

## SECURITIES AND EXCHANGE BOARD OF INDIA

## ORDER

UNDER SECTION 12 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 27 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008.

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In respect of:

Noticee No.	Name of the Noticee	PAN
1	M/s Bull Research Investment Advisors Private Limited (SEBI Registration No. INA000010210)	AAHCB1200H
2	Ashif Shaikh	BGDPS3081F
3	Vinit Satpute	EBMPS2703F
4	Sandeep Kushwaha	DPBPK9313F

In the matter of Bull Research Investment Advisors Private Limited

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**BACKGROUND**

1. Bull Research Investment Advisors Private Limited (hereinafter referred to as “**BRIA/Noticee 1**”) having Ashif Shaikh (**‘Noticee 2’**), Vinit Satpute (**‘Noticee 3’**) and Sandeep Kushwaha (**‘Noticee 4’**) as its Directors, (hereinafter collectively referred to as **‘Noticees’**) is registered with Securities and Exchange Board of India (hereinafter referred to as **‘SEBI’**) from April 2, 2018 as an Investment Adviser (hereinafter referred to as **‘IA’**) having SEBI registration number **INA000010210**.
2. SEBI conducted an examination of pending complaints in SCORES against Noticee 1 and analysed the details available on the website of Noticee 1. It was

observed that the Noticees, *prima facie*, violated provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**'), SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**') and SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as '**IA Regulations**') and provisions of SEBI Circular CIR/OIAE/2014 dated December 18, 2014.

3. Pursuant to examination, upon being satisfied that there were sufficient grounds to initiate enquiry proceedings against the Noticees. *Inter-alia*, Enquiry proceedings were initiated against the Noticees by appointing a Designated Authority ('**DA**') under Regulation 24 of SEBI (Intermediaries) Regulations, 2008 (hereinafter '**Intermediaries Regulations**'), to enquire into the alleged violations committed by the Noticees and give recommendation by way of a report in terms of Section 12(3) of the SEBI Act read with Regulation 26 of Intermediaries Regulations.
4. The DA issued show cause notice Ref. No. EAD-6/AK/VP/6760/1-4/2023 dated February 16, 2023 (hereafter referred to as "**SCN 1**") calling upon the Noticees under Regulation 25 of the Intermediaries Regulations to show cause as to why appropriate recommendation should not be made in terms of Section 12(3) of the SEBI Act read with Regulation 23 and 26 of Intermediaries Regulations for the alleged violations committed by the Noticees.
5. The brief of alleged violations by the Noticees as per the SCN 1 is given hereunder;
  - 5.1. IA promised assured returns/ assured loss recovery and lured clients to make bigger investments.
  - 5.2. IA showed payment received from family members of the primary client and raised payment receipts against their name, to hide the exorbitant fees being taken from the primary client.

- 5.3. IA sold multiple packages to clients and did not make adequate disclosure with regard to fee. IA collected from its clients' multiple times for the same service. IA forced client to pay additional charges in the name of GST
  - 5.4. IA took payment before doing KYC and risk profiling of clients. IA raised payment receipts for subscribed services in the name of entities who cannot even trade in the securities market as they did not have demat / trading account.
  - 5.5. IA didn't carry out risk profiling of the clients in a prudent manner. IA didn't carry out suitability analysis for the client and sold products/ services based on suitability declaration which were not suitable to the client and which were not commensurate with the risk taking ability of the clients.
  - 5.6. IA operated without being eligible to operate as NISM Level -1 certificate of the representative of the IA expired on January 13, 2020 and was not renewed.
  - 5.7. IA did not submit information sought by SEBI.
  - 5.8. IA did not meet the capital adequacy norms and took registration by submitting forged CA certificate to SEBI. The IA violated fit and proper criterion specified by SEBI.
  - 5.9. IA failed to resolve investor grievance of a client and got complaint closed from the client by misleading him and making false commitments.
6. The Noticees, vide email dated April 06, 2023, submitted their reply to the SCN
    1. Thereafter, an opportunity of a personal hearing was granted by the DA to the Noticees on 26.04.2023, vide Hearing Notice dated 10.04.2023. Noticee 2 and Noticee 4 i.e., Mr. Ashif Shaikh and Mr. Sandeep Kushwaha appeared in person and also on behalf of Noticee 1 and Noticee 4 and reiterated the submissions made vide email dated April 06, 2023.
  7. On completion of the proceedings, the DA submitted an enquiry report dated May 29, 2023 ("**Enquiry Report**"/ "**ER**") observing the following:
    - 7.1. Noticees have violated Regulation 15(1) of IA Regulations and failed to abide by Clauses 1,2, 5 and 6 of the Code of Conduct for Investment Advisors as specified in Schedule III to the IA Regulations read with

Regulation 15 (9) of IA Regulations and Regulation 3 (a), (b), (c), (d) and Regulation 4(1), 4(2)(k)(o) and 4(2)(s) of PFUTP Regulations, read with Section 12A(a), (b) and (c) of SEBI Act.

- 7.2. Noticees have violated Regulation 16(a), 16(b)(ii) read with regulation 17(a) of IA Regulations.
  - 7.3. Noticees have violated regulation 6(e), 6(f) read with Regulation 8(1), 13(a) of IA Regulations and Regulation 7(2)(e) of Intermediaries Regulations.
  - 7.4. Noticees have violated Regulation 6(c) read with Regulation 7(2) read with Regulation 13(a) read with Regulation 15(13) of IA Regulations.
8. Vide the said Enquiry Report the DA in terms of Regulation 26 (1) (ii) of the Intermediaries Regulations, recommended that:-
- 8.1. The Certificate of Registration granted to the Noticee 1 as an Investment Advisor may be cancelled.
  - 8.2. As the Noticee 2, 3 and 4 have already undergone debarment from January 25, 2021, vide interim order of SEBI till February 06, 2023 when the said directions were set aside by Hon'ble SAT, in terms of Regulation 26 (1) (vii), regulatory censure may be issued to Noticee 2, 3 and 4.
9. The Enquiry Report dated May 29, 2023 was forwarded to the Noticees vide show cause notice dated June 14, 2023 (**'SCN 2'**) (collectively the 'SCN 1' and 'SCN 2' have been referred as "**SCNs**") calling upon the Noticees to show cause as to why the measures recommended by the DA or any other action as contemplated in Regulation 27 and 35 of the Intermediaries Regulations should not be taken. In response thereto, the Noticees vide email(s) dated July 05, 2023 submitted, its non-specific response to the SCN and also requested for a personal hearing.
10. The Noticees were granted an opportunity of hearing on August 29, 2023, wherein Noticee 2, Noticee 3 and Noticee 4 appeared on behalf of all the Noticees. The Noticees submitted on lines of reply dated July 05, 2023 and also

requested for time till August 31, 2023 for submission of reply on merits, which was acceded to.

11. The Noticees vide email dated August 31, 2023 have submitted their reply to SCN 2, whereby, the Noticees have *Inter-alia* submitted as follows: -

- 11.1. *We do not have any of our servers and systems, so the authenticity of these chats and calls can not be done by our end since we have no access to any of our assets.*
- 11.2. *SEBI in its notice has shared some recordings and chats, we completely deny this all and also the authenticity of these are in question.*
- 11.3. *we request to kindly have one go over our document which has all our terms and conditions, these are duly signed by clients and then the payments are made.*
- 11.4. *we took the KYC details of those clients that time as well , the only delay was they shared the signed ones later on and not at that time.*
- 11.5. *SEBI has shared receipts without the signature of clients. If there are points of agreement then a signature is something which confirms it from the signing party.*
- 11.6. *We met the capital adequacy , then only our registration was approved. Funds were transferred to account because SEBI sought us to show 25 lakhs in account and to fulfill that requirement, the funds were transferred.*
- 11.7. *Our office were raised by Indore local governing bodies on directions of SEBI and have seized all our assets servers etc, due to which we were unable to submit any of information sought by SEBI.*
- 11.8. *NISM ordered the extended validity but it was from period of lockdown only, but a couple of month before that were also very dangerous. This made us incapable to renew the certificate. The centers were closed and no slots were available. Renewed certificate available is dated 15/07/2020.*
- 11.9. *Complaint was resolved and he again got some issues with the services so he poked at it again. Please understand there are some clients which are way too greedy and there were a few of them who wanted amounts back after the completion of services.*

11.10. *The entire credit and debit entries were shown in SCN as our business from clients, which is completely wrong as there were credit entries from the Directors and others as well which were not clients*

11.11. *We have always duly responded to SCORES timeline in case of any complaint and there ever has been no delay in submitting the ATR and it was always done way before the prescribed 30 days.*

11.12. *Even if we take the entire number of complaint i.e. 19 (Stated by SEBI in SCN, out of which some are duplicate as well) for 1000 clients. So 19/1000 i.e. 1.9 percent only.*

11.13. *SAT in its order dated 06/02/2023 stated that SEBI has cherry picked the word "Target" and passed an order over it.*

*SAT in its order has clearly stated in para 9.*

*"We find that the receipt specifically stated that the company does not provide any kind of guarantee or assured returns"*

*In para 10, SAT stated that SEBI has cherry picked a word and stated-*

*"Such non consideration of the entire sentence in our opinion is unwarranted"*

*Following this Hon'ble Members of SAT in its order has provided us the relief*

*"The appellant has a right to carry on his business under the constitution of India. The direction to cease and desist from carrying on business cannot be issued on such flimsy grounds especially when prima facie evidence is lacking. "*

12. With respect to the reply submitted by the Noticees vide email dated August 31, 2023, it is noted that, the same reply which was considered by DA for Enquiry proceedings has been resubmitted for consideration.

### **CONSIDERATION OF ISSUES AND FINDINGS**

13. I have also noted the orders of the Hon'ble Securities Appellate Tribunal (SAT) dated February 06, 2023. I have perused the SCNs, Enquiry Report and written

submissions of the Noticees. I will now proceed to deal with the issues that arise for my consideration, one by one.

14. Before proceeding further, it is pertinent to refer to extracts of the relevant provisions involved in the present matter: -

**SEBI Act**

**Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.**

*12A. No person shall directly or indirectly—*

*(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;*

*(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;*

*(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;*

*(d).....*

**IA Regulations**

**Consideration of application and eligibility criteria.**

*6. For the purpose of the grant of certificate the Board shall take into account all matters which are relevant to the grant of certificate of registration and in particular the following, namely, —*

*(c) in case the applicant is a body corporate, the principal officer and all persons associated with investment advice of the applicant are appropriately qualified and certified as specified in regulation 7;*

**Qualification and certification requirement.**

7.(2) An individual investment adviser or principal officer of a non-individual investment adviser, registered under these regulations and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services-

(a) from NISM; or

(b) from any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM:

Provided that fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements:

Provided further that fresh certification before expiry of the validity of the existing certification shall not be obtained through a CPE program.

**Networth\***

8.(1) Investment advisers who are non-individuals shall have a net worth of not less than fifty lakh rupees.

*Explanation. —*

For the purposes of this regulation, "networth" means the aggregate value of paid up share capital plus free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses, deferred expenditure not written off, including miscellaneous expenses not written off, and networth requirement for other services offered by the advisers in accordance with the applicable rules and regulations.

\* Substituted by the SEBI (Investment Advisers) (Amendment) Regulations, 2020, w.e.f. 30-09-2020. Prior to its substitution, regulation 8 read as under; "Capital adequacy.(1) Investment advisers which are body corporate shall have a net worth of not less than twenty five lakh rupees.Explanation.— For the purposes of this regulation, "networth" means the aggregate value of paid up share capital plus free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses, deferred expenditure not written off, including miscellaneous expenses not written off, and capital adequacy requirement for other services offered by the advisers in accordance with the applicable rules and regulations.(2) Investment advisers



*who are individuals or partnership firms shall have net tangible assets of value not less than rupees one lakh:*

*Provided that existing investment advisers shall comply with the capital adequacy requirement within one year from the date of commencement of these regulations.”*

**Conditions of certificate.**

*13. The certificate granted under regulation 9 shall, inter alia, be subject to the following conditions: -*

*(a) the investment adviser shall abide by the provisions of the Act and these regulations;*

**General responsibility.**

*15.(1) An investment adviser shall act in a fiduciary capacity towards its clients and shall disclose all conflicts of interests as and when they arise.*

*(9) An investment adviser shall abide by Code of Conduct as specified in Third Schedule.*

*(12) Investment advisers shall furnish to the Board information and reports as may be specified by the Board from time to time.*

*(13) It shall be the responsibility of the investment adviser to ensure compliance with the certification and qualification requirements as specified under Regulation 7 at all times.*

**Regulation 16**

**Risk profiling.**

*16. Investment adviser shall ensure that, -*

*(b) it has a process for assessing the risk a client is willing and able to take, including:*

*(ii) identifying whether client is unwilling or unable to accept the risk of loss of capital;*

*(c) where tools are used for risk profiling, it should be ensured that the tools are fit for the purpose and any limitations are identified and mitigated;*

*(d) any questions or description in any questionnaires used to establish the risk a client is willing and able to take are fair, clear and not misleading, and should ensure that:*

*(i) questionnaire is not vague or use double negatives or in a complex language that the client may not understand;*

*(ii) questionnaire is not structured in a way that it contains leading questions.*

*(e) risk profile of the client is communicated to the client after risk assessment is done;*

*(f) information provided by clients and their risk assessment is updated periodically.*

***Suitability.***

*17. Investment adviser shall ensure that, -*

*(a) All investments on which investment advice is provided is appropriate to the risk profile of the client;*

*(d) It has a reasonable basis for believing that a recommendation or transaction entered into:*

*(i) meets the client's investment objectives;*

*(ii) is such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance;*

*(iii) is such that the client has the necessary experience and knowledge to understand the risks involved in the transaction.*

*(e) Whenever a recommendation is given to a client to purchase of a particular complex financial product, such recommendation or advice is based upon a reasonable assessment that the structure and risk reward profile of financial product is consistent with client's experience, knowledge, investment objectives, risk appetite and capacity for absorbing loss.*

***Redressal of client grievances.***

*21.(1) An investment adviser shall redress client grievances promptly.*

***Liability for action in case of default.***

*28. An investment adviser who –*

*(f) fails to resolve the complaints of investors or fails to give a satisfactory reply to the Board in this behalf, shall be dealt with in the manner provided under the Securities and Exchange Board of India (Intermediaries) Regulations, 2008*

