

Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. I

In the matter of

Appeal No. 83 of 2006

Harvest Topworth International

a registered partnership

through its Managing Partner, Mr. Muhammad Gulrez

.... Appellant

Versus

Mr. Imtiaz Haider,

Director (Securities Market Division)

...Respondent

Date of Hearing

09/07/15

ORDER

Present:

Appellant:

Nemo

Department representatives:

- i. Mr. Imran Inayat Butt, Director (SMD)
- ii. Mr. Tahir Mahmood, Deputy Director (SMD)

Appellate Bench No. I

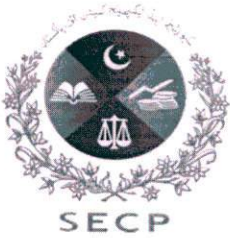
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1. This order is in appeal No. 83 of 2006 filed under section 33 of the Securities and Exchange Commission of Pakistan (the "Commission") Act, 1997 ("SECP Act") against the order (the "Impugned Order") dated 4/10/06 passed by the Respondent.
2. The brief facts of the case are that Messrs. Harvest Topworth International ("Appellant") is a registered partnership firm with the Registrar of Firms Peshawar. It came to the knowledge of the Commission that the Appellant was dealing in securities as a broker/agent and was involved in activities ancillary thereto by providing services to the public for purchase and sale of securities. The brokerage activities into which the Appellant was involved were detailed in the brochure and website of the Appellant. The Commission also received a number of complaints from the general public against so called forex companies which included the Appellant and simultaneously news/articles also appeared in newspapers disclosing the shady business and modus operandi carried out by such companies. The Commission, therefore, in order to protect the investors in particular and the public in general, decided to take action.
3. Show Cause Notice dated 23/09/03 ("SCN") was served upon the Appellant whereby it was alleged that the Appellant is dealing in securities as a broker without being registered with the Commission which is a violation of Section 5A of the Securities and Exchange Ordinance, 1969 ("Ordinance"). It was further alleged that the Appellant is engaged in fraudulent activities which attracts the provisions of Section 17 of the Ordinance.
4. The Appellant in response to the SCN submitted a detailed reply dated 30/09/03 ("Reply"). The Appellant through the Reply refuted the allegations of the Respondent and raised concerns with respect to the jurisdiction of the Respondent to issue the SCN. Hearing on the matter was held on 14/10/03. During the course of the hearing,



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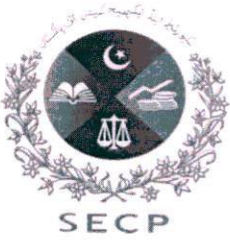
the legal representative of the Appellant informed that the Appellant had sought remedy from Sindh High Court vide petition D-1271 of 2003 and a double bench of the Honourable Court had granted a stay and restricted the Commission to take any adverse or coercive action against the Appellant through order dated 08/10/03. On the basis of the stay order granted by the Honourable Court, the hearing was adjourned and the matter was held in abeyance till further decision of the court. In August 2005, the Honourable Sindh High Court passed an order dated 23/08/05 in the petition referred above directing the Appellant to submit its reply to the SCN within two weeks of the said order and simultaneously the Commission was directed to decide the matter after conducting a hearing. The Commission, however, was restrained from taking any coercive action against the Appellant until the matter was decided. The Appellant submitted its fresh reply to the SCN vide letter dated 03/09/05 and final hearings on the matter were held on 04/04/06 and 31/08/06.

5. The Respondent dissatisfied with the submissions of the Appellant passed an Order dated 04/10/06 ("Impugned Order") whereby the Appellant was found in violation of the mandatory provisions of the Ordinance.
6. The Appellant preferred to file the instant appeal against the Impugned Order. The Appellant's counsel vide letter dated 08/07/15 addressed to the Appellate Bench has communicated that the Appellant is of the opinion that the appeal has become infructuous due to the promulgation of the Securities Act, 2015 and the Appellate Bench is requested to dispose of the appeal on the said basis. The department's representatives have confirmed that they have no objection to the Appellant's stance and that penalty of Rs 50,000 has also been deposited by the Appellant on 1/11/06.

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In view of the above, it appears that the Appellant is not interested in pursuing the instant appeal. The appeal is, therefore, dismissed for non-prosecution, with no order as to costs.

(Fida Hussain Samoo)
Commissioner (Insurance)

(Zafar Abdullah)
Commissioner (SCD)

Announced on: 04 AUG 2015