



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

ORDER

Ref: IRDA/F&I/ORD/ 464.1/9/F&A/RDL-31B/2011-12/182

11th December, 2013

Mr. Rakesh Batra,
Managing Partner, Manjrak Marketing,
No. 1/5, 2nd Floor, Batra Chambers,
Cunningham Road,
Bangalore-560052.

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 No. 7751190506 to Manjrak Marketing (herein after referred to as "the corporate agent") to act as corporate agent of ING Vysya Life Insurance Co. Ltd. (herein after referred to as "the insurer") from 23rd May, 2003. 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 31B return 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 payouts from the insurer towards insurance awareness programs/ campaigns, surveys/customer feedbacks etc. for Rs. 46.56 Lakh apart from the permissible commission in violation of Clause 21 of the Guidelines. The total payouts received from the insurer including commission were over and above the permissible limits under Sec 40A of the Act by Rs. 26.20 Lakh.

He

Page 1 of 3

The Authority communicated the findings to the insurer on 20th July, 2012 and sought explanation. The insurer submitted its response vide letter dated 14th August, 2012. The Authority examined the response of the insurer and issued Show Cause notice on 8th February 2013 to the insurer for paying excess payouts. Simultaneously, Show cause notice was also issued to the corporate agent for receiving excess payouts from the insurer. The corporate agent submitted reply in response to the Show Cause notice on 13th March 2013.

The corporate agent contended that they have not received any amount in excess of the commission prescribed under Sec 40A of the Insurance Act. The other payments are not part of the corporate agency business with the Insurer and they had a separate arrangement for marketing and insurance awareness related activities.

On analyzing the 31B return for the financial year 2012-13, it was observed that similar kind of payouts were received by the corporate agent @ Rs. 19.08 Lakh, which were over and above Sec 40A limits by Rs. 5.12 Lakh.

Furthermore, the Managing partner of the corporate agent visited the Authority and presented the case personally on 24th July, 2013. During the personal hearing, payouts pertaining to both the financial years were discussed. Corporate agent mentioned that the payments received from the insurer were on reimbursement basis and were not direct receipts. Therefore, the reimbursements from the insurer were not income for the firm, further, such activities were stopped from the 2nd quarter of the FY 2012-13.

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 corporate agent has violated the provisions of Sec 40A of the Act 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 Insurance Act, 1938 imposes a penalty of ₹10,000 (ten thousand) for the above violations. The 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)
