



SECP
INSURANCE DIVISION
Islamabad

Before Fida Hussain Samoo, Commissioner (Insurance)

In the matter of

Jubilee Life Insurance Company Limited

Show Cause Notice Issue Date: July 20, 2016

Date of Hearing: August 31, 2016

Attended By: Mr. Javed Ahmed
Managing Director & Chief Executive Officer
M/s. Jubilee Life Insurance Company Limited;

Date of Order: October 5, 2016

ORDER

Under Section 76, 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. Jubilee Life Insurance Company Limited (the "Company") and its Directors and the Chief Executive Officer, for alleged contravention of Section 76, Section 11(1)(f) & (h) and Section 12(4) of the Insurance Ordinance, 2000 (the "Ordinance"). The Company, its Directors and the Chief Executive Officer shall be referred to as the "Respondents" hereinafter.

2. The Company is registered under the Ordinance to carry on life insurance business in Pakistan. It was observed that a large number of policyholders filed their complaints before the Commission against the Company.

3. It was also observed that despite notification of the Bancassurance Regulations, 2015, wherein provisions appertaining to the protection of the interests of the insurance policyholders have been laid down in clear terms, the Commission received three complaints from the bancassurance policyholders, relating to misselling / misrepresentation by the bank branch officials who were acting as agents of the Company.

4. It would be pertinent to state that the Commission vide letter no. ID/Enf/Complaints/2015/3246 dated November 30, 2015 strictly warned the Company to put in place a mechanism to ensure prompt and effective resolution of



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Insurance Division

Confirmation Sheet 1

the grievances of its policyholders. The Commission vide letter no. ID/Enf/Complaints/2016/4196 dated March 2, 2016 again advised the Company to focus on area of bancassurance, as most of the policyholders of the Company who filed their complaints with the Commission, were extremely concerned about misselling of the policies.

5. The Commission received the complaints from the policyholders regarding misselling/misrepresentation of the policies from the following policyholders:

S. No.	Policy issuance date	Date of Complaint	Complainant
1	N/A	August 3, 2015	Haseeb Hussain
2	May 26, 2015	September 3, 2015	Abdul Ghafoor
3	March 13, 2014	September 2, 2015	Muhammad Sadiq
4	October 31, 2013	October 20, 2015	Azra Sartaj Khan
5	September 30, 2015	November 30, 2015	Ifitikhar Shaikh
6	November 16, 2015	January 5, 2016	Tariq Rafiq
7	May 26, 2014	January 5, 2016	Rana Khalil ur Rehman
8	December 31, 2014	January 15, 2016	Syed Abrar Kanwal
9	August 30, 2014	February 25, 2016	Tahir Mahmood
10	May 16, 2014	March 16, 2016	Waseem Akhtar Saddiqui
11	March 31, 2016	April 9, 2016	Muhammad Mubashir
12	April 30, 2015	April 27, 2016	Ambreen Tariq Khan
13	November 30, 2015 & November 27, 2015	May 10, 2016	Summara Yasmin/ Lubna Shahzad/ Muhammad Usman/Misbah Usman/Mariyam Usman
14	April 20, 2016	May 17, 2016	Imran Khan
15	March 30, 2013	May 20, 2016	Mona Ali
16	May 15, 2016	May 25, 2016	Rana M. Rashid (M. Ali & Parveen)
17	May 31, 2015	May 31, 2016	Allah Dino
18	May 2015	June 2, 2016	Muhammad Asif Saeed
19	August 18, 2015	June 17, 2016	Ch Muhammad Shahzad
20	April 20, 2016	June 20, 2016	Kashif Javed
21	April 28, 2015	June 20, 2016	Muhammad Adeel



22	June 29, 2015	June 23, 2016	Khabeer Ahmad
23	November 22, 2011 & November 30, 2011	June 29, 2016	Nusrat Parveen
24	June 24, 2014	July 5, 2016	Rao Haroon
25	February 25, 2014 & March 4, 2014	July 1, 2016	Amir Shahzad

6. On perusal of the above-named complaints, it *prima facie* appeared that the Company was conducting its business in violation of the following provisions of the Ordinance:

Section 11(1)(f) & (h):

"An insurer registered under this Ordinance shall ensure at all times 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."

Section 12(1)(a):

"Criteria for sound and prudent management.- (1) For the purposes of this Ordinance, the following shall, without limitation, be recognised as criteria for sound and prudent management of an insurer or applicant for registration as a person authorised to carry on insurance business:

(a) the business of the insurer or applicant is carried on with integrity, due care and the professional skills appropriate to the nature and scale of its activities; ..."

