



# TRANSPARENCY INTERNATIONAL-PAKISTAN

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13<sup>th</sup> June, 2018

TL18/1306/1A

Justice (R) Javed Iqbal,  
Chairman NAB,  
Islamabad.

**Sub: SMC 18/2010. NICL Corruption Case- Irregular investment of Rs. 2 B in JSIL.**

Dear Sir,

Transparency International Pakistan has received a complaint against officers of FIA and NAB on SMC 18 of 2010, NICL Corruption case- Irregular investment of Rs. 2 Billion in JSIL.

The Complainant has made the following allegations;

That;

1. We refer to the following order of the Chief Justice Supreme Court of Pakistan in connection with NICL Corruption case, given on 14<sup>th</sup> Many 2018.

*"The Supreme Court also directed NAB courts to decide the cases against Niazi and other accused that were pending within two months and asked the NAB to arrest Mohsin Habib Warriach as well".*

2. One particular case, which is at S. No. 2 of Financial Crime, of 150 Mega Cases List submitted by NAB in the Supreme Court.

*2. Inquiry authorized on 17.6.2014. against Ayaz Khan Niazi, Ex-Chairman NICL & Others (Irregular investment of Rs. 2 Billion in JSIL . Annex-A*

3. Unfortunately, this Corruption case has been manipulated by FIA since 2010 to 2013, then by NAB from 2013 to 2018. NAB has not been able to complete the inquiry in 4 years.

Why has the inquiry been delayed.

3. FIA on 25 January 2011 was ordered by Supreme Court of Pakistan to take corruptions cases in SMC 18 of 2010, on the basis of Special Audit conducted by AGP on the orders of Supreme Court.

4. FIA delayed the inquiry on Irregular investment of Rs. 2 Billion in JSIL ( JS -Fund II), for 2 years. FIA DG, Mr. Saud Mirza on 7 June 2013 issued orders on the inquiry corruption of Rs. 255 m by JS Group on the irregular investment of NICL of Rs. 2 Billion.

*Handwritten notes and signatures:*  
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AR(K)  
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AR(K)  
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M/A-Rel...  
Through post  
may be returned  
u/o v/n RS of  
sc Rules 1982  
22/6/18  
25-6-18  
25/6/18  
Applicant



5. On 22 November 2013 Supreme Court of Pakistan ordered NAB to take over NICL Case from FIA.

6. FIA Sub Inspector Muhammad Mansoor Mohmand, was appointed the inquiry officer. The inquiry report was submitted by the IO FIA Muhammad Mansoor Mohmand, on 15th August 2014, which includes following findings. **Annex-B**

a. M/s JSIL letter dated 12.03.2009 addressed to Mr. Muhammad Zahoor, Chief Financial Officer of M/s NICL

b. Minutes of 1st Meeting of Investment Committee of M/s NICL held on 12.03.2009 wherein the investment was recommended

c. Approval of Investment of Rs 2 Billion by Ayaz Khan Niazi being Chairman & CEO, dated 13.03.2009

d. Cheque No. 0726637 dated 13.03.2009 of MCB Bank Ltd, Mehdi Tower Branch amounting to Rs. 1.7 Billion

e. Cheque No. 5687373 dated 13.03.2009 of Habib Bank Ltd, FTC Branch amounting to Rs. 300 Million

Enquiry transpired that accused Ayaz Khan Niazi, then Chairman /CEO M/s NICL, members of Board of Directors and accused Muhammad Zahoor - Executive Director M/s NICL having common object and criminal intentions with management of M/s JSIL were in collusion with each other. There is no inward record of proposal of M/s JSIL but as per accused Muhammad Zahoor the same was delivered to him by hand on 12.03.2009 and the same day without any assessment and evaluation, accused Muhammad Zahoor proposed the investment for Rs. 2 Billion and the very next day i.e. 13.03.2009 accused Ayaz Niazi approved the same and payment of Rs. 2 Billion was released and wrongful pecuniary advantage of Rs. 102 million was provided to M/s. JSIL Present management of M/s. NICL has given policy statement that the decision of early redemption was a wrongful decision and lacked cogent reasons which caused wrongful loss of Rs. 880 million to public exchequer. They have also communicated that same to their respective Ministry. The quantum of loss whether Rs. 200 million or Rs. 880 million may be determined during the course of investigation because. the course of enquiry has limited scope.

Hence, it is prima facie established. that accused persons namely Ayaz Khan Niazi, Javed Syed, Syed Hur Riahi Gardezi, Syed Naveed Hassan Zaidi and Muhammad Zahoor being public officers in collusion with Management/Directors/Officers of M/s JS Investment Ltd, Karachi wrongfully caused pecuniary loss to public exchequer to the tune of millions of rupees by mean of fraud on account of criminal and common object.

#### **Recommendations.**

Therefore it is recommended to accord permission for registration of case against above named accused persons and others under section 409, 420, 109 I 34 PPC rule 5 (2) of PCA -II, 1947, subject to legal vetting, if approved, please.



7. Director General FIA, Mr. Saud Mirza did not allow FIA staff to proceed with this inquiry. When an Inquiry Report was submitted for approval of registration of criminal case against all accused, including Ali Raza Siddiqui, son of Jehangir Siddiqui, who was the Director of JS Principal Fund, no action was taken by FIA, and the inquiry report was kept pending in files.

8. Director General FIA Mr. Saud Mirza retired on 31 January 2014.

9. Mr. Saud Mirza, after his retirement as DG FIA, was appointed by JG Group as a Director of Jahangir Siddiqui Company Limited (JSCL), the parent company of JS Investments Limited (JSIL).