***CODE OF CONDUCT FOR INVESTMENT ADVISER***

***1. Honesty and fairness***

*An investment adviser shall act honestly, fairly and in the best interests of its clients and in the integrity of the market.*

## **2.Diligence**

*An investment adviser shall act with due skill, care and diligence in the best interests of its clients and shall ensure that its advice is offered after thorough analysis and taking into account available alternatives.*

**5.Information** *to its clients An investment adviser shall make adequate disclosures of relevant material information while dealing with its clients.*

## **6.Fair and reasonable charges**

*An investment adviser advising a client may charge fees, subject to any ceiling as may be specified by the Board [\*\*\*]. The investment adviser shall ensure that fees charged to the clients is fair and reasonable.*

## **Intermediaries Regulations**

### **Consideration of application.**

*7(2) Any application for grant of certificate: -*

*....*

*(e) where the applicant is not a 'fit and proper person' as stated in Schedule II; shall be rejected by the Board for reasons to be recorded by the Board in writing.*

*....*

*(3) Before rejecting an application, the applicant shall be given an opportunity in writing to make good the deficiencies within the time specified by the Board, for the purpose:*

*Provided that where an application is rejected for the reason that it contains false or misleading information, no such opportunity may be given and the applicant shall not make any application for grant of certificate under these regulations or any other regulations for a period of one year from the date of such rejection.*

## **PFUTP Regulations**

*2. (1) In these regulations, unless the context otherwise requires, —*

*(c) "fraud" includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another*

*person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include—*

*(1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;*

*(2) a suggestion as to a fact which is not true by one who does not believe it to be true;*

*(3) an active concealment of a fact by a person having knowledge or belief of the fact;*

*(4) a promise made without any intention of performing it;*

*(5) a representation made in a reckless and careless manner whether it be true or false;*

*(6) any such act or omission as any other law specifically declares to be fraudulent,*

*(7) deceptive behaviour by a person depriving another of informed consent or full participation,*

*(8) a false statement made without reasonable ground for believing it to be true.*

*(9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself for anything derived from it other than the market price. And “fraudulent” shall be construed accordingly; Nothing contained in this clause shall apply to any general comments made in good faith in regard to—*

*(a) the economic policy of the government*

*(b) the economic situation of the country*

*(c) trends in the securities market or*

*(d) any other matter of a like nature*

*whether such comments are made in public or in private;*

### *3. Prohibition of certain dealings in securities*

*No person shall directly or indirectly—*

*(a) buy, sell or otherwise deal in securities in a fraudulent manner;*

*(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or*

*deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;*

*(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*

*(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.*

#### *4. Prohibition of manipulative, fraudulent and unfair trade practices*

*(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets.*

*Explanation. – For the removal of doubts, it is clarified that any act of diversion, mutualisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.*

*(2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following: —*

*a.....*

*(k) disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading in a reckless or careless manner and which is designed to, or likely to influence the decision of investors dealing in securities;*

*(o) fraudulent inducement of any person by a market participant to deal in securities*

*with the objective of enhancing his brokerage or commission or income;*

*(s) mis-selling of securities or services relating to securities market;*

*Explanation- For the purpose of this clause, “mis-selling” means sale of securities or services relating to securities market by any person, directly or indirectly, by—*

- (i) knowingly making a false or misleading statement, or*
- (ii) knowingly concealing or omitting material facts, or*
- (iii) knowingly concealing the associated risk, or*
- (iv) not taking reasonable care to ensure the suitability of the securities or service to the buyer;*

**Promise of assured returns/ assured loss recovery and collection of multiple fees for the same service.**

15. In this regard, the SCNs alleged that, assured returns / assured loss recovery offered by Noticee 1, was an active concealment of truth and was an act of being dishonest on the part of Noticee 1, and also not acting in the best interest of its clients. Further, it was alleged that, Noticees giving assured returns known to be false and misleading in a reckless and careless manner was designed to influence the decision of investors dealing in securities. Noticee 1 was not fair and transparent in its dealing with clients regarding the fees charged to the client. Noticee 1 had sold the same product/service to the primary client and his family members again for the period of which fees/charges have already been collected. It was inferred that these acts of Noticee 1 was in complete disregard to the responsibilities entrusted on it under the provisions of IA Regulations to act in fiduciary capacity and in the best interests of its clients. Further, the SCNs alleged that Noticee 1 and its directors viz., Noticee Nos. 2, 3, and 4 had failed in their responsibility to act in fiduciary capacity to its clients which was entrusted upon them. Such acts of the Noticees were alleged to be fraudulent inducement to its clients as a market participant to deal in securities with the objective of enhancing their brokerage or commission or income and is mis-selling of services relating to securities market. Further, Noticee 1 by charging advisory fees by not making adequate disclosure to the clients and by forcing its clients to pay additional amounts in the name of GST, the Noticee 1 carried out such business practices which were mala-fide and detrimental to the interest of its clients and was misrepresentation of the truth. In view of the above it was alleged that, Noticees have violated Regulation 15(1) of IA Regulations and failed to abide by Clauses 1, 2, 5 and 6 of the Code of Conduct for Investment Advisors, as specified in

Schedule III to the IA Regulations read with Regulation 15 (9) of IA Regulations and Regulation 3 (a), (b), (c), (d) and Regulation 4(1),4(2)(k),(o) and (s) of PFUTP Regulations, read with Section 12A(a), (b) and (c) of SEBI Act.

16. I note from the SCN 1 that during the examination a total of 19 complaints were received after March 12, 2020 in SCORES against the Noticee 1, the details are as follows:

**Table 1**

Sr. No.	Complainant Name	SCORES Registration No.	Date Of Receipt Of Complaint	Status
1.	Hamander Singh	SEBIE/MP20/0000822/1	12/03/2020	Complaint was disposed of on 10/08/2020 in view of ATR submitted by the Noticee No. 1 that the complaint was resolved.
2.	Hamander Singh	SEBIE/MP20/0001195/1	26/06/2020	Duplicate Complaint by Hamander Singh which was closed on 03/07/2020 as complaint no. SEBIE/MP20/0000822/1 was under process.
3.	Ibrahim Shaikh	SEBIE/MP20/0001454/1	14/08/2020	Complaint was disposed of on 30/09/2020 as no documentary evidences were submitted by the complainant.
4.	Devajyoti Chetia	SEBIP/MP20/0000151/1	24/08/2020	Complaint was disposed of on 09/09/2020 in view of ATR submitted by the Noticee No. 1 that the complaint was resolved.
5.	Taran Gupta	SEBIE/MP20/0001515/1	18/08/2020	Complaint was disposed of on 26/11/2020 as no documentary evidences were submitted by the complainant.
6.	Vijin Ravindran Nambiar	SEBIE/MP20/0001529/1	27/08/2020	Complaint was disposed of on 01/10/2020 as no documentary evidences were submitted by the complainant.
7.	Suman Khanna	SEBIE/MP20/0001924/1	15/10/2020	Complaint was disposed of on 01/10/2020 as no documentary evidences were submitted by the complainant.
8.	Aditya Kumar Jangam	SEBIE/MP20/0001990/1	28/10/2020	Complaint was disposed of on 29/10/2020 as no documentary evidences were submitted by the complainant.
9.	Krishna Katkar	SEBIE/MP20/0002229/1	24/12/2020	Complaint was disposed of on 18/01/2021 in view of ATR submitted by the Noticee No. 1 that the complaint was resolved.
10.	Harish Chandra Maharana	SEBIE/MP20/0002217/1	21/12/2020	Complaint was disposed of on 01/01/2021 as no documentary evidences were submitted by the complainant.
11.	Harish Chandra Maharana	SEBIE/MP21/0000025/1	03/01/2021	Pending in view of initiation of Regulatory Action by SEBI against Noticee No. 1.
12.	Harish Chandra Maharana	SEBIE/MP21/0000114/1	24/12/2020	This complaint was closed on 18/01/2021 as it was a duplicate complaint.
13.	Sunil Kumar	SEBIE/MP21/0000040/1	04/01/2021	Complaint was disposed of on 15/01/2021 as no documentary evidences were submitted by the complainant.
14.	Suresh Ranjan	SEBIE/MP21/0000411/1	15/03/2021	Pending in view of initiation of Regulatory Action by SEBI against Noticee No. 1.
15.	Birendra Kumar Verma	SEBIE/MP21/0000445/1	19/02/2021	Pending in view of initiation of Regulatory Action by SEBI against Noticee No. 1.
16.	Vinod Kumar Beniwal	SEBIE/MP20/0002055/1	13/11/2020	Complaint was disposed of on 24/11/2020 in view of clarification received by the complainant on 24/11/2020 that the said complaint was resolved.
17.	Vinod Kumar Beniwal	SEBIE/MP21/0000951/1	19/08/2021	Pending in view of initiation of Regulatory Action by SEBI against Noticee No. 1.
18.	Manish Milind Panase	SEBIE/MP21/0001016/1	21/08/2021	Pending in view of initiation of Regulatory Action by SEBI against Noticee No. 1.
19.	Jitendra Jagannath Patil	SEBIE/MP21/0001286/1	01/12/2021	Pending in view of initiation of Regulatory Action by SEBI against Noticee No. 1.

17. It is noted from Table 1 above that the complaints of Sr.no.4 Devajyoti Chetia and Sr.No.9 Krishna Katkar were disposed of on the basis of ATR submissions of the Noticee 1 stating complaints resolved. However, Devajyoti Chetia and Krishna Katkar submitted certain documentary evidences with regard to their complaints which called for re-examination of the complaints. SEBI, thus based on the documents and transcripts of calls submitted by few of the complainants at Table 1 wholistically observed the following, which are reproduced below:

**Table 2**

Devajyoti Chetia					
Issue raised in complaint: Assurance of Rs. 3 lakh income by investing Rs 1 lakh.					
Payment details submitted:					
Payment receipts of following amount was submitted -					
Date of payment	Payment (Rs.)	GST (Rs.)	Adjusted Amount (Rs.)	Remaining Amount (Rs.)	Service
30-01-2020	3820/-	687.6/-	-	-	Stock Cash
04-02-2020	19067.80/-	3432.20/-	3820/-	32112.2/- + GST (18%) on 32112.2/-	
05-02-2020	11440.68/-	2059.32/-	22887.79/-	20671.53/- + GST (18%) on 20671.53/-	
17-02-2020	10169.49/-	1830.51/-	34328.46/-	10502.05/- + GST (18%) on 10502.05/-	
20-02-2020	11440.67/-	2059.33/-	44497.95/-	-	
26-02-2020	22881.36/-	4118.64/-	55938.62/-	171180.02/- + GST (18%) on 171180.02/-	Platinum Prime Cash
Observation from documents submitted: It was observed from the screenshots of payment receipts submitted that within 1 month, the Noticee No. 1 charged fees from the client for two different services i.e. Stock Cash for 6 months duration and Platinum Prime Cash for 12 months duration. Copy of the payment details in respect of Devajyoti Chetia submitted by Noticee No. 1.					

**Table 3**

Harish Chandra Maharana
Issue raised in complaint: Returns were assured by the Noticee No. 1. Client initially paid Rs 6000 and later Noticee No. 1 asked the client to pay more for better returns. Client paid Rs 76440 and incurred losses of Rs 150000.
Transcript of call records submitted by the complainant.
Audio File Name: Call@Akash Indor(00917611105161)_20200720152743
Time Slot: 08:46 – 09:53
Client: Surety rehti hai kya ki matlab ki aaj profit nikala 2500. Matlab ye to nahi bol sakte ki 100 ke 100 hi ho. 99 ho ya 98 ho.
Employee o: Meri 80% ki accuracy hai. 10 din mein 8 din aap profit book karoge, 1-2 din aapko loss hoga. 1 mahine mein 22 din hote hain. 22 din mein se 16 se 17 din apko profit hoga, 3 se 4 din apko loss book karna padega. 80%



ki accuracy maintain karte hain. 100% nahi hoon main. Loss hota hai but overall month end mein loss minus karne ke baad ek acche profit mein hi nikloge aap.

Audio File Name: Call@Akash Indor(00917611105161) 20200720160601

Time Slot: 02:20 – 02:35

Employee of Noticee No. 1: Daily basis ka target rahega kam se kam 3-4 hazaar ka profit. Isse jyada bhi apne ko milega but minimum maan ke chaliye ki minimum 3000 to milega hi 30000 mein.

Payment receipts of following amount was submitted -

Date of payment	Payment (Rs.)	GST (Rs.)	Adjusted Amount (Rs.)	Remaining Amount (Rs.)	Service
20-07-2020	5084.75/-	915.75/-	-	-	Stock
22-07-2020	12711.86/-	2288.14/-	5084.75/-	37203.38/- + GST (18%) on 37203.38/-	Cash
24-07-2020	16949.15/-	3050.85/-	17796.61/-	20254.24 + GST (18%) on 20254.24/-	

**Table 4**

Ibrahim Shaikh
Issue raised in complaint: Lost Rs 150000 in a single trade. Complainant followed up with the executives of the Noticee No. 1 for stop loss but was assured by the Noticee No. 1 executives not to worry and shares will go up before market close.
As per the conversation in the call recordings, relevant transcript of which are mentioned below, it is understood that this call was made by the client after he suffered losses.
Audio File Name: <u>Call@009172240062 (00917224006208) 20200319150348</u>
Time Slot: 00:40 – 02:05
Client: Apna nuksaan ka kya
Employee of Noticee No. 1: Apne nuksaan ki recovery ho jayegi na Sir.
Employee of Noticee No. 1: Agar loss hua hai market mein to profit bhi to nikal ke denge.
Employee of Noticee No. 1: Market mein apko loss hua to hum aapko support nahi kar rahe kya. Kal ki date mein apka loss recover kara denge.
Employee of Noticee No. 1: Main ye bol raha hoon ki abhi apka loss hua hai to hum apka recover kara ke denge
Time Slot: 02:30 – 02:35
Client: Arre 30000 ka tum ka 1-1.5 lakh karne wale ho kya.
Employee of Noticee No. 1: Kyun nahi karenge Sir.
Audio File Name: <u>Call@009172240133(00917224013309) 20200319145352</u>
Time Slot: 00:10 – 00:24
Client: Aap mujhe mera paisa recover kara ke do.
Employee of Noticee No. 1: Arre Sir, likh ke bol rahin hoon main karwa doongi. Aaj nahi to kal main karwa ke doongi.
Time Slot: 00:37 - 00:39
Employee of Noticee No. 1: Main to aapko 5 hazaar kamaa ke de doongi.
Audio File Name: <u>Call@009172240133(00917224013309) 20200319154348</u>
Time Slot: 00:10 – 00:29
Client: Market ko dhyan rakhte hue 50000 Rs lagana tha, Stop loss lagana tha.
Employee of Noticee No. 1: Mujhe pataa hai. Mujhe 99% trust tha ki market profit mein aa jayega aur main apko profit nikal ke dunga.
Audio File Name: <u>Call@009195893280(00919589328028) 20200321162350</u>

