



भारतीय बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY OF INDIA

No. IRDA/ENF/ORD/ONS/ 254 /09/2021

**Final Order in the matter of
K D KOHLI INSURANCE SURVEYORS & LOSS ASSESSORS PVT. LTD.**

[Based on the reply to the Show Cause Notice (SCN) dated 08/06/2020 and submissions made during the hearing through video conference held on 02nd August, 2021 at 03:00 p.m., chaired by Member (Non Life).]

Background: -

1. The Insurance Regulatory and Development Authority of India (Authority) had conducted during 14/10/2019 to 18/10/2019 an onsite inspection of M/s. K D KOHLI Insurance Surveyors & Loss Assessors PVT.LTD. (SLA).
2. The Authority forwarded a copy of the Inspection Report to the SLA on 12/12/2019 seeking comments and the SLA's responded to the Inspection report. Upon examining the documents on hand and submissions made by the SLA, the Authority issued Show Cause Notice (SCN) to the SLA on 08/06/2020 which was responded to by the SLA vide letter dated 17/06/2020.
3. As requested therein, a hearing through video conference was given to the SLA on 02nd August, 2021. Shri K D Kohli, Managing Director and Shri Dhiraj Kohli, Director, attended the hearing on behalf of the SLA. On behalf of the Authority, Shri Prabhat Kumar Maiti, GM (Enforcement), Shri Pankaj Kr. Tewari, GM, Surveyors, Shri B Raghvan, DGM (Enforcement) and Smt. Nimisha Srivastava, DGM (Surveyors), attended the hearing.
4. The submissions made by the SLA in their written reply to the Show Cause Notice and those made during the hearing through video conference and the documents submitted by the SLA in evidence of their submissions have been considered by the Authority and accordingly the decisions on the charges are detailed below.

5. Charge No.1

Violation of Regulation 12(1) of IRDAI(ISLA) Regulations 2015 which mandates that no person or a firm or a company shall act as a Surveyor and Loss Assessor without being licensed and Regulation 16(5) (Code of Conduct) of IRDAI (Insurance Surveyor and Loss Assessors) Regulations, 2015; which mandates that the SLA shall not accept or perform survey works in areas for which he does not hold a license.



Observation: From the sample reports submitted by the SLA, it is observed that the surveys are conducted by people who are either not licensed surveyors or are not licensed in that area to perform the surveys, as per the name mentioned in the physical survey records file and as accepted by the entity itself. Further, the reports are signed by the people who have not conducted the actual surveys.

Summary of Reply to SCN:

The reason for deputing some of the employees who did not have a license was that in larger claims, very detailed list and inventory had to be prepared of stocks and assets. However, they had accepted that a lapse had occurred with regard to the rules framed by IRDAI. As regards signing of reports, only by those who had carried out the survey, it has been duly noted and the SLA has promised that in future all license holder surveyors who actually carry out the survey shall sign the survey reports, though their Directors may countersign the reports to ensure accuracy and professional quality of the submissions.

Decision:

From the inspection observation and data made available by the SLA, it is evident that four individuals Viz. Shri Jagat Singh, Shri Neeraj Yadav, Shri Arpan Saxena and Shri Vipul Singhal; have done the survey without holding valid surveyor license. Further, another three surveyors viz. Shri Gaurav Kumar Singh, Shri Rahul Kashyap and Shri Mahesh K Sharma have done survey in the areas where they were not licensed to conduct survey. After analyzing the sample data for the financial year 2018-19, 11 (eleven) survey reports are identified where surveys were done by unlicensed surveyor or surveyors who were not holding license in relevant areas and these surveys were performed in 11 (eleven) different dates. Hence, by virtue of the powers vested in it under Section 102(b) of the Insurance Act, 1938, the Authority levies as penalty on the SLA an amount of Rs.11 Lakh (Rupees Eleven lakh only).

Further, the SLA is directed to confirm that this practice has been stopped and that only surveyors having valid license in relevant areas are doing the survey and signing the survey reports.

6. Charge No. 2:

Violation of Regulations 13(2) and 13(3) of IRDAI (Insurance Surveyors & Loss Assessors) Regulations 2015.

Observation: The surveyor has conducted about 897 (271 in FY 2016-17, 290 in FY 2017-18 and 336 in FY 2018-19) surveys in the last three financial years. Out of those, about 445 survey reports were submitted after expiry of 30 days of surveyor appointment and about 210 survey reports were submitted after expiry of 180 days of survey job allotted to M/s. KD Kohli Insurance Surveyor and Loss Assessors Pvt. Ltd, without seeking written extension from the respective Insurance Companies.



Summary of reply to SCN:

The SLA submitted that there was absolutely no delay in carrying out survey and /or submission of reports except in cases where there was delayed submission of documents and in this regard, the insurers were kept completely informed.

Decision:

The SLA could not justify the case specific delay recorded under the charge. The SLA is cautioned that the lapse indicated under the charge should not be repeated and they are further advised to ensure compliance of regulation 13 (2) of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015 to be read with Regulation 15 of (Protection of Policyholders Interests) Regulations, 2017, in letter and spirit.

7. Charge No. 3:

Violation of regulation 13(2) of the Surveyors Regulations, 2015.

Observation: While examining the data submitted by the SLA, it was noted that in response to the required information pertaining to 'Date of submission of copy of report to client', the SLA had stated as 'No' in the concerned column. The Inspection Team sought clarification in this regard. The SLA had responded as *"We have never shared the copy of survey report with insured directly, though this may have been provided through insurers to whom the reports were submitted"*.

