



SECP
INSURANCE DIVISION
Islamabad

Before Hasnat Ahmad, Director (Insurance)

In the matter of

Shabber Raza Associates (Pvt.) Limited

Show Cause Notice Issue Date: November 3, 2016
Date of Hearing: November 25, 2016
Attended By: Mr. Shabber Raza Zaidi, Chief Executive, Shabber Raza Associates (Pvt.) Limited.
Date of Order: December 16, 2016

ORDER

Under Section 111(1) and Section 112(6) Read with Section 158 of the Insurance Ordinance, 2000.

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This Order shall dispose of the proceedings initiated against M/s. Shabber Raza Associates (Pvt.) Limited (the "Surveyor"), and its Directors, for alleged contravention of Section 111 (1) and Section 112 (6) read with Section 158 of the Insurance Ordinance, 2000 (the "Ordinance"). The Surveyor and its Directors shall be referred to as the "Respondents" hereinafter.

A. Background

2. The Surveyor is licensed under the Ordinance to conduct survey of non-life classes of business comprising of fire, marine, and motor classes.
3. During examination of the Annual Audited Accounts and Regulatory Returns for the year ended December 31, 2015 of M/s. Century Insurance Company Limited (the "Company") and the Management Letter, it was observed that the Surveyor conducted surveys for Miscellaneous class of business even though it was not licensed for this particular class of business.
4. Upon inquiry from the Company vide email dated October 13, 2016 about details of the surveys conducted by the Surveyor, it was confirmed that the Surveyor conducted two surveys pertaining to Miscellaneous class of business for the Company during the year 2015.

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5. Section 111(1) of the Insurance Ordinance, 2000 (the "Ordinance") provides that:

"Persons permitted to act as insurance surveyors. - (1) Subject to subsection (2), it shall be unlawful for any person to act for remuneration as a surveyor, loss adjuster, or loss assessor (by whatever title called) unless such person is

*(a) an adjuster of aviation or maritime losses; or
(b) a person licensed as a surveyor under this Ordinance."*

....

6. In addition to the above, Circular 25 of 2009 requires that surveyor along with its application for renewal of license must provide complete details of surveys conducted during the previous year. However the details provided by the Surveyor along with its renewal application did not include the aforementioned surveys conducted for the Company. Therefore, the Surveyor *prima facie* misstated in its application for renewal of license.

7. Hence, Show Cause Notice bearing number ID/Enf/Surveyor/2016/7324 dated November 3, 2016 was issued to the Respondents, thereby calling upon them to show cause as to why punitive action may not be taken against them in terms of Section 158 of the Ordinance or cancel the license of the Surveyor in terms of Section 112(6) of the Ordinance for not complying with the provisions of Section 111(1) of the Ordinance.

8. In response to the said Show Cause Notice, the Respondents, vide letter dated November 7, 2016, requested to share details of the aforementioned surveys pertaining to the Miscellaneous class of business. The requisite information was provided to the Respondents vide email dated November 7, 2016. Subsequently, the Respondents sought one week extension to submit reply to the aforesaid Show Cause Notice. The extension as requested was granted to the Respondents.

9. The Respondents vide letter dated November 14, 2016 submitted their comments, which are reproduced hereunder:

"1. You observed that we conducted two surveys for miscellaneous class of business, in which we are not licensed for particular class of business. We received appointment letters from insurance for survey fire claim of electric motors in the Fire class of business. We did survey in same class, and issued the survey report of the same. Insurer provided us Schedule of Insurance policy. And in the said schedule of insurance policy no such description of class was clearly mentioned or explained.

2. You further observed, that Detail of abovementioned two surveys were not mentioned in circular 25/2009 along with renewal of our surveying certificate. As you know that only those details are mentioned in abovementioned circular in which survey fee was recovered from insurer.

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In above mentioned two cases, survey fee was recovered a bit late from insurer's side, so we could not enter the same amount in our accounts. Due to above circumstances, we could not mention detail of above mentioned two No.s Survey reports in circular 25/2009.

No violation of law/rules has intentionally been committed through our side. As a matter fact, we assessed the loss of both the claim of burnt copper wire of the electric motors in pursuance of appointment letters where in specifically fire category was mentioned.

We have furnished detailed explanations with respect to each of your grounds in the SCN. There are no intentional violations of provision of insurance ordinance 2000 from our side.

Under the circumstances, all the reasons have been explained to you. Therefore, we request you recall your show cause notice served to us and drop further proceedings. We request you before final decision; give us an opportunity for personal hearing in case you decide to proceed further."

