



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
NIC BUILDING JINNAH AVENUE, ISLAMABAD

Before the Director (Securities Market Division)

In the matter of Show Cause Notices issued to the following 34 Applicants under Section 18A of the Securities and Exchange Ordinance, 1969 (the Ordinance) regarding submission of applications through MCB Bank Limited, Al-Abbas Sugar Mills Branch, Mirpurkhas (hereinafter referred to as the Bank) for subscription of shares of Habib Bank Limited (HBL) offered to the general public on July 26-31, 2007:-

Sr. No	Application Number	Shares Category	Date of Show Cause Notice	File No.	Applicants' Name	Parentage	NIC Number
1	2-323-1964	100 shares	26-Jan-09	26-G	Bahdar Khan	Gevon Khan	41307-1058830-1
2	2-323-1965	100 shares	26-Jan-09	27-G	Imran Ali	Liaqat Ali	44205-7308346-1
3	2-323-1968	100 shares	26-Jan-09	29-G	Sikander	Jaro	41307-7356426-5
4	2-323-1970	100 shares	26-Jan-09	30-G	Gilam Nabi	Gilam Mustafa	41307-1403663-9
5	2-323-1971	100 shares	26-Jan-09	31-G	Mohammad Hussain	Sachi Dino	41307-4815375-5
6	2-323-1972	100 shares	26-Jan-09	32-G	Hadayat Ali	Abdul Haq	41307-4525982-5
7	2-323-1973	100 shares	26-Jan-09	33-G	Baharo Khan	Jaro Khan	41307-1389581-5
8	2-323-1974	100 shares	26-Jan-09	34-G	Muhammad Asraf	M. Saddiq	41307-7202775-1
9	2-323-1976	100 shares	26-Jan-09	35-G	Ahmed Khan	Shaber Mohd	41307-7355571-5
10	2-323-1981	100 shares	26-Jan-09	36-G	Tanas Kumar	Kirshan Lal	44107-8638513-1
11	2-323-1989	100 shares	26-Jan-09	42-G	Mohammad Safeeq	Nazer Ahmed	44103-5302943-1
12	2-323-1990	100 shares	26-Jan-09	43-G	Abdul Jabbar	Abdul Razzaq	41103-7643337-7
13	2-323-1991	100 shares	26-Jan-09	44-G	Shahnwaz	Gilam Hader	44101-6872425-9
14	2-323-1993	100 shares	26-Jan-09	46-G	Mohammad Hafeez	M. Rafeeq	44103-9689498-1
15	2-323-1994	100 shares	26-Jan-09	47-G	Ali Hussain	Ghulam Ali	41103-7866604-1
16	2-323-1995	100 shares	26-Jan-09	48-G	Khalique Dino	Amin Mohd	44302-5062677-5
17	2-323-1998	100 shares	26-Jan-09	50-G	Shahzed Khuram	Basharat Illahi	44103-8482826-1
18	2-323-1999	100 shares	26-Jan-09	51-G	Mohammad Younis	Mohammad	44103-2590265-3
19	2-323-2000	100 shares	26-Jan-09	52-G	Niaz Ali	Abdul Khreem	44103-0307969-1
20	2-323-2214	100 shares	26-Jan-09	81-G	Gul Mohammad	Ghulam Mohd	44103-5206397-9
21	2-323-1967	100 shares	11-Jul-08	1849-F	Mahmood Ali	H.Punhil Khan	44101-0156869-9
22	2-323-1969	100 shares	11-Jul-08	1850-F	Ali Haddar	M. Jaman	41307-8193048-9
23	2-323-1975	100 shares	11-Jul-08	1851-F	Altaf Ali	Rustam	41307-1390449-5
24	2-323-1977	100 shares	11-Jul-08	1852-F	Gos Mohammad	Rustam Khan	41307-1391105-9
25	2-323-1978	100 shares	11-Jul-08	1853-F	Akhtar Ali	Nahmat Ali	41307-1256581-7
26	2-323-1997	100 shares	11-Jul-08	1857-F	Muhammed Boota	M. Tufail	44101-1580067-7
27	2-323-1960	100 shares	16-Jul-08	2126-F	Tufail Ahmed Khan	Ayub Khan	44103-1845693-3
28	2-323-1980	100 shares	16-Jul-08	2127-F	Khair Muhammad	S/O M. Sharif	44101-0156906-3
29	2-323-1955	100 shares	26-Jan-09	18-G	Hussain Bux	Kehair Khan	44103-6793069-1
30	2-323-1992	100 shares	26-Jan-09	45-G	Mohammad Arif	Allah Ditta	44101-6383983-3
31	2-323-2213	100 shares	26-Jan-09	80-G	Abdul Ganee	Ghulam Mohd	44103-0300207-1
32	2-323-2172	100 shares	26-Jan-09	88-G	Muhammad Akber	Ghulam Qadir	44103-7020301-1
33	2-323-2195	100 shares	26-Jan-09	89-G	Mian Nazeer Ahmed	Mian Basheer Ahmed	44101-0160685-7
34	2-323-2215	100 shares	26-Jan-09	90-G	Nawaz Ali	Abdul Kareem	44103-0307964-7



Date of hearings: September 28, 2009 to October 08, 2009

Present at hearings:

Representing the Applicants: Mr. Devidas s/o Mr. Santoo Mal, CNIC No. 44103-7572222-1
claimed representing Applicant at Sr. No. 1-20.

