



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Before Tahir Mahmood, Executive Director Enforcement

In the matter of

Dewan Cement Ltd

(Under Sub-section (3) of Section 245 read with Section 476 of the Companies Ordinance, 1984)

Show Cause Notice Reference Number:

EMD/Enf-II/385/2675

Date of Show Cause Notice:

April 6, 2009

## ORDER

This Order shall dispose of the proceedings initiated against the following directors of Dewan Cement Limited (the "Company") through show cause notice dated April 6, 2009 under the provisions of Sub-section (3) of Section 245 of the Companies Ordinance, 1984 (the "Ordinance"):

- |                                  |                              |
|----------------------------------|------------------------------|
| 1. Mr. Dewan M. Yousuf Farooqui  | 6. Mr. Aziz-ul-Haque         |
| 2. Mr. Dewan Abdullah Ahmed      | 7. Mr. Abrar Manzoor         |
| 3. Mr. Dewan Abdul Baqi Farooqui | 8. Mr. Wajahat A. Baqai      |
| 4. Mr. Haroon Iqbal              | 9. Mr. Basheer Ahmed Chowdry |
| 5. Mr. Syed Muhammad Ali Khan    |                              |

2. The facts leading to this case, briefly stated, are that in terms of the provisions of Section 245 of the Ordinance read with Commission's Circular No. 9 of March 19, 2003, the Company was required to prepare and transmit to the members and simultaneously files with the Registrar and the Commission its quarterly accounts for the second quarter ended on December 31, 2008 by February 29, 2009. The Company failed to file the aforesaid accounts with the Commission within prescribed time, as the same were filed on March 2, 2009 i.e. with a delay of 33 days. Consequently, a show cause notice dated April 6, 2009 was served on all the directors including the Chief Executive of the Company calling upon them to show cause as to why penalties as provided for by Sub-section (3) of Section 245 read with Section 476 of the Ordinance may not be imposed on them for the aforesaid contravention. The directors were also advised in the notice to inform this Commission within a week of the date of the notice if they wish to be heard in person or through their authorized representative.

3. In response to the show cause notice, Mr. Shahid Mehmud Ansari, the Company Secretary and Mr. Haroon Iqbal, the Head of Treasury of the Company submitted reply on April 8, 2008, on behalf of the directors of the Company. They apprised that the Company had approached the Commission vide letter dated February 27, 2009 for extension of 20 days in time for finalization and circulation of accounts for quarter ended on December 31, 2008 because the Company had been unable to circulate the quarterly accounts in time due to malfunction of software of the computer system. However, as the law does not envisage any provision regarding extension in time for filing quarterly accounts, therefore, the

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SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN  
Enforcement Department

Continuation Sheet - 2 -

Commission advised the Company to ensure timely circulation of quarterly accounts in compliance with the law. It was further submitted on behalf of the directors that the delay was neither willful nor unavoidable and that it had not jeopardized the rights or privileges of any member of the Company. Based on the above submissions, they requested to condone the default.

4. Before proceeding to decide this case, I consider it necessary to highlight the importance of the strict observance of the mandatory provisions of the law. The protection of the investors/shareholders is one of the primary objectives of the Ordinance. To meet this end provision of timely, adequate and meaningful information to them is of utmost importance. It is the annual and interim accounts, which provide information to the investors about the affairs of the company. The Company's stance that the said delay has not jeopardized rights of shareholders has no justification, because quarterly accounts if not timely circulated, can deprive shareholders, potential investors and other stakeholders of timely availability of authenticated financial information which is imperative for making a well informed decision. I regret to note that the Company had committed similar default with respect to filing of quarterly accounts for the second quarter ended on December 31, 2007 as the same were filed with a delay of 26 days giving the same reasons which have been given for the present delay of 33 days in filing of accounts for the second quarter ended on December 31, 2008 i.e. malfunctioning of software in computer. Besides that failure of computer system can not be accepted as a valid reason for delay in filing of the accounts because it is the responsibility of the Company's management to maintain sufficient and updated back up system to ensure timely retrieval of financial data in case of software malfunction or any other problems with the computer system.

5. It transpires from the above that the directors of the Company have committed default by not ensuring filing of the quarterly accounts for the second quarter ended on December 31, 2008 within the prescribed time of two months from the close of the quarter. However, based on acquiescence of default by the concerned and the fact that the accounts for the second quarter ended on December 31, 2008 were submitted on April 2, 2009, though with a delay, I take a lenient view in the matter and instead of imposing the maximum fine of Rs.100,000/- on every director and a further fine of Rs.1,000/- per day of infringement, I hereby warn all the directors of the Company including the Chief Executive to be careful in future and ensure meticulous compliance with the relevant provisions of the law.

**Tahir Mahmood**  
Executive Director (Enforcement)

**Announced:**  
April 21, 2009  
Islamabad