BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/JS/DP/2025-26/31616-31619]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of:

Sr. No.	Name of the Noticee	PAN
1.	Capital Stroke Investment Services Pvt. Ltd.	AAFCC1815M
2.	Mr. Upendra Singh Rajput	CLGPS4925M
3.	Mr. Prashant Singh Baghel	BIKPP1812J
4.	Mr. Kamlesh Dhole	BGTPD3720Q

In the matter of Capital Stroke Investment Services Pvt. Ltd.

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**), conducted an inspection of Capital Stroke Investment Services Pvt. Ltd. (a SEBI registered investment adviser bearing Registration Number INA000001316) (hereinafter referred to as "**Noticee No. 1**") to monitor compliance of Noticee No. 1 with the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**"), Regulations, Circulars and Guidelines framed thereunder. Mr.Upendra Singh Rajput, Mr. Prashant Singh Baghel and Mr. Kamlesh Dhole are the directors of Noticee No. 1 (hereinafter referred to as "**Noticee Nos. 2 to 4**") (Noticee Nos. 1 to 4 are collectively referred to as "**Noticees**"). The period of inspection was from April 01, 2019 to September 22, 2020 (hereinafter referred to as "**Inspection Period**"). The said inspection was conducted

between November 03, 2020 to November 06, 2020. Investor complaints which were received after September 22, 2020 and pending were also taken up for examination in the said inspection.

2. Based on the findings of inspection, SEBI issued an interim order dated August 27, 2021 against the Noticees. On the basis of the reply dated October 15, 2021, SEBI issued a confirmatory order dated June 08, 2022. Subsequently, vide letter dated October 27, 2022, Noticees were advised to furnish certain information to SEBI. Noticee No. 1 submitted the following information vide email dated November 09, 2022 and letter dated November 14, 2022:

    (a) Bank statements of directors as well as six books of accounts of Noticee No.1;
    (b) Client Master;
    (c) Financial Statement, pricing Information, KYC Sample, agreement sample, bank information, client count and fees collected;
    (d) Refund information for 2019 to 2022.

3. On the basis of the aforesaid documents furnished by Noticee No. 1, SEBI conducted an examination in the matter and observed certain non-compliances of SEBI Act, SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**") and SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as "**IA Regulations**").

APPOINTMENT OF ADJUDICATING OFFICER

4. Adjudicating Officer (**AO**) was appointed in the matter vide communique dated September 28, 2023 (First AO). Upon the transfer of the said AO, another AO (Second AO) was appointed vide communique dated December 19, 2023. Pursuant to reallocation of cases, vide communique dated April 30, 2025, SEBI had appointed the undersigned as the Adjudicating Officer under section 15-I of the SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as

'Rules') to inquire into and adjudge under sections 15C, 15HA, 15EB (for violations on or after March 08, 2019), 15HB (for violations prior to March 08, 2019) read with section 27 of the SEBI Act, the following violations:

(a) section 12A(a), (b) and (c) of SEBI Act;
(b) regulation 2(1)(c), 3(a), (b), (c), (d), 4(1), 4(2)(k), (o) and (s) of PFUTP Regulations;
(c) regulation 3(1), 7, 15(1), 15 (9), 16(a), 16 (b), 16(d)(i), 16(d)(ii), 16 (e), 17(b), 17(d), 17(e), 18(6), 19(1), 19(2), 21 (1), 24(3), 25(1), 25(2), 25(4) and 28(f) of IA Regulations;
(d) clauses 1, 2, 3, 4, 5, 6, 8 and 9 of the Code of Conduct for investment advisers as specified under Third Schedule of the IA Regulations;
(e) SEBI Circular – SEBI/HO/IMD/DF1/CIR/P/2019/169 dated December 27, 2019 (hereinafter referred to as "**SEBI Circular dated December 27, 2019**");
(f) SEBI Circular – CIR/OIAE/2014 dated December 18, 2014 (hereinafter referred to as "**SEBI Circular dated December 18, 2014**").