10. Though NAB was ordered to take up all NICL Corruption Cases by the SC on 27<sup>th</sup> November 2013, the case of NICL Rs. 2 Billion illegal investment in JS Group was kept on hold for 7 months and inquiry was ordered on 17-6-2014.

11. NAB wide letters dated 9<sup>th</sup> April 2014 requested FIA to transfer all files and documents regarding two corruption cases of NICL Rs. 2 Billion illegal investment in JS Group and Rs 100 Million investments in the First Dawood Investment Bank Ltd, so as to proceed against them with the SC Orders dated 22.11.2013 to NAB.

12. FIA did send to NAB the files and documents of the First Dawood Investment Bank Ltd and NAB started the inquiry, and has filed Reference in Accountability Court in April 2018.

13. But the NAB letter to FIA was given to JS Group, and files and documents of NICL Rs. 2 Billion illegal investment in JS Group were withheld by FIA.

14. JG Group company, JSIL on 22<sup>nd</sup> April 2014, filed a Constitutional Petition in SHC CP. No. 2127 of 2014, with following false statement; **Annex-C**

*"22. That it may be pointed out that the investment by NICL has absolutely nothing to do with the proceedings before the Hon'able Supreme Court which related to illegal actions including purchase of properties after the appointment of Ayaz Khan Niazi as Chairman of NICL on December 12, 2009. It may be added that the investment made by NICL in JS PSF II was made on March 13, 2009, i.e. long before appointment of Ayaz Khan Niazi as Chairman of NICL".*

Note: Niazi was appointed on 10 February 2009 as Chairman NICL and not 12 December 2009 as falsely stated to SHC by JSIL.

15. On 23.4.2014 stay order was given by SHC in CP. No. D-2127 of 2014.



16. On 19.10.2016, SHC in D-2127 of 2014 allowed NAB to conduct inquiry/investigation etc. against NICL, but NAB was not allowed to summon JSIL or any officers. **Annex-D**

17. But NAB Karachi summoned JSIL Officers, and this act of NAB provided an opportunity to JSIL to file a contempt of Court application in SHC.

18. After 2-1/2 years, FIA submitted in September 2016, a new inquiry report in SHC in CP. No. D-2127 of 2014, in which the accused JS PSF II and NICL were exonerated of all crimes in Rs. 2 Billion illegal investment by FIA as well as NAB.

20. NAB prosecutor or any other representative/IO of NAB present in SHC did not object on FIA submission of NOC in SHC on behalf of NAB. **Annex-E**

21. The reason to appoint Mr. Ayyaz Niazi as Chairman NICL may be the unsuccessful deals in NICL, rejected by NICL prior to the appointment of Ayaz Niazi, which gives some clues about the beneficiaries of his illegal appointment as Chairman.

*In April 2008, Jehnagir Siddiqui Investment Ltd. (JSIL) proposed to NICL to invest the reserves in its Investment Portfolio of Rs. 45 Billion, @ 14% return. But NICL Investment Committee did not agree for large investment, and on 4<sup>th</sup> April 2008 offered JSI to submit proposal within 3 days for only Rs 200 to Rs 250 million. But JS Group did not submit any proposal in 2008.*

**Annex-F**

22. However within 30 days of his appointments as Chairman NICL, on 13<sup>th</sup> March 2009, on the request of JS Group, Mr. Ayaz Niazi illegally approved an illegal investment of Rs 2 Billion in JS Principal Secure Fund-II, without taking approval from NICL Board Investment Committee as well as Board of Directors, contrary to Ministry of Finance Notifications, and the cheque of Rs. 2 Billion was issued the very next day. This illegality was reported by AGP to Supreme Court in 2010, which at time determined loss to exchequer of Rs. 255 million

23. NAB Karachi is trying to separate this Case from NICL cases, in order to avoid speedy prosecution, due to the reason that Chief Justice has directed NAB that all cases of NICL must be decided in 2 month's time.

The allegations have been examined by Transparency International Pakistan and it appears that FIA and NAB are responsible for the delay in this corruption case as similar case of First Dawood Investment Bank Ltd has been processed as per law and reference has been filed, as NICL case.



This case was taken up by SC as SMC 18 of 2010 on TI Pakistan letter, and after learning about the SHC Stay Orders given on 23.4.2014 in CP. No. D-2127 of 2014, on 1<sup>st</sup> September 2014, Advocate Sohail Muzaffar, Chairman TI Pakistan also sent a letter to Chairman NAB with the legal opinion of Justice (R) Dr. Ghous Muhammad dated 3.8.2014, which stated that NAB has to follow the directions of/orders passed by the full bench of the SC in letter and spirit because the orders of the SC have overriding effect, and NAB should go ahead with its inquiry. **Annex-G.**

Unfortunately, NAB Chairman or PGA did not act on the TI Pakistan legal opinion. The Chairman NAB is requested to review the allegations, which are very serious, as this complaint seems to be efforts to delay prosecution of JSIL as ordered by CJ in 2013.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,

Justice Zia Perwez  
Former Judge of Supreme Court of Pakistan and High Court of Sindh  
Trustee- TI-Pakistan

Copies forwarded for the information and action under their authority to;

1. Secretary to Prime Minister, Islamabad.
2. Registrar, Supreme Court of Pakistan, Islamabad., with request to take up this application in SMC 18 of 2010.
3. Director General, NAB, Karachi.

