

Before the Director (Broker Registration & Investor Complaints Wing)
Market Supervision & Capital Issues Department
Securities Market Division
Securities and Exchange Commission of Pakistan

In the matter of Show Cause Notice dated October 21, 2010, issued to M/s. Live Securities Limited, Member of the Karachi Stock Exchange (G) Limited

<u>Date of Hearing :</u>	December 13, 2010 & March 8, 2012
<u>Present at the Hearing:</u> Authorized Representatives of Live Securities Limited	1. Raja Izhar Ahmad 2. Mr. Abdul Nasir

ORDER

1. This Order shall dispose of the proceedings against Live Securities Limited (**“the Respondent”**), initiated by the Securities and Exchange Commission of Pakistan (**“the Commission”**) through the Show Cause Notice No. SM/BRK-138/3-4-5-6-7-10 dated October 21, 2010 (**“the SCN”**) issued under Rule 8 of the Brokers and Agents Registration Rules, 2001 (**“the Rules”**) and Section 22 of the Securities and Exchange Ordinance, 1969 (**“the Ordinance”**).
2. Brief facts of the case are that the Respondent is a Corporate Member of the Karachi Stock Exchange (Guarantee) Limited (**“KSE”**) and is registered with the Commission under the Rules. During the period from July 2010 to September 2010, the Commission received a number of complaints from the following clients of the Respondent:

Sr. No.	Name of the Complainant	Date of Complaint
(i)	M/s. Attock Refinery Limited	September 25, 2010
(ii)	Mr. Khurram Inayat	July 20, 2010
(iii)	Mr. Muhammad Aslam Gohar	August 2, 2010
(iv)	Mr. Muhammad Nawaz Qureshi	July 20, 2010

(v)	Mr. Imran Inayat & Ms. Huma Inayat	September 13, 2010
(vi)	Mr. Farhan Sabir & Ms. Hina Farhan	September 13, 2010
(vii)	Mr. Umair Hasan Shahid	August 18, 2010
(viii)	Mr. Mirza Shahid Hassan & Ms. Tabinda Naheed Shahid	August 18, 2010

(Above mentioned Complainants are hereinafter individually referred to as the Complainant (i), Complainant (ii), Complainant (iii), Complainant (iv), Complainant (v), Complainant (vi), Complainant (vii) and Complainant (viii) respectively and collectively as “the Complainants”).)

3. The Complainant (i) in its complaint stated that the Respondent is not transferring its shares of Attock Petroleum Limited (APL) to its investor account, despite repeated requests. The Complainant in its letter mentioned that the first request for transfer of shares was made in January 2009 and despite lapse of one and a half year its holdings have not yet been completely transferred to its investor account. The Commission vide its letters dated October 5 and October 12, 2010 instructed the Respondent to immediately accede to the request of the Complainant (i). However, the Respondent failed to comply with the directions of the Commission and further vide its letters dated March 20, 2009 and September 30, 2010 addressed to Complainant (i) acknowledged that shares of the Complainant (i) were used by the Respondent for financing the operations of its brokerage house.

4. The Complainant (ii) in his complaint dated July 20, 2010 stated that vide letter dated May 27, 2010, he had requested the Respondent to offload his position for adjustment of debit balance. However, the request of the Complainant (ii) was not acceded to, despite his repeated requests. The matter was taken up with the Respondent and in response vide letter dated August 20, 2010, the Respondent requested the Commission to advise the Complainant (ii) to clear his debit balance so that his entire holdings can be transferred. On further scrutiny it transpired that the Complainant (ii) vide letter dated June 15, 2010 had already instructed the Respondent to sell/retain requisite number of shares so as to clear the debit balance and transfer the remaining shares to his investor account. In an effort to sort out the matter, a meeting was fixed on September 8, 2010, which upon request of the Respondent was held on September 20, 2010. During the said meeting, the Respondent agreed that if debit balance in the account of the Complainant (ii) is cleared, it has no issue in transferring the securities to investor account of the Complainant. Through letter dated September 23, 2010, the Respondent was once again instructed by the Commission to accede to the request of

the Complainant (ii) However, the Respondent failed to comply with the direction of the Commission.

