

**Before Abid Hussain
Director (Enforcement)**

In the matter of

Jahangir Siddiqui & Company Limited

Number & date of the notice: EMD/233/644/2002-3104-05 dated March 4, 2008

Date of hearing: April 1, 2008

Present: Mr. Yousaf Ali Sayeed
Sayeed & Sayeed Advocates & Legal Consultant

Order

**Under Section 246 read with Section 476 of the Companies Ordinance, 1984 and
S.R.O. 865(I)/2000 dated December 6, 2000**

This order shall dispose of the proceedings initiated against Jahangir Siddiqui & Company Limited (“the Company”) through show cause notice dated March 4, 2008 under the provisions of Section 246 read with Section 476 of the Companies Ordinance, 1984 (“the Ordinance”) and S.R.O. 865(I)/2000 dated December 6, 2000

2. The Company is a public limited company and was incorporated in Pakistan under the Ordinance. Its shares are presently listed on the Karachi Stock Exchange (Guarantee) Limited. The Company is also a corporate member of Karachi and Islamabad Stock Exchanges. Authorized share capital of the Company is Rs.1,500,000,000/- divided into 50,000,000 ordinary shares of Rs.10/- each and 100,000,000 preference shares of Rs.10/- each and its paid up capital is Rs.1,050,000,000/- divided into 35,000,000 ordinary shares of Rs.10/- each and 70,000,000 preference shares of Rs.10/- each as per the latest annual audited accounts for the year ended June 30, 2007.

3. The brief facts of the case are that while examining the half yearly accounts for the period ended December 31, 2007 (“the Accounts”) of the Company it was observed that during the period the Company had made following equity investments in its associated companies:

- Rs.32.452 million by purchasing 3,245,198 shares of Network Microfinance Bank Limited (“NMFBL”); and
- Rs.12.045 million by purchasing 1,500,000 shares of JS Infocom Limited (“JSIL”).



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4. The Company had made these investments in the associated companies based on the resolution passed by the shareholders of the Company in the Extraordinary General Meeting (“EOGM”) held on April 29, 2006 under Section 208 of the Ordinance for making additional investments to the extent of Rs.150 million each in NMFBL and JSIL. However, on perusal of the Company’s record as maintained in the Commission, it was observed that the Company had failed to comply with the requirement of S.R.O. 865 (I) / 2000 dated December 6, 2000 (“the Notification”) by non-providing the required information to its shareholders in the subsequent general meetings of the Company held on October 31, 2006, January 16, 2007, September 29, 2007 and November 24, 2007.

5. In view of the foregoing, a show cause notice under Section 246 read with Section 476 of the Ordinance and S.R.O. 865 (I) / 2000 dated December 6, 2000 was issued to following officers of the Company in order to explain as to why penalties in terms of Sub-section (2) of Section 246 of the Ordinance may not be imposed on them:

- (i) Mr. Munaf Ibrahim, Chief Executive Officer; and
- (ii) Miss. Farah Qureshi, Company Secretary.

6. In response to the show cause notice, Miss. Farah Qureshi, Company Secretary vide letter dated March 13, 2008 submitted the following reply:

- It is pertinent to observe that at relevant time the Company was exempt from the purview of Section 208 of the Ordinance by virtue of Sub Section (4) (d) thereof, as acknowledged and confirmed by the Commission vide its letter # EMD/233/644/2002 dated Jan 18, 2007;
- Imposition of a penalty must necessarily be linked to the breach of a statutory duty or obligation, no penalty ought to be imposed in the exigencies of the given situation in view of the fact that Section 208 of the Ordinance was not applicable in the case of the Company;
- It is also relevant to submit here with reference to investment in JSIL that pursuant to SRO 819 (I) /2007 dated August 10, 2007 a holding company, to the extent of investments made in its wholly owned subsidiary, is even now exempt from the requirement of obtaining the authority of a special resolution under the Sub Section (1) of Section 208 of the Ordinance;
- It is further submitted that non-provision of information to shareholders at subsequent general meetings of the Company was inadvertent and the shareholders of the Company were not placed in a more disadvantageous position by virtue of the timing of the investments that have been brought into question.

7. In order to provide an opportunity of personal hearing, the case was fixed on April 1, 2008. Mr. Yousaf Ali Sayeed of Sayeed & Sayeed, Advocates & Legal Consultants (“the Counsel”) appeared before me



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on behalf of chief executive officer and company secretary of the Company on the given date. He reiterated earlier stance as was given through written submission in response to the show cause notice. However, during the course of hearing he admitted that the Company should have complied with the requirements of the Notification for the meetings held after July 2007 when the provisions of Section 208 of the Ordinance became applicable on the Company.

8. I have analyzed the facts of the case, provisions of S.R.O. 865 (I) / 2000 dated December 6, 2000, arguments put forth by the Counsel and observed as follows:

- (i) The shareholders of the Company in the EOGM held on April 29, 2006 had passed a resolution under Section 208 of the Ordinance to make additional investments to the extent of Rs.150 million each in its associated companies namely NMFBL and JSIL;
- (ii) The investments were made in the period of June-December 2007;
- (iii) The Company had failed to comply with the requirement of the Notification by non-providing the required information to its shareholders in the general meetings of the Company held on September 29, 2007 and November 24, 2007.

9. Before proceeding further, it is necessary to advert to the relevant provisions of law. Para 4 of the Notification issued in exercise of the power conferred by Sub-section (1) of Section 246 of the Ordinance read with Clause (o) of Sub-section (4) of Section 20 of the Securities & Exchange Commission of Pakistan Act, 1997 provides that in case any decision to make investment under authority of a resolution is not implemented till the holding of subsequent general meeting, its status including the following must be explained to the shareholders through a statement under Sub-section (1) of Section 160 of the Ordinance:

- (i) reasons for not having made investment so far; and
- (ii) major change in financial position of Investee Company since date of last resolution.

10. The aforesaid provisions of law are clear and explicit. The management of the Company is duty bound by the law to keep the shareholders informed and provide them complete details of the decisions approved by them in order to safeguard their interest. In the instant case the shareholders should have been informed in the meetings held on September 29, 2007 and November 24, 2007 as due to amendments in the Ordinance, provisions of Section 208 of the Ordinance became applicable on the Company.

11. Considering the circumstances of the case, I am of the view that the concerned officers namely Mr. Munaf Ibrahim, Chief Executive and Miss. Farah Qureshi, Company Secretary have failed to clarify their



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position with respect to compliance with the requirement of the Notification. However, considering track record of the Company and taking into consideration that the Company has complied with the requirements of the Notification for the forthcoming general meeting of the shareholders to be held on May 19, 2008, I, instead of imposing penalty hereby warn both the officers of the Company to observe the compliance of law in letter and spirit.

Abid Hussain
Director (Enforcement)

Announced
April 25, 2008
Islamabad