



बीमा विनियामक और विकास प्राधिकरण

**INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY**

ORDER

Ref: IRDA/F&I/ORD/ 464.1/9/F&A/RDL-31B/2011-12/179

11th December, 2013

Mr. Sudip Bandyopadhyay,
MD & CEO,
Destimoney Securities Pvt. Ltd.,
Tech Web Center,
6th Floor, New Link Road,
Oshiwara, Jogeshwari (West),
Mumbai – 400 102.

Levy of Penalty under Section 102 of the Insurance Act, 1938

The Insurance Regulatory and Development Authority (herein after referred to as “the Authority”) has granted license bearing number 8943149 to Destimoney Securities Pvt. Ltd. (herein after referred to as “the Corporate Agent”) to act as a Corporate Agent of Tata AIA Life Insurance Co. Ltd. (herein after referred to as “the insurer”) from 30th November 2011 . In terms thereof, the Corporate Agent was subject to the terms and conditions of the license issued to it and was also required to abide by the relevant provisions of the Insurance Act,1938 (herein after referred to as “the Act”), the Insurance Regulatory and Development Authority Act,1999 (herein after referred to as “the IRDA Act,1999”), the Insurance Regulatory and Development Authority (Licensing of Corporate Agents) Regulations, 2002 (herein after referred to as “the Regulations”) and other directions issued by the Authority from time to time by way of circulars and/or Guidelines, particularly, Circular no. 017/IRDA/Circular/CA Guidelines/2005 dated 14th July 2005 (herein after referred to as “the Guidelines”).

On review of the data filed by the insurer with the Authority in accordance with IRDA circular no. IRDA/F&I/CIR/DATA/066/03/2012 dated 2nd March, 2012 w.r.to the financial year 2011-12, it was observed that the corporate agent has received payments from the insurer towards Advertisements/Business promotion expenses for Rs. 121.04 Lakh apart from commission in violation of Clause 21 of the Guidelines.

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The total receipts including commission, production bonus and the aforementioned expenses were over and above the permissible limits under Sec 40A of the Act by Rs. 107.27 Lakh.

The Authority issued Show cause notice to the corporate agent on 8th February 2013 for the said violations. The corporate agent submitted its reply in response to Show Cause notice on 5th March 2013.

Corporate agent mentioned in its reply letter dated 5th March 2013 to the show cause notice that apart from being insurance agent they also run a financial services business with large footprint across the country and in normal course of business they carry advertisements for various products and services in their website, emails and retail outlets. It being an independent commercial activity, they charge fees from advertisers. The arrangement with the insurer was negotiated at arm's length basis and rates charged were similar to the rates charged to other advertisers. The said advertisement activity and the remuneration for such service is in no way related to sale of insurance policies and have no connection with performance as corporate agent of the insurer.

Corporate agent further mentioned during the personal hearing held on 1st August, 2013, that they had been doing the advertisement campaign of the insurer prior to its corporate agency arrangement and continued the same even after becoming the corporate agent. It was however specified by the corporate agent that they have stopped such campaigns with the insurer as per the Board resolution. Copy of the Board resolution was also submitted by the corporate agent in support thereof.

Sec 40A of the Act limits the payments to any agent by way of remuneration or reward or otherwise to a defined sum. Regulation 8(1) of the Regulations requires a corporate agent to abide by Sec 40A of the Act and clause 21 of the Guidelines reinforce this concept that a corporate agent can be paid only the approved commissions and no other fees or charges or rewards whatsoever except reasonable expenses for co-branded sales literature.



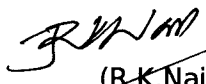
In view of the above, the Authority is of the considered view that the corporate agent has violated the provisions of Sec 40A of the Insurance Act, 1938 read with clause 21 of the Guidelines 2005.

Having regard to the facts of the case and the gravity of the violations committed by the corporate agent, the Authority in exercise of powers vested in it under section 102 of the Act imposes a penalty of ₹50,000 (fifty thousand) for the above violation.

Corporate agent is further directed to strictly adhere to the Insurance Act, 1938, Regulations made there under, Guidelines and Circulars issued in this regard from time to time.

The penalty amount shall be paid within a period of 15 days from the date of receipt of this order through a Cross Demand Draft in favour of "Insurance Regulatory and Development Authority" payable at Hyderabad, which may be sent to Mr. R.K.Sharma, Deputy Director (F&A) at the Insurance Regulatory and Development Authority, 3rd Floor, Parishrama Bhavan, Basheer Bagh, Hyderabad – 500004.

Place: Hyderabad
Date: 11th December, 2013


(R.K.Nair)
Member (F&I)
