



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 13 of 2023

M/s. TPL Life Insurance Limited

...Appellant

Versus

Director /HOD, Adjudication -I

...Respondent

Date of hearing:

September 21, 2023

Present:

For the Appellant:

1. Mr. Kamran Rafique – Compliance Officer
2. Mr. Shah Zaman- Manager Account and Finance

For the Respondent:

1. Mr. Hammad Javed, Additional Director, Adjudication-I, SECP
2. Mr. Shafiq-ur-Rehman, Additional Joint Director, Adjudication-I, SECP
3. Mr. Raja Farukh Ahmad, Additional Joint Director, Adjudication- I, SECP

ORDER

1. This Order shall dispose of Appeal No. 13 of 2023 filed by M/s. TPL Life Insurance Limited (the “Appellant”) under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the



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“SECP Act”) against the order dated May 09, 2022 (the “Impugned Order”) passed by the Director/HOD, Adjudication-I (the “Respondent”) under Section 12(1)(d) & (e), 12(4), 12 (5)(a), and 45(6) read with Section 156 of the Insurance Ordinance, 2000 (the “Ordinance”).

2. The brief facts of the case are that the Appellant is an insurance company registered under the Ordinance to carry on business of insurance in Pakistan. An onsite inspection of the Appellant was conducted in pursuance of order dated August 03, 2020 to assess the compliance of the Appellant with the law. During inspection a number of non-compliances were observed which included the violations of section 12(1)(d) & (e), 12(4), 12(5) and 45(6) of the Ordinance. In light of these violations, a show-cause notice dated December 03, 2021 (the “SCN”), was issued to the Appellant. The Appellant responded on December 20, 2021, and hearing in the matter was conducted on January 19, 2022. After examining the submissions and considering the facts, the Respondent, in exercise of powers conferred under Section 156 of the Ordinance, imposed a penalty of Rs. 500,000/- on the Appellant for the aforementioned contraventions of the Ordinance.
3. The Appellant has preferred this Appeal, *inter alia*, on the grounds that the Respondent, in the Impugned Order, has failed to provide any reasoning for the imposition of a substantial penalty against the Appellant. The Appellant asserts that the Respondent has not exercised due diligence in rendering the Impugned Order. Moreover, the Appellant has emphasized that the Respondent did not take into account the extenuating circumstances involving the destruction of files and data resulting from urban flooding in Karachi. The Appellant has further submitted that at the time of inspection, files for claims were provided to the inspection team in whatever form they were available. The Appellant has also stated that at the time of inspection the storage of files was maintained at the ground floor of the building and the inspection team had also witnessed the floor filled with rain water. Additionally, the Appellant has argued that the incident in question was an unforeseeable *force majeure* event beyond their control. The Appellant further argued that due to COVID-19 pandemic it was difficult to hold the Board meeting, therefore, the management decided to shift the record from one place to another place. The Appellant has further submitted that, in order to prevent potential data loss in future occurrences, a policy has been instituted mandating the scanning and preservation of digital copies of all documents. Nevertheless, the Appellant claimed that it has proactively implemented precautionary measures to mitigate potential future losses. In conclusion the Appellant prayed for the dismissal of the Impugned Order.

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4. The Respondent countered the grounds of the Appeal and put forth arguments in support of their position. The Respondent argued that the Appellant's violations of the Ordinance were clearly evident during the inspection. In particular, the Respondent has pointed out that Section 45 of the Ordinance explicitly mandates that records must be maintained properly by the insurer, which the Appellant failed to do. Moreover, the Respondent has noted that only one-fourth of the required data was provided from the files requisitioned for inspection. They have further contended that the Appellant relocated the records without obtaining approval from the Board of Directors and that even in the new location, the data was not organized properly and appeared to be haphazardly stored. In conclusion, the Respondent has emphasized the incurrence of the violations of the Ordinance by the Appellant during the inspection. They argued that these violations justify the imposition of pecuniary penalties on the Appellant in accordance with the established legal framework.
5. The Appellate Bench (the "Bench") has heard the arguments of both the parties and perused the record. The Bench is of the opinion that the Appellant's explanations for their non-compliance with the Ordinance, while noting that *force majeure* events and the impact of the COVID-19 pandemic, do not adequately justify their violations. The Bench is of the view that the penalty was rightfully imposed, given the apparent violations of the Ordinance, specifically the improper maintenance of records, failure to provide complete data and claims, and the unauthorized shifting of records without Board approval. It is essential for all entities to adhere to regulatory requirements to maintain the integrity and trustworthiness of their operations. The Bench has noted the extenuating circumstances and future precautionary measures taken by the Appellant, however, the Bench is of the view that such factors do not absolve the Appellant from the violations that have been clearly identified.
6. The penalty will serve as a reminder to the Appellant and others to adhere to the provisions of the Ordinance and maintain proper records, irrespective of unforeseen events and challenges such as *force majeure* events and pandemics. The Bench also acknowledges the difficulties faced by the Appellant but emphasizes that regulatory compliance remains a fundamental obligation. The Appellant should take this decision as an opportunity to review and strengthen their processes to ensure future adherence to the Ordinance.

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7. In view of the foregoing, the Bench finds no reason to interfere in the Impugned Order. Therefore, the instant Appeal is **dismissed** without any order as to costs.

(Abdul Rehman Warraich)

Commissioner

(Mujtaba Ahmad Lodhi)

Commissioner

Announced on: 24 OCT 2023