



SECP
INSURANCE DIVISION
Islamabad

Before Fida Hussain Samoo, Commissioner (Insurance)

In the matter of

The Universal Insurance Company Limited

Show Cause Number and Date: ID/Enf/Universal/2016/7429, November 9, 2016

Date of Hearing: December 14, 2016

Attended By:

1. Mr. Amir Raza, Principal Officer
M/s. The Universal Insurance Co. Ltd.
2. Mr. Abdul Waheed, DGM
M/s. The Universal Insurance Co. Ltd.
3. Mr. Rana Amir Zulfiqar, Advocate/
Legal Advisor
M/s. Aamir Law Consultants.

Date of Order: January 10, 2017

ORDER

Under Section 118 and Section 12(4) read with Section 156 of
the Insurance Ordinance, 2000

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This Order shall dispose of the proceedings initiated against M/s. The Universal Insurance Company Limited (the "Company") and its Chief Executive and Directors for alleged contravention of Section 118 and Section 12(4) of the Insurance Ordinance, 2000 (the "Ordinance"). The Company, its Chief Executive and Directors shall be collectively referred to as the "Respondents" hereinafter.

2. The facts of the matter are that the Company was advised through letter dated September 27, 2016 to provide detail of the outstanding claims amounting to Rs.106.23 million along with reasons for delay in settlement of the claims.

3. The Company vide letter dated October 05, 2016 provided the requisite list of outstanding claims. Upon scrutiny of the said list, it transpired that many claims were outstanding for a long period of time, out of which there were certain claims, which were intimated prior to the year 2010.



4. The Company's auditors, M/s. Shinewing Hameed Chaudhri & Co., Chartered Accountants, in the Management Letter for the year ended December 31, 2015, highlighted that certain claims were not paid within a period of 90 days from the date of final assessment of loss by the Surveyors, and in some cases, claims were outstanding even after completion of the survey reports and approval notes of the respective claims.

5. In view of the foregoing paras hereof, it *prima facie* appeared that the Company was conducting its business without due regard to integrity, due care and professional skills appropriate to the nature of non-life insurance business, and that the Company was not conducting its business with due regard to the interests of the insurance policyholders and prospective policyholders, for which the Commission may impose fine as provided under Section 156 of the Ordinance.

6. Therefore, a Show Cause Notice (SCN) bearing number ID/Enf/Universal/2015/7429 dated November 9, 2016 was issued to the Respondents, calling upon them to show cause as to why fine as provided under Section 156 of the Ordinance should not be imposed on them for the aforementioned alleged contraventions of the law.

7. Section 12 (4) of the Ordinance states 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."

8. And, Section 118 of the Ordinance provides that:

"Payment of liquidated damages on late settlement of claims.- (1) It shall be an implied term of every contract of insurance that where payment on a policy issued by an insurer becomes due and the person entitled thereto has complied with all the requirements, including the filing of complete papers, for claiming the payment, the insurer shall, if he fails to make the payment within a period of ninety days from the date on which the payment becomes due or the date on which the claimant complies with the requirements, whichever is later, pay as liquidated damages a sum calculated in the manner as specified in sub-section (2) on the amount so payable unless he proves that such failure was due to circumstances beyond his control.

(2) The liquidated damages payable under sub-section (1) shall be payable for the period during which the failure continues and shall be calculated at monthly rests at the rate five per cent higher than the prevailing base rate."

9. In response to the said SCN, the Respondents vide letter dated November 17, 2016 provided the status of outstanding claims mentioned in the SCN. The Respondents insisted that majority of the claims mentioned in the SCN were pending in different courts for adjudication. The Respondents maintained that the



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Company is obliged to carry forward all such liabilities until the claims are decided by the respective courts. The response of the Company against each of the outstanding claim is given below:

Number of Claims Outstanding 2009 & Prior						
No	Claim Code	Intimation Date	Insured Name	Class	Amount	Universal Insurance Reply
1	L-124-77-1-03-07	22/04/1989	Safdar Cotton Ginners	Fire	200,000	LEGAL CASE-The leader insurance company (Muslim Insurance) has filed appeal before Hon'able Court. The case is pending adjudication at Lahore High Court, Multan Bench.
2	L-124-77-1-05-91	09/05/1991	Nizam Cotton Industries	Fire	4,641,300	LEGAL CASE-The company has filed appeal before Lahore High Court vide RF A 160/2003. The case is pending adjudication.
3	L-138-77-1-09-92	30/09/1992	Nafees Cotton Mills	Fire	800,000	The appeal was decided in favor of insured by Lahore High Court on 13.11.2012 and VIC share as a follower insurance company was 15%, (Rs. 450,000) but the plaintiff did not turn up for recovery till date.
4	L-110-77-51-04-99	14/04/1999	Foroq murtaza Cotton	Fire	2,000,000	LEGAL CASE-The case is pending adjudication before Hon'able Civil Judge Lahore.
5	L-126-661-09-03	11/09/2003	Dilawar Khan	Motor	1,000,000	LEGAL CASE-The case is pending adjudication before Peshawar High Court.
6	L-132-77-1-10-03	18/10/2003	Ayesha Enterprises Ltd	Fire	1,060,114	LEGAL CASE-The case is pending adjudication before Hon'able Insurance Tribunal, Punjab.
7	L-124-77-2-01-04	09/01/2004	Mehran Shahzad Cotton ginners	Fire	2,000,000	The Company has already paid its share of claim for Rs. 1,580,645 on 11.3.2004 along with survey fee of Rs. 85,025 against claim reserve of Rs. 3,665,670 thereby leaving remaining balance of claim reserve for Rs. 2,000,000 which will be written back in the current financial year 2016.
8	L-113-	14/12/2005	Karim	Mari	490,000	General Average

