



SECP
INSURANCE DIVISION
Islamabad

Before Hasnat Ahmad, Director (Enforcement)

In the matter of

M/s. Century Insurance Company Limited

Show Cause Notice No. and Date : ID/Enf/Century/2019/404 Dated April 08, 2019

Date of Hearing: May 29, 2019

Attended By: Mr. Sabzali Pirani
Authorized Representative & Chief Financial Officer
M/s. Century Insurance Company Limited

Mr. Muhammad Hussain Hirji
Chief Executive Officer & Director
M/s. Century Insurance Company Limited

Date of Order: July 10, 2019

ORDER

Under Rule 58 of the Insurance Rules, 2017 read with Section 156 of the Insurance Ordinance, 2000

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This Order shall dispose of the proceedings initiated against M/s. Century Insurance Company Limited (the "Company"), its Chief Executive and Directors for alleged contravention of Rule 58 of the Insurance Rules, 2017 (the "Rules") read with Section 156 of the Insurance Ordinance, 2000 (the "Ordinance"). The Company and its Directors shall be referred to as the "Respondents" hereinafter.

2. The Company is registered with the Securities and Exchange Commission of Pakistan (the "Commission") under the Ordinance to carry on general/ non-life insurance business in Pakistan.

3. During examination of the annual audited accounts for the year ended December 31, 2017, certain instances were observed wherein the policies were issued either without receipt of premium or the premium of the respective policies was received late despite of agreed installment plans, or the installment plans were not duly agreed between the parties.

4. The Commission vide letter dated September 06, 2018 advised the Company to provide age-wise breakup of 'Premium due but unpaid'. In response, the Company provided the requisite information vide its letter dated October 30, 2018.

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5. Upon reviewing the Company's response, the Commission vide its letter dated November 20, 2018 again advised the Company to provide further information of some identified instances in respect of premium due but unpaid. The Company submitted its response to the Commission vide letter dated December 24, 2018 and while reviewing the said response, certain cases were identified, where policies were issued without receipt of premium or the premium of the respective policies was received late despite of the agreed installment plans, or the agreed installment plan was not supported by duly signed document.

6. The Company, in response to the Commission's email dated February 21, 2019 highlighting the above-referred instances therein, provided clarification vide its email dated March 11, 2019. The review of the Company's email response revealed that in case of policy of Mr. Syed Muhammad Ishaq, documentary evidence establishing the agreed installment plan was not provided. The Company merely provided a schedule without any signature of the concerned officials. It is pertinent to mention that Rule 58(4) of the Rules specifically requires that the policy schedule must clearly specify the number of agreed installments and their due dates, however, the policy schedule included no such information.

7. Furthermore, in case of policy of Mr. Syed Muhammad Ishaq, installment of premium was received late; however the policy was not suspended. It is important to note that as per provisions of Rule 58(4) of the Rules, the policy shall stand suspended in case any installment is not received within the scheduled due date. As per the agreed installment plan provided in the policy schedule, first installment was due on January 01, 2018; however, the installment was received on February 07, 2018.

8. In case of policy of Siza Foods (Pvt.) Limited, response of the Company was not cogent. The Company did not explain the reason for recording receivable in 2017 when coverage period fell in 2018. Moreover, the Company's stance that first installment was received in December 2017 was incorrect since complete premium i.e. Rs. 9,281,823/- was received on March 19, 2018 as evident from the information shared by the Company. Therefore, it appeared that the Company issued several policies without receipt of premium, or premium of respective policies were received late, or not in accordance with the agreed installment plans, which was in violation of Rule 58 of the Rules.

9. Therefore, it appeared that the Company contravened the provisions of Rule 58 of the Rules, for which the Respondents are liable to be penalized under Section 156 of the Ordinance.

10. Rule 58 of the Rules states that:

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"Insurance policy not to be issued without receipt of premium.- (1) Save as provided under sub-rule (2), (3) and (4) below, no insurance policy shall be issued where premium has not been received by the insurer.