Section 12(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 policyholders and potential policyholders."

Section 76(1) to (4):

"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 policyholder shall be entitled to obtain compensation from the insurer for any loss suffered."

Section 77:

"Construction of ambiguities in favour of policy holder.- (1) Any ambiguity in a contract of insurance shall not be capable of being construed in a manner which is contrary to the interests of the policy holder.

(2) An insurer or an insurance intermediary shall:

- (a) when drafting policy documentation, make reasonable efforts to use plain language; and
- (b) when drafting proposal forms and claim forms, make reasonable efforts to ensure that it identifies in those documents the usual information the insurer ordinarily requires to be disclosed; and that those documents are in plain language and provide instructions where necessary on how the questions should be answered; and comply with the law.

(3) Failure to comply with foregoing sub-sections shall be an absolute bar and shall preclude an insurer from refusing payment of a claim on grounds of non-compliance or non-disclosure by the policy holder, where it may reasonably be determined that the noncompliance or nondisclosure resulted from inadequate understanding by the policyholder of the language of the policy, proposal or claim form as a result of such failure."

Section 95:

"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."

7. Hence, Show Cause Notice bearing number Ref: ID/Enf/JLICL/2016/6044 dated July 20, 2016 was issued to the Company, its Directors and the Chief Executive Officer, thereby calling upon them to show cause as to why punitive action may not be taken against them in terms of Section 76(5) and 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.

8. In response to the said Show Cause Notice, Mr. Sibtain Mahmud, Advocate Supreme Court, M/s. Mahmud & Company, while acting on behalf of the Respondents duly supported by a power of attorney dated August 2, 2016, provided response to the said Show Cause Notice vide letter dated August 5, 2016, whereby he contended that:

- (i) The allegation leveled in the Show Cause Notice is vehemently denied and disputed being based on surmises and conjectures besides being false, illegal, baseless, misconstrued and misconceived having been issued in the absence of any lawful reasons and / or justification and without any material in substance, therefore, the same is not sustainable under law;
- (ii) There is no provision empowering the Commission to issue a "Show Cause Notice" particularly in the absence of any reasonable grounds and / or justification for alleged contravention of the statutory obligation. The purported Show Cause Notice is more bellicose and belligerent in its context than to be a "Notice for information", as prescribed under Rule 26 of the Insurance Rules , 2002 for the alleged non-compliance or potential non-compliance with Section 11 of the Ordinance, which too does not warrant any justification for its issuance in the absence of any reasonable grounds and is thus liable to be ignored;
- (iii) The Company carries on business to provide benefits, to its customers through its sound, prudent , well organized, competently and professionally monitored system of sound internal control which is effectively implemented at all levels within the Company. The general public confidence made the Company the largest life insurance company in Pakistan in the private sector;
- (iv) The Company is fully compliant with all Rules and Regulations in-force and are taking due care particularly with Bancassurance Regulations, 2015, which came into effect from January 1, 2016, and is in complete application since the Regulations were in circulation. Any allegation for non-compliance in such regard is absolutely incorrect, false, misconceived and ill-motivated and vehemently denied. The Company has established a system of sound internal control which is effectively implemented at all levels within the Company keeping in view market conduct practices as required by the Ordinance and Regulations subsequently introduced and are fully in place. Furthermore, the Company exceeds the Commission's requirements with regard to the processes and documentation introduced by the Company. The Company has adopted vision / mission and overall corporate strategy for the Company and also formulated significant policies having regard to the level of materiality as is deemed appropriate by them. Measures taken by the Company were also listed;



