



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Say No to Corruption

*Before*

**Shahzad Afzal Khan, Director/Head of Department (Adjudication-I)**

*In the matter of*

**Board of Directors of Power Cement Company Limited**

Number and date of Show Cause Notice (SCN)	2(269)SMD/Adj-1/2020-911 May 04, 2023
Date of Hearing:	June 05, 2023
Present at the Hearing:	i) Mr. Muhammad Kashif, (Chief Executive Officer) ii) Mr. Muhammad Taha Hamdani (Chief Financial Officer) iii) Mr. Salman Gogan (GM Finance & Company Secretary) ( <i>Authorized Representatives</i> )

**ORDER**

**UNDER SECTION 106 OF THE SECURITIES ACT, 2015**

This Order shall dispose of the proceedings initiated against the Board of Directors (**the Respondents**) of Power Cement Company Limited (**the Company**) through Show Cause Notice No. 2(269)SMD/Adj-1/2020-911 dated May 04, 2023 (**the SCN**) issued under Section 106 of the Securities Act, 2015 (**the Act**) on account of alleged contraventions of Section 101 and Section 103 of the Securities Act, 2015 (**the Act**) read with regulation 3(1) and regulation 3(4) of the Reporting and Disclosure (of shareholding by Directors, Executive Officers and Substantial Shareholders in Listed Companies) Regulations, 2015 (**the Regulations**).

2. Brief facts of the case are that the following Directors were appointed by the Company on its Board on October 28, 2022:

S. No	Name of Director(s)/CEO	Status
1.	Mr. Nasim Baig	Director
2.	Syed Salman Rashid	Director
3.	Mr. Samad A. Habib	Director
4.	Ms. Zainab Kashif	Director
5.	Mr. Anders Paludan-Muller	Director
6.	Mr. Javed Kureishi	Director
7.	Mr. Khurshheed Anwer Jamal	Director
8.	Mr. Muhammad Kashif	CEO





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3. In terms of Section 101 and Section 103 of the Act read with regulation 3(1) and regulation 3(4) of the Regulations, respectively, the Respondents/Directors were required to file a statement of beneficial ownership i.e. Form 1 to the Company and Form 5 to the Securities and Exchange Commission of Pakistan (**the Commission**), within 7 days of becoming the director of the Company. However, the record available with the Commission transpires that the Respondents have filed their respective Form 1 on March 07, 2023 with delay of 123 days except Ms. Zainab Kashif and Mr. Khursheed Anwar. Moreover, the Respondents have filed their respective Form 5 on the following dates with delay:

S. No	Name of Director(s)/CEO	Date of Filing of Form 5	Delay
1	Mr. Nasim Baig	March 7, 2023	123 days
2	Syed Salman Rashid	March 16, 2023	132 days
3	Mr. Samad A. Habib	March 16, 2023	132 days
4	Ms. Zainab Kashif	March 13, 2023	129 days
5	Mr. Anders Paludan-Muller	March 13, 2023	129 days
6.	Mr. Javed Kureishi	March 11, 2023	127 days
7.	Mr. Khursheed Anwer Jamal	March 14, 2023	130 days

4. The relevant provisions of the law are reproduced as under:

### Section 101(1) of the Act:

**"101. Duty of directors and others to disclose shareholding in listed company.—**

(1) Every person who becomes a director, executive officer, or substantial shareholder of a listed company shall give notice in writing to the company

(a) of his beneficial ownership in the listed equity securities of the company or any other nature of securities as may be prescribed by the Commission; and

(b) of the amount and description of the securities of the company and date of acquisition of beneficial ownership."

### Section 103 of the Act:

**"103 - Notification to the Commission of directors and others' interest.—**

(1) Every director, executive officer or substantial shareholder of a listed company shall submit to the Commission in the prescribed form -

(a) a statement of beneficial ownership in the listed equity securities of the company or any other nature of securities as may be prescribed by the Commission;

(b) the particulars of any change in the interest aforesaid; and

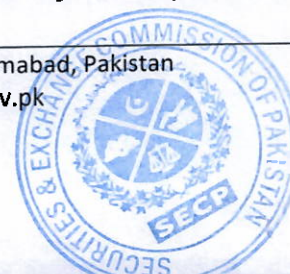
(c) any change in his position.