**50 Cases  
Of  
Financial Scams**

## Financial Scams

S #	Cases Title	Name of Accused	Name of Complainant	Gist of Allegation	Date of Auth	DOC	Amount involved (Rs. In )	Current Status
1.	Inquiry against Ghazi Akhter Khan and others of M/s Tandlianwala Sugar Mills Pvt Ltd	Ghazi Akhtar Khan Haroon Akhtar Khan Sabah Haroon Akhtar	STR	Suspicious Transactions	15-6-2015	15-10-2015	700 million	Inquiry under process
2.	Inquiry against Ayaz Khan Niazi, Ex-Chairman NICL & Others (Irregular investment of Rs. 2 Billion in JSIL)	Ayaz Khan Niazi, Ex-Chairman NICL , Mr. Javed Syed, Syed Hur Riahi Gardezi, Shahid Rahim Sheikh, Nabeel Hassan Zaibi, CEO / President of JS Investment Ltd.	Suo Moto Notice by Honorable Supreme Court	Irregular investment of Rs. 2 Billion in JSIL	17-06-2014	19-08-2015	2.0 billion	Inquiry under progress
3.	Inquiry against Abid Javed Akbar, Ex-Chairman, Other Officials of NICL and Management of FDIBL	1. Muhammad Zahoor, GM(F&A) 2. Shahab Siddiqui, Manager (Investen Plicy). 3. Ather Naqvi, GM, Investments 4. Eijaz A Khan, Executive Dir (CS) 5. Rafique Dawood,	Suo Moto Notice by Honorable Supreme Court	Irregular investment of Rs. 100 in FDIBL	20-04-2015	19-08-2015	100 Million	Inquiry under progress

GOVERNMENT OF PAKISTAN  
FEDERAL INVESTIGATION AGENCY



IMMIGRATION & ANTI HUMAN SMUGLING  
SUPPLEMENTARY CONFIDENTIAL FINAL REPORT.

PART-1

- P.S. : FIA Corporate Crime Circle : Zone : Sindh.
01. Enquiry No. & Date : 21 / 2013 dated 07.06.2013
02. Name of Complainant : Transparency International Pakistan
03. Complaint Against : Chairman / Management of M/s National Insurance Corporation Ltd and JS Investment Ltd
04. Allegation : Wrongful loss of Rs. 255.243 to Public Exchequer (as per complaint)
05. Authority who permitted to Conduct enquiry : Director FIA Sindh, Karachi
06. Name of Enquiry Officer (s) : 1 - Muhammad RJizwan, Sub - Insp/the then EO  
2 - Muhammad Mansoor Moqmand, Sub - Insp/ Present EO

BRIEF FACTS:-

Please refer to CFR issued by undersigned in instant enquiry and forwarded vide letter No. FIA/I&AHS/ENQ-21/2013/1295-96 dated 14.03.2014 seeking therein necessary permission for registration of case u/s 409, 420, 109/34 PPC r/w 5(2) of PCA-II, 1947 subject to legal vetting by Additional Director / Law. The same was examined by "Zonal CFR Scrutiny / Approval Committee" on 12.06.2014. It was decided by Competent Authority / the Committee to rectify / readdressed following points which were also communicated vide letter No. FIA/DSK/ENQ-21/2013/CCCI/B-6809 dated 16.06.2014.

- i) Plea of alleged NICL officers including sitting management of NICL be recorded and examined.
- ii) Oral / documentary evidence implicating alleged NICL Officers / investment bank be brought on record.
- iii) Provision of Section 409 PPC and 5(2) PCA 1947 be kept in mind while concluding report.
- iv) Loss of Rs. 20 Crore on account of various commission should be taken into consideration and evidence be brought on file.

Subsequently following proceedings are made in order to meet above said observations.



PLEA OF ALLEGED NICL OFFICERS INCLUDING SITTING MANAGEMENT OF NICL  
BE RECORDED AND EXAMINED

Plea of Alleged Persons / the then Management of M/s NICL

Notices were sent to following the then management of NICL / alleged persons on their respective available / known addresses for recording their statements / defense plea.

a. Muhammad Ayaz Niazi	Chairman / Member
b. Javed Syed	Director / Member of BoD
c. Syed Hur Riahi Gardezi	Director / Member of BoD
d. Syed Naveed Hassan Zaidi	Director / Member of BoD

No one attended this Office for examination and recording their statements. However notice issued to Syed Naveed Hassan Zaidi was returned back. Details in this regard are as under:-

1. Alleged Ayaz Khan Niazi filed an application dated 18.07.2014 before the court of Honourable Special Judge (Central) – II, Karachi complaining therein that notice issued to him by undersigned is illegal and causing harassment to him. Honourable Court vide letter No. 792/14 dated 22.07.2014 forwarded the said application to Director FIA Sindh Zone and asked to conduct Enquiry against undersigned and submit report on or before 04.08.2014. The report dated 04.08.2014 was submitted before Honourable Court, accordingly. The Honourable Court verbally directed undersigned not to proceed into the instant Enquiry till 20.08.2014. The directions of Honourable court are unlawful and contrary to law of the land on account of no jurisdictions into the matter. The appropriate forum is Honourable High Court of Sindh. Please refer to reports dated 04.08.2014 and 05.08.2014 apprising therein above referred directions of Honourable Court in detail for information and necessary orders. It is, therefore, again requested to look into the matter and solicit orders, please.
2. Alleged Javed Syed did not respond to notice in any manner.
3. Alleged Syed Hur Riahi Gardezi replied through his attorney vide letter dated 21.06.2014 stating therein that record / minutes pertaining to investment and disinvestment may be referred as his statement and thereby there is no need of his appearance. He added that the decision of disinvestment was made on clear advice of alleged Muhammad Zahoor, the then Executive Director Finance and on the recommendations of intelligence reports of M/s BMA Capital and M/s Invest Bank.

