



SECP  
INSURANCE DIVISION  
Islamabad

Before Tahir Mahmood, Commissioner (Insurance)

*In the matter of*

GM Awan Associates (Pvt.) Limited

Show Cause Notice No. and Issue Date: ID/Enf/SurveyorGMAwan/2018/14430 dated April 11, 2018

Date of Hearing: October 11, 2018

Attended By: Mr. Fayyaz Gul Awan  
Chief Executive/ Director  
GM Awan Associates (Pvt.) Limited

Date of Order: October 19, 2018

**ORDER**

Under Rule 47 (3) and (4) of the Insurance Rules, 2017 read with Section 112(3)(d),  
Section 112(6) and 113(6) of the Insurance Ordinance, 2000

.....

This Order shall dispose of the proceedings initiated against M/s. GM Awan Associates (Pvt.) Limited (the "Surveyor"), its Chief Executive and Directors, for alleged contravention of Rule 47(3) and Rule 47(4) of Insurance Rules, 2017 (the "Rules") read with Section 112(3)(d) of the Insurance Ordinance, 2000 (the "Ordinance"). The Surveyor, its Chief Executive and Directors shall be referred to as the "Respondents" hereinafter.

2. The Surveyor is licensed under the Ordinance to conduct surveys of non-life classes of business comprising of fire, marine, motor and miscellaneous/ machinery breakdown (MBD) classes.

3. While deciding the complaint lodged by Mr. Javed Khan (the "Complainant") against M/s. Askari General Insurance Company Limited (the "Company"), the honorable Federal Insurance Ombudsman (FIO) in his order dated February 23, 2018 recommended the Commission to take an action against the Surveyor for its wrong doings as highlighted in the order.

4. The claim amounting to Rs. 11.851 million was lodged by the Complainant on account of loss caused by fire at three (3) storied jeweler shop in Shabqadar, District Chasadda (KPK) on March 5, 2014, which was insured with the Company with sum assured of Rs. 13.590 million.

5. In para 30 of the order, the FIO stated that despite provision of all the record by the Complainant within one month from the date of requisition i.e. on March 20, 2014, the Surveyor took about one (1) year and seven (7) months thereafter to submit the



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report dated October 29, 2015. This constituted a flagrant violation of the time limit prescribed for submission of the survey report under Rule 47(4) of the Rules (Rule 22(4) of the Insurance Rules, 2002) read with Section 112(3)(d) of the Ordinance.

6. As per paras 22, 23 and 31 of the order, the honorable FIO observed that the Surveyor adopted a wrong course of action while preparing the survey report. Instead of assessing the extent of loss after verification of details/photographs taken by the Company, the Surveyor assessed the loss based on the list of items insured along with their value at the time of selling of the policy. The Surveyor with malafide intention understated the loss as he had no moral /legal right to reduce the value of the items insured, which were admitted by the Company while selling the policy. Therefore, the report of the Surveyor was not relied upon being arbitrary and unreasonable serving the interest of the Company, by making unlawful deductions or not taking into consideration all kinds of dyes and items to arrive at the figure of actual loss suffered by the insured person. It appeared that in order to facilitate the Company, the Surveyor gave escape route to the Company to wipe off the loss suffered.

7. It transpired from the details provided in the order that while conducting the survey of loss by fire of the entire stock machinery, equipment, dyes, fixtures, fittings, and wherewithal thereto at the shop of the Complainant, the Surveyor failed to act with due diligence and skills as required by Rule 47(3) & 47(4) of the Rules read with Section 112(3)(d) of the Ordinance.

8. Rule 47 (3) & (4) of the Rules state that:

.....

*"(3) Every survey conducted by, and report given by, an insurance surveyor shall comply with the relevant professional standards of any professional body of which the insurance surveyor is a member.*

*(4) Every survey conducted by, and report given by, an insurance surveyor shall be conducted and given with due diligence and skill, and in good faith and the report shall be finalized as early as possible but within the period of ninety days:*

*Provided that where claim, in motor (to include own damage and third party liability) and marine cargo, hull and aviation and miscellaneous business, amount exceeds rupees one million, and in fire and allied perils and engineering classes amount exceeds rupees ten million, and final report has not been submitted within the 90 days of his appointment, the insurance surveyor shall submit preliminary report to the Commission before expiry of the 90 days, mentioning therein the reasons for delay, if any. In case no preliminary report is submitted within the 90 days in the first instance, he will be required to submit status report thereafter every 90 days..."*

9. Section 112(3)(d) of the Ordinance provides that:

*"(3) No person shall be entitled to apply for or to hold a license as a surveyor under this Ordinance unless the following conditions are fulfilled at the date of the application and at all times during which the license is held:*

....



