



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 111 of 2017

Royal Securities (Pvt.) Ltd.

...Appellant

Versus

Commissioner (Securities Market Division),
Securities and Exchange Commission of Pakistan

...Respondent

Date of Hearing: 23/01/2020

Present:

For the Appellant:

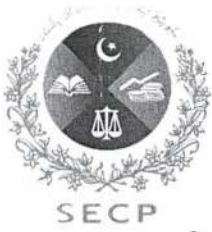
Mr. Imran Khan, CFO Royal Securities

For the Respondent:

- i. Mr. Muhammad Farooq Bhatti, Additional Director (SMD)
- ii. Mr. Osman Syed, Joint Director (Adjudication-1)
- iii. Mr. Muhammad Faisal, Management Executive (Adjudication-1)
- iv. Ms. Mehwish Naveed, Management Executive (Adjudication-1)

ORDER

1. This Order is passed in Appeal No.111 of 2017 filed under section 33 of the Securities and Exchange Commission of Pakistan Commission Act, 1997 (SECP Act) against the Order dated 14/09/17 (the Impugned Order) passed by Commissioner, Securities Market Division (the Respondent).



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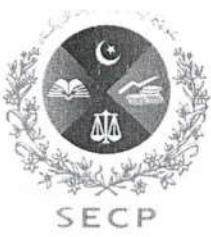
2. The brief facts of the case are that the Securities and Exchange Commission of Pakistan (the Commission) on routine scrutiny of trading data of the Pakistan Stock Exchange (PSX) observed a sharp increase in the price of Unicap Modaraba (the UCAPM) from 13/12/16 until 16/12/16 during which Mr. Rizwan Riaz and Mr. Atif Shabbir were major traders. The Commission, vide order dated 13/01/17, in exercise of powers conferred by section 139 of the Securities Act, 2015 (the Securities Act) conducted an investigation into the affairs pertaining to the trading activities of Mr. Rizwan Riaz and Mr. Atif Shabbir and any connected person in the scrip of UCAPM during the period 01/12/16 to 31/12/16 (the Review Period). The investigation team submitted the investigation report on 18/05/17 which *inter alia* revealed that:

- i. Mr. Rizwan Riaz and Mr. Atif Shabbir are sponsors/major shareholders (the Sponsors) of Royal Securities (Pvt.) Ltd. (the Appellant). Mr. Rizwan Riaz holds 5,499,500 (68.74%) shares of the Appellant and is Company Secretary of the Appellant while Mr. Atif Shabbir holds 2,499,500 (31.24%) shares of the Appellant and his wife Mrs. Naima Atif is a Director of the Appellant. Moreover, Mr. Rizwan Riaz is also authorized to trade in the trading account of Mr. Atif Shabbir.
- ii. During the Review Period total traded volume in the shares of UCAPM was 9.16 million shares. The trading accounts of Sponsors of the Appellant contributed, cumulatively, 30% of the buying and 32% of the selling side of the volume. The Sponsors made cumulative trade of 577,500 shares with each other. During the first 2 days, maximum buying took place at best buy order price of the day and subsequently the Sponsors offloaded the holding to the general public and made a gain of Rs. 2.4 million.
- iii. Some posts on social media were also observed and one such post was regarding shares of UCAPM, wherein, general public was advised to buy the shares of UCAPM, expecting the price to increase anywhere between Rs.11 and Rs 13 within 2 weeks' time. The post was made on a Facebook page "KSE investment with Iqra Khan and Sharoz Ali", on 15/12/16 which was run by employees of the Appellant (the Employees) as "Equity Dealer".
- iv. The above-mentioned trading pattern of sponsors and act of the Employees of the Appellant was apparently violative of the provisions of section 133 and 134 of the Securities Act.



