

Before Tahir Mahmood, Executive Director (Enforcement)

In the matter of

M/s. Tri-Star Polyester Limited

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

No. & date of show cause notice	EMD/Enf-II/321/2004 dated December 06, 2006
Date of hearing	April 12, 2007
Present	No one appeared
Date of Order	April 13, 2007

Order

This Order shall dispose of the proceedings initiated against M/s. Tri-Star Polyester 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, 2006 on or before October 31, 2006. The Company failed to hold the aforesaid AGM within the prescribed time period. 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 06, 2006 was served on the Company and its directors including the Chief Executive calling upon them to show cause as 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 March 29, 2007 which was adjourned and re-fixed for April 02, 2007 at Karachi. However, neither anybody appeared on the date of hearing nor any written explanation was received inspite of the fact that the Company Secretary was reminded telephonically through his Private Secretary to attend hearing on



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April 02 or April 03, 2007 as convenient to them. To afford another opportunity the matter was again fixed for April 12, 2007. Again nobody attended the hearing on the given date and time. 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. Tri-Star Polyester 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. It is also mentioned that the Company has failed to hold the aforesaid AGM till date even after issuance of show cause notice. 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 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/half yearly accounts is also not satisfactory. The Company is committing defaults in holding of AGM and filing of annual and half yearly accounts since 2000 and in filing of quarterly accounts since March 31, 2002 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 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. The repetition of defaults 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-



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section (1) of Section 158 of the Ordinance regarding non-holding of AGM for the year ended on June 30, 2006 stands established.

6. However, 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:-

S. No.	Name	AGM for 30-06-2006 Penalty in Rs.
1	Mr. Asad Ahmed, Chief Executive	30,000
2	Mr. Tahir Ahmad, Director	30,000
3	Mrs. Seema Ahmad, Director	30,000
4	Mr. Tanvir Hassan, Director	30,000
5	Mrs. Aliya Ahmad, Director	30,000
6	Mr. Muhammad Zameer, Director	30,000
7	Mr. M. Shahzad Khalique, Director	30,000
	Total	210,000

The Chief Executive and directors of M/s. Tri-Star Polyester Limited are hereby directed to deposit the aforesaid fines aggregating to Rs.210,000/- (Rupees two hundred and 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 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.

Tahir Mahmood
Executive Director (Enforcement)