

Appellate Bench Orders
Order in the matter of Appeal No. 6 of 2000.

May 30, 2001

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Before Appellate Bench No. 3

In the Matter of

Appeal No. 6 of 2000

Al-Towfeek Investment Bank LimitedAppellant

VERSUS

Mr. Rahim Jan Respondent

Date of Hearing: 30 May, 2001

Present:

1. Khawaja Tauqeer Ahmed, Assistant Vice President

Al-Towfeek Investment Bank Limitedon behalf of Appellant

ORDER

This appeal has been filed by the appellant against the order (impugned order) dated 1st November, 1999 passed by the then Commission (SM) of the Commission. The appeal came up for hearing on 30th May, 2001. Khawaja Tauqeer Ahmed, Assistant Vice President, Al-Towfeeq Investment Bank Limited, the appellant company attended. Mr. Rahim Jan, the Respondent did not attend nor any representative appeared on his behalf.

2. The appeal was first called for hearing on 21st June, 2000 and a number of times thereafter mostly at the request of the parties more specifically on 10th August, 2000, 2nd September, 2000, 18th September, 2000, 6th October, 2000, 17th October, 2000, 23rd October, 2000, 30th October, 2000, 19th November, 2000, 11th January, 2001, 26th January, 2001, 8th February, 2001, 5th April, 2001, 9th April, 2001, 17th April, 2001 and finally today i.e. 30th May, 2001.

3. Mr. Rahim Jan lodged a complaint in December, 1996 with the 'Authority' (now SEC) against the Appellant. The case was adjudicated by the then Commission (SM) who passed the impugned order. The

Appellant investment bank had ceased to be a corporate brokerage house since May, 1997. The contention of Mr. Rahim Jan in the case is that the bank did not deliver 23,500 PTCL shares to the Taurus Securities for sale. He had pledged these shares against Murabaha Financing Facility of Rs.300,000/= advanced by the Appellant. The subject matter of the Appeal has been deliberated before the Appellant Bench in the hearings held on a number of dates as detailed hereinabove. During the hearing held on 9 April, 2001 the Appellate Bench advised Mr. Rahim Jan to provide related documents of Murabaha Financing Facility to the Appellant before the next date of hearing; it also advised the Appellant to furnish the date on which 20,500 PTCL transfer deeds were verified by the concerned Registrar.

4. Khawaja Tauqeer Ahmed, Assistant Vice President of the Appellant Bank appeared before us and explained that the transaction between the Appellant Bank and Mr. Rahim Jan was in fact a 'murabaha financing facility' advanced by the Appellant investment bank and secured against pledge of PTCL shares to Mr. Rahim Jan as the borrower who now disputes the relationship of 'borrower' and 'lender.' It was purely a banking transaction and, therefore, did not fall within the purview of the Commission. In any event the Appellant was not a corporate stockbroker at the relevant time.

5. Mr. Rahim Jan has not been able to substantiate his contention that the Appellant Bank executed purchase and sale of securities on his behalf despite their ceasing to be a member of the Lahore Stock Exchange.

6. In light of the above, the Appeal is maintained and the impugned order set aside.

Announced : 30th May, 2001

(N.K. SHAHANI)
Commissioner
(Securities Markets & Insurance)

(M. Zafar-ul-Haq Hijazi)
Commissioner