

Before Tahir Mahmood, Executive Director (Enforcement)

In the matter of
M/s. Dawood Fibre Mills Limited
(Under Sub-section (4) of Section 158 of the Companies Ordinance, 1984)

No. & date of show cause notice	EMD/Enf-II/76/2003, dated December 06, 2006
Date of hearing	April 03, 2007
Present	Mr. Uzair Aziz Dawood, Chief Executive
Date of Order	April 12, 2007

Order

This Order shall dispose of the proceedings initiated against M/s. Dawood Fibre Mills 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, 2006 on or before October 31, 2006. The Company failed to hold the said AGM within the prescribed time. 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 December 06, 2006 was served on the Company, its directors including the Chief Executive calling upon them to show cause as to why penalties as provided under Sub-section (4) of Section 158 read with Section 476 of the Ordinance may not be imposed on them. The aforesaid notice was responded by the Chief Executive of the Company vide his letter dated December 13, 2006, wherein it was contended that pursuant to their request to the KSE for delisting of the Company, the exchange advised them to buy-back one million shares i.e.22.16% of the total shares held by the minority shareholders. It was stated that since they had completed buying of these shares, therefore, they were of the view that their Company stands delisted and therefore the requirement of holding the AGM for the year ended June 30, 2006 does not apply to them.



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3. The reply of the Company was examined but not found satisfactory. In order to afford an opportunity of personal hearing the matter was fixed for February 07, 2007. No one appeared for hearing on the given date and time. However, a written reply was received whereby one of the Directors of the Company requested vide his letter dated February 06, 2007 for adjournment of hearing on the plea that the Chief Executive was unable to attend the hearing due to his illness. To afford another opportunity hearing was again fixed for March 30, 2007 which was adjourned by the Commission and finally fixed for April 03, 2007. On the date of hearing Mr. Uzair Aziz Dawood, Chief Executive of the Company appeared before me to argue the case on behalf of all the Directors. During the course of hearing, Mr. Uzair reiterated the same arguments as were advanced in his written reply dated December 13, 2006. He added that due to buy-back of one million shares from the minority shareholders, they were of the view that their Company stands de-listed and, therefore, they were not required to hold the AGM. Even otherwise the holding of AGM is mandatory for which

4. The written as well as verbal submissions furnished by the Chief Executive of the Company have been considered but none of them justify to defend the default. As per record of the KSE, the Company was being quoted on the stock exchange and the same was de-listed as late as on February 12, 2007. In view of the foregoing, the Company was required to hold its AGM for the year ended June 30, 2006 on or before October 31, 2006, which has not been held till date. Even otherwise the holding of AGM is mandatory for unlisted companies as well.

5. Before proceeding to decide this case, I also consider it necessary to highlight the importance of the strict observance of the aforesaid 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 about the affairs of the companies. Annual General Meeting is a forum where the investors can freely discuss, speak and vote on important matters concerning approval of accounts, appointment of auditors, election of directors etc. It has unfortunately been noted that the directors of M/s. Dawood Fibre Mills Limited have not observed these compulsory requirements of law.

6. It is also mentioned that the Company has failed to hold the aforesaid AGM till date. The default, therefore, is considered willful and deliberate. In the circumstances, it can be legitimately



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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. The track record of the Company shows that it has also defaulted in the past with regards to filing of half yearly and quarterly accounts but the delays were ignored with the warning to be careful in future. For the foregoing reasons, the default under Sub-section (1) of Section 158 of the Ordinance regarding non-holding of AGM for the year ended on June 30, 2006 even after issuance of show cause notice stands established.

7. However, instead of imposing the maximum fine of Rs.50,000/- on every director and a further fine of Rs.2,000 per day for the continuous default, I impose a fine of Rs 25,000/- (Rupees Twenty Five thousand only) on the Chief Executive of the Company under Sub-section (4) of Section 158 of the Ordinance. However no penalty is imposed on the other Directors of the Company.

8. The Chief Executive of M/s Dawood Fibre Mills Limited is hereby directed to deposit the aforesaid fine of Rs 25,000/- (Rupees Twenty 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 penalty is imposed on the Chief Executive in his personal capacity who is required to pay the said amount from his personal resources.

Tahir Mahmood
Executive Director (Enforcement)