters subsequently taken up or investigated and/ or brought to the knowledge of the Commission.


HASNAT AHMAD
Director (MSCID)

March 29, 2012

