

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

In the matter of
M/s. Zahur Textile Mills Limited
(Under Sub-section (3) of Section 245 of the Companies Ordinance, 1984)

| | |
|--------------------------------------|---|
| Number and date of show cause notice | EMD/Enf-II /291/2004 dated February 28, 2006 |
| Date of hearing | March 07, 2006 |
| Present | No one appeared |
| Date of Order | March 10, 2006 |

Order

This Order shall dispose of the proceedings initiated against the Directors of M/s. Zahur Textile Mills Limited (hereinafter referred to as the “Company”) for default made in complying with the requirements 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 Commission its quarterly accounts for the 1st quarter ended September 30, 2005 by October 31, 2005. The Company failed to file the aforesaid accounts with the Commission within the prescribed time period. Consequently, a show cause notice dated February 28, 2006 was served on the Chief Executive and other directors calling upon them to explain as to why penalties as provided under Sub-section (3)



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Enforcement Department

Continuation Sheet - 1 -

of Section 245 read with Section 476 of the Ordinance may not be imposed on them for the aforesaid contravention. The Chief Executive and directors failed to respond the said show cause notice.

3. In order to provide an opportunity of personal hearing, the matter was fixed for March 07, 2006 but neither anybody appeared for hearing on the given date nor any written reply was received. It is to be mentioned that the Company was also provided three opportunities of hearings on its request in connection with show cause notice dated December 20, 2005 under Section 158 for non-holding of AGM for the year ended June 30, 2005 for which hearing was finally fixed on March 07, 2006 but no one attended the said hearings. This leads me to believe that the Chief Executive and directors of the Company have nothing in their defence, and they are deliberately avoiding appearance in the hearing. Therefore, I proceed to adjudicate this case on its merits.

4. 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 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. It has unfortunately been noted that the directors of M/s. Zahur Textile Mills Limited are not observing these compulsory requirements of law.

5. From the aforesaid discussion, it is clear that the directors and Chief Executive of the Company have intentionally avoided appearance before me. The default, therefore, is considered willful and deliberate. In the circumstances, it can be legitimately inferred that the Chief Executive and directors have failed to protect the interest of the shareholders. The



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Enforcement Department

Continuation Sheet - 2 -

aforesaid state of affairs is a cause of great concern for the Commission. The track record of the Company with regard to filing of quarterly and annual accounts is also not satisfactory. The Company is committing defaults in the holding of AGMs and filing of annual and quarterly accounts since 1995 for which the directors were penalized earlier also. It has been noticed that the directors have also failed to deposit the amount of penalties imposed for the previous defaults. This led me to believe that the directors have no respect for the law and they have again deprived the shareholders of their statutory right to receive the quarterly accounts of the Company within the prescribed time limit. 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. Moreover, at the time of hearings held for the previous defaults under the same provisions of the Ordinance, Mr. Ejaz-ul-Haque, Company Secretary had committed that no default would occur in future. The repetition of default clearly shows that the Company is not making any serious efforts to comply with the provisions of the law. For the foregoing reasons, the default under Sub-section (1) of Section 245 of the Ordinance regarding non-submission of quarterly accounts for the 1st quarter ended on September 30, 2005 stands established.

6. 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 the directors of the Company under Sub-section (3) of Section 245 of the Ordinance:-

| S. # | Name | Penalty (Rupees) |
|------|------------------------------------|---|
| | | For the 1st quarter ended 30.9.2005 |
| 1 | Mr. Mohsin Zahur, Chief Executive | 30,000 |
| 2 | Mr. Arif Zahur, Chairman/ Director | 20,000 |
| 3 | Mr. Ejaz-ul-Haque, Director | 20,000 |
| 4 | Mr. Haroon Zahur, Director | 20,000 |



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Enforcement Department

Continuation Sheet - 3 -

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| 5 | Mr. Raza Arif, Director | 20,000 |
| 6 | Mr. Sajid Ali, Director | 20,000 |
| 7 | Mr. Shaukat Ali, Director | 20,000 |
| | Total: | 150,000 |

7. The Chief Executive and directors of M/s. Zahur Textile Mills Limited are hereby directed to deposit within thirty days of the date of receipt of this Order the aforesaid fine aggregating to Rs.150,000/- (Rupees One hundred and fifty thousand only) in the Commission's designated bank account No. 75010-6 maintained at Central Branch, 102/103, Upper Mall, Lahore or by a DD/Pay order issued in the name of Commission and send a copy of the receipted vouchers to the 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 their movable and immovable property. It should also be noted that the said penalty is imposed on the Chief Executive and the directors in their personal capacity, therefore, they are required to pay the said amounts from their personal resources.

Dr. Sajid Qureshi
Executive Director (CLD)