Assisting the Director (SMD) Mr. Tariq Naseem, Deputy Director (SMD), SECP

ORDER

This order will dispose of the proceedings initiated against the above-listed 34 Applicants through the respective show cause notices as indicated above regarding submission of applications for subscription of shares of HBL.

1. Facts of the case are that:-

- (i) the Privatization Commission, Government of Pakistan (hereinafter referred to as the Offerer) offered 34.500 million shares to the general public for subscription from July 26-31, 2007 out of its shareholding in HBL through the Offer for Sale Document dated July 14, 2007 (hereinafter referred to as OFSD) issued, circulated and published with the approval of the Securities and Exchange Commission of Pakistan (hereinafter referred to as the Commission) under Section 62 read with Section 57 of the Companies Ordinance, 1984.
- (ii) Global Securities Pakistan Limited, the Lead Manager to the Offer, on behalf of the Offerer, vide letter dated December 04, 2007 furnished to the Commission a list containing particulars of **2283 applicants including the said 34 Applicants** who submitted applications for subscription of shares of HBL in violation of Section 18A of the Ordinance. The said Section 18A stipulates that;

*“(1) No person or any other person on his behalf shall make a fictitious application or submit more than one application for shares of companies offered to the public.
(2) In case of contravention of the provisions of subsection (1), the application money shall be liable to confiscation.”*

It was clearly stated in OFSD, abridged OFSD and the advertisements published, with respect to the said Offer, in various Newspapers that fictitious and multiple applications



(more than one applications by a single applicant) are prohibited and such applications' money shall be liable to confiscation under Section 18A of the Ordinance.

- (iii) MCB Bank Limited, Head Office, Karachi (hereinafter referred to as the Bank's Head Office) vide letter dated August 10, 2007 read with their letters dated August 13, 2007 and August 15, 2007, on the basis of information provided by MCB Bank Limited, Regional Office, Hyderabad (hereinafter referred to as the Bank's Regional Office) requested THK Associates (Pvt.) Limited [the Share Registrar of HBL and the Ballotter to the Offer (hereinafter referred to as the Share Registrar)] that out of the total 2283 applications initially forwarded by the Bank, only 92 applications be included in the ballot and the rest of 2191 applications submitted through the Bank be treated as cancelled.
- (iv) The Ballot for selection of applications was conducted on August 11, 2007 and all the said 2283 applications including the said 34 applications submitted through the Bank were included in the said ballot. The Share Registrar vide its letter dated August 15, 2007 intimated the same to the Bank's Head Office and advised it to contact the competent authority i.e. the Commission for necessary instruction in the matter. The Bank's Head Office approached the Commission vide its letter dated September 6, 2007 for issuance of directives authorizing the Lead Manager to the Offer for refund of the subscription money of the unsuccessful applications. The Commission vide its letter dated September 18, 2007 requested the Bank's Head Office to provide certain information/documents enabling it to proceed in the matter.
- (v) The case was preliminary examined on the basis of information received in this office in response to the above-mentioned letters and subsequent correspondence. The preliminary examination raised the suspicion that most of the 2283 applications submitted through the Bank are made in violation of Section 18A of the Ordinance. It was observed that: -
- (a) most of the said 34 applications were made from the following three addresses.
Address-wise breakup of these Applications is as under:



S. No.	Addresses of the applicants	No. of applications
i.	C/o MCB Bank, Al Abbas Sugar Mills Branch, Mirwah Gorchani, Mirpurkhas.	14
ii.	Amjad Autos Digri Road Chambar Moor Mirwah Gorchani, Mirpurkhas.	10
iii.	C/o Al-Abbas Sugar Mills, Mirwah Gorchani, Mirpurkhas.	6
iv.	Other miscellenious addresses	4
	Total:	34