Time Slot: 18:31 – 18:36					
Employee of Noticee No. 1: Main company ki taraf se baat kar rahin hoon. Apka jo loss hai company recover kara degi.					
Payment receipts of following amount was submitted -					
Date of payment	Payment (Rs.)	GST (Rs.)	Adjusted Amount (Rs.)	Remaining Amount (Rs.)	Service
18-03-2020	5100/-	918/-	-	-	-

**Table 5**

<b>Krishna Katkar</b>
Issue raised in complaint: Complainant was forced to make multiple payments in the name of service up gradation and GST. Complainant suffered losses of Rs 1.3 lakhs. Profit assurance of Rs 3.5 lakhs was given by the Noticee No.1.
<p>Transcript of call records submitted by the complainant</p> <p><u>Audio File Name: Monika M Personal Bull 2020-10-28 16-47-33</u></p> <p>Time Slot: 00:39 – 05:24</p> <p>Employee of Noticee No. 1: Jo mail hota hai na usko deny nahi kiya hai. Utna profit apko hoga hi hoga. Lekin kya hota hai sir ki company apko poor profit jaise ki mail mein aur jo company acknowledge kar rahi hai usme kya difference aa raha hai sir ki ek saath jaise ki market thoda upar itna profit iska matlab kya hota hai ki apko lagatar continuation mein sirf profit hi profit hoga. Thik hai. Uska matlab w oho raha hai. Company ne ye bola hai ki 7 se 8 lakh apka profit hoga sir according to the past performance aapne saari calls abhi bhi aap dekho To aapke pass message activated hai sir. Saari calls pe agar aap trade karoge definitely apko utna profit hoga. Aap sirf mujh par bharosa karo. Aapne itna rupya diya hai. Agar aap 50000 mein apki musibat dekh kar itna settle out karwa rahi hoon sir to wo main apne liye nahi karwa rahi hoon. Main sirf apko profit dena chah rahi hoon aur kuch bhi nahi.</p> <p>Client: Lekin jimmedari lene ke liye koi ready nahi hai na.</p> <p>Employee of Noticee No. 1: Main le rahi hoon na personally.</p> <p>Client: Personally madam, kuch mail mein chahiye na.</p> <p>Employee of Noticee No. 1: Main apko itna commitment de rahi hoon ki 50000 ke alawa company mein kabhi 1 rpya bhi nahi dena hai. Doosri cheez, profit yahaan se main apko doongi lekin jaise main apko level bolungi waise apko trade lena hai. 20000 mein investment aap abhi laga rahe ho, thik hai. Ek hafte aap mera kaam dekhna. Ek hafta apko lgta hai ki aapko acchi tareeke se 20000 ke investment ke according apko accha profit ho raha hai uske baad aap investment badhana chaho to badhaa sakte how o aapke upar hai. Main aapko pressurise nahi karongi ki aap investment badhao.</p> <p>Client: Kuch to commitment dena chahiye na madam company ne. 8 lakh ka bolo khali. Koi problem nahi hai.</p> <p>Employee of Noticee No. 1: Sir, 7 se 8 lakh ke beech ka. Exact 7 lakh nahi bol rahi hoon. 8 lakh se jyada bhi aapko ho sakta hai. Minimum aapko 7 lakh hoga hi hoga.</p> <p>Client: Wo bhi nahi. 5 lakh ka commitment kara dijiye. Mujhe commitment de do.</p> <p>Employee of Noticee No. 1: Aapki services 1 ya 2 mahine ki nahi hain. Apko poor saal bhar kaam karna hai matlab samaj rahe ho ki apko kitne lakh ka profit hoga. Agar aap daily basis pe 10 se hajjar ka prfot leke chalte ho to sir to poore saal ka calculate karo ki aapko kitna profit hoga.</p> <p>Employee of Noticee No. 1: Sari cheezen trust pe chalti hain. Aap mere par trust karo. Apne mujhe kitna diya, 2 lakh. Jab 2 lakh mein main aapka saath naho chhodi to main 50000 lene ke baad aapka saath nahi chhodungi.</p> <p>Client: Madam main wo nahi bol raha hoon. Agar main phir se jo bhi daalon wo bhi zero ho jaye to.</p> <p>Employee of Noticee No. 1: Nahi hoga sir. Main aapko ye commitment de rahi hoon ki main aapko demat mein kabhi paisa daalne ke liye nahi bolungi kyunki wo zero hoga hi nahi sir.</p> <p>Client: Nitesh sir ne bola tha us time 50000 daalo uska 1 lakh profit hoga.</p> <p>Employee of Noticee No. 1: Aap 20000 ka investment daalo. Ek hafta aap mere saath kaam karo. Ek hafte mein jitna profit aapko ho raha hai, aapko mere upar trust ho jaata hai ek hafte tak, ek hafte baad aap chaho</p>

to apni marzi se, main aapko nahi bolungi badhane ke liye. Agar aapko badhana hai to badhaa sakte ho, nahi badhaan hai to mat badhao, usi mein aapka kaam karaaongi sir. Main commitment de rahin hoon.

Client: Madam, uska nil ho gaya to kya karoonga main. Wo boliye naa.

Employee of Noticee No. 1: Sir, main wahi bol rahi hoon ki nahi hoga nil. Aap bharosa kijiye sir. Nil nahi hoga. Ek rupya bhi usme se aapka minus mein nahi jayega. Bas jaisa main bolungi, aap waisa kaam karna. Aapko main guide karoongi khud. Aapko pata hai na ki beech mein bhi maine aapko ek hafta poora kaam karaya tha aur ek maine call bhi aisa nahi diya tha jisme apko ek rupaye ka bhi loss hua ho.

Client: Lekin uske baad mein poora gaya na madam.

Employee of Noticee No. 1: Maine nahi karaya naa aapko tab. Meri jimmedaari hai main aapko kaam karaaongi. Koi executive aapko kaam nahi karayega. Main aapko ek saal tak proper kaam karaaongi. Aap ek hafte ka mujhe time dijiye. Ek hafte mein khud aapko dikha jaega ki aapko profit kis hisaab se ho raha hai. Aap chahe ho uske alawa investment badhaa sakte hain, wo aapke upar depend karta hai. Nahi chahen to nahi badhaiye. Koi dikkat nahi hai. Main aapko bharosa dila rahi hoon ki ek rupaye ka bhi loss aapko nahi hoga. Demat mein kabhi bhi aapko extra fund nahi daalna padega naa hi demat ka paisa aapka zero hoga.

Payment receipts of following amount was submitted -

Date of payment	Payment (Rs.)	GST (Rs.)	Adjusted Amount (Rs.)	Remaining Amount (Rs.)	Service
13-08-2020	7611.86/-	1370.14/-	5100/-	237288.14/- + GST (18%) on 237288.14/-	Platinum Prime (Options)
17-08-2020	32203.39/-	5796.61/-	12711.86/-	205084.75/- + GST (18%) on 205084.75/-	
20-08-2020	38135.59/-	6864.41/-	44914.85/-	166949.56/- + GST (18%) on 166949.56/-	

**Table 6**

<b>Taran Gupta</b>
Issue raised in complaint: Complainant was assured profit and after making initial payment to the Noticee No.1 for a service, he was asked to pay more for another service package.
<p>Transcript of call records submitted by the complainant.</p> <p><u>Audio File Name: +916262755526_200813_161654</u></p> <p>Time Slot: 01:10 – 02:45</p> <p>Employee of Noticee No. 1: Main maan rahaa hoon ki apko munafa nahi ho raha hai. Company ke SL bhi hit ho rahe hain. Maine apse khud bhi bola tha ki daily basis pe losses ho rahe hain.</p> <p>Client: Koi bhi research analyst hota hai to wo stop loss pe hi kaam karayega, unka rule hota hai SEBI ka. Apne mere ko stop loss nahi diya tha end tak aur wo mera zero pe khatam hua.</p> <p>Employee of Noticee No. 1: Maine aapko kya bola tha usme high risk mein zero stop loss gaya tha.</p> <p>Client: Wo aapne mere ko karwaya. Mere ko koi high risk ka kaam nahi karna tha.</p> <p>Employee of Noticee No. 1: Maine to aapko aage se bola tha ki apne ko loss jua to apan cover bhi kar rahe hain.</p> <p>Client: 2 hafta ho gaya koi recovery call, aap bol rahe hain. 2 hafta hone ko aa gaya hai.</p> <p>Employee of Noticee No. 1: Wo cheez main khud maan raha hoon ki apne ko recover nahi hua to main khud aage se bol raha hoon ki ek bhi paisa aapka recover nahi hua hai....</p> <p>Abhi apne paas 8-9 hazaar rupaye ka apna fund hai</p> <p>Client: 4 stop loss hit hog aye, kahaan se hoga.</p> <p>Employee of Noticee No. 1: Nahi, kyun nahi hoga</p> <p>Client: Khali 1500 ka profit hua hai. Baaki 3 stop loss hit hua hai.</p> <p>Employee of Noticee No. 1: Haan, 1500 ka profit hua tha uske baad apne stop loss hit hue the....</p> <p>To jaata hai na, main kahaan bol raha hoon ki paisa nahi jaata.</p> <p>Client: Mere ko aap bataiye ki aap kya karoge. Ab mere ko kaam nahi karna. Baat khatam.</p>

Employee of Noticee No. 1: Aapko poora fund hi recover karaaonga main. Maine aapse kya bola tha ki fund recover karaaonga.

Audio File Name: Mansi Mam Bull 200728 145346

Time Slot: 00:01 – 01:19

Client: Aap kya chah rahe ho muje samaj nahi aa raha.

Employee of Noticee No. 1: Sir, kya ho gaya bataiye.

Client: Ma'am wo mere ko phone kar rahe bole ki 15% GST pay karna padega abhi nahi to update call.

Employee of Noticee No. 1: 15% GST nahi hota, 18% GST hota hai.

Client: 18% GST pay karna padega. Abhi pay karna padega nahi to update nahi hoga.

Aapke bharose pe maine aapne bola tha 10000 aapke recover karwa doongi.

Employee of Noticee No. 1: Sir, kisse call aaya tha.

Client: Mere ko ye nahi pataa. Koi lady ka hi call tha.

Employee of Noticee No. 1: Abhi main meeting mein hoon actually, isliye main aapka call nahi utha rahi hoon.

Abhi main baat kar leti hoon.

Client: Thoda boliye aap. Aisa mat boliye aap ki karna padta hai ye company ka.

Employee of Noticee No. 1: Sir, GST to compulsory hota hai. GST kitna kya, poora package pay karne ko bol rahe hain kya.

Client: Wo abhi bol rahe hain bharme ke liye. Nahi to update nahi milega.

Employee of Noticee No. 1: Chalo thik hai dekhti hoon.

Client: Aapne mere ko kya bola tha. Aapne jo bola tha wo baat hai na ma'am.

Employee of Noticee No. 1: Sir, maine bola tha ki aap ka kaam start ho jaega aap 25% pay kar doge to. Maine kahaa tha na start hoga. Sir, apko kaam nahi mil raha hai kya.

Client: Nahi wo bole update barabar hua nahi hai. Actually mein mera call tha, wo upar gaya tha par unhone bola, aapka payment poora nahi hai, iss wajah se aapka update hua nahi hai. Ye kya baat hui.

Employee of Noticee No. 1: Kaun bol raha hai.

Client: Wahi lady ne bola mere ko.

Employee of Noticee No. 1: Chaliye, phir main baat kar leti hoon.

**Table 7**

Vijin Ravindran Nambiar					
Issue raised in complaint: Complainant invested Rs 2,50,000 and incurred losses.					
Payment receipts of following amount was submitted -					
Date of payment	Payment (Rs.)	GST (Rs.)	Adjusted Amount (Rs.)	Remaining Amount (Rs.)	Service
11-06-2020	16086.44/-	2895.56/-	5100/-	228813.56/- + GST (18%) on 228813.56/-	Platinum Prime (F&O)
12-06-2020	8474.58/-	1525.42/-	21186.44/-	220338.98/- + GST (18%) on 220338.98/-	
16-06-2020	47080.51/-	8474.49/-	29661.02/-	173258.47/- + GST (18%) on 173258.47/-	
18-06-2020	113559.32/-	20440.68/-	76741.52/-	59699.51/- + GST (18%) on 59699.51/-	
29-06-2020	30508.47/-	5491.53/-	190300.84/-	29190.69/- + GST (18%) on 29190.69/-	
30-06-2020	4237.29/-	762.71/-	220808.89/-	24953.82/- + GST (18%) on 24953.82/-	

**Table 8**

Suresh Ranjan
---------------

Issue raised in complaint: Complainant paid Rs 6018 initially and he was explained about other services in which he will get return of Rs 15 lakhs. Noticee No.1 took Rs 125974 from the complainant in 7 days in 4 parts.					
Payment receipts of following amount was submitted -					
Date of payment	Payment (Rs.)	GST (Rs.)	Adjusted Amount (Rs.)	Remaining Amount (Rs.)	Service
20-01-2021	5100/-	918/-	-	-	-

**Table 9**

Jitendra Jagannath Patil					
Issue raised in complaint: Complainant paid Rs 125000 to the Noticee No.1 for their services but didn't respond.					
Payment receipts of following amount was submitted -					
Date of payment	Payment (Rs.)	GST (Rs.)	Adjusted Amount (Rs.)	Remaining Amount (Rs.)	Service
23-12-2020	5100/-	918/-	-	-	-
28-12-2020	31779.66/-	5720.37/-	5100/-	213120.34/- + GST (18%) on 213120.34/-	Platinum Prime (Options)
30-12-2020	38135.59/-	6864.41/-	75015.25/-	136849.16/- + GST (18%) on 136849.16/-	
01-01-2021	38135.59/-	6864.41/-	36879.66/-	174984.75/- + GST (18%) on 174984.75/-	

