

QJA/SP/WRO/WRO/24034/2022-23

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 12(3) OF SEBI ACT, 1992 AND REGULATION 27(5) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008.

In respect of –

Sr. No.	Noticee	Registration Number
1.	Striker Stock Research (Proprietor – Mukesh Vishvakarma) PAN: AJSPV4217F	INA000008516

1. The present matter emanates from a Show Cause Notice dated September 08, 2022 (hereinafter referred to as “**SCN**”) issued by the Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) to Striker Stock Research (Proprietor – Mukesh Vishvakarma) (hereinafter referred to as “**Noticee**”) under Regulation 27(1) of the SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as “**Intermediaries Regulations**”) calling upon it to show cause as to why the measures recommended by the Designated Authority (hereinafter referred to as “**DA**”) or any other action as contemplated in the Intermediaries Regulations, should not be taken against it. The SCN enclosed with it the Enquiry Report dated July 25, 2022 (hereinafter referred to as “**Enquiry Report**”) of the DA.
2. The Noticee is registered as an Investment Adviser (hereinafter referred to as “**IA**”) under the provisions of the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (hereinafter referred to as “**IA Regulations**”) with effect from September 23, 2017, bearing SEBI Registration No. INA000008516. I note that pursuant to receipt of various complaints against

the Noticee, SEBI had conducted an examination in the matter which *prima facie* revealed violations of provisions of the IA Regulations, SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”) and SEBI Act, 1992 (hereinafter referred to as “**SEBI Act, 1992**”).

3. Considering the alleged violations of the provisions of SEBI Act, IA Regulations and PFUTP Regulations, SEBI appointed a DA under Regulation 24 of the Intermediaries Regulations to conduct an enquiry in the matter. The present Order is the result of such enquiry proceedings against the Noticee under Section 12(3) of the SEBI Act, 1992 read with Intermediaries Regulations. A Show Cause Notice dated March 22, 2022 was issued by the DA under the provisions of Regulation 25 of the Intermediaries Regulations, 2008 calling upon the Noticee to show cause as to why appropriate recommendation should not be made against it in terms of Section 12(3) of the SEBI Act read with Regulation 23 and Regulation 26 of the Intermediaries Regulations for the alleged violations. After considering the reply of the Noticee, the facts and circumstances of the case and material available on record, the DA vide its Enquiry Report, *inter alia*, made the following observations:

- a. **Products meant for high risk bearing clients sold to medium risk bearing clients**

It was observed that the Noticee sold his products/ services meant for the clients categorized as ‘High Risk’ to clients having ‘Medium Risk’ appetite. Out of 26 sample clients, 17 sample clients were categorized under Medium Risk category. Out of those 17 clients, Noticee has sold high risk category products to 13 clients. It is alleged that Noticee has sold products/ services falling under its ‘High Risk Category’ to the clients falling under ‘Medium Risk Category’ and has not acted with due skill, care, diligence, honesty and in the best interest of its clients while selling products/services to its clients. Thus, the Noticee violated Regulation 17(a), (c), (d) and (e), and clauses 1, 2 of the Code of Conduct as specified in the Third Schedule read with Regulation 15(9) of the IA Regulations. However, for the violations of Regulation 3(a), (b), (c) and (d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act, the documents/

evidences available on record does not support the alleged violation of fraud on the part of the Noticee. Thus, the aforesaid violation does not stand established.

b. Unfair and unreasonable amount of fees charged from clients

It was observed that Noticee had charged fees which were more than annual income and/ or proposed investment of clients in their risk profiling form. Upon examination of 26 clients, it was observed that for 21 clients, Noticee had charged fees which were more than annual income and/ or proposed investment of client. Further, out of the 26 sample clients, it was observed that for 17 clients, fees received from the client was more than the annual income of the clients, as disclosed in the respective risk profile form of the clients. Considering the fees charged to the client vis-à-vis the annual income and/or proposed investment by the client, it was observed that fair and reasonable fees had not been charged by the Noticee and that that Noticee did not pay any attention to client's risk profiles and suitability. In view of above, Noticee had not acted with due skill, care, diligence and honesty while charging advisory fees from the clients. Thus, the Noticee violated Regulation 15(1) of the IA Regulations and clauses 1, 2 and 6 of the Code of Conduct for the IA provided in the Third Schedule read with Regulation 15(9) of the IA Regulations. However, for the violations of Regulation 3(a), (b), (c) and (d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act, the documents/ evidences available on record do not substantiate the same. Thus, the aforesaid violation does not stand established.

c. Promising assured/ guaranteed unrealistic returns to its clients

Noticee was observed to be promising high, assured/ unrealistic returns for the investments made by the clients and in the process, allegedly luring them to make larger investments and such high returns were promised to the clients based on the advice/ tips/ calls given by the Noticee. Complaint of one Mr. Amit Kumar was received in SCORES wherein complainant had submitted copies of various emails sent by the Noticee. On the basis of the content of the email, Noticee was observed to be making assured returns by mentioning assured profit with specified duration of 15-20 days. Another person named Mr. Manish

Vyas filed a complaint on SCORES whereby he submitted email received from the Noticee and call data records exchanged between him and executives of the Noticee. On the basis of the email/ telephonic call record, it was observed that executive of the Noticee assured profit of Rs. 3,50,000 through telephonic conversation and the same commitment was given by the Noticee through their email dated July 6, 2019. One more person named Mr. Ratan Pandey complained on SCORES wherein he provided call data records exchanged between complainant and executives of the Noticee. In view thereof, it was observed that executive of the Noticee without any basis, provided assurance of guaranteed returns in the market. Executive was providing assurance of committed profit of ₹ 5,50,000 and the service charges for the same would be of ₹ 1,00,000 to ₹ 1,50,000. Thus, Noticee and its Proprietor Mr. Mukesh Vishvakarma failed in their responsibility to act in fiduciary capacity to their clients which is entrusted upon them under Regulation 15(1) of IA Regulations. Further, the Noticee by giving assured profit /committed profits/returns lured the client and gave false hope and thus acted fraudulently and dishonestly on the clients. Thus, the Noticee violated Regulation 15(1) of the IA Regulations, clauses 1 and 2 of the Code of Conduct for the IA provided in the Third Schedule read with Regulation 15(9) of the IA Regulations and Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act.

d. Threatening the complainants to withdraw the complaint on SCORES failing which services shall not be provided

It was observed that the Noticee instead of resolving the complaints of the client, stopped providing services to the client and was forcing the client to withdraw the complaint from SCORES. One Mr. Shakeel Ahmed filed a complaint on SCORES and along with provided call data records exchanged between the complainant and executive of the Noticee. From the conversation it was observed that the client had subscribed to one of the services of the Noticee and had a complaint with regard to services. Instead of resolving client's grievance, the Noticee stopped providing services for which it charged fees from client. Thus, the Noticee violated Regulation 21 of the IA Regulations.