- (b) most of the said 34 applications contained such bank account numbers which were mentioned in other applications as well i.e. the account numbers provided therein were incorrect as these account numbers either mis-match with the respective title of account or even didn't exist;
- (c) the Applicants' signatures affixed on most of the applications varied from those affixed on their respective CNICs. Since most of the bank accounts mentioned in the applications were not maintained with the Bank, hence authenticity of the signatures affixed on the applications could not be verified. Hence, compliance to instruction No. 8.5 of Part VIII of OFSD was not made. The said instruction states that *"in case of difference of signature with the bank and the Computerized National Identity Card (CNIC), both the signatures should be affixed on the Application Form"*. This instruction was not complied with;
- (d) instruction No. 8.15 states that, *"Making of any false statement in the application or willfully embodying incorrect information therein will make the applicant or the bank liable to legal action"*. The Bank's Head Office vide letter dated October 24, 2007 stated that out of total 2283 applications, 2191 applications are defective due to non-maintenance of bank account with the Bank. Whereas, most of the said 2191 applications contained numbers of bank accounts. This indicated that the bank account numbers mentioned in the said applications were fictitious; and
- (e) instruction No. 8.8 (a) states that *"Subscription money must be paid by a cheque drawn on applicant's own bank account"*. Since the applications in question contained incorrect account numbers, therefore, compliance with this instruction was doubtful.

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2. Explanations of the said 34 Applicants were called through independent letters dated January 25, 2008 and April 21, 2008 by sending at the addresses mentioned in their respective applications and through the Bank. Except the Applicant at Sr. No. 26, none of the said 34 Applicants respond to the said explanation letter. The Applicant at Sr. No.26 denied allegations made through the above-stated explanation letter and stated that blank column of the shares subscription application for bankers details was erroneously filled in by the officials of the Bank. Therefore, show cause notices under section 18A of the Ordinance were issued to the said 34 Applicants by the following 03 officers. Officer-wise breakup of the show cause notices issued is as under:

S. No.	Adjudicating Officers	Total Number of Cases
1.	Amir M. Khan Afridi, Director	26
2.	Mr. Muhammad Farooq, Joint Director	06
3.	Ms. Musarat Jabeen, Director	02
	Total	34

3. Individual hearings in the said 34 cases were conducted by the above-mentioned 03 officers during the period from June 30, 2008 to February 11, 2009. The Applicants were allowed to appear either in person or through representatives duly authorized through written power of attorney and were directed to bring along with the following documents:-

- (i) CNIC in original and an attested copy thereof of the Applicant and that of the attorney, if any;
- (ii) bank account statement, for the period mentioned in the respective show cause notices, of the bank account mentioned in the application;
- (iii) counterfoil of the pay order (in case subscription money is paid through pay order) along with bank account statement of the bank account through which the subscription money was paid;
- (iv) in case the subscription money is neither paid through bank account mentioned in the application nor paid through pay order, then bring the bank account statement of the bank account through which the subscription money was paid;



- (v) provisional acknowledgement (receipt), issued to the Applicant by the Bank at the time of acceptance of application for subscription of shares of HBL; and
- (vi) any other document(s), which in opinion of the Applicant be useful to support his claim.

4. During the said hearings held by the above-mentioned 03 officers, Mr. Davidas appeared on behalf of 20 Applicants mentioned at Sr. No. 01 to 20 whereas the remaining 14 Applicants remained absent. Mr. Davidas presented his original CNIC but failed to present CNICs in original of and power of attorneys in his favour by the said 20 Applicants. He told that he has purchased 2,000 shares from Mr. Tanas Kumar s/o Krishan Lal, CNIC No. 44107-8638513-1, one of the said 20 Applicants @ Rs.300/- per share. He requested for allotment of shares against the said 20 applications

5. In view of the above and the similarities observed in each individual case, all the adjudicating officers were of the unanimous view that the applications submitted through the Bank appeared to be part of an elaborate scheme and that the share subscription applications have not been submitted by the Applicants i.e. the persons named therein rather these applications have been submitted by same person or group of persons with ulterior motives.

6. The Bank's Head Office vide letter dated October 24, 2007 informed that out of the total subscription money amounting to Rs. 54,825,500/- an amount of Rs. 51,136,000/- was transferred to the agent bank i.e. National Bank of Pakistan for onward credit to the Offerer's bank account whereas the remaining amount was transferred to the Bank for its disposal. It was further confirmed that all the share certificates, except those allotted against 92 genuine applications, were delivered to the Lead Manager to the Offer.

7. Further, the Bank's Regional Office vide letter dated January 14, 2008 intimated that an amount of Rs. 3,172,500/- is outstanding in the books of the Bank and requested for authorization for refund of the said amount, being the subscription money of unsuccessful applications, to the claimants through pay orders as the claimants do not maintain any account with the Bank. The Commission vide letter dated January 30, 2008 while declining the above-mentioned request directed the Bank's Regional Office to hold the said money till further orders, as legal proceedings in the matter have been initiated by the Commission. The Bank's Regional Office was also requested to provide lists of the applicants to whom subscription money was



refunded by the Bank and to whom subscription money was not refunded. In response vide letter dated February 21, 2008, the Bank's Regional Office provided list of applications against which refund of Rs. 423,000/- was made and list of applications against which refund of Rs. 3,172,500/- was withheld by the Bank.