5. In reference to the complaints of Complainant (iii), Complainant (iv), Complainant (v), Complainant (vi), Complainant (vii) and Complainant (viii), the Commission vide letter dated October 5, 2010 required the Respondent to provide information as mentioned therein by October 14, 2010. However, the Respondent failed to provide the required information. Further, the Commission vide letter dated September 8, 2010 required the Respondent to provide trade confirmation which were issued to the Complainants in accordance to Rule 4(4) of the Securities and Exchange Rules, 1971 (“**1971 Rules**”). The Respondent failed to provide trade confirmations along with courier receipts of the same in reference to the trades executed in the accounts of the Complainants mentioned above.
6. In view thereof the Commission served the SCN to the Respondent, the contents of which are reproduced below:-

Subject: SHOW CAUSE NOTICE UNDER RULE 8 OF THE BROKERS AND AGENTS REGISTRATION RULES, 2001 AND SECTION 22 OF THE SECURITIES AND EXCHANGE ORDINANCE, 1969.

Dear Sir,

WHEREAS the Commission received complaints against Live Securities Limited as per following detail:

<i>Sr. No</i>	<i>Name of the Complainant</i>	<i>Date of Complaint</i>
<i>(i)</i>	<i>M/s. Attock Refinery Limited</i>	<i>September 25, 2010</i>
<i>(ii)</i>	<i>Mr. Khurram Inayat</i>	<i>July 20, 2010</i>
<i>(iii)</i>	<i>Mr. Muhammad Aslam Gohar</i>	<i>August 2, 2010</i>
<i>(iv)</i>	<i>Mr. Muhammad Nawaz Qureshi</i>	<i>July 20, 2010</i>
<i>(v)</i>	<i>Mr. Imran Inayat & Ms. Huma Inayat</i>	<i>September 13, 2010</i>
<i>(vi)</i>	<i>Mr. Farhan Sabir & Ms. Hina Farhan</i>	<i>September 13, 2010</i>
<i>(vii)</i>	<i>Umair Hasan Shahid</i>	<i>August 18, 2010</i>
<i>(viii)</i>	<i>Mr. Mirza Shahid Hassan & Ms. Tabinda Naheed Shahid</i>	<i>August 18, 2010</i>


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2. **AND WHEREAS**, M/s. Attock Refinery Limited vide letter dated September 25, 2010 lodged its complaint stating that Live Securities Limited (the brokerage house) is not transferring its shares of Attock Petroleum Limited (APL) to its investor account, despite repeated requests. The complainant in its letter mentioned that the first request for transfer of shares was made in January 2009 and despite lapse of one and a half year its holdings have not yet been completely transferred to its investor account.

- (i). **AND WEHREAS**, by not transferring the shares to the investor Account of Attock Refinery Limited, the brokerage house violated clause B (1) of the Code of Conduct contained in Third Schedule of the Brokers and Agents' Registration Rules, 2001 (the Rules).
- (ii). **AND WHEREAS**, the shares of APL as admitted by the brokerage house vide letters dated March 20, 2009 and September 30, 2010 have been used for financing the operations of brokerage house.
- (iii). **AND WHEREAS**, the Commission vide letters dated October 5 and October 12, 2010 instructed the brokerage house to immediately accede to the request of the complainant. However, instructions of the Commission have not been complied with, in violation of Rule 12 of the Rules.
- (iv). **AND WHEREAS**, Rule 12 of the Rules states:

"Brokers to abide by code of conduct.- A broker holding a certificate of registration under these rules shall abide by the code of conduct specified in the Third Schedule."

