

SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Securities Market Division

Before the Director (Securities Market Division)

**In the matter of Show Cause Notice dated 28.07.2005
issued to Time Securities (Pvt.) Ltd.**

Date of Hearing

9th August 2005

Present at the Hearing:

Representing Time Securities (Pvt.) Ltd.

Mr. Hanif A. Sattar – Nominee Director

Mr. Anis Silat – Director

Mr. M. Adeel – Director

Assisting the Director (SM):

Mr. M. Ali Sheikh

Mr. Junaid Mirza – Deputy Director

ORDER

1. The present matter arises out of a Show Cause Notice (“Notice”) bearing No. SMD/SCN/9/2005 dated 28.07.2005 issued by the Securities and Exchange Commission of Pakistan (“the Commission”) to Time Securities (Pvt.) Ltd. (“the Respondent”).
2. Brief facts of this case are that between 3rd March 2005 and 30th March, 2005, the Respondent carried out 12 trades of the shares of National Bank of Pakistan (“NBP”), Oil & Gas Development Company (“OGDC”), Pakistan Oilfields Limited (“POL”), Pakistan Petroleum Limited (“PPL”), Pakistan State Oil Limited (“PSO”) and Pakistan

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Telecommunications Company Limited (“PTCL”) through the Karachi Automated Trading System (“KATS”) on behalf of two of its clients.

3. In the course of these trades, the Respondent purchased and sold, on behalf of the same clients, 4,700 shares of NBP, 9,000 shares of OGDC, 500 shares of POL, 1,500 shares of PPL, 2,000 shares of PSO and 10,500 shares of PTCL. Each of these trades cancelled each other out with the effect that there was no change in the beneficial ownership of the shares.
4. The trades as aforesaid interfered with the fair and smooth functioning of the market by creating a false and misleading appearance of trading activity in the scrips mentioned hereinabove and was to the detriment of the interests of the investors.
5. The Commission had obtained the following KATS data from the Karachi Stock Exchange for the relevant period, which revealed that during the month of March 2005 the Respondent had executed the following trades which had cancelled each other and did not result in change in beneficial ownership.

Trade Date	Client Code	Name of Share	Number of Shares	Rate of Sale & Purchase	Time of Trade Execution
15-Mar-05	09011	NBP-REG	2,000	160.25	1158000037
29-Mar-05	09011	NBP-REG	2,700	106.95	1243440018
14-Mar-05	09011	OGDC-REG	5,000	169.40	1141460104
14-Mar-05	09011	OGDC-REG	1,000	169.40	1141460105
14-Mar-05	09011	OGDC-REG	2,500	173.60	1408160026
16-Mar-05	09011	OGDC-REG	500	193.50	1226520042
08-Mar-05	09011	POL-REG	500	336.00	1120220072
30-Mar-05	07001	PPL-REG	1,500	238.60	1408520053
03-Mar-05	09011	PSO-REG	2,000	430.45	1315440070
04-Mar-05	09011	PTC-REG	5,000	74.25	1103040005
08-Mar-05	09011	PTC-REG	5,000	80.40	1118060025
11-Mar-05	09011	PTC-REG	500	87.40	1048180034

6. In view of the above findings, the Commission issued a Notice to the Respondent on 28 July 2005, detailing the aforesaid facts and asking it to show cause as to why action should not be initiated against it under section 17 of the Securities and Exchange Ordinance 1969 (“the Ordinance”) and the Brokers and Agents Registration Rules, 2001 (“the Rules”). A copy of the aforesaid KATS data was annexed to the Notice in order to provide to the Respondent an opportunity for answering to the same. The Respondent was asked to submit

a written reply along with the documentary proof to the Notice and the first hearing was fixed in Islamabad for 9th August 2005.

7. The Respondent submitted a written reply dated 04.08.2005 (without any documentary proof) to the Notice and also appeared in person on 09.08.2005 through its authorized representative Mr. Hanif A. Sattar who was assisted by Mr. Anis Silat and Mr. M. Adeel. The main points raised by the Respondent in its reply were as follows:

- (a) In the written response the Respondent denied the allegations of violation of Section 17 of the Ordinance in relation to the transactions between March 03, 2005 and March 30, 2005 covering 12 trades.
- (b) The Respondent also stated in its written response that it strictly observes the code of conduct and exercises due care and skill in the conduct of its business and hence denied the allegations about any failure on its part to observe the code and of indulgence in manipulative, fraudulent and deceptive transactions.
- (c) The Respondent further stated in its letter that, “to the best of our knowledge these were not a single pair of deals in isolation but a part of a number of transactions done on that day. As far as we can recall, our client must have placed a given number of shares for sale at market rate and had simultaneous under pending limit for purchase some shares at a certain rate. As such by sheer chance, both buy and sell transactions for the said number of shares at the given time and rate were executed simultaneously.”
- (d) The Respondent also stated that, “12 trades of such nature is itself indicative of the fact that this was caused by sheer coincidence and chance.” In the following paragraph of its written response it stated, “the orders executed at the same time and date were actual buy and sell deals and in no way intended by us to ultimately cancel out each other and in fact at the end of the day did result in change of beneficial ownership.”

