



INSURANCE DIVISION
Islamabad

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Before Hasnat Ahmad, Director (Insurance)

In the matter of

Equalizer (Pvt.) Limited

Show Cause No and Date: ID/Enf/Equalizer/2017/8438, February 9, 2017
Date of Hearing: March 8, 2017
Attended By: Mr. Khurram Jahanzaib, Chief Executive,
Equalizer (Pvt.) Limited.
Date of Order: March 15, 2017

ORDER

Under Section 112(3)(c) And Section 113(2) Read with Section 112(6), Section 113(6)
and Section 158 of the Insurance Ordinance, 2000

.....
This Order shall dispose of the proceedings initiated against M/s. Equalizer (Pvt.) Limited (the "Surveyor"), and its Chief Executive, for alleged contravention of Section 112(3)(c) and 113(2) read with Section 112(6), Section 113(6) and Section 158 of the Insurance Ordinance, 2000 (the "Ordinance"). The Surveyor and its Chief Executive 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.

3. While reviewing the information provided by the Surveyor along with the application for renewal of insurance surveying license in terms of the requirement of Circular 25 of 2009 dated August 19, 2009, it was revealed that the Surveyor conducted 10 and 15 surveys in respect of Fire & Property class and Miscellaneous / MBD class of business, respectively during the year 2016. However, it was observed that none of the Authorised Surveying Officers of the Surveyor was

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licensed by the Commission, in respect of the said classes of business for the year 2016.

4. In view of the above, it appeared that the Surveyor conducted the surveys for the Fire & Property and Miscellaneous / MBD classes of business during the year 2016, in contravention of Sections 112(3)(c) and 113(2) of the Ordinance.

5. Section 112(3)(c) 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:

....

(c) reports issued in respect of surveys conducted by the person are signed by natural persons, registered under section 113 as authorised surveying officers;

6. Section 113(2) of the Ordinance states that:

Registration granted under the preceding sub-section (or renewed under this subsection) may be renewed for a term of not more than twelve months on application made by the person registered prior to expiry of registration, where the Commission is satisfied that the person is qualified under this section to be so registered.

7. Hence, a Show Cause Notice bearing number ID/Enf/Equalizer/2017/8438 dated February 9, 2017 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) and 113(6) of the Ordinance for not complying with the provisions of Sections 112(3)(c) and 113(2) of the Ordinance.

8. In response to the said Show Cause Notice, the Respondents, vide letter dated February 16, 2017, sought an extension till February 25, 2017 which was acceded to by the Commission vide letter dated February 20, 2017.

9. Thereafter, the Respondents vide letter dated February 23, 2017 submitted their comments, which are reproduced hereunder:

"I would like to inform you that Equalizer Pvt. Ltd., was incorporated in 2006 and onwards we are acting as Insurance Surveyors under SECP Insurance Division Islamabad. Since the inception I have never failed to fulfill the requirement of the Insurance Division and regularly filling the renewal of licenses of the ASO's and of the company too. I qualified ASO examination/test and the license was granted to me by the SECP. My license has never been rejected/suspended and I was never disqualified by the SECP.

In 2016 my office I.T. staff filed the renewal process and uploaded all the relevant documents/information on the web portal. Unfortunately, my ASO License renewal

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fee challan has not been generated due to some technical reason and it has been overlooked by the staff, when we received the renewed licenses of the company & of other ASO's. We assumed that all the licenses are renewed. Meanwhile at the time of renewal (2017) it has been notified that the ASO licenses of Khurram Jahanzaib are not renewed in 2016, we immediately fulfill all the requirements and in 2017 received all the ASO licenses including myself.

The failure of the renewal of ASO License of Khurram Jahanzaib in 2016 has to be treated as human error and by a mistake, we regret for the same and ensure to Commission that this type of mistake will never arise.

I hope that your good selves will consider the facts favorably keeping in view that all had happened due to negligence/human error which may be ignored..."

B. Hearing

10. The Commission, vide its notice no. ID/Enf/Equalizer/2017/8650 dated February 27, 2017, scheduled the hearing for March 8, 2017 at 11:30 a.m. Accordingly, the said hearing was attended by Mr. Khurram Jahanzaib, Chief Executive, Equalizer (Pvt.) Limited at the Head Office of the Commission.

11. During the hearing the Respondent reiterated the points mentioned in the written response dated February 23, 2017. He admitted the non-compliance and offered unconditional apology. The Respondent stated that he has now complied with all the requirements and therefore, has been issued a license by SECP for the year 2017.

C. Issues

12. The Respondents conducted twenty five surveys for Fire & Property class and Miscellaneous / MBD class of business without valid license. The respective insurance company vide letter dated February 23, 2017 also admitted that the Surveyor appointed by it, was not licensed in 2016. Mr. Khurram Jahanzaib conducted all the 25 surveys (i.e. 10 of Fire class and 15 of Miscellaneous / MBD class of business) during the year 2016 without a valid license as Authorised Surveying Officer.

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

13. The Respondents were required to ensure that they hold valid license for the surveys they are conducting. The Respondents cannot absolve their responsibility by merely passing the blame on I.T. staff. The violation of Section 112(3)(c) and Section 113(2) of the Ordinance highlights loose internal controls that the Respondents need to address. Furthermore, the Respondent while submitting

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the application/form dated January 2, 2017 for renewal of Insurance Surveying License stated that Mr. Khurram Jahanzaib holds a valid license which would expire on January 20, 2017. At the end of the application/form, the Respondent declared that:

I Khurram Jahanzaib S/o Ali Murtaza being Chief Executive of M/s. Equalizer Pvt. Ltd., verify that the above information is true to the best of my knowledge and belief and that nothing has been concealed or withheld in this regard"

14. However, as per record of this office, the license expired on 21 January 2016 and all the surveys conducted by Mr. Khurram Jahanzaib were post expiry. It appears that the Respondents misstated in their application for renewal of license.

15. Therefore, in view of the above, violation of Section 112(3)(c), Section 113(2) of the Ordinance is clearly established, for which fine may be imposed in terms of Section 158 of the Ordinance or license of the Respondents as surveyor may be cancelled in terms of Section 112(6) and 113(6) of the Ordinance.

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

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.

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

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:

Provided that a registration shall not be cancelled under this subsection without giving the person concerned an opportunity to be heard.

18. Section 158 of the Ordinance provides that:

"Penalty for false statement in document.- Except as otherwise provided in this Ordinance, whoever, in any return, report, certificate, balance-sheet or other document, required by or for the purposes of any of the provisions of this Ordinance, wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable [by the Commission] with fine which may extend to one million rupees."

E. Overall conclusion

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

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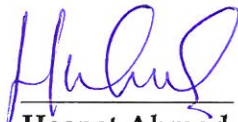
the Ordinance and other legal references, I am of the view that the default of Sections 112(6), Section 113(6) and 158 of the Ordinance is established.

F. Penalties and directions

20. In exercise of the powers conferred on me under Section 112(6) and 113(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. 5,000/- (Rupees Five 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.

21. 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.

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 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

