



Corporate Supervision Department  
Company Law Division

Before Amina Aziz – Director (CSD)

*In the matter of*

**Byco Petroleum Pakistan Limited**

Number and date of SCN: CSD/ARN/92/2015-3498-3505 dated March 3, 2016

**ORDER**

**UNDER SUB-SECTION (3) OF SECTION 245 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984**

This order shall dispose of the proceedings initiated against the following directors including chief executive (together referred to as “respondents”) of **Byco Petroleum Pakistan Limited** (the “Company”).

- |   |  |   |                     |
|---|--|---|---------------------|
| 1 | Mr. Hamid Imtiaz Hanfi, Chairman         | 5 | Mr. Philip Harris   |
| 2 | Mr. Muhammad Raza Hasnani, Vice Chairman | 6 | Ms. Diana Brush     |
| 3 | Mr. Muhammad Mujtaba Jafarey, CEO        | 7 | Mr. Richard Legrand |
| 4 | Mr. Ovais Mansoor Naqvi                  | 8 | Mr. Javed Akbar     |

These proceedings against the respondents were initiated through show cause notice (the “SCN”) dated March 3, 2016 under the provisions of sub-section (3) of section 245 read with section 476 of the Companies Ordinance, 1984 (the “Ordinance”).

2. The brief facts of the case are that as per record, the Company did not file the interim financial statements (“Quarterly Accounts”) for the following periods with the Commission, in a timely manner as per requirements of section 245 of the Ordinance:

Quarter Ended	Due On	Received on	Delay in days
30-Sep-14	31-Oct-14	19-Feb-15	111
31-Dec-14	28-Feb-15	07-Apr-15	38
31-Mar-15	30-Apr-15	15-May-15	15
30-Sep-15	31-Oct-15	11-Nov-15	11

Consequently, the SCN was issued to the respondents whereof they were called upon to show cause in writing as to why penal action may not be taken against them under sub-section (3) of section 245 of the Ordinance for delay in filing the aforesaid Quarterly Accounts. An opportunity of hearing was also provided on March 18, 2016 through the SCN. In response to the SCN, the



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chief executive of the Company replied vide letter dated March 10, 2016. A brief of submissions in respect of contents of the SCN is given below:

- The AGM of the Company for the year ended June 30, 2014 could not be held within the prescribed time due to delay in finalization of accounts and consequent audit. The aforesaid AGM was held on January 19, 2015 in accordance with the directions of the Commission under section 170 of the Ordinance sought by the Company.
- The delay of almost three months in holding of the AGM caused delay in approval and filing of the subsequent Quarterly Accounts.

Based on their submissions, the chief executive requested for a sympathetic and lenient view. It was further stated that the Company has filed the quarterly accounts for quarter ended December 31, 2015 in a timely manner. The chief executive further stated that the respondents were not interested in availing the opportunity of hearing and the case may be decided by the Commission based on written submissions.

3. Before proceeding further, it is important to mention that in terms of sub-section (1) of section 245 of the Ordinance read with Commission's circular no. 9 dated March 19, 2003, all listed companies are, inter alia, required to file their quarterly accounts with the Commission within stipulated time i.e. one month from the close of first and third quarters and two months from the close of second quarter.

Sub-section (3) of section 245 of the Ordinance provides as under:

*"If a company fails to comply with any of the requirements of this section, every director, including chief executive and chief accountant of the company who has knowingly by his act or omission been the cause of such default shall be liable to a fine of not exceeding one hundred thousand rupees and to a further fine of one thousand rupees for every day during which the default continues."*

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 245 (3) have been delegated to the Director (Corporate Supervision Department).

4. I have analyzed the facts of the case, relevant provisions of the Ordinance, and submissions made by the respondents. The aforesaid provisions of the law are clear and explicit. A



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listed company is required to file its quarterly accounts within the stipulated time that is one month from the close of first and third quarters and two months from the close of second quarter. Initially listed companies were only required to circulate annual accounts and the shareholders did not have information about the affairs of companies during the year. The requirement to circulate interim accounts was introduced so that the shareholders could have timely access to information about the affairs of companies. Keeping in view the fact that timing of interim financial statements is of essence the disclosure and audit requirements of these accounts have been kept to a bare minimum. Interim financial statements prepared properly and in a timely manner not only provide to its users a reliable source of information regarding a company's financial position and performance but these also show the results of management's stewardship of resources entrusted to it. In order to ensure transparency, all the companies must meticulously follow the legal requirement for preparing and circulation of interim accounts. In addition to their responsibility of overseeing and managing affairs of the Company, directors also have fiduciary duties towards the Company and its shareholders. They are, therefore, liable to a higher level of accountability which requires them to be vigilant and perform their duties with care and prudence. It is directors' responsibility to oversee the functioning of the company, to keep it appropriately staffed and organized to ensure due compliance of law. In terms of the Ordinance the directors are primarily responsible for approval of accounts. It has been stated that the interim financial statements have been delayed due to delay in finalization and approval of annual audited financial statements. The respondents cannot absolve themselves of their statutory duties that include preparing and filing of quarterly accounts in a timely manner. It has been observed that over a period of time, the Company's history of filing of quarterly accounts and holding of AGMs in a timely manner has not been up to the mark. However, the improvement is observed during the current year, as the Company has held its AGM for the year ended June 30, 2015 on October 29, 2015 and has also filed the Quarterly Accounts for quarter ended December 31, 2015 in a timely manner.

5. In view of the above stated facts, I have concluded that the provisions of the law have been violated and the respondents are liable to fines in terms of section 245 of the Ordinance, as they failed to prepare and file the respective Quarterly Accounts with the Commission in a timely manner. However, I also take cognizance of the fact that though with a delay, the Quarterly Accounts have been finally filed by the Company and the Company has held the AGM for the



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year ended June 30, 2015 and filed the half yearly accounts for December 31, 2015 in a timely manner. Keeping in view these facts, instead of imposing maximum fine on all the respondents, in exercise of powers under sub-section (3) of section 245 of the Ordinance, I hereby impose a fine of Rs50,000/- (Rupees fifty thousand) on the chief executive of the Company.

The aforesaid fine must be deposited in the designated bank account maintained with MCB Bank Limited in the name of the "Securities and Exchange Commission of Pakistan" within thirty days from the receipt of this order and receipted bank vouchers must be furnished to the Commission. In case of failure to deposit of the fine, proceedings for recovery of the fines as arrears of land revenue will be initiated. It may also be noted that the aforesaid fine is imposed on the respondent in his personal capacity; therefore, he is required to pay the said amount from personal resources.

**Amina Aziz**  
Director (CSD)

**Announced:**  
March 16, 2016  
Islamabad