



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 8 of 2020

Pasha Securities (Pvt.) Limited

Appellant

Versus

Executive Director, Adjudication Department-I SECP, Islamabad

Respondent

Date of hearing:

April 25, 2024

Present:

For the Appellant:

1. Mr. Muhammad Shahzad, Compliance Officer
2. Mr. Muhammad Amir Mehmood, Internal Auditor

For the Respondent:

1. Mr. Mahboob Ahmad, Additional Director, Adjudication -I, SECP
2. Mr. Muhammad Akram, Assistant Director (Adjudication-I), SECP

ORDER

1. This Order shall dispose of Appeal No. 8 of 2020 filed by Pasha Securities (Pvt.) Limited (the Appellant) against the Order dated January 1, 2020 (Impugned Order) passed by the Executive Director, Adjudication Department-I, SECP (the Respondent).
2. The brief facts of the case are that the Appellant is a Trading Rights Entitlement Certificate (TREC) holder of the Pakistan Stock Exchange Limited (the PSX) and licensed as a securities broker under the Securities Act, 2015. An inspection of the Appellant was carried out to ascertain its compliance status with the regulatory requirements contained in Securities and Exchange Commission of

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Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the Regulations). The inspection revealed *inter alia* the following non-compliances:

- i. The Appellant has no mechanism to screen account holders/nominees/authorized persons, from the list of the proscribed persons under the Anti-Terrorism Act, 1997, and from the list of persons designated by United Nations Security Council Resolutions at the time of establishment of relationship and continuing relationship with its customers. Hence, this violated the requirements of Regulations 4(a) and 13(7) of Regulations;
- ii. The Appellant had not justified while assigning risk categories to its customer, hence, violated the requirement of regulation 11(2) of the Regulations;
- iii. The Appellant had no record of screening its customers, hence, violated the requirement of regulation 15(3) of the Regulations;
- iv. The Appellant had no mechanism to validate and verify the identity documents of its customers through NADRA Verysis, hence, violated the requirement of regulation 6(4) of the Regulations;
- v. The Appellant had failed to prove that the Customer Due Diligence of certain customers was carried out, hence, violated the requirement of regulation 6(3) of the Regulations;
- vi. The Appellant had categorized a customer as low risk despite prevailing high-risk factors, hence, violated the requirement of regulation 6(8) of the Regulations;
- vii. The Appellant failed to obtain necessary documents i.e. income tax return and bank statement from the Customer to ascertain his knowledge, risk profile and source of funds, hence, violated the requirement of regulation 6(3) (c) of the Regulations;
- viii. The Appellant failed to record justification of an unusual transaction whereby a customer deposited cash without any apparent economic and viable lawful purpose, hence, violated the requirement of regulation 13(2) of the Regulations;
- ix. The Appellant failed to monitor the business relations of the customer on an ongoing basis to ensure that the transactions were consistent with the knowledge, business and risk profile and source of funds, hence, violated the requirement of regulation 13(1) of the Regulations;

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3. In view of the above violations, the Show-Cause Notice dated December 13, 2019 (the SCN) was issued to the Appellant. A hearing in the matter was held on December 20, 2019 wherein, the written reply of the SCN was also submitted. The Respondent concluded the SCN proceedings and imposed, a penalty of Rs. 300,000/- (Rupees three hundred thousand).
4. The Appellant filed this Appeal *inter alia* on the grounds that the Appellant has a clean compliance history with the requirements contained in the applicable laws. The Appellant submitted that soon after the promulgation of the regulations the inspection was carried out, therefore, due to insufficient time to understand and implement the requirements of the Regulations, certain minor violations were incurred. The Appellant's representatives argued that all the violations were rectified and in subsequent reviews no further violation of the Regulations has been pointed out. The Appellant's representative argued and prayed for a lenient view on account of the subsequent and current compliant status of the Appellant. The Appellant's representative apprised the Appellate Bench (the Bench) that the Appellant is the oldest brokerage house providing its services in Islamabad and as of date, except for the violations highlighted in the Impugned Order, no other violations have ever been attributed to the Appellant.
5. The Respondent's representatives acceded with the argument of the Appellant's representative that after the Impugned order no further violation has been observed on the part of the Appellant. However, the Respondent's representatives argued that subsequent compliance does not exonerate the Appellant from the previous violations. In view thereof, it has been requested by the Respondent's representative to dismiss the Appeal.
6. The Bench has heard the parties and perused the record. The Bench is of the view that it is an undisputed fact that the Appellant was not compliant with the requirements of the Regulations at the time of inspection and requisite compliance was made thereafter. Furthermore, we concur with the Respondent's representative's argument that subsequent compliance does not exonerate the Appellant from the penal consequences of established violations of the Regulations. However, as the Appellant has subsequently complied with the requirements of the Regulations and no further violation was observed, therefore, the Bench is inclined to take a lenient view with respect to the

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Appellate Bench

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quantum of penalty imposed on the Appellant. Furthermore, the Bench appreciates the conduct of the Appellant's representatives whereby they have admitted the shortcomings and requested a lenient view.

7. In view of the foregoing, we hereby reduce the penalty amount to 100,000/- (One hundred Thousand Rupees). Accordingly, the Appeal is disposed of without any order as to cost.

(Mujtaba Ahmad Lodhi)

Commissioner

(Abdul Rehman Warriach)

Commissioner

Announced on: 21 MAY 2024