e. Misrepresentation to clients

It was observed that the Noticee had provided wrong information to his clients and misrepresented in order to sell his services to his clients. One Complainant named Mr. Manish Vyas submitted various call records exchanged with Noticee's representative. From the call records, it was observed that the executive of the Noticee provided wrong information to the client. The executive of Noticee had provided wrong information to client. Striker Stock Research proprietor Mr. Mukesh Vishvakarma is the sole proprietor, instead of providing right information to client executive had provided details of some other person thereby misleading client. Another complainant Mr. Piyush Patel also submitted call records exchanged with the Noticee's representative. From the call records, it was observed that the representatives of Noticee provided misinformation to client by stating that there are Board of Directors of Striker Stock Research, whereas, it is a proprietary firm and the Proprietor is Mr. Mukesh Vishvakarma. A person named Mr. Raman Kumar also filed a complaint along with call records exchanged with Noticee's representative which revealed that the representatives of IA provided misinformation to its clients. The Noticee was observed to be providing wrong information to the clients and misrepresented in order to sell his services to client. Thus, the Noticee violated clauses 1 and 2 of the Code of Conduct for IA as specified in the Third Schedule of the IA Regulations read with Regulation 15(9) of the IA Regulations and Regulation 3 (a), (b), (c), (d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of the SEBI Act.

f. Noticee received fees from the clients before starting of services

It was observed that Noticee was collecting fees from its clients before start of its service. There is no provision in the IA Regulation restricting taking advance payment for the services and that the amended regulation provides for taking advance payment within certain period. Further, there are no investor complaints with respect to above. Thus, the violation of Clause 1 and 6 of the Code of Conduct for IA as specified in the Third Schedule of the IA Regulations read with Regulation 15(9) of the IA Regulations does not stand established.

4. In view of the above, the Enquiry Report observed that the Noticee has violated Regulation 15(1), Regulation 17(a), (c), (d), (e), Regulation 21 and clauses 1, 2, 6 of the Code of Conduct as specified in the Third Schedule read with Regulation 15(9) of the IA Regulations; and Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of the SEBI Act, and made the following recommendation:

“In view of the same, in terms of Regulation 26 of SEBI (Intermediaries) Regulations, 2008 it is recommended that the certificate of Registration no. INA000008516 of M/s Striker Stock Research (Prop. Mukesh Vishvakarma) be suspended for a period of three months and cannot take fresh clients for further three months.”

The Show Cause Notice, Personal Hearing and Reply of the Noticee

5. The SCN has been issued to the Noticee under Regulation 27(1) of the Intermediaries Regulations, in respect of enquiry conducted against the Noticee. The SCN was served upon the Noticee through speed post acknowledgement due and through email dated September 09, 2022. Noticee filed a reply dated September 30, 2022 to the SCN. Subsequently, the Noticee was granted an opportunity of personal hearing on November 10, 2022. The authorized representative appearing on behalf of the Noticee was heard on the scheduled day via videoconferencing and sought two days' time to file additional submissions. The Noticee then filed additional submissions on November 11, 2022.
6. The Noticee, vide replies dated September 30, 2022 and November 11, 2022 has, *inter alia*, made the following submissions:
 - a. Regarding selling products meant for high risk bearing clients to medium risk bearing clients, Noticee stated that *he has always acted in the best interest of the clients while selling products/ services to them and has sold the high risk*

products to the clients on their specific request of which records has been shared with the SEBI and in few cases the request had been made over the call of which there is no record available since there was no any such mandatory requirement earlier in the regulations to maintain said records. Noticee further stated that all his clients were made aware of the products which is being sold to them and risk involved in that product through the Welcome Mail, records of which has been earlier shared with SEBI.

- b. Regarding charging unfair and unreasonable amount of fees from clients, Noticee stated that prior to 2021, there was no limit or restriction or cap on quantum of fees to be charged from clients and post April 1, 2021, and when such requirement has been made applicable, he has duly complied with the said requirements. Noticee further stated that he acted in the fiduciary capacity towards his clients since clients were disclosed regarding the fees charged and no hidden fees have been charged, further, clients have paid fees with their consent and were not forced to pay in any manner.*
- c. Regarding promising assured/ guaranteed unrealistic returns to the clients, Noticee stated that he has always disclosed his clients via various mediums that stock market has inherent market risk and he do not provide any profit guaranteed services. Noticee further stated that the email id from which the mail was sent to the clients didn't belong to him and thus not at fault and not liable for that email. Noticee further stated that he has always informed his clients regarding their official communication channel, despite that the client had fallen for a fake email id for which Noticee should not be held liable.*
- d. Regarding threatening the complainants to withdraw the complaint on SCORES failing which services shall not be provided, Noticee stated that he has a proper adequate procedure for expeditiously grievance redressal and has resolved all the grievance of clients promptly with proper client satisfaction till date which is evident from SCORES Portal.*
- e. Regarding misrepresentation to clients, Noticee stated that he was unaware that the said clients were misguided and as soon as he became aware, he took the corrective action and expelled the said employee and has refunded the clients their service amount. Noticee further stated that he being a prudent IA doesn't accept fees from clients wherein they are being misguided.*

- f. Noticee submitted that *the allegations made by SEBI are not fully correct as they have not taken into consideration the material records and that there might be some instances wherein SEBI might have observed non-compliances, but if they look into the Noticee's contention and consideration, it is very clear that he has complied with the SEBI regulations in the true letter and spirit of the law.*
- g. Noticee further submitted that *suspension of his registration for a period of three months would severely impact him financially and that no proceedings may be initiated against him.*

Consideration of submissions and findings

- 7. I have gone through the SCN, the Enquiry Report, replies of the Noticee and its submissions made before me during the hearing. I note that the allegation against the Noticee is that the Noticee has:
 - a. sold products meant for high risk bearing clients to medium risk bearing clients;
 - b. charged unfair and unreasonable amount of fees from clients;
 - c. promised assured/ guaranteed unrealistic returns to his clients;
 - d. threatened the complainants to withdraw the complaint on SCORES failing which services shall not be provided; and
 - e. misrepresented to clients.
- 8. The aforesaid activities of the Noticee were allegedly in violation of Regulation 15(1), Regulation 17(a), (c), (d), (e), Regulation 21 and clauses 1, 2, 6 of the Code of Conduct as specified in the Third Schedule read with Regulation 15(9) of the IA Regulations; and Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations read with section 12A(a), (b) and (c) of the SEBI Act.
- 9. The relevant extracts of the provisions of law allegedly violated by the Noticee are mentioned as under:

Securities and Exchange Board of India (Investment Advisers) Regulations, 2013

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.*

15(9) *An investment adviser shall abide by Code of Conduct as specified in Third Schedule.*

17 *Investment adviser shall ensure that,-*

- (a) All investments on which investment advice is provided is appropriate to the risk profile of the client;*
- (c) It understands the nature and risks of products or assets selected for clients;*
- (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 clients 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.*

- (2) An investment adviser shall have adequate procedure for expeditious grievance redressal.*
- (3) Client grievances pertaining to financial products in which investments have been made based on investment advice, shall fall within the purview of the regulator of such financial product.*
- (4) Any dispute between the investment adviser and his client may be resolved through arbitration or through Ombudsman authorized or appointed for the purpose by any regulatory authority, as applicable.*

SCHEDULE III

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.

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 if any. The investment adviser shall ensure that fees charged to the clients is fair and reasonable.

Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003

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.*

Securities and Exchange Board of India Act, 1992

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;

10. I note that the Enquiry Report finds the Noticee in violation of provisions of the IA Regulations, the PFUTP Regulations and the SEBI Act on the following five counts:

- a) Selling products meant for high risk bearing clients to medium risk bearing clients;
- b) Charging unfair and unreasonable amount of fees from clients;
- c) Promising assured/ guaranteed unrealistic returns to his clients;
- d) Threatening the complainants to withdraw the complaint on SCORES failing which services shall not be provided; and
- e) Misrepresenting to clients.

A. Selling products meant for high risk bearing clients to medium risk bearing clients

11. The Enquiry Report had observed that the Noticee sold his products/ services meant for the clients categorized as 'High Risk' to clients having 'Medium Risk' appetite. Out of 26 sample clients, 17 were categorized under Medium Risk category. Out of those 17 clients, Noticee sold high risk category products to 14 clients. The Enquiry Report observed that by selling products/ services falling under its 'High Risk Category' to the clients falling under 'Medium Risk Category', the Noticee has not acted with due skill, care, diligence, honesty and in the best interest of its clients.

12. With regards to the aforesaid allegation, the Enquiry Report has observed the following—

- a. The Noticee offered following products for 'Medium Risk' and 'High Risk' category of clients:

Products for High Risk Bearers	Products for Medium Risk Bearers
Stock option Stock option premium Golden stock option Nifty (future+option) Stock future Stock future premium Positional future Golden stock future MCX MCX premium Golden mcx MCX positional Bullion Bullion premium Golden bullion Energy Energy premium Golden energy Base metal Base metal premium Golden base metal NCDEX NCDEX premium	Stock cash Stock cash premium Btst/stbt Positional cash Golden stock cash

- b. The Enquiry Report observed that out of 26 sample clients, 17 sample clients were categorized under 'Medium Risk' category and out of those 17 clients, Noticee has sold the following 'High Risk' category products to the following 13 clients:

S.N.	Name of the Client	Risk Category of the Client as mentioned in RPF of client	'High Risk' Product/ Services Sold	Amount charged for the service (Rs.)
1	Mahendrakumar Vrajlal Soni	Medium	Stock Cash HNI	49000
			Stock future HNI	151000
			Stock option HNI	200000
			MCX HNI	72000
			Bullion HNI	111000

S.N.	Name of the Client	Risk Category of the Client as mentioned in RPF of client	'High Risk' Product/ Services Sold	Amount charged for the service (Rs.)
			Premium base metal	30000
			Premium energy	30000
			Premium future	80000
			Stock Cash HNI	7777
			MCX	15000
2	Balwant Singh	Medium	Stock cash HNI	55250
			Stock future	49500
			Stock option	24000
			Premium stock option	56500
			BTST/STBT Future	40000
			Positional future	40000
			Stock option HNI	68000
			Stock future HNI	140000
			Stock future HNI	49000
			Stock option HNI	70000
3	Bhimrao Nilkanth Pawar	Medium	Stock option	2000
			Premium stock option	7700
			Stock option	14750
			Stock future	36500
			Positional future	30000
			Premium stock option	40000
			Stock cash HNI	26000
			Stock option HNI	49249
			Stock cash HNI	26000
			Premium stock option	22500
			Positional Future	34000
			Stock option	26000
			Index option	10000
			Stock cash HNI	50000
4	Nigade Mayur Suresh	Medium	Stock Cash HNI	20000
			Stock option	5000
			Premium stock option	24000
			Stock future	10000
			Stock option	12000
			Stock future HNI	100000
			BTST/STBT Future	21000
			Premium MCX	60000
			Index option	21000

S.N.	Name of the Client	Risk Category of the Client as mentioned in RPF of client	'High Risk' Product/ Services Sold	Amount charged for the service (Rs.)
			Stock option HNI	100000
			Stock future	10000
5	Chetan Namdeo Pagare	Medium	Index option	12100
			Premium stock option	20200
			Index future	5100
			Stock future	23675
			Positional future	32100
			BTST/STBT Future	42490
			Premium future	140000
			Stock option HNI	100000
			Positional future	21500
6	Prasana Shrinivasrao Deshpande	Medium	Stock cash HNI	60000
			Stock future HNI	50000
			Stock option HNI	50000
			Index option	50000
			Premium future	50000
			Premium stock option	26500
			Index future	10000
			Energy HNI	15000
			Base metal HNI	10000
			MCX HNI	151500
7	A.L.Y. Subrahmanyam	Medium	Stock cash HNI	20000
			Stock option HNI	11111
			Stock option	10000
			Premium Stock option	10000
			Index option	25000
			Stock option HNI	75000
			Stock cash HNI	65000
			Premium Stock option	30000
			Stock cash HNI	33600
			Premium Stock option	11800
			Premium future	59000
			MCX	35400
8	Rakesh Kumar	Medium	Stock cash HNI	20000
			Stock cash HNI	90000
			Stock option HNI	78000
			Bullion HNI	100000
			Energy HNI	85000

S.N.	Name of the Client	Risk Category of the Client as mentioned in RPF of client	'High Risk' Product/ Services Sold	Amount charged for the service (Rs.)
			MCX	55000
9	Piyush Vallabhbbhai Dadhaniya	Medium	Stocks option	13500
			Premium stock option	7000
			Stock option HNI	100000
			Stock cash HNI	35000
			Premium future	51400
			Stock future	40000
			Positional Future	78625
			Stock future HNI	235000
			Premium future	77500
10	Ashish Siddharth Kamble	Medium	Stock cash HNI	20000
			Stock cash HNI	14500
			Stock cash HNI	14500
			Stock cash HNI	15400
			Stock cash HNI	78800
			Index option	31200
			Stock cash HNI	65000
			Premium stock option	29500
			MCX	25000
			Premium MCX	32400
11	Atulkumar Ramanlal Jani	Medium	Stock cash HNI	46200
			Stock cash HNI	10000
			Stock cash HNI	9000
			Premium stock option	25000
			Index option	5000
			Stock cash HNI	15000
			Index option	3000
			Premium future	42650
			Premium stock option	4500
			Premium stock option	10000
			Positional future	15000
12	Manish Vyas	Medium	Stock cash HNI	88000
13	Shivam Gupta	Medium	Stock cash HNI	10000
			Stock cash HNI	10000
			Stock cash HNI	50250

- c. That the products/ services namely, Stock Future, Positional future, MCX, etc. have been categorized as products suitable for 'High Risk' bearing clients, however, the same were sold to 'Medium Risk' bearing clients. Further, from the risk profile form of the aforesaid clients it is observed that despite these clients have been categorized as 'Medium Risk' by the Noticee itself, the Noticee has sold products meant for 'High Risk' bearing clients to the 'Medium Risk' bearing clients.
13. The Noticee, vide replies dated September 30, 2022 and November 11, 2022, has submitted that he has always acted in the best interest of the clients while selling products/ services to them and has sold the high risk products to the clients on their specific request of which records has been shared with the SEBI and in few cases the request had been made over the call of which there is no record available since there was no any such mandatory requirement earlier in the regulations to maintain said records. Noticee further submitted that all his clients were made aware of the products which is being sold to them and risk involved in that product through the Welcome Mail.
14. I note that in terms of Regulation 15(1) of the IA Regulations, there is an obligation on an IA to act in a fiduciary capacity towards its clients and is mandated to disclose all conflicts of interest as and when they arise. Regulation 16 of the IA Regulations obligates an IA toward his clients to obtain such information from them as is necessary for the purpose of investment advice. Such information may include investment objectives, income details, risk tolerance, liability, etc. and on the basis of such information, assess the risk a client is willing to take and communicate such assessment to his client. An IA is not expected to provide advice/ products to his clients merely on the basis of consent without carrying necessary assessment.
15. Further, in terms of Regulation 17 of the IA Regulations, the investment advice provided by an IA must be appropriate to the risk profile of the client and must document the process for selecting investments based on client's investment objectives and financial situation. Further, an IA must understand the nature and

risks of products or assets selected for the client and should have a reasonable basis for believing that a recommendation or transaction entered into – (i) meets the clients' investment objectives; (ii) is such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance; and (iii) is such that the client has the necessary experience and knowledge to understand the risks involved in the transaction. Moreover, any recommendation or advice provided by an IA on a particular complex financial product is expected to be 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.