**Table 10**

Manish Milind Panase					
Issue raised in complaint: Complainant invested a sum of Rs 63000. Noticee No.1 assured to provide stock option call service, invest amount in market and transfer profit into complainant's bank account on monthly basis. Complainant didn't receive any amount in his bank account.					
Payment receipts of following amount was submitted -					
Date of payment	Payment (Rs.)	GST (Rs.)	Adjusted Amount (Rs.)	Remaining Amount (Rs.)	Service
28-09-2020	5000/-	900/-	42372.88/-	7627.12/- + GST (18%) on 7627.12/-	Stock Cash

### **Issues raised by complainants who didn't submit any supporting document**

**Table 11**

Issues raised in complaints
<ul style="list-style-type: none"> <li>• Noticee No.1 did fraud and carried out transactions in the portfolio.</li> <li>• Noticee No.1 charged taxes without doing any transactions.</li> <li>• Noticee No.1 deducted money from the linked bank account without authorisation.</li> </ul>
<ul style="list-style-type: none"> <li>• Profit assurance on payment of Rs 13000.</li> <li>• Noticee No.1 took money, didn't provide any levels and demanded more money.</li> <li>• Noticee No.1 didn't receive calls when complainant requested refund.</li> <li>• Rude behaviour by the Noticee No.1.</li> </ul>

<ul style="list-style-type: none"> <li>• Did fraud of Rs 60000 in the name of opening account in NSE.</li> </ul>
<ul style="list-style-type: none"> <li>• Took Rs 125974 and guaranteed return of Rs 15 lakhs. Services were interrupted and Noticee No.1 demanded more money.</li> <li>• When denied by the complainant, Noticee No.1 didn't give any response and started ignoring calls when refund was sought by the complainant.</li> </ul>
<ul style="list-style-type: none"> <li>• Complainant availed premium amaze service for 4 months by paying Rs 75000 plus GST of Rs 18000.</li> <li>• Noticee No.1 didn't provide any service after 1 month.</li> </ul>
<ul style="list-style-type: none"> <li>• Noticee No.1 assured returns.</li> <li>• Noticee No.1 extorted money from the complainant in the name of GST.</li> <li>• Starting with small fees amount, Noticee No.1 gradually extorted money in the name of fees and threatened to forfeit the amount paid by the client.</li> </ul>

18. I note from transcripts of call recordings of the complainant Mr Krishna Katkar, that he was assured of huge returns and was lured to make bigger investments by the representative of Noticee 1.

19. Further, one of the payment receipts issued by Noticee 1 to Mr. Yagnesh Rawal, the service offered was Platinum Fortune Service (Cash) and payment of Rs. 92,311.50/- was received. In the same payment receipt, Noticee 1 had mentioned that "Target (Not Guaranteed/Not Assured) is Rs. 26,00,000". Further, the said payment receipt also mentioned the service tenure as *"249-899" Trading Sessions or Target as mentioned in Point no.14 whichever occurs earlier*". Examples of target returns promised in the payment receipts of few clients are as under:

**Table 12**

Client Name	Proposed investment as per Risk Profile	Payment date	Name of the service	Target Return (in Rs)	Service Fee (in Rs) Exclusive of GST (18%)
Mr. Yagnesh Rawal	< 1Lac	07/01/2019	Platinum Fortune Service (Cash)	26,00,000	92311.50
Mr. Yagnesh Rawal	< 1Lac	08/01/2019	Platinum Fortune Service (Cash)	26,00,000	135593.20
Mr. Yagnesh Rawal	< 1Lac	09/01/2019	Platinum Fortune Service (Cash)	26,00,000	118471.20
Mr. Yagnesh Rawal	< 1Lac	11/01/2019	Fortune Platinum Stock (Cash)	26,00,000	2,99,000
Mr. Yagnesh Rawal	< 1Lac	23/04/2019	Superb Premium Cash	8,97,500	2,99,000
Mr. Paras Rawal	1-2 Lac	21/01/2019	Fortune Platinum (Stock Options)	19,50,000	6,50,000
Mr. Paras Rawal	1-2 Lacs	10/05/2019	Elite Premium Future Service	17,46,500	4,23,729
Mr. Janak Rawal	1-2 Lacs	26/04/2019	Elite Premium Services (Stock Cash)	17,46,500	4,21,500
Mrs. Devilaben Rawal	1-2 Lacs	21/01/2019	Fortune Platinum (Stock options)	26,00,000	6,50,000

Mrs. Devilaben Rawal	1-2 Lacs	29/01/2019	Superb Platinum (Stock Cash)	8,97,000	2,33,052
Mrs. Devilaben Rawal	1-2 Lacs	10/05/2019	Rapid Premium Future Service	4,97,500	1,62,489

I note from the payment receipts submitted by both Noticee 1 and complainant Mr. Yagnesh Rawal, that Mr. Rawal and his family members were offered targeted returns in absolute monetary terms and also the service tenure of the product/ service were linked to the specified target.

20. I further note from the “payment receipts” issued by Noticee 1 to Mr. Yagnesh Rawal, Noticee 1 had specified amount of Rs. 26,00,000/- as target, though ‘not guaranteed/ not assured’. Further, payment receipts for Mr. Paras Rawal, indicated a return of Rs.36,96,500/- on a proposed investment amount of Rs.1-2 lakh. Similarly, payment receipts for Mr. Janak Rawal indicated a return of Rs.17,46,500/- on a proposed investment amount of Rs.1-2 lakh and payment receipts for Mrs. Devilaben Rawal indicated a return of Rs.39,94,500/- on a proposed investment amount of Rs.1-2 lakh.

21. I note from Table 12 above that, the service fee was more than the proposed investment in most of the cases. e.g., Mr. Yagnesh Rawal, was charged a service fee of around Rs.6.45 Lac for proposed investment of less than Rs. 1 lakh and the target return promised was of Rs. 26 lakhs. I find no basis whatsoever has been adduced for achieving the said target. Similarly, for Mr. Paras Rawal and Ms. Devilaben Rawal, service fee charged was much more than the proposed investment amount and the target returns indicated in the payment receipts also has no basis.

22. I note from records that Mr. Harish Chandra Maharana had submitted call records between himself and the representative of the Noticeess. The Transcript of call records submitted by the complainant is as follows:

*Audio File Name: Call@Akash Indor(00917611105161)\_20200720152743*

*Time Slot: 08:46 – 09:53*

*Client: Surety rehti hai kya ki matlab ki aaj profit nikala 2500. Matlab ye to nahi bol sakte ki 100 ke 100 hi ho. 99 ho ya 98 ho.*

*Employee o: Meri 80% ki accuracy hai. 10 din mein 8 din aap profit book karoge, 1-2 din aapko loss hoga. 1 mahine mein 22 din hote hain. 22 din mein se 16 se 17 din apko profit hoga, 3 se 4 din apko loss book karna padega. 80% ki accuracy maintain karte hain. 100% nahi hoon main. Loss hota hai but overall month end mein loss minus karne ke baad ek acche profit mein hi nikloge aap.*

*Audio File Name: Call@Akash Indor(00917611105161)\_20200720160601*

*Time Slot: 02:20 – 02:35*

*Employee of Noticee No. 1: Daily basis ka target rahega kam se kam 3-4 hazaar ka profit. Isse jyada bhi apne ko milega but minimum maan ke chaliye ki minimum 3000 to milega hi 30000 mein.*

23. I note from the above transcript that the representative of the Noticees was giving assurance of 80% accuracy of its advice to the investor complainant.

24. I note from records that Mr. Ibrahim Shaikh had submitted call records between himself and the representative of the Noticees. The Transcript of call records submitted by him is as follows:

*Audio File Name: Call@009172240062 (00917224006208)\_20200319150348*

*Time Slot: 00:40 – 02:05*

*Client: Apna nuksaan ka kya*

*Employee of Noticee No. 1: Apne nuksaan ki recovery ho jayegi na Sir.*

*Employee of Noticee No. 1: Agar loss hua hai market mein to profit bhi to nikal ke denge.*

*Employee of Noticee No. 1: Market mein apko loss hua to hum aapko support nahi kar rahe kya. Kal ki date mein apka loss recover kara denge.*

*Employee of Noticee No. 1: Main ye bol raha hoon ki abhi apka loss hua hai to hum apka recover kara ke denge*

*Time Slot: 02:30 – 02:35*

*Client: Arre 30000 ka tum ka 1-1.5 lakh karne wale ho kya.*

*Employee of Noticee No. 1: Kyun nahi karenge Sir.*

*Audio File Name: Call@009172240133(00917224013309)\_20200319145352*

*Time Slot: 00:10 – 00:24*

*Client: Aap mujhe mera paisa recover kara ke do.*

*Employee of Noticee No. 1: Arre Sir, likh ke bol rahin hoon main karwa doongi. Aaj nahi to kal main karwa ke doongi.*

25. I note from the above call records that the representative of the Noticees was giving assurance to Ibrahim Shaikh that they would recover the losses incurred by him.



26. Similarly, I note from records that Mr. Krishna Katkar had submitted call records between himself and the representative of the Noticees. The Transcript of call records submitted by the complainant is as follows:

Audio File Name: Monika M Personal Bull 2020-10-28 16-47-33

Time Slot: 00:39 – 05:24

Employee of Noticee No. 1: Jo mail hota hai na usko deny nahi kiya hai. Utna profit apko hoga hi hoga. Lekin kya hota hai sir ki company apko poora profit jaise ki mail mein aur jo company acknowledge kar rahi hai usme kya difference aa raha hai sir ki ek saath jaise ki market thoda upar itna profit iska matlab kya hota hai ki apko lagatar continuation mein sirf profit hi profit hoga. Thik hai. Uska matlab w oho raha hai. Company ne ye bola hai ki 7 se 8 lakh apka profit hoga sir according to the past performance aapne saari calls abhi bhi aap dekho

To aapke pass message activated hai sir. Saari calls pe agar aap trade karoge definitely apko utna profit hoga. Aap sirf mujh par bharosa karo. Aapne itna rupya diya hai. Agar aap 50000 mein apki musibat dekh kar itna settle out karwa rahi hoon sir to wo main apne liye nahi karwa rahi hoon. Main sirf apko profit dena chah rahi hoon aur kuch bhi nahi.

Client: Lekin jimmedari lene ke liye koi ready nahi hai na.

Employee of Noticee No. 1: Main le rahi hoon na personally.

Client: Personally madam, kuch mail mein chahiye na.

Employee of Noticee No. 1: Main apko itna commitment de rahi hoon ki 50000 ke alawa company mein kabhi 1 rpya bhi nahi dena hai. Doosri cheez, profit yahaan se main apko doongi lekin jaise main apko level bolungi waise apko trade lena hai. 20000 mein investment aap abhi laga rahe ho, thik hai. Ek hafte aap mera kaam dekhna. Ek hafta apko lgta hai ki aapko acchi tareeke se 20000 ke investment ke according apko accha profit ho raha hai uske baad aap investment badhana chaho to badhaa sakte ho o aapke upar hai. Main apko pressurise nahi karoongi ki aap investment badhao.

Client: Kuch to commitment dena chahiye na madam company ne. 8 lakh ka bolo khali. Koi problem nahi hai.

Employee of Noticee No. 1: Sir, 7 se 8 lakh ke beech ka. Exact 7 lakh nahi bol rahi hoon. 8 lakh se jyada bhi aapko ho sakta hai. Minimum aapko 7 lakh hoga hi hoga.

Client: Wo bhi nahi. 5 lakh ka commitment kara dijiye. Mujhe commitment de do.

Employee of Noticee No. 1: Aapki services 1 ya 2 mahine ki nahi hain. Apko poora saal bhar kaam karna hai matlab samaj rahe ho ki apko kitne lakh ka profit hoga. Agar aap daily basis pe 10 se hajjar ka profit leke chalte ho to sir to poore saal ka calculate karo ki aapko kitna profit hoga.

Employee of Noticee No. 1: Sari cheezen trust pe chalti hain. Aap mere par trust karo. Apne mujhe kitna diya, 2 lakh. Jab 2 lakh mein main aapka saath nahi chhodi to main 50000 lene ke baad aapka saath nahi chhodungi.

Client: Madam main wo nahi bol raha hoon. Agar main phir se jo bhi daalon wo bhi zero ho jaye to.

Employee of Noticee No. 1: Nahi hoga sir. Main aapko ye commitment de rahi hoon ki main aapko demat mein kabhi paisa daalne ke liye nahi bolungi kyunki wo zero hoga hi nahi sir.

Client: Nitesh sir ne bola tha us time 50000 daalo uska 1 lakh profit hoga.

*Employee of Noticee No. 1: Aap 20000 ka investment daalo. Ek hafta aap mere saath kaam karo. Ek hafte mein jitna profit aapko ho raha hai, aapko mere upar trust ho jaata hai ek hafte tak, ek hafte baad aap chaho to apni marzi se, main aapko nahi bolungi badhane ke liye. Agar aapko badhana hai to badhaa sakte ho, nahi badhaan hai to mat badhao, usi mein aapka kaam karaaongi sir. Main commitment de rahin hoon.*

*Client: Madam, uska nil ho gaya to kya karoonga main. Wo boliye naa.*

*Employee of Noticee No. 1: Sir, main wahi bol rahi hoon ki nahi hoga nil. Aap bharosa kijiye sir. Nil nahi hoga. Ek rupya bhi usme se aapka minus mein nahi jayega. Bas jaisa main bolungi, aap waisa kaam karna. Aapko main guide karoongi khud. Aapko pata hai na ki beech mein bhi maine aapko ek hafta poora kaam karaya tha aur ek maine call bhi aisa nahi diya tha jisme apko ek rupaye ka bhi loss hua ho.*

*Client: Lekin uske baad mein poora gaya na madam.*

*Employee of Noticee No. 1: Maine nahi karaya naa aapko tab. Meri jimmedaari hai main aapko kaam karaaongi. Koi executive aapko kaam nahi karayega. Main aapko ek saal tak proper kaam karaaongi. Aap ek hafte ka mujhe time dijiye. Ek hafte mein khud aapko dikh jaega ki aapko profit kis hisaab se ho raha hai. Aap chahe ho uske alawa investment badhaa sakte hain, wo aapke upar depend karta hai. Nahi chahen to nahi badhaiye. Koi dikkat nahi hai. Main aapko bharosa dila rahi hoon ki ek rupaye ka bhi loss aapko nahi hoga. Demat mein kabhi bhi aapko extra fund nahi daalna padega naa hi demat ka paisa aapka zero hoga.*

27. I note, *Inter-alia*, from the above transcript that when Mr. Krishna Katkar had mentioned that there was a loss incurred by him and wanted commitment from the Noticees, one of the representatives of the Noticees had assured him of a minimum profit of Rs. 7 lakhs. Also I note from the transcript shared by Mr. Katkar that the representative of the Noticees has also assured the investor complainant by inducing him of good returns on a yearly basis assuming daily returns of Rs. 10,000/-. I further note that the investor complainant was apprehensive that his investment will get depleted completely, however, the representative assures the investor complainant that the money would never become zero.

