IN THE FINANCIAL MARKETS TRIBUNAL | Refs. FMT11001 and FMT11002

BETWEEN:

DUBAI FINANCIAL SERVICES AUTHORITY

Applicant

and

(1) ARQAAM CAPITAL LIMITED
(2) ERNST & YOUNG

Respondents

Consent Order

BY CONSENT It is hereby ordered that:

1. It is found by consent that E&Y has committed a contravention of Rule 8.9.1(b) of GEN in relation to this matter;

2. It is found by consent that Arqaam has committed a contravention of Rule 8.2.1(1) of GEN in relation to this matter;

3. Arqaam will within 28 days hereof restate its 2009 Accounts (and its Financial Statements for the year ended 30 June 2010) to account for the Artworks in the manner set out at Appendix 2 of the Deloitte 1 report including measuring fair value at 30 June 2010 for the 2010 financial statements and any flow on implication for the 2011 and 2012 financial statements;

4. E&Y shall pay a fine in the amount of USD50,000 to the DFSA within 28 days hereof;

5. Arqaam shall pay a fine in the amount of USD50,000 to the DFSA within 28 days hereof; and

6. The DFSA's costs of the investigation and the proceedings shall be paid by the Respondents within 28 days hereof.

Dated 17th September 2012

for the Hearing Panel

Appendix 2

Comparison of accounting treatment of the Artworks in the 2009 Accounts with a treatment illustrating my comments in Question 6

Below is a comparison of the elements of the 2009 Accounts affected by the accounting policy applied to the Artworks with a treatment illustrating my comments in Question 6 in respect of the matters upon which I comment in this report[65]. The relevant items are highlighted in red.

Balance sheet presentation and measurement

As presented in the 2009 Accounts

	30 June 2009 USD
ASSETS	
Cash and bank balances	7,443,490
Due from banks and clearing organisations	292,998
Financial assets at fair value through profit or loss	5,754,049
Derivative financial instruments	218,625
Loan to parent company	24,865,517
Premises and equipment	6,370,039
Other assets	2,310,125
Other receivables	4,663,362
TOTAL ASSETS	**51,918,205**

Illustrating my comments in Question 6

	30 June 2009 USD
ASSETS	
Cash and bank balances	7,443,490
Due from banks and clearing organisations	292,998
Financial assets at fair value through profit or loss	5,754,049
Derivative financial instruments	218,625
Loan to parent company	24,865,517
Premises and equipment	6,370,039
Other assets	2,310,125
Other receivables	4,663,362
TOTAL ASSETS	**51,918,205**

65 Preparation of this illustration does not prejudice any consideration of materiality, which, as discussed elsewhere in this report, would be a matter to be determined by the directors of Arqaam in conjunction with its auditors.

Statement of income presentation

As presented in the 2009 Accounts

	30 June 2009 USD
Net trading income	2,921,484
Other income	2,481,189
Total operating income	5,310,470

Illustrating my comments in Question 6

	30 June 2009 USD
Net trading income	2,921,484
Other income	2,481,189
Total operating income	5,310,470

Statement of Cash Flows presentation

As presented in the 2009 Accounts

	30 June 2009 USD
OPERATING ACTIVITIES	
Adjustments for:	
Depreciation	1,016,741
Assets written off	29,806
Gain on disposal of assets	(2,250,000)
Provision for employees' end of service benefits	344,253
Operating loss before changes in operating assets and liabilities:	(9,241,095)
Net increase in due from brokers and clearing organisation	(292,998)
Net decrease (increase) in trading assets and liabilities	26,725,027
Net decrease (increase) in other assets and receivables	(4,476,337)
Net decrease in other liabilities and provisions	5,036,513
Net cash generated from (used in) operating activities	17,751,110
Employees' end of service benefits paid during the year	(65,850)
	17,685,260
INVESTING ACTIVITIES	
Loan to parent company	(24,865,517)
Additions to premises and equipment	(3,823,486)
Proceeds from disposal of assets	2,450,000
Net cash used in investing activities	(26,239,003)

