



Fida Hussain Samoo
Commissioner

Before Fida Hussain Samoo, Commissioner (Insurance)

In the matter of

Crescent Star Insurance Ltd

Number and date of show cause notice	No. ID/Enf/CrescentStar/2016/4482 dated April 1, 2016
Date of hearing	May 26, 2016
Present	Ms. Rahat Kaunain Hassan, Senior Partner of Hassan Kaunain Nafees, Legal Practitioners & Advisers (the "Authorized Representative")

Order under Section 45 and 46 read with Section 158 of the Insurance Ordinance, 2000

This Order shall dispose of the proceedings pertaining to the matter of Show Cause Notice bearing No. ID/Enf/CrescentStar/2016/4482 dated April 1, 2016 (hereinafter referred to as the "Notice") under Sections 45 and 46 read with Section 158 of the Insurance Ordinance, 2000 (hereinafter referred to as the "Ordinance") served on the Chief Executive, Directors of Crescent Star Insurance Limited (hereinafter referred to as the "Company") and the Company.

2. The facts leading to this case briefly stated are that, the Company approached the Commission for issuance of 49,912,500 ordinary shares of Rs.10 each at Rs.6 per share (at 40% discount), the approval for which was granted vide Commission's letter dated November 13, 2013 subject to the conditions that *"The issuance of the shares shall be in cash and the Company is required to submit bank statement with this office upon receipt of the subscription money from the shareholders and the underwriters of the issue"*. However, an on-site inspection of the Company was conducted by the inspection team pursuant to the Inspection Order dated July 28, 2015 under Section 59A of the Ordinance and Inspection Report ("Report") was submitted on March 10, 2016, revealing that 39,136,966 shares remained un-subscribed at the closing date of the right offer and were allotted to the underwriters, pursuant to the decision of the Board of Directors taken in the meeting held on March 5, 2014 and Underwriting Agreement dated September 7, 2013 in the following pattern:

Underwriters	No. of Shares	Amount (Rs.)
Weavers Pakistan (Pvt.) Ltd.	27,429,196	164,575,176
Elahi Noor Enterprises (Pvt.) Ltd.	11,707,770	70,246,620
Total	39,136,966	234,821,796

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COMMISSION OF PAKISTAN
NIC Building, 63 Jinnah Avenue,
Islamabad, Pakistan

3. The Report also stated that the bank account of the Company maintained with the United Bank Limited, used for the receipt of funds, showed that on March 12, 2014 an amount of Rs. 20 million was credited and debited simultaneously eleven times. Together, with Rs.0.573 million and Rs. 10.246 million credited on March 12, 2014, the aggregate total amounts to Rs.230.82 million. The books of accounts of the Company show the receipt of Rs. 230 million against the subscription of right shares. It was transpired that the Company deceptively raised capital by way of round tripping of funds and the annual statutory accounts filed with the Commission, based on the books of accounts of the Company maintained under the provisions of Section 45 of the Ordinance are misstated. Thus the Notice was issued to the following Chief executive, Directors of the Company and the Company (hereinafter referred to as the "Respondents") who *prima facie* authorized the contraventions of the provisions of the Ordinance. The following persons were called upon to show-cause, in writing, within 10 days of the date of Notice as to why necessary penal action may not be taken against them, as provided under Section 158 of the Ordinance.

S No.	Directors and Company
1.	Mr. Naim Anwar, Chief Executive Officer
2.	Mr. Sakib Berjees, Director
3.	Mr. Syed Adnan Ali Zaidi, Director
4.	Mr. Syed Abid Raza, Director
5.	Mr. Mudassar Zubair Mirza, Director
6.	Mr. Jehangir Bashir Nawaz, Director
7.	Mr. Hanif Daud, Director
8.	Crescent Star Insurance Limited

4. No response was submitted within the given time, hence to provide an opportunity of being heard, the initial hearing of the case was fixed on April 18, 2016 at Company Registration Office, Karachi. On the given date and time, no one appeared before the undersigned, however, Ms. Rahat Kaunain Hassan, Senior Partner of Hassan Kaunain Nafees (the "Authorized Representative") vide letter dated April 16, 2016, received on April 19, 2016, requested for extension in time and re-scheduling the hearing after May 2, 2016. Thus the hearing of the case was re-fixed for May 11, 2016, however, adjourned on the request of the Authorized Representative.

