



Before The Director (Securities Market Division)

In the matter of Show Cause Notice issued to

MAHA Securities (Pvt.) Limited

Date of Hearing

March 20, 2009

Present at the Hearing:

Representing the MAHA Securities (Pvt.) Limited

Mr. Muhammad Ali Lashari

Assisting the Director (SMD)

(i) Mr. Muhammad Atif Hameed

Deputy Director

(ii) Mr. Muhammad Ali

Assistant Director

(iii) Ms. Tayyaba Nisar

Assistant Director

ORDER

1. This order shall dispose of the proceedings initiated through Show Cause Notice bearing No. 1(13) BS/LSE/MSW/SMD/2008/04 dated March 09, 2009 ("the SCN") issued to MAHA Securities (Pvt.) Limited ("the Respondent"), Member of the Lahore Stock Exchange (Guarantee) Limited ("LSE") by the Securities and Exchange Commission of Pakistan ("the Commission") under Section 22 of the Securities and Exchange Ordinance, 1969 ("the Ordinance") and under Rule 8 of the Brokers and Agents Registration Rules, 2001, ("the Broker Rules").
2. The brief facts of the case are that the Respondent is a member of LSE and is registered with the Commission under the Broker Rules. On the perusal of LSE trading data of January 13, 2009 it was observed that Respondent's client Ms. Farzana Ashraf ("the Client") first sold 25,000 shares of "NIB Bank Limited" ("NIB") between 10:25:35 to 10:25:37 and subsequently squared her position by purchasing the shares between 10:47:54



to 10:49:08. It was further noted from the available record that at the time of sale of the shares, the Client did not have any pre-existing interest in the shares of NIB.

3. Subsequently on examination of LSE trading data of January 21, 2009 it was again noted that the Client first sold 40,700 shares of Oil and Gas Development Company Limited ("OGDC") between 13:50:36 to 13:59:19 and subsequently squared her position by purchasing the same between 14:21:46 to 15:29:56. It was observed from the available record that at the time of sale of these shares, the Client did not have any pre-existing interest in the shares of OGDC.
4. The Respondent was requested, vide letter dated February 18, 2009, to provide documentary evidence to establish that the Client had pre-existing interest in the shares of NIB and OGDC. The Respondent vide letter dated March 03, 2009 admitted its mistake and stated that all these trades were erroneously executed by one of its traders. After perusal of the Respondent's replies to the above mentioned letter, which did not adequately explain the Respondent's position in respect of instances of Blank Sale, the SCN dated March 09, 2009 was issued to the Respondent.
5. The Respondent was called upon to show cause in writing within seven days and appear before the undersigned on March 20, 2009 for a hearing, to be attended either in person and/or through an authorized representative. The hearing was held on March 20, 2009 and Mr. Muhammad Ali Lashari ("the Representative of the Respondent"), appeared before me on behalf of the Respondent.
6. The Respondent made the following submissions during the hearing and its written reply to the SCN:-
 - a) The Brokerage House has never indulged nor it has ever assisted any of its clients in trade activities which are forbidden by law. All the trades in question were mistakenly executed by the trader who was working under exhaustive circumstances as he had to execute several orders of various clients in a short span of time.
 - b) All the said sales were made at a lower price and were subsequently squared at a higher price resulting in a loss. Further the Respondent asserted that at the time of execution of said sale orders the market was



moving upward and no investor would like to execute a blank sale in rising market.

- c) The Respondent stated that the sales in question were executed only after the Client assured the trader that she had pre-existing interest in the shares and she will deliver the shares to the Brokerage House. The Respondent further stated that if any client fails to deliver securities then all such transactions are later squared up by making subsequent purchase transactions on the same day as happened in this case.
- d) The Representative of the Respondent at the time of hearing stated that there is no involvement of Brokerage House in the said transactions as execution of such transactions are against the policy of our Brokerage House and all the transactions were executed by the trader because of rush hours of work and to facilitate the Client.

9. I have considered the contentions of the Respondent and the issues raised therein and same are addressed point wise by me below:

- a) The Respondent's contention that its Brokerage House has never indulged or assisted any trading activities which are forbidden by law does not hold true. It may be noted that the Commission had earlier issued a warning letter dated September 25, 2008 to the Brokerage House for violation of Code of Conduct set forth under the third schedule of the Broker Rules. The Commission through said warning letter had asked the Brokerage House to abstain from executing such orders which are in violation of the Code of Conduct and the Broker Rules. However, the execution of abovementioned trades in the scrips of NIB and OGDC shows that the Brokerage House has failed to exercise due care, skill and diligence in conduct of its business and has failed to comply with the requirements of Code of Conduct.
- b) The Respondent's contention that shares were sold at lower price and subsequently bought at higher price and upward movement of index at the time of selling of shares does not justify the execution of trades in question. The selling of shares of NIB and OGDC by the Client without



pre-existing interest falls within the ambit of blank selling and is a clear violation of the Regulation for Short Selling under Ready Market ("the Regulation") of LSE.

- c) The Representative of the Respondent during the course of hearing did not provide any evidence to substantiate the claim of the Client that she had pre-existing interest in the shares of NIB and OGDC. The Respondent should have refrained from placing the Client's sale order when the Client did not have any pre-existing interest in the scrip. Had the Respondent exercised due care and skill and had put in place proper system and controls in its Brokerage House, the trader of the Respondent would have not executed the trades in question. The Respondent before execution of Client's orders must have asked for documentary evidence instead of relying on verbal assurance of the Client.
- d) The contention of the Respondent that the Brokerage House is not involved in all the transactions and these were executed by the traders is not true. The Respondent is responsible for each and every trade executed through its terminal. Rule 12 of the Broker Rules requires that Respondent should abide by Code of Conduct and makes it mandatory on the Respondent to execute its business with due care and skill and to put in place proper system and controls to ensure that its business is executed according to the applicable Rules and Regulations.

10. According to Clause 2 (a) of the Regulation "Blank Sale" means "a sale by a party that does not own shares or the sale does not constitute a sale with pre-existing interest or is a sale by a party that has not entered into a contractual borrowing agreement to meet delivery requirements". Hence, the sale by the Respondent's client without pre-existing interest falls within the ambit of Blank Sale which is prohibited in terms of Regulation 4 of the Regulations. Therefore, the Respondent by executing Blank Sales in its client's account has violated the Regulation which in turn is a violation of Rule 8 (iii) of the Broker Rules.
11. The violation of the Rules and Regulations is a serious matter which entitles the Commission to suspend the Respondent's membership but I have elected not to exercise the power at present. However, in exercise of the powers under Rule 8 (b) of the Broker



Rules, I hereby impose on the Respondent a penalty of Rs. 50,000 (Rupees Fifty Thousand only). I would further direct the Respondent to ensure that full compliance be made of all rules, regulations and directives of the Commission in the future for avoiding any punitive action under the law.

12. The matter is disposed of in the above manner and the Respondent is directed to deposit the fine in the account of the Commission being maintained in the designated branches of MCB Bank Limited not later than thirty (30) days from the receipt of this Order and furnish the copy of the deposit challan to the undersigned.

A handwritten signature in black ink, appearing to read 'Imran Inayat Butt', is written over a faint circular stamp.

Imran Inayat Butt

Director (SM)

Announced on April 23, 2009

Islamabad