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3. It appeared from the foregoing that the Appellant was prima facie non-compliant with Regulation 16(1)(i) and 16(1)(m) of the Securities Brokers (Licensing and Operations) Regulations, 2016 (the Regulations) as the Appellant failed to establish the internal code of practice and its above named Sponsors and Employees also failed to comply with the provisions of section 133 and 134 of the Securities Act.
4. The Show Cause Notice dated 10/08/17 (the SCN) under section 150 of the Securities Act was served on the Appellant. Mr. Farrukh V. Junaidy Partner, Junaidy Shoaib Asad, Chartered Accountants (Mr. Farrukh) vide letters dated 21/08/17 and 24/08/17 filed a written reply to the SCN. Hearing in the matter was held on 25/08/17. On the date of the hearing, Mr. Farrukh and Mr. Imran Khan, Chief Executive Officer of the Appellant (the Authorized Representatives) attended the hearing through video link from the Commission's regional office in Karachi. The Authorized Representatives accepted the non-compliances and requested to take a lenient view.
5. The Respondent dissatisfied with the response of the Appellant held that violations of the Regulations were established and any non-compliance by a regulated person specifically by a securities broker was a serious matter. Therefore, in exercise of powers conferred upon the Respondent by virtue of section 150 of the Securities Act, a penalty of Rs 500,000 was imposed on the Appellant. Furthermore, the Respondent directed the Appellant to strictly comply with the regulatory framework, in future, as any violation of the regulatory framework in future would result in imposition of higher penalty and cancellation of its license as securities broker.
6. The Appellant preferred the instant appeal on the grounds that the Respondent erred in holding that the Appellant is in violation of Regulations 16(1)(i) and 16(1)(m) of the Regulations as the transactions during the Review Period were on an arm's length basis and the Appellant was not involved in manipulation of the price. The Appellant argued that at the time of the transactions, they had been in operation for less than two years and the Appellant's internal control could not detect any unusual transaction for manipulation of market. Furthermore, the Appellant argued that they have subsequently developed procedures for prevention of such transactions by the shareholders and clients. The Appellant further argued that they had enquired from the shareholders why they had traded in the UCAPM scrip and were informed that there were positive sentiments in the Modaraba sector and investors were interested in trading in



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Modaraba scrips. Furthermore, the Appellant argued that there was news in the market that sponsors of UCAPM were contemplating further investment in the Modaraba and on this premise, the shareholders traded in the Modaraba Certificates in anticipation of possible price increase. Furthermore, the Appellant argued that they had no prior information of use of social media marketing by its Employees and no approval was sought or given by the Appellant to its staff for using Facebook account for encouraging investors to invest in UCAPM. Moreover, the Appellant argued that the said Employees of the Appellant were freelance traders and not regular employees, therefore, their services had been terminated. The Impugned Order, therefore, is liable to be set aside.

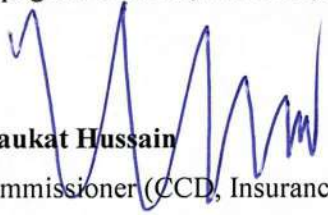
7. The Respondent rebutted the arguments of the Appellant on the grounds that two years' operational period of the Appellant along with expertise of its board of directors was sufficient time for establishing internal code of conduct so that the Appellant could act in accordance with the best interests of customers. Furthermore, the Respondent argued that UCAPM is a relatively illiquid scrip and an abnormal trend in price and volumes of the scrip was observed in mid-December 2016. Furthermore, the Respondent argued that the announcements of UCAPM on PSX's portal were reviewed and the Respondent did not find any announcement that sponsors of UCAPM were contemplating further investment in the Modaraba. Furthermore, the Respondent argued that Employees of the Appellant had been working with the Appellant since 2016 and the regulatory framework i.e. Securities Act, Regulations and PSX Rule Book does not differentiate between contractual or permanent employees or individuals acting for or by arrangement with a regulated person, therefore, the Appellant is responsible for the aforesaid act of the Employees.
8. We have heard the parties i.e. the Appellant and Respondent. We are of the view that the Appellant violated Regulation 16(i) of the Regulations by failing to establish an internal code of practice which resulted in abnormal trading in the shares of UPCAM by the sponsors of the Appellant who made a gain of Rs 2.4 million. Furthermore, we are of the view that being operational for about two years was sufficient time for the Appellant to ensure that the internal code of practice was in place. The Appellant has also failed to substantiate why the Appellant could not detect unusual trading and the Appellant's stance that abnormal trade was taking place because of news that sponsors of UPCAM were contemplating investment in the

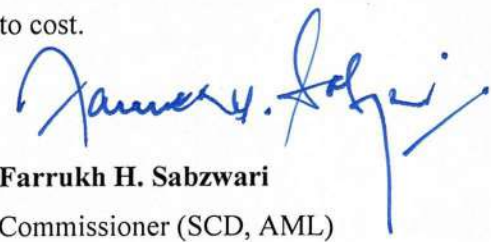


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Modaraba could not be verified. Moreover, the Appellant also violated Regulation 16(m) of the Regulations by failing to ensure that the Employees exercised due care and responsibility while making a statement who were encouraging investment in UPCAM through their Facebook page. Furthermore, section 167 of the Securities Act provides that, *"an act, omission or failure of a representative, employee or other person acting for or on behalf of a licensed person within the scope of his office or employment shall be deemed to be the act, omission or failure of the licensed person..."*. We are of the view that the Employees, even if not regular, were acting for the Appellant, therefore, the Appellant is liable for their actions.

9. In view of the foregoing, the Appellant was non-compliant with the relevant provisions of the Securities Act and Regulations and penalty was rightly imposed on the Appellant. The Impugned Order is, therefore, upheld with no order as to cost.


Shaukat Hussain
Commissioner (CCD, Insurance)


Farrukh H. Sabzwari
Commissioner (SCD, AML)

Announced on: **08 MAY 2020**