



SECP
INSURANCE DIVISION
Islamabad

Before Fida Hussain Samoo, Commissioner (Insurance)

In the matter of

Adamjee Life Assurance Company Limited

Show Cause Number and Date: ID/Enf/AdamjeeLife/2016/7191, October 26, 2016
Date of Hearing: December 19, 2016
Attended By: Mr. Asad Iftikhar
legal representative
M/s. Adamjee Life Assurance Company Limited.
Date of Order: December 27, 2016

ORDER

Under Section 76, Section 95, Section 11(1)(f) & (h) and Section 12(4) Read with Section 60 and Section 156 of the Insurance Ordinance, 2000.

.....

This Order shall dispose of the proceedings initiated against M/s. Adamjee Life Assurance Company Limited (the "Company") and its Directors for alleged contravention of Section 76, Section 95, Section 11(1)(f) & (h) and Section 12(4) of the Insurance Ordinance, 2000 (the "Ordinance"). The Company and its Directors shall be hereinafter referred to as the "Respondents".

2. The Insurance Division of the Commission ("the department") received complaints from Ms. Aneela Riazuddin, Ms. Rahila Altaf and Mr. Umair Altaf (the "Complainants"). The Complainants alleged that they were conned into buying insurance and takaful policies by Mr. Awais Bin Zahid, Branch Relationship Manager at Faysal Bank Limited (F-7 Markaz Branch, Islamabad) from various insurance/takaful companies. Altogether 11 policies were issued in their names allegedly through mis-selling. The Complainants further alleged that they were not provided with copy of the original policy documents at the time of commencement of the policies and during the 14 days free-look period. They also alleged that the information in their policies was incorrect and was filled without their express knowledge. The Complainants stated that they could not continue to pay the contributions, therefore, Mr. Awais Bin Zahid offered to reduce the amount of contributions for the respective policies. The Complainants also stated that Mr. Awais somehow obtained the debit authority from them without their knowledge and moved some funds without their consent. The Complainants alleged that they came to know about the transactions from the bank statement(s).



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Insurance Division

Continuation Sheet 1

3. The following policies were issued to Ms. Rahila Altaf and her son Mr. Umair Altaf:

Sr. No.	Name of the policyholder	Insurer / Takaful Operator	Policy Number	Annual Premium/ Contribution	Sum Assured
1	Rahila Altaf	Insurance Companies other than Adamjee Life Assurance Ltd.		495,000	5,445,000
2	Rahila Altaf			250,000	2,500,000
Sub Total				745,000	7,945,000
3	Umair Altaf	Adamjee Life Assurance Company Ltd.	400042472	499,000	2,493,450
4	Umair Altaf	Insurance Companies other than Adamjee Life Assurance Ltd.		499,000	4,990,000
5	Umair Altaf			495,000	4,950,000
6	Umair Altaf			499,000	5,423,900
Sub Total				1,992,000	17,857,350
TOTAL →				2,737,000	25,802,350

4. The department upon receiving the complaints, advised the Company vide email dated July 21, 2016 to resolve the complaints, on which the Company vide letter dated July 25, 2016, responded to as under:-

"...After detailed investigation it was found that both the policies were sold after following proper protocols and without any concealment of facts. This has been confirmed by the Faysal Bank Officials..."

"....It is pertinent to mention here that the policy owner never mentioned any concerns about policy at the time of the issuance or at the point of alteration or reinstatement of the policy. We did not find any element of mis-selling or embezzlement in this case..."

5. On October 7, 2016, the Company was advised to submit policy documents to the department including medical certificates/ reports, income certificates, evidences of employment, illustrations and need analysis forms of the Complainant. The Company vide letter dated October 13, 2016 stated that:

....

Medical Certificate/ Reports

The policy was issued under non-medical limits so medical was not conducted however a Health Declaration was signed by the client which is attached herewith as NMQ.

Income Certificate

The income declared by the proposed is mentioned in the Proposal Form attached with the email.

Evidence of Employment

The "KYC" is done at the end of the distribution channel / bank who collects this information at the time of sale.

Illustration

The initial illustration and the acceptance letter signed by the client for the amendment is Attached



Need Analysis Form

The "KYC" activity is done at the end of the distribution channel / bank who collects this information at the time of sale."

....

6. The documents submitted by the Company were reviewed. It appeared that the Branch Relationship Manager at the Faysal Bank Limited, arranged four insurance policies for Mr. Umair Altaf from three different companies including the Company. It was noted that he intentionally issued different policies to avoid the underwriting requirements applicable to large sum assureds, had the aggregate sum assured clubbed into one insurance policy.

7. The insurance policies were issued without verification of the occupation and monthly income of the Complainant. The Company, however, based its underwriting on a proposal form (although signed by the policyholder) but without proper supporting documents reflecting the occupation and income of the Complainant.

8. It is pertinent to mention that other insurance/takaful companies cancelled all of the policies sold through the aforesaid bank official of Faysal Bank Limited and refunded the entire premium to the Complainants.

9. Accordingly, it appeared to the department that the Branch Manager misled the Complainants through deceptive conduct which breached the trust of the Complainants and caused financial loss to them.

10 Hence, Show Cause Notice bearing number ID/Enf/AdamjeeLife/2016/7191 dated October 26, 2016 was issued to the Board of Directors and the Company, thereby calling upon them to show cause as to why punitive action may not be taken against them in terms of Section 156 of the Ordinance and as to why the direction may not be given under Section 60 of the Ordinance for the alleged contravention of Section 76, Section 11(1)(f) & (h) and Section 12(4) of the Ordinance.