3. **AND WHEREAS**, the complainant, Mr. Khurram Inayat vide letter dated May 27, 2010 requested the brokerage house to offload his position for adjustment of debit balance. The request of the complainant was not acceded, despite repeated requests.

- (i). **AND WHEREAS**, vide letter dated August 20, 2010, the brokerage house requested the Commission to advise the complainant (Mr. Khurram Inayat) to clear his debit balance so that his entire holdings can be transferred.
- (ii). **AND WHEREAS**, the complainant vide letter dated June 15, 2010 already instructed the brokerage house to sell/retain requisite number of shares to clear the debit balance and transfer remaining shares to his investor account.
- (iii). **AND WHEREAS**, in an effort to sort out the matter, a meeting on September 8, 2010 was fixed, which upon request of the brokerage house was held on September 20, 2010. During the said meeting,

the brokerage house agreed that if debit balance in the account of Mr. Khurram Inayat is cleared, it has no issue in transferring the securities to investor account of the complainant.

(iv). **AND WHEREAS**, vide Commissions' letter dated September 23, 2010, the brokerage was once again instructed to accede to the request of the complainant in accordance with clause B (1) of the Code of Conduct contained in Third Schedule of the Rules.

(v). **AND WHEREAS**, till date even after the complainants' instruction for clearance of debit balance and instructions of the Commission to accede to the request of the Mr. Khurram Inayat, his shares have not been transferred. Thereby the brokerage house violated clause B (1), D 1(2) of the Code of Conduct contained in Third Schedule of the Rules, consequently violating Rule 12 of the Rules.

4. **AND WHEREAS**, in reference to the complaint of Mr. Muhammad Aslam Gohar, Mr. Muhammad Nawaz Qureshi, Mr. Imran Inayat, Ms. Huma Inayat, Mr. Farhan Sabir and Ms. Hina Farhan, the Commission vide letter dated October 5, 2010 required the brokerage house to provide information as mentioned in the referred letter by October 14, 2010 which the brokerage house has failed to provide till date. Thereby the brokerage house violated clause D (2) of the Code of Conduct contained in Third Schedule of the Rules.

5. **AND WHEREAS**, regarding the complaints lodged by the complainants at Sr. (ii) to (viii) of para 1, the Commission vide letter dated September 8, 2010 asked the brokerage house to for provision of trade confirmation which are issued to the complainants in accordance to Rule 4 of the Securities and Exchange Rules, 1971. The brokerage house failed to provide trade confirmations along with courier receipts of the same in reference to the trades executed in the accounts of the complainants. Thereby the brokerage house violated Rule 4 of the Securities and Exchange Rules, 1971 and clause D (2) of the Code of Conduct contained in Third Schedule of the Rules.

6. **AND WHEREAS**, the brokerage house prima facie violated Rule 12 of the Brokers and Agents Registration Rules, 2001 and Rule 4 of the Securities and Exchange Rules, 1971 which is punishable in terms of Rule 8 of the Rules and Section 22 of the Securities and Exchange Ordinance, 1969.

7. **AND WHEREAS**, Rule 8 of the Rules provides that in case of violation specified therein;

"the Commission may, if it considers necessary in the public interest, by order in writing (a) Suspend the registration of a broker for such period as may be specified in the order; or



(b) impose on a broker a fine not exceeding one hundred thousand rupees”.

8. **AND WHEREAS**, Section 22 of the Ordinance provides that:

“if any person contravenes or otherwise fails to comply with the provisions of the Ordinance or any rules or regulations made there under; the Commission may, if it is satisfied after giving the person an opportunity of being heard that the refusal, failure or contravention was willful, by order direct that such person shall pay to the Commission by way of penalty such sum not exceeding [fifty million] rupees as may be specified in the order and, in the case of a continuing default, a further sum calculated at the rate of [two hundred] thousand rupees for every day after the issue of such order during which the refusal, failure or contravention continues.

