



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN  
Securities Market Division  
Broker Registration & Investor Complaints Wing

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BEFORE THE DIRECTOR (SECURITIES MARKET DIVISION)

IN THE MATTER OF SHOW CAUSE NOTICE ISSUED TO

IGI FINEX SECURITIES LIMITED

MEMBER - KARACHI STOCK EXCHANGE (GUARANTEE) LIMITED

Date of Hearing: September 30, 2011

Present at the Hearing: Authorized Representatives of IGI Finex Securities Limited

1. Mr. Azhar Batla (Chief Executive Officer)
2. Mr. Raza Hussain Rizvi (Chief Financial Officer)
3. Mr. Raza Hirani (Head of Operations)
4. Mr. Farrukh Mustapha (Manager Finance)

ORDER

1. This Order shall dispose of the proceedings against IGI Finex Securities Limited (**"the Respondent"**), initiated by the Securities and Exchange Commission of Pakistan (**"the Commission"**) through a Show Cause Notice No. SM/BRK-138/3-4-5-6-7-10 dated December 15, 2010 (**"the SCN"**) under Rule 8 of the Brokers and Agents Registration Rules, 2001 (**"the Rules"**) and Section 22 of the Securities and Exchange Ordinance, 1969 (**"the Ordinance"**).
2. Brief facts of the case are that the Respondent is a Corporate Member of the Karachi Stock Exchange (Guarantee) Limited (**"KSE"**) and is registered with



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the Commission under the Rules. The Commission received complaints from the following clients of the Respondent on the dates mentioned against each:

<u>Sr. No.</u>	<u>Name of the Complainant</u>	<u>Date of Complaint</u>
(i)	Mr. Farrukh Hussain	April 13, 2009
(ii)	Ms. Najma Sehikh	September 2, 2009
(iii)	Mr. Muhammad Arif	April 2, 2009
(iv)	Mr. Shariq Saleem	November 25, 2008
(v)	Mr. Nasim Akbar	September 7, 2009

3. The above mentioned Complainants hereinafter referred to as the **Complainant (i), Complainant (ii), Complainant (iii), Complainant (iv) and Complainant (v)** respectively and cumulatively as **"the Complainants"**. All the Complainants alleged that unauthorized trading in their accounts had been done by one of the registered agent, Mr. Shakeel Arif (**"the Agent"**) of the Respondent.
4. The Complainant (ii) and the Complainant (v) along with their complaints provided statements duly signed by the Agent of the Respondent accepting unauthorized trading in their accounts and also accepting the loss caused thereby.
5. The Commission vide letter dated December 1, 2008 directed to the Respondent to investigate and resolve the complaint of the Complainant (iv) by December 8, 2008. The Respondent vide letters dated December 12 and December 29, 2008, communicated to the Complainant (iv) that as per the requirements it has implemented a system which deletes the order placement record / recording of



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- the telephonic conversations with the clients older than six months. It further stated that since the transactions under question were executed in the month of May 2008, therefore, no record was available.
6. The Commission vide letter dated January 6, 2009 reminded the Respondent that the Complainant (iv) had highlighted the disputed transactions through his letter dated October 10, 2008 to the Respondent, well before deletion of the record of the said transactions as per the system implemented by the Respondent. The Commission further stated that the Respondent should have kept the data intact, since the disputed transactions had been brought into its notice. The Commission again advised the Respondent to get the issue resolved. However, the Respondent failed to respond to the Commission despite reminders dated January 29, 2009 and February 19, 2009.
  7. The Respondent vide letter dated February 25, 2009 provided a copy of the legal notice served to the Complainant (iv) for recovery of debit balance and later in the month of July 2009, provided a copy of the civil suit filed by the Respondent against the Complainant (iv).
  8. The Commission upon receipt of other complaints of the similar nature, advised the Respondent to submit copies of the Account Opening Forms of the Complainants vide letter dated September 29, 2009. The Respondent through its letter dated October 6, 2009 provided copies of the said Forms to the Commission.

