

Before Dr. Sajid Oureshi, Executive Director (Company Law Division)

In the matter of

M/s. Sunshine Cotton Mills Limited

(Under Sub-section (3) of Section 245 of the Companies Ordinance, 1984)

No. & date of show cause notice	EMD/Enf-II/201/2006-11719-11725, dated June 21, 2006.
Date of hearing	August 09, 2006
Present	Mr. Ghulam Murtaza, of G.M Associates.
Date of Order	August 17, 2006

Order

This Order shall dispose of the proceedings initiated against the directors of M/s. Sunshine Cotton Mills Limited (hereinafter referred to as the "Company") for default made in complying with the provisions of Sub-section (1) of Section 245 of the Companies Ordinance, 1984 (the "Ordinance").

2. The facts leading to this case, briefly stated, are that in terms of the provisions of Section 245 of the Ordinance, the Company was required to prepare and transmit to the members and simultaneously file with the Registrar and the Commission its quarterly accounts for the quarter ended March 31, 2006 by May 31, 2006. Failure of the Company to comply with the aforesaid mandatory requirements within the prescribed time necessitated action against the responsible directors of the Company in terms of Sub-section (3) of Section 245 of the Ordinance. Consequently, a show cause notice dated June 21, 2006 was served on all the directors including the Chief Executive of the Company calling upon them to show cause as to why penalties as provided under Sub-section (3) of Section 245 read with Section 476 of the Ordinance may not be imposed on them for the aforesaid contravention.

3. In response to the aforesaid show cause notice the Company Secretary informed vide his letter date July 08, 2006 that the person concerned, who is the incharge of records, is out of city for his



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Enforcement Department

Continuation Sheet -3 -

personal engagements and is expected to return by the end of 3rd week of the month. He requested to adjourn the matter up to July 28, 2006. In order to provide an opportunity of personal hearing, the matter was fixed for hearing on July 28, 2006. On the date of hearing Mr. Ghulam Murtaza of G.M. Associates/the authorized representative, appeared before me on behalf of the directors of the Company to argue the case. He also filed quarterly accounts for the quarter ended March 31, 2006 along with power of attorney from all the directors. During the course of hearing, while admitting the default, Mr. Murtaza contended that the Company is lying closed since 2002 and has no revival plan. It was further contended that there is no staff, hence no activity. He added that the Company is not going for winding up due to the minority share holders. He stated that the company has almost settled the loans with the banks, whereas, a deal is going on with HBL.

4. I have given due consideration to the arguments advanced by the representative of the directors, however, none of them justify the default. The Company is lying closed, is not a cogent reason to justify the default. I am, therefore, of the view that in the circumstances described above, the directors of the Company could have refrained from committing the aforesaid default. It was all the more easy for them, when the Company was not functioning, to have prepared and transmitted the quarterly accounts to the shareholders. It is, therefore, the duty of the directors to ensure compliance with all the statutory requirements. Accordingly, the directors of the Company are responsible for timely preparation and submission of quarterly accounts to its members and file the same with the Registrar and the Commission within prescribed time. Since the respondents have failed to furnish any cogent justification to defend the default, therefore, the same is considered willful and intentional. The track record of the Company with regard to filing of quarterly/half yearly accounts is also unsatisfactory, as it has failed to file these accounts within prescribed time since 2001 for which the directors were penalized earlier also.

5. Before proceeding to decide this case, I also consider it necessary to highlight the importance of the strict observance of the mandatory provisions of the law. The protection of the investors/shareholders is one of the primary objectives of the Ordinance. It is investors/shareholders who provide seed for capital formation. If the interest of the investors is protected, they will save and invest more. Their interest is protected by transmission of timely, adequate and meaningful information to them. It is the annual and interim accounts, which provide information to the investors



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Enforcement Department

Continuation Sheet -2-

about the affairs of the companies. It has unfortunately been noted that the directors of M/s. Sunshine Cotton Mills Limited are not observing these compulsory requirements of law.

6. In view of the above discussion, it can be legitimately inferred that the Chief Executive and directors have failed to protect the interest of the shareholders. The aforesaid state of affairs is a cause of great concern for the Commission. This led me to believe that the directors have no respect for the law and they have deprived the shareholders of their statutory right to receive the quarterly accounts. The responsibility for preparation/circulation of quarterly accounts rests with the directors of the Company and they have to take appropriate action at appropriate time. The repetition of default clearly shows that the Company is not making any serious efforts to comply with the provisions of the law. It is also to mention that during the course of hearing the representative of the directors was directed to advise the directors to pay the earlier penalties in three or four monthly installments and accordingly the first installment was required to be made within seven days from the date of hearing. It has however, been observed that inspite of lapse of three weeks, no amount of penalty has been deposited till date. For the foregoing reasons, the default under Sub-section (1) of Section 245 of the Ordinance regarding non-submission of quarterly accounts for the quarter ended on March 31, 2006 stands established.

7. However, instead of imposing the maximum fine of Rs.100,000 on every director and a further fine of Rs.1,000 per day for the continuous default, I impose the following penalties on the Chief Executive and each director of the Company under Sub-section (3) of Section 245 of the Ordinance:-

S. No	Name	Penalty (Rs.)
1.	Mian Aftab A. Sheikh, Chief Executive	25,000
2.	Mrs. Nasreen Aftab, Director	25,000
3.	Mr. Hassan Aftab, Director	25,000
4.	Miss. Aliya Aftab, Director	25,000
5.	Mr. Muhammad Saleem Zia, Director	25,000
6.	Mr. Shahzad Latif , Director	25,000
7.	Mr. Muhammad Azam Waheed, Director	25,000
	Total	175,000



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Enforcement Department

Continuation Sheet -3 -

8. The Chief Executive and directors of M/s. Sunshine Cotton Mills Limited are hereby directed to deposit the aforesaid fines aggregating to Rs.175,000/- (Rupees one hundred seventy five thousand only) in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with Habib Bank Limited within thirty days from the receipt of this Order and furnish receipted vouchers or pay by a DD/pay order issued in the name of 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 movable and immovable property. It may also be noted that the said penalties are imposed on the Chief Executive and other directors in their personal capacity who are required to pay the said amount from their personal resources.

Dr. Sajid Qureshi
Executive Director (CLD)