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*(d) reports issued in respect of surveys conducted by the person contain such information and comply with such conditions as may be prescribed;"*

10. Hence, a Show Cause Notice bearing number ID/Enf/Surveyor- GM Awan/2018/14430 dated April 11, 2018 was issued to the Respondents, thereby calling upon them to show cause as to why action may not be initiated in terms of Section 112(6) & 113(6) of the Ordinance for not complying with the provisions of Rule 47 (3) & (4) of the Rules read with Section 112 (3)(d) of the Ordinance.

11. Thereafter, the Respondents vide letter dated April 19, 2018 submitted their comments, which are summarized hereunder:

## Preamble and initial survey proceedings

01. *Shabqadar is a Tehsil headquarter of Shabqadar Tehsil in Charsadda district and is situated 25 Km North of Peshawar. According to data available on the web the population of Shabqadar Tehsil following Census- 2017 was 383,765 and in 1998 was 240,751.*
02. *Insurers appointed GM Awan Associates ('GMA') for survey on 06.Mar.2014. The survey was attended the same day along with Mr Sabir of insurers, Askari General Insurance ('AGI').*
03. *Mr Sabir had earlier attended a risk inspection prior to finalizing the insurance policy. For the risk inspection the site was inspected in presence of Insured's Hajl Javed (HJ) and his show room staff/ relatives. Insured's premises adjoins a vegetable shop on one side and a tailor's shop on the other.*
04. *During the loss survey HJ's statement was recorded in Urdu, a site plan was drawn and each floor was inspected to identify the machines. Later that day GMA sent an email to AGI including a translation of HJ's statement thus conforming to the statutory requirement of a PLR. As customary, GMA advised HJ that the loss site should not be disturbed until clearance from the insurers.*

## Joint surveyors appointed

05. *On 07.Mar.2014 AGI appointed Joseph Lobo Pvt Ltd, Karachi ('JL') as Joint Surveyor. JL attended for survey along with GMA on 10.Mar.2014.*
06. *During the survey and collection of data we noted that the insured's claim list had 03 major heads of loss :[a] Patron Rubber Dies [b] Pond Dies [c] Mix Dies for jewelry making and which were respectively insured for PKR 4 million, 3 million and 2 million forming the majority of the claim of PKR 13.851 million.*

## Physical condition

07. *The seat of fire in the insured's premises was the ground floor rear area 16'.00" x 6'.00" that was used as a workshop. HJ pointed out the area in the workshop where*



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*'Dies' were stored and that location was identified in the annexed site drawing that was signed by HJ.*

08. *GMA and JL both advised HJ telephonically that AGI appointed JL as joint surveyors and a joint survey visit to the insured's premises was agreed for Monday 10.Mar.2014. HJ chose to stay away from the agreed joint survey appointment and sent his son Mr Adnan to attend the joint survey. Since JL had come all the way from Karachi, surveyors proceeded to carry on the survey including extraction of debris and examination thereof but in the absence of HJ. The physical findings were countersigned by Adnan who was present.*
09. *There was no trace whatsoever of remnants of Rubber/Plastic dies in the debris. Although we checked 100 pet of the debris we could not find a corresponding quantity of Iron Dies - which was disturbing. To obtain Insurance, HJ had advised the quantity of Dies as under:*

.....

### Survey Physical findings/ anomalies found

13. *We examined the loss on the basis of the records on file. HJ was not able to provide the evidence of payments made to the Supplies which we requested during meetings.*
14. *In order to assess the loss the physical evidence must be supported by valid and authentic records that can also corroborate the scale and volume of the business being carried out.*
15. *We noted from the record that insured did not clear his Electricity Dues and Arrears for a year.*
16. *The high scale and volume of purchases of Dies for making Jewelry do not correspond to low Electricity consumption bills. Such purchases are made when business is flourishing and the machines are running -the highest electricity consumption was 120 units in a month and lowest at 98 units in February-2014 just a month prior to the fire.*
17. *NBP bank statement presented to us in support of the claim, bore Account No.002292-0 is in the name & style of M/s Javeed Khan s/o Abdul Karim, Village PO, Shabqadar. In the month of the loss, the account had a balance of PKR 131.92.*
18. *Neither the physical evidence seen after the fire nor the documents presented could support the large claim that the insured maintains. Had the insured been willing to discuss reasonable compensation in accordance with the actual fire damage that occurred, their claim could have been finalized long ago.*
19. *HJ was out of contact for many weeks after lodging this claim but we received calls from influential sources who cited his ignorance of 'a documented economy' and 'troubles we may face' by not signing off on his full claim.*