11. It may be noted that the provisions of Section 76 of the Ordinance prohibit the insurers from engaging in misleading or deceptive conduct, or a conduct which is likely to mislead or deceive. Section 76(1) to (5) of the Ordinance state as follows:

"Insurer not to engage in misleading or deceptive conduct.- (1) An insurer shall not, in the course of its business as an insurer, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

(2) The inclusion in an insurance policy of unusual terms tending to limit the liability of the insurer, without the express acknowledgement of the policy holder, shall constitute misleading or deceptive conduct.

(3) Nothing contained in sub-section (2) shall be taken as limiting by implication the generality of sub-section (1).

(4) Where a policy holder has relied upon any representations by an insurer or by an agent of an insurer which are incorrect in any material particular, inasmuch as it has the effect of misleading or deceiving the policy holder in entering into a policy, the policy holder shall be entitled to obtain compensation from the insurer for any loss suffered.



(5) Notwithstanding the provisions of the foregoing sub-section, the Commission shall also have the power to levy a fine on the insurer which shall be equal to the lesser of twice the loss determined to be suffered by the policy holder under the foregoing sub-section and ten million rupees."

12. Section 95 of the Ordinance states that:

"Liability of Insurer for act or omissions of agent. - (1) Every insurer shall, so far as relates to a contract of insurance entered into by the insurer through an agent, be liable to the policyholder for the acts or omissions of that agent as though that agent were an employee of the insurer, in circumstances where the policyholder has relied in good faith on the agent and as a consequence has suffered loss or damage. Liability shall be absolute and shall not be capable of being contracted out of, either in the agency agreement or on a policy, proposal or other document."

13. Section 11(1)(f) & (h) of the Ordinance provide that:

"Conditions imposed on registered insurers.- (1) An insurer registered under this Ordinance shall at all times ensure that:

...

(f) the insurer meets, and is likely to continue to meet, criteria for sound and prudent management including without limitation those set out in section 12;

...

(h) the insurer is, and is likely to continue to be, able to comply with such other of the provisions of this Ordinance as are applicable to it."

14. Moreover, the criteria for sound and prudent management in terms of Section 12(4) of the Ordinance stipulate that:

"(4) The insurer or applicant shall not be regarded as conducting its business in a sound and prudent manner if it fails to conduct its business with due regard to the interests of policy holders and potential policy holders."

15. In response to the said Show Cause Notice, the Company vide letter dated November 9, 2016 sought an extension of 15 days and stated:

"The reason of this extension request is the ongoing investigation involving several fronts which are causing inadvertent delays which are beyond the control..."

16. The Company was allowed an extension till November 25, 2016 to respond to the Show Cause Notice. Thereafter, the Company vide letter dated November 24, 2016 stated that they have decided to refund the entire amount paid under the policy to the concerned policyholder. The Company provided a copy of the Cheque of Rs. 599,000/- dated November 24, 2016 and cover letter to the department. The Complainant received the aforesaid cheque on November 28, 2016.

17. Subsequently, the department vide letter dated November 30, 2016 bearing number ID/Enf/AdamjeeLife/2016/7675, scheduled the hearing for December 15, 2016 at 03:00 pm. However, the hearing was cancelled and rescheduled on December 19, 2016. The Respondent opted for hearing through video link through Commission's Karachi Office connecting with the Head Office of the Commission. The said hearing was attended by Mr. Asad Iftikhar, as authorized representative on behalf of the Respondents.



18. The Respondent during the hearing stated that the Company has evidences in the form of call back confirmation and premium alteration request. He further stated that original policy documents were provided to the Complainant. The Respondent reiterated that there was no allegation of mis-selling, the Complainants only wanted to recover the premium paid. The Respondent mentioned that the Company has already refunded the premium to the Complainant and therefore, the grievances of the Complainant were addressed accordingly.

19. I have carefully examined the arguments and documents submitted by the Respondents. Although the Complainants gave their consent to issue the policies but the agent deliberately sold various insurance policies to avoid the underwriting requirements applicable to large sum assureds. The bank manager was aware of the balances in the bank account of the Complainants. It appears that the agent was knowingly and willfully deceiving the Complainants and defying the system placed by the Company. The Respondents were required to properly underwrite the insurance policy by seeking proper medical, income and occupational certificates from the Complainant. Proof of income should have been sought, instead of relying merely on the income mentioned in the proposal form. Nevertheless, the Respondents were responsible for the acts and omissions of the agents in the instant case as per the provisions of Section 95 of the Ordinance. It would be appropriate to mention here that the department has also taken up the aforesaid matter with State Bank of Pakistan for further necessary action against the concerned bank official.

20. In view of the above and given due consideration to the written and verbal submissions of the Respondents, I am of the view that the default of Section 76, Section 11(1)(f) & (h) and Section 12(4) of the Ordinance is established. However, as the Respondents have agreed to redress the grievances of the Complainant by refunding the entire premium paid by him and have subsequently paid Rs. 599,000/-, I take a lenient view and do not impose penalty on to the Respondents and warn the Company to be careful in future.

21. 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 or directors of the Company) in accordance with the law on matters including those subsequently investigated or otherwise brought to the knowledge of the Commission.

Fida Hussain Samoo
Commissioner (Insurance)