5. The Authorized Representative vide letter dated May 9, 2016 on behalf of the Respondents submitted the rejoinder to the Notice by referring to Commission's Order dated September 04, 2014 ("Previous Order") passed in the proceedings initiated pursuant to the Show Cause Notice issued on February 1, 2012 under Section 28 and section 11(1), Section 63(4), Section 63(1) and Section 156 of the Ordinance. The previous Order was concluded with imposition of penalty of Rs.500,000 on the Company under Section 156 owing to the defaults under Section 28 and Section 11(1) of the

Ordinance laid down by the previous management and the current Directors have now complied with the minimum paid-up capital requirements. Further, relying upon the submission of the relevant bank account statement to the Commission vide letter dated May 19, 2014 which was taken into consideration while passing previous order and imposing penalty. It was stated that the condition of *"The issuance of the shares shall be in cash and the Company is required to submit bank statement with this office upon receipt of the subscription money from the shareholders and the underwriters of the issue"* was already addressed and trialed by the Commission in its previous order. It does not call for a re-trial as it is a well-established principle of law that no person should be jeopardized and vexed twice for the same offence, when the former offence has already been concluded and finalized. With respect to issue regarding deceptively raising of capital by way of round tripping of funds, it was denied as approval granted by the Commission did not prescribe any method for making payments nor did it prohibit payments to be made in installments/ tranches. Further, it was stated that the allegation of annual statutory accounts' misstatement is vague, as does not specify what exactly the misstatements are. The Auditors' certificate confirms and certifies that the Company received proceeds against the right issue, as confirmed by the relevant bank, therefore the condition of the right issue to be in cash is satisfied.

6. The Previous Order dated September 04, 2014 referred by the Authorized Representative, was passed on the non-maintenance of minimum paid-up capital requirement as provided in SRO 291(I)/2007 dated March 26, 2007 as applicable at that time and this proceeding may not be construed as dual jeopardy, as the instant Notice which is issued subsequent to the findings of the inspection report dated March 10, 2016, explicitly provides that the bank account of the Company maintained with the United Bank Limited used for receipt of funds, showed that on March 12, 2014 an amount of Rs. 20 million was credited and debited simultaneously eleven times, together with Rs.0.573 million and Rs. 10.246 million credited on March 12, 2014, the aggregate total amounts to Rs.230.82 million. The review of the bank statement of the company showed that an amount of Rs.20 million was used in such a way that bank statement of Crescent Star Insurance Limited was portrayed as receiving Rs.230 million against the right shares issued to Elahi Noor Enterprises (Pvt.) Ltd and Weavers Pakistan (Pvt) Ltd. Whereas, there was no net increase in the bank balance of the Company and the books of accounts of the Company show the receipt of Rs. 230 million against the subscription of right shares.

7. The submission of the relevant bank account statement to the Commission vide letter dated May 19, 2014 does not permit the Company from the legal veracity that the amount in question was not actually received at the time of right shares. The very fact that the properties acquired from the underwriters, Weavers Pakistan (Pvt) Ltd and Elahi Noor Enterprises (Pvt) Ltd, at the time of receipt of subscription money, support the scene plotted to show the use of money received as subscription money against right issue, however, the trail of money extracted from the quarterly Cash Flow Statements of the Company revealed that the money was not actually received at that time. Moreover, the learned Authorized Representative avowing that the contents including alleged misstatement are vague and the Notice has failed to substantiate the alleged violation shows that the Authorized

Representative elapsed the figures/ information reported in the statutory accounts of the Company do not report the events in true and fair manner.

8. Being not satisfied with the representation made by the Authorized Representative, the final hearing of the case was fixed on May 26, 2016 to be held at Head Office of the Commission, Islamabad. On the date of hearing the Authorized Representative appeared in person before the undersigned to plead the case. She reiterated the same arguments as submitted in the written reply to the Notice and added that the deception general meanings are fraud, cheating and tricky etc. which is not defined in the Ordinance. She added that all the matters addressed in the Notice have already been covered in the Previous Order dated September 04, 2014. It was highlighted to the Authorized Representative that the same amount of Rs.20 million was debited and credited in the same bank account on the same day and the simple question arisen is of trail of the money received in the matter of right share issue, to which she replied that the pending receivables against the sale of properties of Rs.133.49 million have also been received and shown in the financial statements for 1st quarter ended March 31, 2016. The copy of the financial statements for quarter ended March 31, 2016 was provided by the company and the Authorized Representative. Moreover, ledger account of 'Crescent Star Foods (Pvt) Ltd', 'Three Years PIB' and 'Cash at Bank on Fixed Deposit' for the period from Jan 1, 2016 to Jun 9, 2016, March 31, 2016 to April 8, 2016 and April 21, 2016 to June 15, 2016 respectively were provided subsequently on June 16, 2016.