8. The above-mentioned information prima facie further suggested that most of the applications submitted through the Bank for subscription of shares of HBL appeared to be fictitious and have been submitted with ulterior motives as a part of a well thought out scheme by using the identities of the said 34 Applicants. These facts were brought to the notice of the Commission by all the adjudicating officers. The Commission in its 25th meeting held on July 22, 2009 decided that cases of all the 2228 (2283 – 55 = 2228) Applicants including the said 34 Applicants be heard by the undersigned. 55 applications being multiple were already disposed of through separate orders.

9. Rehearing in all the said 2228 applications including the said 34 applications were fixed from September 28, 2009 to October 8, 2009 at the Commission's regional office viz. the Companies Registration Office, 4th Floor, State Life Building No.2, North Wing, Wallace Road, Karachi. Hearing Notices requiring the Applicants to appear in person were issued in the names of all the said 34 Applicants at the addresses mentioned in the applications as well as on their permanent and temporary addresses mentioned in their CNICs. To ascertain genuineness of the applications, personal appearance in the hearings were made mandatory.

10. On October 8, 2009 Mr. Davidas appeared on behalf of 20 Applicants mentioned at Sr. No. 01 to 20 and repeated his stance as mentioned at para 4 above, however, he again failed to produce any document in support of his claim. No other person appeared before me during the course of said hearings.

11. The Bank also shared its internal enquiry report dated August 30, 2007 conducted in the instant case. Brief excerpts of the report are reproduced as under:

- (i) the branch has accepted 2283 applications (including the said 34 applications) for subscription of shares of HBL of which 2191 applications have been received from Al Abbas Sugar Mills authorities [1851 applications against non-account holders, 13 applications against closed accounts and 327 applications against bank accounts] whereas the balance 92 applications were accepted from the general public holding proper bank accounts;

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- (ii) two bank accounts numbering 3071-8 titled Mr. Nadeem Akhtar and numbering 3600-4 titled Mr. Ahsan Habib both maintained with the Bank were used by Al Abbas Sugar Mills authorities to receive and pay shares subscription money of Rs.2,279,500/- and R.50,384,000/- respectively for 2191 applications of the Mills employees;
- (iii) out of total 2283 applications, just 419 applications [92 applications other than Mill's employees Accounts and 327 applications of Mill's employees Accounts] were found to be correct whereas, the balance 1864 accounts were concealed knowingly and deliberately by the Branch Manager and Computer Operator who passed/posted cheques and vouchers appearing on the computerized sheets;
- (iv) Syed Amir Hassan, Branch Manager admitted that he has accepted improper share applications from two employees of the Mill on the pressure of the Mill's authorities who are their most valued client and the biggest group of industries in the area;
- (v) Mr. Arif Shehzad, the Computer Operator of the Bank has also admitted that he has posted irregular vouchers;
- (vi) the enquiry officer has concluded that both the above-mentioned officials of the Bank have not followed proper procedure and allowed one group/party to produce large number of applications of such persons who do not even maintain any account with the Branch. The Branch accepted applications containing fictitious bank account numbers and forward the same to the Main Branch; and
- (vii) the enquiry officer has fixed responsibility on both the above-mentioned officials for mishandling the matter.

12. I have considered the arguments presented before me by Mr. Davidas claiming to be representatives of the said 20 Applicants and the correspondence exchanged in the matter. Perusal of the applications and information received in the matter reveals that:

- (i) the said 34 shares subscription applications have not been actually submitted by the Applicants named therein rather these applications have been submitted by some other persons by misusing identities i.e. CNICs etc., of different individuals along with collusion of some employees of the Bank;
- (ii) non appearance in persons of any Applicant despite specific directions proves that the share subscription applications were not submitted by the Applicants named therein; and
- (iii) despite providing adequate opportunities of hearing, nothing was brought on record to prove that the said 34 applications are not fictitious.

13. In view of the above, I am of the considered opinion that submission of the said 34 applications was a fraudulent, collusive and a pre-arranged scheme made and implemented by some persons with the help of some employees of the Bank in violation of section 18A of the



Ordinance. The said 34 applications are fictitious and, therefore, subscription money of the said 34 applications is confiscated under sub-section (2) of Section 18A of the Ordinance. The concerned authorities having custody of the subscription money of the said 34 applications are directed to forthwith deposit the respective amounts with the Commission. This order is being issued without prejudice to any other action which may be taken under the law against the persons involved in submitting the said fictitious applications.



Amir M. Khan Afridi
Director (SMD)

Announced:
June 30, 2010
Islamabad