(2) The reporting requirement imposed by sub-sections (1) shall be fulfilled before the expiration of a period of seven days beginning with the day on which the requirement first arises."

### Regulations 3(1) and 3(4) of the Regulations:

**"3 - Reporting of Beneficial ownership in listed equity securities under Section 101 to Section 103 of the Act:**

(1) Any person who becomes a director, executive officer or substantial shareholder of a listed company shall give notice in writing to the company in Form 1 of his beneficial ownership in



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*the securities of the Company and in Form 2 for any subsequent change therein or gain therefrom.*

(2) -----

(3) -----

(4) *The directors, executive officers and substantial shareholders of the equity securities in a listed company shall in accordance with section 103 of the Act submit statement of Beneficial ownership in Form 5 and report any subsequent change therein or position to the Commission on Form 6."*

5. The Commission vide letter dated March 03, 2023 sought explanation from the Respondents with respect to their alleged failure to file Form 5. The Company responded on behalf of the Respondents vide letter dated April 04, 2023 along with Form 5. However, no explanation for the delay in filing of the said Forms was provided.

6. In response to SCN, the Chairman of the Board of Directors on behalf of the Respondents vide letter dated May 11, 2023 submitted the reply as under:

*"...In response to the points raised in the Notice we would like to present the following facts and explanations:*

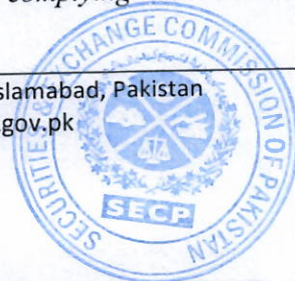
*Out of the eight directors mentioned in the Notice (including CEO), only two directors, Ms. Zainab Kashif and Mr. Khurshid Anwer Jamal, were newly appointed on October 28, 2022. The remaining directors were re-elected and there was no change in the directorship or shareholding of these directors. We were operating under the inaccurate impression that Form-1 and Form-5 were required to be obtained and filed only for newly appointed directors and not for re-elected directors.*

*It is upon receipt of your letter dated March 3, 2023, when we discovered that the Securities and Exchange Commission of Pakistan (SECP) had issued a clarification on April 20, 2022, through PSX vide No.SD/Misc,BO/2022/415 which requires filing of Form-5 for every director who is appointed afresh or re-appointed. As a result, our understanding regarding filing of these Forms became rectified by SECP's letter.*

*Upon gaining the above clarity, we immediately took necessary action and requested all remaining directors to file Form-1 based on which Form-4 and Form-5 for directors were submitted to SECP.*

*The delay in filing the relevant forms contained no mala fide intentions whatsoever and was solely due to our lack of awareness regarding the requirements in the Applicable Laws. We would like to mention that the said SECP's clarification was shared with all listed companies through PSX communication tool - PUCARS.*

*As you may be aware, given our company-wide approach to uphold the highest standards of corporate governance and compliance with the applicable regulatory framework, we have throughout our history attached the highest importance to complying with all relevant rules,*





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*regulations and notifications of the SECP and have, as a result of this approach and with the continued guidance of the SECP officials. We would like to mention that the said SECP's clarification was shared with all listed companies through PSX communication tool PUCARS.*

*Having said that, we do humbly acknowledge our misapprehension and misinterpretation of the requirements given under the Applicable Laws. We also acknowledge that it is our responsibility to be fully aware of the applicable legal requirements and shall endeavor to ensure that a misinterpretation of this nature does not occur again.*

*Additionally, we value our relationship with the SECP and its officials and recognize the impedance of timely and accurate compliance with the regulatory requirements.*

*We wish to re-iterate that the non-compliance occurred solely due to our misinterpretation of the Applicable Laws, and there was no mala fide or evil intentions or ulterior motives whatsoever behind such non-compliance on our part.*

*Based on the explanations provided above, we request your kind consideration and leniency in this matter. We assure you that in future we will take the necessary proactive measures to comply with all the applicable laws, regulations, rules and notifications of the SECP*

*Furthermore, kindly consider this reply from the Respondents including Nasim Beg, Syed Salman Rashid, Samad A Habib, Zainab Kashif, Anders Paludan-Muller, Javed Kureishi, Khurshheed Anwer Jamal and Muhammad Kashif, duly signed by the Chairman of the Board of Directors."*