28. I note from records that Mr. Taran Gupta had submitted call records between himself and the representative of the Noticees. The Transcript of call records submitted by the complainant is as follows:

*Audio File Name: +916262755526\_200813\_161654*

*Time Slot: 01:10 – 02:45*

*Employee of Noticee No. 1: Main maan rahaa hoon ki apko munafa nahi ho raha hai. Company ke SL bhi hit ho rahe hain. Maine apse khud bhi bola tha ki daily basis pe losses ho rahe hain.*

*Client: Koi bhi research analyst hota hai to wo stop loss pe hi kaam karayega, unka rule hota hai SEBI ka. Apne mere ko stop loss nahi diya tha end tak aur wo mera zero pe khatam hua.*

*Employee of Noticee No. 1: Maine aapko kya bola tha usme high risk mein zero stop loss gaya tha.*

*Client: Wo aapne mere ko karwaya. Mere ko koi high risk ka kaam nahi karna tha.*

*Employee of Noticee No. 1: Maine to aapko aage se bola tha ki apne ko loss jua to apan cover bhi kar rahe hain.*

*Client: 2 hafta ho gaya koi recovery call, aap bol rahe hain. 2 hafta hone ko aa gaya hai.*

*Employee of Noticee No. 1: Wo cheez main khud maan raha hoon ki apne ko recover nahi hua to main khud aage se bol raha hoon ki ek bhi paisa aapka recover nahi hua hai....*

*Abhi apne paas 8-9 hazaar rupaye ka apna fund hai*

*Client: 4 stop loss hit hog aye, kahaan se hoga.*

*Employee of Noticee No. 1: Nahi, kyun nahi hoga*

*Client: Khali 1500 ka profit hua hai. Baaki 3 stop loss hit hua hai.*

*Employee of Noticee No. 1: Haan, 1500 ka profit hua tha uske baad apne stop loss hit hue the....*

*To jaata hai na, main kahaan bol raha hoon ki paisa nahi jaata.*

*Client: Mere ko aap bataiye ki aap kya karoge. Ab mere ko kaam nahi karna. Baat khatam.*

*Employee of Noticee No. 1: Aapko poora fund hi recover karaonga main. Maine aapse kya bola tha ki fund recover karaonga.*

*Audio File Name: Mansi Mam Bull\_200728\_145346*

*Time Slot: 00:01 – 01:19*

*Client: Aap kya chah rahe ho muje samaj nahi aa raha.*

*Employee of Noticee No. 1: Sir, kya ho gaya bataiye.*

*Client: Ma'am wo mere ko phone kar rahe bole ki 15% GST pay karna padega abhi nahi to update call.*

*Employee of Noticee No. 1: 15% GST nahi hota, 18% GST hota hai.*

*Client: 18% GST pay karna padega. Abhi pay karna padega nahi to update nahi hoga.*

*Aapke bharose pe maine aapne bola tha 10000 aapke recover karwa doongi.*

*Employee of Noticee No. 1: Sir, kisse call aaya tha.*

*Client: Mere ko ye nahi pataa. Koi lady ka hi call tha.*

*Employee of Noticee No. 1: Abhi main meeting mein hoon actually, isliye main aapka call nahi utha rahi hoon. Abhi main baat kar leti hoon.*

*Client: Thoda boliye aap. Aisa mat boliye aap ki karna padta hai ye company ka.*

*Employee of Noticee No. 1: Sir, GST to compulsory hota hai. GST kitna kya, poora package pay karne ko bol rahe hain kya.*

*Client: Wo abhi bol rahe hain bharne ke liye. Nahi to update nahi milega.*

*Employee of Noticee No. 1: Chalo thik hai dekhti hoon.*

*Client: Aapne mere ko kya bola tha. Aapne jo bola tha wo baat hai na ma'am.*

*Employee of Noticee No. 1: Sir, maine bola tha ki aap ka kaam start ho jaega aap 25% pay kar doge to. Maine kahaa tha na start hoga. Sir, apko kaam nahi mil raha hai kya.*

*Client: Nahi wo bole update barabar hua nahi hai. Actually mein mera call tha, wo upar gaya tha par unhone bola, aapka payment poora nahi hai, iss wajah se aapka update hua nahi hai. Ye kya baat hui.*

*Employee of Noticee No. 1: Kaun bol raha hai.*

*Client: Wahi lady ne bola mere ko.*

29. I note, *Inter-alia*, from the above communication held between the employees of the Noticees and Taran Gupta that representative of the Noticees had given assurance that losses would be recovered.
30. I note from the reply of the Noticees that they have denied the call transcripts. The Noticees have contended that, lots of chats are attached with some number mentioned but they do not have access to any of their servers and systems, so the authenticity of these chats and calls cannot be verified by them. The Noticees further contended the present proceedings are based on the complaints of their clients and not based on evidences. The Noticees also submitted a copy of receipts which was acknowledged by complainant viz., Devejyoti Chetia wherein he has accepted all the terms and conditions of the services provided by Noticee 1. Noticees have further submitted that the complainant viz., Devejyoti Chetia has signed and shared the entire payment receipt and disclaimer form after doing the KYC wherein it is stated that Noticees have never ever kept anything hidden from their clients. Noticees have contended that, such written documents duly signed by their clients are more than enough to support their claims.
31. It is noted that, Noticees have also submitted copy of payment receipts of the complainant Mr Yagnesh Rawal and his family members after doing the KYC wherein they have accepted all the terms and conditions of the services provided by Noticee 1. The Noticees in this regard submitted that these amounts were under GST (paid on time) and were received with agreement from the client with all the terms and conditions clear to them.
32. Further, the submissions of the Noticees regarding the authenticity of the chat or call recordings submitted by the complainant to SEBI is not substantiated and hold no merit. In this regard, I agree with the view taken by the DA that if the Noticees are claiming that the call recordings are manipulated then the Noticees ought to have filed a FIR with the police for examining the authenticity of the call

recordings. I note that the Noticees have not produced any documentary evidences to suggest taking any alternate legal recourse in this regard. Thus, I note that the Noticees have not submitted any copy of the FIR or any evidence to substantiate their contentions. I further note that, the present civil proceedings are based on pre ponderance of probabilities and not bound by the Indian Evidence Act. Thus, I do not find merits in the contentions of the Noticees.

33. As per, Regulation 15(1) and code of conduct under Schedule III to the IA Regulations, an investment adviser shall act in a fiduciary capacity towards its clients

34. A registered IA's duty is to advise its clients based on the appropriate risk profile of the client. I note from the records that, target returns promised by the Noticee 1 in the payment receipts for example in the payment receipts Noticee 1 had stated "*Target (Not Guaranteed/Not Assured) as Rs. 2600000*" in the payment receipts issued by the Noticees itself. Noticee 1 had mentioned the amount as '*not guaranteed/ not assured*', Noticee 1 had also specified the amount Rs. 26,00,000/- as target. An IA cannot go beyond the role as prescribed in the Regulations. I note that while "*Target*" does not mean assured return, however from the transcripts I note that the Noticees have given assurance of loss recovery and making profits without any basis.

35. I note that the Noticees are contending that, the client had signed the receipts and agreed to the terms and conditions and submitting that they have mentioned on the risk profile form that Target (Not Guaranteed/Not Assured). However, I note from the transcripts, the representatives of the Noticees were not only assuring but also inducing the clients with higher returns subject to further investments.

36. I also note that Noticee 1 had sold multiple services/products to its clients as per the details given below:

**Table 13**

S.No	Date of Payment in payment receipts	Amount of fees (Rs.) (inc GST) as per payment receipts	Name in payment receipts	Period	Services Sold
1	07/01/2019	108928	Yagnesh Rawal	249-899 Trading Sessions	Platinum Fortune Service ( Cash)
2	08/01/2019	160000	Yagnesh Rawal	249-899 Trading Sessions	Platinum Fortune Service ( Cash)
3	09/01/2019	139796	Yagnesh Rawal	249-899 Trading Sessions	Platinum Fortune Service ( Cash)
4	11/01/2019	352820	Yagnesh Rawal	249-899 Trading Sessions	Fortune Platinum (Stock Cash)
5	23/04/2019	352820	Yagnesh Rawal	99-449 Trading Sessions	Superb Premium Cash
6	21/01/2019	767000	Paras Rawal	249-899 Trading Sessions	Fortune Platinum (Stock Options)
7	10/05/2019	500000	Paras Rawal	240-449 Trading Sessions	Elite Premium Future Service
8	26/04/2019	497370	Janak Rawal	240-449 Trading Sessions	Elite Premium Services (Stock Cash)
9	14/01/2019	767001	Leena Rawal	249-899 Trading Sessions	Fortune Platinum (Stock Cash)
10	03/05/2019	565201	Leena Rawal	240-449 Trading Sessions	Elite Premium Future Service
11	29/01/2019	275002	Devilaben Rawal	249-499 Trading Sessions	Superb Platinum (Stock Cash)
12	21/01/2019	767000	Devilaben Rawal	249-899 Trading Sessions	Fortune Platinum (Stock options)
13	10/05/2019	191737	Devilaben Rawal	49-249 Trading Sessions	Rapid Premium Future Service

37. Further, Noticee 1 had sold 'Platinum Fortune Service (Cash)' product 4 times in 5 days i.e. from January 7, 2019, to January 11, 2019 to Mr.Yagnesh Rawal, with the tenure mentioned as "249-899 Trading Sessions or Target whichever occurs earlier". From the above, I note that Noticee 1 had sold the same package 4 times with identical tenures, and the amount of advisory fees charged were variable and ranged from Rs. 92,311.50 to Rs.2,99,000/-. Further, I note that, Fortune Platinum (Stock Options) service was sold to Devilaben Rawal on January 21, 2019, and even before the expiry of the said service on January 29, 2019, Superb Platinum (Stock Cash) service was sold to the same client. Similarly, the duration for which the product "Elite Premium Future Service" sold to Ms. Leena Rawal and Mr. Paras Rawal also overlapped. I note that, Noticee 1 had sold multiple

products within a short period of time and before the completion of the service period of the earlier product sold.

38. I further note from the ER which notes that, the complainant Devajyoti Chetia was sold two packages within a short span of 1 month. Further, complainants Devajyoti Chetia, Harish Chandra Maharana, Krishna Katkar, Vijin Ravindran Nambiar, and Jitendra Jagannath Patil, were charged multiple times within a short period of time. I also note from the payment receipts that once the payment was made, there was an adjustment of some amount and the remaining amount was mentioned in the payment receipt. Furthermore, it is noted from the call recording transcripts and complaints that Noticee 1 also forced the clients to pay GST which was not disclosed upfront to the clients. I, thus note, that there was no transparency in the fees charged to clients.
39. Further, Noticees have submitted that the Noticees have acted in fiduciary capacity towards its clients as clients were disclosed regarding fees charged from them. No hidden fee has been charged from the clients. The clients have paid fees with their consent and without force of any kind. Further, Noticees have submitted that the Noticees have taken due care of financial ability of its clients and willingness to avail of advisory services before charging any fees. The fees charged by the Noticees was as per mutually agreeable terms. The Noticees have also claimed refund of fees to their clients, who were not satisfied with the advisory services. The Noticees have claimed refund of fees to the complainants and they were satisfied with the resolution. Further, Noticees submitted that the Noticees have taken due care of financial ability of its clients and willingness to avail of advisory services before charging any fees.
40. In this regard, I note from the records and as mentioned in Table 12, that Noticee 1 had charged around Rs.9.44 lakh, Rs.10.73 lakh, Rs.4.21 lakh and Rs.10.45 lakh as fees from Mr. Yagnesh Rawal, Mr. Paras Rawal, Mr. Janak Rawal and Mrs.Devilaben Rawal respectively, for meagre investment amounts of less than Rs. 1 lakh and upto Rs. 2 lakh. In regard to the fees chargeable by Investment Advisors, I would like to ponder over the amendments that were carried out in the

IA Regulations. I note that prior to 2021, there was no specific limit or restriction or cap on quantum of fees to be charged from the clients. I note that vide SEBI (Investment Advisers) (Amendment) Regulations, 2020, which came into effect from September 30, 2020, Regulation 15A was inserted in IA Regulations which provided that an investment adviser shall be entitled to charge fees for providing investment advice from a client in the manner specified by the Board. Accordingly, SEBI vide circular no. SEBI/HO/IMD/DF1/CIR/P/2020/182 dated September 23, 2020 issued guidelines for investment advisers which *Inter-alia* provided for the manner of charging of fees. In view thereof, I find that prior to SEBI (Investment Advisers) (Amendment) Regulations, 2020, ceiling on fees was not specifically provided. However, Clause 6 of the Code of Conduct laid down in the Schedule III to the IA Regulations, even prior to September 23, 2020, mandated investment adviser to levy “fair and reasonable charges”. I find that even prior to the 2020 Amendment, the investment adviser, especially having been engaged by the client in a fiduciary capacity, was mandated to charge a fees which is “fair and reasonable”.

41. I note from the ER that in the instant case the fees charged by Noticee 1 was unjust, unreasonable and devoid of any logic, and the modes and methods employed by Noticees have elements of deceit. Contrary to the claims made by the Noticees, I find them to have not been fair and transparent in their dealings with clients regarding the fees charged. The Noticees have adopted unethical business practices to deceive the clients into buying/ subscribing multiple packages. Noticees acted in the above manner with an objective to maximize their fees and with an objective of keeping their own interest ahead of their client's interest. These acts were in complete disregard to the responsibilities entrusted on the Noticees under the provision of IA Regulations to act in fiduciary capacity and in the best interest of its clients. The Noticees have levied disproportionate amount of fees/charges towards their services in an opaque manner. Noticees failed to inform the clients upfront regarding details of GST as applicable. Noticees have failed to act with due skill, care, diligence and in the best interests of their clients. In view of the above, I am not inclined to give credence to the submission of the Noticees that their client has signed the KYC and accepted the



terms and conditions by signing the payment receipts. I am of the opinion that Noticees cannot take shelter under the said disclaimer and escape by callously assuring returns that have no basis and resultantly misrepresenting its clients. I note that the Noticees are responsible for acts of its employees. The Noticees cannot be allowed to escape liability for baseless claims and misrepresentation of its employees merely on the ground that the investors are aware that their investments are subject to market risks, and they have signed certain documents with waivers/disclaimers.

