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ROYAL INSURANCE CORPORATION OF BHUTAN LTD.

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RICB/CO/HRD(09)/2023/9103

June 22, 2023

Director
Department of Labour
Ministry of Industry, Commerce and Employment
Thimphu

Subject: RICBL's clarification to the complaint filed by Mr. Jigme Namgyal.

Dear Sir,

This has reference to your letter No. DoL/LRD-01/2022-23/288 dated June 5, 2023 seeking clarification to the complaint filed by one of our employees, Mr. Jigme Namgyal on suspension and revocation of suspension being arbitrary and unjust.

In this regard, we submit our clarification as under:

1. On suspension of Mr. Jigme Namgyal from the service

The disciplinary proceeding was initiated against Mr. Jigme Namgyal in accordance with sections 12.9 and 12.11 (b) of the RICBL's Service Rules and Regulations (SRR) 2019 pursuant to the High Court's Judgment No. High Court-2021/767 dated 26th October 2021 in the civil matter of RICBL v/s Ugyen Wangchuk and others wherein it was established that Mr. Jigme Namgyal and three other employees were involved in debiting and crediting of Mr. Ugyen Wangchuk's loan account without the client's consent, and because of such lapses, RICBL and the relevant employees were held liable to pay two-third of Mr. Ugyen Wangchuk's loan liability.

A comprehensive report on this case was submitted to the Royal Monetary Authority (RMA) on 29 September 2022 in response to RMA's directives received vide letter No. RMA/DFRS/15/2022/1413 dated 26 September 2022.

Mr. Jigme Namgyal was served a show cause notice on 3 October 2022 providing him the opportunity to submit his explanation on the charge in accordance with section 12.11 (d) of the SRR 2019. Since Mr. Jigme Namgyal denied the allegation in his explanation vide his letter dated 22 October 2022, the Disciplinary Committee constituted an Investigation Committee in accordance with sections 12.8 (b) and 12.11 (h) of SRR 2019 to establish the truth and validity of the charge and the employee's explanation. Following the constitution

L.R.D) *officially done*
For review and action.
22/06



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of an Investigation Committee, Mr. Jigme Namgyal was placed under suspension with effect from 31 October 2022 in accordance with section 12.12.1 of the SRR 2019. Therefore, his suspension from the service of RICBL is in compliance with our SRR 2019.

The Investigation Committee submitted its report on 2 November 2022 confirming that Mr. Jigme Namgyal had received a cheque for Nu. 440,000.00 (Four hundred forty thousand) from the loan account of Mr. Ugyen Wangchuk of which Nu. 423,963.00 (Four hundred twenty-three thousand nine hundred sixty-three) was deposited into Mr. Jigme Namgyal's loan account number CDL/2008/73 without the consent of the client.

2. Deferral of administrative action against Mr. Jigme Namgyal and revocation of his suspension

Since Mr. Jigme Namgyal had refused to pay his share of the loan liability of Mr. Ugyen Wangchuk due to "impending issues to be resolved" as stated in his letter dated 18 November 2022 to the RICBL, the Management deferred the administrative action to be taken against Mr. Jigme Namgyal to be based on the outcome of his appeal against the High Court's verdict and its enforcement pending before the Enforcement Unit, Dzongkhag Court, Thimphu. Accordingly, his suspension was revoked on April 19, 2023, that is within 6 months from the date of suspension, which is in compliance with section 12.12.1 (b) of the SRR 2019. Therefore, the revocation of his suspension in compliance with our SRR 2019.

3. On the payment of 50% salary and other benefits

We would like to submit that since our Disciplinary Committee deferred taking administrative action against Mr. Jigme Namgyal, the payment of his 50% salary not paid to him during the suspension period and other benefits will be considered based on the administrative action that will be taken after the enforcement of the High Court's judgement. The administrative action was deferred till the completion of enforcement of the High Court's judgment to enable the Management to make a reasonable decision taking into consideration the nature of his misconduct, circumstances leading to the commission of the misconduct, and to ensure that the employee is not jeopardized twice for the same misconduct.

4. On the constitution of the Disciplinary Committee

As per section 12.8 of our SRR 2019, the Disciplinary Committee constitutes the Chief Executive Officer as the Chairperson and other members comprising of General Managers, Head of the Legal Department and Head of the General Administration Department. Since the members of the Management Committee and the Disciplinary Committee are same



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chaired by the Chief Executive Officer, unless specifically instructed otherwise by the Management Committee, any decision of the Management Committee on disciplinary issues of the employee is considered as the decision of the Disciplinary Committee.

