



BEFORE APPELLATE BENCH NO. I

In the matter of

Appeal No. 8 of 2004

1. Friend Stock Linker (Regd.)
through Muhammad Tahir Ismail
5-6 Shaheen Centre, Firdous Market
Rahimyar Khan
2. Muhammad Tahir Ismail
70-D, Block X, Scheme No.3
Gulshan-e-Iqbal
Rahimyar Khan.....Appellants

Versus

1. Niaz Muhammad Bhatti
Old Sadiqabad, Gali No.4,
Ward No.4,
Mohalla Chaudary Munery
Sadiqabad City
2. Commissioner (Securities Market) SEC Respondents

Date of Impugned Order March 19, 2004

Date of hearing of Appeal August 24, 2004

Present:

Muhammad Tahir Ismail &
Afnan Karim Kundi, Advocate for the Appellants

Niaz Muhammad Bhatti &
Hafiz Abdul Sattar, Advocate for Respondent No. 1

Mr. Imtiaz Haider, Director (SM) for Respondent No. 2



ORDER

This order will dispose off the instant appeal No. 8 of 2004 filed under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 by M/s. Friend Stock Linker and Muhammad Tahir Ismail against the order dated 19-03-2004 passed by Commissioner (Securities Market).

1. Brief facts of the case are that Mr. Niaz Muhammad Bhatti, Respondent No.1 filed a complaint against Muhammad Tahir Ismail of M/s. Friend Stock Linker alleging that he was carrying on brokerage business without due authorization and registration under section 5A of the Securities & Exchange Ordinance, 1969. Initial inquiry conducted by the Securities Market Division of the Commission confirmed the allegation against the appellants. Consequently, a show cause notice dated 17-02-2004 was issued by Commissioner (Securities Market) and an order under section 20 of the Securities & Exchange Ordinance, 1969 was passed which prohibited transfer of shares from the appellant's account with CDC and sub-accounts maintained with Aziz Fidahusseini & Company (Pvt.) Ltd and Capital One Equities Ltd. Later on, the Commissioner after giving an opportunity of personal hearing to the parties passed the impugned order dated 19-03-2004 and ordered the continuation of the prohibition till further directions. Aggrieved by the prohibitory order passed by the Commissioner, the appellants have preferred the instant appeal.
2. Mr. Afnan Kundi, advocate appearing on behalf of the appellant admitted that the appellant had been carrying on the brokerage business without



authorization. He contended that the appellant was not a literate person and did not know the legal requirements for a broker/agent. He contended that the complaint filed by Mr. Niaz Muhammad Bhatti was motivated by personal vendetta. He contended that numerous complaints now pending with the Commission were filed after the prohibitory order was passed against the appellant and most of these complaints were frivolous. He stated that the appellant was willing to settle the bonafide claims against him but was being hindered by the prohibitory order passed by the Commissioner. He lamented that the brokerage firms through whom he had been dealing had settled their own claims against him by selling the shares held in his accounts with the brokerage firms. He stated that he was willing to offer whatever assistance to the Commission in order to settle the matter. He prayed that directions may be issued to Commissioner (SM) to give early hearing in the matter so that this issue can be settled as early as possible. He further prayed that the brokerage firms should be made a party in the original proceedings before the Commissioner so that the matter can be settled properly and fairly. In his appeal he has also prayed that the impugned order prohibiting the transfer of shares be set aside. The counsel wanted to file an additional statement on behalf of the appellant but he was advised to file the same before the Commissioner responsible to dispose off the original complaint.

3. Mr. Imtiaz Haider appearing on behalf of Commissioner (SM) stated that the appellant had taken similar plea before the Commissioner and had sought time to settle the claims. He stated that the Commissioner had granted 25 days to the appellant to settle the issue but no worthwhile effort has been made by him. Mr. Haider informed the Bench that the Commission had received nearly 80 complaints against the appellant and the appellant had only settled 1 complaint. Hafiz Abdul Sattar, Advocate appearing on behalf of Niaz Muhammad Bhatti,



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

NIC Building, Jinnah Avenue, Blue Area, Islamabad

the complainant, also lamented that the settlement of the issue was being delayed.

4. We have heard the parties and examined the available record. It is clear as admitted by the appellant that he had been carrying on unauthorized brokerage business. However it is possible, as contended by the appellant that not all claims filed against him are genuine. Nonetheless, his prayer that the impugned order prohibiting the transfer of shares be set aside cannot be accepted in the given circumstances. The appellant has more than once expressed his sincere intention before us, of settling the claims against him. There is no doubt that interest of all parties can only be served by early settlement of the claims against the appellant in a fair and transparent manner. The appellant is therefore directed to settle the claims of the claimants. Commissioner (SM) is also advised to fix the case and dispose off the matter at an early date.

This appeal is disposed off accordingly.

(ABDUL REHMAN QUERSHI)
Commissioner

(ETRAT H. RIZVI)
Commissioner

Announced in Islamabad on September ____, 2004