42. I note that, the Noticees were to act within the confines of the IA regulations and code of conduct thereunder. These conditions on the payment receipts/KYC/risk profiling documents were general disclaimers which do not authorise the Noticees to promise assured returns/ assured loss recovery and take shelter of the disclaimers clause communicated to the Noticees. Thus, I note that Noticees adopted business practices to induce the prospective clients into availing the services offered, further by giving assurances of the guaranteed assured returns or high returns without any basis, the clients were induced to spend more money by the Noticees. These observations on the conduct of the Noticees establish that the investors were defrauded by the Noticees. In my view, promising assured returns/ assured loss recovery in securities market amounts to misrepresentation and misleading the investors. Such reckless conduct intended to induce investors to deal in securities constitutes 'fraud' under the PFUTP Regulations.

43. It is pertinent to refer to the observations of the Hon'ble Supreme Court in the case of **SEBI Vs. Kanaiyalal Baldevbhai Patel (2017) 15 SCC 1**, which are as under-

*"The definition of 'fraud', which is an inclusive definition and, therefore, has to be understood to be broad and expansive, contemplates even an action or omission, as may be committed, even without any deceit if such act or omission has the effect of inducing another person to deal in securities. Certainly, the definition expands beyond what can be normally understood to be a 'fraudulent act' or a conduct amounting to 'fraud'. The emphasis is on the act of inducement and the scrutiny must, therefore, be on the meaning that must be attributed to the word*

*“induce”.....to make inducement an offence the intention behind the representation or misrepresentation of facts must be dishonest whereas in the latter category of cases like the present the element of dishonesty need not be present or proved and established to be present. In the latter category of cases, a mere inference, rather than proof, that the person induced would not have acted in the manner that he did but for the inducement is sufficient.”*

44. Further, in the case of **SEBI Vs. Kishore Ajmera (2016) 6 SCC 368**, the Hon’ble Supreme Court observed that,

*“the SEBI Act and the Regulations framed there under are intended to protect the interests of investors in the Securities Market which has seen substantial growth in tune with the parallel developments in the economy. Investors’ confidence in the Capital/Securities Market is a reflection of the effectiveness of the regulatory mechanism in force. All such measures are intended to preempt manipulative trading and check all kinds of impermissible conduct in order to boost the investors’ confidence in the Capital market. The primary purpose of the statutory enactments is to provide an environment conducive to increased participation and investment in the securities market which is vital to the growth and development of the economy. The provisions of the SEBI Act and the Regulations will, therefore, have to be understood and interpreted in the above light”.*

45. I also note that, the Noticees have provided, assurance of high returns/assurance of loss recovery without any basis and further assured maximization of returns etc., which are an active concealment of the material fact that every investment in the market is subject to market risk. This act of conveying high/maximum returns or certainty of profit, is nothing but indulging in for the purposes of luring customers in its net and thereby increasing its income. In light of the same, the act of the Noticees to actively conceal material information, is a non-genuine and a deceptive act and has been made with an intent to influence the clients to avail of its advisory services and deal in securities.

46. In this regard, the observation recorded by the Hon'ble Supreme Court of India in the matter of **SEBI Vs. Kanaiyalal Baldevbhai Patel [(2017) 15 SCC 1]** is worth quoting: *"...A person can be said to have induced another person to act in a particular way or not to act in a particular way if on the basis of facts and statements made by the first person the second person commits an act or omits to perform any particular act. The test to determine whether the second person had been induced to act in the manner he did or not to act in the manner that he proposed, is whether but for the representation of the facts made by the first person, the latter would not have acted in the manner he did..."*. Therefore, I am constrained to observe that the acts of the Noticees of resorting to misrepresentation and spreading falsehood about, promise of assured profit/unreasonably high returns/assured loss recovery etc. are fraudulent in nature, having the potential to fraudulently induce the investors to deal in securities by availing of the services of the Noticees.

47. In this regard, I further rely upon the decision of the Hon'ble SAT in the matter of MSS Trading System Centre and Anr. Vs. SEBI, dated December 12, 2022, wherein the Hon'ble Tribunal has held that *"We are of the opinion that such assurance of profit given by the appellant was totally fraudulent and in violation of Regulation 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003"*.

48. In view of the above I find that Noticees have violated Regulation 15(1) of IA Regulations and failed to abide by 1, 2, 5 and 6 of the Code of Conduct for Investment Advisors as specified in Schedule III to the IA Regulations read with Regulation 15 (9) of IA Regulations.

#### **Splitting of payment receipts:-**

49. The SCNs alleged based on the complaint of Mr. Yagnesh Jankbhai Rawal that, Noticee 1 had shown payment being received from family members of the primary client and raised payment receipts against their name knowing well that

the family members were not its client and to hide the exorbitant fees being taken from the primary client, thereby dealing with the client in a fraudulent manner. In this regard, it was alleged that Noticee 1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated regulations 3 (a), (b), (c), (d) of PFUTP Regulations read with section 12A (a), (b) and(c) of SEBI Act.

50. The details of the services shown against the primary clients and their family members are as under:

**Table 14**

S.No	Date of Payment in payment receipts	Amount in Rs.(inc GST) as per payment receipts	Name in payment receipts	Relationship with Primary client (YJR)	Services Sold
<b>payment receipts provided by Noticee No. 1</b>					
1	05/01/2019	6018	Yagnesh Rawal	Self	Stock Cash
2	07/01/2019	108928	Yagnesh Rawal	Self	Platinum Fortune Service ( Cash)
3	08/01/2019	160000	Yagnesh Rawal	Self	Platinum Fortune Service ( Cash)
4	09/01/2019	139796	Yagnesh Rawal	Self	Platinum Fortune Service ( Cash)
5	11/01/2019	352820	Yagnesh Rawal	Self	Fortune Platinum (Stock Cash)
6	20/04/2019	160480	Yagnesh Rawal	Self	34 Equity Weekly Report
7	23/04/2019	352820	Yagnesh Rawal	Self	Superb Premium Cash
8	10/05/2019	500000	Paras Rawal	Brother	Elite Premium Future Service
9	21/01/2019	767000	Paras Rawal	Brother	Fortune Platinum (Stock Options)
10	26/04/2019	497370	Janak Rawal	Father	Elite Premium Services (Stock Cash)
11	14/01/2019	767001	Leena Rawal	Wife	Fortune Platinum (Stock Cash)
12	03/05/2019	565201	Leena Rawal	Wife	Elite Premium Future Service
13	29/01/2019	275002	Devilaben Rawal	Mother	Superb Platinum (Stock Cash)
<b>payment receipts provided by Complainant</b>					
14	10/05/2019	191737	Devilaben Rawal	Mother	Rapid Premium Future Service
15	21/01/2019	767000	Devilaben Rawal	Mother	Fortune Platinum (Stock options)
Total		5611173			

51. I note from the complaint of Mr. Yagnesh Janakbhai Rawal and payment receipts submitted by Noticee 1 that a total of Rs. 56.11 lakhs for multiple services were received by Noticee 1 and Noticee 1 had raised split payment receipts for various services being offered in the name of Mr. Yagnesh Janakbhai Rawal (YJR, the primary client), Leena Rawal (Wife of YJR), Devilaben Rawal (Mother of YJR), Paras Rawal (Brother of YJR) and Janakbhai Rawal (Father of YJR).
52. Further, the complainant vide e-mail dated October 21, 2019 also submitted his HDFC Bank Account Statement bearing account No. 01041140002490, reflecting the payments made to Noticee 1 from his HDFC Bank Account, indicating that all the payments were made by the primary client Mr. Yagnesh Janakbhai Rawal and Noticee 1 had subsequently split the advisory fees among family members of the primary client so that a single exorbitant fee does not get reflected in the name of the primary client.
53. It was alleged in the SCN that Noticee 1 and its directors viz., Noticee 2, 3 and 4 have (a) failed in their responsibility to act in fiduciary capacity to their clients which was entrusted upon them under regulation 15(1) of IA Regulations and (b) failed to abide by clauses 1 and 2 of the Code of Conduct for Investment Advisers as specified in Schedule III to the IA Regulations r/w regulation 15(9) of IA Regulations. Further, though the amount of fees was received from the account of Mr. Yagnesh Rawal, the payment receipts have been generated in the names of few of his relatives in violation of regulation 15(2) of IA Regulations. I note that as per regulation 15(2) of IA Regulations, Noticee 1 shall not receive any consideration by way of remuneration or compensation or in any other form from any person other than the client being advised.
54. Based on the above, I note that, Noticees had not been honest, fair, diligent and transparent in their dealings with the clients on the fees charged to the clients. The act of Noticees were in complete disregard to the responsibilities entrusted on an IA, under IA Regulations, to act in fiduciary capacity and in the best interest of their clients.

55. In view of the above discussions, I note that, Noticees have violated provisions of Regulations 15(2) and 15(9) read with Regulation 15(1) and clauses 1 and 2 of the Code of Conduct prescribed under Schedule III to the IA Regulations.

**Acceptance of payments even before executing KYC and risk profiling of clients, enrolling clients who did not even have demat / trading account.**

56. The SCNs alleged that, the package/service was decided upfront and fee was collected by Noticee 1 even before doing the KYC and the risk profiling. Further, it was alleged that, Noticee 1 had merely raised payment receipts for subscribed services against the entities who did not even have a Demat account. Having a demat account is a basic necessity for trading in the stock exchange platform.

57. Based on the above, it was alleged in the SCNs that Noticee 1 had not followed the procedure detailed in regulation 16(a),16(b)(ii) read with regulation 17(a) of IA Regulations. Therefore, it was alleged that Noticee 1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated provisions of regulation 16(a),16(b)(ii) and 17(a) of IA Regulations. Further, it was alleged that the Noticees have violated Regulation 15(1) of IA Regulations and failed to abide by Clauses 1 and 2 of the Code of Conduct for Investment Advisors as specified in Schedule III to the IA Regulations read with regulation 15(9) of IA Regulations. It was also alleged that by raising payment receipts for subscribed services before doing KYC and risk profiling of clients, in the names of entities who cannot even trade in the securities market as they did not have Demat/Trading Account, Noticee 1 had dealt in a fraudulent manner, hence, it was alleged that Noticee 1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated regulations 3 (a), (b), (c), (d) of PFUTP Regulations read with section 12A (a), (b) and(c) of SEBI Act.

58. I note from SCORES Complaints number SEBIE/DD19/0000018/1 and from the documents obtained from the Noticee 1 and the complainant that, Noticee 1 had received part payments for the products/services even before KYC and RPM. The details of such instances are brought out as below:

Table 15

Sl. No.	Date of Payment in payment receipts	Amount (Rs.) (including GST) as per payment receipts	Date in KYC	Date of Risk Profiling and Suitability Assessment	Services Sold
<b>Yagnesh Rawal</b>					
1	05/01/2019	6018	6/1/2019	7/1/2019	Stock Cash
<b>Paras Rawal</b>					
2	21/01/2019	767000	26/1/2019	26/1/2019	Fortune Platinum (Stock Options)
<b>Janak Rawal</b>					
3	26/04/2019	497370	2/6/2019	2/6/2019	Elite Premium Services (Stock Cash)
<b>Leena Rawal</b>					
4	14/01/2019	767001	21/01/2019	21/1/2019	Fortune Platinum (Stock Cash)
<b>Devilaben Rawal</b>					
5	21/01/2019	767000	2/2/2019	2/2/2019	Fortune Platinum (Stock options)
6	29/01/2019	275002	2/2/2019	2/2/2019	Superb Platinum (Stock Cash)
		3079391			

59. I note that in terms of Regulation, 16 of IA Regulations Noticee 1 shall carry out risk profiling of the client for ascertaining client's risk tolerance, income, loss absorbing capacity, capacity of accepting loss of capital, liabilities/borrowing, etc. Further, it also states that the risk profiling should be communicated to the client after risk assessment is done. As per regulations 16(a), 16(b)(ii) read with regulation 17(a) of IA Regulations, rendering of Investment Advice shall be done only after obtaining information from the client for carrying out his risk profiling, identifying whether client was unwilling or unable to accept the loss of capital and then starting his services after ensuring that investment advice was provided which was appropriate to the risk profile of the client. Further, Regulation 17 of IA Regulations, *Inter-alia*, states that all investments on which investment advice is provided are appropriate (suitable) to the risk profile of the client. It should be, *Inter-alia*, based on client's investment objectives and his financial situation. Further, the investment advice should be such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance. The primary purpose of these regulations and corresponding

procedures are that the respective client is given an opportunity to assess his risk profile before agreeing to accept the advice for products/services.

60. I note from the Table 15 above that, the package/service (suitability) was decided upfront and fee was collected by Noticee 1 prior to the KYC and the risk profiling. Further, two entities i.e, Ms.Devilaben Rawal and Ms. Leena Rawal were not even having a Demat/Trading Account, as per the information obtained from CDSL and NSDL.

61. I note from the complaint of Mr. Yagnesh Jankbhai Rawal and payment receipts submitted by Noticee 1 that a total of Rs. 56.11 lakhs for multiple services were received by Noticee 1 and split payment receipts were issued for various services being offered in the name of Mr. Yagnesh Janakbhai Rawal (YJR), Leena Rawal (Wife of YJR), Devilaben Rawal (Mother of YJR), Paras Rawal (Brother of YJR) and Janakbhai Rawal (Father of YJR). It is noted that, out of total Rs. 56.11 lakh collected by Noticee 1 raised payment receipts of around Rs. 25.66 lakh for payment of advisory fees for subscribed services against the names of Leena Rawal (Wife of YJR) and Devilaben Rawal (Mother of YJR), which are as follows:

**Table 16**

S.No	Date of Payment in payment receipts	Amount (including GST) as per payment receipts	Name in payment receipts	Relationship with Primary client (YJR)	Services Sold
<b>payment receipts provided by Noticee No. 1</b>					
1	14/01/2019	7,67,001	Leena Rawal	Wife	Fortune Platinum (Stock Cash)
2	03/05/2019	5,65,201	Leena Rawal	Wife	Elite Premium Future Service
3	29/01/2019	2,75,002	Devilaben Rawal	Mother	Superb Platinum (Stock Cash)
<b>payment receipts provided by Complainant</b>					
4	10/05/2019	1,91,737	Devilaben Rawal	Mother	Rapid Premium Future Service
5	21/01/2019	7,67,000	Devilaben Rawal	Mother	Fortune Platinum (Stock options)
Total		25,65,941			



62. I note that, based on the complaint, vide e-mail dated January 15, 2020, details of KYC of all the Demat/Trading accounts of the complainant and their family members were sought from CDSL and NSDL. In response CDSL informed that, no demat accounts have been opened in the names of Leena Rawal (PAN: ALNPR1064K) and Devilaben Rawal (PAN: ALKPR3445D). In response NSDL submitted that no BO account is found to be held against PANs viz. Devilaben J Rawal (PAN: - ALKPR3445D) and Leena Yagnesh Rawal (PAN: ALNPR1064K) with any DP of NSDL.

