



No. IRDA/ENF/ORD/ONS/ 250 /09/2021

Final Order in the matter of

Alex Stewart 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 20th July, 2021 at 10:30 a.m., chaired by Member (Non Life).]

Background: -

1. The Insurance Regulatory and Development Authority of India (Authority) had conducted during 26/08/2019 to 30/08/2019 an onsite inspection of M/s. Alex Stewart Insurance Surveyors & Loss Assessors Pvt. Ltd. (SLA).
2. The Authority forwarded a copy of the Inspection Report to the SLA on 24/10/2019 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 20th July, 2021. Mr. Kushal Roy, Director, Mr. K.V.A. Murty, Capt. Collin Lopes and Ms. D. Jayalakshmi 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 16 (5) of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015.

Observation: As per the data submitted by the SLA, regarding the surveys performed by the surveyors, it was observed that the job was assigned when Mr. Allen J.



Fernandes, Director was having “Fire” category license. However, the report was issued by Mr. Kushal Roy who did not have license in “Fire” department.

Summary of Reply to SCN:

The Company accepted the survey work on 31st May 2018 and performed the survey on 1st June 2018; and they held the SLA license on Fire Category, on both these dates. However, the survey report was issued on 25/09/2018 i.e. after retirement of the Director, Mr. Allen J. Fernandes on 31/08/2018. He was the only Director holding the licence under Fire Category. The delay in issuing survey report was due to non-receipt of necessary documents from the insured.

The action of signing report by Mr. Kushal Roy, SLA licence holder and serving Director of the Company at that time was done with no malafide intention but rather to complete the process of issuing the survey report and enabling the insurer/insured to deal with the claim as appropriate.

Decision:

The SLA has submitted that the delay in issuing survey report was due to non-receipt of necessary documents from the insured. If the documents, as claimed by the SLA, had not been received from the insured till the retirement of the Surveyor in question, then the submission of the SLA that the said survey was carried out by that surveyor (Mr. Allen J. Fernandes) is not tenable. The survey was completed and report was signed by Mr. Kushal Roy; after receipt of necessary document. This means that the survey in fire category was carried out by a surveyor who was not holding surveyor license in fire; which is a clear violation of Regulation 16 (5) code of conduct, Chapter VI of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015. Therefore, by virtue of powers vested in it under Section 102(b) of the Insurance Act, 1938, the Authority levies a penalty of Rs. 1,00,000 (Rupees one lakh only) on the SLA. The SLA is further directed to ensure that the surveyors to whom survey jobs are entrusted do hold valid licence for performing surveys in those areas.

6. Charge No. 2:

Violation of Regulation 15 of IRDAI (Protection of Policyholder’s Interest) Regulation 2018 and Regulation 13 of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015

Observation: On verification of survey reports during 2017-18 and 2018-19, it was observed that the SLA has delayed the submission of survey reports.

Summary of reply to SCN:

Delay in submission of survey report is generally due to delay in submission of required information by the insured, completion of repairs and thereby the assessment of the



loss. The SLA elaborated their reply for each of the cases identified in the inspection report. However, they could not submit any evidence to establish that they followed the processes as mandated under the regulation.

Decision:

Regulation 15 of IRDAI (Protection of Policyholder's Interests) Regulations 2018 and Regulation 13 of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015, specifies the process to be followed in case additional time is required to complete the survey. The SLA is cautioned for the lapse and directed to ensure compliance of said Regulation in letter and spirit.

7. Charge No. 3:

Violation of clause 15(1) under Regulation 4 of IRDAI (ISLA) Regulations 2015 and 12(1) of IRDAI (ISLA) Regulations 2015.

Observation: It was observed from the data submitted by the SLA that surveys were conducted by Mr. Collin Lopes, who is the employee of the Stewart Surveyors and Assayers Private Limited, which is a sister concern of the SLA. Mr. Collin Lopes was on deputation to the Alex Stewart Surveyors, which is not permitted by the Regulations which mandates that the surveyor has to be an employee.

Summary of reply to SCN:

Capt. Collin Lopes is an employee of Alex Stewart International (India) Private Limited. There is a service agreement in place between Alex Stewart Insurance Surveyors and Loss Assessors Private Limited and Alex Stewart International (India) Private Limited, and by virtue of the said Agreement, Capt. Collin Lopes is carrying out surveys on behalf of Alex Stewart Insurance Surveyors & Loss Assessors Private Limited. Capt. Collin Lopes is holding Surveyor License no. 120115 to perform Marine Cargo and Marine Hull Survey.

During personal hearing, the SLA stated that on the basis of the said agreement, the arrangement of Mr. Lopes doing survey for the SLA is continuing even now.

Decision:

Attention of SLA is drawn towards Clause 15(3) under Regulation 4 of IRDAI (ISLA) Regulations 2015 which envisages that "Individual Surveyor and Loss Assessor who is working as an employee of a company/firm shall undertake survey jobs only of that company/ firm with whom he/she is employed. The employee shall undertake survey jobs only in those departments and level of membership allotted to him/ her under his/ her individual license". Hence, the SLA cannot carry out survey jobs through persons who are not their employees or directors. The SLA is directed that the practice of carrying out survey jobs through the said surveyor must stop forthwith or he has to resign from Alex Stewart International (India) Private Limited. The course of action



taken by SLA on this surveyor shall be intimated to the Authority within 21 days of this order.

8. Summary of Decisions:

Charge No.	Provision violated and charge	Decision
1	Charge: Performing survey work in areas for which he does not hold the license Provision: Regulation 16 (5) of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015	Penalty of Rs. 1 Lakh and Direction
2	Charge: Delay in submission of survey reports Provision: Regulation 15 of IRDAI (Protection of Policyholder's Interest) Regulation 2018 and Regulation 13 of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015	Caution and Direction
3	Charge: Engaging surveyor not having Authority license Provision: Clause 15(1) under Regulation 4 of IRDAI (ISLA) Regulation 2015 and 12(1) of IRDAI (ISLA) Regulation 2015	Direction

9. As directed under the respective charges, the penalty of Rupees One 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.

10. 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.

11. 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: 14th September, 2021