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9. The Commission vide notice dated October 29, 2009 advised Chief Executive Officer (CEO) of the Respondent to attend a meeting with the Director (ICW) on November 5, 2009, to discuss the above mentioned complaints. On the said date all the complaints in general and trading by the Agent in specific were discussed during the meeting. The Director (ICW) sought comments of the Respondent regarding statement given by the Agent and thereby accepting unauthorized trading in accounts of the Complainants. The CEO informed that complaints regarding unauthorized trading of shares were done after resignation of the Agent. He further mentioned that the Respondent is not responsible for any statement given by the Agent.
10. The Respondent vide letter dated November 16, 2009 certified that the Agent was employed with it till March 2, 2009. It further stated that the Agent resigned on his own accord and his final dues have not yet been settled due to outstanding debit balance in his clients' trading accounts.
11. The Commission vide letter dated January 20, 2010, advised the Respondent to provide the following information / record pertaining to the Complainants :
- i). *Telephonic recordings/ evidence of order placement by the following clients for the period specified against each.*
- a) *Complainant (i) w.e.f May 2008 till May 2009*
- b) *Complainant (ii) w.e.f April 2008 till August 2009*
- c) *Complainant (iii) w.e.f April 2008 till May 2009*
- d) *Complainant (v) w.e.f June 2007 till August 2009*
- e) *Complainant (iv) w.e.f June 2008 till August 2009*



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- ii). *Trade confirmations sent to the Complainants during the dates mentioned above (along with copy of courier receipts).*
  - iii). *Scrip wise trading statements of the Complainants as specified for the period in point (i) above.*
  - iv). *Duly certified ledger report of the Complainants.*
  - v). *CDC's Activity Report of the Complainants for the period specified in point (i).*
  - vi). *Duly certified copies of receipts and payments made in Complainants' accounts for the period specified above.*
  - vii). *Duly certified copies of payment requests submitted by the Complainants during the said period.*
12. The Respondent vide letter dated January 26, 2010, provided few trade confirmations along with courier receipts, ledger statements and CDC activity reports. The Respondent, however, failed to submit the remaining information required by the Commission vide letter dated January 20, 2010. The Commission, therefore, vide letters dated January 29 and February 12 again advised the Respondent to submit the remaining information, along with the following further information through which:
- i). *Complainants were communicated of the liquidation charges; and*
  - ii). *Complainants communicated their agreement to the liquidation charges.*
13. The Respondent vide letter dated February 19, 2010 confirmed that levying of liquidation charges was communicated to the clients through standard letters and no confirmation for acceptance of the same was obtained from them. It requested for extension in time for provision of the remaining information due to relocation of its office. The Commission vide letter dated March 12, 2010

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advised the Respondent to provide copies of courier receipts evidencing the said communication, to which no response was received. The Respondent again failed to provide the remaining information despite seeking extension in time for provision of the same to the Commission.

14. The Commission vide letters dated February 19, March 19, March 25 and March 30, 2010 served notices to the Agent for hearing. The Agent finally appeared in the hearing on March 31, 2010 and gave his statement in writing. Statement of the Agent is placed below:

March 31, 2010

**HEARING NOTICE IN THE MATTER OF COMPLAINTS AGAINST IGI FINEX SECURITIES LIMITED FILED BY MS. NAJMA SHEIKH AND MR. NASIM AKHTAR**

I have attended the hearing in the above matter at SECP Karachi office held on March 31, 2010 at 11:00 a.m. before Mr. Shaukat Hussain, Director, (ICW), through video conference and Mr. Mohammad Tanweer, Deputy Director, SMD, Karachi.

During the hearing I have been shown following documents for verification:

An Affidavit with my signature in the case of Mr. Nasim Akhtar

A Letter with my signature in the case of Ms. Najma Sheikh

I hereby confirm that the contents of the above mentioned affidavit and letter are true and I have signed the same in the office of IGI Finex Securities Limited. However, I have not given the said letter to Ms. Najma Sheikh.

(MOHAMMAD SHAKEEL)

DATED: MARCH 31, 2010



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15. The Commission served the SCN dated December 15, 2010 to the Respondent under Rule 8 of the Rules and Section 22 of the Ordinance for prima facie regulatory violations identified by the Commission, encompassing the following main issues.
- i). Unauthorized trading had been done in accounts of the Complainants by one of the registered Agent of the Respondent. The Agent in his statement also conceded his involvement in unauthorized trading in the accounts of the Complainants;
  - ii). The Respondent failed to monitor unauthorized activities of its registered Agent;
  - iii). The Respondent failed to provide complete record of the trade confirmations; and
  - iv). The Respondent levied liquidation damages without any written agreements with the Complainants.
16. The Respondent vide letter dated December 30, 2010 requested that hearing in the matter may be rescheduled for January 17, 2011. On the said date, two officials i.e. Syed Raza Hussain Rizvi and Mr. Imran Arif Memon appeared for hearing on behalf of the Respondent. They stated that the Agent was only an employee of the Respondent and was not registered as agent under the Rules with the Commission. They did not provide any further information to the Commission.
17. Before proceeding further in the matter of SCN, the Commission received an order dated January 26, 2011 from the Honourable Sindh High Court in the matter of Constitutional Petition (CP) D - 2630 of 2009, titled Mr. Shariq Saleem

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Vs. SECP & others, wherein the Hon'able Court directed that the enquiry be carried out within a period of eight weeks from the date of order and be placed on record of the court.