63. I note from the details provided in above paras, that Noticee 1 had raised payment receipts against the names i.e, Devilaben J Rawal (PAN: - ALKPR3445D) and Leena Yagnesh Rawal (PAN: ALNPR1064K), who are family members of primary client Mr.Yagnesh Rawal. Noticee 1 has shown receipt of around Rs. 25.66 lakh of advisory fees from these two entities. I note from the records that the money was received from primary client (Mr. Yagnesh Rawal) and Noticee 1 had taken the details of his family members and raised payment receipts in their names to show that services have been sold to the family members. Noticee 1, without conducting even the basic due diligence had merely raised payment receipts of subscribed services against the entities who did not even had Demat accounts. I note that, having a demat account is a basic necessity for trading in the stock exchange platform. An entity can only act on the advices given by the Noticee 1, only if that entity has a demat account to place orders.

64. In this regard, the Noticees have submitted that they have acted in fiduciary capacity towards its clients as clients were disclosed regarding fees charged from them. No hidden fee has been charged from the clients. The clients have paid fees with their consent and without force of any kind. The fees charged by the Noticees was as per mutually agreeable terms. Further, it was submitted that the Noticees has taken due care of financial ability of its clients and willingness to avail advisory services before charging any fees.

65. The Noticees have contended that, the KYC details of clients were obtained on time, however, the only delay was in receipt of the signed KYCs. The contentions

of the Noticees in this regard are devoid of any merits owing to the discussions in pre paragraphs.

66. I note that the IA Regulations mandate that an investment adviser shall act in a fiduciary capacity towards its clients and is required to abide by the Code of Conduct which requires him to (i) act honestly, fairly and in the best interests of its clients and in the integrity of the market, (ii) act with due skill, care and diligence in the best interests of its clients and (iii) ensure that its advice is offered after thorough analysis and taking into account available alternatives.

67. I note that, Noticees have not been fair and transparent in its dealing with clients regarding the process of fees charged to the client. They have adopted unethical business practices to deceive the clients into buying/ subscribing packages without proper KYC and risk profiling of their clients. They have acted in the above manner with an objective to maximize their fees and with an objective of keeping their own interest ahead of its client's interest. These acts were in complete disregard to the responsibility entrusted on the Noticees under the provision of IA Regulations to act in fiduciary capacity and in the best interest of their clients. Noticees failed to act with due skill, care, diligence and in the best interests of its clients.

68. I find that the Noticees, with a view to maximize its advisory fees, sold products in a haste without following the established procedures, without having any regard for the interest of the client or suitability of product. Thus, I find that Noticees have not followed the procedure detailed in regulation 16(a),16(b)(ii) read with regulation 17(a) of IA Regulations. Therefore, Noticee 1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated provisions of regulation 15(1) of IA Regulations and failed to abide by Clauses 1 and 2 of the Code of Conduct for Investment Advisors prescribed under regulation 15 (9) in Schedule III to the IA Regulations read with Regulations 16(a), 16(b)(ii) and 17(a) of IA Regulations.

**Failure to carry out risk profiling, suitability analysis and sale of products/ services only based on suitability declaration, not commensurate with the risk taking ability of the clients.**

69. The SCNs alleged that, Noticee 1 had not done any due-diligence with respect to the Risk Profiling and Suitability Assessment of the clients. The recorded responses in the RPF (Risk Profiling Form), were contradictory and IA had gone ahead with offering services/products on basis of declaration from clients rather than objective assessment of their risk appetite, and failed to follow the procedure as enumerated in regulation 16 and 17 of IA Regulations.
70. In view of the above, it was alleged in the SCN that Noticee 1 and its directors viz., Noticee 2, 3 and 4 have failed to take due care and diligence to ascertain the risk profile and Suitability Assessment of the clients, thereby violated regulation 15(1), 16(d), 17(a), 17(d), 17(e) of IA Regulations and failed to abide by Clauses 1 and 2 of the Code of Conduct for Investment Advisors prescribed under regulation 15 (9) in Schedule III to the IA Regulations. Further, it was alleged that Noticee 1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated regulations 3 (a), (b), (c), (d) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.
71. Some of the questions in the RPF of Mr. Yagnesh Rawal and his family members are reproduced below:

**Table 17**

Question	Answer
<b>Yagnesh Rawal</b>	
Experience in Market Products ?	Stock, Derivative Stocks
What is your experience with equity investments ?	No Experience
What is your experience with Commodity investments?	No Experience
What is your experience with Forex investments?	No Experience
What is your experience with past investments?	Moderate
Risk Tolerance ?	Low
Proposed Investment Amount	< 1 Lac
<b>Paras Rawal</b>	
Experience in Market Products ?	Stock
What is your experience with equity investments ?	No Experience

Question	Answer
What is your experience with Commodity investments?	No Experience
What is your experience with Forex investments?	No Experience
What is your experience with past investments?	Moderate
Risk Tolerance ?	Low
Proposed Investment Amount	1-2 Lacs
<b>Janakbhai Rawal</b>	
Experience in Market Products ?	Stock
What is your experience with equity investments ?	No Experience
What is your experience with Commodity investments?	No Experience
What is your experience with Forex investments?	No Experience
What is your experience with past investments?	Bad
Risk Tolerance ?	Low
Proposed Investment Amount	1 – 2 Lacs
<b>Leena Rawal</b>	
What is your experience with equity investments ?	No Experience
What is your experience with Commodity investments?	No Experience
What is your experience with Forex investments?	No Experience
What is your experience with past investments?	Bad
Risk Tolerance ?	Low
<b>Devilaben Rawal</b>	
Experience in Market Products ?	Stock
What is your experience with equity investments ?	No Experience
What is your experience with Commodity investments?	No Experience
What is your experience with Forex investments?	No Experience
What is your experience with past investments?	Moderate
Risk Tolerance ?	Low
Proposed Investment Amount	1-2 Lac

72. I note from, the response to question in RPF of the family member of Mr. Yagnesh Rawal such as: - 'What is your experience in Equity/Commodity/Forex' markets?' To which all the clients responded that they had no experience in Equity, Commodity and Forex markets. Further, to the question 'Experience in Market Products?' they responded with 'Stock and/or Derivatives'. When both questions are read in conjunction, the responses recorded by Noticee 1 were found to be contradictory. Further, In the RPF, all entities responded to the question 'Risk Tolerance?' as 'low'. I note from the payment receipts raised by Noticee 1 that, the clients Risk Profile was mentioned as 'HIGH' i.e. the assessment of the risk

taking capacity of the clients based on the weights allotted was categorized as 'HIGH'.

73. Noticee 1 was merely taking a declaration of 'Suitability Assessment', which is brought out verbatim as under:

***"Suitability Assessment***

- *"Despite of your Age, Income and Occupation, you with your free consent have agreed to work in high risk profile services*
- *It is clearly been communicated to you that high risk profile services may be more risky but you still has opted that.*
- *In case you disagree with the suitability assessment done. kindly revert us back with your dissent else it will be assumed as accepted & suitable for you in case you fail to revert us back with your dissent within 24 hours.*

*Note: You with your free consent & sound state of mind accept the services & willingly want to work upon our services despite of your age and risk profile''*

74. I note from the risk profiling forms and Suitability Assessment documents of the clients as submitted by Noticee 1, that, in RPF of clients, Noticee 1 has recorded contradictory answers of the risk assessment questions and the Risk Profiling was done without adhering to the established procedures and also the products/ services were offered without assessing the appropriate risk appetite and suitability assessment of the clients.

75. I note that, the Noticees, with a view to maximize its advisory fees, sold products in a haste without following the established procedures. Without having any regard for the interest of the client or suitability of product. Despite having contradictory responses in the RPF and low risk tolerance, the clients were categorized as Risk Profile – High. Thus, I find that Noticees have violated Regulation 15(1), 16(d), 17(a), 17(d), 17(e) of IA Regulations and failed to abide by Code of Conduct 1, and 2 of Schedule III read with regulation 15(9) of IA Regulations.

76. I note from the foregoing paragraphs that the Noticees promised of assured returns/ assured loss recovery, received payment against family members of the primary client to hide exorbitant fees taken from the primary client, raised payment receipts in the name of clients who did not have demat/ trading account, sold multiple packages to clients, made inadequate disclosure with regard to fee, collected fees from clients' multiple times for the same package, forced clients to pay additional charges, took payment before doing KYC and risk profiling of clients, didn't carry out risk profiling of the clients in a prudent manner, didn't carry out suitability analysis for the client. I note that the above findings seen holistically tantamount to fraud on the clients and the fraudulent aspect has been dealt with in detail in the preceding paragraphs. In view of the above, I note that the Noticees have failed to abide by Regulation 15(1) and clauses 1,2,5 and 6 of Code of Conduct prescribed under Regulation 15(9) in Schedule III to the IA Regulations and Regulation 16(a),16(b)(ii) read with 17(a), 16(d), 17(d), 17(e) of IA Regulations, Regulation 3 (a), (b), (c), (d) and Regulation 4(1), 4(2)(o) and 4(2)(s) of PFUTP Regulations, read with Section 12A(a), (b) and (c) of SEBI Act. However, I find that allegation of violation of Regulation 4(2)(k) of the PFUTP Regulations against the Noticees is not established.

**Failure to obtain NISM certificate:-**

77. The SCNs alleged that, Noticees operated without being eligible to operate as NISM level 1 certificate of Noticee 2 had expired on January 13, 2022, thereby violating provisions of Regulations 6(c), 7(2),13(a) and 15(13) of IA Regulations.

78. I note that as per, Regulation 6(c) of the IA Regulations the principal officer and all persons associated with investment advice of a body corporate, is required to be appropriately qualified and certified as specified in regulation 7 of IA Regulations. Further, as per Regulation 15(13) of IA Regulations, the Noticee 1 was required to ensure compliance with the certification and qualification requirements prescribed under regulation 7 of the IA Regulations at all times.

79. I note that, Mr. Ashif Shaikh, Director, was directly involved in the rendering of the investment advice on behalf of the company and was the representative of the company. I note from the details of certification available that, NISM Level -1 certification of Mr. Ashif Shaikh, was valid till January 13, 2020. In this regard, information was sought from NISM regarding renewal of Level-1 certification by Mr. Ashif Shaikh. NISM, vide its email dated January 27, 2020, confirmed that Mr. Ashif Shaikh had appeared for examination in the year 2017 and no enrollment was done either for examination or for CPE.

80. The Noticees have contended that, it was Corona time and very high cases were coming up. One of the directors lost his family member during the said period and this led to the failure of compliance. It was further submitted that due to lockdown in March 2020 slots were not available for certification exam. Even NISM on its website stated that certificates to be renewed from 15/03/2020 to 31/03/2022 are extended and valid till 01/04/2022. Upon getting the slots Certification was renewed in July 2020.

81. I note from the copy of certificate of Noticee 2 that he had appeared for the NISM-Series-X-A: Investment Adviser (Level 1) Certification Examination on July 15, 2020 and the said certificate was valid till July 14, 2023. I note from the ER and the bank statement carrying certain salary credit entries in ICICI Bank Account Statement that Mr. Ashif Shaikh was acting even after expiry of the said NISM Certificate. However, as discussed and established in earlier paragraphs Mr Shaikh did not possess the requisite certificate from January 13, 2020, even though lockdown was imposed much later only in April 2020 thus negating the claims and contentions of the Noticees citing Corona lockdown as a reason.

82. Hence, I find that the charge against the Noticees of violating Regulation 6(c) and 7(2) read with Regulations 13(a) and 15(13) of IA Regulations stands established.

**Failure to meet capital adequacy norms and consequent non fulfilling fit and proper criteria.**

83. It is noted from the ER that, the following was observed by the examination team:

- 83.1. Noticee 1, which was a body corporate sought registration from SEBI as IA on October 17, 2017
- 83.2. The net-worth certificate as certified by CA Anand Joshi, Partner, Jain Joshi, and Associates, *Inter-alia*, stated that Noticee 1 met the net worth requirement of Rs. 25 lakh on June 20, 2017.
- 83.3. As per the said certificate, Noticee 1 met the net worth criteria of Rs. 25 lakh primary on account of trade receivables and surplus of Rs.25.31 lakh
- 83.4. As SEBI sought further information in this regard, Noticee 1 submitted another net worth certificate dated February 23, 2018, which, *Inter-alia*, indicated that the net worth of Rs. 25 lakh was achieved due to paid up capital of Rs. 25 lakh
- 83.5. From the bank account of Noticee 1, it was observed that, as on February 23, 2018, Noticee 1 did not have the Rs.25 lakh in the bank account.
- 83.6. The amount of Rs. 25 lakh was achieved on account of credits Rs.12,10,000 and Rs.12,00,000 received from the bank accounts of Mr. Ashif Shaikh and Mr. Vinit Satpute on February 27, 2018
- 83.7. The aforesaid credits of Rs.12,10,000 and Rs.12,00,000 were transferred back to Mr. Ashif Shaikh and Mr. Vinit Satpute on March 1, 2018.
84. The SCNs alleged that, (a) Noticee 1 did not meet the net worth as required under regulation 8(1) of IA Regulations; (b) Noticee 1's submission vide e-mail dated February 23, 2018 that it had revised the paid-up share-capital to Rs. 25 lacs was not correct as there was no share application money reflected in the Bank Account of Noticee 1 as on February 23, 2018; (c) Noticee 1 circumvented the capital adequacy requirements by series of credit and debit entries on February 27, 2018 and March 1, 2018. It was further alleged that Noticee 1 had resultantly violated the 'fit and proper' criteria, as provided in Schedule II to the Intermediaries Regulations.
85. The SCNs alleged that, Noticees have violated regulation 6(e), 6(f) read with Regulation 8(1), 13(a) of IA Regulations and Regulation 7(2)(e) of SEBI (Intermediaries) Regulations., and it was alleged that Noticee 1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated Regulation 7(2)(e) of SEBI



(Intermediaries) Regulations. In this regard, the SCNs also alleged that Noticees have violated regulations 3 (a), (b), (c), (d) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

86. I note from the records that Noticee 1 had applied on October 17, 2017, for Registration as an Investment Adviser. As per regulation 8(1) of IA Regulations, Investment Advisers which are body corporates shall have a Net-worth of not less than twenty-five lakhs rupees. In this regard, Noticee 1 had submitted a Net-worth Certificate dated June 20, 2017 certified by Jain Joshi & Associates, Chartered Accountants which stated that Noticee 1 had net worth of Rs. 25.96 lakhs as on June 20, 2017 which included paid –up share capital of Rs. 1 lakh and reserves and surplus of Rs. 25.51 lakhs.

