SEC/Enforcement/908/2011/ September , 2011

Order

Whereas , as per Section 17 (a) of Securities and Exchange Ordinance, 1969 "No person shall, for the purpose of inducing, dissuading, effecting, preventing or in any manner influencing or turning to his advantage, the sale or purchase of any security, directly or indirectly,-

employ any device, scheme or artifice, or engage in any act, practice or course of business, which operates or is intended or calculated to operate as a fraud or deceit upon any person;"

Whereas, on the basis of the investigation report of Dhaka Stock Exchange Limited**,** a show cause-cum-hearing notice No. SEC/Enforcement/908/2011/134 dated March 07, 2011 was issued to Md. Abdul Alim to appear at the hearing on the April 07,2011. In the show cause-cum-hearing notice among others following were mentioned;-

"Whereas, an investigation was conducted by Dhaka Stock Exchange Limited as per instruction of Securities and Exchange Commission.

Whereas, the investigation team reported that you are an employee of Beach Hatchery Limited and you are maintaining a B/O account No. 1201570026013352 and client code no. 17110 with SCL Securities Limited in which Beach Hatchery Limited's shares were traded. Mr. Nur Islam, company secretary of Beach Hatchery Limited is the authorized person of this client code.

Whereas , the investigation team reported that "it was found that one of the Payment Voucher (No-214952 & dated 17.01.2010) for client code # 17110 of SCL Securities Limited of Tk.6,83,000.00 (Taka Six lac eighty three thousand) was signed by Mr. Nur Islam, company secretary of Beach Hatchery Limited in favor of Md. Abdul Alim. The cheque number mentioned in the voucher was 030101 and clearing date – 18.01.2010."

Whereas , the investigation team has collected the opinion of Manager Accounts of SCL Securities Limited regarding the cheques received by you in favor of Mr. Md. Abdul Alim on October 25, 2010 quoted:

"Rbve ‡gvt Avãj Awjg Kv‡q›U †KvW bs 17110. GB ‡Kv‡W Rbve ‡gvt Avãj Awjg wb‡R Ges Rbve bi Bmjvg †KvW bs 374 †jb‡`b K‡i \_v‡Kb | hveZxq †PK (A/C Payee) Ges Avãj Awjg Gi bvg †`Iqv nq | bi Bmjvg mv‡ne ïa †PK wiwmf K‡ib |"

Whereas, the investigation team after checking the relevant documents found that within the period of 07/01/2010 to 25/07/2010, Mr. Alim sold 21000 share of BCHAHTCH but did not bought any. As per the DP 70 and DP 98 reports on different date it was found that 480 shares were transferred to his account as BONUS and the remaining 20520 shares were transferred to his account form BEACH HATCHERY LTD SUSP A/C (B/O # 1301000020736398).

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Whereas, company secretary of Beach Hatchery Limited quoted:

“‡gvt Avãj Awjg bv‡g †Kvb Folio bvB Ges †kqvi bvB | wKš Zvi bv‡g 21000 (GKk nvRvi) †kqvi Zvi BO weµq K‡i | †Kv¤úvbx†Z Zvi bv‡g 21000 (GKk nvRvi) †kqvi wM‡q‡Q |”

Whereas, the investigation team reported that Md. Abdul Alim has given them the following confession:

“SCL wmwKDwiwUR G Md. Abdul Alim bv‡g †h, 21000 nvRvi †kqvi wQj Zvi gwjK Awg bv |

‡iKW ‡W‡Ui c‡i KvM‡Ri †kqvi wewfb †kqvi †nvìv‡ii †evbvm †kqvi¸‡jv †m‡µUvix mv‡ei mv‡_ †hvMv‡hvM K‡i | Awg Avgvi GKvD‡›U cwU‡qwQ |

‡kqvi wewµ K‡i 1200000 (ev‡iv j¶) UvKv Awg 450000 (Pvi j¶ cÂvk nvRvi) UvKv cvBwQ ewK bi Bmjvg mvi †Kv¤úvbx mwPe exP nvPvix wb‡q‡Q |

GB NUbv MD m¨vi I †Pqvig¨vb m¨vi Rvb‡Zv bv |

Awg mÁv‡b m¯ kix‡i A‡b¨i webv c‡ivPbvq Dc‡iv³ e³e¨ wjwLZ fv‡e cv`vb Kwijvg |”

Whereas, the investigation team reported that Mr.Nur Islam has given them the following confession:

