



24<sup>th</sup> May, 2018

TL18/2405/1A

Mr. Tariq Bajwa,  
Governor,  
State Bank of Pakistan,  
Karachi,

**Sub: Allegations of Money Laundering by NAB on Azgard Nine Ltd. (ANL) and JS Global, and Transactions through Swiss Bank Julius Baer & SECP Efforts to Hide and Regularize Illegal Remittance of Euro 23.758 under False SECP Rules**  
**Additional Information.**

Dear Mr Bajwa,

Transparency International Pakistan, further to its letter No. TL-18/1605/1A dated 16<sup>th</sup> May 2018, has received another complaint against Azgard Nine Ltd (ANL), and Swiss Bank Julius Baer.

The complainant has made following allegation;'

That,

1. The State Bank of Pakistan vide letter No EDP/INT/C-3466/12(283)-2008, dated 13 May, 2008, permitted HSBC Bank, Karachi to remit funds for client M/s Azgard Nine Ltd, for the **Acquisition of Foreign Brand(s). Annex-A.**
2. The permission was granted to remit to Sweden Euro 23.758 million from inter-bank market in five equal monthly instalments of Euro 4.75 million to Sweden, subject to following mandatory conditions;
  - i. *Your client will submit a return to the State Bank on the prescribed Form V-96 through your bank within one month of making the investment.*
  - ii. *Evidence of establishment of special purpose vehicle in Sweden and acquisition of an Italian brand will be furnished by the company to you in due course for onward submission to SBP.*
  - iii. *Your client will submit the annual audited accounts of their holding company established in Sweden to SBP regularly.*
  - iv. *Profit/Net earnings would require to be repatriated to Pakistan on yearly basis through normal banking channels. The amounts so received would be converted into local currency by the bank concerned and a Proceeds Realization Certificate in original, evidencing the same shall be filed by your bank with the State bank. Such amounts shall not be allowed for credit to a foreign currency account or for purchase of Pakistani Securities on repatriable basis.*



- v. *In the event of closure/liquidation of the holding company, its assets will be disposed of and the sale/liquidation proceeds thereof will be repatriated to Pakistan through normal banking channels and converted into rupees under advice to SBP along with Proceeds Realization Certificates evidencing the same.*
  - vi. *You will also update this department regarding any change in the contact numbers (telephone and fax) of the client on regular basis.*
  - vii. *You will supply all such information as may be required by this Department from time to time.*
3. M/s Azgard Nine Ltd (ANL) and HSBC Bank, Karachi (now merged into Meezan Bank Ltd Pakistan) in gross violation to the terms of the SBP permission, did not send the remittance in five equal instalments, and remitted Euro 23.758 million in ONE Instalment after 8 months and 13 days.
  4. Moreover, the remittance was not sent to Sweden, but to Switzerland, in Bank Julius Bear , Zurich Switzerland on 29<sup>th</sup> December 2008. **Annex-B.**
  5. Bank Julius Bear , Zurich Switzerland on 29<sup>th</sup> December 2008 shows receipt of Euro 23,758 million from Bank whose swift code is DNBIDN269ZA, which seems to be not from HSBC Pakistan.
  6. Furthermore the request to SBP by ANL was for the Acquisition of Foreign Brand(s), and SBP has allowed the remittance only for the **Acquisition of Foreign Brand(s).**

But M/s Azgard Nine Ltd did not purchase any brand/s, as stated by them in their request to SBP. The permission granted by the SBP was for the purchase of only Brand/s. ANL used the precious Foreign Exchange in purchasing a shell company "New Montebello" which copied the same name of famous Italian Company Montebello SRL. Another two companies Farital AB (Sweden Based) and DEFAP Enterprises APS (Denmark Based) were used by ANL. There are reports that Euro 23.758 m laundered outside Pakistan in the name of purchase of Italian brand, ended up with the ANL Sponsors through backdoor channels.

There are no disclosures as to:

- a) Why a shell company with the same name Montebello was created in 2008,
- b) Was this new Shell company named Montebello. created to defraud investors and Regulators in Pakistan to given false impression that Original Montebello Company is acquired;
- c) Why there was a need to create another company with same name Montebello?
- d) Did Original Montebello company allowed ANL to use its name to form a new Montebello?
- e) If Original Montebello Company allowed its name to be used by a third party from whom did ANL bought Montebello S.R.L, what was the payment paid to them, and where is the evidence of permissions and money paid to Montebello?