87. I note from the Balance Sheet (February 3, 2018) that Noticee 1 had revenue from operations of Rs. 26.62 lakhs, of which trade receivables accounted for Rs. 26.53 lakhs. Further, Noticee 1 was, *Inter-alia*, requested to clarify the nature of the business undertaken as well as submit details to whom services were provided along with GST and TDS certificate issued. In response on SI-Portal, Noticee 1 clarified that, the revenue was from management consulting and no Investment Advisory services were provided. However, Noticee 1 failed to provide the GST and TDS certificates. Thereafter, Noticee 1 had submitted a revised net-worth certificate dated February 23, 2018 certified by Jain Joshi & Associates, Chartered Accountants which stated that Noticee 1 had a net worth of Rs. 25.06 lakhs as on February 23, 2018, which included paid-up share capital of Rs.25 lakhs. I note that Noticee 1 also enclosed its ICICI bank account statement of account number 185905000406 showing balance of Rs. 25.08 lakhs. Accordingly, Registration was granted to Noticee 1 on April 2, 2018.

88. I note that, during the examination of complaints, upon scrutiny of the ICICI Bank account no. 185905000406 statement, sought from ICICI bank, it was observed that on February 23, 2018, Noticee 1 was having Rs.0.00 in the said bank account and there were certain credit entries between February 23, 2018 and February 26, 2018 and two credit entries of Rs.12,10,000 and Rs.12,00,000 respectively

on February 27, 2018. On account of the said credits, the balance in the said account became Rs. 25.08 lakh on February 27, 2018. Which was submitted to SEBI for fulfilling the net worth requirement. I note that, on March 1, 2018, there were two debit entries of Rs.12,10,000 and Rs.12,00,000 and the account balance became Rs. 97,147.94/- as on March 1, 2018. I note that, the amount of Rs.12,10,000 and Rs.12,00,000 were received from the bank account of Noticee 2 and Noticee 3 respectively and these amounts were returned to the respective accounts of Noticee 3 and Noticee 4 on March 1, 2018.

89. I note from the bank accounts of Noticee 3 (HDFC Bank Account 50100048600778), which was sought from HDFC Bank, that opening balance as on February 27, 2018 was Rs. 8,94,415.49/-. On the same day i.e. February 27, 2018, Noticee 3's account received two credits of Rs. 2,50,000 and Rs. 50,000 respectively from Noticee 4 and cash deposit of Rs. 1,50,000. Due to these transactions, the balance in the account of Noticee 3 became Rs.13,44,415.49/- It was observed that on February 27, 2018, Rs. 12,00,000/- was transferred to the account of Noticee 1 from Noticee 3's account which was returned to the account of Noticee 3 from Noticee 1 account on March 1, 2018. Similarly, Rs. 3,00,000/- was transferred back to the account of Noticee 4 on March 1, 2018.

90. In this regard, I note that Regulation 6 of IA Regulations provides certain conditions and eligibility criteria which the Board shall take into account while granting the certificate of registration to IA, which are as follows:

90.1 The applicant is to fulfill the capital adequacy requirements as specified in Regulation 8 of IA Regulations;

90.2 The directors of the applicant shall also be meeting the fit and proper criteria as per Schedule II to the Intermediaries Regulations.

91. I note from Regulation 8 of IA Regulations that Investment advisers who are body corporate shall have a net worth of not less than twenty-five lakh rupees. For the purposes of this regulation, "net worth" means the aggregate value of paid up share capital plus free reserves (excluding reserves created out of revaluation)

reduced by the aggregate value of accumulated losses, deferred expenditure not written off, including miscellaneous expenses not written off.

92. I note from the submissions of the Noticees and Bank account statements that, on February 23, 2018, Noticee 1 was having Rs.0.00 in the said bank account and on March 1, 2018, there were two debit entries of Rs.12,10,000 and Rs.12,00,000 and the account balance became Rs.97147.94/- as on March 1, 2018. Noticees have not denied these transactions. I note that Noticees had admittedly stated that there was a reduction in the net worth as funds were transferred to the account of two directors. I note that, admittedly the Noticees have stated that, it's quite obvious that any company gets funds from its shareholders or directors and any transfer between company and its directors which the Noticees submitted that it is their internal matter and any company as per MCA can give loans to its directors and the same was reflected in the Noticees ITR as well. In this regard, I note that, the Noticees have failed to show that the amount received in the account of Noticee 1 was against the share capital of the Company. I note that, Noticee 1's submission vide e-mail dated February 23, 2018 that it had revised the paid-up share-capital to INR 25 lacs was incorrect as there was no share application money reflected in the Bank Account of Noticee 1 as on February 23, 2018.

93. I note that Noticee 1 being a Joint Stock Company, cannot claim that its paid up capital has been increased without submitting any proofs of allotment of shares which are essential documents from the company law point of view. In the absence of any documentary evidences / filings with RoC, it is difficult to accept the contention of the Noticees that the capital adequacy has been met by infusion of capital by two of its directors. As a consequence, the authenticity of the certificate issued by the Chartered Accountant is also questionable.

94. I note that the by scheming a device to fulfill the capital adequacy requirement, Noticee 1 circumvented the capital adequacy requirements by a series of credit and debit entries on February 27, 2018 and March 1, 2018. This also shows that

the Noticee 1 was not having the requisite net worth at all times, which is one of the conditions of registration as Investment Advisor.

95. I note from the reply of the Noticees that they had claimed, *Inter-alia*, that upon meeting capital adequacy requirement only their registration was approved and questioning the capital adequacy after four years is wrong and not acceptable. In this regard, I note that maintenance of capital adequacy is a continuous registration requirement, therefore, the argument of the Noticees has no merit.

96. In view of the above discussions, I note that, Noticee 1 did not fulfill the capital adequacy requirement.

97. As noted in preceding paragraphs of this order, the Noticees, as a registered IA, *Inter-alia*, promised of assured returns/ assured loss recovery, received payment against family members of the primary client to hide exorbitant fees taken from the primary client, raised payment receipts in the name of clients who did not had demat/ trading account, sold multiple packages to clients, made inadequate disclosure with regard to fee, collected fees from clients' multiple times for the same service, forced clients to pay additional charges, took payment before doing KYC and risk profiling of clients, didn't carry out risk profiling of the clients in a prudent manner, didn't carry out suitability analysis for the client. These acts of Noticees were in complete disregard to the responsibilities entrusted on an IA, under IA Regulations, to act in fiduciary capacity and in the best interest of their clients. In the forgoing paragraphs, it has been established that Noticees had not been honest, fair, diligent and transparent in their dealings with the clients, Noticees adopted unethical business practices to deceive the clients into buying/ subscribing packages, Noticees acted in a fraudulent manner. Resultantly, the Noticees have been found to have violated various provisions of SEBI Act, IA Regulations, PFUTP Regulations and SEBI (Intermediaries) Regulations. Noticees operated without being eligible to operate, as his NISM Level -1 certificate had expired. Further, Noticees failed to meet the Capital Adequacy requirements by not having the prescribed minimum net worth. Considering these factors, I find that the Noticees do not satisfy the criteria of 'fit and proper' person

as provided under Schedule II of the Intermediaries Regulations read with Regulation 7(2)(e) of Intermediaries Regulations and Regulation 6(e), 6 (f) read with 8(1), 13(a) of the IA Regulations.

98. Further, I note from the ER wherein the DA has mentioned that the allegation of submission of forged CA (Chartered Accountant) certificate has not been established as “fraud” under the PFUTP Regulations. Though the authenticity of the CA certificate is questionable, however, it is difficult to conclude that a fraud has been played on the securities market and thus I concur with the findings of the DA.

**Failure to submit information as sought by SEBI and whether the Noticees violated provisions of Regulation 15(12) of IA Regulations.**

99. I note from the ER that, SEBI, vide letter dated August 28, 2021, advised Noticee 1 and its directors to submit information *Inter-alia* with respect to compliance of SEBI's interim order dated January 25, 2021 and confirmatory order dated April 30, 2021, copy of risk profile form, bank account statements of the directors, details of fee structure, year wise fees collected since date of registration, client master data, copy of audited financial statements for last three years, sample copy of agreement entered into with the clients, etc.

100. I note from the submissions of the Noticees that, Noticees have submitted bank details, demat account details, asset details of Noticees 1, 2, 3 and 4, details of advisory fee, copy of income tax returns. However, it is noted from the ER that, the examination team that the Noticees failed to submit client master data, copies of RPF, total number of clients along with fee received, sample copy of agreement, details of fees structure in respect of advisory services, year wise details of fee collected and copy of audited financial statement. I further note that, Noticees had submitted that they could not provide the information or document sought by the examination team because the office of the Noticees was seized by police. In this regard, the DA has accepted the submissions of the Noticees and has absolved the Noticees from the charges of violation of Regulations 15

(12) of IA Regulations. I find no overarching reasons on records to disagree with the recommendation of the DA in this regard.

**Failure to resolve investor grievance of Mr Devajyoti Chetia and got complaint closed from the client by misleading him and making false commitments**

101. From the ER, I note that there is a finding with respect of non-resolution of investor complaints and consequent violation of Regulation 21(1) read with Regulation 28(f) of IA Regulations and SEBI Circular dated December 18, 2014. In this regard, I note from the action chart that the said allegation has not been levelled as a charge in the current proceedings before me. Therefore, I am ignoring the findings of the DA only to this extent.

**Conclusion:**

102. I conclude based on the above discussions that, the Noticees promised of assured returns/ assured loss recovery, received payment against family members of the primary client to hide exorbitant fees taken from the primary client, raised payment receipts in the name of clients who did not have demat/trading account, sold multiple packages to clients, made inadequate disclosure with regard to fee, collected fees from clients' multiple times for the same service, forced clients to pay additional charges, took payment before doing KYC and risk profiling of clients, didn't carry out risk profiling of the clients in a prudent manner, didn't carry out suitability analysis for the client, failed to meet the Capital Adequacy requirements, operated without being eligible to operate as his NISM Level -1 certificate had expired. The Noticees failed to meet the requirements mandated under IA Regulations and failed to abide by the code of conduct. Noticees are also liable for commission of violation of the provisions of PFUTP Regulations and SEBI Act, as they engaged in promising assured returns and misled the clients. All the above constitute violations of the provisions of SEBI Act, SEBI circulars, Regulations and the Code of Conduct, found in the foregoing paragraphs. Further, Noticees do not satisfy the criteria of 'fit and proper' person. In view of all the facts and circumstances discussed above, I am

convinced that this is a fit case for passing appropriate direction against the Noticees as contemplated under the Intermediaries Regulations, 2008. At this juncture, I note that the Noticee 1 is an artificial legal person who can act only with the support of natural persons. As has been mentioned at the beginning of the order, I find that Noticees 2 to 4 were directors of Noticee 1. As directors, they are responsible for the non-compliances committed by the artificial judicial person. I note that the Noticees 2 to 4 have also not argued disowning their responsibilities. Therefore, Noticees 2 to 4 are liable for action owing to the principles of vicarious liability and are none but officers in default.

#### **ORDER–**

103. In view of the above, I, in exercise of powers conferred on me under Section 12(3) read with Section 19 of the SEBI Act and Regulation 27(5) and Regulation 35 of the Intermediaries Regulations, do hereby order/direct as below: -

103.1. that the certificate of the registration granted by SEBI to the Noticee 1 i.e, M/s Bull Research Investment Advisors Private Limited bearing number **INA000010210**, to conduct the business of an investment adviser be **cancelled** from the date of this order.

103.2. The Noticees shall resolve, all complaints against it from its investors /clients in the SCORES portal and/or otherwise in respect of its investment advisory activities;

103.2.1. The Noticees shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, about this Order, and shall invite for resolution of any complaints from its clients/investors, and give details of modalities for resolution of complaints, including the details of contact person such as name(s), address(es) and contact detail(s) of person(s) to be approached for refund, within 15 days from the date of receipt of this order;

- 103.2.2. The Noticees shall accept complaints for a period of 3 months from the date of public notice, as directed under para 103.2.1 above;
- 103.2.3. The Noticees shall within a period of 4 months from the date of public notice, as directed under para 103.2 above, carry out and complete the complaint resolution exercise;
- 103.2.4. The repayments, if any, to the clients shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments;
- 103.2.5. After completing the aforesaid resolution of complaints, the Noticees shall file a report detailing the resolution of complains, with SEBI addressed to the “Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, SEBI Bhavan II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai -400051”, within a period of 15 days, after expiry of four months from the date of public notice, as directed above, duly certified by an independent Chartered Accountant and the direction at para 103.2 above shall cease to operate upon filing of such report.
- 103.3. The Noticees shall not undertake, either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws;
- 103.4. The direction for resolution of complains, as given in Para 103.2 above, shall not preclude the clients/investors to pursue the other legal remedies available to them under any other law, against the Noticees for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.



103.5. With regard to Noticees 2 to 4, I concur with the findings of the DA and I do hereby warn the Noticee 2, Noticee 3 and Noticee 4 to be careful and diligent in conduct of all their business in future.

104. The Order shall come into force with the immediate effect.

105. A copy of this order shall be served on the Noticees. Copy of this Order shall also be sent to all recognized Stock Exchanges, Depositories and Registrar and Transfer Agents of Mutual Funds and BSE Administration and Supervision Ltd. for ensuring compliance of this Order.

**Date: September 15, 2023**

**K SARAIVANAN**

**Place: Mumbai**

**CHIEF GENERAL MANAGER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**