9. **NOW THEREFORE**, you are hereby called upon to show cause in writing by November 2, 2010, as to why action as provided in Rule 8 of the Rules and Section 22 of Securities and Exchange Ordinance, 1969 (the Ordinance) may not be initiated for violation as indicated above. You are further directed to appear in person or through an authorized representative (with documentary proof of such authorization), on **Tuesday, November 4, 2010 at 12.00 a.m.** at the SECP Headquarters – Islamabad. You are advised to bring all relevant record in original, which you consider necessary for clarification/defense of your stance. In case you do not appear to clarify your position on the said date, it will be presumed that you have nothing to say in your defense and the Commission would then be constrained to decide this case ex-parte.

Sd/-

Shaukat Hussain
Director (ICW)

7. The Respondent choose not to provide written response to the SCN, however, on the date of hearing, the representatives of the Respondent i.e. Raja Izhar Ahmed and Abdul Nisar appeared before my predecessor in his office and informed that the Rawalpindi Bench of Lahore High Court has granted a stay order against the above mentioned SCN. The representative of the Respondent undertook that the copy of the order would be provided in due course. Therefore, by way of abundant caution the hearing was adjourned and the authorized representative of the Respondent was informed that next date of hearing will be intimated in due course in light of the order of the Learned Lahore High Court, Rawalpindi.


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8. Thereafter, a notice dated November 6, 2010 was received in this office from the Deputy Registrar Judicial, Lahore High Court, Rawalpindi Bench, Rawalpindi informing that a constitutional petition W.P No. 4728 of 2010 titled Live Securities vs. SECP & others (“**Petition**”) came up for hearing before the Court of Mr. Justice Mamoon Rashid Sheikh and vide order dated November 4, 2010 the court has passed the following order on the CM No. 1/2010 in the Petition:

“Notice for 14.12.2010. Till then, the proceedings before Respondent No.1 shall continue but no final order shall be passed.”

9. Thereafter, in strict compliance with the order of the Learned High Court, a hearing notice in terms of above mentioned SCN was again issued to the Respondent. The meeting was duly attended by the representative of the Respondent on December 13, 2010. The authorized representative failed to provide the following information with respect to each complaint respectively:-

In reference to	Data/information not provided
Complainant # iii	- i). Trade confirmation for transfer of 438 shares of BOP on October 15, 2008 - ii). Written request for transfer of funds dated December 18, 2008 - iii). Evidence of order placement of 8000 AHSL dated Dec 19, 2008 - iv). Failed to provide trade confirmations and courier receipts for the dates mentioned in Commission’s letter dated October 5, 2010
Complainant # iv	- i). Documentary evidences depicting request of the client for transfer of funds dated December 19, 2008 to the account of Mr. Inayat; - ii). Confirmation and acceptance of fund transfer dates December 19, 2008 from the account of Mr. Inayat - iii). Failed to provide explanation for allowing purchase transactions dated Dec 19, 2008 and February 2, 2009

Complainant # v	i). Failed to provide order placement evidence for orders dated Sep 30, Oct 19, Oct 23, Oct 26, 2009, May 5, May 6, May 13 & May 14, 2010 in the account of Mr. Imran Inayat. No trade confirmations or telephonic recording were provided ii). Failed to provide courier receipts for the dates referred to above.
Complainant # vi	i). Failed to provide order placement evidence for orders dated Sep 11, Oct 9, Oct 23, Nov 3, 2009, Jan 11, 2010, May 5, May 6, May 11, May 14, 2010 in the account of complainant vi. No trade confirmations or telephonic recording were provided. ii). Failed to provide courier receipts for the dates referred to above

10. After establishment of the Islamabad High Court, the Petition was transferred from the Lahore High Court, Rawalpindi Bench to Islamabad High Court and it remained pending for adjudication. Subsequently, on the direction of Hon'able Islamabad High Court, another opportunity of hearing was provided to the Respondent on March 8, 2012. The Respondent was represented in the Hearing by Mr. Raja Izhar Ahmed. The submission of the Respondent with regards to the Complainants were as follows:-