16. Furthermore, in terms of the Third Schedule of the IA Regulations, an IA is mandated to act honestly, fairly and in the best interest of its clients and in the integrity of the market, and is also required to act with due skill, care and diligence in the best interest of its clients. However, it is observed that the Noticee sold his products/ services meant for the clients categorized as 'High Risk' to clients having 'Medium Risk' appetite and has therefore, not acted with due care and diligence or in the best interest of the its clients.
17. An IA is expected to follow the aforesaid provisions of the IA Regulations in letter and spirit. One of the primary roles of an IA is to ensure that the investment advice provided to the clients is appropriate to their risk profiles. Further, an IA is expected to understand and consider the nature and risks of products or assets, and also have a reasonable basis for believing that a recommendation provided meets the investment objectives. The contention of the Noticee that all his clients were made aware of the products which is being sold to them and the risk involved in that product through the "Welcome Mail" is a feeble attempt in trying to justify that the clients were made aware of the risk when high risk products were sold to them and does not absolve the Noticee from the obligation to provide investment advice on the basis of risk profile of the clients. Identification of the risk appetite/ tolerance of the client is essential before the IA renders any advice to the client. The submission of the Noticee that the high risk products were provided to clients because they asked for the same is untenable. Merely on basis of consent of the

clients, IA cannot sell products which does not match the risk bearing capacity of the clients.

18. In view of the above, I agree with the findings of the DA that the Noticee has sold products/ services falling under its 'High Risk Category' to the clients falling under 'Medium Risk Category' and has not acted with due skill, care, diligence, honesty and in the best interest of its clients while selling products/ services to its clients. In view of the same, I agree with the observations of the Enquiry Report that the Noticee has violated Regulation 17(a), (c), (d) and (e), Regulation 15(1) and clauses 1, 2 of the Code of Conduct as specified in the Third Schedule read with Regulation 15(9) of IA Regulations.

B. Charging unfair and unreasonable amount of fees from clients

19. The Enquiry Report observed that the Noticee had charged fees which were more than annual income and/ or proposed investment of clients in their risk profiling form. Upon examination of 26 clients, it was observed that for 21 clients, Noticee had charged fees which were more than annual income and/ or proposed investment of client. Further, out of the 26 sample clients, it was observed that for 17 clients, fees received from the client was more than the annual income of the clients, as disclosed in the respective risk profile form of the clients. Considering the fees charged to the client vis-à-vis the annual income and / or proposed investment by the client, the Enquiry Report observed that fair and reasonable fees was not charged by the Noticee.
20. With regard to the aforesaid allegation on charging unfair and unreasonable amount of fees from clients, the Enquiry Report has observed the following–
- a. The Noticee had charged fees more than the proposed investment disclosed by clients in their risk profiling form. The proposed investment as submitted by clients and the fees received from them is tabulated below:

S.N.	Name of client	Fees received from client (Rs.)	Proposed investment by client as per RF form provided by Noticee (Rs.)
1	Rahul Desai	9,22,555/-	below 1 lakh
2	Mahendrakumar Vrajlal Soni	7,96,777/-	below 1 lakh
3	Gaurav	7,15,300/-	2-5 lakh
4	Balwant Singh	6,87,750/-	1-2 lakh
5	Nithyanandam Vivekanand	8,12,135/-	below 1 lakh
6	Amit	5,58,111/-	below 1 lakh
7	Bhimrao Nilkanth Pawar	5,44,167/-	1-2 lakh
8	Nigade Mayur Suresh	5,37,000/-	1-2 lakh
9	Chetan Namdeo Pagare	5,34,715/-	1-2 lakh
10	Prasana Shrinivasrao Deshpande	5,18,500/-	below 1 lakh
11	ALY. Subrahmanyam	5,12,911/-	below 1 lakh
12	Raman Kumar	4,67,825/-	2-5 lakh
13	Rakesh Kumar	4,66,350/-	below 1 lakh
14	Piyush Vallabhbbhai Dadhaniya	7,76,275/-	1-2 lakh
15	Ashish Siddharth Kamble	4,41,900/-	below 1 lakh
16	Rajeev Shekhar	4,35,674/-	2-5 lakh
17	Atulkumar Ramanlal Jani	4,08,550/-	below 1 lakh
18	Dharmveer Sisodia	3,98,690/-	more than 5 lakh
19	Chetan Suresh Chaudhari	3,90,356/-	2-5 lakh
20	Raj Kumar	3,57,000/-	1-2 lakh
21	Manish Vyas	1,21,000/-	below 1 lakh

- b. That examination of 26 clients was done, out of those 26 clients it was observed that for 21 clients, Noticee had charged fees which were more than annual income and/ or proposed investment of client, and that out of the 26 sample clients, it was observed that for 17 clients, fees received from the client was more than the annual income of the clients, as disclosed in the respective risk profile form of the clients. The list of the 17 clients is as follows–

SN.	Name of client	Fees received from clients by Noticee as provided in client master (Rs.)	Annual income as per RP Form/ KYC (Rs.)
1	Rahul Desai	9,22,555/-	2-5 lakh
2	Mahendrakumar Vrajlal Soni	7,96,777/-	below 2 lakh
3	Nithyanandam Vivekanand	8,12,135/-	2-5 lakh
4	Amit	5,58,111/-	2-5 lakh
5	Nigade Mayur Suresh	5,37,000/-	less than one lakh as per kyc

6	Chetan Namdeo Pagare	5,34,715/-	2-5 lakh
7	Prasana Shrinivasrao Deshpande	5,18,500/-	2-5 lakh
8	ALY. Subrahmanyam	5,12,911/-	2-5 lakh
9	Raman Kumar	4,67,825/-	2-5 lakh
10	Rakesh Kumar	4,66,350/-	2-5 lakh
11	Piyush Vallabhnbhai Dadhaniya	7,76,275/-	less than one lakh as per kyc
12	Ashish Siddharth Kamble	4,41,900/-	2-5 lakh
13	Rajeev Shekhar	4,35,674/-	less than one lakh as per kyc
14	Atulkumar Ramanlal Jani	4,08,550/-	2-5 lakh
15	Dharmveer Sisodia	3,98,690/-	less than one lakh as per kyc
16	Chetan Suresh Chaudhari	3,90,356/-	less than one lakh as per kyc
17	Raj Kumar	3,57,000/-	2-5 lakh