- f) Who were the sponsors of Farital AB (Sweden)?
- g) Who were the sponsors of Defap Enterprises **Denmark**.

This anomaly was deducted by NAB, while doing Corruption inquiry in 2016, noted from ANL Audited Accounts for the year 2008, that they have remitted Euros 23.758 million for **purchase of an Italian company Montebello SRL**, through Farital AB, a holding company incorporated in Sweden.

7. NAB Karachi inquiry report suggested that further investigation will determine which sponsors have taken away this amount from the Company. Due to siphoning off the funds and mismanagement with intent to cheating public at large, a loss of Rs.1,992 million has been reported in the year ended in June 2014. In fact NAB wants to inquire about sponsors of ANL deal, Montebello, Montebello S.R.L., Farital AB, Defap Enterprises, HSBC & Swiss Bank Julius Baer and money trail.
8. Due to the reason that NAB reported that further investigation will determine which sponsors have taken away this amount from the Company, ANL and SECP have connived to suppress the illegality committed by ANL of siphoning off the funds on the pretext of purchase of Italian Brands, but purchase of a so called company Montebello SRL for marketing of ANL products.
9. In order to look into the violations of SBP approval by ANL, NAB Karachi called ANL directors and JS Group officers in 2015/16, and they were asked clarification of these irregularities.
10. And as next step for NAB was to conduct further investigations into these irregularities, ANL has tried to legalize these irregularities through SECP.
11. Officers of SECP and ANL prepared a scheme to satisfy NAB on this issue. ANL filed an application with SECP on 30 September 2015, seeking Commissions approval of consolidation under SECP Section 237, in respect to its subsidiary Montebello S.R.L (Montebello) due to bankruptcy of Montebello. SECP on 11.5.2016 acceded to ANL request, and accepted their clarifications, and imposed fine of Rs 13, million. Mr. Abid Hussain, ED CSD, SECP passed following order so that NAB shall not conduct its investigations under NAO 1999;

*Whereas on the other hand the Appellants have successfully established that the requirement of SBP were fully met to transfer the acquisition price money abroad. To prove the money trail of the acquisition the Appellants have relied upon the Escrow Agreement dated 16/05/08 (Annexure B/4) between the Defap, the Company and Julius Baer Family Office Ltd, Switzerland and a telegraphic transfer receipt dated 29/12/08 (Annexure B/5) to show transaction confirmation and also letter dated 05/01/09 (Annexure B/5-1) from Defap to CEO of the Company confirming that payment has been received. As regards bankruptcy of MBL, the Appellants have provided court orders through which trustee has been appointed by the court and claims filed by the Company will be settled in due course.*



*In view of the proceeding two paragraphs, it seems that the Company had duly met all the requirements for acquisition of a foreign company and in this regard appropriate measure were taken i.e. due diligence and evaluation. The BOD of the Company while exercising their powers under section 196 of the Ordinance duly approved the transaction and approached SBP for taking approval for foreign remittance for investment and the same was approved by the highest august forum i.e. economic coordination committee of the cabinet of Pakistan. Furthermore, the referred documents of Escrow account had provided the source of money and transfer thereof reflecting bonafide investment at relevant times. During the hearing, the Bench was apprised that the Company is undergoing a restructuring process to regain its lost glory and in this regard, arrangements with the stakeholders are at final stage, therefore, execution of the Impugned Order would be detrimental to the interest of Company and its shareholders.*

**In view of the above discussion, were are of the firm belief that investigation into the affairs of the Company, to determine the facts of acquisition of the MBL and other related transactions would be a futile exercise because the Appellants have successfully pleaded their case through documentary evidence. In the circumstances,**

Mr. Zafar Abdullah, Mr. Tahir Mahmood and Mr. Fida Hussian Samoo all Commissioners of SECP have also ordered on this case and accepted ANL clarifications.

12. ANL made various misstatements during the entire process. For instance

**ANL Board resolution dated Dec 17, 2007 resolved as follows:**

“Resolved that Azgard Nine Limited (“the Company”) may acquire controlling shareholding interest of upto 100% in Farital AB, a company incorporated in Sweden (“Farital”) which owns Montebello S,R,L, a company incorporated in Italy and owns various registered brands relating to denim products or any other company by whatever name called on such terms and conditions as they deem fit and proper subject to a maximum amount of investment of Euro 30,000,000 (Euro thirty million only) (the “Contemplated brand Acquisition”).

