



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN
(Securities Market Division)

Before The Director (Securities Market Division)

In the matter of Show Cause Notice issued to

Azee Securities (Pvt.) Limited

Date of Hearing:

July 21, 2009

Present at the Hearing:

Representing the Azee Securities (Pvt.) Limited

(i) Mr. Ghazi Naseem

Director

Azee Securities (Pvt.) Limited.

Assisting the Director (SMD)

(i) Mr. Muhammad Ali

Deputy Director (SMD)

ORDER

1. This order shall dispose of the proceedings initiated through Show Cause Notice bearing No. 1(07) BS/KSE/MSW/SMD/2009/17 dated July 03, 2009 ("the SCN") issued to Azee Securities (Pvt.) Limited ("the Respondent"), Member of the Karachi Stock Exchange (Guarantee) Limited ("KSE") by the Securities and Exchange Commission of Pakistan ("the Commission") under Section 22 of the Securities and Exchange Ordinance, 1969 ("the Ordinance") and Rule 8 of the Brokers and Agents Registration Rules, 2001 ("the Brokers Rules").
2. The brief facts of the case are that the Respondent is a member of KSE and is registered with the Commission under the Brokers Rules. On the perusal of the trading data of the KSE for the month of April, 2009 it was noted that the client of the Respondent namely Mr. Asad Kamran ("AK") first sold and then squared his position in the scrips of TRG Pakistan Limited ("TRG") to the tune of 453,000 shares, NIB Bank Limited ("NIB") to the tune of 225,000 shares, Maple Leaf Cement Factory Limited ("MLCF") to the tune of 200,000 shares, Pervez Ahmed Securities Limited ("PASL") to the tune of 153,500 shares, Flying



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Cement Limited ("FLYNG") to the tune of 147,500 shares, D.G. Khan Cement Company Limited ("DGKC") to the tune of 117,600 shares, Oil and Gas Development Company Limited ("OGDC") to the tune of 105,000 shares, Pakistan Telecommunication Company Limited ("PTC") to the tune of 135,500 shares and Bank of Punjab ("BOP") to the tune of 105,000 shares. The Commission vide its letter dated May 28, 2009 sought clarification regarding the Blank Sales executed by the Respondent on behalf of its client. The Respondent in its reply vide letter dated June 11, 2009 provided the letter authorizing AK to lend or borrow securities held in the CDC House Account of the Respondent for a period not more than 30 days from March 30, 2009.

3. On perusal of the trading data of the KSE for the month of May, 2009 it was further noted that AK, first sold and then squared his position in the scrips of Pakistan PTA Limited ("PPTA") to the tune of 136,500 shares, Zeal Pak Factory Limited ("ZELP") to the tune of 113,000 shares, Lucky Cement Limited ("LUCK") to the tune of 150,000 shares, NIB to the tune of 75,000 shares, Adamjee Insurance Company Limited ("AICL") to the tune of 77,200 shares, Bank Alfalah Limited ("BAFL") to the tune of 69,500 shares, BOP to the tune of 60,000 shares, DGKC to the tune of 50,000 shares, Jahangir Siddiqui & Company Limited ("JSCL") to the tune of 51,100 shares, National Bank of Pakistan Limited ("NBP") to the tune of 50,100 shares, MLCF to the tune of 39,000 shares, PTC to the tune of 25,000 shares and Pakistan Petroleum Limited ("PPL") to the tune of 25,000 shares.
4. On further examination of the trading data of the KSE for the month of May, 2009 it was noted that the Respondent's clients Syed Arif Raza ("SAR"), Mr. Tahir Ahmed ("TA") and Mr. Muhammad Asif ("MA") first sold and then squared their positions in different scrips. SAR first sold and then squared his position in the scrips of BOP to the tune of 118,400 shares, FLYNG to the tune of 78,500 shares, BAFL to the tune of 45,700 shares, Bosicor Pakistan Limited ("BOSI") to the tune of 50,000 shares and DGKC to the tune of 32,000. Whereas TA first sold and then squared his position in the scrips of BOSI to the tune of 100,000 shares, NIB to the tune of 50,000 shares, BOP to the tune of 41,000 shares. Whereas MA first sold 25,000 shares of JSCL and then squared his position.
5. The Commission vide its letters dated June 16, 2009 and June 17, 2009 sought clarification regarding the Blank Sales by the Respondent on behalf of its different clients for the month of May, 2009 mentioned in para 3 and 4 above. The Respondent in its reply vide letter dated June 22, 2009 provided copies of letters which authorized the said clients to lend or