Disclosure

Illustrating my comments in Question 6

	30 June 2009 USD
OPERATING ACTIVITIES	
Adjustments for:	
Depreciation	1,016,741
Assets written off	29,806
Gain on revaluation of assets	(2,250,000)
Provision for employees' end of service benefits	344,253
Operating loss before changes in operating assets and liabilities:	(9,241,095)
Net increase in due from brokers and clearing organisation	(292,998)
Net decrease (increase) in trading assets and liabilities	26,725,027
Net decrease (increase) in other assets and receivables	(4,476,337)
Net decrease in other liabilities and provisions	5,036,513
Net cash generated from (used in) operating activities	17,751,110
Employees' end of service benefits paid during the year	(65,850)
	17,685,260
INVESTING ACTIVITIES	
Loan to parent company	(24,865,517)
Additions to premises and equipment	(1,373,486)
Net cash used in investing activities	(26,239,003)

As presented in the 2009 Accounts

2.2 SIGNIFICANT ACCOUNTING POLICIES (continued)

Premises and equipment (continued)

Office equipment and software	3-7 years
Office furniture	3 years

The carrying values of fixed assets are reviewed for impairment when events or changes in circumstances indicate the carrying value may not be recoverable. If any such indication exists and where the carrying values exceed the estimated recoverable amount, the assets are written down to their recoverable amount, being the higher of their fair value less costs to sell and their value in use.

Expenditure incurred to replace a component of an item of premises and equipment that is accounted for separately is capitalised and the carrying amount of the component that is replaced is written off. Other subsequent expenditure is capitalised only when it increases future economic benefits of the related item of premises and equipment. All other expenditure is recognised in the income statement as the expense is incurred.

Non-depreciating assets are kept at cost and are not being depreciated as the management considers these to have infinite useful life.

Illustrating my comments in Question 6

2.2 SIGNIFICANT ACCOUNTING POLICIES (continued)

Premises and equipment (continued)

Office equipment and software	3-7 years
Office furniture	3 years

The carrying values of fixed assets are reviewed for impairment when events or changes in circumstances indicate the carrying value may not be recoverable. If any such indication exists and where the carrying values exceed the estimated recoverable amount, the assets are written down to their recoverable amount, being the higher of their fair value less costs to sell and their value in use.

Expenditure incurred to replace a component of an item of premises and equipment that is accounted for separately is capitalised and the carrying amount of the component that is replaced is written off. Other subsequent expenditure is capitalised only when it increases future economic benefits of the related item of premises and equipment. All other expenditure is recognised in the income statement as the expense is incurred.

Fixed assets held for their investment potential are measured at their current market value with changes in value recognised in profit or loss.

Disclosure

As presented in the 2009 Accounts

10 PREMISES AND EQUIPMENT

	*Furniture and fittings USD**
Cost:	
At 1 July 2008	1,006,164
Additions during the year	2,467,474
Assets disposed/written off during the year	-
At 30 June 2009	**3,473,638**
Depreciation:	
At I July 2008	197,646
Charge for the period **	216,394
Assets written off during the year	-
At 30 June 2009	**414,040**
Net carrying amount:	
At 30 June 2009	**3,059,598**

* Included herein are non-depreciating assets acquired during the year with a carrying value of USD 2,452,971.

Illustrating my comments in Question 6

10 PREMISES AND EQUIPMENT

	*Furniture and fittings USD**
Cost:	
At 1 July 2008	1,006,164
Additions during the year	217,474
Revaluations during the year	2,250,000
Assets disposed/written off during the year	-
At 30 June 2009	**3,473,638**
Depreciation:	
At I July 2008	197,646
Charge for the period **	216,394
Assets written off during the year	-
At 30 June 2009	**414,040**
Net carrying amount:	
At 30 June 2009	**3,059,598**

* Included herein are works of art with a cost of USD 202,971 carried at a directors' valuation of USD 2,452,971. This revaluation is supported by an art dealer's valuation and comparison to recent auction activity. Whilst the auction prices are indicative of the prices that can be achieved, each piece of art is unique and therefore this valuation is highly judgemental. The gain on revaluation is included within other income in the income statement.