Our prayers

As submitted above, no administrative action has been taken against Mr. Jigme Namgyal because the Management decided to take appropriate administrative action against Mr. Jigme Namgyal after the enforcement of the High Court's Judgment, which is currently pending before the Enforcement Unit of the Dzongkhag Court, Thimphu. Mr. Jigme Namgyal will have an opportunity to appeal to our Board of Directors per section 12.14 of SRR 2019 if he is not satisfied with the decision of the Management. Further, he can then appeal to the Chief Labour Administrator against the decision of our Board.

In view of the above and since Mr. Jigme Namgyal has already filed a civil suit against RICBL before the Commercial Bench-II, Dzongkhag Court, Thimphu without following and exhausting the above due processes laid down in our SRR 2019 and the Labour and Employment Act of Bhutan, the Management request that Mr. Jigme Namgyal's complaint filed with your esteemed authority be dismissed.

We enclose a summary of the case between *RICBL v/s Ugyen Wangchuk & others* with detailed chronology of events along with copies of relevant documents for kind perusal and further necessary action or directives, if any.

Yours sincerely,


(Karma)

Chief Executive Officer

CC:

1. Management Committee for information.
2. Office copy.

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NAME _____ _____	ADDRESS _____ _____	FILE NO _____ FROM _____ TO _____ YEAR _____
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FILE NO

NAME

SUBJECT

DATE



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Summary

RICBL v/s Mr. Ugyen Wangchuk, Tshering Pem, and Druk Tsentop Const. Pvt. Ltd.

(Four employees of RICBL including Mr. Jigme Namgyal were held liable by the High Court and Supreme Court of Bhutan)

Mr. Ugyen Wangchuk, proprietor of the M/s. Tshentop Construction Pvt. Ltd. (DCPL) was sanctioned loans and bank guarantees by Royal Insurance Corporation Ltd. (RICBL) in his name as well as in the name of his sister, Ms. Tshering Pem and the company, M/s. DCPL. Since Mr. Ugyen Wangchuk failed to pay the loans, RICBL filed a monetary civil suit against him before the Commercial Bench-I, Dzongkhag Court, Thimphu on 27th June 2018.

1. Verdict from the Commercial Bench, Dzongkhag Court, Thimphu

The Commercial Bench of the Dzongkhag Court, Thimphu vide its Judgment No. (Thimphu-19/2071) dated 1st December 2019 held Ugyen Wangchuk liable to liquidate loan accounts within six (6) months from the date of the judgment. Ugyen Wangchuk was also sentenced to one (1) year and six (6) months imprisonment since he has committed an offense of selling the mortgaged properties and tempering the documents by fraudulently obtaining new Lag Thram. However, the interest accrued, and late fee charged till 25th December 2019 in respect of nine (9) loan accounts was to be shared equally between RICBL and Ugyen Wangchuk since the Court found RICBL at fault for failing to exercise due diligence while sanctioning loans.

Since the parties were not satisfied with the Dzongkhag Court's decision, the matter was appealed before the High Court.

2. High Court's Verdict

RICBL as well as Ugyen Wangchuk appealed to the High Court against the judgment of the Commercial Bench of the Dzongkhag Court, Thimphu. We appealed to the High Court since RICBL is required to waive off the interest accrued, and late fee charged till 25th December 2019 amounting to more than Nu. 11 million. Further, the Commercial Bench of the Dzongkhag Court has not taken into consideration in the judgment the loan account number BGE/2019/5.

However, the High Court's Bench-II vide its judgment bearing No. High Court-2021/767 dated 26th October 2021 partially reversed the Judgment of the Dzongkhag Court, Commercial Bench and held that the loan outstanding in respect of 12 loan accounts as of



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31st July 2021 amounting to Nu. 102,393,280.11 be shared equally between three parties, namely, Ugyen Wangchuk, relevant employees of RICBL and the RICB because of lapses on the part of the borrower as well as the lender.

Therefore, Ugyen Wangchuk is liable for only Nu.34,131,093.37 being one-third of total loan outstanding as on 31st July 2021. The court decreed the parties to pay their portion of the liability to RICB within six (6) months from the date of the High Court's Judgment.

Aggrieved by the decision of the High Court, RICBL appealed before the Supreme Court on 1st November 2021.

3. Supreme Court Verdict

However, the Supreme Court, vide its Judgment No. Supreme (OM21-722) dated 13th July 2022 upheld the High Court's verdict.

RICBL further appealed before His Majesty the Druk Gyalpo through the Office of Gyalpoi Zimpon (OGZ) on 22nd July 2022 followed by the subsequent petition dated 9th September 2022 in accordance with the section 112 of the Civil and Criminal Procedure Code of Bhutan, 2001.

4. Decision from the OGZ

However, on 12th October 2022 we have been informed verbally by the OGZ that our appeal has been dismissed. Accordingly, all documents we have submitted to OGZ were returned on 13th October 2022.