18. The Commission in compliance with the said court order initiated enquiry against the Respondent under Section 21 of the Ordinance read with Section 29 of the Securities and Exchange Act, 1997 and appointed Mr. Muhammad Ali - Deputy Director and Ms. Najia Ubaid - Assistant Director as enquiry officers vide letter dated February 25, 2011.
19. The enquiry officers in Executive Summary of the Report highlighted the following:

*"Enquiry process and evaluation of record revealed that IGI*

- i). *Failed to exercise due skill and care and maintain its integrity in the conduct of business and thereby failed to comply with Clause A-1 and A-2 of the Code of Conduct contained in Third Schedule of the Rules and thus failed to comply with the Ordinance and rules and regulations made there under.*
- ii). *By considering Complainants' interest inferior to his own, failed to comply with Clause B-6 of the Code of Conduct contained in Third Schedule of the Rules and thus failed to comply with the Ordinance and rules and regulations made there under.*
- iii). *Failed to maintain telephonic recordings of the orders placed by the Complainant and produce the same before the Commission and thereby failed to comply with*

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*Karachi Stock Exchange General Regulations (copy attached as Annexure – 3) and the Ordinance and rules and regulations made there under.*

- iv). *By imposing liquidation charges in the account of the Complainant without their consent and thereby failed to comply with Karachi Stock Exchange General Regulations and the Ordinance and rules and regulations made there under.*

*Evaluation of record and examination of the parties involved further revealed that:*

- i). *The Complainant had credit balance in his account maintained with IGI of Rs. 356,477/- as on May 19, 2008.*
- ii). *Shares held in the account of the Complainant as on October 10, 2008 (share transfer request date) else than Adamjee Insurance Company Limited (“AICL”) belongs to the Complainant and should have been transferred on that date to CDC investor account maintained by the Complainant in accordance to his request. Following shares available in CDC sub-account as on October 10, 2008 belonged to the Complainant:*
- a. 20,000 shares of Lucky Cement Limited (“LUCK”)*
  - b. 20,000 shares of DG Khan Company Limited (“DGKC”)*
  - c. 25,000 shares of Pakistan Telecommunication Company Limited (“PTC”)*
- iii). *IGI failed to provide telephonic recordings evidencing that trades executed after May 20, 2008 including the trade of 5,000 shares of AICL on May 20, 2008 were ordered by the Complainant. Further the Agent during examination communicated that purchase of 20,000 shares of LUCK on May 21, 2008 made in the account of the Complainant was because of error in his part and was rectified in August 2008. Above facts lead to the conclusion that subject trades in the account of complainant*



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*were executed without clients' instructions and any debit balance arising as a result of the subject trades and liquidation charges is the responsibility of IGI."*

20. Before submission of the enquiry report to the Court in the matter of CP D - 2630 of 2009, the Commission received another order dated March 22, 2011 of the Hon'able Sindh High Court in the matter of Constitutional Petitions No. CP D -2904 & 2905 of 2010 titled Mr. & Mrs. Muhammad Arif and Mr. Farrukh Hussain Khan versus SECP and others. The Hon'able Court directed that enquiry in the matter be carried out and after hearing order may be passed as the Commission may deem appropriate under the facts and circumstances of the case.
21. The Commission in compliance with the said court order initiated another enquiry in the matter of Mr. & Mrs. Muhammad Arif and Mr. Farrukh Hussain Khan against the Respondent under Section 21 of the Ordinance read with Section 29 of the Securities and Exchange Act, 1997 and appointed Mr. Adnan Ahmed - Deputy Director and Ms. Najia Ubaid - Assistant Director as enquiry officers vide letter dated April 8, 2011.
22. The enquiry officers in Executive Summary of the Report highlighted the following: (where Complainant 1 refers to Mr. & Mrs. Muhammad Arif and Complainant 2 refers to Mr. Farrukh Hussain Khan):  
  
*"Enquiry process and evaluation of record revealed that IGI:*
  - i). *Failed to exercise due skill and care and maintain its integrity in the conduct of business and thereby failed to comply with Clause A-1 and A-2 of the Code of*

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*Conduct contained in Third Schedule of the Rules and thus failed to comply with the Ordinance and rules and regulations made there under.*

*ii). By considering Complainants' interest inferior to his own, failed to comply with Clause B-6 of the Code of Conduct contained in Third Schedule of the Rules and thus failed to comply with the Ordinance and rules and regulations made there under.*