SHOW CAUSE NOTICE, REPLY AND HEARING

5. Based on the findings by SEBI, Show Cause Notice dated April 16, 2024 (hereinafter referred to as 'SCN') was issued to the Noticees under rule 4(1) of the Rules to show cause as to why an inquiry should not be held and penalty, if any, should not be imposed on them under sections 15C, 15HA, 15EB (for violations on or after March 08, 2019), 15HB (for violations prior to March 08, 2019) read with section 27 of the SEBI Act for the alleged violation of the provisions mentioned at para 4. The SCN, *inter alia*, alleged the following:

(a) It is observed from the complaints, the screenshots of the website of Noticee No. 1, emails sent by Noticee No. 1 to its clients and call recordings that Noticee No. 1 had promised assured returns to its clients despite knowing that all the investments in securities market are subject to market risk and that such returns cannot be assured;

(b) It was, therefore, alleged that by promising assured returns, Noticee No. 1 tried to deceive its clients which was misrepresentation of the truth on its part to attract/lure the clients towards its investment advisory services. Such representation was therefore, prima facie, fraudulent and is covered within the definition of "fraud" defined under regulation 2(1)(c) of PFUTP Regulations. Hence, it was alleged that Noticee No. 1 had violated the provisions of regulation 2(1)(c), 3 (a), (b), (c) and (d), 4(1), 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act, 1992.

(c) Further, the aforesaid act of Noticee No. 1 also shows that Noticee No. 1 was not honest and did not take due care in its dealings in the best interest of its clients. Therefore, it was further alleged that Noticee No. 1 had failed to act in a fiduciary capacity towards clients, thereby violating regulation 15(1) and Clauses 1, 2 and 5 as specified under Third Schedule of Code of Conduct for investment advisers read with regulation 15(9) of IA Regulations.

(d) It was further observed from the details of employees forwarded by Noticee No. 1 that its employees/ representatives did not have requisite qualification and certification to deal with the clients. It was therefore, alleged that Noticee No. 1 had violated regulation 7 of IA Regulations and Clause 1, 2, 3, 8 and 9 of Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations.

(e) It was further observed from the invoices, risk profiles, email communications and written submissions made by the director of Noticee No. 1 that Noticee No. 1 had submitted forged documents to SEBI during the course of Inspection. It was observed from the statement that Noticee No. 1 had submitted forged documents to SEBI during the inspection. Therefore, it was alleged that Noticee No. 1 had violated regulation 25(1), 25(2) and 25(4) read with 24(3) of IA Regulations read with Clause

8 of Code of Conduct for investment advisers provided in Third Schedule of IA Regulations read with regulation 15(9) of IA Regulations.

(f) Further, on perusal of the Risk Profiling Questionnaire, it was observed that Questions in the Risk Profile Questionnaire of IA were vague, ambiguous and misleading. Moreover, disproportionately large amount of weightage was assigned to only three questions. Therefore, it was alleged that Noticee No. 1 had violated regulation 16(b)(iii) and 16(d)(i) and (ii) of IA Regulations.

(g) It was further observed that Noticee No. 1 did not obtain any supporting documents / evidence from clients while doing risk profiling of its clients. It was further observed that Noticee No. 1 did not keep any recording of telephone conversation with respect to the risk profiling of its clients. It was, therefore, alleged that Noticee No. 1 had violated regulation 16(a), 16(b) and regulation 19(1) and 19(2) of IA Regulations.

(h) It was further observed from the risk analysis of its client Mr. Virendra Kumar Jain that Noticee No. 1 changed risk category of its clients in a very short time period by manipulating responses to Risk Profile Form questions. It was, therefore, alleged that Noticee No. 1 had violated regulation 3(a), (b),(c) and (d) of PFUTP Regulations read with section 12A(a),(b) and (c) of SEBI Act and regulation 15(1) and Clauses 1, 2, 4, 5 and 8 of Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations.

(i) On perusal of the complaints client master data submitted during the inspection and invoices raised by Noticee No. 1 to its clients, it was observed that it sold same advisory product / service again and again and charged advisory fees multiple times to its clients before completion of the tenure of the previous service. It was further observed that it had raised multiple invoices and collected huge payments as advisory fees within short span of time. Noticee No. 1 had charged arbitrary / illogical fees from its clients and charged fees more than the fees specified on its website. It was, therefore, alleged that Noticee No. 1 had violated regulation 15 (1) read with

regulation 17(b), (d) and (e) of IA Regulations, Clauses 1, 2, 6 and Clause 9 of the Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations and regulation 3 (a), (b), (c) and (d), 4(1) and 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

(j) It was further observed that during inspection Noticee No. 1 had failed to produce any proof of communication to its clients about details of its advisory services. Therefore, it was alleged that Noticee No. 1 had violated regulation 18 (6) of IA Regulations. Clause 1, 2, 5, 8 and 9 of the Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations.