7. The Respondents were provided opportunity of personal representation and the hearing was fixed in the matter for June 05, 2023. The hearing was attended by Mr. Muhammad Kashif, Chief Executive Officer, Mr. Muhammad Taha Hamdani, Chief Financial Officer and Mr. Salman Gogan, GM Finance & Company Secretary, as Authorized Representatives (**the Representatives**) of the Respondents. The Representatives reiterated the written arguments and admitted delay in filing of Forms. Moreover, the Representatives further stated that their understanding related to filling of Form-5 was that it is mandatory to file form at the time of new appointment only. They further added that information relating to beneficial ownership of the Respondents/Directors has been submitted as part of the annual returns i.e. on Form SMD-BO-107. However, they requested that lenient view may be taken in the matter and default may be condoned.

8. Subsequent to hearing, the Company Secretary on behalf of the Respondents vide letter dated June 06, 2023 made further submissions as under:

*"...We would like to supplement our previous submissions made through our letter dated May 11, 2023. Please consider the following:*

- The Company has been consistently filing Form SMD-BO-107 since 2015.*



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- Whenever there has been a change in the Beneficial Ownership, the Directors have dutifully filed Form-2 with the Company and Form-6 with the Securities and Exchange Commission of Pakistan (SECP).
- Subsequently, upon receiving Form-2 from the Directors, the Company has promptly been making public announcements of the information through PUCARS.
- By adhering to these compliance measures, the Company has been ensuring that any change in the Beneficial Ownership of any director is duly reported to the SECP and is promptly disseminated to the public.

So the additional submission we intend to make through this letter is that despite the delay in filing Form-4 and Form5 by the reappointed directors there has been no delay in the provision or dissemination of the information. The relevant details have already been conveyed to the SECP and made public through the aforementioned process.

*We deeply regret the delay in filing the aforementioned forms and assure you that we will strictly adhere to the necessary compliances moving forward."*

9. I have gone through the facts of the case and considered both written as well as verbal submissions of the Respondents/Representative in light of the applicable provisions of the law and the available record and noted that the Respondents were required to file their returns of beneficial ownership on Form 1 with the Company and Forms 5 with the Commission, within seven (07) days of becoming director of the Company, as required under Section 101(1) of the Act read with regulation 3(1) of the regulations and Section 103 of the Act read with regulation 3(4) of the Regulations. As per the record of the Commission, Form 1 has been filed by the Respondents on March 07, 2023 with **delay of 123 days** except Ms. Zaineb Kashif and Mr. Khursheed Anwar. Moreover, the Respondents have filed their respective Form 5 on the following dates with delay:

S. No	Name of Director(s)/CEO	Date of Filing of Form 5	Delay
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6.	Mr. Javed Kureishi	March 11, 2023	127 days
7.	Mr. Khursheed Anwer Jamal	March 14, 2023	130 days

10. In view of the foregoing and the verbal submissions made by the Respondents, non-compliance/contravention of the provisions Section 101(1) of the Act read with regulation 3(1) of the regulations and Section 103 of the Act read with regulation 3(4) of the Regulations have been established. Therefore, in exercise of the powers conferred upon me under Section 106(2)(a) of the Act, I hereby impose a penalty of

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**Rs.40,000/- (Pak Rupees Forty Thousand Only)** on the Respondents, in the following manner:

S. No.	Name of Director(s)	Amount of Penalty Imposed (Rs.)
1.	Mr. Nasim Baig	5,000
2.	Syed Salman Rashid	5,000
3.	Mr. Samad A. Habib	5,000
4.	Ms. Zainab Kashif	5,000
5.	Mr. Anders Paludan-Muller	5,000
6.	Mr. Javed Kureishi	5,000
7.	Mr. Khursheed Anwer Jamal	5,000
8.	Mr. Muhammad Kashif	5,000
<b>Total</b>		<b>40,000</b>

11. The Respondents are directed to deposit the aforesaid penalty in the account of the Commission being maintained with the designated branches of MCB Bank Limited, within a period of thirty (30) days of the announcement of this Order, and furnish original Deposit Challan to this office.

12. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law(s) on matter subsequently investigated or otherwise brought to the knowledge of the Commission.



**(Shahzad Afzal Khan)**  
Director/ Head of Department  
(Adjudication Department-I)



**Announced:**  
July 6, 2023  
Islamabad