

Before Tariq Naseem, Registrar Modaraba

**In the matter of Show Cause Notice issued to the Crescent Modaraba Management Company Limited
Manager of First Elite Capital Modaraba Limited.**

Date of Hearing	April 19, 2022
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Order-Redacted Version

Order dated July 4, 2022 was passed by Registrar Modaraba in the matter of the Crescent Modaraba Management Company Limited manager of First Elite Capital Modaraba. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show Cause notice dated April 19, 2022.
2. Name of Company	Crescent Modaraba Management Company Limited.
3. Name of Individual	The proceedings were initiated against Crescent Modaraba Management Company Limited manager of the First Elite Capital Modaraba through its Chief Executive Officer.
4. Nature of Offence	Proceedings under Section 32 of Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 read with Regulation 37 of the Listed Companies (Code of Corporate Governance) Regulations, 2019
5. Action Taken	<p>Key findings of default of Regulations were reported in the following manner:</p> <ul style="list-style-type: none">✓ I have assessed, considered, and analyzed the relevant facts in the case, as well as the CEO's arguments in the written replies and that submitted during the hearing. The Modaraba Company has denied non-submission of property documents to the Enquiry Team with respect to an asset of freehold land valued at Rs.23.533 million mentioned in its balance sheet as of June 30, 2020. The Modaraba Company, via letter dated May 22, 2022, has also provided certified copies of the relevant documents and therefore, the proceedings for alleged violation of sub-section 2 of section 21 of the Modaraba Ordinance are hereby dropped.✓ With regard the appointment of Independent Director on the board of director of the Modaraba Company, it is evident that the

	<p>Company has contravened the provisions of regulation 6 of the CCG Regulations by not appointing independent director on its board of directors. The CEO also admitted the default and requested for the compassionate view. I'd like to add that the Code of Corporate Governance, as put into effect by the CCG Regulations, aims to strengthen governance structures, bring consistency to corporate practices, and promote transparency through enhanced disclosure requirements by establishing certain key functions such as safeguarding the interests of all stakeholders, particularly modaraba certificate holders, minority shareholders of the Modaraba company, harmonizing conflicting stakeholder interests, and analyzing performance. The tasks and responsibilities of directors are more explicit and reinforced under the CCG Regulations, supporting independent decision-making and enhancing the transparency and accountability process. The main goal of appointing independent directors to the board of directors is to assure neutrality in evaluating a company's performance and well-being without any conflicts of interest or undue influence. Because Modaraba certificate holder and minority shareholders, lack the resources to investigate the company's operations, they rely on independent directors to do so. When the board of directors makes choices that may have a harmful effect on the rights of certificate holders, creditors, or employees, independent directors must have a meaningful part in those decisions, acting in the best interests and welfare of all stakeholders. Because it is vital to examine the perspectives of all directors within the board of directors in order to maintain the unbiased and objective of the board's judgments, the CCG Regulations form a basis for the board's composition and structure. The objectivity and soundness of the Board's judgments are preserved by regulating the composition and structure of the Board and its key committees. It also assures that no single director may exert dominance over the decision-making process, lowering the likelihood of arbitrability. This can be accomplished by including a sufficient number of independent non-executive members with acceptable competencies. By providing independent oversight of internal and external audit work plans and results, assessing audit resource and qualification needs, and mediating the auditors' relationship with the company, an Audit Committee can greatly strengthen the</p>
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	<p>independence, integrity, and effectiveness of audit activities. The Audit Committee, chaired by an independent director (not the Chairman of the Board), is required by the CCG Regulations to assist the board of directors in carrying out its responsibilities relating to the company's accounting policies, internal control, and financial reporting practices, as well as to establish and maintain lines of communication between the Board and the company's independent directors.</p> <ul style="list-style-type: none"> ✓ In view of the preceding facts, taking cognizance of the submissions by virtue of the Company's written correspondence and arguments set forth during the hearing, I have come to the conclusion that clause 6(1) and clause 27 (1), (i) and (ii) of the CCG Regulations have been contravened and the Respondents are liable to penal action under regulation 37 of the CCG Regulations as a result of failing to appoint an independent director on its Board and Audit Committee and an independent director as chairman of the Audit Committee. Therefore, in exercise of powers conferred upon me through S.R.O.519(I)/2022 dated April 14, 2022 under sub-section (2) of Section 512 of the Act, I hereby impose penalty of Rs.50,000/- (Rupees fifty thousand only) on the Modaraba Company with the direction to the management of the Modaraba Company to meticulously comply with the requirements of the law in letter and spirit in future. ✓ The Modaraba Company is hereby directed to deposit within thirty days of the date of the receipt of this Order the aforesaid penalty of Rs.50,000/- (Rupees fifty thousand) in the designated bank account maintained in the name of Securities & Exchange Commission of Pakistan with MCB Bank Limited and furnish original receipted challan to the Commission. ✓ Noting in this order may be deemed to prejudice operation of any other provision of the Modaraba Ordinance providing for the prosecution or imposition of further penalties on the CEO, Directors of the Modaraba Company in respect of any default, omission, violation of the Modaraba Ordinance, Modaraba Rules and Modaraba Regulations by them.
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	✓ Penalty Order dated July 4, 2022 was passed by Registrar Modaraba.
6. Penalty Imposed	A Penalty of Rs. 50,000/- (Rupees fifty thousand) was imposed on the Modaraba Company.
7. Current Status of the Order	The penalty has been deposited by the Modaraba Company.

Redacted version issued for placement on the website of the Commission.