Nevertheless, the plea is contrary to facts and documentary evidences. The course of enquiry has established that both the research houses recommended to hold the investment as early redemption was not in favour of M/s NICL. Thus, the decision of the board caused wrongful loss to public exchequer and most importantly the decision was made by manipulating the reports of research houses which has already been elaborated in already submitted CFR.

Policy Stand of Present Management of M/s NICL

Notices / letters dated 13.06.2014 and 25.06.2014 were sent to Director Administration and Executive Director M/s NICL, respectively, in order to have version / policy stand of present management of M/s NICL on investment and disinvestment of Rs. 2 billion in JS Principal Secure Fund I. The present management replied vide letters having No.

recommendations of investment research houses BMA Capital and Invest Bank report."

Merely after one hour, the Board of Directors in its 45<sup>th</sup> Meeting approved the recommendation of Investment Committee of Board of Director. The members of meetings were same, named out as follows:-

- |                             |                   |
|-----------------------------|-------------------|
| a. Muhammad Ayaz Niazi      | Chairman / Member |
| b. Javed Syed               | Director / Member |
| c. Syed Hur Riahi Gardezi   | Director / Member |
| d. Syed Naveed Hassan Zaidi | Director / Member |

Thus, all the above named accused persons were in league and manipulated the Research Reports of M/s BMA Capital and M/s Invest Bank and acted in contrary to reports. They falsely and with criminal intention and common object stated in the minutes that both reports recommended for disinvestment and thereby caused wrongful pecuniary loss to public exchequer and corresponding wrongful pecuniary gain to Directors / Officers of M/s JSIL. In this regard, it is recommended that the role of Director of M/s. JSIL may be determined on individual basis during the course of investigation.

Present management of M/s. NICL has given policy statement that the decision of early redemption was a wrongful decision and lacked cogent reasons which caused wrongful loss of Rs. 880 million to public exchequer. They have also communicated that same to their respective Ministry. The quantum of loss whether Rs. 200 million or 880 million may be determined during the course of investigation because the course of enquiry has limited scope.

Hence, it is prima facia established that accused persons namely Ayaz Khan Niazi, Javed Syed, Syed Hur Riahi Gardezi, Syed Naveed Hassan Zaidi and Muhammad Zahoor being public officers in collusion with Management / Directors / Officers of M/s JS Investment Ltd, Karachi caused wrongful pecuniary loss to public exchequer to the tune of millions of rupees by means of fraud on account of criminal intentions and common object. Therefore, it is recommended to accord permission for registration of case against above named accused persons and others under section 409, 420, 109 / 34 PPC r/w 5 (2) of PCA - II, 1947, subject to legal vetting, if approved, please.

Yas Klu  
15/08/2014  
(MUHAMMAD MANSOOR MOHMAND)  
Enquiry Officer / Sub - Inspector, FIA,  
Immigration & Anti Human Smuggling, Karachi

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IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-2127 of 2014

Presented on 23-4-14

*[Signature]*  
Deputy Registrar (Writ)

JS Investment Limited,  
a company incorporated under  
Companies Ordinance, 1984  
through its authorized officer,  
having office at 7/F, The Forum  
Block 9, Clifton  
Karachi.....Petitioner

Versus

Federal Investigation Agency,  
Through its Director General,  
having regional office at  
3081-3089, Level III,  
Jinnah International Airport,  
Karachi.

National Accountability Bureau,  
Through its Chairman,  
Islamabad.  
having regional Directorate  
at PRCS Building 197/5,  
Dr. Daudpota Road,  
Karachi.

Securities and Exchange Commission of Pakistan,  
Through its Chairman,  
NIC Building, 63-Jinnah Avenue,  
Blue Area,  
Islamabad.....Respondents



CONSTITUTION PETITION UNDER ARTICLE 199 OF THE CONSTITUTION  
OF PAKISTAN, 1973.

Respectfully sheweth.

1. That the Petitioner (hereafter referred to as JIL) is a listed public limited company incorporated under the Companies Ordinance, 1984. It is duly licensed by the Securities and Exchange Commission of Pakistan (SECP) to provide Asset Management and Investment Advisory Services under the Non-

NICL in JS PSF 1 was and remained fully secured all along and duly repaid to NICL at its request. Had NICL not opted for premature redemption of its investment, it would have yielded strong return on completion of the term. However, due to premature redemption, NICL could not avail the benefit of maximum yield which was given to the other investors on completion of the term of three years and six weeks.

23. That Transparency International Pakistan (TIP) wrote a letter dated May 6, 2010, to the Supreme Court alleging gross violations of PPRA Rules in procurement of properties. The letter was registered as Human Rights Case No.18567-S/2010 These violations had allegedly caused loss of billions of rupees within a span of only six months after the appointment of Ayaz Khan Niazi as Chairman of NICL on December 12, 2009. The matter was investigated by FIA as well as NAB but serious obstacles were created in the investigation of this land scam. The Hon'ble Supreme Court was pleased to dispose of Human Rights Case with certain directions including contempt proceedings against the present Chairman, NAB.