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borrow securities held in the CDC House Account of the Respondent. The reply of the Respondent was not considered satisfactory and contained no evidence to establish that the clients had any pre-existing interest in the scrips mentioned above.

6. Keeping in view the aforesaid, the Respondent was called upon to show cause in writing within seven days and appear before the undersigned at Commission's Islamabad office on July 17, 2009, for a hearing. However, the date and venue of hearing was changed on the Respondent's request. Subsequently, the hearing was held at Commission's Karachi Office on July 21, 2009, which was attended by Mr. Ghazi Naseem ("the Representative of the Respondent") on behalf of the Respondent.
7. The Respondent vide its written reply to the SCN dated July 10, 2009 and the Representative of the Respondent during the course of hearing made the following assertions:
 - The Respondent vide its written reply stated that majority of shares sold by clients were available in House Account of the Respondent and these were sold on either zero-plus tick or on uptick. The Respondent admitted that there is a partial violation of Clause 5 (b) of the Regulations for Short Selling under Ready Market, 2002 of KSE ("the Regulations") wherein the sale orders in question were not placed through special Short Sale Order Window designated in the system for the short sale purpose. The Respondent requested that breach of regulation may be considered as "not fully conversant with the regulations and its consequences thereon".
 - The Representative of the Respondent during the course of hearing admitted its mistake and stated that all these sale orders were erroneously placed by branch manager of Respondent's Gulshan Iqbal branch and it is a lapse on part of management. The Representative of the Respondent further stated that the said instances of selling of shares were not meant to manipulate the market price of the scrips. The Representative of the Respondent argued that all the selling of the shares were on either zero-plus tick or on uptick.
 - The Representative of the Respondent further stated that after the matter was brought into its notice, it had taken corrective action and refrained its branch manager to sell shares without pre-existing interest. The Representative of the



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Respondent reiterated its commitment regarding the Commission's earlier order dated April 03, 2009 on execution of trades without changing beneficial ownership and stated that no such violation was again committed by the Respondent. The Representative of the Respondent during the course of hearing admitted its mistake and prayed that keeping in view the aforementioned arguments the Commission may take a lenient view in this matter. The Respondent further ensured that the violations will not occur again, for which Commission can monitor its clients trading activities in future.

8. The Respondent in its written reply as well as oral contentions made by the Representative of the Respondent during the hearing, emphasized that above mentioned sales were not Blank Sales because majority of shares sold by client's were available in House Account of the Respondent and shares were sold on either zero-plus tick or uptick. It is pertinent to mention here that a sale transaction of shares is said to be regular when a client has pre-existing interest in the shares before the sale. Hence, it is utmost necessary to ascertain whether the Respondent's clients had pre-existing interest in the shares to the extent of shares sold. According to Clause-2(g) of the Regulations, sales with pre-existing interest means:-

- i. *The Squaring up of an earlier purchase on the same exchange in the same settlement.*
- ii. *The Squaring up of an earlier purchase on the same exchange in a different settlement which will settle prior to the settlement of the sale.*
- iii. *The Squaring up of an earlier purchase on another exchange in a different settlement which will settle prior to the settlement of the sale.*
- iv. *The squaring up of an earlier purchase on another exchange in the same settlement.*

However, the record provided by the Respondent did not substantiate that its clients had any buy position before the sale. Further Account Activity report of the Respondent client's obtained from Central Depository Company of Pakistan Limited ("CDC") in different shares have also confirmed that they had no buy position in the said scrips before the sale.