(2) *An insurer may issue a cover note prior to the receipt of premium, in order to enable the intending policyholder to review the details and scope of coverage being offered.*

Provided that the cover note should not be for a period exceeding seven days in the case of motor business and beyond thirty days in all other cases and must be replaced with an insurance policy before expiry of such cover note, subject to receipt of premium by the insurer.

(3) *Notwithstanding the above, an insurance policy may be issued where the premium has been mutually agreed to be paid in installments and the first such installment has been duly received by the insurer.*

(4) *The policy schedule must clearly specify the number of agreed installments and their due dates, along with a stipulation that cover under the policy shall stand suspended in case any instalment is not received within the scheduled due date thereof.*

(5) *The provision of this rule shall apply in respect of direct non-life insurance contracts only."*

11. Accordingly, a Show Cause Notice (SCN) No. ID/Enf/Century/2019/404 dated April 08, 2019 was issued to the Respondents, calling upon them to show cause as to why the fine as provided under Section 156 of the Ordinance should not be imposed on them for the aforementioned alleged contraventions of the law.

12. Thereafter, the Company vide letter dated April 30, 2019 submitted the reply in respect of the aforesaid SCN, which is summarized below:

"

Response to Point 6: In your observation you have noted that the payment schedule was not signed. However, please note that the copy of the schedule sent to you was re-printed whereas the original schedule that was attached to the policy, was in fact, signed and stamped.

Response to Point 7: It was agreed with the client that a token amount of Rs. 1,000/- will be paid at inception of the policy as first installment and the larger quarterly payment will be made sometime in February 2018. Therefore, the client included Rs. 1,000 in its settlement of outstanding dues in December 2017. This agreement was reflected in the policy payment schedule.

Response to Point 8: Your observation has two parts which are separately addressed below:

Handwritten signature/initials.



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First, it was noted in your observation that we have recorded receivable in December 2017 whereas coverage starts in January 2018. Please note that the policy was issued in December 2017 at the request of the insured. Once the policy was issued the receivable was automatically created and simultaneously un-earned premium liability was also created. Therefore, no premium was earned or reflected as earned in the 2017 financial statements.

Second, you have noted that in the same policy, full payment of Rs. 9,281,823/- was received in 19 March 2018, whereas the policy inception on 01 January 2018. In this case, it may be noted, that the client had an unallocated credit balance of Rs. 40,048/-, out of which they requested that we take Rs. 1,000/- as first installment. This was reflected in the policy schedule. However, the client has inadvertently, made full payment in March 2018, including the Rs. 1,000/- already adjusted.

We understand that new laws should be implemented as fully as possible and we are trying our level best to fully comply accordingly. However, in this case, we would like to bring to your kind notice, that in a consultation session between the SECP, the Insurance Association of Pakistan (IAP), the Pakistan Society of Actuaries (PSoA) and other stakeholders on the Draft Insurance Bill, 2016, held on 06 April 2017 at SECP office in Islamabad, it was mutually agreed that though the law will come into effect in 2017, strict implementation would begin in 2018. This was so that the insurance companies would have an opportunity to educate their clients with respect to the new legislation.

Based on the above, we request you to please permit small discrepancies if any, that may have taken place during the initial period that these rules came into effect."

13. Subsequently, the hearing was scheduled on May 29, 2019 at the Head Office of the Commission, which was attended by Mr. Sabzali Pirani (Chief Financial Officer) and Mr. Muhammad Hussain Hirji (Director & Chief Executive Officer) through video link at the Commission's Karachi Office.

14. During the hearing, the Respondents reiterated their comments submitted vide letter dated March 04, 2019 and apprised that the documents submitted to the Commission were re-printed/ computer generated which were not required to be signed or stamped, however the original payment schedule that was attached to the policy of Mr. Muhammad Ishaq was duly signed and stamped. Further, they also submitted that the said policy was activated in February after receipt of the premium comprising of major payment, which was received according to the policy schedule.

