



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 63 of 2020

Amer Securities (Pvt.) Limited

...Appellant

versus

Executive Director, Adjudication Department-I

...Respondent

Date of hearing:

March 5, 2026

Present:

For the Appellant:

Mr. Muhammad Junaid A. Chauhan, Advocate, High Court

For the Respondent:

1. Mr. Sohail Qadri, HOD/Director, Adjudication-I, SECP
2. Mr. Hammad Ahmed, Assistant Director, Adjudication-I, SECP

ORDER

1. This order shall dispose of Appeal No. 63 of 2020 filed by Amer Securities (Pvt.) Limited (the Appellant) against the Order dated March 9, 2020 (the Impugned Order) passed by the Executive Director, Adjudication Department-I (Respondent).
2. The Appellant is a Trading Rights Entitlement Certificate holder of the Pakistan Stock Exchange Limited and licensed as a securities broker under the Securities Act, 2015. To assess the Appellant's compliance with the Securities and Exchange Commission of Pakistan (Anti-Money Laundering and



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Countering Financing of Terrorism) Regulations, 2018 (the AML Regulations), an inspection was conducted by the Joint Inspection Team (JIT). Pursuant to the inspection, various instances of non-compliance with the AML Regulations were identified, including failure to verify identity documents through NADRA *Verisys*, failure to maintain CDD and related records, non-maintenance of updated databases of proscribed persons and absence of alerts for CNIC expiry, deficiency in verifying beneficial ownership of clients, lack of periodic review of customer information and failure to identify authorized representatives of clients. In view of the violations, a show-cause notice dated January 23, 2020, was issued under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 (the SECP Act). The Appellant submitted a detailed written reply to the SCN on January 31, 2020, denying the allegations and contending that most of the identified deficiencies had been rectified post-inspection. Hearing in the matter was held on February 13, 2020. The Respondent concluded the SCN proceedings and imposed a penalty of Rs. 850,000/- on the Appellant.

3. The Appellant assailed the Impugned Order, inter alia, on the ground that the AML Regulations are *ultra vires* the SECP Act, as well as the Anti-Money Laundering Act, 2010 (the AML Act) and Section 40 read with section 20(4)(w) of the SECP Act, does not empower the Securities and Exchange Commission of Pakistan (the Commission) to regulate AML/CFT matters. It was further contended that, by virtue of section 39 of the AML Act, the said Act overrides the SECP Act; therefore, AML/CFT cannot be regulated under the SECP Act. Section 44 of the AML Act delegates sole authority to the FMU to make regulations for AML/CFT purposes; hence, the Commission lacked authority and the Impugned Order and the SCN are *void ab initio*. The Appellant submitted that the Respondent wrongly observed that the Appellant admitted non-compliance as it has always conducted CDD/KYC at account opening in accordance with Annex I, maintained the requisite documents, and ensured strict compliance. The Appellant stated that the Respondent wrongly held it in non-compliance to Note (i) of Annex I regarding NADRA *Verisys* verification, Original NADRA documents being adequate proof of identity as well as approval of NCCPL and PSX. The Appellant argued that at the time, brokerage houses had no access to NADRA *Verisys*; thus, imposition of a penalty was unjustified.

4. The Appellant further stated that the Respondent erred in observing that it failed to ascertain clients' beneficial ownership and the source of funds because it had conducted CDD on the basis of documents

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obtained from customers as per AML Regulations and Annex I. The Appellant stated that it had required visiting cards, salary slips/NTN details, and wealth statements of clients to ensure source of income and beneficial ownership, however, the Appellant cannot be expected to independently investigate each document because the AML Regulations do not require the investigation of the veracity of each document. The Appellant was of the opinion that in the event that documents were inadequate, the Respondent should have provided direction or clarification instead of arbitrarily concluding non-compliance.

5. The Respondent controverted the grounds raised in the Appeal and submitted that the Commission is competent to issue AML Regulations. It was argued that the Commission is defined as a regulatory authority under Section 2(x) of the AML Act, and Section 6(4)(i) empowers the issuance of AML Regulations upon recommendation of the Financial Monitoring Unit (FMU), accordingly, powers under Sections 20(4)(w) and 40 of the SECP Act, were validly exercised. The Respondent submitted that Section 44 of the AML Act has no bearing on the legality of the AML Regulations issued upon FMU's recommendation. The Respondent stated that at the time of inspection, the Appellant was found to be non-compliant with the AML Regulations in various instances included failure to verify identity documents through NADRA *Verisys*, failure to maintain CDD and related records, non-maintenance of updated databases of proscribed persons and absence of alerts for CNIC expiry, deficiency in verifying beneficial ownership of clients, lack of periodic review of customer information, and failure to identify authorized representatives of clients.
6. The Appellate Bench (the Bench) has heard the learned representatives for the parties at considerable length and has carefully examined the record with their able assistance. The Bench has noted that this Appeal has been filed with a delay of approximately sixty days; however, the Appellant in its application has demonstrated plausible reasons for the delay, i.e. Covid pandemic and the closure of business due to the lockdown. Moreover, the Bench has always encouraged the parties to plead their cases on merits, instead to claim benefit of technical default. In view thereof, the Bench has condoned the delay in filing the Appeal under Section 33 of the SECP Act.
7. Upon careful consideration of the submissions of the parties, the Appellate Bench finds no merit in the contention of the Appellant that the AML Regulations promulgated by the Commission are *ultra*