- (v) The Commission did not respond to the letter dated January 13, 2016, which was again forwarded to the Commission under cover of letter dated February 18, 2016 in response to the Commission's letter no. ID/Enf/Complaints/2016/3997 dated February 11, 2016, wherein the Company had requested the Commission for a response to the same. The request made in the Company's letter dated January 13, 2016 was that "We would therefore appreciate if you could accord us time to meet at your convenience and explain our position and better understand SECP's point of view". However, an accession to the said request is deliberately, as it seems, negated and avoided for the reasons best known to the Commission which act on part of the Commission leaves another question on the fair, impartial, unbiased and lawful functioning of the high-ups of the Commission towards the Company;
- (vi) Although the Company is fully adhering to the statutory obligations as enunciated in the Ordinance and / or Rules and Regulations framed thereunder, yet in the absence of any lawful reasons therefor and any reasonable ground to such effect the Commission has failed to give specific practical mechanism/steps/procedures in addition to what the Company has already introduced and are in vogue and has never informed and / or pointed out by the Commission being a Regulator;
- (vii) The Bancassurance Regulations were made applicable on all new insurance business written on or after January 1, 2016 under the Bancassurance Agency agreement and any reference of the said Regulations towards the letter dated November 30, 2015 is misconceived, unwarranted and unlawful since the said Regulations at that time were not even made applicable by the Commission. The said Regulations would have applied on the policies issued on or after January 1, 2016;
- (viii) As far as para 5 of the Show Cause Notice is concerned, the Company is under no legal obligation to respond to the same since no any purported complaint, as alleged in the para, is annexed along with the Show Cause Notice. However, the record reveals that almost all the policies were issued prior to January 1 2016 and thus allegation towards defiance of the Regulations 2015 is unwarranted, illegal, misconceived and not sustainable in law particularly in the absence of proper adjudication of the true facts and circumstances in such regard by a court of competent jurisdiction. Furthermore, Rule 39 of Securities and Exchange Commission (Insurance) Rules 2002 require that every life insurance policy issued by the Company specifically contains a free-look period clause providing an option to the policyholder to cancel the same within fourteen days and if the policyholder cancels the same within the prescribed time period all amounts paid by way of premium are refunded without any unlawful deductions;



- (ix) The Company had sold more than 113,000 new life insurance policies with PKR 8 Billion as first year premium in the year 2015, which is almost equal to the total policies issued by all other private sector life insurance companies put together. The Company pays sanguine claims expeditiously and manages investments most prudently. The Company makes *ex-gratia* payments even when claims are contractually not admissible and in many cases have been made as an indulgence and respect to the requests by the learned Ombudsman and the Commission which is a fact on record. The Company is especially considerate with widows and orphans that belong to humble origins;
- (x) The Company in their pool has approximately 446,000 policies in-force as on December 3, 2015, and the Show Cause Notice suggests only 28 complaints out of which maximum number of complaints have already been settled to the utter satisfaction of the policyholders, however, without prejudice to the lawful rights of the Company, such complaints come to an insignificant 0.006278% of all policies in-force with the Company and at best, if at all, can be construed to be a human error, even if any. The same under no circumstances can fall within the definition of misselling warranting any punitive action. The instance of 28 complaints out of which only 3 complaints pertain to the bancassurance policies issued after January 2016 and to be more specific during the months of April and May 2016 out of which 2 policies have been resolved to the utter satisfaction of the policyholders and 1 is pending for the reason that the policyholder is abroad and thus, do not prove that the Company is conducting its business without due regard to integrity, due care and professional skills appropriate to the nature of life insurance business. In fact, the Company's business volumes and strong customer loyalty are indicative that the Company is conducting its business soundly, prudently and with utmost integrity in the best interest of its policyholders. Policy contracts,, plan illustrations, product specification , brochures and related documentation bear scrutiny and vetting of the Commission, therefore, ambiguities do not exist;
- (xi) The statutory provisions as mentioned in the Show Cause Notice are strictly adhered and observed by the Company while meeting the criteria for sound and prudent management with due care and regard to the interest of Policyholders and potential policyholders. The Company is neither engaged in any conduct that is misleading or deceptive or is likely to mislead or deceive. In case of any dispute with regard to a claim filed by a policyholder in respect of or arising out of a policy of insurance the exclusive power is vested with the Tribunal which has exclusive jurisdiction in such regard to determine the rights of the parties after proper adjudication of the proceedings;
- (xii) The allegations made in the Show Cause Notice are vehemently denied and disputed and the Commission is put to strict proof thereof. The false averments contained in the para are ill motivated, malicious, defamatory



and tantamount to damage the goodwill and reputation of the Company for which the Company reserves the right get recourse from the court of competent jurisdiction, particularly in view of the fact that the same are bald in nature, illusory, without any grounds, less to say reasonable grounds and/or justification besides being false and misconceived. The Commission is called upon to immediately withdraw the Show Cause notice dated July 20, 2016 failing which the Company shall be constrained to initiate necessary proceedings besides being challenging the legality of instant show cause notice under reply in a court of competent jurisdiction.