10. It is pertinent to mention that the Company was also issued Show Cause Notice in the matter. The Company vide letter dated November 7, 2016, admitted its mistake in appointing the Surveyor for Miscellaneous class of business without a valid license. Response of the Company is reproduced hereunder:

"...the services of Shabber Raza Zaidi were being utilized by us for Motor & Marine Class for which they have valid licenses. Consequently, we inadvertently appointed them to survey the two cases pertaining to Miscellaneous Class. Later on when we came to know that they do not hold license for Miscellaneous Class we immediately stopped utilizing their services for this class. Further we have taken measures to ensure that similar instance doesn't take place in future..."

11. In view of the above, it *prima facie* appeared that the Respondents violated the provisions of Section 111(1) of the Ordinance, as the surveys were conducted despite the fact that the Surveyor was not holding license for Miscellaneous class of business. The Respondents submitted incomplete information along with their application for renewal of license as required under Circular 25 of 2009.

B. Hearings

12. The Commission, vide its notice no. ID/Enf/Surveyor/2016/7492 dated November 15, 2016, scheduled the hearing for November 25, 2016 at 03:30 p.m. Accordingly, the said hearing was attended by Syed Shabber Raza Zaidi, Chief Executive, Shabber Raza Associates (Pvt.) Limited at the Head Office of the Commission.

13. Brief proceedings of the hearing of November 25, 2016 are as under:

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- i. The Respondents stated that the insurance policy given by the Company did not state whether it was under fire class of business or miscellaneous class of business;
- ii. The Company informed the Surveyor over the phone to visit the place and later policy documents were provided to the Surveyor;
- iii. The Respondents stated that they did not know whether it was machinery breakdown;
- iv. The Respondents insisted that machinery was also covered in fire class as well;
- v. The Respondents were informed that machinery breakdown is covered under the Miscellaneous class of business. Therefore, the Respondents should not have conducted the aforesaid surveys, treating those losses under the Miscellaneous class of business. Furthermore, all four items shown in the policy were also part of the Miscellaneous class of business; and
- vi. The Respondents were also informed that the Company has already accepted its mistake for appointing the Surveyor for Miscellaneous class of business without having valid license.

C. Issues

14. The Respondents conducted two surveys for Miscellaneous class of business without valid license. The Company vide letter dated November 7, 2016 also admitted that the Surveyor appointed by it, was not licensed for Miscellaneous class of business.

D. Summary of arguments and conclusion in respect of each issue

15. The Respondents were required to ensure that they hold valid license for the survey they are conducting. The Respondents cannot absolve their responsibility by passing the blame on to the insurer. The violation of Section 111 of the Ordinance highlights loose internal controls that the Respondents need to address. For the sake of clarity, the definitions of "fire and property damage class of business" and "Miscellaneous class of business" are reproduced hereunder: -

Section 4(4)(a) of the Ordinance:

"fire and property damage business" means effecting and carrying out contracts of insurance against loss to the policy holder arising from loss of or damage to property, other than as contained in class2."

Section 4(4)(i) of the Ordinance

"miscellaneous business" means effecting and carrying out contracts of insurance of types not included in any other class."



16. Therefore, in view of the above and as stated earlier, violation of Section 111 of the Ordinance is clearly established, for which license of the Respondents as surveyor may be cancelled in terms of Section 112(6) of the Ordinance, which states that:

“Licensing of insurance surveyors. -

....

(6) If the Commission believes on reasonable grounds that a licensed surveyor has failed to comply, or has ceased to comply, with a condition of his license, the Commission may by notice to the licensed surveyor of not less than two weeks cancel that license.”

E. Overall conclusion

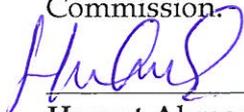
17. I have carefully examined and given due consideration to the written and verbal submissions of the Respondents, and have also referred to the provisions of the Ordinance and other legal references, I am of the view that the default of Sections 111 and 158 of the Ordinance is established.

F. Penalties and directions

18. In exercise of the powers conferred on me under Section 112(6) of the Ordinance read with S.R.O. 122(I)/2016 dated February 12, 2016, I, instead of cancelling the license of the Respondents as surveyor under the said provision, take a lenient view and warn the Respondents to be careful in future. However, in view of misstatement by the Respondents in their application for renewal of license, I hereby impose a fine of Rs. 3,000/- (Rupees Three Thousand Only) on the Surveyor, in terms of Section 158 of the Ordinance, as mentioned hereinabove. Further, the Respondents are also directed to observe strict compliance of the provisions of the Ordinance, Rules and Regulations in future.

19. Hence, the Surveyor is hereby directed to deposit the applicable fine in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with MCB Bank Limited within thirty (30) days from the date of this Order and furnish receipted vouchers issued in the name of the Commission for information and record.

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


Hasnat Ahmad
Director