Summary of reply to SCN:

The SLA submitted that the survey reports are released to the claimant by the insurers after they have duly established the liability under the policy, hence, they were advised accordingly in this matter. There was no lapse or violation of IRDA instructions in this regard.

Decision:

SLA's attention is drawn to Regulation 13(2) which envisages that an SLA whether appointed by insurer or insured, shall submit his report to the insurer, with **a copy of the report to the insured** giving his comments on the insured's consent or otherwise on the assessment of loss. However, the SLA failed to observe the same. The SLA is cautioned for the lapse and advised to ensure compliance of Regulation 13(2) of the Surveyors Regulations, 2015; in letter and spirit.

8. Charge No. 4:

Violation of Regulation 13(1) (b) of IRDAI (Insurance surveyors and Loss Assessors) Regulations, 2015

Observation: During the period under inspection it was noticed that Mr. Dhiraj Kohli resigned from the Directorship of the company on 31.05.2018 and accepted by the



Board too. And 6 days after the acceptance of Mr. Dhiraj Kohli's resignation, again he was re-appointed as director of the company on 07.06.2018 by the Board. Regarding intimation to the Authority about the above changes in Directorship in the company, the SLA shared acknowledgment letter dated 24.07.2019 intimating the Authority about the appointment of the Mr. Dhiraj Kohli as Director of the company and confirmed that no intimation of resignation of Mr. Dhiraj Kohli was made to the Authority.

Hence the SLA has failed to communicate to IRDAI under 'Disclosure of information' which mandates that the information which required change in SLA license should be reported to Authority within a period not exceeding fifteen days from the date of occurrence

Summary of reply to SCN:

The SLA submitted that in the issue mentioned above, no intention to mislead the authority was involved. They further submitted that there may have been some unintended lapse due to their ignorance with regard to day-to-day compliance with the IRDA rules, however, reasons for this were duly explained.

Decision:

The submission of the SLA is taken note of and charge is not pressed further.

9. Charge No. 5:

Violation of Regulation 12(1) of IRDAI (Insurance surveyors and Loss Assessors Regulations), 2015.

Observation: The renewal of SLA license was due on 21.04.2017 but the license was renewed on 18.04.2018, which is almost one year after the date of expiry of SLA license. Hence SLA was working without valid surveyor license between 21.04.2017 to 18.04.2018. The SLA admitted that a total no. of 255 claims surveyed between the expiry date of old license and issue of new license which confirms the breach of the provisions of regulatory requirements that SLA should have a valid license to act as a Surveyor and Loss Assessors

Summary of reply to SCN:

The SLA submitted that they had honestly disclosed the number of surveys (255 Nos) as per their detailed email and relevant statement submitted during inspection. They submitted that revalidation of their corporate survey license was delayed at Authority's end. However, they were not given any instruction to stop survey and stop the operation of their corporate survey company. Fortunately, and incidentally the serial no of their SLA remained unchanged as it was a revalidation of the old license.



Decision:

The submission of the SLA is taken note of. However, the SLA is advised to ensure that proper initiatives are taken at their end so that the license is renewed in time; in order to avoid non-compliance of Regulation 12(1) of IRDAI (Insurance surveyors and Loss Assessors Regulations), 2015.

10. Summary of Decisions:

Charge No.	Provision violated and charge	Decision
1	<p>Charge: Survey either engaging unlicensed surveyor or surveyors who are not holding license in relevant areas of risk.</p> <p>Provision: Regulation 12(1) and Regulation 16(5) under Chapter VI (Code of Conduct) of IRDAI Insurance Surveyor and Loss Assessors) Regulations, 2015.</p>	Penalty of 11 Lakh and direction
2	<p>Charge: Delay in submission of Survey report.</p> <p>Provision: Regulations 13(2) and 13(3) of IRDAI (Insurance Surveyors & Loss Assessors) Regulation 2015</p>	Caution and Advisory
3	<p>Charge: Not sharing Survey report with the Insured.</p> <p>Provision: Regulation 13(2) of the Surveyors Regulations, 2015</p>	Caution and Advisory
4	<p>Charge: Bringing to the notice of the Authority, any change in the information or particulars furnished at the time of issuance of license.</p> <p>Provision: Reg. 13(1) (b) of IRDAI (Insurance surveyors and Loss Assessors Regulations), 2015</p>	Charge not pressed.
5	<p>Charge: Survey without in-forced license.</p> <p>Provision: Regulation 12(1) of IRDAI (Insurance surveyors and Loss Assessors Regulations), 2015</p>	Advisory

11. As directed under the respective charges, the penalty of Rs. eleven Lakh shall be remitted by the SLA within a period of 45 days from the date of receipt of this Order through NEFT/ RTGS (details for which will be communicated separately). An intimation of remittance may be sent to Mr. Prabhat Kumar Maiti, General Manager



(Enforcement) at the Insurance Regulatory and Development Authority of India, Sy. No. 115/1; Financial District; Nanakramguda; Gachibowli; Hyderabad – 500032.

12. The SLA shall confirm compliance in respect of the above decisions, within 21 days from the date of receipt of this order. The order shall be placed in the upcoming Board meeting and the SLA shall submit a copy of the minutes of the discussion.

13. If the SLA feels aggrieved by any of the decisions in this order, an appeal may be preferred to the Securities Appellate Tribunal as per Section 110 of the Insurance Act, 1938.

Sd/-
(T. L. Alamelu)
Member (NL)

Place: Hyderabad

Date: 16th September, 2021