



Before the Director/HOD (Market Supervision & Registration Department)
Securities Market Division
Securities and Exchange Commission of Pakistan

In the matter of Appeal for review under Rule 12 (6) of the “Commodity Exchange and Futures Contract Rules, 2005” against Commission’s order dated July 10, 2014 issued in the matter of application for registration as broker of Pakistan Mercantile Exchange Limited by M/s. Aurum Commodities (Pvt.) Limited

ORDER

This Order shall dispose of the application for Review of decision under Rule 12(6) of the Commodity Exchange and Futures Contract Rules, 2005 (“the Rules”) filed by M/s. Aurum Commodities (Pvt.) Ltd. (“ACPL”), member of Pakistan Mercantile Exchange Limited (“PMEX”) against the Order dated July 10, 2014 (“Impugned Order”) issued in the matter of Application for Registration as a broker by ACPL.

2. Brief facts of the case are that ACPL is a member of the PMEX since April 22, 2014. PMEX vide letter dated April 29, 2014 forwarded application of ACPL for grant of certificate of registration as “broker” under the Rules. As per the details attached with the application, Mr. Ruhail Ashraf Khan is the major shareholder having 81.5 % shares and is also the Chief Executive Officer (“the CEO”) of ACPL. While reviewing ACPL’s application for grant of certificate of registration it was observed that the CEO submitted his work experience till December 2012 with M/s. Nayyar Sheikh Securities (Pvt.) Limited. However, it had come to the knowledge of the Commission that he has also worked as the Deputy CEO of M/s. Highlink Capital (Pvt.) Limited (“HCPL”). It is pertinent to mention here that HCPL was suspended by the Commission on February 17, 2014 due to non-settlement of investor complaints and subsequently expelled by the Lahore Stock Exchange Limited.

3. Consequent to this apparent misrepresentation, the Commission issued a Show Cause Notice (“SCN”) to the CEO of ACPL for providing false and misleading information to the Commission which *prima facie* leads to the violation of Rule 26 of the Rules.

4. Pursuant to the said SCN, the CEO of ACPL appeared on May 26, 2014 for hearing and presented his case before the undersigned. During the hearing the CEO asserted that he joined HCPL for a short period of 3 months, however, during this period neither any appointment letter nor any salary was given to him, therefore, he left HCPL. He further stated that in the absence of any appointment letter, he assumed that officially his work experience with HCPL will not be admissible and because of this very reason he did not mention the same. During the hearing he also agreed to provide his written comments in the matter which were later on provided vide his letter dated June 12, 2014.

5. In his written comments, the CEO stated that he never gave any false or incorrect information to the Commission and, therefore, Rule 26 is not applicable in the instant matter. In addition, he stated that while filing the application, he believed that he was not required to provide his entire business experience and five years of experience in relevant field was sufficient for the purpose. On the issue of his affiliation with HCPL, he stated that he got employment on probation in HCPL in January 2013 as Deputy CEO on monthly salary of Rs. 125,000/-, however, he was never granted any appointment letter from HCPL. He further asserted that HCPL neither paid him any salary nor he was authorized to handle any financial affairs of HCPL and his job was only restricted to the administrative functions of HCPL like sending emails to CEO for purchase of furniture, payment of utility bills, rent etc. without any financial control over these issues. The then CEO of HCPL Raja Asim kept delaying his repeated requests for the proper status in HCPL, however, being flabbergasted with the situation he eventually left HCPL.

6. After detailed review of the facts available on record, the Commission vide order dated July 10, 2014 rejected the application of ACPL for grant of certificate of registration as broker under the Rules.

7. In reply to the said order, ACPL through its CEO, filed an application for review of decision under Rule 12 (6) of the Rules. The summary of arguments submitted by the CEO is as follows.

- i. The CEO of ACPL resigned from HCPL six months before its suspension by the Commission and accordingly he was not the employee at the time of suspension of HCPL, therefore, declining registration to ACPL is unjustified.
- ii. When ACPL applied for registration as broker with the Commission, no enquiry was initiated by NAB at that time.
- iii. The Commission never communicated the CEO regarding suspension of registration of HCPL.
- iv. The Commission has presumed that the CEO was aware of the actions taken against HCPL by National Accountability Bureau ("NAB") or the Commission itself.
- v. The CEO was not engaged in the business of stock exchange in any manner or with reference to HCPL, therefore, not mentioning the same in the application is inconsequential.
- vi. For the purpose of "experience certificate" the Commission's requirement is restricted to the experience in "dealing in the commodities or stock markets". The CEO rightly provided only the relevant experience and Commission misconstrued the word "dealing in" and clubbed the term with "working in" which is illegal and incorrect.
- vii. The CEO never misrepresented or provided any false or incorrect information, rather candidly explained the true facts on first query raised by the Commission, therefore, the CEO cannot be adjudged as guilty of providing false or incorrect information.