**ANL in Para 11 of its letter dated March 11, 2016 to SECP wrote as hereunder:**

11. The decision to acquire MBL was based on scheme that the Company would have a brand with sales and distribution network in the West while manufacturing facilities would remain in Pakistan. Foreign buyers were and are reluctant to come to Pakistan due to the deteriorated law and order situation. Therefore, Pakistani companies always remained at a serious disadvantage to make sales as the buyers are not willing to come to Pakistan. Through purchase of MBL, the Company wanted to have an overseas subsidiary which would help the Company to meet the buyers overseas and get more sales and mitigate the Pakistan country risk for the buyers.

Acquisition of Montebello S.R.L. (MBL) was based on valuation report that calculated the present value of MBL to be at Euro 54 million. The Board of Directors approval was given for an acquisition value up to Euro 30 million. Montebello did have history of operating for more that the registration of some of these brands was



done in 1998. This shows that the Company had been working for some time before 1988 as it needs to first build a business and then get into making and registration brands, definitely more than twenty five years. The management actually acquired assets of MBL for Euro 23.758 million, which includes Brands, customers' relationship, Goodwill, product development and technical knowhow with only 39 employees and decided not to purchase the high cost manufacturing facilities of Montebello. We declared at that time that we would buy a restructured Company and would not acquire high cost manufacturing facilities or take on so many employees which would have a very high cost to terminate. This new company Montebello S.R.L than started operations in year 2008. When MBL was acquired, exactly the same facts were declared and disclosed. This was the only way in which we could separate the possibility of any litigation or liability coming from historical issues. This reflects on the farsightedness, wisdom, bona fide and capability of the management.

On July 29, 2016 SECP raised various queries to ANL, some of which are given below along with ANL reply there to:

SECP Letter Dated July 29, 2016	ANL Reply dated
1. Copy of SBP/ECC approval along with information/documents provided to SBP with company's application for acquisition of Montebello/Farital;	We have tried our best to get the old record regarding SBP/ECC approval, however we could not find the required information as it relates to more than 8 years back and there has been shuffling in our records during these years. But that does not mean that we have given up and we are still looking through the old record and would provide you the same as soon as we find the pertinent to documents.
2. Complete transaction structure (explaining form as well as substance), purpose and particulars of each special purpose vehicle/intermediary and financial trail from Azgard Nine to MBL owner along with copies of underlying agreements; financial trail provided by the Company is from Azgard nine to Defap only, that is apparently investment advisor for acquisition of MBL;	Please note that Defap enterprises ("Defap") was the owner of Farital AB ("Farital") which in turn was the owner/holding company of Montebello S.r.l. ("MBL"). As Azgard Nine Ltd ("Azgard") acquired Farital from Defap, it also ended up indirectly acquiring Montebello (a 100% owned subsidiary of Farital). We have already provided you the documents confirming that Defap owned Farital and that Farital was acquired by Azgard. The share certificate that we have already provided to you clearly shows that the 100% shares of Farital were transferred from Defap Enterprises to Azgard (copy attached). Farital was set up by Defap as holding company (SPV) in order to gain better tax efficiency for the sale transactions of MBL. This structure offered several tax advantages to Defap on the sales made by MBL with the main one being no capital gains tax. The choice of Sweden as a jurisdiction for SPV was good choice for both



	<p>seller and buyer. For Azgard, Farital offered transfer of dividends without any withholding tax to its holding company. So this was a tax efficient structure for Azgard to hold MBL. It is pertinent to mention that Defap Enterprises had already made this structure before Azgard came into picture as part of its strategy to sell MBL in a tax efficient manner.</p>
<p><b><u>3. Name and registered corporate address of the business entity from which Montebello S.R.L. was carved out and incorporated as a separate company in January 2008.</u></b> Please justify huge amount of goodwill i.e. 73% of total consideration paid on the acquisition of Montebello;</p>	<p>As Farital was already the owner of MBL at the time of acquisition of Farital by Azgard and as Azgard acquired from Farital from Defap and not MBL from the business entity it was carved out from, <b><u>we do not have any information about the name and address of the said business entity.</u></b> Further, this was not a concern for us as at that time as MBL was in the ownership of Farital and not in the ownership of the said business entity.</p> <p>The amount of goodwill booked represented the difference between the value of the “hard assets” and the value of all assets of MBL including brands. This is always the case when intangible assets like brands are acquired, in fact, based on the valuation of MBL, this was not a big figure. The calculated value these brands were to create for Azgard was much higher. It is only due to the unprecedented global economic meltdown that the results were not better; otherwise this goodwill was a fraction of the potential to create value.</p>