9. The Commission, vide its notice no. ID/Enf/JLICL/2016/6242 dated August 5, 2016, scheduled the hearing for August 22, 2016 at 10:00 a.m. However, while referring to the said hearing notice, Mr. Sibtain Mahmud, Advocate Supreme Court through his letter dated August 9, 2016 drew attention to his first letter dated August 5, 2016 claiming it to be within the time prescribed in Section 26 sub-clause (b) of the Insurance Rules, 2002, and in this regard, a copy of the courier receipt was also provided, on perusal of which it was found that the consignment bearing number 306019550834 was booked / arrived at TCS facility in Karachi on August 6, 2016 and received by Mr. Naseer (a designated person of the Commission) on August 8, 2016 which was well beyond the timeline provided by the Show Cause Notice for submission of written response. Moreover, Rule 26 of the Insurance Rules, 2002 does not exist, however, Rule 26 of the Securities and Exchange Commission (Insurance) Rules, 2002 pertains to the insurance agents and hence no timeline with regard to submission of responses to the Show Cause Notices is given therein.

10. Mr. Sibtain in his letter dated August 9, 2016 also stated that the Commission, as it seems, with *mala fide* intentions, ill objectives and ulterior motives seems to be functioning in undue haste and with precipitancy against the Company while deliberately ignoring all the legal norms and practices and the statutory provisions of the Ordinance and Rules and Regulations framed thereunder.

11. The Respondents representative vide letter dated August 9, 2016 sought to reschedule the date of hearing. The Commission acceded to the said request and rescheduled the hearing for August 31, 2016 at 10:00 am.

11. The hearing was attended by Mr. Javed Ahmed, Managing Director & Chief Executive Officer of the Company.

12. Brief proceedings of the hearing of August 31, 2016 were as follows:

- i. The Respondent was asked to present the argument in defense, on which he primarily apologized for the remarks given in the legal counsel's (Mr. Sibtain's) letters, which he came to know about lately. He also admitted that the response from the Respondents was delayed with respect to the timeframe allowed in the Show Cause Notice. And



accordingly, he declared to withdraw the said letters sent by the legal counsel;

- ii. The Respondent further stated that the Company has a large market share and the number of complaints should be seen in consonance with the quantum of the business, whereas only 28 complaints have surfaced out, which forms quite negligible part of the Company's overall business portfolio;
- iii. He also mentioned that the Company has adopted a comprehensive proposal form, whereby necessary information is sought from the policyholder before issuing a policy. The Company has also disclosed information regarding complaint resolution forums including the office of the Federal Insurance Ombudsman in the policy/proposal forms, where the policyholder can file his complaint to redress his grievances. The Respondent stated that the Company paid more than Rs. 150 million to the complainants on suspected misselling of the policies during the previous year. Moreover, the Company also informs the policyholders to approach the Federal Insurance Ombudsman in case their disputes remain unresolved;
- iv. The Respondent also mentioned that the Company has lodged FIRs against some of the agents who were involved in fraudulent activities with the policyholders. There could be element of misunderstanding but not misselling as policyholders sign off all documents in English and Urdu. All policyholders can exercise their right to cancel the policy within free-look period. In this regard, a couple of instances of misselling of the policies were quoted i.e.:
 - a. where sum assured of the policies issued by the Company to the policyholders' did not justify their respective occupations and income levels; and
 - b. where five large ticket policies were issued to a policyholder from different insurers, which were dealt with by Faisal Bank.
- v. While explaining the situation, the Respondent stated that misselling cannot be eliminated completely, however, a policyholder's afterthoughts with regard whether to continue with the insurance policy or otherwise, is basically a misunderstanding and not misselling. The law has accordingly provided a free-look period for the policyholder to decide as to whether the policy be continued or not;
- vi. However, the Respondent stated that although the underwriting has been made more stringent especially the verification of the signatures of the policyholder, further improvements shall be made in its underwriting process to address the issues highlighted in the



complaints. The Respondent further stated that free-look period of the policies is started from the date of delivery of the policy documents, so the essence of the free-look period is not defeated by the Company;

- vii. The Respondent stated that although the quantum of 28 complaints out of the overall portfolio of the Company forms a very negligible part, the Company resolved complaints and refunded the amounts to protect its reputation and image. Moreover, there were only 3 cases out of 28 which pertain to the policies issued after the warning was issued to the Company in November 2015;
- viii. It was then clarified that even a single case of misselling requires action on part of the Commission. The Respondent also mentioned that the Company already has a clear direction in place;
- ix. Respondent while admitting that misselling cannot be eliminated completely. However, he stated that the Company has best ratio of retention which complements Company's best practices and commitment towards the Policyholders;
- x. The Respondent stated that the Commission does not have any substantial evidence based on the quantum of the Company's business; and
- xi. The Respondent stated that Company made call backs to all the policyholders (policies sold during last 5 years) and resolved the grievances, wherever noted.

