

2013 C L D 211

Securities and Exchange Commission of Pakistan
Before Imran Inayat Butt, Director/ HOD (MSCID)
PEARL CAPITAL MANAGEMENT (PVT.) LIMITED

In the matter of Show Cause Notice No. 1 (03) /Wash/KSE/MSW/SMD/2009/dated 6-6-2012,
decided on 25th June, 2012.

Muhammad Jaffer, Authorized Representative, Pearl Capital Management (Pvt.) Limited.

Osman Syed, Deputy Director, SECP assisting the Director (MSCID).

Date of hearing: 25th June. 2012.

ORDER

Order accordingly.

[Securities and Exchange Ordinance (XVII of 1969)]-----S. 22--Brokers and Agents Registration Rules, 2001, Rr.8, 12 & Third Sched. ---"Wash Trades"—Examination of the trading data of Karachi Automated Trading System of Karachi Stock Exchange, showed that the company bought and sold shares in such a way that orders for buy and sell matched with each other; and did not result in any change in ownership of the shares---Said transactions fell within the meaning and ambit of the term "Wash Trades" which had created false and -misleading impression in the market and was a violation of the regulatory framework---Unfair trade practice like "Wash Trades" were detrimental for the development of the market and damaged the market integrity--Execution of such trades had shown that the company had failed to maintain high standard of integrity and had been unsuccessful in exercising due care, skill and diligence in conduct, of its business" Company was established to have contravened the provisions of the Code of Conduct of Brokers Rules 2001--Violation of the Rules and Regulations was a serious matter which could even lead to suspension or cancellation of registration of the company by the Securities and Exchange Commission---Company having assured to adopt cautious approach in future, taking a lenient view in the matter, a penalty of Rs.100,000 was imposed on the company---Company was strongly advised by the Commission to take immediate measures and put in place proper checks in its Order Management System to restrict such orders, which could result in execution of "Wash Trades"-- Company was also directed to ensure that full compliance was made of all the rules, regulations and directives of the Commission in future for avoiding serious punitive action under the law.

IMRAN INAYAT BUTT, DIRECTOR/HOD (MSCID).---This order shall dispose of the proceedings initiated through Show Cause Notice (the "SCN") bearing No. 1 (03)/Wash/KSE/MSW/SMD/2009/dated 06-06-2012, under section 22 of the Securities, and Exchange Ordinance, 1969 (the "Ordinance") and the Brokers and Agents Registration Rules, 2001 (the "Brokers Rules") issued to Pearl Capital Management (Pvt.) Limited (the "Respondent") by the Securities and Exchange' Commission of Pakistan' (the "Commission"). The Respondent is a Corporate Member of the Karachi Stock Exchange (Guarantee) Limited ("KSE") and registered with the Commission under the Brokers Rules."

2. The brief facts leading up to this order are that after examination of the trading data of Karachi Automated Trading System ("KATS") of KSE from February 1, 2012 to May 31, 2012, it was noted that the Respondent bought and sold shares in such a way that orders for buy and sell matched with each other and did not result in any change in ownership of the shares. Thus, the transactions fall within the meaning and ambit of the term Wash Trades. A summary of the said transactions is noted in chronology, as follows:--

- (i) In the month of February, 2012 the Respondent bought and sold 1,033,855 shares at KSE, as a result of these trades, the Respondent executed 193 Wash Trades in 48 different scrips through its proprietary account.
- (ii) In the month of March 2012 the Respondent bought and sold 1,252,044 shares at KSE, as a result of these trades, the Respondent executed 257 Wash Trades in 61 different scrips through its proprietary account.
- (iii) In the month of April 2012 the Respondent bought and sold 615,439 shares at KSE, as a result of these trades, the Respondent executed 164 Wash Trades in 50 different scrips through its proprietary account.
- (iv) In the month of May 2012 the Respondent bought and sold 707,815 shares at KSE, as a result of these trades, the Respondent executed 261 Wash Trades in 59 different scrips through its proprietary account.