15. While discussing the policy issued to Siza Foods (Pvt.) Limited, the Respondents and their Authorized Representative explained that as per the Standard Operating Procedures (SOPs) of the client, it wanted the policy issued in their files prior to the inception of the policy that was in January 2018. Therefore, the said policy was booked in December 2017 on client's request so that no period remains uncovered. The inception date of the policy was January 01, 2018 and the prior booking of the policy had no impact on financial statements of the Company. As



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regards to the receipt of premium payment in February 2018, they submitted that outstanding balances of clients in respect of health insurance against employees who had left the Company were available with the Company and an amount of Rs. 1,000/- was adjusted from the same credit balance as the 1st installment of the policy whereas the full payment of premium was received in March 2018 amounting to Rs. 9,281,823/-. In addition to the above, the Authorized Representative also informed that the Company was of the view that strict implementation of the Rules were made effective in 2018 and therefore such small discrepancies took place. They however confirmed that no such payment, which is due but unpaid exists at present and the Company is fully complying with Rule 58 as well as all the other applicable regulatory requirements under the Rules. In the end, they requested to take a lenient view while deciding the said matter.

16. In a nutshell, the Company was required to receive premium before issuance of the policies, except in the circumstances where premium is received in installments and the same is agreed between the insurer and the insured as per the provisions of Rule 58 of the Rules. Further, the Company was also required to suspend the policy in case the premium is not received within the period as per the policy schedule; however, it did not do so in case of policy of Mr. Muhammad Ishaq, whereby the premium was received one month later than the policy schedule.

17. As regards the issue of recording receivables in the matter of M/s. Sizza Foods (Pvt.) Limited prior to inception of policy, the Company was required to record the premium receivable with effect from the date of inception of the policy, whereas the same was recorded in December 2017 while citing the receipt of Rs. 1,000/- as first installment of premium. The reason as given by the Respondents in their verbal as well as written comments is not cogent since the Company could only issue a cover note for a period not exceeding beyond thirty days as provided for in Rule 58(2) of the Rules. Further, the aforesaid provision of law also requires the Company to replace such cover note with an insurance policy prior to its expiry, subject to receipt of premium by the Company. Therefore, the Company failed to comply with the provisions of Rule 58 of the Rules in true letter and spirit.

18. In addition to the above, it is important to note that Rule 1(2) of the Rules clearly states the period of commencement of the applicability of such Rules. The same is reproduced hereunder for ease of reference:

"Short title and commencement.-

...

(2) These rules shall come into force at once."

Therefore, the Company's stance that it was unaware of the strict applicability of the Rules in the commencement year is not cogent.

19. 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



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Ordinance, the Rules made thereunder and/or other legal references. I am of the view that violation of Rule 58 of the Rules, is clearly established, for which the Respondents may be penalized in terms of Section 156 of the Ordinance.

20. Section 156 of the Ordinance provides that:

"Penalty for default in complying with, or acting in contravention of this Ordinance.- Except as otherwise provided in this Ordinance, any insurer who makes default in complying with or acts in contravention of any requirement of this Ordinance, or any direction made by the Commission, the Commission shall have the power to impose fine on the insurer, and, where the insurer is a company, any director, or other officer of the company, who is knowingly a party to the default, shall be punishable with fine which may extend to one million rupees and, in the case of a continuing default, with an additional fine which may extend to ten thousand rupees for every day during which the default continues."

21. In exercise of the power conferred on me under Section 156 of the Ordinance, I instead of imposing any penalty under Section 156 of the Ordinance, take a lenient view, and thus condone the Respondents for the reasons and circumstances as mentioned in the foregoing paras hereof. However, the Respondents are hereby strictly warned and directed to take immediate steps to discontinue issuing policies in contravention to the provisions of Rule 58 of the Rules. The Respondents are further directed to note that in case of similar non-compliance in future, the Commission shall take severe action. Moreover, the Respondents are hereby directed to observed strict compliance with the provisions of the Ordinance, Rules and Regulations in future.

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

Hasnat Ahmad
Director/ HoD (Enforcement)

