

30, 2003. Therefore, a show cause notice dated September 16, 2003 under Section 245 read with Section 476 of the Ordinance was also issued to the Chief Executive and its directors calling upon them to show cause as to why penalty as provided under Sub-section (3) of Section 245 read with Section 476 of the Ordinance may not be imposed upon them for the aforesaid contravention.

4. In reply to the aforesaid notices, Sheikh Humayun Sayeed, the Chief Executive on behalf of all the directors stated that they were not involved in running the affairs of the Company and only he was responsible for holding of the said AGM. He further contended that as a Chief Executive he made every possible effort to hold the AGM, therefore, the default can not be treated as willful because the Company had ceased to operate as an Insurance company due to suspension of its license by the Commission for inadequate capital. This situation forced the Company to lay off its staff and in the absence of the supporting staff, it became extremely difficult for the management to prepare and finalize the financial statements and get them audited. It was further stated that the change of format of accounts for the insurance companies also contributed towards this delay as the new formats of annual accounts required conversion of whole accounting system. These circumstances were beyond the control of the Chief Executive, which caused delay in holding of AGM. It was also stated that the mandatory notice of 21 days also became a reason of default. He further stated that immediately after the finalization of the annual accounts, permission under Section 170 was sought from SECP, which was allowed, and the AGM for the year ended December 31, 2002 was held on July 21, 2003. He further submitted that in view of the requirements of Section 158(1) of the Ordinance, there is no default as the AGM was held within 15 months of the date of last AGM, which was held on April 23, 2002. As regards non-submission of quarterly accounts for the first and second quarters, he submitted that these were timely prepared and circulated to all concerned including the members, Stock Exchanges and SECP inclusive of its Insurance Wing, hence there is no default in terms of Section 245 of the Ordinance. In order to provide an opportunity of hearing, the case was fixed on October 29, 2003. In the meanwhile, the quarterly accounts were received in the

Commission on October 28, 2003 i.e. with the delay of 5 months & 28 days and 1 month & 28 days respectively.

5. On the date of hearing Sheikh Humayun Sayeed appeared before the undersigned and reiterated the same arguments as were earlier submitted by him in his written replies and requested for condonation of the default. He also assured to comply with the requirements of the law in time in future.

6. I have given due consideration to his submissions and it has been observed that the reasons furnished by him are not tenable as the Company was directed by this Commission to cease underwriting future business only until it meets the minimum paid up capital requirement under the Insurance Ordinance, 2000. This direction, however, had no effect on its status as a company. It still existed as a public listed insurance company and was required to comply with all the requirements of the Companies Ordinance, 1984 and other applicable laws. It was, therefore, the duty of the management to have ensured the maintenance of the proper record, books of accounts, timely preparation and circulation of accounts and holding of AGM within prescribed time. The plea that the AGM was held within 15 months from the date of last AGM is also not a valid ground because according to the requirements of section 158 read with section 233, there are three conditions for holding an AGM i.e. holding of AGM within a calendar year, not later than 15 months from the last AGM and not more than 4 months from the close of the financial year. In view of the above, the AGM for the period ended December 31, 2002 should have been held by April 30, 2003 and therefore default against the Company has been established.

7. Taking into consideration all the facts of this case, I am inclined to believe that the defaults under Section 158 and 245 of the Ordinance were intentional and willful. However, in view of the facts that the management has been regular in holding annual general meetings in the past and the AGM for the year ended Dec 31, 2002 has already been held on July 21, 2003, I am inclined to take a lenient view of the default and impose a fine of Rs.20,000/- for non-holding of AGM under Section 158 on the Company only. However, delay in filing of

quarterly accounts is ignored on the assurance that the Company will ensure their submission/circulation in time in future.

8. The Chief Executive of the Company is hereby directed to deposit the fine of Rs. 20,000/- (Rupees twenty thousand only) imposed upon the Company 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 to furnish receipted challan to the Commission.

(Abdul Rehman Qureshi)
Commissioner (CLD)

December 18, 2003
ISLAMABAD