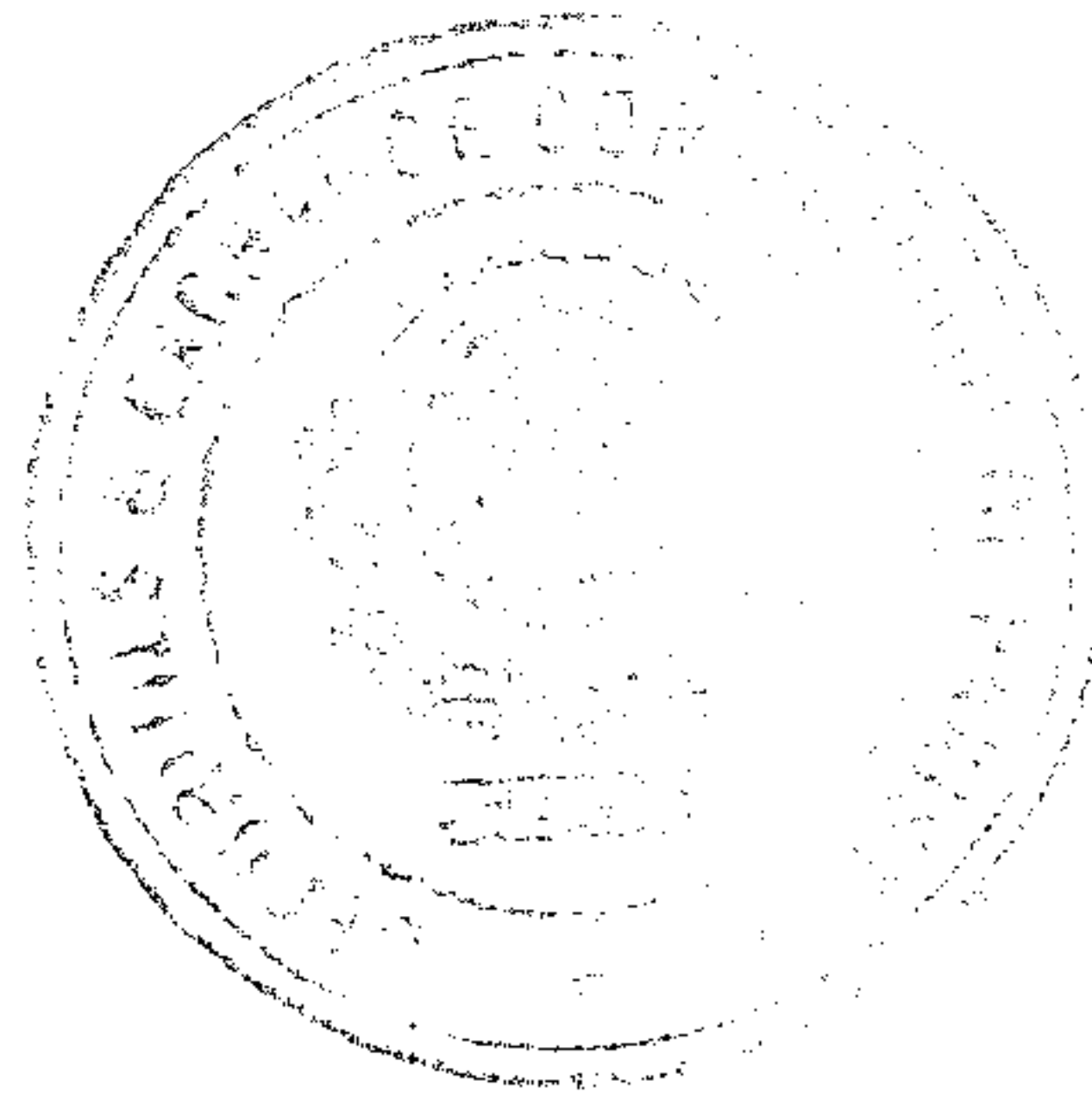
- viii. There is no allegation against the CEO during his entire career encapsulating more than 2 decades which clearly speaks about his honest character.
- ix. The CEO cannot be held responsible for any action taken by the Commission against HCPL particularly under the circumstances when the applicant had left six months prior to the action taken by the Commission.
- x. The Commission never initiated any action against HCPL when he was in the employment of HCPL.
- xi. His mere affiliation with HCPL cannot be considered as the sufficient reason to decline the grant of license to ACPL.