9. Let me first of all, recap the transaction under question and thereafter move further in the matter:

- i. The Company approached Commission on September 09, 2013, for necessary approval for issuance of 49,912,500 ordinary shares, of Rs.10 each, at Rs. 6 per share (at 40% discount).
- ii. The Commission on Nov 13, 2013 approved the issuance of shares at discount under section 84 of the Companies Ordinance 1984. The permission required that the issuance of shares shall be in cash and the Company was required to submit bank statements to the Commission upon receipt of the subscription money from the shareholders and the underwriters to the issue.
- iii. General Public subscribed for 10,775,534 shares and an amount of Rs. 64.653 million was received from the right issue.
- iv. Karachi Stock Exchange Ltd on July 9, 2013 sought documents/ information from the Company, which included consent of the bankers(s) to the issue alongwith the undertaking/ confirmation that the subscription money received from the shareholders shall not be released to the Company without written approval of the Exchange. The Bankers(s) consent also included clause to forward the relevant payments details alongwith paid right subscriptions requests and physical Letter of Right's to the company within 7 business days from the last payment date.
- v. On March 12, 2014 the bank accounts no.0605-06050134826 of the Company, maintained with United Bank Ltd, City District Branch, Karachi showed that Rs.20 million was credited and debited consecutively eleven times. Together, with Rs.0.573 million and Rs.10.246 million, the aggregate total amounted to Rs.230.82 million. Each transaction was credit and debited sequentially and the bank balance remained unchanged at Rs.2.718 million, without any accretion in the bank balance.

Continuation Sheet

- vi. The Company reported acquisition of investment properties amounting to Rs. 230.82 million, one Property, Bearing No.222, in Naiclass No.24, measuring one acre situated at Deh Dih, Tappo Ibrahim Hyderi, Taluka Karachi East ('Property No.1) and second measuring 139 Kanal - 10 Marlas situated in Maza Bhachuki, Tehsil Kot Radha Kishan, District Kasur ('Property No.2), at a cost of Rs. 50 million and Rs. 180.820 million respectively with an acquisition cost of Rs. 3.112 million in the quarterly account for the March 2014 ('March Accounts').
 - vii. The Property No.1 was reported transferred/ sold in the Quarterly Accounts of September 2014.
 - viii. The part of Property No.2, having cost of Rs. 71.46 was sold for Rs.81.00 million and gain of Rs.9.54 was recorded. Rs. 131.50 million was reported as proceeds from disposal of land in the Cashflow Statement in the quarterly accounts for September 2014.
 - ix. A gain of Rs. 116.067 million, from the sale the Property No.2, was disclosed in the quarterly accounts for the September 2015 and Rs. 133.49 million was disclosed as 'receivable against sale of property'.
 - x. Agreement dated Aug 20, 2015 between the Company and M/s Al-Shaheer Corporation Ltd is also available on record that shows that that the Property No.2 was sold to Al-Shaheer Corporation Ltd for Rs. 300 million, wherein Rs. 26.12 million was received as earnest money on August 28, 2015 and Rs. 273.88 million to be paid in on or before September 28, 2015.
 - xi. The Cashflow Statement, part of the Annual Accounts of the Company, for year ended December 2015 report receipt of Rs.300 million against sale of Property No.2 whereas Rs. 133.495 million was also disclosed as 'receivable against sale of property'.
 - xii. Further issue of capital, under section 86 of the Companies Ordinance 1984, was made and 20,670,833 shares were issued at par by the Company. The quarterly accounts for the March 2016 reported receipt of funds amounting to Rs. 130.708 million and share deposit of Rs.76 million.
 - xiii. The 'receivable against sale of property' was reported 'Nil' and 'Advance against issuance of shares' was enhanced by Rs.149.05 million in the quarterly accounts for the March 2016. The sundry receivable was reported at Rs.439.13 million in March 2016 as compared to Rs.436.39 million in Dec 2015.
10. Onsite Inspection of the Company was ordered under section 59A of the Ordinance vide order dated July 28, 2015 and the Inspection Report ('Report') concluded that:
- i. The approval of the commission regarding issuance of the right shares at discount has been violated as it clearly required the company issue of shares for cash. However in substance, right shares have been issued to Elahi Noor enterprises (Pvt.) and Weavers Pakistan (Pvt.) Ltd to the extent of Rs.230.82 million against properties.
 - ii. In issuance of right shares to Elahi Noor Enterprises (Pvt.) and Weavers Pakistan (Pvt.) Ltd against properties as discussed above, Rule 8 of the Companies (Issue of Capital) Rules, 1996 and Section 73 of the Companies Ordinance 1984 have been circumvented.
 - iii. Elahi Noor Enterprises (Pvt.) and weavers Pakistan (Pvt.) Ltd have been unlawfully engaged as Underwriters, as indulging in underwritings business is beyond the scope of the both companies as per object clause stated in their respective memorandum of association.