24. That it may be pointed out that the investment by NICL has absolutely nothing to do with proceedings before the Hon'ble Supreme Court which related to illegal actions including purchases of properties after the appointment of Ayaz Khan Niazi as Chairman, NICL on December 12, 2009. It may be added that the investment made by NICL in JS PSF 1 was made on March 13, 2009, i.e. long before the appointment of Ayaz Khan Niazi as Chairman, NICL. Indeed it is now fully established that if NICL had not opted for premature redemption in June 2010, as was strongly advised and suggested by JSIL, it would have not only made huge profits on maturity of the Fund in June 11, 2012, but diversion of huge sums to dubious purchases of properties would have been avoided.



That JSIL received letter dated October 21, 2013, from officer of Respondent No.1 wherein the Petitioner was asked to provide details / documents of the investment made by NICL in the Fund for the purpose of scrutiny etc. Copy of letter dated 21.10.13 is Annex I.

26. That the Petitioner submitted a detailed reply dated November 18, 2013, to Respondent No.1 explaining the transaction between JSIL and NICL. JSIL also provided all the documents relating to the said transaction. Copy of letter by JSIL dated November 18, 2013 is Annex J.

34. That the proposed investigation, inquiry and any subsequent action or proceeding by the Respondent No.2 is all the more suspect and dubious as some of the officers of Respondent No.2 who are pushing for action against the Petitioner are acting in concert and close cooperation and indeed at the instance of a notorious stock broker renowned for this illegal acts and scams in the market. They are not only protecting his interests and blocking and subverting all inquires / proceedings against him but at his behest they have initiated action against the Petitioner whom he perceives to be his business rivals. This factor makes the actions of Respondent No.3 against the Petitioner and its officers highly suspect, colourable and patently mala fide. In the presence of these few officers in the ranks of Respondent No.2 the Petitioner or its officers could not hope for any fair, impartial and unbiased inquiry or investigation.
35. That this contention of the Petitioner is further strengthened by the fact that while on the one hand the Respondent No.2 has itself admitted that the record of the inquiry by FIA in the transaction between JSIL and NICL has not been provided to NAB yet in the same breadth it has stated that NAB has already initiated the case in the transaction between JSIL and NICL. While on the one hand NAB has admitted that it has no record of inquiry or its findings while at the same time without even looking into the record of inquiry or findings it has already initiated a case. It is submitted that this is perhaps is the first occasion where a case has been initiated first and inquiry report and documents are being sought subsequently to justify this action. The mala fide and mischievous nature of the action of NAB is also evident from the fact that it is falsely referring to the order of the Hon'ble Supreme Court so as to create an impression as if the action against the Petitioner is being taken under the orders of the Hon'ble Supreme Court. A simple perusal of the order clearly shows that the facts are to the contrary. The admitted position is that the Hon'ble Supreme Court was examining the alleged corruption by ex Chairman Ayaz Khan Niazi who was appointed on December 12, 2009, whereas the investment by NICL in the Fund was long before that date. Indeed a perusal of the order of the Hon'ble Supreme Court clearly establishes as to how the Government and its officers went out of the way to subvert the investigation into the illegal actions of Ayaz Khan Niazi and the present situation does not appear to be fundamentally different from what was strongly deprecated by the apex Court. Rather than thorough investigation and prosecution of those who are culpable the Respondent No.2 is trying to extend to net to other perfectly lawful and normal business transactions which long preceded the arrival of Ayaz Khan Niazi as Chairman.



ANNEX-D

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI.  
C.P No.D-2127 of 2014

DATE: ORDER WITH SIGNATURE(S) OF JUDGE(S).

Hearing/Priority

1. For hearing of CMA No.23893/2014
2. For hearing of CMA No.1043/2015
3. For hearing of CMA No.9964/2014
4. For hearing of CMA No.4779/2015
5. For hearing of Main Case

19.10.2016

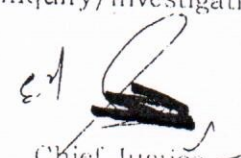
Mr. Khalid Javed Khan, Advocate for the petitioner  
Syed Mureed Ali Shah, Advocate for Intervenor  
Mr. Muhammad Aslam Butt, DAG  
Mr. Muhammad Altaf, Special Prosecutor, NAB  
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After hearing the learned counsel for respective parties, we dispose of this petition with the following reasons:-

1. The NAB would conduct inquiry/investigation etc. against NICL for Rs.2 billion investment alleged scam; and
2. The petitioner would render necessary cooperation by providing all information to the NAB as and when required, however, neither the petitioner nor any officer would be summoned by the NAB, if the NAB during the investigation against NICL comes to the conclusion that there is sufficient material against the Petitioner or the petitioner had any role and involvement in the alleged scam, which can trigger the provisions of NAB Ordinance, 1999 then a reference would be made to this Court seeking permission for initiation of inquiry/investigation against the Petitioner.



Barkat Ali PA

  
Chief Justice

# IN THE HIGH COURT OF SINDH, KARACHI

Const. Petition No. D-2127 of 2014.

IS Investment Ltd. ....

Petitioner

Versus

FOP .....

Respondents.

It is submitted before this Hon'ble Court that proceeding of Enquiry 21/2013 were initiated in accordance with the law. Under the orders of Hon'ble Supreme Court of Pakistan in Suo Moto Case No. 18/2010, Auditor General of Pakistan conducted special audit of NICL wherein vide para 18 a loss of Rs. 255.243 million was reported pertaining to investment of JS Investments Limited / Petition. Further the same was reported by Transparency International of Pakistan as complaint.

The proceedings of enquiry have been completed after thorough evidences examined and recorded, nothing could establish, therefore the competent authority has ordered to close enquiry vide NO. FIA/DSK/ENQ-21/2013/CCK/B-15474 dated 24.12.2014.