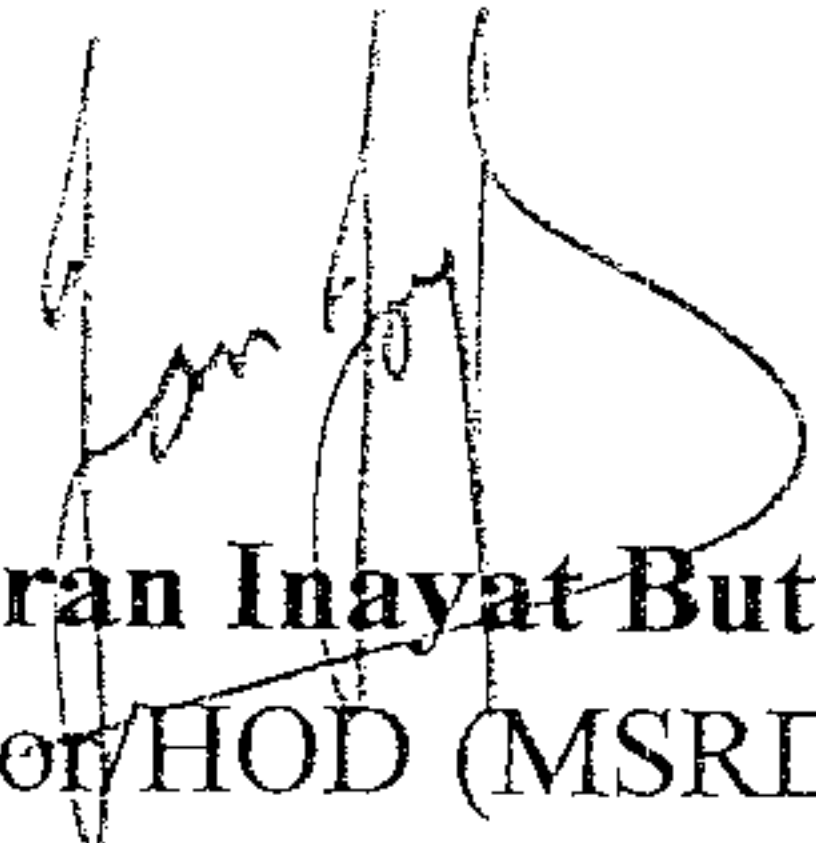
8. In view of the aforesaid arguments the CEO has prayed that the impugned order dated July 10, 2014 be set aside and ACPL be granted with license to initiate its business in PMEX.

9. I have reviewed the grounds and arguments made by the CEO in the instant review petition and have noted that almost all the arguments made by the CEO in this petition are mere repetition of his earlier stance presented before the under signed in the hearing held on May 26, 2014. It would be pertinent to mention here that during his employment as Deputy CEO of HCPL, the Commission already took cognizance of an investor complaint against HCPL and later on penalty of Rs. 500,000/- was imposed. Presently an enquiry under section 21 of the Securities and Exchange Ordinance, 1969 and Section 29 of the Securities and Exchange Commission of Pakistan Act, 1997 against HCPL its constituents, agents, associates, officers and any other person directly or indirectly involved, related to pending unresolved investor complaints is underway at the Commission. In addition as a matter of defrauding public at large, National Accountability Bureau ("NAB") has also initiated proceedings against HCPL and claim verification and preparation for filing a reference in the NAB Court is also under process. In addition, this fact cannot be ignored at this stage that the CEO was not merely affiliated with HCPL rather he was working as Deputy Chief Executive Officer and holding the second most senior position in HCPL.

10. In view of the aforesaid it is clear that the CEO of ACPL has failed to bring any new fact or evidence in support of his stance. Therefore, all the grounds on which the application for grant of certificate of registration as broker was rejected remains intact and accordingly this appeal against Commission's earlier order is hereby declined.

**Announced on September 22, 2014
Islamabad.**




(Imran Inayat Butt)
Director/HOD (MSRD)