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	88-1-12-05		Aziz Industries (Pot) Ltd	ne		
9	L-113-88-1-12-05	23/12/2005	Waleed Junaid Industries	Marine	490,000	General Average
10	L-102-77-004-10-07	25/10/2007	United publisher	Fire	310,780	LEGAL CASE-The company has already paid the claim but insured has filed false and frivolous application before Insurance Tribunal. The case is pending adjudication before Hon'able Insurance Tribunal Punjab, Lahore.
11	L-124-77-1-103	18/03/2007	Sajid Cotton Ginning	Fire	2,000,000	LEGAL CASE-. The case is pending adjudication before Hon'able Insurance Tribunal Punjab, Lahore.
12	L-102-99-1-15-07	21/05/2007	Mobiz Pvt Ltd	Misc.	2,711,500	LEGAL CASE-. The case is pending adjudication before Hon'able Civil Judge, Lahore.
13	L-128-66-23-12-08	29/12/2008	Asif Khan	Motor	10,000	The said amount represents survey fee payable to M/ s G.M Awan. Since we have already reached settlement with the said surveyor, the said reserve has been settled so for in the current FY2016
14	L-113-88-9-10-09	08/10/2009	Mustehkam Steel Industries	Marine	250,000	The said claim reserve was accounted for through inadvertence. Hence, the same shall be written back in the current FY2016
15	L-125-88-1-12-09	12/12/2009	Jawad Implex international	Marine	200,000	General Average
TOTAL					17,963,694	

10. Thereafter, the Commission vide letter no. ID/Enf/Universal/2016/7593 dated November 22, 2016, scheduled a hearing for November 29, 2016 at 11:00 a.m. However, on the request of the Respondents, hearing was rescheduled on December 14, 2016 at 11:30 a.m. The said hearing was held at Head Office of the Commission in Islamabad and was attended by Mr. Amir Raza, Principal Officer of the Company, Mr. Abdul Waheed, DGM of the Company and Mr. Rana Aamir



Zulfiqar, Advocate, of M/s. Aamir Law Consultants for and behalf of the Respondents.

11. Brief proceedings of the hearing of December 14, 2016 are as follows:
- The Respondents stated that 8 claims mentioned in the SCN are pending adjudication in different courts of law. The Respondents insisted that there was no delay on their part, as the Company is following up all the cases;
 - The Respondents maintained that the Company based on the survey reports, repudiated the claims. However, policyholders approached the courts for seeking relief. The Respondents further stated that they couldn't pay the liability as these cases were pending before the court. The Respondents informed that one of the claim had already been decided by the court, but due to non-receipt of the execution order from the court, the claim couldn't be settled. The Respondents stated that the said claim would be settled upon receipt of the execution order;
 - The Respondents stated that general average pertains to marine damage. The claims would be settled, once the share of the Company is intimated; and
 - The Respondents were advised to submit court papers pertaining to the claims mentioned in the SCN to the Commission within 10 days.
12. Subsequently, the Respondents vide letter dated December 22, 2016 and December 26, 2016 provided attested copies of the petitions pertaining to the legal cases pending in different courts.
13. Thereafter, the Respondents, vide letter dated January 2, 2017, were advised to submit evidence in support of three pending cases of General Average and a settled case of Mehar Shehzad Cotton Ginners. The Respondents vide letter dated January 5, 2017 provided the requisite detail, which is summarized below:-

No.	Claim Code	Insured Name	Universal Insurance Reply
1	I-124-77-2-01-04	Mehran Shahzad Cotton ginners	As already submitted that Company had paid the entire claim in March 2004. Thereafter, erroneously continue to carry the remaining reserve for Rs. 2,000,000/- till 2015. As desired we are attaching printout of payment vouchers & payment register for your perusal please.
2	L-113-88-1-12-05	Karim Aziz Industries (Pvt) Ltd	Necessary documents are enclosed herewith evidencing the payment of GBP 3,040.23 on 21-12-2009 to our agent M/s. WKW-UK representing their interim fee on



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			<i>account of collision of M.V.George Lyras on 15-11-2005. But due to non-provision of contribution statements by G.A Adjuster M/s. Clancy Vanguard Ltd., the claim reserve is remained unchanged. Documents are attached.</i>
3	L-113-88-1-12-05	Waleed Junaid Industries	Same as above
4	L-125-88-1-12-09	Jawad Implex international	Documents by G.A Adjuster M/s. J.B Boda are enclosed herewith which is self-explanatory. It is submitted that claim reserve is remained unchanged since last 6 years owing to no contact by the concerned parties.

14. The Respondents have argued that most of the cases are pending before different courts. Therefore, no liability exists until the conclusion of these claims by the Courts. Nevertheless, list of 15 cases were only chosen for the cases prior to 2009. As such, the Ordinance explicitly provides that claims should be settled within a period of 90 days from the date on which the payment becomes due or the date on which the claimant complies with the requirements. The Company is required to settle all the cases within the prescribed period. The Respondents have provided certified copies of the petitions filed before different courts. The Company needs to expedite the claim settlement process of the remaining claims, which are pending adjudication in the court.

15. I have carefully examined and given due consideration to the written and verbal submissions of the Respondents, and have referred to the provisions of the Ordinance and other legal references. In view of the foregoing, I, in exercise of the powers conferred on me, take a lenient view and do not impose the fine as provided under Section 156 of the Ordinance. However, I hereby advise the Company to expedite settlement of the outstanding claims and exercise due prudence and caution in the future whilst complying with requirements of the Ordinance.

16. 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.

Fida Hussain Samoo
Commissioner (Insurance)



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