- (e) The Respondent affixed Annexure A to its written response to the Notice to validate its claim that these trades as a percentage of the total shares traded on that day constitute an insignificant proportion and thus do not have the remotest likelihood of influencing the activity in their volume or share prices.
 - (f) In respect of the trades executed on behalf of Client 09011 and 07001, it claimed that during the month of March, 2005 the stock market was volatile which occasionally precipitated abrupt buying and selling orders. As a result, the KATS operators were overwhelmed with the number of orders placed and which made it difficult to keep track of each transaction.
 - (g) The Respondent further stated that as these trades, prior to execution, were open or outstanding orders and as the client later placed an opposite order, these by coincidence matched. Thus, these trades were merely caused by an accident and were not purposely done to affect the volume or share price.
 - (h) The Respondent stated that in its opinion its written response adequately addressed the allegations raised by the Commission through its Notice and therefore, it would not be required to appear before the Commission to further clarify its position.
 - (i) The Respondent claimed that the beneficial ownership changed and to establish its claim elaborated that a client having a sell limit order of 2,500 shares later placed a buy market order of 10,000 shares thus canceling out each other. Ultimately, the client ownership increased to 7,500 shares and thus the ownership did change.
8. I have heard the views and contentions of the Respondent at length and after carefully examining the record, I find that the following issues arise out of this matter:
- (a) *Did the acts of commission and omission as alleged against Respondent constitute a breach of the Rules? If so, up to what extent?*
 - (b) *What should the order be?*

Each of these issues has been examined and discussed below:

(a) Did the acts of commission and omission as alleged against Respondent constitute a breach of the Rules? If so, up to what extent?

9. The Respondent has admitted in the written statement and in its oral submission that it carried out all 12 trades as described in the annexure to the Notice. In respect of these trades, the Respondent has taken the plea that the market was volatile during this period and the clients were placing overwhelming number of orders and that the KATS operator was unable to keep track of each transaction.
10. The relevant KATS data independently obtained by us from the Karachi Stock Exchange, (which has not been disputed by the Respondent) reveals that all the aforesaid trades canceled each other out and the beneficial ownership of these shares did not change. Such practice on the part of the Respondent interfered with the fair and smooth functioning of the market because it falsely depicted trading activity. The interests of the investor also suffered because they received a false impression of trading in the market which impacted upon their decision to trade in particular scrips in the market.
11. We have noted the plea of the Respondent that market volatility in those days occasionally precipitated abrupt buying and selling orders in the relevant period, that each KATS operator was surrounded by six to eight clients placing their orders and that in such a volatile market environment with high number of client orders it was hard for the KATS operators to keep track of each transaction.
12. The above-mentioned plea does not have merit in view of the fact that the KATS operators are highly skilled personnel and it is their job to record such transactions on a daily basis and always within a very short time period. As an experienced broker and as the employer of the KATS operator it was the duty of the Respondent to ensure that its business was conducted with due care and skill. It is also noted that the Respondent has not taken any action against the KATS operator for his alleged commissions or omissions.

13. It is the responsibility of the staff of the Respondent to exercise due skill and care. Clients should have been informed about open or outstanding orders by the Respondent and it should have taken adequate measures and steps to eliminate the possibility of its staff executing trades that would result in no change in beneficial ownership.
14. By engaging in and allowing trades in the market that lead to creating a false impression of trading activity in particular scrips, is not only against high standards of integrity but is also improper, dishonorable and disgraceful and against the law.
15. From the preceding facts it is abundantly clear that the Respondent has failed to follow the requirements of the code of conduct. It has executed and permitted to execute trades which have cancelled each other out and have not resulted in the transfer of beneficial ownership. Further, it has indulged in acts which have interfered with the fair and smooth functioning of the market to the detriment of the interests of investors.
16. In failing to ensure that a proper system is in place to eliminate any chance of such trading activity, the Respondent has failed to act with due skill, care and diligence in the conduct of his business. Consequently, the Respondent has failed in its duty to maintain high standards of integrity, promptitude and fairness in the conduct of all its business and has in fact indulged in dishonorable, disgraceful and improper conduct on the stock exchange, and has therefore acted in violation of Rule 8(iv), read with Rule 12 of the Rules.

(b) What should the order be?

17. The Commission takes a serious note of the violation of the Rules and is entitled to suspend the Respondent's license. In the present circumstances however, the Commission has decided not to exercise this power. Therefore in exercise of the powers under Rule 8(b) of the Rules, I hereby impose on the Respondent, the penalty of Rs. 25,000.00 (twenty five thousand) which should be deposited with the Commission, no later than 30 (thirty) days from the date of this Order.

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18. Additionally, I hereby direct the Respondent to abstain from buying and selling of shares in a manner that the trades do not result in a change in beneficial ownership of the shares failing which the Commission will proceed against them according to law.
19. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

Mohammad Rashid Safdar Piracha
Director (SM)

Date of the Order: August 18, 2005