5. Review of the case by Royal Monetary Authority of Bhutan (RMA)

The RMA vide its letter No. RMA/DFRS/15/2022/1413 dated 26th September 2022 sought a detailed report of the case from the management. Accordingly, we have submitted a detailed report on the case to the RMA.

6. Disciplinary proceedings against four employees of RICB

As per the directives of the RMA, the management has started disciplinary proceedings against four employees whose names have been specified in the court verdict of the High Court for appropriate administrative action.

Accordingly, the employees have been served with a show cause notice on 3rd October 2022 in accordance with the provisions of the Service Rules and Regulations, 2019.



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Chronology of events pertaining to a civil matter between RICBL v/s Ugyen Wangchuk and four employees including Mr. Jigme Namgyal

Date	Event	References
27 Jun 2018	Filed a civil suit against Ugyen Wangchuk before Dzongkhag Court, Thimphu	
17 Feb 2020	Appealed before the High Court	
26 Oct 2021	High Court passed the Judgment partially reversing the Dzongkhag Court's verdict.	
9 Nov 2021	Appealed before the Supreme Court of Bhutan	
13 Jul 2022	Supreme Court upheld the verdict of the High Court	
22 Jul 2022	Appealed before His Majesty the Druk Gyalpo	
9 th Sep 2022	RICBL submitted additional petition to OGZ with all evidence	
12 Oct 2022	OGZ informed RICBL by phone that our appeal was dismissed	
13 Oct 2022	OGZ returned all documents to RICBL	
26 Sep 2022	RMA sought report on the case of Ugyen Wangchuk involving four employees of RICBL	Annex-A: RMA letter No. RMA/DFRS/15/2022/1413 dated 26 September 2022
28 Sep 2022	The Management Committee convened its 122 nd Meeting to discuss the directives received from the RMA and to discuss issues regarding Mr. Ugyen Wangchuk's loan default case. The Management Committee decided to call for an explanation from Mr. Jigme Namgyal and three other employees in connection to their involvement in Ugyen Wangchuk's case.	Annex-B: Minutes of the 122 nd Meeting of the MC held on 28 September 2022.
29 Sep 2022	RICBL submitted the report on Ugyen Wangchuk's loan default case to RMA.	Annex-C: Report copy submitted to RMA vide letter No. RICBL/CD-LD/02/2022/10258 dated 29/09/2022
3 Oct 2022	Show cause notice was issued to Jigme Namgyal and three other employees seeking explanation on their involvement in the transactions in Ugyen Wangchuk's loan accounts	Annex-D: Copy of the Show Cause notice
22 Oct 2022	Received explanation letter from Mr. Jigme Namgyal denying any lapses on his part for the transaction he made in Ugyen Wangchuk's loan accounts	Annex-E: Copy of the explanation letter of Mr. Jigme Namgyal

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30 Oct 2022	The Management Committee constituted the Investigation Committee to establish the truth and validity of the involvement of Mr. Jigme Namgyal and three other employees in the transactions in Ugyen Wangchuk's loan accounts. The Committee also decided to suspend Mr. Jigme Namgyal from the service of RICBL.	Annex-F: Copy of Minutes of the 124 th Meeting of the Management Committee.
31 Oct 2022	Mr. Jigme Namgyal and Ms. Ugyen Lhamo were placed under suspension in accordance with section 12.12.1 of the RICBL's Internal Service Rules and Regulations (SRR) 2019.	Annex-G: Copy of the Suspension Letter No. RICB/CO/GAD(01)/2022/11550 dated 31/10/2022
2 Nov 2022	The Investigation Committee submitted its report to the Disciplinary Committee of the RICBL	Annex-H: Report copy and minutes of the MC meeting.
2 Nov 2022	RICBL wrote to Jigme Namgyal and three other employees to pay their share of the loan liability of Ugyen Wangchuk in compliance with the High Court's Judgment.	
18 Nov 2022	Mr. Jigme Namgyal and three other employees wrote back to RICBL stating that they cannot pay their share of Ugyen Wangchuk's loan liability since there are impending issues to be resolved.	Annex-I: Copy of the letter
17 Jan 2023	RICBL wrote to Mr. Jigme Namgyal enquiring whether he and three other employees have approached any authority to redress their grievances.	Annex-J: Copy of the letter
19 Apr 2023	The Management Committee decided to revoke the suspension of Mr. Jigme Namgyal and defer the administrative action till the completion of the enforcement of the High Court Judgment.	Annex-K: Copy of the minutes of the MC meeting
8 May 2023	Mr. Jigme Namgyal has filed a civil suit against RICBL in connection to Ugyen Wangchuk's case. The hearings have started and the matter is sub-judice before the Commercial Bench-II, Dzongkhag Court, Thimphu.	Annex-L: Copy of the plaint and the summon order of the Dzongkhag Court, Thimphu
29 May 2023	Mr. Jigme Namgyal filed a complaint to the DoL, MoICE	

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