*iii). Failed to maintain telephonic recordings of the orders placed by the Complainant and produce the same before the Commission and thereby failed to comply with Karachi Stock Exchange General Regulations (copy attached as Annexure - 3) and the Ordinance and rules and regulations made there under.*

*Evaluation of record and examination of the Complainant 1 involved, further revealed that:*

- i). The Complainant 1 had debit balance of Rs. 987,390/- in his account maintained with IGI on April 25, 2008.*
- ii). Custody position in the account of the Complainant 1 was worth Rs. 1,211,056/- comprising of following shares:*

<b>Sr. No</b>	<b>Scrip</b>	<b>Rate</b>	<b>Quantity</b>	<b>Amount</b>
1	CTTL	7.80	5,000	39,000
2	JOVC	88.20	13,000	1,146,600
3	NORT	2.65	5,000	13,250
4	PIOC	32.55	375	12,206
<b>Total</b>				<b>1,211,056</b>

- iii). IGI should not have allowed purchase of shares in the account of the Complainant 1 after serving of Margin requirement/final notice on April 25, 2008 and should have*



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*squared up the position of the client maximum by April 29, 2008 in accordance to the agreed terms and conditions of the Account Opening Form.*

- iv). IGI failed to square up the position as was required and therefore responsible for the resulting debit balance in the account of the Complainant 1 because of decrease in price of the scrip and imposition of liquidation charges.*
- v). Had IGI squared up the position on April 28, 2008, the Complainant 1 would have credit balance in his account of Rs. 277,296/- based on closing rate of April 28, 2008.*

*Evaluation of record and examination of the Complainant 2 involved, further revealed that:*

- i). The Complainant 2 had credit balance of Rs. 565,018/- in his account maintained with IGI on May 5, 2008.*
- ii). Complainant 2 had no custody position, however had outstanding exposure of 3,000 shares of MCB and 3,000 shares of PKGS on May 5, 2008.*
- iii). IGI should not have allowed purchase of shares in the account of the Complainant 2 after serving of Margin requirement/final notice on May 5, 2008 and should have squared up the position of the client maximum by May 7, 2008 in accordance to the agreed terms and conditions of the Account Opening Form.*
- iv). IGI failed to square up the position as was required and therefore responsible for the resulting debit balance in the account of the Complainant 2 because of decrease in price of the scrip and imposition of liquidation charges.*

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- v). *Had IGI squared up the position on May 6, 2008, the Complainant 2 would have credit balance in his account of Rs. 570,766/- based on closing rate of May 6, 2008."*
23. The Commission in order to conclude the proceedings of the SCN provided the Respondent another opportunity of hearing vide letters dated July 29, 2011. However, the hearing was postponed on the request of the Respondent. Later hearings in the matter of SCN were scheduled for September 15, and September 30, 2011. Finally the said hearing was held on September 30, 2011.
24. During the hearing, the Respondent was asked about provision of the remaining information/ documents and telephonic recordings of order placement by the Complainants as was required vide letter dated January 20, 2010. The Respondent communicated that it does not have recordings of the said clients. The Respondent also reiterated its earlier stance that the Agent was its employee and was not registered as an agent under the Rules. The Commission however, apprised the Respondent that as per its record, the Agent was duly registered under Registration Number ARK-237 dated May 22, 2006. His registration was renewed annually and remained valid till May 21, 2009.
25. The Respondent further mentioned that the complaints were lodged after filing of the recovery suits by the Respondent against the Complainants. The Commission apprised the Respondent that Complainant (iv) submitted his complaint to the Respondent in October 2008, well before the date of filing of recovery suits.



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26. The Respondent was further enquired about provision of courier receipts of the trade confirmations sent to the Complainants, (as per the Account Opening Form onus of proving the receipt lies with the Respondent). The Respondent stated that it needs time and shall provide the courier receipts within ten days.
27. The Respondent during the hearing provided copies of record evidencing receipts and payments made from the Complainants' accounts. The Respondent stated that the Complainants were communicated about levying of the liquidation damages on the debit balance through an unsigned standard letter without any written agreement with the complainants. The Respondent further confirmed that it does not have any courier receipt confirming delivery of the same.
28. With reference to the statements given by the Agent, the Respondent stated that it is not responsible for such statement and further communicated that the Agent has also provided them an affidavit dated September 28, 2011 stating that he did not operate any account of the Complainants at his own. The Respondent was told that the Agent in hearing held on March 31, 2010 had provided a written statement to the Commission, conceding his involvement in unauthorized trading in accounts of the Complainants. The same has also been made part of the enquiry report submitted to the Honourable Sindh High Court. Therefore, the latest affidavit provided by the Agent at a belated stage is not acceptable to the Commission.

