Before Ali Azeem Ikram
Executive Director/HOD Adjudication Department-I

In the matter of
Yousaf Weaving Mills Limited

Show Cause Notice No. & Date	CSD/ARN/156/2015-3386-93, dated April 15, 2019
Dates of Hearings:	May 5, 2020, July 3, 2020, September 1, 2020, September 23, 2020, November 16, 2020
Hearing attended by:	No one appeared.

ORDER

Under section 492 and section 476 of the Companies Ordinance, 1984

This Order shall dispose of the proceedings initiated through Show Cause Notice ("SCN") number CSD/ARN/156/2015-3386-93 dated April 15, 2019, under section 492 read with section 476 of the Companies Ordinance, 1984 (the "Ordinance"), issued to following directors (referred to as "Respondents") of Yousaf Weaving Mills Limited (the "Company"):

i. Khawaja Mohammad Nadeem;
ii. Ms. Alia Khanum;
iii. Khawaja Mohammad Jawed;
iv. Khawaja Mohammad Kaleem;
v. Khawaja Mohammad Naveed;
vi. Khawaja Shahzad Younus;
vii. Mr. Muhammad Tariq Sufi;
viii. Ms. Nargis Sultana

2. Brief facts of the case are that the review of the annual audited accounts ("Accounts") of the Company for the year ended June 30, 2017 and the Company's response dated April 11, 2017 to the Commission's queries revealed that the core business of the Company was weaving/spinning; however the management of the Company entered into dairy farm business in 2010 by acquiring dairy farm building and civil works of Rs.29.781 million and live-stock, dairy equipment/tools/herd of Rs.10.450 million. Total amount as per agreement dated June 30, 2010 was Rs.47.635 million. It has been informed by the Company in its aforesaid letter that the dairy farm was set up on land measuring 195 acres acquired on lease from the directors of the Company and as per the Company, due to involvement in dairy business the textile business also suffered losses. It has been informed by the Company in its aforesaid letter that the management in order to avoid further losses decided to dispose of the dairy farm and shareholders' approval was taken in EOGM held on April 20, 2012, however, the said dairy unit was sold out in 2016 at Rs.44.5 million at a loss of Rs.175 million. The Company disclosed the dairy farm business assets as "assets held for disposal" from the year 2012 till disposal. The dairy farm business assets were reported at Rs.220.2 million in the Accounts for year ended

June 30, 2015 (2014: Rs.198.4 million) and sold at Rs.45.31 million during the year ended June 30, 2016. The Company, *prima facie*, in year ended June 30, 2012 till June 30, 2015 did not recognize the aforesaid assets at lower of carrying amount and fair value less cost to sell as required by IFRS-5 (non-current assets held for sale and discontinued operations) as the sale price was materially lower than the last reported price. In view of the above, the Company's Accounts for the year ended June 30, 2012 till June 30, 2015 were *prima facie*, misstated in terms of section 492 of the Ordinance. Hence, proceedings vide SCN dated April 15, 2019 were initiated against the Respondents under section 492 and section 476 of the Ordinance.

3. The Company Secretary, vide letter dated April 24, 2019, sought extension of one month time to furnish reply. Thereafter, a reply dated May 16, 2019 was received on May 23, 2019, in this regard by Khawaja Mohammad Nadeem, from chief executive of the Company. He submitted that:

"The company recognized under separate group dairy business assets as "Assets Held for Sale" and these assets comprises of Non-Current Assets and Biological Assets. These continued to recognize as assets held for sale since 2012 till date of disposal. The impairment test was conducted till the disposal of these assets. It is worth to mention that measurement option of IFRS-5 does not cover Biological Assets as it has measurement exception and would classify under IAS-41 (Agriculture). We would like to submit that company did not make any false statement and incorrect in any material part to be liable to section-492 of the Companies Ordinance 1984, as provided in the show cause notice.

The company continuously disclosed all the material facts about these group of assets in audited accounts since 2012 till disposal of these assets. The company accounts for that periods adequately disclosed the fair value of these assets (copies of account for that period is attached for reference and record). A year wise synopsis is given below which gives a handy comparison of the fair value and the carrying/book value of these assets as provided in the accounts of that period.