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- 20 *In view of the lack of supporting evidence we are still unable to recommend the claim being demanded.*

*Fire Insurance proposal form filled UP. referred to as a pre-risk inspection by Insurer*

- 21 *AGI shared their Pre-Risk Inspection photographs which are very general in nature. That pre-insurance inspection was apparently carried out as a formality and an actual count of the Dies was never done. Value of the Dies was written as per oral declaration of HJ.*

*Independent verification of bills submitted by insured for purchase of dies*

- 22 *We were unable to receive any record that could support the operational and financial viability of insured's business. JL therefore made several visits to the Dye Suppliers and were eventually able to meet to discuss with the Suppliers whose bills HJ had furnished. Both suppliers denied the Invoices given to us in evidence.*
- 23 *HJ was provided an opportunity to explain his position with regard to these denials by the Suppliers. He could not do so.*
- 24 *It is also pertinent to add that when contradictory statements had been obtained by us, and had those been taken under coercion which the authors would not have been willing to state, would it not have come to the knowledge of HJ immediately? He was supposedly their Prime customer in view of huge volumes and we as a third party were standing nowhere in relation to HJ vs Suppliers.*

*Conclusion*

- 25 *Both Surveyors have been practicing for decades and enjoy sound reputations In the market. We are respectfully requesting a personal hearing in response to the Show Cause Notices."*

12. The Commission, vide its notice no. ID/Enf/Surveyor-GMAwan/2018/16632 dated October 4, 2018, scheduled the hearing for October 11, 2018 at 10:30 a.m. The said hearing was attended by Mr. Fayyaz Gul Awan, Chief Executive Officer of the Surveyor at Head Office of the Commission.

13. During the hearing, the Respondent stated that the Surveyor could not find sufficient evidence in support of the claim of the Complainant. He argued that the claim was exaggerated to Rs. 13 million while the Surveyor recommended 1.3 million on account of loss suffered by the Complainant caused by fire at his shop. The Respondent regretted the delay in issuance of the survey report within 90 days as prescribed under Rule 47(4) of the Rules (previously Rule 22(4) of the Insurance Rules, 2002). The Respondent requested the Commission to take lenient view in the matter.



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14. The Respondents were required to comply with the mandatory provisions of Rule 47(4) of the Rules, which the Respondents have failed to do. The survey was assigned to the Respondents on March 6, 2014, however the survey report was submitted on October 29, 2015 i.e. after more than eighteen (18) months. Whereas as per Rule 47(4) of the Rules (previously Rule 22(4) of the Insurance Rules, 2002), the Surveyor was required to finalize the report within the period of 90 days. By not complying with the Rule 47(4) of the Rules, the Surveyor also breached the provisions under Section 112(3) of the Ordinance which state that no person shall be entitled to apply for or to hold a license as a surveyor under this Ordinance unless the conditions are fulfilled at the date of the application and at all times during which the license was held. The claim was eventually settled in July 2018 i.e. after appointment of M/s. Sadruddin Associates (Pvt) Limited by the Commission for re-survey.

15. 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 Rule 47 (3) & (4) of the Rules read with Section 112 (3)(d) of the Ordinance is established for which action under 112(6) & 113(6) of the Ordinance can be initiated.

16. Section 112(6) of the Ordinance states that:

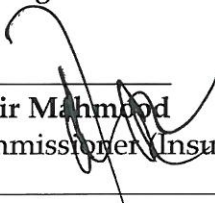
*"(6) If the Commission believes on reasonable grounds that a licensed surveyor has failed to comply, or has ceased to comply, with a condition of his licence, the Commission may by notice to the licensed surveyor of not less than two weeks cancel that licence."*

17. Section 113(6) of the Ordinance states that:

*"(6) If the Commission believes on reasonable grounds that an authorized surveying officer has failed to comply, or has ceased to comply, with a condition of his registration, the Commission may by notice to the authorised surveying officer of not less than fourteen days cancel that registration:  
....."*

18. In exercise of the powers conferred on me under Section 112(6) and 113(6) of the Ordinance, I, instead of cancelling the license of the Respondents as Surveyor and Authorized Surveying Officer(s) under the said provisions, take a lenient view and warn the Respondents to observe strict compliance of the provisions of the Ordinance, Rules and Regulations in future.

19. 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.

  
Tahir Mahmood  
Commissioner (Insurance)

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