13. Due to various delaying tactics and lots of contradictions, SECP on Mar 17, 2017 passed Order appointing investigator to investigate Montebello matter. Following are the extracts from the SECP Order:

**Quote:** “My observations in the matter are as under:

- a) Impact of the off shore investment on the financial position of the Company cannot be ignored and require determination as to whether acquisition of MBL involving significant cash outflows was made in good faith and in transparent manner and to check adequacy and completeness of relevant information disclosed at the applicable times.
- b) *The Company has not been able to explain as to how the value intangible assets (Including brands, customers relationship, goodwill, product development and technical know-how) of MBL was determined for which the company paid Euro 23.758 million;*



- c) *The Company has admitted certain errors and omissions in its financial statements due to unintentional oversight.*

*Without limiting the scope of investigation, the inspectors shall conduct investigation into underlying facts, transactions and events relevant to acquisition of MBL business (comprising certain textile brands along with customers relationship, product development, technical know-how, distribution and marketing) in 2008 by the Company, transactions between the Company and MBL till liquidation of the subsidiary in 2014. The inspectors shall, after scrutiny of all the records and books of accounts, furnished a report, inter alia, on the following matters in terms of section 265 of the Ordinance to suggest whether circumstances as provided therein exist:*

- I. Complete transaction and money trail of the transaction from the Company to original owner(s) of the investee(s) including all SPVs used as conduits for facilitating tax economic transaction structure. In case the acquisition by the Company was a result of one or more intermittent transactions between original owner, other buyer(s) (being one or more companies) and finally the Company; Identify each intermediary along with respective acquisition cost(s) till original owner's books;*
- II. Independent verification of brand(s) value as on the date of acquisition and their legal status as per relevant trade mark/brands registration authority;*
- III. Whether the acquisition was at fair value of assets acquired in accordance with prudent and should business/commercial practices and in the best interest of Company shareholders and identification of beneficiaries of the transaction other than the Company, if any;*
- IV. Confirmation that foreign business was free from any litigation/encumbrance on the date of acquisition by the Company;" Unquote*

14. ANL filed Appeal against above Order and then Tahir Mahmood and Fida Samoo, Commissioners in connivance with ANL, set aside above mentioned SECP Order for appointing investigator to investigate into Montebello matter

15. The State Bank of Pakistan under its own procedures, must have received the compliances for ANL and HSBC, as required under grant of approval, which shall prove that the "**Brands**" were not acquired, a story is made by ANL to justify the money laundering of Euro 23,758 million, which is at today's parity rates, is Rs 3.3 Billion.

Transparency International Pakistan has examined complaint, and request the SBP to check the allegations, and also take action as serious issues of Rs 3.3 Billion money laundered in name of buying of Brand is involved, which has been pointed out by the complainant.

SBP should investigate the issues identified by the complainant in para 6 above. And if there were non-compliances of SBP conditions by ANL, and under the SBP prudential Regulations Euro 23,758 million were remitted illegally, actions should be taken against all responsible ANL, HSBC Bank, Bank Julius Baer etc and officers of SECP for their futile efforts to



illegally regularizing syphoning of money. The result of the SBP investigation should also be reported to NAB for action under Section 9 &10 of NAO 1,999, and the money if laundered, should be brought back to Pakistan with interest.

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

Enclosed: Annex A, B and C.

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

1. Secretary to Prime Minister, Islamabad.
2. Chairman, NAB, Islamabad, with reference to NAB inquiry in NAB Lahore, **Annex-C**.
3. Registrar, Supreme Court of Pakistan, Islamabad.



STATE BANK OF PAKISTAN  
L. I. CHUNDRIQAR ROAD  
KARACHI

TEL # 2453834  
FAX # 9212827

EXCHANGE POLICY  
DEPARTMENT

No. EPD/INT/C-3466 /12(283)-2008

May 13, 2008

Mr. Baber Kaleem  
Manager  
Network Services Centre  
The Hongkong & Shanghai Banking Corporation Ltd.  
Shahen Commercial Complex  
M. R. Kayani Road  
Karachi

Subject: Acquisition of Foreign Registered Brand(s)

Dear Sir

Reference may please be made to the correspondence on the above-cited subject.

