



SECP  
Insurance Division  
Karachi

[Karachi]

Before Tariq Hussain, Director (Insurance)

*In the matter of*

Crescent Star Insurance Company Limited

&

Muniff Ziauddin & Co., Chartered Accountants

Show Cause Notice Issue Date: March 28, 2014

Date of Hearing: May 19, 2014

Attended By: Company's Representative:  
Mr. Malik Mehdi, Chief Financial Officer

Auditor:  
Mr. M. Moin Khan, Partner, Muniff Ziauddin & Co.  
Mr. Salim Sadruddin, Partner, Muniff Ziauddin & Co.

Date of Order: September 16, 2014

**ORDER**

(Under Section 257 Read with Section 259 of the Companies Ordinance, 1984)

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This Order shall dispose of the proceedings initiated against M/s Crescent Star Insurance Company Limited ("the Company") and The Audit Engagement Partner of M/s Muniff Ziauddin & Co., Chartered Accountants ("the Auditor") for not complying with the provisions of Section 257 of the Companies Ordinance, 1984 (the "Ordinance").

**Background Facts**

2. The provisions of Section 257 of the Ordinance state that:

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*"Signature on audit report, etc.- (1) Only the person appointed as auditor of the company, or where a firm is so appointed in pursuance of sub-section (2) of section 254, only a partner in the firm practising in Pakistan, shall sign the auditor's report or sign or authenticate any other documents of the company required by law to be signed or authenticated by the auditor.*

*(2) The report of auditors shall be dated and indicate the place at which it is signed."*

3. In terms of the provisions of Section 233(3) and Section 242(1) of the Ordinance and the Commission's Circular No. 02 of 1999 dated January 13, 1999, annual financial statements shall be accompanied by the auditor's report, which shall be made up in compliance of Section 257 of the Ordinance.
4. The Audit Report on the published financial statements of the Company for the year ended December 31, 2012 did not contain the signature of the Auditor of the Company and also it did not state the date of signing the audit report, as required under Section 257 of the Ordinance.
5. The comments on the abovementioned observation were sought from the Company, in response of which, the Company had filed the signed Auditor's Report, vide the Company's letter dated November 11, 2013.
6. It appeared that the Company and the Auditor for the year ended December 31, 2012 have contravened the requirement of Section 257 of the Ordinance, for which the Commission may take action as provided under Section 259 of the Ordinance.

#### Show Cause Notice

7. Accordingly, the Show Cause Notice was issued on March 28, 2014 under Section 257 of the Ordinance to the Chief Executive Officer and the Directors of the Company and the Audit Engagement Partner of the Auditor, calling upon them to show cause as to why the penalty, as provided under Section 259 of the Ordinance, should not be imposed upon them for not complying with provisions of Section 257 of the Ordinance.

#### Company's Response to the Show Cause Notice

8. The Company, vide its letter dated April 24, 2014, stated that:

*"...the financial statement of our Company were initialed by the statutory auditors, however the Audit Report and Review Report to the Members on Statement of Compliance were printed without the auditor's signature due to proof reading error. We humbly request you to condone the said due to human error, and assure that the concerned shall ensure proper control to avoid such mistakes."*

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**Auditor's Response to the Show Cause Notice**

9. The Auditor, vide its letter no. MZ/CSICL/0704/2014 dated April 07, 2014, stated that:

*"...the financial statements of The Crescent Star Insurance Company Limited (the Company) for the year ended December 31, 2012 were duly initiated by us on May 17, 2013 and were duly submitted to the management of the company vide our covering letter dated May 17, 2013, a copy of the same is attached herewith as Annexure "A" for your kind perusal. In this letter we required some documents for our signature and in para "4" we specifically informed the Board of Directors of the Company that unless we have signed the auditor's report on these financial statements the same shall remain and be deemed not audited.*

2. *The financial statements were duly approved by the Board of Directors of the Company on May 24<sup>th</sup>, 2013 (Copy of the minutes of the meeting of Board of Directors of the Company is attached as Annexure "B") which we received on the same date along with the Representation Letter by the management dated May 24, 2013 (Attached as Annexure C). Thereafter, the Auditor's Report was properly signed and dated by us on May 24, 2013 (Audited financial statements and our report dated 24 May 2013 are attached as Annexure "D")..."*

**Hearing in the Matter of the Show Cause Notice**

10. Although neither the Company nor the Auditor had requested to appear in person, the Commission, on its own motion, had scheduled the hearing for May 19, 2014 at 12:00 p.m. in the matter of the aforementioned Show Cause Notice, which was communicated to the Company and the Auditor vide the Commission's hearing notice no. ID/Enf/CSICL-AUDIT/2014/19577 dated April 30, 2014.