(k) It was further observed from the website of Noticee No. 1 that Noticee No. 1 was providing free trials to prospective clients. It was, therefore, alleged that Noticee No. 1 had violated SEBI Circular dated December 27, 2019.

(l) It is observed from the Business process details submitted by Noticee No. 1 that Noticee No. 1 did not maintain records of risk profiling, suitability assessment, selling of advisory service, etc. Therefore, it was alleged that Noticee No. 1 had violated regulations 19(1) and 19(2) of IA Regulations.

(m) It was observed from the website of Noticee No. 1 that Noticee No. 1 had misrepresented about its research team and advices/ services on its website and has made false claims about its performance and accuracy of the services. Therefore, it was alleged that Noticee No. 1 had violated regulation 3(a), (b), (c), (d), 4(1), 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

(n) Further, from the submissions made by Noticee Nos. 2-4 and the bank account statement of Noticee No. 1, it is observed that Noticee No. 1 was involved in the unregistered advisory activities of Green Wealth. Therefore, it was alleged that

Noticee No. 1 had violated regulation 3(1) of the IA Regulations, 3(a), (b), (c) and (d) of PFUTP Regulations read with section 12A(a),(b) and (c) of SEBI Act.

(o) It is observed from the risk profiles of complainant Mr. Vijendra Gupta that Noticee No. 1 did not communicate the risk profile to the client after risk assessment and therefore, it was alleged that Noticee No. 1 had violated regulation 16(e) of the IA Regulations.

(p) It was also observed from the Action Taken Report (ATR) of the pending complaints, that Noticee No. 1 did not redress the investor grievances of its clients. The details of the investor complaints are as follows:

S. No.	Complainant Name	SCORES Registration No.	Date of Receipt of Complaint
1.	Abhijit Ragit	SEBIE/MP21/0000549/1	22/04/2021
2.	Amit Dudhat	SEBIE/MP21/0000672/1	26/04/2021
3.	Anupama Appana	SEBIE/MP21/0000255/1	10/02/2021
4.	Archana Gupta	SEBIE/MP21/0001287/1	01/12/2021
5.	Avdhesh Kumar	SEBIE/MP21/0000595/1	04/05/2021
6.	Gaurav Gupta	SEBIE/MP21/0001085/1	02/09/2021
7.	Kuldeep Kumar Sharma	SEBIE/MP20/0002099/1	25/11/2020
8.	Manish Parmar	SEBIE/MP21/0000395/1	20/02/2021
9.	Milind Arvind Puranik	SEBIE/MP22/0000815/1	09/11/2022
10.	Mohit Chhattani	SEBIE/MP22/0000033/1	12/01/2022
11.	Prem Chandra Sonker	SEBIP/MP22/0000031/1	23/05/2022
12.	Rahul Solanki	SEBIE/MP21/0000831/1	16/07/2021
13.	Shyam Nandan Kishor	SEBIE/MP21/0001310/1	08/11/2021
14.	Vijaya Kiran Sawant	SEBIE/MP21/0001128/1	12/10/2021

It was therefore, alleged that Noticee No. 1 had violated SEBI Circular dated December 18, 2014 and regulation 21(1) read with regulation 28(f) of IA Regulations.

(q) Further, Noticee Nos 2-4 were the directors of Noticee No. 1 at the time of the contravention who were having knowledge of the said contraventions. Therefore, as per the provisions of section 27 of the SEBI Act, the contraventions by Noticee No. 1 were deemed to be committed by Noticee Nos. 2 to 4. Therefore, it was alleged that Noticee Nos. 2 to 4 had violated the provisions of law as mentioned in the preceding paragraphs.

6. Vide email dated April 29, 2024, Noticee No. 2 on behalf of Noticee Nos. 1 to 3 sought two month's time to file reply to the SCN. Subsequently, vide email dated April 29, 2024, Noticee Nos. 1-3 were granted time till May 17, 2024 to file reply to the SCN.