(Rs in Million)

Years	*Carrying/Book Value*	*Fair Value*
2012	163.674	165.000
2013	192.172	196.000
2014	198.382	191.000
2015	220.197	182.000

The above facts reveal that in the first two years the fair value was less than the recognized carrying value of these assets. However, in the last years the company recognized the carrying amount since the difference was not significant and material. Since the difference was not material the management opted to did it recognized on carrying amount as it expected that these assets would sold abruptly and would recognize the difference if any. You would appraise the company did disclose all the material facts as the company was pursuing for the potential buyer to take over these assets.

You would agree that the fair value of an asset can be more volatile than the book/ carrying value and there are possibilities of big discrepancies to occur between the two measurement criteria. These differences are not liable to examined until assets are sold and help to determine if these are undervalued or overvalued. It is based on the assumption that these would sold in the open market between the willing buyers and sellers. The seldom nature of the transactions may have the possibilities of gross fluctuation as it occur in our case which should be accepted.

We are of the view that the company and Directors of the company have adequately made the desired disclosure and did not make any misstatement which attract the provision of Section- 492 of the Companies Ordinance, 1984.

We believe that we have sufficiently replied the show cause and would request you to drop it, if you needed any further information in this respect we shall be pleased to provide the same."

4. In terms of notification S.R.O. 1545 (I)/2019 dated December 6, 2019, the power to adjudicate cases under section 492 of the Ordinance has been delegated to Executive Director/HOD (Adjudication Department-I).

5. It is pertinent to state here the relevant provisions of section 492 of the Ordinance:

Section 492. Whoever in any return, report, certificate, balance sheet, profit and loss account, income and expenditure account, prospectus, offer of shares, books of accounts, application, information or explanation required by or for the purposes of any of the provisions of this Ordinance or pursuant to an order or direction given under this Ordinance makes a statement which is false or incorrect in any material particular, or omits any material fact knowing it to be material, shall be punishable with fine not exceeding [five] hundred thousand rupees.]

6. Hearing in the matter of aforesaid SCN was fixed for May 5, 2020. The company secretary vide letter dated April 30, 2020 submitted that due to COVID-19 office were closed from March 24, 2020, hence requested for extension of 30 days period. Thereafter, hearing in the matter was fixed for July 3, 2020. The company secretary vide letter dated June 23, 2020 sought another extension till July 30, 2020 by citing reason of COVID-19 pandemic. Thereafter, the Commission vide letter dated July 9, 2020 advised the company secretary to furnish power of attorney with reference to letter dated June 23, 2020 seeking extension in time. In reply vide reply dated July 22, 2020, the company secretary furnished power of attorneys of the Respondents. Thereafter, hearing in the matter was fixed for September 1, 2020 and September 23, 2020. It was however observed that no one appeared on the hearing date. Last hearing in the matter was fixed for November 16, 2020. On the date of hearing no one appeared. Subsequent to the time of hearing fixed, an email dated November 16, 2020, was received from Mr. Muhammad Waqas Arif, Assistant Manager Accounts of the Company, citing reason of illness of company secretary, being Authorized Representative of the Respondents. He requested to adjourn the hearings for one week, however, the request for extension was not acceded to. I, am of the view that despite given various hearing opportunities, the Authorized Representative, preferred not to appear before me. In view of above, I am constraint to conclude the proceedings on ex-parte basis based on available record.

7. I have perused the facts of the case, relevant provisions of the Ordinance, requirements of IFRS and arguments put forth by the Respondents in this regard. The matters are being summarized in the following paras.

8. On an explanation sought by the Commission vide letter dated January 5, 2018 for applicability of IFRS-5, the Company vide letter dated January 30, 2018 of the Company, explained the disposal of dairy division in the following manner:

"We would like to submit that detailed information as required by SRO1227(I)/2005 has been complied pursuant to Section 160(1)(b) of the Companies Ordinance, 1984. Copies information have already been given, however we are again sending herewith the copies of relevant information for your reference and record as Annex B, C&D. After the approval of Members at EOGM for disposal of assets, the decisions put in the implement phase by properly advertising it in the Newspaper. After the execution of implementation process we continued to disclosed the fact of this decision in annual accounts as "Assets Held for Disposal" and its income was shown separately as income from discontinued operations. The company remained in pursued of genuine buyer and never drops its intention to withdraw its decision of dairy segment business. We are of the view that phase for disposal of assets remained in progress and did not lapsed as the status of these facts continued disclosed in the annual accounts for the period from 2012 to onward till the disposal of these assets.

