



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Drekkar Kingsway Limited

Number and date of notice: CSD/ARN/100/2015-244-250 dated July 29, 2016
Date of hearing: October 20, 2016, November 10, 2016 and December 15, 2016 and December 28, 2016
Present: Mr. Ahmed Bashir of Ahmed Bashir & Associates Advocate and Solicitors- (“authorized representative”)

ORDER

UNDER SECTION 492 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of the proceeding initiated against directors and chief executive (“respondent”) of Drekkar Kingsway Limited (the “Company”) through show cause notice (the “SCN”) dated July 29, 2016 under the provisions of Section 492 read with Section 476 of the Companies Ordinance 1984 (the “Ordinance”).

2. The facts leading to this case, briefly stated, are that, the Company offered 346.598% right shares to its members as per circular under Section 86(3) of the Ordinance (“Circular”) sent to members along with the notice offering new shares dated July 28, 2015. Clause (g)(ii) of the Circular stated that the funds shall be used for meeting working capital requirements, meet growth objectives, ensure continuity of Company’s operations and strengthens its financial position.

3. The auditor of the Company, M/s Horwath Hussain Chaudhry & Co. Chartered Accountants in its review report dated February 29, 2016 on Company’s accounts for the period ended December 31, 2015 has reported that “during the reporting period Company issued right shares to shareholders on October 15, 2015 for the purpose of investment in various undervalued profitable business. According to the plan these funds were supposed to be utilized for making equity investments,



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whereas, management made use of these funds for payment of dividend, repayment of director's and associated company's loan and advance of loan to associated company."

4. The directors and chief executive, *prima facie*, made a false and incorrect statement in Circular that the funds from proceeds of right shares will be utilized to meet working capital requirements and growth objectives as the management used these funds for payment of dividend, repayment of director's and associated company's loan and advance of loan to associated company. Therefore, SCN was issued to the respondent under the provisions of Section 492 of the Ordinance.

5. In response to the SCN, the authorized representative submitted reply dated August 31, 2016. A brief of the reply relevant to the contents of the SCN is given below;

- The equity base did increase as a result of right shares. The funds raised provided cover against negative equity and resultantly company's net equity is now positive. The positive activity helped the Company in opening new investment avenues for diversification of its assets and business operations. In line with management's expectations, the Company was able to invest in another limited liability company.
- The Company is finally on its way to become a fully functional and in the long run a profitable entity. In order to established its goodwill and also turn negative equity into positive, the current management considered it essential to pay off its long outstanding loans and undertake safe transactions to make the Company financially viable. It is through these measures the Company can gain confidence of the existing shareholders and also attract investment from new investors.

6. Hearings in the matter were fixed on October 20, 2016, November 10, 2016 and December 15, 2016 but authorized representative requested for adjournment. The hearing was finally held on December 28, 2016 and the authorized representative appeared on behalf of respondents and reiterated the earlier submissions made in the written.



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7. Before proceeding further, it is necessary to advert to the following relevant provisions of Section 492 of the Ordinance, which states as under:

“Whoever in any return, report, certificate, balance sheet, profit and loss account, income and expenditure account, prospectus, offer of shares, books of accounts, application, information or explanation required by or for the purposes of any of the provisions of this Ordinance or pursuant to an order or direction given under this Ordinance makes a statement which is false or incorrect in any material particular, or omits any material fact knowing it to be material, shall be punishable with a fine not exceeding five hundred thousand rupees.”

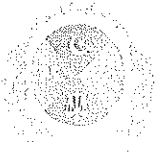
8. In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 492 of the Ordinance are delegated to the Executive Director (Corporate Supervision Department).

9. I have analyzed the facts of the case, relevant provisions of the Ordinance, arguments put forth by the respondent in writing and during the hearing and observed the following:

- In order to raise money through right issue from members of the Company, it was expressly mentioned in Circular that the funds will be utilized to meet working capital requirements and growth objectives which in turn ensure continuity of Company's operations and strengthen its financial positions. The Company raised Rs. 77.608 million from right issue to members in October, 2015.
- It has been observed from financial statement of the Company for the period ended December 31, 2015 that the Company utilized the proceeds of right issue as follows in contradiction to aforesaid statement made in the Circular:

Repayment of loan from directors	Rs. 38.484 million
Repayment of loan from associated undertaking	Rs. 9.727 million
Loan to associated undertakings	Rs. 29.193 million
Total	Rs. 77.404 million

- The auditor of the Company in his report to the members on review of condensed financial information for the period ended December 31, 2015 mentioned that the



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Company issued right shares to shareholders on October 15, 2015 for the purpose of investment in various undervalued profitable business. According to the plan these funds were supposed to be utilized for making equity investments, whereas, management made use of these funds for payment of dividend, repayment of director's and associated company's loan and advance of loan to associated company.

- It has been observed from financial statements for the period ended June 30, 2016 that operations of the Company are still close and no efforts were made by the Company to revive it in contradiction to the statement made in the Circular. The auditor also qualified its report to the members dated September 26, 2016 on going concern issue.

10. The information given to the shareholders by the Directors, while soliciting further investment in the Company, forms the basis of their decision to subscribe to the right shares. The directors did not give the true intended utilization of the funds and hence the shareholders were misled into believing that their investment would be utilized towards the revival of the company. For the foregoing reasons, I have reasonable grounds to believe that the respondents made statement in the Circular, which was false or incorrect and thereby, shall be punishable with the fine as provided in Section 492 of the Ordinance. Therefore, in exercise of the powers conferred by the aforesaid provision of the Ordinance, I hereby impose a fine of Rs. 1,400,000/- (Rupees one million and four hundred thousand only) in aggregate on respondents in term of Section 492 of the Ordinance. The respondents are directed to deposit the fine in the following manner:

S.#	Names of Respondents	Amounts in Rs.
1	Mr. Humayun Gauhar	200,000
2	Mr. Muhammad Ali Gauhar	200,000
3	Mr. Aurangzeb Noor	200,000
4	Mr. Shraz J. Monnoo	200,000
5	Mr. Danish Kaiser Monnoo	200,000
6	Mr. Rais Umair Habib Ahmed	200,000
7	Mr. Muhammad Ubaid	200,000

The aforesaid fines must be deposited in the designated bank account maintained with MCB Bank Limited in the name of the "Securities and Exchange Commission of Pakistan" within thirty days from the receipt of this order and furnish receipted bank vouchers to the Commission. In case of

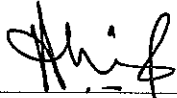
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non-deposit of the penalties, proceedings for recovery of the fines as arrears of land revenue will be initiated. It may also be noted that the said fines are imposed on respondents in their personal capacity; therefore, they are required to pay the said amount from personal resources.

11. As discussed above the shareholders were misled into believing that their investment would be utilized towards the revival of the company. I, therefore, invoke the provisions of Section 473 of the Ordinance and direct the Company to immediately recover loan given to associated undertakings and also provide evidence of contributions made by the directors of the Company to meet working capital requirements and growth objectives as mentioned in the Circular within 60 days of this Order.



Abid Hussain
Executive Director

Announced:
March 17, 2017
Islamabad