21. In this regard, the Noticee has submitted that initially there was no limit or restriction or cap on quantum of fees to be charged from clients and post April 01, 2021, when such requirement was made applicable, he has duly complied with the said requirements. Noticee further stated that he acted in the fiduciary capacity towards his clients since clients were disclosed regarding the fees charged and no hidden fees have been charged, further, clients have paid fees with their consent and were not forced to pay in any manner.
22. With regard to the aforesaid submissions, as stated in the aforesaid paras, Regulation 15(1) of the IA Regulations obligates an IA to act in a fiduciary capacity towards its clients and is mandated to disclose all conflicts of interest as and when they arise, and that in terms of the Third Schedule of the IA Regulations, an IA is mandated to act honestly, fairly and in the best interest of its clients and in the integrity of the market, and, *inter alia*, also required to act with due skill, care and diligence in the best interest of its clients. Further, Clause 6 of the Third Schedule mandates an IA to ensure that fees charged to the clients is fair and reasonable.
23. The submission of Noticee that he acted in the fiduciary capacity towards his clients since it was disclosed to the clients regarding the fees charged and no hidden fees have been charged, does not hold in view of the mandatory requirements stipulated in Regulations 16 and 17 of the IA Regulations which

requires an IA to carry out proper risk profiling and assess suitability of the clients before providing investment advice. Further, the submission of the Noticee that clients have paid fees with their consent and were not forced to pay in any manner, is untenable, as I note that the Noticee had also misrepresented to the clients and had also promised high, assured /unrealistic returns for the investments made by the clients and in the process allegedly luring them to make larger investments, as discussed in detail in the subsequent paras. Therefore, the claim that clients were not forced is a tenuous argument as it has been observed in the Enquiry Report that clients were lured by the Noticees with assured and unrealistic returns. Further, the Enquiry Report also observed that out of the 26 sample clients, the fees received from the 17 client was more than the annual income of the clients and this clearly indicates that the Noticee did not pay any attention to client's risk profiles and suitability and has failed to act with due skill, care, diligence and honesty while charging advisory fees from the clients.

24. Noticee has also submitted that prior to 2021, there was no limit or restriction or cap on quantum of fees to be charged from the clients, and after such requirement was made applicable, he has duly complied with the said requirements. In this regard, I note that even prior to the amendment, there was a requirement that the IA shall ensure that fees charged to the clients is fair and reasonable. Clause 6 of the Third Schedule mandates an IA to ensure that fees charged to the clients is fair and reasonable. I agree with the observations of the DA that the test of "reasonableness" of the fee, does not mean, the same has been "agreed to and paid" by the client just because the client has signed on the payment receipt and that if such a standard is adopted, the reasonableness of the fee cannot be tested if the client has agreed to and paid the same. That while determining the reasonableness of the fee, the same has to be seen from the perspective of various factors such as proportionality, uniformity, etc. Accordingly, I agree with the observations of the DA that the charging of fees which is more than the annual income of the client cannot be considered as fair and reasonable.
25. Furthermore, the Noticee has submitted that the quantum of fees to be charged, as specified by SEBI, was applicable from April 01, 2021 and post that, the Noticee

has duly complied with the said rule. However, I note that the Noticee has not provided any documentary evidence to support the same and show that he has been strictly complying with the same post April 01, 2021. Hence, they appear to be mere submissions with no proof to support or confirm such claim and is thus, untenable.

26. In view of the above, I agree with the observations of the Enquiry Report that the Noticee has violated Regulation 15(1) and clauses 1, 2 and 6 of the Code of Conduct as specified in the Third Schedule read with Regulation 15(9) of the IA Regulations.

C. Promising assured/ guaranteed unrealistic returns to his clients

27. The Enquiry Report has observed that the Noticee promised high, assured and unrealistic returns for the investments made by the clients and in the process allegedly luring them to make larger investments. The high returns were promised to the clients based on the advice/ tips/ calls given by the Noticee. Further, the Enquiry Report observed that the Noticee by giving assured profit /committed profits/returns lured the client and gave false hope and thus acted fraudulently and dishonestly on the clients.

28. With regards to the aforesaid allegation on promising assured/guaranteed unrealistic returns to clients, the Enquiry Report has observed the following–

- a. That the client Mr. Amit Kumar vide his complaint in SCORES submitted copies of various emails sent by Noticee. The extracts of said email is mentioned below:

Date of email	Content of email
28-09-2018	<i>“As per telephonic conversation with our executive we are send our service proposal for holding plan, we are planning for holding the using amount will be 85000 and we will get the profit 210000 till 15 to 20 October 2018”</i>

From the above, it was observed that the client was assured returns by mentioning assured profit within specified period of time.

- b. The client Mr. Manish Vyas vide his complaint in SCORES submitted email received from executive of Noticee and call data records exchanged between complainant and executives of Noticee. From the extracts of email and some of the recordings, the following details were observed in the ER:

Date of email	Content of email
06-07-2019	<p><i>Dear Sir,</i> <i>We are happy that you joined our services Your current service plan is customized services. The price of your Service is INR 1 Lac (Excluding GST). Your Total service amount Is INR 1,18,000/- (Including GST) Previously you have paid INR 88,000/- for the services. The Remaining amount Is INR 30,000/- . According to the The conversation of You and Your executive (Rajveer) you will get the profit Upto 3.5 lac. Until the commitment of your executive Is not Fulfilled You don't have to pay any additional amount.</i></p> <p><i>Service Charges : 1,00,000/- (Excluding GST)</i> <i>Charges Paid : 88,000/-</i> <i>Remaining Charges : 30,000/-</i></p> <p><i>Executive Name : Rajveer</i> <i>Researcher Name : Vishwas Sharma</i> <i>Research And Branch Head : Kunal Verma (Contact No : 9993839806)</i> <i>Striker Stock Research</i> <i>INA000008516</i></p>

Call recordings:

Recording	Duration	Details communicated
Call-1	15:30 to 16:23	<p>Client: <i>Abhi jaisa mera remaining amount hai jo payment ke liye aap bol rahe ho, after that vo jo hai recovery jo aapne 350000 ka commitment kiya hai, vo mujhe kahi na kahi written me mil sakta hai kya, aap muje mail me yak ahi pe written me de sakte hai kya?</i></p> <p>Executive: <i>Bilkul de dunga sir, mai bilkul de dunga. Agar mai itna confidence ke saath itna bol</i></p>

Recording	Duration	Details communicated
		<p><i>raha hoon to usko mai written me bhi de dunga. Koi issue nahi hai.</i></p> <p>Client: <i>ye mai payment karne ke baad mujhe kitne din ke andar profit milna shuru ho jaayega.</i></p> <p>Executive: <i>Sir, ye payment aap agar aaj karenge na to ye abhi activate ho jaayega aur abhi second half me market me 1:30 ke baad sure shot call hogi to mai aaj bhi provide kar dunga aur usme Rs. 10000/- se 12000/- ka return aajayega otherwise aapka working kal se start ho jayega.</i></p>

From the above, it is observed that an executive of the Noticee assured profit of Rs. 350,000/- through telephonic conversation and the same commitment was given by the executive of the Noticee through email dated July 06, 2019.