7. Vide email dated May 17, 2024, Noticee No. 1 to 3 filed their reply to the SCN, *inter alia,* submitting as follows:

a. The SCN contains allegations that have not been made either in the interim order or in the confirmatory order both of these orders have been issued after the inspection and thus no allegation can be made against the respondents on the basis of the inspection report which have not been made by the WTM in the interim order or confirmatory order as it is barred by the rule of Estoppel as has been held by Hon'ble SAT in Appeal No. 580 of 2019 order dated 08.06.2021 in para 13 to 18 "In our opinion, once an issue, on the same facts and between the same parties has has been determined, it gives rise to an issue estoppel. It operates not in the same proceedings but also in subsequent proceedings.

b. It may be noted that all the complaints on SCORES portal have been closed. It is pertinent to mention here that as per SEBI notification CIR/OIAE/1/2014 dated December 18, 2014 provision number 12 is reproduced here for Hon'ble AO's perusal "A complaint shall be treated as resolved/disposed/closed only when SEBI disposes/closes the complaint in SCORES. Hence, mere filing of ATR by a listed company or SEBI registered intermediary with respect to a complaint will not mean that the complaint is not pending against them." Thus it is clear that if the complaints have indeed been closed on SEBI SCORES it means that SEBI was satisfied with the resolution provided, and thus any further adjudication on the matter will be barred by the doctrine of Double Jeopardy/Res-Judicata.

That, resolution of complaints and refund of any disputed amount also means that no unlawful profit has been made from such transactions.

c. *The allegations levelled in para 7 of the SCN are false, frivolous, arbitrary and capricious as the purported evidences submitted by complainants are forged and frivolous as the email annexed at Annexure 5 does not even shows the email-id of the respondent or the recipient of the said email, further it is not the original email that has been sent, it is purported screenshot of the email which is again not admissible as per the law, furthermore the said purported email is not coupled with a certificate under section 65B of evidence act so as to assign it any credibility what so ever thus it can be safely said that the said email is false and frivolous and forged to implicate the respondent. Respondent has never sent such an email to any of the clients. Furthermore, even if the said email was to be taken on its face value though it is unequivocally denied in its totality, it cannot be said to constitute any guarantee or assurance of profit as it clearly mentions that the profit will be depended as per market conditions. It is pertinent to mention here that SEBI has its self referred to certain invoices and agreements alongwith welcome mail which clearly reads "**Investment/trading in market is subjected to market risk**" and "**We do not provide any guaranteed or assured return services, profit sharing services, Demat account services, Investment related services or any other services which are not mentioned at our website**." Thus when read it its entirety these documents unequivocally convey the message that there is no assurance or guarantee of profit.*

d. *That, in para 7 certain recordings are reproduced, it is essential to deal with these false and fake call recordings which is evident from the fact that one of the recordings purported to be belonging to Ms. Archana Gupta who is actually of a Male, Secondly, all the fake call recordings do not display any telephone number from which they are alleged to be received in such a circumstances any body can create a fake call record and there is no method by which their credibility can be attested further none of the alleged call records are accompanied by a certificate under section 65 B of Evidence Act, none of the complainants are willing to come forward to testify their complaints and be subjected to a cross-examination. Thirdly, in similar cases in matter of Star World Research and Desire Research the Hon'ble Board has upheld the legal principal that when the call records cannot be verified they cannot be held against the respondents. It is also pertinent to mention here that the burden of proof is always on the person making assertion and not on defendant, as no one can prove something that has never happened. Furthermore it is settled principal of law that in commercial transaction where there are written agreements and documents the documentary evidence will prevail over the oral evidence, in the present case the invoices, welcome mails and agreements of the clients state unequivocally that "Investment/trading in market is subjected to market risk" and "**We do not provide any guaranteed or assured return services, profit sharing services, Demat account services, Investment related services or any other services which are not mentioned at our website**." Thus the allegations are unsubstantiated.*

