



Corporate Supervision Department
Company Law Division

Before Amina Aziz – Director

In the matter of

MAF Hypermarkets Pakistan Private Limited

Number and date of notice: CSD/ARN/404/2016-1695 dated November 28, 2016

ORDER

**UNDER SECTION 226 READ WITH SECTION 229 AND SECTION 476 OF THE COMPANIES
ORDINANCE, 1984**

This order shall dispose of the proceedings initiated against the directors including the Chief Executive (the “respondents”) of MAF Hypermarkets Pakistan Private Limited (“Company”).

These proceedings were initiated through show cause notice (“SCN”) dated November 28, 2016 under the provisions of section 226 read with section 229 and section 476 of the Companies Ordinance 1984 (the “Ordinance”).

2. The brief facts of the case are that on examining the annual financial statements of the Company for the year ended December 31, 2015, it has been observed from note 15 to the accounts that an amount of Rs. 10.479 million (2014; Rs. 8.962 million) received as security deposits from tenants for subleasing of shopping mall at Lahore and note 13 to the accounts discloses an amount of Rs. 1.03 million as payable on account of refundable deposit.

3. The Company in response to Commission letter dated October 28, 2016, submitted that they are currently holding all the amounts in their main bank accounts. The Company failed to deposit aforesaid security deposits in a special account with the scheduled bank, prima facie, in contravention with Section 226 of the Ordinance. Consequently, the SCN was issued to the respondents requiring them to show cause in writing as to why penal action may not be taken against them in terms of Section 229 of the Ordinance.

4. The respondents replied vide letter dated November 10, 2011 and submitted that they have transferred current balances of security deposits in a separate bank account to comply with the provisions of Section 226 of the Ordinance and provided evidences in this regard. The respondents further stated that non compliance was not willful or intentional as they were



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keeping minimum number of bank accounts as per their international head office guidelines.

5. Before proceeding further, it is necessary to advert to the following relevant provisions of Ordinance:

Section 226 of the Ordinance, inter alia, provides that no company, and no officer or agent of a company, shall receive or utilise 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.

Section 229 of the Ordinance provides that whoever contravenes or authorises 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.

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 229 of the Ordinance have been delegated to the Director (Corporate Supervision Department).

6. Having gone through the facts of the case, provisions of the law and submissions of the respondents, I am of the view that the Company has violated the provision of Section 226 of the Ordinance as it failed to deposit securities deposit in a special account with the scheduled bank. However keeping in view the efforts made by respondents to rectify the default, I hereby conclude the case with a warning to the respondents to be careful in future regarding compliance with applicable legal provisions.

Anyina Aziz
Director

Announced:
March 15, 2017
Islamabad

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