“cvq 15-20 Rb †kqvi †nvìv‡ii †evbvm †kqvi Awj‡gi wnmv‡e cwV‡qwQ (17110) SCL wmwKDwiwUR wjt Avgiv †h A‡b¨i †kqvi AvZ¥mvr K‡i weµq K‡iwQ Zv MD I ‡evW m`m¨iv Rv‡bb bv Ges RwoZ bq |”

“Awg †gvt bi Bmjvg, †Kv¤úvbx mwPe, exP n¨vPvix wjt SCL wmwKDwiwUR wjt Gi `wU wnmve Acv‡iU K‡i _wK hvnv †gvt Avãj Awjg (†KvW bs 17110) Ges Avgvi wb‡Ri bv‡g †gvt bi Bmjvg (†KvW bs 374) †gvt Avãj Awjg (†KvW bs 17110) exP n¨vPvix wjt †kqvi wWwfkb Gi GKRb KgKZv | Awg Avãj Awjg (†KvW bs 17110) G †kqvi †Kbv‡ePv Ges †PK c`vb c`vb K‡i _wK | Awg †Kv¤úvbxi mvm‡cÝ wnmve †_‡K 21000 †evbvm †kqvi AvZ¥mvr K‡i Avãj Awjg †KvW bs 17110, SCL wmwKDwiwUR wjt G weµq Rb¨ †ciY K‡i _wK |

D³ Avãj Awjg Gi wnmv‡e weP n¨vPvix wj: †h 21000 GKk nvRvi †kqvi weµq n‡q‡Q Ges weµq jä UvKv Awg Mnb K‡iwQ | weµq jä 850000/= (AvU j¶ cÂvk nvRvi) UvKvq †ewbwdwkqvix Awg wb‡RB AvZ¥mvr K‡iwQ |

Awg mÁv‡b m¯ kix‡i A‡b¨i webv c‡ivPbvq Dc‡iv³ wjwLZ e³e¨ c`vb Kwijvg |”

Contravention: From the enquiry report it appeared that by the aforesaid activities you have violated Section 17 (a) of Securities and Exchange Ordinance, 1969.”

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Whereas, the date of hearing was rescheduled and conducted on April 21, 2011. Mr. Md. Abdul Alim attended the hearing and submitted a reply letter dated April 21, 2011. In the letter among others the following were mentioned:

“1) c‡Î D‡jwLZ NUbvi Rb¨ Awg wb‡RB `vqx Ges GRb¨ Awg GgwW m¨v‡ii wbKU ¶gv cv_bv KwiqwQ|
2) D³ NUbvi e¨vcv‡i Rbve bi Bmjvg †Kvb fv‡eB RwiZ b‡n Ges wZwb †Kvb †PK ev UvKv †bb bvB|
3) wWGmBi Rbve L›`Kvi Avmv`Dj¨v mv‡ne fq †`LvBqv wjwL‡Z ewjqv‡Q Awg Ibv‡K ZvnvB wjwLqv w`qwQ| wZwb Avgvi Mv‡qI nvZ Zwjqv‡Qb|

mKj Aciv‡ai Rb¨ Awg Avevi I ¶gv PvB|”

Whereas, his previous written confession, given to the investigation team proves that the allegation of violating Section 17 (a) of Securities and Exchange Ordinance, 1969 is correct. His written explanations are not acceptable to the Commission.

Whereas, the aforesaid activities are tantamount to non-compliance of securities law, deliberate and clear contravention of the Section 17 (a) of Securities and Exchange Ordinance, 1969. The said violation attracts penal provision of section 22 of the Securities and Exchange Ordinance, 1969.

Whereas, to protect the discipline and transparency of the capital market along with it’s development the Commission deems it appropriate and necessary to impose penalty upon Mr. Md. Abdul Alim for the stated violation.

Now, therefore, Securities and Exchange Commission, in exercise of the power conferred by by section 22 (amended by the Securities and Exchange (Amendment) Act, 2000) of the Securities and Exchange Ordinance, 1969 (XVII of 1969) hereby imposes penalty for Tk.5.00 (Tk.Five) Lac only upon Mr. Md. Abdul Alim which is to be deposited to the Commission in the form of Bank Draft/Payorder favouring ‘Securities and Exchange Commission’ within 15 days from the date of issuance of this order.

By order of the Securities and Exchange Commission

Professor Dr. M. Khairul Hossain
Chairman

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