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vires the SECP Act, or the AML Act. The argument advanced by the Appellant proceeds on an incorrect and restrictive interpretation of the statutory scheme governing the regulatory functions of the Commission. It is an undisputed legal position that the Commission constitutes a “regulatory authority” within the meaning of clause (x) of section 2 of the AML Act. Furthermore, section 6(4)(i) of the said Act expressly empowers the Financial Monitoring Unit (FMU) to recommend to regulatory authorities of reporting entities the issuance of regulations considered necessary for combating money laundering and financing of terrorism, particularly in relation to customer due diligence and record-keeping obligations. In consequence thereof, the Commission, being the statutory regulator of entities established under the laws administered by it, is duly authorized to frame and enforce AML/CFT regulatory requirements applicable to such entities. The exercise of this authority is further anchored in sections 20(4)(w) and 40 of the SECP Act, which empower the Commission to make regulations for carrying out the purposes of the Act and for the discharge of its statutory functions. The issuance of the AML Regulations, upon the recommendation of the FMU, is therefore consistent with and supported by the legislative framework of both the SECP Act, and the AML Act. The Appellant’s reliance on the overriding clause of the Anti-Money Laundering Act is misconceived, as the said provision does not curtail the regulatory authority of the Commission but rather operates harmoniously with it by recognizing and utilizing sectoral regulators for AML/CFT compliance oversight. Consequently, the Bench holds that the AML Regulations were validly promulgated by the Commission within the scope of its statutory mandate, and the ground of appeal raised by the Appellant is devoid of legal substance and is accordingly rejected.

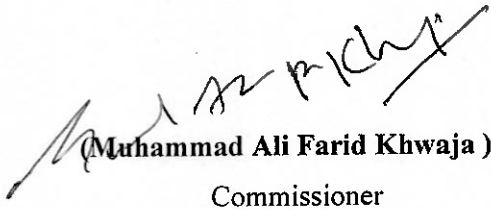
8. It is a known fact, as also acknowledged by the Respondent, that the NADRA *Verisys* facility was not available to the Appellant during the relevant inspection period and was permitted subsequently by NADRA. In these circumstances, the Appellant cannot be held liable for non-compliance on this specific count, as the law does not compel the performance of an impossibility. With regard to the remaining violations, the Bench has noted that the Appellant has failed to place on record contemporaneous evidence demonstrating full compliance with the requirements of the Regulations at the time of inspection. The material available indicates that the deficiencies were rectified subsequent to the inspection and that no further violations were reported thereafter. Such subsequent rectification and continued compliance constitute mitigating circumstances that merit consideration in determining the appropriate quantum of penalty.

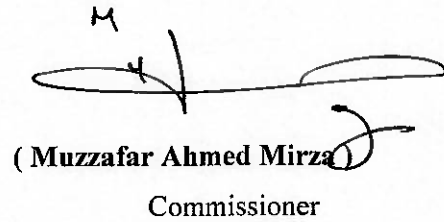
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9. It is a settled principle of administrative and regulatory jurisprudence that the object of imposition of penalty is corrective and deterrent rather than retributive. The quantum of penalty must satisfy the doctrine of proportionality and conform to the standards of fairness and reasonableness. Where a regulated entity has rectified the lapse, exhibited bona fide intent, and ensured sustained compliance, such subsequent conduct warrants due weight in equity. The principle that the penalty must correspond to the gravity and persistence of the default necessitates a balanced approach, preserving the deterrent purpose of the statute while avoiding disproportionate hardship.
10. In view of the foregoing analysis and findings, we are of the considered opinion that the Impugned Order is sustainable insofar as its findings on the regulatory violations under the Regulations, save and except the allegation pertaining to NADRA *Verisys*. However, considering the Appellant's subsequent compliant conduct, absence of repetitive breach, and in adherence to the principles of proportionality and fairness, the aggregate penalty is hereby reduced to Rs. 250,000/- (Rupees Two Hundred and Fifty Thousand Only).
11. Any person or party aggrieved by this Order may, within sixty (60) days from the date hereof, prefer an Appeal under Section 34 of the SECP Act, before the competent forum, strictly in accordance with law. Accordingly, the Appeal stands disposed of in the above terms with no order as to costs.


(Muhammad Ali Farid Khwaja)
Commissioner


(Muzzafar Ahmed Mirza)
Commissioner

Announced on:

12 MAR 2026