

Before Tariq Bakhtawar, Director Enforcement

In the matter of

M/S. Johnson & Phillips (Pakistan) Limited

(Under Section 158 Of the Companies Ordinance, 1984)

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| No. and date of show cause notice | EMD/Enf -II/461/2005 dated September 02, 2005 |
| Date of final hearing | October 18, 2005 |
| Present: | Mr. Bilal Qureshi, Advocate |
| Date of Order | December 12, 2005 |

Order

This Order shall dispose off the proceedings initiated against M/s. Johnson & Phillips (Pakistan) Limited (hereinafter referred to as the “Company”) and its Directors for default made in complying with the provisions of Sub-section (1) of Section 158 of the Companies Ordinance, 1984 (the “Ordinance”).

2. The facts leading to this case, briefly stated, are that in terms of the provisions of Sub-section (1) of Section 158 of the Ordinance, the Company was required to hold its Annual General Meeting (the “AGM”) for the year ended June 30, 2004 on or before October 31, 2004. The failure of the Company to comply with the aforesaid mandatory requirements necessitated action against the Company and its Directors in terms of Sub-section (4) of Section 158 of the Ordinance. Consequently, a show cause notice dated September 02, 2005 was served on the Company and its Directors including the Chief Executive calling upon them to show cause as to why penal action may not be taken against them under Sub-section (4) of Section 158 read with Section 476 of the Ordinance for the aforesaid contravention. The aforesaid show cause notice was responded by Mr. Shehryar Saeed, Chief Executive of the Company vide his letter dated September 17, 2005 which was examined and not found satisfactory.



3. In order to afford an opportunity of personal hearing, the matter was fixed for October 18, 2005. On the date of hearing Mr. Bilal Qureshi, Advocate (the authorized representative) appeared before me to argue the case on behalf of the Company and its directors. Mr. Bilal while admitting the default reiterated the same arguments as were given earlier by the Chief Executive of the Company in reply to the show cause notice dated September 02, 2005. He further contended that the AGM of the Company was scheduled to be held on September 30, 2005. He contended that the Company had been taken over by the Bank and that now the management has paid 60% of the loans to the banks. He submitted that the AGM of the Company for the year ended 30.6.2004 could not be held as the annual accounts for the years ended June 30, 2002-2003 were delayed because these could not be finalized due to delay in audit. He stated that the Company incurred huge losses and was short of funds to conduct routine matters. It was contended that the delay was on the part of auditors which were in the notice of SECP and, therefore, the Company replaced the auditors on the advice of the Commission. He requested for a lenient view in the matter and assured timely compliance of the statutory provisions of law in future.

4. I have given due consideration to the arguments advanced by the representative of the Company and its Chief Executive verbally as well as in writing for failure to hold the AGM and to circulate annual accounts within the mandatory time period but none of them justify the default. It is responsibility of the Company to ensure that accounts are timely prepared and audited. The time required for getting the accounts audited by the Company of such size is not in harmony with the delay in the holding of AGM and the law envisaged maximum extension of only 60 days in exceptional circumstances. The management of the Company should have made necessary arrangements to provide financial information in time to the shareholders. It is the responsibility of the directors of the Company to timely hold the AGM as this is the only forum available to the shareholders where they can discuss, speak and vote on the significant matters like approval of accounts, appointment of auditors, election of directors and other important issues relating to the performance of the Company. A perusal of the record reveals that in the past also, the management had committed defaults for which penalties were imposed on the Chief Executive and directors of the Company. The repetition of default shows that the management of the Company does not take the provisions of law seriously. Accordingly, the default under section 158 is considered willful and deliberate, which attracts the penal provisions of sub section (4) of section 158 of the Ordinance.



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Enforcement Department

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5. In view of the above, I, in exercise of powers conferred upon me under Section 158 read with Section 476 of the Ordinance, impose a fine of Rs. 30,000 (Rupees thirty thousand only) on the Chief Executive and each director of the Company in the following manner: -

| S. No. | Name of Director | Penalty (in Rs.) |
|---------------|--|-------------------------|
| 1 | Mr. Shehryar Saeed, Chief Executive | 30,000 |
| 2 | Mr. Nadeem S. Qureshi, Director | 30,000 |
| 3 | Sardar Muhammad Muzaffar Sukhera, Director | 30,000 |
| 4 | Mr. Abdul Rafiq, Director | 30,000 |
| 5 | Mr. U. U. Khawaja, Director | 30,000 |
| 6 | Mr. Burair Haider Naqvi, Director | 30,000 |
| 7 | Mr. Rehan Sadiq, Director | 30,000 |
| 8 | M/s. Johnson & Phillips (Pakistan) Limited | 30,000 |
| | Total | 240,000 |

6. The Company, its Chief Executive and directors are hereby directed to deposit the aforesaid fines in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with Habib Bank Limited or pay through a demand draft in the name of Securities and Exchange Commission of Pakistan within thirty days from the receipt of this Order and furnish receipted vouchers to the Commission failing which proceedings for recovery of the fine under the Land Revenue Act, 1967 would be initiated. It should also be noted that the penalty has been imposed on the Chief Executive and directors in their personal capacity, therefore, they are required to pay the said amount from their personal resources.

Tariq Bakhtawar
Director Enforcement