Report is submitted before this Hon'ble Court .



*[Handwritten signature]*  
11/02/2015

(GULSHER MUGHERI)  
INSPECTOR, FIA CCCK  
On or on behalf of Respondents 01 to 03

AGENDA FOR THE 25<sup>TH</sup> MEETING OF THE INVESTMENT COMMITTEE OF THE BOARD OF DIRECTORS OF NATIONAL INSURANCE COMPANY LIMITED TO BE HELD ON APRIL 04, 2008 AT 1400 HOURS AT NICL HEAD OFFICE KARACHI.

ITEM NO.1: TO APPROVE MINUTES OF THE 24<sup>th</sup> MEETING OF THE INVESTMENT COMMITTEE OF THE BOARD OF DIRECTORS OF NATIONAL INSURANCE COMPANY LIMITED HELD ON MARCH 13, 2008.

ITEM NO.2: TO REVIEW IMPLEMENTATION OF DECISIONS OF THE PREVIOUS MEETING OF THE INVESTMENT COMMITTEE.

ITEM NO.3: PRESENTATION OF ASSETS MANAGEMENT COMPANY.

ITEM NO.4: PRESENTATION OF BUSINESS PLAN BY NESPAK REGARDING SHAHDIN BUILDING LAHORE.

ITEM NO.5: UPDATE REGARDING LAND VALUATION OF ISLAMABAD.

ITEM NO.6: PRESENTATION ON REITS' LAWS ALONG WITH ANY PROPOSAL BY MD - CCC OR NICL.

ITEM NO.7: ANY OTHER MATTER WITH THE APPROVAL OF THE CHAIRMAN.



DRAFT MINUTES OF THE 24TH MEETING OF THE INVESTMENT COMMITTEE OF THE BOARD OF DIRECTORS OF NATIONAL INSURANCE COMPANY LIMITED HELD ON THURSDAY MARCH 13, 2008 AT 1500 HOURS AT NICL HEAD OFFICE KARACHI

Directors Present:

[REDACTED]  
[REDACTED]  
[REDACTED]

The meeting commenced with the recitation from the Holy Quran and Chairman welcomed the participants of the 24<sup>th</sup> Meeting of the Investment Committee of the Board of Directors of NICL, leave of absence was granted to Mr. Javed Syed, Mr. Ather Naqvi Secretary to the Board, Mr. Abdul Rehman ED (F&T) and Manager Mr. Shahab Sadiqui were in attendance.

Item-1 TO CONFIRM MINUTES OF THE 23<sup>RD</sup> MEETING OF THE INVESTMENT COMMITTEE OF THE BOARD OF DIRECTORS OF NICL

The draft minutes of the 23<sup>rd</sup> meeting of the Investment Committee of the Board of Directors were reviewed by the members of the committee. The draft minutes were confirmed with some minor amendments, proposed [REDACTED] and seconded by [REDACTED]. The Chairman signed the same as a token of confirmation.

Item-2 TO REVIEW IMPLEMENTATION ON FOLLOWING DECISIONS OF THE PREVIOUS MEETING OF THE INVESTMENT COMMITTEE.

The members of the Investment Committee of the Board of Directors reviewed the progress of the implementation of its decisions and appreciated the efforts of the management.

Item 5. REVIEW OF INVESTMENT PORTFOLIO AS AT FEBRUARY, 2008.

Members analyzed the investment portfolio in depth and discussed expansion in the selection of asset management company and placement of funds with them for investment in PIB, T Bills, NIT, TDR. Members also discussed maintaining of foreign currency account and its yield with pros and cons in the present scenario. It was suggested to look into viability of investing in Pakistani Dollar Bond due to its risk security backed by Government of Pakistan in place of maintaining foreign currency account. Chairman advised EDF to study the implications under guidance of Mr. Nessar Ahmad Board Member and put up a proposal very quickly.

In the previous meeting BMA had made a presentation and submitted a proposal. It was then decided to associate two more companies for competition and better return. Accordingly, the Investment Committee was informed that as per PACRA rating there is no company with AM1 rating in Pakistan. However at the second level of AM2 there are M/s JS ABAMCO with AM2+ rating, Arif Habib with AM2 and NIT with AM2-. As per JCR VIS Al Meezan, NAFA and PICIC with rating as AM2, BMA and UBL Fund Managers with AM2-.

After detailed deliberations Members resolved as follows:

- Invest Rs.200 million each to begin with the following investment management companies namely: JS ABAMCO, Al Meezan and BMA in order to assess their performance at the first instance. They should be invited to bring forth a proposal offering a certain indicated best possible return with a guarantee of the capital.
- Invest Rs.2 billion in Pakistan Investment Bonds and Treasury Bills for a tenor of 1 year or less.
- Increase exposure of National Investment Trust to Rs.500 million.
- In TDR Short Term Deposit not to exceed the exposure over Rs.250 million with each bank.

Item 5. DISCUSSION AND PRESENTATION ON ASSETS MANAGEMENT COMPANY.

Al Meezan Investments and BMA Capital submitted their proposals for Managed Accounts with discretionary portfolio managements, and JS Investments also submitted the proposal for their capital protected fund-IV to NICL.

Committee discussed each proposal along with the percentage of risk exposure undertaken by each Assets Management Company with their Managers.

