



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Securities Market Division
Market Supervision and Registration Department

Before the Director/HOD (MSRD)

In the matter of Show Cause Notice issued under Section 224(4) of the Companies Ordinance, 1984 to Mr. Muhammad Ali, a beneficial owner of more than ten percent equity securities of AKD Capital Limited

Order

This Order will dispose of the proceedings initiated under Section 224(4) of the Companies Ordinance, 1984 ("**Ordinance**") by the Securities and Exchange Commission of Pakistan ("**Commission**") through Show Cause Notice No. S.M(B.O)C.O.222/8(568)05 dated 25/02/2014 ("**Notice**") issued to Mr. Muhammad Ali ("**Respondent**"), a beneficial owner of more than ten percent equity securities of AKD Capital Limited ("**Issuer Company**").

2. The facts of the matter leading up to aforesaid Notice are that the Issuer Company is a public listed company and the Respondent being a beneficial owner of more than ten percent equity securities of the Company was required to file return of beneficial ownership on Form 32, within the period stipulated under Section 222 of the Ordinance. However, he failed to discharge the said obligation which attracts penal provision contained in Section 224(4) of the Ordinance.

3. Section 222(2) of the Ordinance stipulates the period within which the Form 32 is required to be submitted as under:-

"where there is any change in the position or interest as aforesaid including a change in the beneficial ownership of any equity, security, within fifteen days of such change".

4. The Respondent failed to file Form 32, within the stipulated time limit, as a beneficial owner of more than ten percent equity securities of the Company for sale transaction of 894,990 shares made on 06/02/2008. He filed Form 32 for the said change in beneficial ownership with the Commission on 05/07/2013, with delay of 1,961 days in contravention of Section 222(2)(c) of the Ordinance.

5. The aforesaid contravention *prima facie* attracts penal provision contained in Section 224(4) of the Ordinance, which provides as under:-

"Whoever knowingly and wilfully contravenes or otherwise fails to comply with any provision of section 222, section 223 or section 224 shall be liable to a fine which may extend to thirty thousand rupees and in the case of a continuing contravention, non-compliance or default to a further fine which may extend to one thousand rupees for every day after the first during which such contravention, non-compliance or default continues."

6. The Commission took cognizance of the aforesaid default and issued Show Cause Notice dated 07/01/2014 to the Respondent under Section 224(4) of the Ordinance, calling upon him to





SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Securities Market Division
Market Supervision and Registration Department (MSRD)

explain through written reply along with documentary evidence, if any as to why action may not be taken against him pursuant to Section 224(4) of the Ordinance, for aforesaid contravention of Section 222 of the Ordinance. The aforesaid Notice was sent at the address given in the aforementioned Form 32 i.e. "74-Khabane-Sehar, Phase-VI, DHA, Karachi" but the same was returned as undelivered with the remarks that "No such consignee" here. Thus, a fresh Notice dated 25/02/2014 was sent at two different addresses retrieved from the record of this office.

7. Moreover, in order to provide an opportunity of being heard in person, hearing in the matter was fixed for 10/03/2014 at Commission's Head Office, Islamabad, which was rescheduled for 11/04/2014. Since, the Respondent neither responded the matter nor attended the aforesaid hearing, therefore, he was finally asked vide letter dated 17/04/2014 to furnish his written reply to the Notice as well as indicate his inclination, if he wishes to be heard in person or through authorized representative.

8. The Respondent filed written reply to the Notice vide letter dated 25/04/2014. The submissions made by the Respondent in his aforementioned letter be summarized as under:-

- a. *He had not received the notices sent earlier in the matter on account of change of address. Therefore, the lack of response may kindly be condoned. He also provided his latest address for further correspondence in the matter, if any.*
- b. *He became a Director and CEO of AKD Capital Limited in December, 2004 in pursuance of which Form 31, as prescribed under Section 222 of the Companies Ordinance, 1984 was filed with the SECP. In August, 2005, he tendered his resignation from both positions and proceeded abroad and returned to Pakistan towards middle of 2010.*
- c. *The shares shown in aforesaid Form 32 were sold on 06/02/2008, however, the return of beneficial ownership on Form 32 was inadvertently could not be filed within the stipulated time limit.*
- d. *As soon as he came to know of the inadvertent mistake on his part, he immediately took steps to rectify the situation and filed the requisite form, which demonstrates that there was no ulterior motive in non-filing under Section 222 of the Ordinance, and that non-observance of this provision was the result of a genuine mistake.*





SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Securities Market Division
Market Supervision and Registration Department (MSRD)

- e. *The delay in filing of Form 32 was neither willful nor was it done knowingly, therefore, the same may kindly be condoned. He also assured that, if and when required in future, strict compliance with the provision of section 222 of the Ordinance will be observed.*
- f. *He requested that his written submission may please be considered favorably and the notice may be withdrawn. He also stated that he will remain available in case any further information is needed.*

9. I have considered the aforesaid submissions made by the Respondent. The Respondent has admitted the default of late filing of the return of beneficial ownership with the contention that said default was not committed wilfully and knowingly. The Respondent has assured for timely filing of the returns of beneficial ownership in future and requested to condone the default in question. Considering the submissions made by the Respondent and keeping in view the fact that presently he is neither on the Board of Directors of the Company nor holds any interest/shareholding in the Company, I intend to agree with the contention of the Respondent and of the view that the late filing of the under reference return of beneficial ownership may not be willful. Therefore, a lenient view of the matter has been taken and the Respondent is hereby strictly warned to ensure timely compliance of Section 222 of the Ordinance, in future.

10. This Order is issued without prejudice to any other action that the Commission/Registrar may initiate against the Respondent in accordance with the law on matter subsequently investigated or brought to the Notice of the Commission.




(Imran Inayat Butt)
Director/HOD (MSRD)

Islamabad.
Announced on May 12, 2014