Continuation Sheet

- iv. The review information available with commission reveals the paid up capital of Elahi Noor Enterprises (Pvt) and Weavers Pakistan (Pvt.) as Rs.20,000 and Rs.1,000,000 and these companies have engaged themselves in financial Commitment as underwriters to tune of Rs.70.247 million and Rs.164.575 million respectively.it is pertinent to mention that as per Rule 5(v) the Companies (Issue of Capital rules), 1996 right share of loss making company should be fully and firmly underwritten, however, apparently CSIL has not considered the above mentioned requirement in the appointment of underwriters.
- v. The review of the bank statement of the company shows that an amount of Rs.20 million was used in such a way that bank statement of Crescent Star Insurance Limited be portrayed and receiving of Rs.230 million against the right shares issued to Elahi Noor Enterprises (Pvt.) and Weavers Pakistan (Pvt.) Ltd. When actually there was no net increase in the bank balance of the Company. It is also pertinent to mention that current C.E.O of CSIL was appointed as C.E.O of Elahi Noor Enterprises (Pvt.) Ltd and weavers Pakistan (Pvt.) Ltd. Subsequent to right issue. Therefore the said series of events deceptive in nature raises serious concern for sound and prudent management of Company and their integrity.
- vi. As on December 31, 2013, an amount of Rs.12 million was appearing on account of advance for purchase of properties which has subsequently been adjusted through refund of amount rather than netting from the final payment. Out of the receipt of Rs.12 million, an amount of Rs.6.3 million has been paid by C.E.O of the company, Mr. Naim Anwar which implies his involvement in the arrangements in personal capacity.
- vii. The issuance of right shares to underwriters for consideration other than cash is material information for the remaining shareholders, impacting their decision regarding subscription of shares .However, this material information has not been disclosed in circular issued to existing shareholders under section 86(3) of the Companies Ordinance 1984. The said sub section clearly requires the company issuing right shares to disclose material information in the circular.
- viii. The above discussed series of events appear deceptive nature and raise serious concerns as to the conduct of insurance business with integrity, due care and professional skills as required under section 12 of the Insurance Ordinance 2000.
11. The accounts and returns filed by the Company with the Commission at various point of time show significant gaps and raise concern on true and fairness of the information provided.
- i. The approval of the commission regarding issuance of the right shares at discount has been violated as it clearly required the company issue of shares for cash. However in substance, right shares have been issued to Elahi Noor enterprises (Pvt.) and Weavers Pakistan (Pvt.) Ltd to the extent of Rs.230.82 million against properties.
- ii. Payment of Rs. 230.82 million was reported in the cashflow annexed with the quarterly accounts for the March 2014 whereas it is concluded in the Inspection Report that an amount of Rs.20 million was used in such a way that bank statement of the Company is portrayed as receiving Rs.230 million against the right shares issued to Elahi Noor Enterprises (Pvt.) and Weavers Pakistan (Pvt.) Ltd whereas actually there was no net increase in the bank balance of the Company.