After detailed deliberation Committee decided that Assets Management Companies should resubmit their offers on the following terms within 3 to 4 days:

Details of fixed income/Debt segment (T-bills, PIB's, etc), which should be of top class govt. securities

- a. Details of Equity Segment should not be included on speculative equities
- b. Tenor of managed accounts should be for 3 years
- c. Structure of Management Fee is as under:
  - a. For Debt/Fixed income segment should be 0.25%

b. For Equity Segment:

Rate of Returns	Management Fee
25% (25% and above)	4%
18% (18%-24.99%)	3%
12% (12%-17.99%)	1.5%
8% (8%-11.99%)	0.50%
6% (6%-7.99%)	0.25%

18. Loss due to imprudent investment of Rs. 2.00 billion in JS Principal Fund - Rs. 255.243 million

Government of Pakistan Finance Division issued instructions for investment of surplus funds of the public sector enterprises through its OM dated July 02, 2003.

The para-5(b) of this OM requires that "In Public units total return comprising the appreciation in value, which exceeds the average six months Treasury Bill rate for the last three years. The formula for the calculation of the total return would be provided by the SECP from time to time."

The para-5(d) of this OM requires that "Total investment in debt instrument of a company do not exceed 10% of size of issue or 10% of total size of funds managed by the public sector entity, whichever is lower."

The para-6 of said OM requires that "Before making any investment under this policy, it would be necessary for public sector entities to set up in-house professional treasury management functions. Specifically, they would need to have an Investment Committee (IC) with defined investment approval authority. Transaction above the approval authority of the IC will be subject to approval of Board of Directors or an equivalent forum. The investment committee should be assisted by an investment management unit employing qualified staff with at least three to five years of experience of managing investment in debt/equity instruments. However, it will be necessary for public sector enterprises to use the services of professional fund managers approved by SECP."

In National Insurance Company Limited (NICL), the management invested Rs. 2,000.000 million on March 13, 2009 through Pre-Initial Public Offer (IPO) commitment in JS Principal Secure Fund-I for the minimum period of 03 years and 06 weeks under the recommendations of first meeting of Investment Committee of NICL held on March 12, 2009 which was approved by the Chairman on March 13, 2009. The product structure was of a three year open ended fund. According to the terms of investment, the Payout at maturity was any capital gain to distribute along with initial capital at maturity.

Subsequently, it was decided in the 69<sup>th</sup> meeting of the Board of Directors held on April 30, 2010 that the market intelligence reports are not in favour of the above mentioned investment and the funds must be disinvested. Accordingly, the investment of Rs. 2,000 million was disinvested on July 20, 2010 while the investment was at a pre-mature stage. The details of disinvestment are given in Table - A at Annex 7:

It was observed from the report of an Investment Research House, M/s. Invest Cap dated July 16, 2010 that the JS Protected Funds Series remained under performance during the year 2010 whereas returns on other Income Fund performance during first and second quarters of 2010 were ranging about 11 to 14%. If concluded on an average return of 12% of other funds, the NICL sustained a loss of Rs.255.242 million as detailed in Table - B at Annex 7:



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**Strictly Confidential and without Prejudice**

1<sup>st</sup> September 2014

Mr. Qamar Zaman Chaudhry,  
National Accountability Bureau (NAB)  
Attaturk Avenue,  
G-5/2,  
Islamabad

Sub: NICL Suo Moto 18 of 2010 Case

Dear Sir,

Transparency International Pakistan has received following legal opinion on the division bench of the Hon SHC interim order on 23-4-2014, in the JS Investment Ltd CP No 2127 of 2014, wherein the respondents were directed to file their comments with further directions that no steps pursuant to letter dated 9-April, 2014 bearing no 307 shall be taken.

*"Till the next date, no steps pursuant to letter bearing No 3-5/NAB HQ/2013/Auth Inq NICL(S)/258 dated 09.4.2014, available at page 307 of the file and letter bearing No IHHQC/CCC/13/2010/1509-11 dated 14.4.2014, available at page 309 of the file shall be taken".*

The Hon Sindh High Court's interim order was sent for legal opinion on the following question, to Justice (R) Dr. Ghous Muhammad, who was also the accountability judge under Ehtisb Act 1997, along with the a copy of the petition, which included NAB letter 09.4.2014 and the Court Orders.

*Does this SHC Order in any way means that SHC has restrained NAB to take any action against JSIL or any other [party in accordance with NAO 1999, and Supreme Court Order dated 22-11-2013.*

The legal opinion of Justice (R) Dr. Ghous Muhammad dated 3-8-2014 given as under, is forwarded to information and further action by NAB. Annex-A

*1. After having gone through the papers (i.e. judgment of the Honorable Supreme Court, copy of the Petition, copy of the order passed by the Sindh High Court) made available to me I am of the considered opinion that with due respect to the Hon SHC the NAB has to follow the directions/orders passed by the full bench of the SC.*

*2. Therefore the NAB should follow the orders/directions of the SC in letter and spirit, because the orders of the SC have overriding effect, and NAB should go ahead with its*



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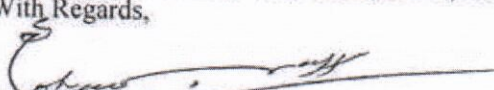
Continuation Sheet No.....

*action and also in their comments to HC should rely on the judgment of the Hon SC in accordance with the NAO 1999.*

*3. Notwithstanding the above aspect that it is further observed and advised that the NAB may file an application before the SC apprising them of the ex parte order passed by the SHC so that the question of contempt of court in either way may not arise.*

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption, and mis use of authority.

