

Before Ali Azeem Ikram, Director (Enforcement)

In the matter of

M/s. Zahur Textile Mills Limited

(Under Sub-section (4) of Section 158 of the Companies Ordinance, 1984)

No. & date of show cause notice	EMD/Enf-II/291/2003 dated December 20, 2005
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 M/s. Zahur Textile 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, 2005 on or before October 31, 2005. The Company failed to hold the aforesaid 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 20, 2005 was served on the Company and its directors including the Chief Executive calling upon them to show cause as



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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. No response was received to the aforesaid notice.

3. In order to provide an opportunity of personal hearing the matter was fixed for hearing on February 07, 2006. No one appeared on the date of hearing. However, a written request was received from the Chief Executive of the Company vide his letter dated February 04, 2006 for adjournment of hearing till March, 2006 on the plea that the authorized person i.e. Mr. Ejaz-ul-Haque who is well-versed in the affairs of the Company is not well and not attending office. The matter was, therefore, re-fixed for March 01, 2006 which was again adjourned on the request of the Company and re-fixed for March 07, 2006. Again, neither any director/authorized representative attended the hearing nor any written explanation was received. 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. 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. 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 have intentionally avoided appearance before me. The default, therefore, is considered willful and



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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 aforesaid state of affairs is a cause of great concern for the Commission. The track record of the Company with regard to holding of AGMs is also not satisfactory. The Company is committing defaults in holding of AGMs 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 most of the 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 annual accounts of the Company within the prescribed time limit. The responsibility for holding AGMs and preparation/circulation of annual 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 various 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 158 of the Ordinance regarding non-holding of AGM for the year ended on June 30, 2005 is considered willful.

6. However, as the Company has held its AGMs for the previous years, though late, therefore, taking a lenient view, instead of imposing the maximum fine of Rs.50,000 on the Company and every director and a further fine of Rs.2,000 per day for the continuous default, I impose the following penalties on the Chief Executive and the directors of the Company under Sub-section (4) of Section 158 of the Ordinance for non-holding of AGM for the year ended June 30, 2005:-

S. #	Name	Penalty (Rupees)
		For the year ended 30.06.2005
1	Mr. Mohsin Zahur, Chief Executive	30,000



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2	Mr. Arif Zahur, Chairman/Director	20,000
3	Mr. Ejaz-ul-Haque, Director	20,000
4	Mr. Haroon Zahur, Director	20,000
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 the aforesaid fines aggregating to Rs.150,000/- (Rupees One hundred and fifty 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.

Ali Azeem Ikram
Director (Enforcement)