- c. The complaint of client Mr. Ratan Pandey was received in SCORES wherein the complainant has provided call data records exchanged between complainant and executives of the Noticee. From the extracts of some of the recordings, the following details of communication were observed:

Recording	Duration	Details communicated
Call-1	02:17 to 02:36	Executive: <i>volume basis call me investment ki security ke saath zero % risk ke saath kaam hota hai jaha par aapka lagaya gaya capital bhi secure hota hai aur us par aap sure guaranteed return market se nikalte ho. Jisme minimum 35 minutes ke andar andar market se profit book karte hai.</i>
	06:00 to 06:15	Executive: <i>aapko guaranteed return ke liye kaam aapka hota hai. Isme jo aapka working rahega usme committed return ke base par kaam hoga, zero % risk rahega aur bit ke saatha isme aapka kaam rahega</i>
	07:24 to 07:45	Executive: <i>Isme aap maan lijiye committed base profit raha Rs. 550000/- something ka us behalf pe aapka around Rs. 100000/- se Rs. 150000/- ka service amount rehti hai jo aapko after getting the return pay karni rehti hai. Yaani guaranteed profit Rs. 550000/- ka rahega aur uske behalf par Rs. 100000/- se Rs. 150000/- ka fees rahega.</i>
	11:05 to 11:20	Executive: <i>24 calls par aapka kaam hoga poore month me. Aur 24 calls par aapka return rahega approximate 5.75 lakh ka benefit isme rahega. Jo ki committed base profit.</i>

Recording	Duration	Details communicated
	11:30 to 12:20	Executive: <i>maan lijiye Rs. 50000/- se aapne start kiye aur age Rs. 100000/- ka kar liya. Compound return ke basis pe kaam hoga aaj aap Rs. 50000/- lagakar Rs. 8000/- kama rahe ho to next day kaam aapka Rs. 58000/- se hoga use aap kam se kam 9-10 hazar kamaoge. Yaani aage kaam karne ke liye paise kitne hogaye Rs. 65000/- to 70000/- isme agar aapne Rs50000/- aur add kar diya to hogaya Rs. 130000/- ab Rs. 130000/- se kaam karna shuru karoge to return aapka kam se kam Rs. 12000/- se 15000/- rahega. Aur din ki 2 call milegi iska matlab Rs. 25000/- se 30000/- per day profit rahega intra day aapka.</i>

- d. From the above, the DA observed that the client of the Noticee was given assurance of committed profit of Rs. 550,000/- and the service charges for the same was Rs. 100,000/- to Rs. 150,000/-.
29. In this regard, the Noticee has submitted that he has always disclosed to his clients via various mediums that stock market has inherent market risk and he does not provide any profit guaranteed services. Noticee further stated that the email id from which the mail was sent to the clients didn't belong to him and thus he was not at fault and not liable for that email. Noticee also stated that he has always informed his clients regarding their official communication channel, despite that the client had fallen for a fake email id for which Noticee should not be held liable.
30. I note that Regulation 15(1) of the IA Regulations, *inter alia*, specifies that an IA shall act in a fiduciary capacity towards his clients. Further, clauses 1 and 2 of the Code of Conduct for the IAs as specified in the Third Schedule of the IA Regulations mandates an IA to act honestly, fairly, diligently and in the best interest of his client. With regard to the allegation of promising assured/ guaranteed returns, the Enquiry Report has relied on the email transcripts and telephonic communication between clients and the employees of Noticee. On perusal of the email transcripts and telephonic communication, as detailed above, it is evident that assured/ guaranteed unrealistic returns were being promised to the clients. Noticee has however denied the allegation stating that that the email id from which

the mail was sent to the clients did not belong to him and that he has always informed his clients regarding their official communication channel, despite that the client had fallen for a fake email id for which Noticee should not be held liable. In this regard, I note that the Noticee has not disputed that the complainants Mr. Amit Kumar, Mr. Manish Vyas and Mr. Ratan Pandey were his clients. Further, Noticee has not disputed the contents of the email and transcripts of call data records relied upon by the DA and made available to the Noticee. It is observed from the Enquiry Report that the alleged emails promising assured returns were not sent to the clients by Noticees' official email ids and were being sent to the clients by some unauthorized personal email id of an employee. Noticee has also not denied that the persons who had sent the emails to the complainants were his employees. Further, there is no dispute that the said clients had thereafter, deposited the fees into the bank account of the Noticee. Hence, it is not the case where the clients have been deceived by these "fake emails" and money has been transferred to some other accounts not belonging to the Noticee. In view of the above facts and circumstances, I find that any assurance of profit/ guaranteed returns given by an employee of the Noticee shall be construed as investment advice given by the Noticee, especially since the Noticee has accepted the deposit made by the client thereafter. In view of the same, the contention of the Noticee that his client had fallen for a fake email id is untenable. Further, the fact that Noticee has refunded money of some of his clients who were given assurance of profit/ guaranteed returns does not absolve Noticee from his obligation towards his client to act in fiduciary capacity to their clients which is entrusted upon them under Regulation 15 (1) of the IA Regulations, and this in fact confirms that the Noticee was the beneficiary of the payments made by the clients on the basis of the "fake emails", as claimed by the Noticee.

31. In view of the above, I agree with the observations in the Enquiry Report that the Noticee has not acted honestly, fairly, diligently and in the best interests of its clients and has thus failed to abide by clauses 1 and 2 of the Code of Conduct for the IAs as specified in the Third Schedule of the IA Regulations read with Regulation 15(9) of the IA Regulations. Further, the Noticee by promising assured profit/ committed profits/ returns, lured the clients into availing services from the

Noticee and to make larger investments and this clearly shows that the Noticee acted fraudulently and dishonestly towards his clients. I find that the deceptive conduct of the Noticees, as discussed above, has induced clients to deal in securities which also constitutes a 'fraud' under the PFUTP Regulations, 2003. Hence, I agree with the observations of the Enquiry Report that the Noticee has violated Regulation 3 (a), (b), (c), (d) of the PFUTP Regulations read with Section 12A(a), (b) and(c) of the SEBI Act.

D. Threatening the complainants to withdraw the complaint on SCORES failing which services shall not be provided

32. The Enquiry Report has observed that the Noticee instead of resolving the complaints stopped providing services to the client and forced complainant to withdraw the complaint from SCORES.

33. With regards to the aforesaid allegation, the Enquiry Report has observed the following–

- a. That the client Mr. Shakeel Ahmed had filed the complaint on SCORES and had provided call data records exchanged between the complainant and executive of Noticee. The following details were communicated by the Noticee:

Recording	Duration	Details communicated
Call-1	00:00 to 00:19	Client: <i>aapne Friday ke din bataye they ki call denge karke bole they.</i> Executive: <i>aap complaint waapis lenge to hi mai call de paungi otherwise mai call nahi de paungi sir aapko. Clear bol rahi hoon thik hai. Complaint aap waapis le lijiye call mil jayegi aapko koi dikkat nahi hai</i>

That the client had subscribed to the one of the services of the Noticee and had made a SCORES complaint with regard to the services given by the Noticee. However, instead of resolving client's grievance, it was alleged that Noticee stopped providing services for which it has charged fees from the client.