15. In terms of Section 76 read with Section 11(1)(f) & (h) and Section 12(4) of the Ordinance, the Company is required to avoid engaging in a conduct which is misleading and deceptive in nature.

16. The complaints especially with reference to bancassurance polices, that too in the presence of Bancassurance Regulations, 2015, is a cause of concern for the Commission. Furthermore, most of these complainants approached the Commission when the Company failed to resolve their grievances.

17. In view of the above, it appears that the Company has violated the provisions of Section 76 read with Section 11(1)(f) & (h) and Section 12(4) of the Ordinance.

18. With regard to the merits of the Show Cause Notice, the Respondents broadly based their arguments on the following:

- a. The number of complaints received against the Company is very small as compared to Company's overall business portfolio. Therefore, it cannot be construed that the Company is not conducting business in Sound and



Prudent manner or that the Company is engaged in misselling. Moreover, all deliverables of a particular life insurance product are being vetted, reviewed and approved by the Commission before that product is offered by the Company to the general public;

The Commission's approval of a life insurance product in no way can be construed as an approval for misselling.

- b. Out of the 28 complaints, only 3 complaints pertain to the bancassurance policies issued after January 2016, and 2 of the said complaints have already been resolved to the satisfaction of the policyholders and only 1 complaint is pending for the reason that the policyholder is abroad;

The Company's admission that 3 complaints pertain to misselling of bancassurance policies issued after January 1, 2016, is a clear evidence of misleading and deceptive conduct in contravention of the provisions of Section 76, Section 12(4) read with Section 11(1)(f) & (1) of the Ordinance.

- c. Subsequent to the Commission's letter dated November 30, 2015, the Company has taken additional measures to protect the interest of the policyholders;

As informed, the Company has taken steps for protecting the interests of its policyholders; however, the underwriting process needs to be improved further, and in pursuit of this, the Company needs to introduce more stringent procedures and take appropriate necessary measures to cover the following at a minimum:

- i. the policyholders have actually given their express written as well as verbal consent to obtain the insurance policies;*
 - ii. the policies so issued or to be issued are going hand-in-hand with the levels of income of the respective policyholders;*
 - iii. the live covered is either over-insured and that the life covered / to be covered by the Company has not already been covered by other life insurers, allowing similar benefits to the covered life; and*
 - iv. the agents have acted in good faith and that the policyholders understand, to the fullest, the rights and obligations, the coverages and exclusions of their respective insurance policies.*
- d. Insurance Ordinance, 2000 has provided for a free-look period of fourteen days during which the policyholder may decide whether to continue with a particular policy or otherwise, and any afterthought beyond that period cannot be construed as an instance of misselling. However, the Company resolves complaints and settles the grievances of the unsatisfied policyholders to protect its reputation and image.



It is true that the Insurance Ordinance, 2000 has provided for a free-look period of fourteen days to the policyholder, during which he can decide to continue his policy or not. However, it has been observed that insurance policyholders by and large rely on the statements and promises made by the insurance agents including but not limited to the individuals selling the insurance policies on behalf of the Company's corporate agents. Hence, unless and until adequate steps and measures are taken to improve controls through effective underwriting coupled with proper training of the agents and enlightening those agents about the consequences of being engaged in misselling, and misleading or deceptive conduct ranging from claw-back of the commissions to criminal complaints etc., the adequacy of the internal controls may not be achieved to a satisfactory level.

19. Needless to mention that since the Respondents have withdrawn the letters sent by their legal counsel, the concerns raised in the said letters may not be taken into consideration in the instant proceedings.

20. In view of the above, the element of misselling has been observed which has also been accepted by the Respondents, on account of which the Commission has the power to impose penalty under Sections 76(5) and Section 156 of the Ordinance and also to issue direction under Section 60 of the Ordinance, for contravening the provisions of Section 76, Section 11(1)(f) & (h) and Section 12(4) of the Ordinance, as mentioned hereinabove. However, the Company has taken steps to in the interests of their policyholders, which has been demonstrated by refunds / settlement. Therefore, in exercise of the powers conferred under Section 60 of the Ordinance read with S.R.O. 122(I)/2016 dated February 12, 2016, the Company is hereby directed to curb misselling and to promptly settle the grievances of the policyholders.

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)

