

**SECURITIES & EXCHANGE COMMISSION OF PAKISTAN**  
**NIC Building, Jinnah Avenue, Blue Area, Islamabad**

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**Before the Joint Director (Securities Market Division)**

In the matter of Show Cause Notice dated 23.12.2005 issued to  
Bawa Securities (Pvt.) Limited, Corporate Member, Karachi Stock Exchange.

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**Date of Hearing:**

January 19, 2006

**Present at the Hearing:**

Representing Bawa Securities (Pvt.) Limited:

Mr. Muhammad Hanif Bawa , Chairman & Chief Executive

Assisting the Joint Director (SMD):

Mr. Junaid Mirza, Deputy Director

**ORDER**

1. This matter arises out of a Show Cause Notice No. 1(8) OCT 18/MSW/SMD/2005/100 dated December 23, 2005 ("the Notice") issued by the Securities and Exchange Commission of Pakistan ("the Commission") to Bawa Securities (Pvt.) Limited ("the Respondent").
2. Facts of the case are that the stock market experienced abnormal volatility on 18<sup>th</sup> October 2005. In order to investigate the reasons thereof, the Commission obtained trading data from the Karachi Automated Trading System ("KATS") of the Karachi Stock Exchange (Guarantee) Limited ("KSE") for that day.

3. On the perusal of the data obtained from the KSE and subsequent information received from the Respondent, it was observed that on October 18, 2005, one of the Respondent's Client namely Muhammad Yaqoob, having KATS Code No. 95 ("the Client") first sold 25,000 shares of Muslim Commercial Bank Limited ("MCB") at 09:30 a.m. and subsequently squared his position by purchasing the same number of shares. Thereafter, the Client again sold 25,000 shares of MCB at 12:24 p.m. and squared his position at 12:25 p.m. It was further noted from the available record that at the time of sale of the shares, the Client did not have any pre-existing interest in the shares.
4. In order to afford the Respondent an opportunity, the Commission issued a letter No.I(8)OCT 18/MSW/SMD/2005/38 dated December 15, 2005 detailing the aforesaid facts and asking the Respondent to provide documentary evidence to establish that the Client had pre-existing interest in the shares of MCB to the extent of 25,000 shares before the said sale. The Respondent vide its letter dated December 19, 2005 provided its reply. The Reply was found to be unsatisfactory as it contained insufficient evidence to establish that the Client had pre-existing interest in the shares of MCB.
5. Accordingly, the Commission issued the Notice dated December 23, 2005 informing the Respondent that the trading in shares of MCB by its Client appears to falls within the ambit of blank selling, prima facie in violation of the Securities & Exchange Ordinance, 1969 (the "Ordinance"), the Brokers and Agents Registration Rules, 2001 (the "Rules") and the Regulations for Short Selling under Ready Market, 2002 (the "Regulations"). The hearing in the case was fixed in Islamabad for January 06, 2006.
6. The said hearing was adjourned on the request of the Respondent and the case was re-fixed for January 19, 2006. On the date of hearing, Mr. Muhammad Hanif Bawa, Chairman and Chief Executive of the Respondent

appeared before me in person. The main points raised by the Respondent in its written reply and in the course of hearing were as follows:

- a) The Respondent in its written statement/letter dated December 19, 2005 intimated the claim of its Client to the Commission that he had pre-existing interest in the shares of MCB.
- b) The Respondent along-with the written statement provided a letter dated October 17, 2005 of the Client's family friend namely Mrs. Mehwish M. Fahim written to the Respondent which states the following:-

"I, Mehwish wife of M. Fahim wish to inform you that I intend to do some trading in the shares of Muslim Commercial Bank Limited through my family friend and partner Mr. Muhammad Yaqoob S/o. Abdul Karim who maintains trading account with you. I also have intention to unconditionally transfer the shares eventually if required into his sub account from my sub-account No.29457 with participant No.02477. I am holding 71,000 shares of Muslim Commercial Bank Limited in my above account and attach my CDC sub account statement." However, no CDC statement was found enclosed along-with the aforesaid letter.

