



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

## Adjudication Department- I

### Adjudication Division

*Before*

**Shahzad Afzal Khan, Director / Head of Department (Adjudication-I)**

*In the matter of*

**Crescent Care (Pvt.) Limited**

Show Cause Notice No. &  
Issue Date:

ID/Enf/CrescentCare/2024/319  
June 28, 2024

Date(s) of Hearing:

September 4, 2024  
September 16, 2024

Present at the Hearing:

Mr. Muneer Ahmed Khan  
Mr. Shariq Abdullah  
(Authorized Representative)

### **ORDER**

- **Under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 read with Regulation 18(2) of the Third-Party Administrators for Health Insurance Regulations, 2014**

This Order shall dispose of the proceedings initiated in the matter of **Crescent Care (Pvt.) Limited (the Company and/or the Respondent)** under Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 (**the SECP Act**) read with Regulation 18(2) of the Third-Party Administrators for Health Insurance Regulations, 2014 (**the Regulations**) vide Show-Cause Notice No. ID/Enf/CrescentCare/2024/319 dated June 28, 2024 (**the SCN**). The Company was incorporated in Pakistan as a private limited company on February 8, 2021 in Karachi under the Companies Act, 2017. The Company obtained registration under the Regulations to act as Third-Party Administrator (TPA) for health insurance subject to fulfilment of requirements of the applicable law.

2. The off-site examination of Annual Audited Accounts of the Company for the year ended December 31, 2022 as well as other relevant record revealed that the Company has appointed on its Board Mr. Shariq Abdullah as Director and Mr. Muneer Ahmed Khan as Chief Executive Officer (CEO)/Director on April 18, 2023. However, the Company has not obtained prior approval for their appointment from the Securities and Exchange Commission of Pakistan (**the Commission**), as required in terms of Regulation 18(2) of the Regulations. The provisions of Regulation 18(2) of the Regulations require that any proposed director or proposed chief executive of TPA shall not assume the charge of his office until his appointment has been approved by the Commission.

3. The relevant department of the Commission vide email dated March 27, 2024 advised the Company to clarify its position in the aforesaid matter, which was responded by the Company vide email dated April 25, 2024 as under:

".....Appointment of CEO and Director: We recognize the oversight in the appointment



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*process of Mr. Muneer Ahmed Khan and Mr. Shariq Abdullah. We are attaching all information required for the appointment of CEO and Director by seeking the necessary approval from the Commission following Regulation 18(2) of the Third-Party Administrators for Health Insurance Regulations, 2014....."*

4. In view of the above, it transpired that the Company has not obtained prior approval of the Commission in respect of appointment of the aforesaid proposed Director and proposed CEO. which, prima facie, constitutes contravention of the requirements of Regulation 18(2) of the Regulations. Non-compliance of the foregoing provisions of the law attracts the penal action under Section 40A of the SECP Act. Therefore, SCN was served on the Company calling upon it to show cause in writing as to why penalty may not be imposed on it for contravening the said provisions of the law.

5. Relevant provisions of the law are reproduced as under:

### **Regulation 18(2) of the Regulations:**

*"(2) Requirement of Prior Approval: A proposed director or chief executive or principal officer of the TPA shall not assume the charge of the office until their appointment has been approved by the Commission....."*

### **Section 40A of the SECP Act, 1997:**

*"(1) Any person who contravenes or fails to comply with any provision of rule made under section 39 or regulation made under section 40 or directive or notification issued under this Act shall be liable to pay by way of penalty a sum which may extend to ten million rupees and where the contravention is a continuing one, with a further penalty which may extend to one hundred thousand rupees for every day after the first during which such contravention continues.*

*(2) A penalty under sub-section (1) shall be imposed by the Commission after providing a reasonable opportunity of being heard to the party."*

6. In response to the SCN, the Company vide letter dated July 11, 2024 submitted its reply as follows:

(Quote)

*"Our point wise reply to the observations cited in SCN are as follows:*

*1. As replied in our email dated April 25, 2024, the requirement to solicit prior approval from the Commission was overlooked. The mistake was inadvertent and not deliberate on our part. Since the change in CEO and Director was not objected at the CRO level and no prior approval was sought from the Company, rather our application for change in Director and CEO was accepted and approved. Had we been asked to apply for prior approval from the Commission, the Company would have taken immediate steps to apply for prior approval from the Commission.*