Your captioned client M/s Azgard Nine Limited have our permission to remit Euro 23.758 million from inter bank market in five equals monthly installments of Euro 4.75 million to Sweden to set up a special purpose vehicle/holding company for acquisition of an Italian brand. This approval is subject to the following conditions:

- i. Your client will submit a return to the State Bank on the prescribed Form V-96 through your bank within one month of making the investment.
- ii. Evidence of establishment of special purpose vehicle in Sweden and acquisition of an Italian brand will be furnished by the company to you in due course for onward submission to SBP.
- iii. Your client will submit the annual audited accounts of their holding company established in Sweden to SBP regularly.
- iv. Profit/Net earnings would require to be repatriated to Pakistan on yearly basis through normal banking channels. The amounts so received would be converted into local currency by the bank concerned and a Proceeds Realization Certificate in original, evidencing the same shall be filed by your bank with the State bank. Such amounts shall not be allowed for credit to a foreign currency account or for purchase of Pakistani Securities on repatriable basis.

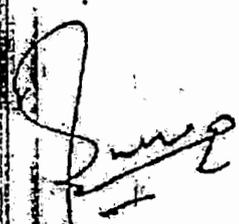
v. In the event of closure/liquidation of the holding company, its assets will be disposed of and the sale/liquidation proceeds thereof will be repatriated to Pakistan through normal banking channels and converted into rupees under advice to SBP along with Proceeds Realization Certificates evidencing the same.

vi. You will also update this department regarding any change in the contact numbers (telephone and fax) of the client on regular basis.

vii. You will supply all such information as may be required by this Department from time to time.

Please also note that in order to effect remittances consequent to above-permission, you are advised to approach us with the duly filled in Form 'M' for necessary approval.

Sincerely,

  
(Jam Shafiq-ur-Rehman)  
Assistant Director

ANNEX-B

Julius Bär

Bank Julius Baer & Co. Ltd.  
Bahnhofstrasse 40,  
CH-80010 Zurich, Switzerland.

Transaction Confirmation

29-Dec-2008

TELEGRAPHIC TRANSFER

Remit Amount:	EUR23,758,000	29-Dec-2008
Settlement By:	Transfer	REF: A103040027
Debit Account:	0305.1354.303.9697	
Debit Amount:	EUR23,758,000	AZCARD-DEFAP Escrow
Value Date:	29-Dec-08	
Beneficiary:	DEFAP ENTERPRISES APS	
Account No:	1.1.5226	
BIC:	BNPA333 34 0966 4115 3327 0001	
SWIFT:	BNPA333 2692A	



LAHORE

GOVERNMENT OF PAKISTAN  
**NATIONAL ACCOUNTABILITY BUREAU, LAHORE**  
NAB COMPLEX THOKAR NIAZ BAIG LAHORE  
Ph: 347-9923111 Fax: 347-9923255

SAY NO TO CORRUPTION

No. 1013/CO-J/1347/W/III-NAB/L/12  
15<sup>th</sup> March, 2018

To: **Ali Jahangir Siddique**  
R/O D-184, Block 5,  
Clifton, Karachi  
0301-8247001

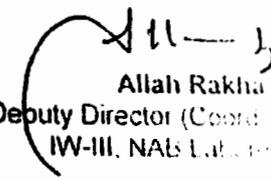
Subject: **Call up Notice u/s 19 of NAO, 1999 - Inquiry against Directors / Owners of M/s Azgard Nine Limited, Agritech Limited and others**

Whereas the Competent Authority has taken cognizance of offenses committed by Directors / Owners of M/s Azgard Nine Limited, Agritech Limited and others under the provisions of National Accountability Ordinance, 1999.

2. In view thereof, you are hereby called upon to attend the office of **Combined Investigation Team (CIT) at NAB Complex Thoker Niaz Baig, Lahore on 22<sup>nd</sup> March, 2018 at 10:00 am** to record your plea regarding following allegations being director of Azgard Nine Limited:-

- a) Siphoning off funds amounting to Euros 23,758 Million in 2008 for the purchase of an Italian Company "Faiyraf SRL" using a foreign company "Fairytal SRL" Sweden which resulted in loss to the company / shareholders.
- b) Selling shares of the company to different financial / government institutions by Azgard Nine Limited at lower price than market price to settle the loan defaults of the company, which resulted in approximate loss of Rs. 40 billion to different financial / government institutions.

3. You are advised that failing to comply with this notice, may entail penal consequences as provided in S.2 of the schedule of NAO 1999.

  
Allah Rakha  
Deputy Director (Coord.)  
IW-III, NAB Lahore