11. Mr. Malik Mehdi Muhammad, the Chief Financial Officer of the Company was duly authorized to represent the Company and its Board of Directors in the matter of the said Show Cause Notice, through a Power of Attorney dated May 19, 2014. Accordingly, Mr. Mehdi shall be referred to as the "Company's representative" hereinafter.

12. Mr. M. Moin Khan and Mr. Salim Sadruddin, the Partners of the Auditor, had represented the Auditors in the hearing in the matter of the said Show Cause Notice, which was held on May 19, 2014. Accordingly, Mr. Moin and Mr. Sadruddin shall be referred to as the "Auditor's representatives" hereinafter.

13. Brief proceedings of the hearing were as follows:

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- a. The Company's representative stated that it was merely an unintentional printing error, on which the Company's representative was explained that the audit as well as the process of preparation of accounts is a routine matter, and since, the Company is quite old, the contravention should not have been there;
- b. The Auditor's representatives reiterated the contents of their letter no. MZ/CSICL/0704/2014 dated April 07, 2014.

### Consideration of the Submissions

14. I have carefully examined and given due consideration to the written and verbal submissions of the Company, its Directors and the Management of the Company (through their authorized representative, Mr. Malik Mehdi Muhammad, the Chief Financial Officer of the Company), as well as those of the Auditor (through the Auditor's representatives), and have also referred to the provisions of the Ordinance. I am of the view that there has been an established default of Section 257 of the Ordinance, as the Auditor's Report filed with the financial statements of the Company for the year ended December 31, 2012 did not contain the signature of the Auditor and also it did not state the date of signing of the Auditor's Report, as required by the provisions of Section 257 of the Ordinance. However, later on a signed Auditor's Report on those financial statements were filed vide the Company's letter dated November 11, 2013.

15. It is further proven that the Auditor of the Company had provided the signed and dated copy of the Auditor's Report to the Company, as reflected in the Auditor's letter dated April 7, 2014, though late.

16. However, before proceeding further, I find it relevant to discuss the duties of the Directors. The Directors, in addition to the day-to-day running of the Company and the management of its business, also have some 'fiduciary' duties i.e. duties held in trust and some wider duties imposed by statute and breach of these statutory duties will usually be a criminal offence, punishable by fine or imprisonment. Hence, the Directors are gauged against a higher standard of accountability which requires them to be vigilant and perform their duties with due care. As the Directors are supposed to be well aware of their legal obligations in connection with the aforesaid statutory requirements in connection with preparation of the financial statements and complete filing thereof in compliance of the various provisions of the Ordinance, including Section 257 of the Ordinance, as aforesaid, therefore, it could be legitimately inferred that the default was committed.

### Conclusion

17. After carefully examining the arguments and studying the facts and findings of the case as mentioned in the above paras of this Order, the default of Section 257 of

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the Ordinance is established. Therefore, the penalty as provided under Section 259 of the Ordinance can be imposed onto the Company, its Directors and/or its Chief Executive Officer, and the Auditor.

18. Section 259 of the Ordinance states that:

*“Penalty for non-compliance with provisions by companies.- If default is made by a company in complying with any of the provisions of sections 252 to 254 or 256 to 258, the company and every officer of the company who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to fifty thousand rupees and in the case of continuing default to a further fine which may extend to two thousand rupees for every day after the first during which the default continues.”*

Order

19. In exercise of the power conferred on me under Section 259 of the Ordinance, I, instead of imposing the penalty, take a lenient view, and thus, **condone** the Company, its Directors and its Chief Executive Officer, and also the Auditor, due to fact that the Company has filed the requisite Auditor’s Report, duly signed and dated subsequently, as mentioned hereinabove, and that the aforesaid contravention of Section 257 of the Ordinance has not harmed the interests of the shareholders and the policyholders of the Company.

However, the Company is hereby issued a **stern warning** that in case of similar non-compliance in future a stronger action against the Company will be taken.

20. This Order is issued without prejudice to any other action that the Commission may initiate against the Company and / or its management (including the Chief Executive Officer of the Company), and the Auditor, in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

**Tariq Hussain**  
Director