

Before Abid Hussain, Director (Enforcement)

In the matter of

Hakkim Textile Mills Limited

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

No. & date of show cause notice	EMD/Enf-II/217/2005, dated June 21, 2006
Date of hearing	February 13, 2007
Present	Mr. Hussain Sajid, Company Secretary
Date of Order	February 28, 2007

Order

This Order shall dispose of the proceedings initiated against the directors of Hakkim Textile 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 2nd 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. The aforesaid show cause notice was responded by Mr. Hussain Sajid, Company Secretary, vide his letter dated June 24, 2006 on behalf of all the directors of the Company stating that actually the quarter for which show cause notice has been issued is the 3rd quarter because the financial



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year end of the company has been changed from September 30 to June 30. It was further contended that the accounts for the said quarter were overlooked due to the reason that their mills is closed for the last 6 years and their was no staff. He informed that they have prepared these accounts which are being submitted to the Commission. The said accounts were received on June 24, 2006 involving delay of 1 month & 24 days.

3. In order to provide an opportunity of personal hearing, the matter was fixed for October 04, 2006 however no one appeared on the given date nor was any written reply received. To afford another opportunity the hearing was again fixed for November 21, 2006 in response of which the Company Secretary requested vide his letter dated November 17, 2006 to adjourn the hearing till 1st week of December, 2006. The hearing was accordingly re-fixed for December 07, 2006 but the Company again requested vide its letter dated December 13, 2006 to re-fix the hearing after December 31, 2006. The request was acceded to and the hearing was finally fixed for February 13, 2007.

4. On the date of hearing, Mr. Hussain Sajid, Company Secretary appeared before me to argue the case on behalf of all the directors of the Company. During the course of hearing Mr. Sajid, while admitting the default, contended that the Company is lying closed since the year 1999 having no staff and funds. He added that the affairs of the Company are being looked after through Khokar Textile Mills Limited, owned by directors of the Company which is also a major shareholder of the Company having more than 45% shareholding. He requested to condone the default and assured compliance.

5. I have gone through the record of the Company and have given due consideration to the written and verbal submissions of the authorized representative. I have observed that the Company has made default of the provisions of Section 245 of the Ordinance number of times in the past and similar reasons were given for late filing of quarterly accounts for the previous quarters. Further, I believe that the closure of mill of the Company is not a cogent reason for non circulation of quarterly accounts to the shareholders. It was even easier for the directors to finalize and circulate the accounts when the Company was not in operations as less effort is required for data compilation. It is the duty of the directors to ensure timely compliance with all the statutory requirements whereas they have failed to circulate the aforesaid accounts within the prescribed time and the same were received in the Commission on June 24, 2006 with a delay of 1 month & 23 days.



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6. Before proceeding to decide this case, I 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 shareholders who provide seed for capital formation of the Company. If interest of the investors is protected, they will save and invest more. In return they must be provided timely, adequate and meaningful information. It is the annual and interim accounts, which provide information to the investors about the affairs of the companies. It has unfortunately been noted that the directors of the Company have failed to observe the compulsory requirements of law and have not circulated the quarterly accounts to its shareholders.

7. In view of the above and keeping in view the past track record of the Company the default under Sub-section (3) of Section 245 is considered willful and deliberate. However, keeping in view the fact that the Company has provided the quarterly accounts to the Commission and has also assured future compliance, I am inclined to take a lenient view and 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 a nominal penalty of Rs.5,000 (Rupees five thousand only) under Sub-section (3) of Section 245 read with Section 476 of the Ordinance on the Chief Executive and each of the directors of the Company who are responsible for the default. The detail of the penalty imposed is as follows: -

S. No.	Name	Penalty (Rs.)
1.	Mr. Muhammad Athar Malik, Chief Executive	5,000
2.	Mr. Zahid Mahmood, Director	5,000
3.	Mr. Fayyaz Hussain, Director	5,000
4.	Mr. Gulraiz Qaisar, Director	5,000
5.	Mr. Tariq Aman, Director	5,000
6.	Mr. Ameer Abdullah , Director	5,000
7.	Mrs. Sarah Nawaz Khan, Director	5,000
	Total	35,000

8. The Chief Executive and directors of the Company are hereby directed to deposit the aforesaid fine aggregating to Rs.35,000/- (Rupees thirty 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 for information and record, failing which proceedings under the Land Revenue Act,1967 will be initiated which may result



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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 and directors of the Company in their personal capacity therefore they are required to pay the said amount from their personal resources.

Abid Hussain
Director (Enforcement)