



**SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN**  
*Company law Division*  
*Enforcement Department*

**Before Abdul Rehman Qureshi, Commissioner (CLD)**

*In the matter of*  
**M/s. Farooq Habib Textile Mills Limited**  
*(Under Section 245(3) of the Companies Ordinance, 1984.)*

Number and date of show cause notices.	i) EMD/Enf-II /116/2003- dated July 06, 2004  ii) EMD/Enf-II /116/2003- dated September 21, 2004
Date of hearing	November 04, 2004
Present	Mr. Muhammad Aslam Awan, ACA Authorized Representative
Date of Order	November 12, 2004

**Order**

This Order shall dispose of the proceedings initiated against the directors of M/s. Farooq Habib 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 Commission its quarterly accounts for the 2<sup>nd</sup> quarter ended March 31, 2004 and 3<sup>rd</sup> quarter ended June 30, 2004 by May 31, 2004 and July 31, 2004 respectively. The Company failed to file the aforesaid accounts with the Commission within the prescribed time. Consequently, two show cause notices dated July 06, 2004 and September 21, 2004 were served on the Chief Executive and directors of the Company calling upon them to explain 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. No response was received to the aforesaid notices.

3. In order to provide an opportunity of hearing to the defaulters, the case was fixed on October 29, 2004, which was adjourned and re-fixed on November 04, 2004. On the date of



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***Company law Division  
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hearing, Mr. Muhammad Aslam Awan, of M/s. Sarwar Awan & Co., Chartered Accountants, appeared before me on behalf of the directors of the Company and submitted that the buy back process of shares of the Company in the stock exchange has been completed, hence the status of the Company is of an un-listed Company and thus the provisions of the Companies Ordinance applicable to listed companies are not relevant in its case. He further stated that despite completion of formalities, the KSE did not delist the Company as the SEC has stopped them from doing so on the basis of a complaint filed with the Commission by M/s. Yawar Farooqui, Advocates, on behalf of their clients M/s. BNP (Switzerland). He further stated that the sponsors have purchased all the shares from the minority shareholders and hence there is no public interest. He contended that had the SEC not imposed restrictions on its delisting, the Company would have been delisted from the Stock Exchanges since long and consequently there would have been no default with regard to submission and circulation of quarterly accounts. He insisted that neither the Company nor its directors have violated the provisions of Section 245 of the Ordinance, hence, the proceedings initiated against the directors of the Company may be dropped.

4. I have given due consideration to the submissions of the representative of the directors and found that the contentions of Company's representative do not justify the defaults in preparation and filing of quarterly accounts. The Company is still listed on the Karachi & Lahore Stock Exchanges, hence the plea of the representative that the status of the Company is of un-listed Company is not correct. As long as a Company is listed on the Stock Exchanges it has to comply with all the requirements of the Companies Ordinance, 1984 and other laws as applicable to the listed companies. The directors of the Company are responsible to take necessary steps to ensure the compliance of the relevant provisions of law. The preparation and circulation of quarterly accounts is one of the statutory obligations of the directors under the Ordinance. The directors have thus violated the mandatory provisions of Section 245 by not preparing and transmitting the quarterly accounts.

5. As regards Company's dispute with BNP, it is viewed that legal course is available to BNP to settle its claims with the Company. The Company was, therefore, advised to make a representation to this office for removing restrictions placed on delisting of the Company.



**SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN**

***Company law Division  
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The Chief Executive of the Company vide his letter dated August 16, 2004 undertook that they will buy back shares of the Company pertaining to sponsors, if legally enforced by BNP other than process of stock exchange. He further submitted that delisting of the Company does not mean that sponsors are closing down the Company. The Company is very much alive and it will honour all legal obligations and contracts as permissible under the law. This matter is under consideration of the Commission.

6. Under the circumstances, I am of the opinion that the contentions of the representative do not justify the default for non-filing of quarterly accounts. The Company has been defaulted in the past in filing of interim accounts for which its directors were penalized. Although, the default is established, yet, in view of the fact that the Company has bought back all its shares from the public and is still listed on the Stock Exchanges, I am inclined to take a lenient view of the default and instead of imposing the maximum fines as provided under Sections 245 of the Ordinance, impose a token fine of Rs. 5,000/- (Rupees five thousand only) for each default (aggregating to Rs. 10,000/-) on the Chief Executive of the Company. The other directors of the Company are reprimanded to be careful in future.

7. The Chief Executive of the Company is hereby directed to deposit the fine amounting to Rs. 10,000/- (Rupees ten 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 challan to the Commission failing which proceedings for recovery of the fine as arrears of land revenue will be initiated. It should also be noted that the said penalties are imposed on the Chief Executive in his personal capacity and he is required to pay the said amounts from his personal resources.

**Abdul Rehman Qureshi**  
***Commissioner (CLD)***

***Announced:***  
*November 12, 2004*  
**ISLAMABAD**