e. *That, the allegations with regards to contents of website are totally false, frivolous, vexatious, capricious, arbitrary and unsubstantiated, as these interpretations have been made on pick-choose basis, whereby, the learned inspection officers of the Board have picked up few lines from the contents of website of the respondent and made the interpretations that are entirely unsubstantiated and arbitrary and against the settled principle of law that "Any Documents/record which is relied upon has to be read as whole and cannot be read in piecemeal"*

f. *Furthermore, the officer has left out the word "Can" used before definitely register gains can according to Black's Law Dictionary denotes "a mere possibility" and thus by no stretch of imagination it can be interpreted to mean guarantee of any sorts.*

g. *Similarly, in subsequent lines get huge profit is underlined without taking into consideration the entire para and the page from which the said para is arbitrarily choosen out. It is pertinent to mention that Hon'ble SAT has held in Bull Research Investment Advisors Pvt. Ltd. Misc. Application No. 1421 of 2021 dated 06/02/2023 that "Such non-consideration of the entire sentence and cherry picking a single word from the sentence in our opinion is unwarranted." SAT has set aside the directions in the said judgement which were issued by WTM.*

h. *Further, in the matter of GRS Solutions WTM/AB/WRO/WRO/14833/2021-22 dated 08.02.2022 para 8 to 12 the Learned Whole Time Member has dealt with similar allegations and held that it is a mere marketing gimmick and cannot be said to have made any assurance or guarantee of profit, the case of respondent is on a better footing and respondent has not been alleged to have made representations at par with ones made on website of GRS solutions and thus similarly situated accused cannot be tried or punished differently as is the settled principal of law. The learned whole time member therein has considered the disclaimers and disclosures made on website and invoices, welcome mails and other documents*

i. *The allegations in para 10 of SCN with regard to qualification of employees is arbitrary as the relevant point in time before the amendment of 2020 the qualifications requirements were only imposed on those employees who were involved in offering investment advice, the list at Annexure 6 clearly mentions name and designation of employees and only three persons were involved in research and advising which was done by sending SMS through CRM software all three were NISM Qualified and had qualifications as per section 7 of IA Regulations, 2013, further the sales team had nothing to do with Advising their only job was to assist the customer, it is pertinent to mention that the amendment in 2020 in section 7 of IA is evident of the fact that the earlier provision did not mandate sales staff to be subjected to such qualification and thus in 2020 the amendment specifically mandated that all client facing employees need to be qualified as per amended provisions, thus these allegations are unsubstantiated.*

j. *That, the allegations made in para 11 of SCN are denied in toto, but before dealing with the said allegations the respondents want to bring certain facts before the learned Adjudicating Officer, the prosecution has referred and relied upon a written submission of the respondents, it is alleged that submissions were made at the time of inspection, here the respondents want to appraise the Hon'ble*

Board that the Inspection Team of Indore Local Office had forced the respondents to sign on the said document under the pressure that if the said document is not signed by the respondents the Indore LO will assist the police in filing a false FIR against the company as has been done earlier in the case of Alka Shrivastava, Prashant Gole, Jyoti More and many other cases where the Local office has assisted the police in filing false FIRs which have been subsequently quashed by the Hon'ble High Court.

k. *That, only statements taken under section 11C(5) which are taken on oath after following due process are admissible in any legal proceedings, and such extra judicial submissions are not admissible under law. It may also be noticed that the Indore LO team assured the respondents that these submissions are inadmissible and will not be used against the respondents and that is the reason that the said submissions were not relied upon in the Interim and the Confirmatory orders. It is pertinent to note that the language of statements is such that no laymen will use such legal terminology also it contains such incriminating statements that is highly unlikely for an innocent man to use. It is also submitted that there is no attestation of any officer of SEBI on said statement that the statement was signed in front of the said officer or was written by whom or in front of which officer neither is there any witness to such statement nor any declaration that the statement will be used in any legal proceedings thus such statements are inadmissible for being false and fabricated. The respondents are ready and willing to depose before competent authority and if these statements are sought to be relied upon then the respondents must be given an opportunity to cross-examine all the officers of the investigating team.*

