



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN
APPELLATE BENCH REGISTRY

BEFORE APPELLATE BENCH NO. II

In the matter of

Appeal No. 11 of 2010

Platinum Insurance Company Limited

.....

Appellant

Versus

Executive Director (Insurance)

.....

Respondent

Date of Hearing

02-03-10

ORDER

Present:

For the Appellant:

Mr. Atir Aqeel Ansari

Advocate

Respondent:

Ms. Nasreen Rashid

Executive Director

For the Respondent Department:

Mr. Tariq Hussain

Director

Muhammad Kashif Siddiquee

Joint Director



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1. This order shall dispose of appeal No. 11 of 2010 filed under section 33 of the Securities and Exchange Commission of Pakistan (the “Commission”) Act, 1997 against the order dated 14-01-10 (the “Impugned Order”) passed by the Respondent.
2. During the inspection of the books of accounts and other records of the Appellant, it transpired that the Appellant has maintained its reinsurance treaty arrangements with Korean National Insurance Corporation (“KNIC”). The letter head of the treaty documents of KNIC with the Appellant mentioned the address of the KNIC, however, on inquiry it was revealed that there was no such office existed at the address mentioned on the letter head.
3. Show cause notice dated 10-09-09 (“SCN”) was issued to the Chief Executive Officer (“CEO”) and directors of the Appellant under section 41 read with section 158 of the Insurance Ordinance, 2000 (the “Ordinance”). The Appellant submitted its reply and the CEO and the legal advisor of the Appellant appeared for the hearing. The Respondent not satisfied with the response passed the Impugned Order and imposed penalty of Rs. 1 million on the Appellant.
4. The Appellant preferred appeal against the Impugned Order. The Appellant’s counsel argued that the address of KNIC on the letterhead is its old address and KNIC is fully operational at its new address which is mentioned on the letter head of KNIC when the Appellant submitted its re-insurance documents to the Respondent during the year 2008. It was argued that the Respondent did not bother to verify the existence of KNIC at the other location and did not verify the existence of reinsurance arrangements between the Appellant and



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KNIC. It was contended that the assertion of the Respondent in para 4 of the Impugned Order that the reinsurance treaty documents were forged could not be established, therefore, section 158 of the Ordinance is not applicable. It was further argued that, without prejudice to above argument, even if an offence has been committed, the penalty imposed must commensurate with the offence and the Respondent did not impose a penalty proportionate to the offence.

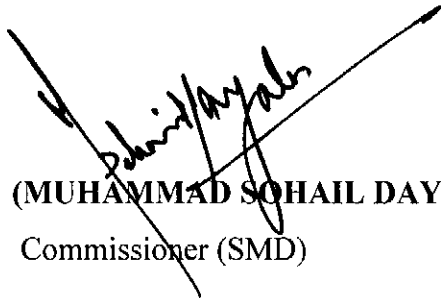
5. The Respondent contended that officers of the Insurance Division visited both the addresses of KNIC mentioned on the letter heads and also tried to established contact through the telephone number provided. It transpired that KNIC did not exist at either of the addresses. The officers learnt that staff members of the Korean Embassy were residing at the address for the last two years and they were completely unaware about the existence of KNIC at that address. It was argued that non-existence of KNIC at the given addresses has clearly established that the entire arrangement was a sham and the paper work was put in place to show compliance with law. The Respondent further pointed out that the Appellant ceded 75% of its re-insurance arrangements with KNIC whereas KNIC has no business with any other insurance company in Pakistan. It was also submitted that KNIC is banned from United Kingdom due to alleged involvement in money laundering.
6. We have heard the parties and perused the documentary evidence provided by the Respondent. The Appellant has failed to provide evidence of the existence of KNIC at the given addresses and has also failed to provide any documentation in support of its relationship with KNIC. The Appellant has made fake re-insurance documents as no office of KNIC could be found on the address provided by the Appellant. The Appellant is in violation of section 158 of the Ordinance for making false statements and was rightly

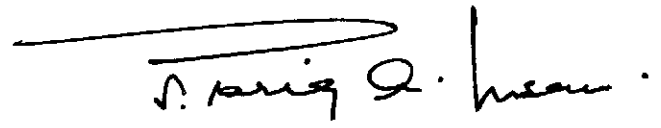


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imposed the maximum penalty. The re-insurance arrangements are one of the basic requirements of registration of an insurance company and in absence of such an arrangement; no insurance company would be allowed to operate.

In view of the above, we do not find any grounds to interfere with the Impugned Order. The appeal is dismissed with no order as to cost.


(MUHAMMAD SOHAIL DAYALA)
Commissioner (SMD)


(S.TARIQ ASAF HUSAIN)
Commissioner (LD)

Announced on: 18-3-10