We believe that we have adequately explained the facts, however, if we have made any non compliance it may be unintentionally, without any deliberation but merely due to some misconception and would request you to kindly condone it by taking a lenient view.

The fair value disclosed in the 2015 financial accounts was based on best estimated basis. However, the sale price is based on actual bid received from the buyer, hence resulting net loss of Rs. 175 million. The management took the hard decision to sale the dairy assets after making so many efforts spanned over 4 year to avoid any future losses."

9. Note 26 to the annual audited accounts for the year ended June 30, 2012 made following relevant disclosures in this regard:

Assets held for disposal	*2012*	*2011*
Non-current assets	*71,583,694*	*Nil*
Biological Assets	*92,090,479*	*Nil*
	163,674,173	*Nil*

The company has decided to dispose off the assets of its dairy segment and shareholders approval in this regard has been obtained through special resolution passed in the extra ordinary general meeting held on April 20, 2012. Necessary steps in this context are in process including negotiations with interested parties. The management foresees that the transaction shall conclude within a time frame of one year and is actively persuing the matter.

Thereafter, similar disclosures were made in the annual audited accounts for the years ended 2013, 2014 and 2015 respectively. Subsequently, in terms of note 25 to the annual audited accounts for the year ended June 30, 2016, following disclosures were made:

Assets held for disposal	*2016*	*2015*
Non-current assets	*Nil*	*90,906,898*
Biological Assets	*Nil*	*129,290,644*
	Nil	*220,197,542*

The company has disposed off the assets of its dairy segment during the year ended June 30, 2016. Shareholder approval for disposal of dairy unit obtained through special resolution passed in the extra ordinary general meeting held on April 20, 2012. The company continuously disclosing the dairy segment as assets held for sale since financial year ended June 30, 2012.

10. Relevant para (6) of IFRS-5 provides that:

> *6 An entity shall classify a non-current asset (or disposal group) as held for sale if its carrying amount will be recovered principally through a sale transaction rather than through continuing use.*

Moreover, relevant paras of IFRS-5 are given as hereunder:

> *15 An entity shall measure a non-current asset (or disposal group) classified as held for sale at the lower of its carrying amount and fair value less costs to sell.*
> *18 Immediately before the initial classification of the asset (or disposal group) as held for sale, the carrying amounts of the asset (or all the assets and liabilities in the group) shall be measured in accordance with applicable IFRSs.*
>
> *20 An entity shall recognise an impairment loss for any initial or subsequent write-down of the asset (or disposal group) to fair value less costs to sell, to the extent that it has not been recognised in accordance with paragraph 19.*

21 An entity shall recognise a gain for any subsequent increase in fair value less costs to sell of an asset, but not in excess of the cumulative impairment loss that has been recognised either in accordance with this IFRS or previously in accordance with IAS 36 Impairment of Assets.

11. As per information disclosed in note 26 to the Accounts 2012, the Company in the year 2012 recognized "assets held for sale" having value of Rs. 163.674 million. The disposal group was comprised of non-current assets of Rs. 71.583 million and biological assets of Rs. 92.090 million. As per minutes of the extra ordinary general meeting held on April 20, 2012, wherein the members authorized to dispose dairy division, the minutes revealed that: *"dairy division (being part of the undertaking and included in the assets of existing Company), comprised of building, machinery, equipment and biological assets located separately from the weaving and spinning unit, at the 3.5 K.M Chakwal kallar kahar road, ratta village, tehsil kallar kahar district Chakwal, and such other moveable assets of the Company as are directly related thereto, including vehicles stores, spares and tools, or a sizeable part to such unit and assets, be sold at best possible market price (such unit assets, including, if the context so requires, a sizeable part thereof, are thereinafter referred to as the "Assets", and such proposed sale is hereinafter referred to as "Assets Sale"*. From the aforesaid, it is abundantly clear that dairy division which was recognized as "assets held for sale" in 2012 comprised of significant amount of assets of the amount of Rs. 71.853 million which were other than biological assets. Hence, the argument of the Respondents that relevant requirement of IFRS-5 was not applicable in case of "assets held for sale" of the Company is not tenable. The requirements of IFRS-5 were duly applicable in case of non-biological assets, which were part of the dairy division, and were held for sale. Moreover, it is important to mention here that in term of IAS-41 (agriculture), biological assets are required to be measured at fair value at each balance sheet date after initial recognition:

12 A biological asset shall be measured on initial recognition and at the end of each reporting period at its fair value less costs to sell, except for the case described in paragraph 30 where the fair value cannot be measured reliably.