- c) The Respondent during course of the hearing informed that its brokerage house had verified that the shares were available in the CDC sub account of the Client's family friend.
- d) The Respondent stated that these were the regular trades and categorically denied that it was neither a Blank sale nor short sale, as delivery of shares would have been affected from the CDC sub account of the Client's family friend, if required.

e) The Respondent stated that they are profession people and had never entertained any such request of any client in the past.

f) The Respondent on a query could not inform the name of brokerage house where Mrs. Mehwish is maintaining her account. Accordingly, the Respondent was asked to furnish the same information. Further it was also asked to furnish copy of the Client NIC, account opening form and transactions statement and ledger for the month of October, 2005. However, the Respondent failed to provide the same.

7. I have heard the views and contentions of the Respondent at length and after carefully examining the record, I find that the following issue arises out of this matter:

(a) Whether the Respondent's Client had pre-existing interest in the shares of MCB to the extent of 25,000 shares or not?

(b) What should the order be?

8. These points were thoroughly examined as under:-

***(a) Whether the Respondent's Client had pre-existing interest in the shares of MCB to the extent of 25,000 shares or not?***

9. The Respondent in its written reply as well as oral contentions made during the hearing has taken plea that the Client had pre-existing interest in the shares of MCB as 71,000 shares of MCB were available in the CDC account of the Client's family friend and provided a letter written by the Client's family friend to the Respondent as proof of it. Further the Respondent informed that they had

verified the availability of the shares in the CDC account of Client's family friend. The Respondent further added that its Client is a high net worth individual and they would not have any problem in delivery if it is required from the Client.

10. A sale transaction of shares is said to be regular when a Client has pre-existing interest in the shares before the sale. Hence, it is utmost necessary to ascertain whether the Respondent's Client had pre-existing interest in the shares of MCB to the extent of 25,000 shares or not. The Clause-2(g) of the Regulations has defined "Sales with pre-existing interest" which means squaring up of an earlier purchase on the same exchange or another exchange in the same settlement or different settlement which will settle prior to the settlement of the sale. However, the record provided by the Respondent did not substantiate that the Client had any pre-existing interest in the shares of MCB before the sale. Account Activity report of the Client obtained from Central Depository Company ("CDC") in the shares of MCB for the period from October 17, 2005 to October 21, 2005, confirmed that the Client had no pre-existing interest in the scrip of MCB as it contained nil balance.

11. The Respondent has provided a letter dated October 17, 2005 supposedly written by the Client's family friend to the Respondent as proof of pre-existing interest of the Client. This letter cannot be considered as contractual arrangement as required by the Regulation.

12. In view of the above, it is very obvious that the Respondent's Client had neither pre-existing interest nor prior contractual borrowing arrangement in the scrip. Further, the Respondent has also failed to provide transactions statement and ledger of the Client during the period or any other evidence to substantiate the claim of its Client that he had pre-existing interest in shares of MCB.

13. According to Clause-2(a) of the Regulations, "Blank Sales" means "a sale by a party that does not own shares or the sale does not constitute a sale with pre-

existing interest or is a sale by a party that has not entered into a contractual borrowing arrangement to meet the delivery requirements". Hence, the sale by the Respondent's Client without pre-existing interest and any contractual borrowing arrangement falls within the ambit of Blank Sale which is prohibited in terms of the Regulations. The Respondent, therefore, has acted in violation of Clause-4 of the Regulations and clause 8(iii) of the Rules.

***(b) What should the order be?***

14. The violation of Rules and Regulations is a serious matter which entitles the Commission to suspend the Respondent's membership but I have elected not to exercise this power at present. However, in exercise of the powers under Clause 8(b) of the Rules, I hereby impose on the Respondent, a penalty of Rs. 25,000 (Rupees twenty-five thousand only) which should be deposited with the Commission, no later than 30 days from the date of this Order and furnish a copy of deposited challan to the undersigned.

15. 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.

**Shaukat Hameed)**  
**Joint Director (SMD)**

**Date of the Order: 16-03-2006**