



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

## Before the Director/HOD (MSCID)

In the matter of Show Cause Notice issued under Section 224(4) of the Companies Ordinance, 1984 to Mr. Jawed Anwer, Director of J.K. Spinning Mills Limited

*Date of Hearing:* May 24, 2012

### *Present at Hearing:*

*Representing the Respondent:* Syed Hussain Mansoor Naqvi,  
Company Secretary,  
J.K. Spinning Mills Limited

*Assisting the Director/HOD (MSCID):* 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.222/4(4348)2002 dated 10/05/2012 (“**Notice**”) issued to Mr. Jawed Anwar (“**Respondent**”), Director of J.K. Spinning Mills 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 return of change in his 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 provisions contained in Section 224(4) of the Ordinance.

3. Section 222(2)(c) of the Ordinance stipulates the period within which the Form 32 is required to be submitted. For convenience, the provisions of the said Section are reproduced hereunder:-

*“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. It is worth mentioning that in order to provide an opportunity to directors/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.



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5. On account of scrutiny of record of this office, it was observed that the Respondent has failed to file returns of changes in beneficial ownership on Form 32. The Respondent was, therefore, asked vide letter dated 03/02/2012 to file returns of beneficial ownership on Form 32 alongwith reasons for non-filing of the same, within the period stipulated in Section 222 of the Ordinance.

6. In response to the aforesaid letter, the Respondent filed three Forms 32, with this Commission, for the following changes in beneficial ownership:-

Sr. No.	Date	Nature	No. of Shares	Return Received on	Delay in Days
1	17/06/2010	Shares acquired against conversion of loan	7,140,000	17/02/2012	595
2	20/09/2010	Bonus	400,750	17/02/2012	500
3	10/12/2011	Shares acquired due to merger	15,649,973	13/02/2012	50

The aforesaid changes in shareholding have been reported to the Commission with delay ranges from 595 days to 50 days, in contravention of Section 222(2)(c) of the Ordinance. The said contraventions attract penal provisions of 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”*

7. The Commission took cognizance of the aforesaid default and issued Notice to the Respondent under Section 224(4) of the Ordinance, calling upon him to explain through written reply alongwith 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(2)(c) of the Ordinance.

8. In order to provide an opportunity of being heard in person, hearing in the matter was fixed for 24/05/2012 at the Commission’s Head Office, Islamabad. On the given date, Syed Hussain Mansoor Naqvi (“**Authorized Representative**”) Company Secretary of J.K. Spinning Mills Limited appeared before me on behalf of the Respondent and submitted written reply to the Notice. The submissions made on behalf of the Respondent by the Authorized Representative in writing as well as verbally during the course of hearing be summarized as under:-



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- a) *The Respondent did not receive Notices dated 07/09/2009 and 21/09/2010, wherein, the directors and beneficial owners of listed companies were provided an opportunity to file their overdue returns.*
- b) *Right issue was made under the permission of the Commission to convert the loan of the Respondent into shares. The Respondent filed Form 32 for acquisition of right shares with the Commission and Registrar. However, Form 32 for receipt of bonus shares and shares allotted under merger scheme were filed only with the Registrar, but due to oversight the same could not be filed with Head office of the Commission.*
- c) *The delay in submission of the return of beneficial ownership was not willful.*
- d) *The Authorized Representative ensured that the Respondent will comply with the requirement of Section 222 of the Ordinance within the prescribed time period in future.*

9. I have considered the aforesaid submissions made on behalf of the Respondent and my findings in this regards are as under:-

- a) Concerning the plea that “*the Respondent did not receive the under reference Notices*” it is pointed out that the said Notices were sent to Company Secretary’s of all listed companies with request to circulate among Directors/beneficial owners of the respective company for information and compliance, if any. Moreover, the aforesaid Notices were also sent disseminated through stock exchanges and print media. Moreover, the provisions of Section 222 of the Ordinance entail the directors/officers/beneficial owners of listed companies to file the returns of beneficial ownership under their own motion, within the stipulated time limit, rather than asking/reminding by the Commission. Hence, the said contention does not have substance.
- b) With regard to contention that “*the return for acquisition of shares against conversion of loan was filed with the Commission, while the returns for remaining aforementioned changes in beneficial ownership could not be filed with the Commission due to oversight*”, it is stated that the documents filed by the Respondent have been examined which reveal that Form 32 for acquisition of 7,140,000 shares against loan conversion alongwith some other documents were sent/endorsed to Enforcement Division of the Commission. The Form 32 reportedly submitted to Enforcement Division alongwith some other documents related to conversion of loan into shares are deemed to be filed pursuant to the provisions of Section 222 of the Ordinance. Thus, the contention of the Respondent in this regard is accepted.



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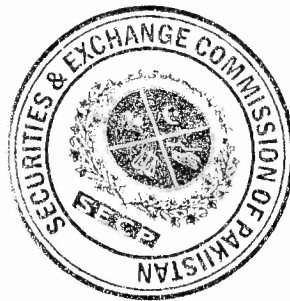
Concerning the argument *that the return for remaining aforementioned changes in beneficial ownership could not be filed within the stipulated time limit due to oversight* it is pointed out that the Respondent is on the Board of Directors of the Issuer Company since last fifteen years. He is supposed to be fully acquainted with the requirements of Section 222 of the Ordinance. But the Respondent failed to discharge his liability entailed under Section 222 of the Ordinance, until, the same was pointed out by this office through letter dated 03/02/2012.

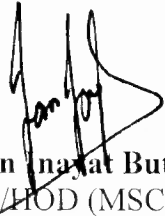
Moreover, I am of the view that Sections 220 to 224 of the Ordinance speak about a Scheme. Under the said Scheme such beneficial owners/persons are required to report their shareholding as well as changes in shareholding at the same time to the Company, Registrar of Companies and the Commission. The said officers and more than ten percent shareholders of a listed company are required to fulfill their statutory requirements within the time period provided in the law. The inevitability of the filing of the return of beneficial ownership with the Commission may be adjudged from the fact, that it enables the Commission to monitor the trading activities of the returnee.

10. In view of the foregoing discussion, it is evident that the Respondent was fully aware about his liability of filing of the returns of beneficial ownership, but he failed to do so within the stipulated time limit. In my opinion, the Respondent has contravenes the provisions of Section 222 of the Ordinance despite having knowledge of the requirement of the law. Thus, in the light of aforesaid discussion, I am of the view that the Respondent has committed the under reference default. However, on receipt of aforesaid letter from the Commission, The Respondent has filed the Form 32. 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. 10,000 (ten thousand rupees only) on the Respondent and no further fine for continuous default is imposed.

11. 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, to the effect.

12. 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 (MSCID)

Islamabad.  
Announced on June 25, 2012