30 There is a presumption that fair value can be measured reliably for a biological asset. However, that presumption can be rebutted only on initial recognition for a biological asset for which quoted market prices are not available and for which alternative fair value measurements are determined to be clearly unreliable. In such a case, that biological asset shall be measured at its cost less any accumulated depreciation and any accumulated impairment losses. Once the fair value of such a biological asset becomes reliably measurable, an entity shall measure it at its fair value less costs to sell. ***Once a non-current biological asset meets the criteria to be classified as held for sale (or is included in a disposal group that is classified as held for sale) in accordance with IFRS 5 Non-current Assets Held for Sale and Discontinued Operations, it is presumed that fair value can be measured reliably.***

12. I have also perused note 4.8 given in annual audited accounts for the year ended for the year ended June 30, 2015 in terms of which the accounting policy of biological assets was disclosed in the following manner:

"Biological assets comprise of livestock. These are stated at fair value less estimated point-of-sale costs, with any resultant gain or loss recognized in the profit and loss account. The fair value of livestock is estimated on the basis of market prices of livestock of similar age, breed and genetic merit. Point-of-sale costs include all costs that are necessary to sell the assets, excluding costs necessary to get the assets to the market."

13. In view of the given requirements of IAS-41 (agriculture) and IFRS-5 (non-current assets for sale and discontinued operations) determination of fair value is essence of the reporting standards. The Company's accounting policy of biological assets also highlighted that the biological assets were stated at fair value. However, consequent to disposal of dairy division, on explanations sought by the Commission, the Company vide its letter dated January 30, 2018 informed in the following manner: *"The fair value disclosed in the 2015*

financial accounts was based on best estimated basis." The aforesaid reply clearly indicates that instead to disclose its assets related to dairy division at fair value, the Company used to disclose the said assets at best estimate basis in its relevant financial statements in contradiction to its accounting policy as well as the respective financial reporting standards. . Hence, if the dairy division, in particular non-biological assets, were reported at fair values in respective financial statements for the years 2012, 2013, 2014 and 2015, disclosure of such losses or impairment would resultantly increase corresponding loss after tax for the said years or reduce profit after tax by the same amounts and resultantly earnings per share as well. The Company, hence, by not reporting its assets related to disposal group, in particular, non-biological assets, misstated Accounts for the years 2012, 2013, 2014 and 2015 respectively in terms of section 492 of the Ordinance.

14. The dairy division, which was held for sale, was disposed off in 2016 at a price of Rs. 44.5 million, as a result of which the Company incurred a loss of Rs. 175 million. As per relevant note 25 to the Accounts 2015, the Company made following disclosures about its disposal group comprised of dairy division:

Assets held for disposal	*2016*	*2015*
Non-current assets	*Nil*	*90,906,898*
Biological Assets	*Nil*	*129,290,644*
	Nil	*220,197,542*

The company has disposed off the assets of its dairy segment during the year ended June 30, 2016. Shareholder approval for disposal of dairy unit obtained through special resolution passed in the extra ordinary general meeting held on April 20, 2012. The company continuously disclosing the dairy segment as assets held for sale since financial year ended June 30, 2012.

