

**Before Ali Azeem Ikram, Director Enforcement**

**In the matter of**

**M/s. Zeal Pak Cement Factory Limited**

**Under Section 229 read with Section 476 of the Companies Ordinance, 1984**

No. and date of show cause notice	EMD/233/388/2002-6574 dated December 21, 2005
Date of final hearing	February 15, 2006
Present	Mr. Tanveer Ahmed Qureshi, Executive Manager
Date of Order	February 16, 2006

**ORDER**

The order shall dispose off the proceedings initiated against the Chief Executive Officer of M/s. Zeal Pak Cement Factory Limited (the "Company") under Section 229 read with Section 476 of the Companies Ordinance, 1984 (the "Ordinance").

2. The brief facts of the case are that it was noticed from the examination of annual accounts of the Company for the year ended June 30, 2005 that an amount of Rs.5.316 million was lying in Long Term Deposits (note 8.1) which represented interest free security deposits received from cement stockists and were repayable on cancellation or withdrawal of the dealership. Further examination revealed that these security deposits have not been kept in a separate bank account with a scheduled bank.

3. In order to probe the matter, the Company was asked to furnish certain information, the examination of which revealed that the Company has not kept the security deposits in a separate bank account and neither do the agreements with cement stockists allow it to utilize the said deposits.

4. In the above circumstances, the Enforcement Department apprehended violations of the statutory provisions of Section 226 of the Ordinance, and it was decided to take up the matter with the Company. Consequently, a show cause notice dated December 21, 2005 (the "SCN") was issued under Section 229 read with Section 476 of the Ordinance to the Chief Executive Officer of the Company.



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5. In response to the above mentioned SCN, a hearing was fixed on February 15, 2006 before the undersigned. Mr. Tanveer Ahmed Qureshi, the representative of the Company, appeared before the undersigned and admitted that the Company has violated provisions of Section 226 of the Ordinance and requested the undersigned to take a lenient view of the matter and to allow some time to the Company for amending the agreements with cement stockists.

6. At this point, it will be useful to examine the applicable provisions of law. Section 226 of the Ordinance provides that:

*No company, and no officer or agent of a company, shall receive or utilize any money received as security or deposit, except in accordance with a contract in writing; and all moneys so received shall be kept or deposited by the company or the officer or agent concerned, as the case may be, in a special account with a scheduled bank:*

*Provided that this section shall not apply where the money received is in the nature of an advance payment for goods to be delivered or sold to an agent, dealer or sub-agent in accordance with a contract in writing.*

And Section 229 of the Ordinance provides that:

*Whoever contravenes or authorizes or permits the contravention of any of the provisions of Section 226 or Section 227 or Section 228 shall be punished with a fine which may extend to five thousand rupees and shall also be liable to pay the loss suffered by the depositor of security or the employee on account of such contravention.*

7. Having heard the submissions and keeping in view the provisions of law, I am of the view that the Chief Executive Officer has breached the mandatory requirements of Section 226 of the Ordinance. So, I impose a fine of Rs.5,000/- on the Chief Executive Officer and he is directed to deposit the aforesaid fine of Rs.5,000/- within thirty days of the receipt of this Order in the Commission's designated bank account with Habib Bank Limited or pay by a DD/Pay order issued in the name of Commission and send a copy of the receipt vouchers to the Commission for information and record, failing which proceedings under the Land Revenue Act, 1967 will be initiated which may result in the attachment and sale of their movable and immovable property. It should also be noted that the said penalty is imposed on the Chief Executive Officer in his personal capacity; therefore, he is required to pay the said amount from his personal resources.



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8. Before parting with this Order, I deem it appropriate to invoke powers contained in Section 473 of the Ordinance and direct the Company to:

- (i) Amend the agreements with the cement stockists for utilizing the said deposits or otherwise deposit the security deposits in a separate account with a scheduled bank.
- (ii) Submit statutory auditors' certificate confirming either amendments have been made in agreements or otherwise security deposits have been deposited in a separate bank account with a scheduled bank as the case may be.
- (iii) Submit the auditors' certificated within 2 months from the date of this order i.e. on or before April 16, 2006.

**Ali Azeem Ikram**  
Director Enforcement