- iii. The quarterly accounts for the September 2014 disclose that Property No.1 was completely and Property No.2 was partially sold. Property No.1 was sold at the cost i.e. Rs.50 million without any gain/ (loss). The part of Property No.2, having cost of Rs. 71.46 was sold for Rs.81.00 million and gain of Rs.9.54 was recorded. These transactions were neither disclosed nor traceable in the annual accounts for the December 2014. Moreover, the receipts from the Property No.1 was reported in the last quarter of 2014.
- iv. Rs. 131.50 million was reported as proceeds from disposal of land in the Cashflow Statement in the quarterly accounts for September 2014. This transaction was neither disclosed nor traceable in the annual accounts for the December 2014.
- v. The Property No.2 was sold to Al-Shaheer Corporation for Rs. 300 million, wherein Rs. 26.12 million was received as earnest money on August 28, 2015 and Rs. 273.88 million to be paid in on or before September 28, 2015, however the cashflow statements does not disclose these transactions.
- vi. The Cashflow Statement, part of the Annual Accounts of the Company. for year ended December 2015 report receipt of Rs.300 million against sale of Property No.2 whereas Rs. 133.495 million was also disclosed as 'receivable against sale of property'. These transactions remain un-validated from the Half Yearly Financial Statement of Al-Shaheer Corporation Ltd for the period ended Dec 31, 2015.

12. Before proceeding further, it is appropriate to reproduce the relevant provisions of the Ordinance.

Section 45 (1) of the Ordinance - Books and records:

(1) Every insurer, in respect of all insurance business transacted by him, and in the case of an insurer incorporated in a jurisdiction outside Pakistan in respect of the insurance business transacted by the insurer in Pakistan, shall maintain proper books and records

Section 46 (1)(b) of the Ordinance - Accounting and reporting:

(1) Every insurer shall at the expiration of each year prepare and deliver to the Commission with reference to that year annual statutory accounts comprising the following statements duly audited by an approved auditor:

(b) in the case of a non-life insurer,

- (i) a statement of assets and liabilities;*
- (ii) a statement of profits and losses;*
- (iii) a statement of cash flows;*
- (iv) a statement of premiums;*
- (v) a statement of claims;*
- (vi) a statement of expenses;*
- (vii) a statement of investment income;*
- (viii) a statement of claims analysis;*
- (ix) a statement of exposures; and*
- (x) such other statements as may be prescribed by the Federal Government;*

each in such form as may be prescribed by the Commission and prepared in accordance with such regulations as are issued by the Commission from time to time in this behalf.

13. The statutory accounts did not represent the events in true and fair manner. Essentially, the funds were not received from the underwriters and essentially, the Company deceptively raised capital by way of round tripping of funds. In issuance of right shares to Elahi Noor Enterprises (Pvt.) and Weavers Pakistan (Pvt.) Ltd against properties, Rule 8 of the Companies (Issue of Capital) Rules, 1996 and Section 73 of the Companies Ordinance 1984 have been circumvented. The quarterly accounts for September 2014 reported partly sale of Property No.2 and disclose gain of Rs.9.54 million whereas the annual accounts for the year ended Dec 31, 2014 does not report any such sale/gain. Whereas, the agreement dated Aug 28, 2015 is also available on the record which shows that the Property No.2 was sold to Al-Shaheer Corporation for Rs. 300 million, wherein Rs. 26.12 million was received as earnest money on August 28, 2015 and Rs. 273.88 million to be paid in on or before September 28, 2015, however the cash flow statements does not disclose these transactions. The cash flow Statement in the Annual Accounts for December 2015 report receipt of Rs.300 million against sale of Property No.2 as payment whereas Rs. 133.495 million was also disclosed as 'receivable against sale of property' in the Balance Sheet. There are material gaps in the accounts that cast doubt on the true and fairness of the accounts maintained under section 45 and filed under section 46(1)(b) of the Ordinance. In view of the findings of the Inspection Report and non-compliances observed in the aforesaid paragraphs, I hereby direct the offsite team to review in detail, the upcoming half yearly accounts for the period ended June 30, 2016 and refer the matter to the onsite team, if they considered it necessary that there is a need for onsite inspection.

14. It is fundamental responsibility of the Commission to regulate the business of the insurance industry and ensure the protection of the interests of insurance policy holders and investors. I have carefully examined and given due consideration to the written as well as verbal submissions of the Respondents through the Authorized Representative. I am of the view that there is established misstatement in terms of Section 45 and 46 of the Ordinance for which the Company and its directors are sternly warned to remain careful and ensure meticulous compliance with the provisions of the law in the future.



Fida Hussain Samoo
Commissioner (Insurance)



Announced:
June 21, 2016
Islamabad.