- b. That instead of resolving investor complaints, Noticee had stopped providing services to client and advised the client to withdraw the complaint.
34. In this regard, the Noticee has submitted that he has a proper adequate procedure for expeditious grievance redressal and has resolved all the grievance of clients promptly with proper client satisfaction till date which is evident from the SEBI SCORES Portal.
35. With regard to the aforesaid submissions of the Noticee, I note that the Noticee has not disputed the contents of the call recorded conversations as detailed in the Enquiry Report and in the table above with the client Mr. Shakeel Ahmed. On a perusal of the said text, it is noted that the executive of the Noticee is attaching a condition of withdrawing the complaint filed on SCORES in return for making the further provision of services. Regulation 21 of the IA Regulations, *inter alia*, obligates an IA to redress client's grievances promptly and mandates an IA to have adequate procedure for expeditious grievance redressal. I note that instead of promptly addressing the client's grievance, the Noticee was threatening the client to withdraw complaints made against him. Refusing to provide investment advisory services to a client on account of not withdrawing complaint filed on SCORES is completely against the interest of the client and in complete violation of the Code of Conduct under the IA Regulations that the Noticee is required and mandated to follow as a registered intermediary. Such arm twisting behavior is not acceptable from a SEBI registered intermediary who is *inter alia* required to redress the grievance of clients as mandated under the IA Regulations. In view of the above, I agree with the observations of the Enquiry Report that the Noticee has violated Regulation 21 of the IA Regulations.

E. Misrepresenting to clients

36. The Enquiry Report has observed that the Noticee had provided wrong information and misrepresented to his clients in order to sell his services to client in violation of Clauses 1 and 2 of the Code of Conduct for IA as specified in the Third Schedule

of the IA Regulations read with Regulation 15 (9) of the IA Regulations and Regulation 3 (a), (b), (c), (d) of the PFUTP Regulations read with Section 12A (a), (b) and (c) of the SEBI Act.

37. With regards to the aforesaid allegation, the Enquiry Report has observed the following:

- a. That the complainant Mr. Manish Vyas had submitted various call records exchanged with the Noticee's representative. From the conversation, it was observed that the representatives of Noticee allegedly provided misinformation to clients. Some of the conversation details are mentioned below:

Recording	Duration	Details communicated
Call-2	03:40 to 04:15	Client: <i>aapne agar owner ko nahi mile to iska matlab ye to nahi hai na ki aap owner ko nahi jaanate.</i> Executive: <i>Naam pata hai na sir, Aaryan naam hai unka.</i> Client: <i>Kya naam hai?</i> Executive: <i>Aaryan naam hai unka. Humare company ka jo owner hai unka naam Aaryan hai. Vo yaha par rehte nahi hai isiliye mai aajtak unse nahi mila hoon.</i>

- b. That from the above, the executive of the Noticee had provided wrong information to client since Mr. Mukesh Vishvakarma is the sole proprietor. Instead of providing right information to client, executive had provided details of some other person thereby misleading client.
- c. That the complainant Mr. Piyush Patel had submitted various call records exchanged with Noticee representative. Some of the details are mentioned below:

Recording	Duration	Details communicated
Call-1	00:00 to 00:10	Executive: <i>Aapko Board of Directors ka assistant ka number mil jayega aap unse directly contact kar sakte hain is baar.</i>

	05:00 to 05:20	Executive: <i>Ha Piyush Ji discussion ho gaya aapka? Ye aapke satisfaction ke liye maine approval liya tha. Baaki Board of Directors se kisika conversation hota nahi hai.</i>
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- d. That Striker Stock Research is a proprietary firm and not a limited company and the Proprietor is Mr. Mukesh Vishvakarma and thus does not have any board of directors. The executive is alleged to have given wrong information to the client.
- e. That the complainant Mr. Raman Kumar had submitted various call records exchanged with Noticee's representative. Some of the details are mentioned below:

Recording	Duration	Details communicated
Call-1	01:23 to 02:00	Executive: <i>Humara jo Dmat hota hai vo dabba demat hota hai jisme phir dollars me trading hoti hai. Indian currency me trade nahi hota hai. Dollars me trading hoti hai isiliye is amount ko convert karana padta hai Indian currency me is amount ko vaapis aapke account me transfer karne ke liye aur is account ka naam hota hai escrow account jo freezed account uska poora naam hai. Escrow freeze account se amount transfer kiya jata hai taaki aapka amount dollar se convert hoke aapke account ko transfer ho sake. Kyunki aap domestic investor hai hum aapke account me dollar me paisa transfer nahi kar sakte.</i>
	06:00 to 06:40	Client: <i>Sir mere paas iska koi message nahi aayega ya phir ye sab phone call par hi hoga.?</i> Executive: <i>Sir ye dabba offline working hota hai iska message nahi aata hai. Sir ek hota hai online trading jisme aap khud order daalte ho dusra hota hai offline trading jisme aap broker ko bolte ho phone kar ke aur tisra hota hai dabba trading isme dmat account nahi hota hai saara likaha padi jo trade hota hai vo register pe hoti hai. Yaha par broker humare jo hai vo register par entry mention karte hai kyunki yaha par heavy limit par working hoti hai.</i>
Call-2	01:05 to 02:00	Client: <i>sir ye jo profit hai mera freze account me dal raha hai sir?</i> Executive: <i>Arrey profit abhi dal nahi raha hai 15 din to wait kijiye. 15 days pe payout hota hai. Aapko bataya hai na Mr. Raman sir maini.</i> Client: <i>Ji sir bilkul.</i>

	<p>Executive: 15 din hogaye kya abhi trading karte hue?</p> <p>Client: Sir aap keh rahe they na mere freze account me aayenge?</p> <p>Executive: Profit aaya hai par jitana bhi banega ikhatta milega. Aur uska naam hai escrow account aur payout ki file banegi tab transfer hoga na. Yah aap saare clients ka ek saath banta hai. Aapka paisa kitna bana hai saare clients ka 15 din ka hisaab kitaab banane ke baad payout file banta hai. Phir vo amount escrow account me transfer hota hai phir vo aapke saving account me jata hai.</p>
03:40 to 04:40	<p>Executive: ism eek security code generate kar rahe hain taaki next position se kisi bhi tarah ke market me position leak naa ho. Security code ka payment customer ko karna padega aur vo jo loss hua hai vo hum bear karenge. Ye security code ka amount pay karna padega aapko. Aapka profit ban chukka hai aap ye amount pay kar dijiye security code ka phatafat mai aapko iska 50% ka discount bhi de raha hoon. Ye discount sirf naye clients ke liye hai. 31340 clients new bane hai is month me jinko hum ye benefit de rahe hai. Sir fayada ye hoga security code generate karne se aapka paisa jo safe hai jo Rs.175000/- ka profit aaya hai vo aapke escrow accout me 15 days baad transfer ho jaayega.</p>
05:15 to 06:26	<p>Client: Sir profit to book hojayega par mere paas itna amount nahi hai.</p> <p>Executive: Sir meri baat aap samajhiye Rs. 511000/- ka profit book karenge position par. Aap dekh sakte hai Venkeys India stock par.</p> <p>Client: Sir mai dekh sakta hoon par itne paise arrange nahi ho paayenge mere paas mai to 10-20-30 hazar arrange kar sakta hoon at present bas itna hi.</p> <p>Executive: Aap ek kaam kare fatafat 25% transfer kar de mai board members se baat karta hoon. Jo hai jaldi batao Rs. 511000/- ka profit ka sawal hai.</p> <p>Client: Sir mai gaav me hoon abhi jaata hoon jaldi se jaldi karwata hoon. Mere gaav se 8 kms par hai.</p> <p>Executive: 20 minutes me aap Rs. 44500/- kar denge nahi kar payenge to bata dijiye mujhe dusre customer se baat karni hai.</p> <p>Client: sir aap thoda time diya kara karo sir amount ke liye mere paas amount nahi hota sir.</p> <p>Executive: Aapko mai clearly bata chukka hoon abhi aap 30 minutes me aap Rs.44500/- kar sakte hai ya nahi kar sakte hai transfer kara rahe hai ya nahi kara rahe hai nahi to Rs. 511000/- ka profit haat se nikal jayega.</p>