In reference to	Submission
Complainant # i	i). The Complainant has withdrawn his complaint as the shares were transferred and matter was amicably settled on January 31, 2011
Complainant # iii	i). There was no shift of stance from the earlier submission dated Dec 13, 2010 ii). Additionally the respondent informed that they used to send weekly and monthly confirmations iii). The Respondent has filed a civil suit against the Complainant
Complainant # ii, iv, v, vi, vii & viii	i). Respondent agreed that it failed to provide trade confirmation and telephonic recordings ii). The Respondent has filed a civil suit against the Complainants

11. The Petition came up for final hearing before Mr. Justice Noor-UL-Haq N. Qureshi of the Islamabad High Court, Islamabad on March 15, 2012. The Hon'able Court after hearing the parties disposed of the Petition. However, the Hon'able Court observed that in view of the withdrawal of the complaint by Complainant (i) and pendency of civil suit between the Respondent and the Complainants, the SCN proceeding shall be decided strictly in accordance with law and any order shall not in any way prejudice the rights of either party litigating with each other in the pending civil suit.
12. I have examined the facts, evidences and documents on record, in addition to written and verbal submissions made on behalf of the Respondent, the documents submitted subsequent to the hearing and the order of the Islamabad High Court, Islamabad dated March 15, 2012.
13. Since the Complainant (i) has withdrawn its complaint and the Respondent has shown good faith in satisfying the claim of the Complainant (i), no further action is being taken under this complaint. The complaints of Complainant (ii) to (viii) are subject matter of litigation before the Civil Court, Islamabad and in view of the order dated March 15, 2012 of the Islamabad High Court in the Petition; this order shall not touch upon the controversy under dispute pending before the civil court.
14. It is evident from perusal of the record that the Respondent has failed to provide the required record including but not limited to trade confirmations and evidence of orders placement etc. to the Commission. The Respondent is required in terms of Rule 4 (4) of the 1971 Rules and the Standard Terms and Conditions of the Account Opening Form contained in KSE's General Regulations framed under Section 34 of the Ordinance to maintain record of the trade confirmations and provide trade confirmations within twenty four hours of the transaction. Further in terms of Section 6 of the Ordinance and Part D clause 2 of the Code of Conduct for Broker specified under rule 12 of the Rules and made part of the Rules as third schedule, it is the duty of every member and of the exchange and broker to provide information and record to the Commission as may be required.
15. The failure of the Respondent to provide information implies that the Respondent has failed to maintain record of order placement and provide trade confirmations to the Complainants as required under the law. Therefore, the regulatory violations stand established. Having said that, this presumption is based on the balance of probability on perusal of evidence available on record. Therefore, in strict reverence with the order of the Hon'able Islamabad High Court dated March 15, 2012 in the Petition, these findings will not in any way affect the right of the parties involved in civil litigation regarding the matter directly or substantially in issue before the civil court.

16. The violation of the Rules and Regulations is a serious matter which empowers the Commission to suspend registration of the Respondent as a broker under the Rules, but in view of the positive intent of the Respondent by settling the entire claim of the Complainant (i), I have elected not to exercise this power at present. However, in view of the regulatory violations as discussed above, in exercise of the powers under Section 22 of the Ordinance, through this Order, the Respondent is directed to deposit a sum of Rs. 500,000 (Rupees Five Hundred Thousand Only), to the Commission by way of penalty. The Respondent is further directed to ensure full compliance with the Ordinance, Rules, regulations and directives of the Commission in future.
17. The matter is disposed of in the above manner and the Respondent is directed to deposit the penalty 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 copy of the deposit challan to the undersigned.
18. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.


Hasnat Ahmad
Director (BR&ICW)



Announced on May 9, 2012
Islamabad.