*2. The matter when brought to the attention vide email dated March 27, 2024, the Company immediately accepted the lapse and responded to the email positively by providing all the documents and explanation sought vide the said email by reply to the email on April 25, 2024. The Company was asked to submit the necessary documents in the head office of the Commission physically situated in Islamabad. The Company couriered the said documents in the Commission on June 6, 2024 which were received in the Commission on June 10, 2024.*



*It would be not out of place to state that since the change in management and related issues were taking place at the that time i.e. April 18, 2023. The incoming management was not able to focus on the regulatory compliance matters, which led to this oversight. Since the transition phase for the new management is over and it has appointed a reputed firm of Chartered Accountants to advise the management of compliances to be made and make the necessary compliances on its behalf. We are hopeful that such non compliances will be avoided in future.*

*We remain fully cooperative with SECP and are prepared to any additional information or documentation you may require to resolve this matter swiftly and amicably.*

*Once again, please accept our sincerest apologies for any inconvenience caused by this oversight. We appreciate your understanding and request your honor to waive the penalties, in consideration of a new TPA venture in the country, inexperienced management, change of management during the aforesaid period and considerably small company set up. Your support would be greatly appreciated by our striving organization and help us to promote the TPA business in the country as per the vision of SECP."*

(Unquote)

7. In order to provide the Company an opportunity of personal representation, hearing in the matter was fixed for September 4, 2024, wherein Mr. Muneer Ahmed Khan (CEO) appeared as the Authorized Representative of the Respondent (**the Representative**). During the hearing, the Representative was advised to explain the reasons for the alleged non-compliance as narrated in the SCN. The Representative reiterated the submissions and arguments made in the written reply. During the hearing proceedings, the Representative stated that lapse in obtaining prior approval for appointment of the CEO and Director occurred due to change in management of the Company. It was further stated that the new management was not able to focus on regulatory compliances, which led to non-compliance in the instant matter. In view of the foregoing, it was considered necessary to issue addendum to the SCN in order to make both the proposed CEO and proposed Director as the Respondent to the SCN. Accordingly, addendum to the SCN dated September 11, 2024 was issued and the Respondents were provided second hearing opportunity on September 16, 2024 to clarify their position in the matter. During the hearing proceedings held on September 16, 2024, the Respondents reiterated the submissions and arguments made in written reply dated July 11, 2024. They were advised to submit copies of correspondence exchanged with the Licensing Department in connection with seeking approval for appointment of the proposed CEO and proposed Director. The Company shared copies of the requisite correspondence vide email September 19, 2024.

8. Subsequent to the hearing, Mr. Shariq Abdullah, proposed Director/Respondent vide email dated September 5, 2024 furnished copy of application dated June 6, 2024 seeking approval for appointment of proposed CEO and proposed Director of the Company, as filed with the Licensing Department. Mr. Muneer Khan, proposed CEO/Respondent vide email dated September 19, 2024 made further submissions in the matter, which are reproduced as follows:

(Quote)

*".....As directed in our recent Zoom meeting dated 16<sup>th</sup> September, I want to acknowledge the importance of addressing the matter at hand. In light of the recent show cause notice, I respectfully request your understanding regarding our oversight in not obtaining the Fit & Proper certificates prior to the hiring of the CEO and director from both the previous and current management. It was never our intention to disregard this requirement, and we are fully committed to compliance moving forward.*



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*Following your guidance, we shared all relevant documents and details with the concerned teams in April 2024 and subsequently as required. We sincerely apologize for this oversight and kindly ask that you consider waiving the show cause notice under the circumstances.*

*I would like to bring to your kindness that my appointment as CEO, occurred before the acquisition of shares in the company from the previous management, and this decision was particularly challenging given the company's precarious position on the brink of permanent closure. Investing all our savings to revive the business was a significant step after more than 20 years of secure employment. Breaking safe and secure investments was not an easy choice, especially considering the ongoing financial difficulties. We genuinely seek to foster a successful and compliant operation.*