- f. As observed from the above table, the complainant was lured to pay fees to the Noticee. Further, as per client master and invoices provided by Noticee, it was observed that the complainant paid Rs. 4,67,825/- to the Noticee. Further, Noticee had charged client various types of fees like file settlement fees, currency convertible fees, security code generation charges, etc. It was further observed from the conversation that, the executive kept charging amount from client in the name of investment and fees and client kept paying to Noticee thinking Noticee is doing investment on his behalf but Noticee under the garb of providing investment advice received a total of Rs. 4,67,825/-.
38. In this regard, the Noticee has submitted that he was unaware that the said clients were misguided and as soon as he became aware he took the corrective action and expelled the said employee and has refunded the clients their service amount.
39. With regard to the aforesaid submission of the Noticee, I note that the Noticee has not disputed the contents of the call record transcripts as provided in the Enquiry Report. On a perusal of the said text, I note that the representatives of the Noticee provided, *inter alia*, following misinformation to its client:
- a. that the owner of the Noticee is someone named Aaryan;
 - b. that there are board of directors;
 - c. that trading is done in US Dollars through dabba demat;
 - d. that profit is credited into escrow account and then transferred to the client's savings account;
 - e. that a security code is generated and client has to pay the amount generated through the security code.
40. Further, as recorded in the Enquiry Report, from the call recordings submitted by Mr. Raman Kumar, it was observed that Noticee had charged a total of Rs. 4,67,825 from the client in the name of various types of fees like file settlement fees, currency convertible fees, security code generation charges, etc. under the garb of providing investment advice.
41. The Noticee has submitted that he has expelled the concerned employee after he became aware of the same. This argument of the Noticee appears to be an

afterthought in order to delink himself from his employees who were acting on the instructions of the Noticee. This becomes clear from the fact that the money received from the clients were all received in the bank account of the Noticee.

42. Further, the Noticee has not provided any supporting documentary evidence to show that such employee has been expelled. It is also observed from the Enquiry Report that the Noticee has submitted that as per the corrective action taken by the Noticee, he has refunded the clients their service amount. However, from the documents available on record, I note that the Noticee has not refunded the amount as claimed and nor has the Noticee provided any supporting documentary evidence before me to show that he has refunded the same to the client. Therefore, the submission regarding refund of money to the clients and expulsion of the employees appears to be a mere afterthought aimed at showing some corrective action and is thus, untenable.
43. In view of the above, I agree with the observations of the Enquiry Report that by providing false information and misrepresenting to the clients in order to sell his services to client and by not exercising due care, diligence and not acting with honesty and fairness, the Noticee has violated clauses 1 and 2 of the Code of Conduct for the IA as specified in the Third Schedule of the IA Regulations read with Regulation 15 (9) of the IA Regulations. Further, the Enquiry Report has observed that the Noticee has lured the clients to pay fees beyond their capacity and misrepresented to the clients by giving false information and has thus acted in a fraudulent manner. I note that the Noticee has not disputed or denied the same and has only submitted that he has taken corrective steps of refunding, which as noted above, has not been supported by any documentary evidence. As discussed in the aforesaid paras, the Noticee has given false information and misrepresented to its clients to sell his services and has thus lured the clients in a fraudulent manner in availing services from the Noticee. In view of the same, I agree with the observations of the Enquiry Report that the Noticee has violated Regulations 3 (a), (b), (c), (d) of the PFUTP Regulations read with section 12 (a), (b) and (c) of SEBI Act.

44. The Noticee is a registered investment adviser and is required to act in a fiduciary capacity towards its clients and to act with due skill, care and diligence in the best interests of its clients. However, as discussed in the aforesaid paras, here it has been found that the Noticee had sold products meant for high risk bearing clients to medium risk bearing clients, charged unfair and unreasonable amount of fees from clients, promised assured/ guaranteed unrealistic returns to his clients, threatened the complainants to withdraw the complaint on SCORES failing which services shall not be provided and misrepresented to his clients.
45. I note that parallel proceedings under Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) of the SEBI Act, 1992 had been initiated against the Noticee in the matter and vide Order dated February 21, 2023, the Noticee has *inter alia* been restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner whatsoever, for a period of two (2) years from the date of the order and the Noticee has also been imposed a penalty of Rs. 19 lakh under Section 15HA, 15HB and 15EB of the SEBI Act, 1992.
46. I note that the DA in the present proceedings has recommended in the Enquiry Report that the certificate of the Noticee be suspended for a period of three months and the Noticee not take fresh clients for further three months. Vide Notice dated September 08, 2022, the Enquiry Report was provided to the Noticee and the Noticee was called upon to show cause as to why action as recommended by the Designated Authority or any other penalty should not be imposed on him in terms of Regulation 27 of the Intermediaries Regulations. As discussed in the paras above, I note that there have been multiple complaints filed against the Noticee on SCORES and the Noticee has acted in a fraudulent manner by promising assured/guaranteed returns and misrepresenting to his clients to sell his services. I also note that the Noticee has made false claims before me that he has taken corrective steps in refunding to clients, when there is nothing on record of such steps being taken. Further, I note that it is a serious matter that the Noticee, as a registered intermediary, has threatened his clients to withdraw the complaints made on SCORES against him and stalled their services till such time it is

removed. In the given facts and circumstances of the case and the gravity of violations, I find that it is a fit case for increasing the period of suspension recommended by the DA in the Enquiry Report and I find that a suspension of the certificate of registration of the Noticee for a period of two years is warranted in the matter.

Directions

47. In view of the above, I, in exercise of the powers conferred upon me in terms of Section 12(3) read with Section 19 of the SEBI Act, 1992 and Regulation 27(5) of the Intermediaries Regulations, hereby suspend the certificate of registration of the Noticee i.e. Striker Stock Research for a period of two (2) years.
48. This order comes into force with immediate effect.
49. A copy of this order shall be served on the Noticee.

Sd/-

Place: Mumbai

Date: February 23, 2023

**SUJIT PRASAD
EXECUTIVE DIRECTOR
SECURITIES AND EXCHANGE BOARD OF INDIA**