



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

*Before*

Shahzad Afzal Khan, Director/Head of Department (Adjudication-I)

*In the matter of*

Mr. Mumtaz Hussain Rajpar, Branch Manager, AA Gold Commodities (Pvt.) Limited

|  |   |
|--|---|
| Number and date of Show Cause Notice (SCN) | 2(377)SMD/Adj-1/2022-42<br>Dated July 13, 2023          |
| Date(s) of Hearing Opportunities:          | October 02, 2023; February 13, 2024 and; March 14, 2024 |

## ORDER

### UNDER SECTION 104(4) OF THE FUTURES MARKET ACT, 2016 READ WITH SECTION 83(3)(C) AND SECTION 83(2)(C) OF THE ACT

This Order shall dispose of the proceedings initiated against Mr. Mumtaz Hussain Rajpar (**the Respondent**), Branch Manager, AA Gold Commodities (Pvt.) Limited (**the Company**) through Show Cause Notice No. 2(377)SMD/Adj-1/2022-42 dated July 13, 2023 (**the SCN**) issued under Section 104(4) of the Futures Market Act, 2016 (**the Act**) on account of alleged contravention of Section 83(3)(c) read with Section 83(2)(c) of the Act.

2. An investigation was initiated against the Company vide order dated July 15, 2022 to investigate any violations of the Act along with the rules and regulations and to inspect the books and records of the Company.

3. It was pointed out that the Respondent was given three written notices to appear before the investigation team for the recording of his statement under Section 83 of the Act, however, the Respondent did not appear before the investigation on the stipulated date for recording of his statement nor did he request for rescheduling of the statements.

4. In view of the above, the Respondent, *prima facie*, violated the requirements of Section 83(3)(c) read with Section 83(2)(c) of the Act. The relevant provision of the law is reproduced as under:

#### Section 83 of the Act:

##### 83. Investigation—

(2) Any person who is reasonably believed or suspected by the investigation to have in his possession or under his control any record or document which contains, or which is likely to contain, information relevant to an investigation under this section, or who is so believed or suspected of otherwise having such information in his possession or under his control, shall—  
(c) attend before the investigator at the time and place the investigator requires in writing, and answer truthfully and to the best of his ability under oath, which oath the investigator is hereby empowered to administer, any question relating to the matters under investigation as the investigator may put to him;

(3) A person commits an offence if, without reasonable explanation, he—

(c) fails to attend before the investigator as required under clause (c) of sub-section (2);"



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5. The aforesaid alleged violation attracts applicability of the penal provisions as provided under Section 104(4) of the Act, which is reproduced as under:

**Section 104(4) of the Act:**

***"104(4) Notwithstanding sub-sections (1), (2), (3) and (4), any person who—***

***(a) contravenes or fails to comply with any provision of this Act, or of any rules or of any regulations made under this Act;***

***(b) furnishes or produces any return, documents or statement for the purposes of this Act or any requirement imposed under the provisions of this Act or of any rules or regulations made under this Act the contents of which, to his acknowledge, are untrue, incorrect or misleading;***

***(c).....***

***the accused person shall be liable to pay, by way of penalty, -***

***(i) in case of an individual, such sum which may extend to one hundred million rupees; and***

***(ii) in case of a company, such sum which may extend to two hundred million rupees."***

6. Accordingly, the Commission while taking cognizance of the aforementioned non-compliance served the SCN upon the Respondent, requiring him to submit his written reply within 14 days of the date of the SCN. However, the Respondent did not submit any reply in response to the SCN.

7. In order to provide the Respondent an opportunity of personal representation in the matter, hearing notices were issued for October 02, 2023 and February 13, 2024. The Respondent neither responded nor appeared in the aforementioned scheduled hearings before the undersigned. Therefore, a final hearing notice dated for March 14, 2024 was given to the Respondent. However, the Respondent did not respond or appear in the final hearing opportunity as well.

8. The following are the questions that need to be addressed:

- (i) Whether the hearing notices were properly served to the Respondent to record his statement in accordance with requirements of the law?**

The Respondent was given three written notices to appear before the investigation for the recording of his statement as required under the provisions of the law. It is important to note that the hearing notices were sent to all available addresses of the Respondent, and ample opportunities were provided for him to attend and record his statement in compliance with the law. However, the Respondent neither appeared before the investigation on the stipulated date nor requested for the rescheduling of the statements.

- (ii) What were the responsibilities of the Respondent under the law, and what actions should the Respondent have taken?**

Under Section 83 of the Act, the Respondent had certain responsibilities, which included attending before the investigator at the specified time and place and answering truthfully and to the best of his ability under oath any questions related to the matters under investigation. These responsibilities have been specified by the law, and the Respondent should have complied with them by attending the investigation as required and cooperating with the inspector's inquiries. As the statement of the Respondent being Branch Manager of the



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Company was imperative to the findings of the investigation team. However, the Respondent has been neglectful of his responsibilities and failed to appear before the investigation despite multiple attempts to contact him on his personal and official addresses.

**(iii) Was the Respondent given ample opportunities for hearings during the adjudication proceedings before the Authorized Officer?**

Proper procedure has diligently been followed, ensuring that the Respondent has been accorded ample opportunities for hearings during the adjudication proceedings before the Authorized Officer. Multiple hearing notices have been meticulously served to the Respondent, addressing both his official email addresses and personal addresses. Moreover, proactive measures have also been taken to establish communication by reaching out to his available contact number. However, no response was received from the Respondent till date, as neither did he provide any reply to the SCN nor did he attend the hearings.

Therefore, it shows that the Respondent has been habitual in non-appearance before the relevant authorities during the investigation and adjudication proceedings, failing to fulfill his fiduciary responsibilities as specified in the law, which establishes the contravention with the requirements of the law.

9. In view of forgoing and available record with this office in light of the applicable provisions of the law, the contravention of Section 83(3)(c) read with Section 83(2)(c) of the Act is established, which attracts Section 104(4) of the Act. Therefore, I, hereby, impose a penalty of **Rs.500,000/- (Pak Rupees Five Hundred Thousand Only)** on the Respondent on account of the aforesaid established default.

10. The Respondent is hereby directed to deposit the aforesaid fine in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with MCB Bank Limited or United Bank Limited within thirty (30) days from the date of this Order and furnish receipted voucher issued in the name of the Commission for information and record.

11. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law(s) on matter subsequently investigated or otherwise brought to the knowledge of the Commission.

**(Shahzad Afzal Khan)**  
Director/ Head of Department  
(Adjudication Department-I)

**Announced:**  
March 21, 2024  
Islamabad