15. The Company's reply dated May 16, 2019 stated that carrying book value of "assets held for sale" was Rs. 2015: 220.197 million (2014: Rs. 198.382 million) whereas fair value was 2015: Rs. 182 million (2014: Rs. 191 million). The carrying/book value was reported as 2013: Rs. 192.172 million (2012: Rs. 163.674 million), whereas fair value was reported as 2013: Rs. 196 million (2012: Rs. 165 million). The above information clearly reveals that fair value of the "assets held for sale" was showing declining trend over the years 2013-2015. The Company, however, did not report any impairment in relevant financial years as per requirements of the IFRS 5, continued to report "assets held for sale". The non-biological assets were comprised of 43% of the total "assets held for sale" as of 2012, and by not reporting the non-biological assets for lower of carrying amount or fair value less cost to sell, the relevant financial statements for the years 2012, 2013, 2014 and 2015 were materially misstated due to the fact that impairment of assets of Rs. 175 million which was recognized in Accounts 2016 was required to be recognized gradually in the aforesaid financial statements. The Company in its correspondence has recognized this fact that customers visited for tentative acquisition of assets comprised of "assets held for sale", however, acceptable offer was not made till the year 2016. I, am of the view that the Company, has not disclosed relevant facts to the users of financial statements and disclosures given in terms of IFRS-5 were questionable as ultimate sale of "assets held for sale" resulted a loss of Rs. 175 million to the Company. Moreover, it is relevant to emphasize that dairy division was categorized as "assets held for sale" in financial year 2012, and in terms of IFRS-5 the aforesaid assets were required to be sold within one year period. The Company, however, did not provide the relevant details of exceptional circumstances, which circumvented the disposal of "assets held for sale". The Company by reporting its dairy division as "assets held for sale" in terms of IFRS-5 took advantage of non-recognition of depreciation against the aforesaid non-current assets and also no impairment was recorded there against. Had the impairment of Rs. 175 million been recorded in financial years 2012 to 2015, the overall loss after tax of Rs. 2015: 347.539 million (2014: profit of Rs. 10.303 million) would significantly increase. The Respondents have not provided a bifurcation of loss incurred against biological and non-biological assets. Owing to the fact that non-biological assets were comprised of 43% of the total "assets held for sale" hence an impact of Rs. 75.25 million is material and significant. The Respondents have not justified their stance.

16. I am of the view that applicable requirements of International Financial Reporting Standards are binding requirements and any exception to this would jeopardize the interest of the investors as in the given case of the Company. I have come to the conclusion that the Respondents, for the year ended June 30, 2012 to June 30, 2015 have failed to recognize the aforesaid assets at lower of carrying amount and fair value less cost to sell as required by IFRS-5 (non-current assets held for sale and discontinued operations) as the sale price was materially lower than the last reported price. Furthermore, the Respondent failed to demonstrate that as to why an abrupt loss of Rs. 175 million was recorded against sale of its dairy division which comprised of biological and non-biological assets. The Company's fair value determination mechanism did not truly reflect the market conditions and deteriorated assets of dairy division were disclosed at significant higher amounts in relevant financial years of 2012, 2013, 2014 and 2015 and ultimate disposal of assets was recorded in financial years 2016 by reporting a loss of Rs. 175 million against such disposals.

17. In view of above, provisions of section 492 of the Ordinance are attracted and Respondents are liable to the penal action. I, therefore in term of section 492 of the Ordinance, impose a penalty of Rs. 400,000/- **(Rupees four hundred thousand)** in the following scale:

S.No.	**Names of the Respondents**	**Amount of Penalty (PKR)**
1	Khawaja Mohammad Nadeem	50,000/-
2	Ms. Alia Khanum	50,000/-
3	Khawaja Mohammad Jawed	50,000/-
4	Khawaja Mohammad Kaleem	50,000/-
5	Khawaja Mohammad Naveed	50,000/-
6	Khawaja Shahzad Younus	50,000/-
7	Mr. Muhammad Tariq Sufi	50,000/-
8	Ms. Nargis Sultana	50,000/-
Total		**400,000/-**

18. The Respondents are, hereby, directed to deposit the aforesaid amount of penalties in the designated bank account maintained in the name of the Commission with MCB Bank Limited within thirty (30) days from the date of this Order and furnish a receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under the Land Revenue Act, 1967 will be initiated for recovery of the fines as arrears of land revenue. It may also be noted that the said penalties are imposed on the Respondents in personal capacity; therefore, the Respondents are required to pay the said amount from personal resources.

Nothing in this Order may be deemed to prejudice the operation of any provision of the Ordinance providing for imposition of penalties in respect of any default, omission, violation of the Ordinance.

Ali Azeem Ikram
Executive Director-HOD
Adjudication Department-I

Announced: December 3, 2020
Islamabad