With Regards,

  
Sohail Muzaffar,  
Chairman

Eclo; Copy of Legal Opinion of Justice (R) Dr. Ghous Muhammad

# Justice (R) Dr. Ghous Muhammad

M.A. (Int.Rel). M.A. (Pol.Sc.) LL.B, LL.M, Ph.D.  
Advocate Supreme Court of Pakistan  
(Former Judge Sindh High Court)  
Conflicts Resolution Centre: Karachi, Pakistan

Ref: \_\_\_\_\_

Date: \_\_\_\_\_

## Without Prejudice

Karachi  
Dated August 30, 2014.

Transparency International Pakistan,  
Karachi.

## Legal Opinion

Dear Sirs,

Ref TIP letter dated 22-8-2014, I have examined the matter. A full bench of the Honorable Supreme Court, headed by the than Honorable Chief Justice Mr Justice Iftikhar Muhammad Chaudhry, vide judgment dated 22-11-2013, disposed of Suo Moto case no 18 of 2010 and 6 other applications. In this judgment in para 9(d), the Chairman NAB was given directions. This sub para reads as under:

*(d) FIA after transfer of Zafar Ahmed Qureshi failed to retrieve the outstanding amounts which were frozen, but were illegally activated without following the procedure, during the period he remained disassociated from the investigation of the case w.e.f. 19.04.2011 to 13.08.2011. Therefore, Chairman NAB is directed to have all these cases transferred on his file and proceed in accordance with Law, take necessary steps to effect recovery of outstanding amount noted above and also effect the arrest of Mohsin Habib Warraich, Amin Qasim Dada, Khalid Anwar etc, as early as possible.*

In compliance of the above directions, Dy Dir (Coord) of NAB vide letter No. No.-5/NAB HQ/2013/Auth. Inq NICL/258 dated 9 April 2014 the FIA requested that the concerned officers may be directed to provide/handing taking over of the complete record of inquiry against Mr. Ayaz Khan Niazi, ex Chairman NICL, Government functionaries and others, to Mr Masood Ahmad, Dy. Dir NAB Sindh by 11<sup>th</sup> April 2014. In this letter, the NAB had also mentioned that the inquiry in all cases of NICL including investment of Rs 2000 million in JS Principal Secured Fund 1 (JSPSF-1) had been initiated. Subsequently JS Investment Ltd filed CP No 2127 of 2014 in the SHC against FIA, NAB and SECP wherein inter alia it was prayed for the following relieves:

- (i) *Declare that the investment and premature redemption made by National Insurance Company in the JS Principal Secure Fund I (JS PSFI) launched by the Petitioner subject to terms and condition as per the Trust Deed and offering Documents duly approved by S.E.C.P being a lawful business transaction, the Respondents No.1 and 2 have no lawful authority or jurisdiction to probe or investigate in the matter.*
- (ii) *Declare that the letter dated 9.4.14 addressed by the Respondent No. 2 to Respondent No.1 for handing over the case / record is arbitrary , mala fide and without lawful authority.*
- (iii) *Declare that no offence has been committed by the Petitioner and / or its officers in respect of transaction between the Petitioner and NICL under any law including the provisions of the National Accountability ordinance, 1999.*
- (iv) *Declare that the Respondent No.2 cannot initiate any inquiry or proceedings under the provisions of the National Accountability Ordinance, 1999.*
- (v) *Declare that the Respondents No.1 and 2 have no lawful authority or jurisdiction to embark upon any roving inquiry or fishing expedition against the Petitioner including in respect of the transaction between the Petitioner and NICL.*
- (vi) *Prohibit the officers of Respondent No.1 from handling over file/ case of the Petitioner to Respondent No 2.*
- (vii) *Prohibit the Respondents No.1 and 2 from taking any action against the petitioner or its officers including investigation, inquiry, proceedings, filing of Reference or any action adverse to the interests of the Petitioner or its officers of from interfering with the business operations of the Petitioner and the right and liberty of the officers of the Petitioner.*
- (viii) *Grant any order relief deemed just and proper in the circumstances of the case.*
- (ix) *Grant cost of the petition.*

A division bench of the Hon SHC passed interim order on 23-4-2014 wherein the respondents were directed to file their comments with further directions that no steps pursuant to letter dated 9-April, 2014 bearing no 307 shall be taken

*Till the next date, no steps pursuant to letter bearing No 3-5/NAB HQ/2013/Auth Inq NICL(S)/258 dated 09.4.2014, available at page 307 of the file and letter bearing No IJHQC/CCC/13/2010/1509-11 dated 14.4.2014. available at page 309 of the file shall be taken*

The following question has been referred to me for my opinion:



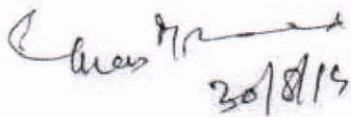
**Q:** Does this SHC Order in any way mean that SHC has restrained NAB to take any action against JSIL or any other [party in accordance with NAO 1999, and Supreme Court Order dated 22-11-2013

**Legal Opinion:**

1. After having gone through the papers (i.e. judgment of the Honorable Supreme Court, copy of the Petition, copy of the order passed by the Sindh High Court) made available to me I am of the considered opinion that with due respect to the Hon SHC the NAB has to follow the directions/orders passed by the full bench of the SC.
2. Therefore the NAB should follow the orders/directions of the SC in letter and spirit, because the orders of the SC have overriding effect, and NAB should go ahead with its action and also in their comments to HC should rely on the judgment of the Hon SC in accordance with the NAO 1999.
3. Notwithstanding the above aspect that it is further observed and advised that the NAB may file an application before the SC apprising them of the ex parte order passed by the SHC so that the question of contempt of court in either way may not arise.

Regards

Yours faithfully



(Justice (R) Dr. Ghous Muhammad)