



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

No. IRDA/ENF/ORD/ONS/006/01/2018

Final Order in the matter of
M/s. NetAmbit Insurance Broking India Ltd.

Based on reply to the Show Cause Notice dated 31st October 2017 and submissions made during Personal Hearing held on 08th December, 2017 at 11:00 a.m. taken by Member (Non-Life) at the office of Insurance Regulatory and Development Authority of India, 3rd Floor, Parishrama Bhavanam, Basheerbagh, Hyderabad.

Background -:

The Insurance Regulatory and Development Authority of India (hereinafter referred to as "the Authority") carried out an onsite inspection of M/s. Net Ambit Insurance Broking India Ltd (hereinafter referred to as "the broker") during 17-02-2016 to 22-02-2016. The Authority forwarded a copy of the Inspection Report to the broker seeking comments and the broker's comments were received vide their letter dated 01-07-2016. Upon examining the submissions made by the broker, the Authority issued Show Cause Notice on 31-10-2017 which was responded to by the broker vide letter dated 16-11-2017. As requested therein, a personal hearing was given to the Broker on 08th December 2017. Shri Pradeep Kr. Chaudhary, Principal Officer and Shri Pankaj Sachdeva, CFO were present in the hearing on behalf of the Broker. On behalf of the Authority, Mr. PJ Joseph, Member (Non Life), Shri Randip Singh Jagpal, CGM (Intermediaries), Shri Prabhat Kumar Maiti, GM (Enforcement), and Shri Chandan Singh, Assistant (Enforcement) were present during the personal hearing. The submissions made by the broker in their written reply to the Show Cause Notice and those made during the course of the personal hearing and the documents submitted by the Broker in reply to SCN and in evidence of their submissions in Personal Hearing have been considered by the Authority and accordingly the decision on the charges is detailed below.

1. Charge No 1

On examination of a sample of 6 (six) policies of one client, it is observed that 3 (three) financial service consultants (FSC), who represented the broker while procuring the policies, are not appearing in the list of employees of the broker. On further examination of the records of these policies in MIS of the broker it was found that on behalf of the broker the closure of these policies was done by an employee who is different from the FSC, as stated in the proposal form. However, none of the employees of the broker was working in the State of Jharkhand from where these policies were sourced and during the period when these policies were issued. Hence it may be assumed that the

solicitation of these policies was being done with the help of a third party entity in the form of canvassers. Moreover, it is found that some of the employees hired by the broker are having their individual agent license. Hence it has violated the code of conduct Clause 3(b) of Schedule VI-A under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013 which stipulates that "Every insurance broker shall confirm that he does not employ agents or canvassers to bring in business"

Submissions of Broker -:

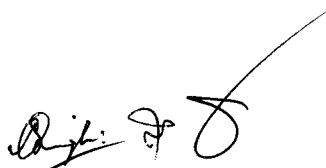
The broker submitted that it has been following the distance marketing mode for procuring insurance business; therefore, it was able to solicit insurance business in Jharkhand. It has not used the services of any agents or canvassers. It used to take insurance company's help in cases wherein it did not have the local representative. It confirmed that it has not employed the concerned FSCs in any capacity and they appear to have been acting on behalf of the insurer or the insured persons. No consideration or sharing of brokerage has been made with them.

The broker also submitted that it takes adequate precautions and takes undertaking from each employee where he/she undertakes that he/she will not engage in any business activity during the course of employment. Based on the undertakings by the individual employees, it recruits them on good-faith.

Decision -:

The copies of the proposal forms collected from the broker during the course of inspection, show that the policies were procured by persons who are denied by the broker to be their employees. In the reply to the Show-Cause-Notice, the Broker has shown complete ignorance about the identity of these persons who signed the proposal form as Financial Service Consultants (FSC) on behalf of the Broker. In four out of these six policies the FSCs signed the proposal forms using seal of the Broker. The broker failed to explain the signature of these persons and usage of its seal on the proposal forms. Further, the observation is based on a sample of six policies only, which indicates that there might be more such instances.

These four out of six policies, which were solicited through engagement of FSCs as canvassers are confirmed cases of violation of Clause 3(b) of Schedule VI-A under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013. Further these policies were solicited on four different dates. Therefore, *in exercise of the powers vested in it under Section 102(b), the Authority imposes on the broker a penalty of Rs.4,00,000/- (Rupees Four Lakh only) which has been arrived at on the basis of Rupees one lakh per day for four days during which the violation is noticed to have subsisted.* In addition, the Broker is directed to ensure compliance of Clause 3(b) of Schedule VI-A under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013, in letter and spirit.



2. Charge No 2 -:

The broker submitted the list of tele-callers and it was found that twenty seven (27) tele-callers were working in Delhi. The inspection team visited the tele-calling center of the broker situated in Delhi and it was found that total 92 persons were working in that center. It was informed that 90 among them were working as tele-caller. Hence, the inspection team was given incorrect information and the broker is not working in professional manner.

The Authority vide its letter dated 31.07.2015, had advised the broker to discontinue tele-calling operations till further notice and later on it was allowed to do so through letter dated 18.01.2016. In one of the systems being used for tele-calling purpose, it was found that record is available for that period as well when the tele-calling was not permissible. Hence, the broker didn't discontinue its tele-calling activity even after instructions were issued by the Authority.