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29. The Respondent vide letter dated October 14, 2011 provided copies of the few courier receipts. While reviewing the said courier receipts it was observed that the same did not pertain to the disputed transactions. It is important to note that even after lapse of almost two years of this Commission's letter; the Respondent only provided partial information and was therefore, in violation of Clause D-2 of the Code of Conduct contained in Third Schedule of the Rules, thereby violating Rule 12 of the Rules.
30. It is also important to note that the Complainant (iv) reported errors in his account statement to the Agent (as highlighted in finding of the enquiry report in reference to CPD - 2630 of 2009). The Agent did not inform the management of the Respondent about those errors. In terms of Rule 17(2) of the Rules the Respondent is liable for the acts and dealings of its Agent.
31. It is important to mention here that as per para 9.1.4 of the enquiry report in reference to CPD - 2630 of 2009, it was established that unauthorized trades were executed in the account of the Complainant (iv) and accordingly, the Respondent violated clauses A-1 and B-6 of the Code of Conduct contained in Third Schedule of the Rules, wherein the Respondent was required to act with due skill, care and diligence in the conduct of its business and should not have considered clients' interest inferior to its own, thereby violating Rule 12 of the Rules.
32. The Respondent vide its letter dated April 21, 2009 misstated the facts and apparently tried to mislead to the Commission as highlighted in Para 8.1.3.13 of the enquiry report in the matter of CPD - 2904 & 2905 of 2010, thereby violating

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clause C-6 of the Code of Conduct contained in Third Schedule and Rule 12 of the Rules.

33. The enquiry report further provides that the Respondent should not have allowed purchase of shares in the account of the Complainants in presence of debit balance and should have squared up the position of the Complainants in accordance with the agreed terms and conditions given in the Account Opening Form. The Respondent failed to square up the position. Therefore, the Respondent was fully responsible for the resulting debit balance in the accounts of the Complainants due to decrease in prices of the shares and imposition of liquidation charges. By not squaring up the position of the Complainant, the Respondent allowed the debit balance to increase which resulted in increase in the liquidation damages. Therefore, the Respondent placed the interest of clients inferior to its own and thus prima facie violated clause B-6 of the Code of Conduct contained in Third Schedule of the Rules.
34. The Respondent received first complaint against the Agent in the month of October 2008. After receipt of the complaint, the Respondent should have kept all the record pertaining to the clients assigned to the Agent. The Respondent did not exercise due skill and care in the conduct of its business as it failed to keep the record in violation of clause A-2 of the Code of Conduct contained in Third Schedule of the Rules.
35. In light of the Agents' statement dated March 31, 2010, it is established that the accounts of the Complainants were used unauthorisedly by the Agent of the Respondent. The Respondent therefore failed to exercise due skill and care in





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the conduct of its business in violation of clause A-1 and A-2 of the Code of Conduct contained in Third Schedule of the Rules.

36. After a detailed and thorough perusal of the facts, evidences/information available on record, the enquiry reports in reference to three of the Complainants and in light of the contentions made by the Respondent during the course of the hearings, it is evident that the Respondent has violated the clauses of the Account Opening Form contained in KSE's General Regulations framed under Section 34 of the Ordinance, Clause A-1, A-2, B-6 and D-2 of the Code of Conduct contained in Third Schedule of the Rules thereby violating Rule 12 of the Rules, which in turn is violation of the Ordinance.
37. It is regrettable to note that the conduct of the Respondent during the subject proceedings was irresponsible and casual. The Respondent during the proceeding failed to provide the information in a timely manner and also made false statements. The aforesaid improper conduct of the Respondent compels me to take a stringent view of the matter.
38. The violation of the Rules and Regulations is a serious matter which empowers the Commission to suspend registration of the Respondent as a broker under the Rules, but I have elected not to exercise this power at present. However, in exercise of the powers under Section 22 of the Ordinance, I hereby impose on the Respondent a penalty of of Rs. 750,000 (Rupees Seven Hundred Fifty Thousand Only). I direct the Respondent to ensure full compliance with the Ordinance, Rules, regulations and directives of the Commission for avoiding any punitive action under the law in future.

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39. The matter is disposed of in the above manner and the Respondent is directed to deposit the penalty 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 copy of the deposit challan to the undersigned.
40. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

**Hasnat Ahmad**  
Director (SM)

Announced on November 23, 2011  
Islamabad.