



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. Farrokh K. Captain, Director of Shell Pakistan Limited

*Date of Hearing*

*September 03, 2013*

*Present at Hearing:*

*Representing the Respondent:*

*Mr. Mustafa Munir Ahmed,  
Barrister-At-Law, Senior Associate,  
Riaa Law  
Advocates & Corporate Counselors*

*Assisting the Director/HOD (MSRD):*

*Mr. Muhammad Farooq,  
Joint Director (SMD)*

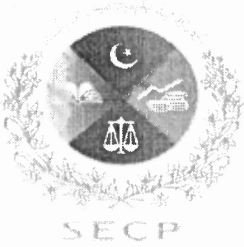
**Order**

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/ 2(231) 2012 dated 30/04/2013 ("**Notice**") issued to Mr. Farrokh K. Captain ("**Respondent**"), Director of Shell Pakistan 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 its Director was required to file returns of beneficial ownership on Form 31 and Form 32, within the period stipulated under Section 222 of the Ordinance. However, he failed to discharge the said obligations which attracted penal provisions contained in Section 224(4) of the Ordinance.

3. Section 222(2)(b) and Section 222(2)(c) of the Ordinance stipulate the period within which the Form 31 and Form 32 are required to be submitted as under:-

*222(2)(b) "in any other case, including a case where the company is listed on the stock exchange after the commencement of this Ordinance or after the person has occupied the position or office specified in sub-section (1) or has acquired interest as beneficial owner of securities as aforesaid, within thirty days of occupying the office in the company or acquisition of interest as beneficial*



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*owner requiring submission of the return aforesaid or listing of the company on the stock exchange, as the case may be”;*

222(2) (c) *“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. Since the Respondent failed to discharge his obligations, therefore, he was asked vide letter dated 18/09/2012 followed by reminders dated 08/10/2012, 23/10/2012 and 12/11/2012 to file Form 31 and Form 32 with the Commission.

5. In response to the aforementioned letter/reminders, the Respondent filed Form 31 and Form 32 with this Commission on 18/12/2012. The said Form 31 showed that he acquired beneficial ownership in the Issuer Company on 02/05/2007, while, its covering letter dated 15/12/2012 reflected that he became director the Company on 13/06/2011. However, neither his said letter nor the Form 31 reflected the factual position, because as per record of this office he became Director of the Company on 13/06/2005. Thus, he was required to file Form 31 with this Commission latest by 28/06/2005, but the same has been filed with delay of 2,715 days, in contravention of Section 222(2)(b) of the Ordinance.

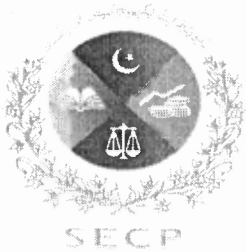
6. Whilst, the aforementioned Form 32 showed that 117,453 bonus shares were received by him on 18/05/2012. The said change in beneficial ownership was also reported to the Commission on 18/12/2012 with a delay of 199 days in contraventions of Section 222(2)(c) of the Ordinance.

7. The aforesaid contraventions of Section 222 of the Ordinance *prima facie* attract penal provisions contain 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”.*

8. The Commission took cognizance of the aforesaid defaults and issued Notice to the Respondent under Section 224(4) of the Ordinance, calling upon him to 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 contraventions of Section 222 of the Ordinance. Furthermore, the personal hearing in the matter was fixed on 14/05/2013.

9. In response, the Personal Manager of the Respondent Mr. Abdul Sattar Dal intimated vide his letter dated 10/05/2013 that the Respondent is in United States of America for his



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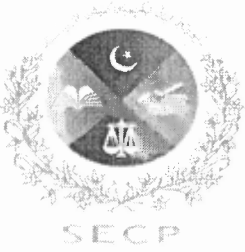
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cardiac related medical treatment and requested for adjournment of the hearing till mid of July 2013. The said request was accepted and the matter was re-fixed for 03/09/2013. On the said date, Mr. Mustafa Munir Ahmed, Barrister-At-Law, Senior Associate of Rias Law, Advocates and Corporate Counselors (**Legal Counsel**) appeared on behalf of the Respondent and stated that the Respondent is still in United States. He further stated that in case of adjournment, he may appear in person on his return from USA. The attention of the Legal Counsel was drawn towards the fact that the matter is already delayed, as the Notice was served in April 2013. In response, he showed his readiness to present arguments on behalf of the Respondent which be summarized as under:

- a) *The Respondent was unaware about the legal requirements on the subject matter. Moreover, he was under the impression that all legal/corporate responsibilities were supposed to be completed by Company Secretary of the Issuer.*
- b) *The Respondent is above seventy years old. Due to his age factor and continuously worsening health condition he could not filed the returns under reference within the stipulated time limit.*
- c) *At the time of filing of Form 31, the latest date of appointment was shown in the covering letter instead of initial date of appointment.*
- d) *The Respondent ensured that he will comply with the requirement of Section 222 of the Ordinance within the prescribed time period in future.*
- e) *The Legal Counsel requested that keeping in view the health and age factor of the Respondent a lenient view of the matter may be taken, as the default was not committed willfully and knowingly.*

10. I have considered the submissions made on behalf of the Respondent and observed that the main plea of the Legal Counsel is that due to ignorance and worsening health factor he could not filed the returns of beneficial ownership within the stipulated time limit.

11. In this respect, it is pointed out that in order to provide an opportunity to beneficial owners of listed companies to file their over due returns of beneficial ownership without facing penal action, the Commission through Notices dated 07/09/2009 and 21/09/2010 asked them to file their returns of beneficial ownership with Head Office of the Commission by 31/10/2009 and 31/10/2010 respectively and to ensure timely compliance of Section 222 of the Ordinance in future. The aforesaid Notices were sent to all listed companies and were also disseminated through stock exchanges and print media. But, the Respondent did not avail this opportunity. Moreover, the record of this office reflects that the Respondent filed the above mentioned returns of beneficial ownership after continuous follow up by the Commission.



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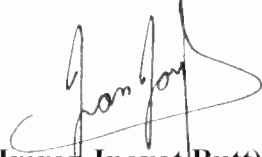
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12. Thus, it is evident that the aforementioned argument submitted on behalf of the Respondent does not have substance and in the light of aforesaid discussion, I am of the view that the Respondent has committed the violation. However, he has filed the returns of beneficial ownership, therefore, taking a lenient view of the default, in exercise of powers conferred under Section 224 (4) of the Ordinance, I hereby impose a fine of Rs. 25,000 (twenty five thousand rupees only) on the Respondent and no further fine for continuous default is imposed.

13. The Respondent is directed to deposit the fine in the account of the Commission being maintained in the designated branches of MCB Bank Limited, within 30 days of the date of this order and furnish Original Deposit Challan to this office.

14. 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 October 22, 2013