Submissions of Broker-:

The broker submitted that it provided the list of 27 tele callers which were certified basis the requirement under Distance Marketing guidelines issued in 2011. The 92 employees as reflected during the inspection included:

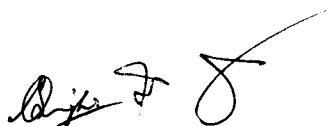
1. Above 27 tele callers who were actually calling.
2. 58 Employees were undergoing requisite training as required under Distance Marketing guidelines.
3. 7 Employees were from support function.

The 92 persons working at the tele-calling center visited by the inspection team were not fully engaged in tele-calling for the purpose of business procurement. Barring 27 trained tele-callers, none of them were used for business procurement. Some of them were posted in the center to have on field training and the remaining were used for persistency calling which does not require any qualification specified in the Distance Marketing Guidelines.

The broker submitted that it followed the directions of the Authority and did not engage in telemarketing during the period 31st July 2015 & 18th January, 2016. The details as depicted in the Annexures were updated in individual system for the purpose of service calls.

Decision -:

On examination of the documents collected during on-site inspection, it is clear that there is variation between the number (27) of the tele-callers pertaining to Delhi office, as supplied by the Broker during onsite inspection, and the number (92) of those who were actually procuring business from the same place (as obtained from the broker's system). The broker failed to explain this



inconsistency which implies that the broker communicated wrong figures during onsite inspection and this indicates that the Broker did not work in a professional manner. This is violation of Clause 1 of Schedule VI-A under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013. The Broker is warned for the violation and directed to ensure that such violation does not recur.

The Authority vide its letter dated 31st July 2015, directed the Broker not to carry out any kind of telemarketing activities. Further vide letter dated 18th January, 2016, Authority permitted the broker to conduct telemarketing activities in-house and not use any external telemarketer. Hence during the period (31st July 2015 to 17th January 2016) the broker was not supposed to carry out telemarketing in any form either in-house or using external telemarketer. But from the documentary evidences collected during the on-site inspection, it is clear that the Broker engaged individuals, who were subsequently engaged as tele-callers, for soliciting business in the guise of lead generation during the period in which the broker was directed not to carry out telemarketing.

As per the Guidelines for Telemarketers, issued by Telecom Regulatory Authority of India (TRAI); "Telemarketer" means a person or legal entity engaged in the activity of transmission of commercial communications and "Commercial communications" means any message, voice or SMS, made through telecommunications service, which is transmitted for the purpose of informing about, or soliciting or promoting any commercial transaction in relation to goods, investment or services.

"Lead Generation" is an activity of Telemarketing or "Distance marketing" as per para 1(a) of IRDA Guideline on Distance Marketing, dated 05/04/2011. Also in the reply to the Show-Cause-Notice, the broker agreed that during the stated period, lead generation through Telecalling was carried out by the Broker's own employees. Hence any "lead generation" made through telecommunications service, is a form of Telemarketing.

As per the evidence collected during onsite inspection there is a confirmed case of 19 (Nineteen) such policies which were solicited (lead generated and closed) on 16 (sixteen) different dates during the period in which the broker was directed not to carry out telemarketing in any form either in-house or using external telemarketer. This is failure to comply with the Authority's direction issued on 31st July 2015. Therefore, for the said failure, *in exercise of the powers vested in it under section 102(b), the Authority imposes a penalty of Rs.16,00,000/- (Rupees Sixteen Lakh only) which has been arrived at on the basis of Rupees one lakh per day, for 16 days that is at a rate of Rs. One Lakh for each day during which such failure continued.* In addition, the Broker is directed to strictly comply with Regulation 23(1) of IRDA (Insurance Brokers) Regulations, 2013.



3. Summary of Decisions:

The following is the summary of decisions in this order:

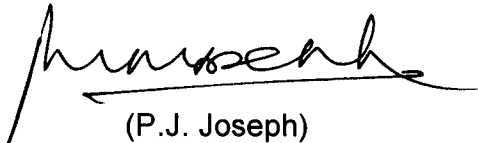
Charge No.	Brief Title of charge and the provisions violated	Decision
1	Charge: Employing agents and canvassers Provision: Clause 3(b) of Schedule VI-A under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013	Penalty of 4 Lakhs & Direction.
2	Charge: Code of Conduct Provision: Clause 1 of Schedule VI-A under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013.	Penalty of 16 Lakhs and Direction

4. As directed under the respective charges, the penalty of **Rs. 20,00,000/- (Rupees Twenty Lakh only)** shall be remitted by the Broker within a period of 15 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.

5. The Broker shall confirm compliance in respect of all the directions referred to in paras 1 and 2 of this Order, within 21 days from the date of receipt of this order. The Order shall be placed before the Audit committee of the broker and also in the next immediate Board meeting and the broker shall submit to the Authority a copy of the minutes of the discussion.

6. If the broker 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.

Place: Hyderabad
Date: 10th January, 2018


(P.J. Joseph)
Member (Non-Life)

