



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

[Islamabad]

Before Ali Azeem Ikram
Director (Enforcement)

In the matter of

Mr. Suleman Ahmad

Order under Section 189 read with Section 476 of the Companies Ordinance, 1984

Show Cause Notice No. and Date: EMD/233/677/2006-16~~2~~5
Dated January 2, 2009

Date of final hearing: April 30, 2009

Present: Mr. Waleed Khalid
Cornelius, Lane & Mufti
Advocates & Solicitors

Date of Order: September 9, 2009

This Order will dispose of the proceedings initiated against Mr. Suleman Ahmad for being appointed as a director in D.S. Industries Limited ("Company"), a listed company and also engaged in the business of brokerage in contravention of the provisions of Section 187(j) of the Companies Ordinance, 1984 (the "Ordinance").

2. The brief facts of the case are that it was noticed that Mr. Suleman Ahmad, in addition to being a director in the Company was also serving as a director in following companies engaged in the brokerage business;

- i. Pervez Ahmed Securities Limited
- ii. Infinite Capital Markets (Pvt) Limited

3. Mr. Suleman Ahmad, *prima facie*, had contravened the aforementioned provision of the law and consequently a Show Cause Notice ("SCN") under Section 189 of the Ordinance dated January 2, 2009 was issued to him in order to explain in writing as to why penalty may not be imposed on him as per law. On January 30, 2009, the Company held a fresh election of directors in which Mr. Suleman Ahmad was again elected as a director. Mr. Suleman Ahmad engaged Cornelius Lane and Mufti, Advocates



Securities and Exchange Commission of Pakistan
Company Law Division
(Enforcement Department)

("Counsel") in the matter. The Counsel twice requested for extension in time to file the reply to the SCN which was duly provided by the Commission. Counsel subsequently filed the reply on February 25, 2009. It was stated therein that at the time of appointment of Mr. Suleman Ahmad as a director in the Company, he was not a member of Stock Exchange. The reply was not found satisfactory and therefore, in order to provide an opportunity of personal hearing, the matter was initially fixed for March 31, 2009 which was, on the Counsel's request, adjourned three more times and finally the hearing was held on April 30, 2009.

4. On the date of hearing Mr. Waleed Khalid, Advocate represented on behalf of Mr. Suleman Ahmad. He presented same arguments as were provided earlier; it was argued by him that Mr. Suleman Ahmad was not a member of a stock exchange or in a business of brokerage at the time of his appointment as a director of the Company and as such there was no contravention of the law. When a query was raised to him as to why Mr. Suleman Ahmad has once again been elected as a director in the election of directors held by the Company on January 30, 2009, he replied that he will submit a reply to that after consulting Mr. Suleman Ahmad. A Second hearing was fixed for June 18, 2009 which the Counsel failed to attend and on a query by the Commission submitted a written reply which stated that last election of directors of the Company was held on January 30, 2009 which included Mr. Suleman Ahmad as one of the directors. In was also informed therein that election of directors of Pervez Ahmad Securities Limited will be held in October 2009 and that his clients will endeavour to make the appointments keeping in view the observations of the Commission made in the hearing.

5. I have considered the facts presented before me. The law is unambiguous and clear. I have observed that the argument put forth by the Counsel that Mr. Suleman Ahmad was not a member of stock exchange or in the brokerage business at the time of his appointment as the director has been negated by the fact that Mr. Suleman Ahmad was successfully elected as a director in the Company on January 30, 2009 whereas concurrently he was also a director on the board of three other companies engaged in business of brokerage. I have noticed that Mr. Suleman Ahmad, despite of having been issued with a SCN under Section 189 by this Commission dated January 2, 2009, later took part in the election of directors of the Company thus substantiating the fact that he was in complete knowledge of the matter of contravention of Section 187(j) of the Ordinance as a result of his election as a director in a listed company. In my view, the contravention of Section 187 (j) of the Ordinance on part of Mr. Suleman Ahmad is established. Mr. Suleman Ahmad has not acted in accordance with the provisions of the law and he is therefore responsible for non-compliance of the law. It also appears that Mr. Suleman does not assign due importance to complying with the requirements of the law. The default in the matter is hereby considered willful and deliberate. This attracts the provisions of Section 189 of the Ordinance. I, in exercise of powers conferred upon me under Section 189 of the Ordinance,



Securities and Exchange Commission of Pakistan
Company Law Division
(Enforcement Department)

impose a fine of Rs.200 for each day in which the default was continued i.e. from the date of election of Mr. Suleman Ahmad as a director of the Company in election held on January 30, 2009 till date. The cumulative amount of fine on Mr. Suleman Ahmad thus shall be Rs.44,000 (Rupees forty four thousand only).

6. Mr. Suleman Ahmad is hereby directed to deposit within thirty days of the date of the receipt of this Order, the aforesaid fine of Rs.44,000 (Rupees forty four thousand only) in the designated bank account maintained in the name of Securities & Exchange Commission of Pakistan with MCB Bank Limited and furnish a receipted challan to the Commission. In case of non-deposit of the penalty, proceedings under the Land Revenue Act, 1967 will be initiated for recovery of the fines as an arrear of land revenue. It may also be noted that said penalty is imposed on Mr. Suleman Ahmad in his personal capacity; therefore, he is required to pay said amount from his personal resources.

Ali Azeem Ikram
Director (Enforcement)

Announced
September 9, 2009
Islamabad