3. As mentioned earlier these transactions fall within the scope and meaning of Wash Trades, therefore, the Commission vide its letter No.1(01)/Wash/KSE/MSW/ SMD/2009/38 dated March 27, 2012 and letter No.1(01)/Wash/KSE/MSW/SMD/2009/53 dated May 14, 2012 requested the Respondent to provide the comments and documentary evidences to clarify its position regarding the execution of Wash Trades in its proprietary account. In this regard, the Respondent through its letters dated April 2, 2012 and May 21, 2012 made identical submissions, the pertinent portion of which is reproduced as under:--

“we would like to bring your kind notice that the equity transactions in our own account PCM were managed and carried out by our various traders of our company. Most of these traders at our company are being executed orders through our Online Trading Terminals and some of them use KATS to execute the trades on our PCM account. Therefore, it is possible that sometime the Trend of our different Trader may conflict right each other, in that case there may be a cross transaction has been made in our house account in view of being purchase and sale at the same price. Therefore, these cross trades are actual sale and purchase of own house account and it is not intended to manipulate the market in this regard.

Since these transactions are not much heavier hence it could not affect the Market Trend when the average business of shares conducted at the Exchange comes to 300 to 400 Million Shares per day. In view of this our wash trades as intimated by you are very negligible due to current daily market volume of shares per days. Since the matter has been clarified to you in detail so we trust that this matter will be treated as closed by you organization while going thoroughly at our above arguments and explanations stated in this regard.

4. The aforementioned reply of the Respondent was examined by this office and was not considered satisfactory as same did not contain reasonable justification for execution of Wash Trades in its proprietary account. Accordingly, the SCN dated June 6, 2012 was issued to the Respondent with a direction to submit a written reply within seven days of issuance of the SCN and appear on June 14, 2012 for a hearing. However, on the request of the Respondent the date of hearing was fixed on June 25, 2012. Mr. Muhammad Jaffer, ("Authorized Representative"), appeared on behalf of the Respondent, on the said date. The Authorized- Representative reiterated the submissions made in the written reply to the SCN. However, when he was apprised of the fact that there was no justification under the law for the execution of wash trades, he admitted that the mistake was made in complying with the provisions of the Ordinance and the Brokers Rules. The Authorized Representative. on the behalf of the Respondent, assured that any

such contravention shall not be repeated in the future. Hey further pledged complete commitment to abide by all the applicable laws and regulations in future.

5. The Authorized Representative at the time of hearing stated that the Respondent was also unaware of Risk Management Gateway System introduced by the KSE to avoid the execution-of wash trades.

6. I have heard the arguments of the Authorized Representative during the hearing. Additionally I have perused the record and the written reply filed by the Respondent. In view of the facts and my findings and observations thereon, it is established that the Respondent has placed the buy and sell orders at the same Exchange in such a way that orders for buy and sell matched with each other and did not result in any change in beneficial ownership of the shares, which created false and misleading impression in the market and is a violation of the regulatory framework. I am of the considered view that unfair trade practices like Wash Trades are detrimental for the development of the market and damage market integrity. The execution of abovementioned trades shows that the Respondent has failed to maintain high standard of integrity and has been unsuccessful in exercising due care, skill and diligence in conduct of its business. Consequently, it is established that the Respondent has contravened the provisions of the Code of Conduct of the Brokers Rules.

7. The violation of the Rules and Regulations is a serious matter which can even lead to suspension or cancellation of the 'Respondents registration as a broker by the Commission.

8. I However, keeping in view that the Respondent has assured to adopt cautious approach in future, I am taking a lenient view in the matter and I hereby impose on the Respondent a penalty of Rs.100,000 [Rupees Hundred Thousand only). Additionally, I strongly advise the Respondent to take immediate measures and put in place proper checks in its Order Management System to restrict such orders, which may result in execution of Wash Trades, before these are routed to the trading system of the Exchange for execution to eliminate the occurrence of such instances in future. I also direct the Respondent to ensure that full compliance be made of all rules, regulations and directives of the Commission in the future for avoiding any serious punitive action under the law.

9. The matter is disposed of in the above manner and the Respondent is directed to deposit the fine in the account of the Commission being maintained in the designated branches of MCB Bank Limited not later than thirty (30) days from the date of this Order and furnish the copy of the deposit challan to the undersigned.

10. The 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.