*I have attached the attendance sheet, along with a scanned copy of the formal application for the approval of elected directors, which was couriered to the relevant department in June."*

(Unquote)

9. Before proceeding further in the matter, it would be logical and reasonable to discuss the significance of Fit & Proper Test for directors of TPA. The following are the main reasons for its significance:

- (i) TPAs handle health information of insured patients. Ensuring directors are fit and proper helps safeguard patients' privacy and builds trust with clients.
- (ii) A fit and proper test ensures that directors are aware of and committed to complying with relevant laws and regulations, reducing the risk of legal issues.
- (iii) Directors must have the necessary experience in healthcare administration and insurance practices. This competence ensures effective oversight of operations and decision-making.
- (iv) The health insurance landscape is fraught with risks, including fraud and data breaches. Fit and proper criteria help ensure that directors can identify, assess, and manage these risks effectively.
- (v) Having directors who are financially competent and ethical helps ensure proper financial management and transparency.
- (vi) The interests of policyholders, insurers, and healthcare providers must be protected. Competent Directors help ensure fair practices and accountability.
- (vii) A TPA's reputation can be severely impacted by the actions of its directors. Ensuring that only suitable individuals serve helps maintain public confidence in the TPA's operations.

10. I have examined the facts of the case in light of the applicable provisions of the law and considered the written as well as verbal submissions and arguments of the Respondents and their Representatives and have observed as under:

**(a) Lapse in Obtaining Prior Approval for Appointment of Proposed CEO and Proposed Director:**

As a matter of record, the Respondent Company appointed on its Board Mr. Shariq Abdullah as Director and Mr. Muneer Ahmed Khan as CEO on April 18, 2023; however, prior approval of the Commission for their appointment, in terms of Regulation 18(2) of the Regulations was not obtained. The Respondent Company admitted the lapse and stated that this mistake was inadvertent and not a deliberate one.





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**(b) Obligations of the Respondents to Ensure Compliance with the Regulations:**

The Respondent Company has argued that the CRO did not raise objection at the time of notifying the change in the CEO and Director of the Company and the same was accepted without requiring them to provide prior approval of the Commission.

In this regard, it may be noted that while the Respondents have admitted the lapse in obtaining approval for appointment of the proposed CEO and proposed Director, it would be unjust and invalid excuse that the CRO did not require them to submit prior approval of the Commission before accepting change in the Board. Being a registered TPA, it was statutory obligation of the Respondents to ensure compliance with the requirement of obtaining the prior approval and onus of non-compliance thereof lies with them. The Respondents have been ignorant of the mandatory requirement of the law in the instant matter which fact was admitted by them. The Respondent vide email dated July 11, 2024 while giving reason for the lapse in obtaining the prior approval of appointment of the proposed CEO and proposed Directors conceded that *"The incoming management was not able to focus on the regulatory compliance matters, which led to the oversight."*

**(c) Contravention of Regulation 18(2) of the Regulations:**

Regulation 18(2) of the Regulations categorically requires that the proposed Chief Executive and proposed Directors of TPA shall not assume the charge of their office until their appointment has been approved by the Commission. However, the Respondents have admitted that lapse in obtaining prior approval of the Commission in respect of appointment of the proposed CEO and proposed Director occurred, which establishes contravention of Regulation 18(2) of the Regulations.

11. In view of the above, the Respondents are liable to penalty under Section 40A of the SECP Act on account of the aforesaid contravention of Regulation 18(2) of the Regulations. However, considering the facts that the Respondents had filed application dated June 6, 2024 seeking approval for appointment of the proposed CEO and proposed Director of the Company before initiation of the instant proceedings and that the said default occurred for the first time, the proceedings are hereby concluded with a warning to the Respondents to ensure meticulous compliance with all the requirements of the Regulations, in future.

12. This Order is being issued without prejudice to any other action that the Commission may initiate against the Company and / or its management (including CEO of the Company) in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

**(Shahzad Afzal Khan)**  
Director/Head of Department  
(Adjudication Department-I)

**Announced:**

October 10, 2024  
Islamabad