9. The clause 2 (h) of the Regulations says "Short Sale" means "a sale by a Member, on his Proprietary account or on Client's Account, not owing securities at the time of sale or the sale without constituting a Pre-existing Interest but is a sale on Proprietary Account or Client's Account entered into on the basis of Prior Contractual Borrowing Arrangement to meet delivery requirements on the settlement days". Moreover the clause-2(f) of the Regulations clearly



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defines the ambit of its applicability wherein it is clearly mentioned that prior contractual borrowing arrangements are applicable only in respect of execution of short sale trades, whereas these arrangements can not be made valid for regular market sale without using Short Sale Order Window. However, the subject transactions were executed without using the Short Sale Order Window as admitted by the Representative of the Respondent during the course of hearing. According to the clause 5(b) of the Regulations the Respondent was required to use Short Sale Order Window designated in the Karachi Automated Trading System to execute such transactions.

10. Considering the facts and thoroughly evaluating the evidence/information available on record and after perusal of assertions made by Respondent it is established that the Respondent has placed the sale orders in its client's accounts without having pre-existing interest and without fulfilling the prerequisites of the Regulations. The Clause-2(a) of the Regulations says "Blank Sales" 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 arrangement to meet delivery requirements". Hence, the sale by the Respondent without pre-existing interest in their client's accounts falls within the ambit of Blank Sale which is prohibited in the Regulations.
11. The assertion of Representative of the Respondent that it had already taken corrective action in the matter and has restrained its branch manager to sell shares without pre-existing interest is not true. The Commission vide its letter dated May 28, 2009 first sought clarification regarding selling of shares by the Respondent in its client's accounts in the month of May, 2009 but it is evident from the record that the Respondent's clients kept on selling and then squaring up shares in the month of June, 2009. It may be noted that the Respondent is responsible for each and every order placed or trade executed through its terminal. It is the prime responsibility of the Respondent to monitor all trading activities being carried out through its terminals in order to track any transaction, which might violate applicable Rules and Regulations.
12. Considering the facts and thoroughly evaluating the evidence/information available on record and after perused the assertions, it is established that the Respondent has placed the sale orders in its client's accounts without having pre-existing interest and without fulfilling the prerequisites of the Regulations. Further, placement of the sale orders without having pre-existing interest interfere in the fair and smooth functioning of the market and



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create misleading impression for the other investors. The Respondent by executing Blank Sales in its clients accounts has violated the Regulations which in turn is violation of Code of Conduct set fourth under the Brokers Rules ("Code of Conduct") that makes it mandatory on the Respondent to execute its business with due care and skill and to put in place proper systems and controls to ensure that its business is conducted according to the applicable Rules and Regulations. The placing of sale orders and then squaring them without having prerequisites clearly shows that the Respondent has failed to conduct its business with due diligence, care and has interfered in smooth and fair functioning of the market. Therefore, keeping in view the aforementioned, it is evident to me that the Respondent has violated Clause A2, and A5 of the Code of Conduct of the Brokers Rules which in turn is a violation of Brokers Rules.

13. It is pertinent to mention here that the Commission had earlier passed an order dated April 03, 2009 against the Respondent under Section 22 of the Ordinance for violation of Code of Conduct set forth under the third schedule of the Brokers Rules. The Commission vide that order had directed the Respondent to ensure that full compliance be made of all Rules, Regulations and directives of the Commission and the stock exchanges in the future for avoiding any punitive action under the law. It is regrettable to note that despite the earlier direction of the Commission, the Respondent continuously indulged in trading activities that are not permitted in the law. The Commission has taken a serious note of such conduct of the Respondent.
14. 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 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 Rs. 400,000 (Rupees Four Hundred Thousand only). I strongly advice the Respondent to take immediate measures and put in place proper checks and procedures to eliminate the occurrence of such instances in future. I again 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.
15. 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



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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.



Imran Inayat Butt
Director (SM)

Announced on October 02, 2009
Islamabad.