



बीमा विनियामक और विकास प्राधिकरण  
**INSURANCE REGULATORY AND  
DEVELOPMENT AUTHORITY**

IRDA/SUR/ORD/LC/206/08/2012  
Order

Of

**The Insurance Regulatory and Development Authority**

**Against**

**Sukumal Kumar Choudhury**

1. All Surveyors and Loss Assessors functioning in the general insurance sector are subject to the provisions of Section 64 UM read with Section 42D of the Insurance Act, 1938 (herein after called "the Act") as also the provisions of the Insurance Surveyors and Loss Assessors (Licensing, Professional Requirement and Code of Conduct) Regulations, 2000 (hereinafter referred to as 'the Regulations').
2. Section 64UM(1A) of the Act mandates that every surveyor and loss assessor so licensed by the Authority shall comply with the code of conduct in respect of their duties, responsibilities and other professional requirements as specified by the Regulations made by the Authority.
3. Regulation 13(1) of the said Regulations mandates that each surveyor and loss assessor shall carry out the work with competence, objectivity and professional integrity by strictly adhering to the code of conduct expected of such surveyor and loss assessor.
4. Regulation 15(1) which details the Code of Conduct required to be complied with by all the surveyors, mandates that each surveyor and loss assessor shall behave ethically and with integrity in the professional pursuits. Integrity implies not merely honesty but fair dealings and truthfulness. Further, Regulation 15(7) mandates that each surveyor and loss assessor shall carry out his professional work with due diligence, care and skill and with proper regard to the technical and professional standards expected of him.



**The facts of the matter before us are as under:**

- Sukamal Kumar Choudhury (hereinafter referred to as 'the Surveyor') was granted a license by the Insurance Regulatory and Development Authority (hereinafter referred to as 'the Authority'), to carry out the work of survey and loss assessment, vide license no. SLA-2555 and was subsequently renewed from time to time and is presently valid upto 13.01.2013.
  - The Central Bureau of Investigation, Dispur (the CBI) vide letters dated 04.05.2009, 18.05.2009 and 26.06.2009 brought to the notice of the Authority that the CBI had registered a criminal case number RC172008A0016 against the Surveyor on account of a complaint registered against him in view of the following reasons:
    - While deputed by the insurer, M/s. National Insurance Co. Ltd., for assessing a loss, the surveyor was allegedly caught accepting a bribe of Rs. 10,000/- from one Shri. Hemanta Kumar for expeditious submission of the survey report for the vehicle.
    - The surveyor was getting the work of surveying and loss assessment of vehicles allocated to him by the insurers, through ineligible and unqualified persons and seeking bribes for submission of survey reports.
5. The above acts of omission and commission of the Surveyor as were brought to the knowledge of the Authority by the CBI are clearly violative of the provisions of the Code of Conduct as specified by the Authority vide the said Regulations.
6. In view of the information so received, the Authority issued a letter dated 05.05.2009 to the surveyor to furnish his explanation on the said matter. However, the Surveyor did not respond to the same. In the meantime, the office of the CBI under cover of letter dated 26.06.2009 forwarded the copy of the FIR filed against the Surveyor on the basis of





evidence gathered against the Surveyor during the course of investigation conducted by it.

7. Having regard to the observations made by CBI, the Authority issued a notice dated 24.09.2009 to the Surveyor, calling upon him to show cause as to why appropriate proceedings should not be initiated against him. The notice was returned to the Authority by the postal authorities with an endorsement "required phone number" and with the envelope open and the notice contained therein missing. The notice was once again sent to the Surveyor on 05.10.2009 'under certificate of posting'. Despite receipt of the same, the Surveyor failed to provide any comments in his defence.
8. Having regard to the above, IRDA issued a notice of hearing dated 22.7.10, upon the Surveyor providing an opportunity of personal hearing on the allegations made against him to respond along with supporting documents in writing/ in person. In the said notice it was also stated that if he failed to respond, it shall be construed that he has nothing to say in his defence and action as deemed necessary shall be taken by the Authority. The Surveyor failed to respond to the notice till date.
9. The Authority on a judicious exercise of the powers and the discretion vested under Section 14(1) of the Insurance Regulatory and Development Authority Act, 1999 read with Regulation 9(1) of the Regulations suspended the licence issued to Mr. Sukumal Kumar Choudhury vide its order dated 6.9.2010.
10. Here, it becomes imperative to consider a few provisions of the Act and Regulations, related to the case:
  - i) Regulation 8(3) of the IRDA ( Licensing of Surveyors and Loss Assessors) Regulations, 2000 states that where it is found that a surveyor and loss assessor suffers from any of the disqualifications (mentioned in Section 42(D)(5) of the Act) or has knowingly contravened any provisions of the Act or IRDA Act, 1999





- ii) or the rules or regulations made therein or any order or direction or instruction issued by the Authority, the Authority may after giving such surveyors and loss assessors an opportunity of being heard, refuse to grant or renew the licence or suspend or cancel his licence with effect from such dates as may be specified by it.
- iii) Regulation 8(4)(iii) of the Regulations inter-alia empowers the Authority to refuse to grant or renew the licence or suspend or cancel a licence already granted, to a surveyor and loss assessor, if he/it makes a statement which is false in material particulars with regard to the eligibility for obtaining licence or if he has, after the issue of renewal of such licence, acquired any of the disqualifications provided under sub-section (5) of Section 42 D of the Act, read with clause D of sub-section (1) of Section 64UM of the Act.
- iv) Sections 64UM(G) and 64UM(G)(7) further empowers the Authority to cancel a licence already granted to a surveyor and loss assessor in case he fails to discharge the duties and responsibilities in a satisfactory and professional manner or violates the code of conduct prescribed under the Regulations or if he makes a statement which is false in material particulars with regard to the eligibility for obtaining licence or has, after the issue or renewal of such licence, acquired any of the disqualifications provided under sub section (5) of Section 42 of the Act, read with clause D of sub section (1) of Section 64UM of the Act.
- v) Sub regulation 9(1) of IRDA Surveyors Regulations states that a "licensed surveyor and loss assessor whose licence is proposed to be suspended by the Authority may be granted an opportunity before suspending the licence:  
**"Provided, however, that the Authority may not follow this procedure if the continued employment of the licensed surveyor and loss assessor is considered to be detrimental to the cause of insurance underwriting."**





11. The Authority after considering the facts and circumstances of the case as also the material on record, issued a suspension order dated 6.9.2010 to Mr. Sukumal Kumar Choudhury and the same was also placed on our website i.e. [www.irda.gov.in](http://www.irda.gov.in) on 7.9.2010. Having regard to the fact that the Surveyor has not appealed to the Authority within 45 days from the date of the order of suspension, nor has he responded to Authority's notice dated 22.7.10 affording opportunity for personal hearing, the Authority on a judicious exercise of the powers and the discretion vested in the Authority under Sub Regulation 9(6) of Insurance Surveyors Regulations, 2000 which clearly states that ***"the licence granted by the Authority may be cancelled by the Authority where the surveyor and loss assessor does not represent within a period of 45 days from the date of order of suspension"***, hereby cancels the licence granted to the Surveyor to act as Surveyor and loss assessor, with immediate effect.

Place: Hyderabad

Date: 7/8/12



Suresh Mathur

Sr.Joint Director (Intermediaries)