l. *That, it is submitted that the respondent had not submitted any forged document the reasons of documents having same date of creation is that the original file are bulky and in e-mail more than 25MB files are not accepted and thus the files are needed to be compressed and when a file is compressed then the date of creation changes. If the Board is not willing to accept the said contention then by this yardstick all the call recordings shall be deemed to be forged as all recordings sent to respondent have a date of 16/04/2024 which clearly means that the said recordings are also tampered. It is also submitted that the server of respondents was not responding properly due to mal-functioning because of virus attack, however the data has been recovered and the respondent can present the entire original data or if the Board wants it can seize the server and verify the data on its own. The respondents are willing to give its server in confiscation to prove its innocence.*

m. *That, allegations made in para 12 of SCN are denied for being arbitrary as they are absurd for following reasons, Firstly, there was no such observation by the WTM in the interim or confirmatory order, Secondly, the allegations are levelled only on the basis of questions without considering the replies and the weightage for those replies, if the replies were to be considered it would be found that a person choosing low risk category will end-up in low risk by choosing relevant answers for these questions, thus the allegations are mere presumptions,*

Thirdly, the regulations do not provide for any specific format of Risk Profiling, that is left on the discretion of the IA, in such a circumstances there can always be a difference of opinion between two people, the Board has made provisions for NSIM qualifications to ensure that person applying for IA license is qualified to draw such inferences, the present, Noticee was NISM qualified, thereafter making observations only for the sake of making allegations is uncalled for specially when the law does not prescribes any standard which has been violated. Lastly, cherry picking certain questions/part from a document and leaving the rest part for making allegations is bad in law and is not allowed in law and this principal is well settled by various pronouncements of Hon'ble Supreme Court, Hon'ble High Courts and Hon'ble SAT.

n. *That the observations regarding seeking supporting documents with regards to Risk Profile Memorandum (hereinafter referred to as "**RPM**") is totally uncalled for as there is no provision in law mandating such requirement, further it is impractical and that is why even in the amendment in 2020 such a provision has not been made by SEBI when KYC is verified from CKYC then such extra requirement is not required further till date more than 25 companies have been prosecuted by SEBI in Indore alone and not even in a single case such an observation is made.*
o. *It is also submitted that during the inspection period the Website was updated and the RPM was done by client himself on website thus the question of keeping call recordings does not arise, and in the matters before the said updation of website in all cases the respondents have consent of clients on RPM and thus call recordings are not needed when physical confirmation by signing the document is done, it is also submitted that such recordings were not mandated by the IA regulation and only the rationale and advice provided was mandated to be kept safe and thus the alleged violations are unsubstantiated as per the law in-force at relevant time.*
p. *That, the allegations in para 14 of SCN are false because the website of the respondents was updated in January 2019 and the RPM process was made online and the client has done his RPM online himself and submitted the same to the respondents via website and thus the RPM done was done by client at his end, the respondent have not played any role in such amendments and thus the allegations levelled are unsubstantiated. It is further stated that the complaint of the complainant is closed on SCORES portal. Further there was no complaint of client that his RPM has been wrongly done or employee has done his RPM by misleading him, which is evidence of the fact that he himself did his RPM and thus company cannot be held responsible for change in his response.*
q. *That, the allegations levelled in para 15 of SCN are arbitrary, false and frivolous as the Board has never provided any ceiling on the fees to be charged and whether the fees is reasonable or not cannot be decided later-on on the basis of surmises. Further, the findings in these paragraphs is arbitrary and attracts the doctrine of double jeopardy as the complaints have already been closed to the satisfaction of SEBI and the client by processing a refund and secondly*

the reasonableness of fees can only be decided between the client and the company at the time of sale a subsequent evaluation will be biased and unlawful. It is pertinent to note that in the matter of Desire Research, Star World the fees charged therein has been above 20-25 Lakh and thus board has considered it unreasonable, however in present case the board has not specified any such case where such high fees has been charged, in interim order however an example of charging 2,49,114/- from one client is given wherein it was clarified during oral submissions that the total fees charged is paid by client in instalments and thus the bills shows same period of service for same service however amounts are different as client has paid it as per his convenience, it further strengthens respondents argument that as the client is satisfied by the service he chooses to pay further instalments, it is noteworthy that all complaints are closed and thus respondents have not made unlawful gain.

r. *Further, there is no bar on selling multiple services to a client in-fact a RIA cannot perform his duties properly if he cannot suggest multiple services to the clients. Furthermore if the client is satisfied with the services of the company and wish to avail the service for an extended period the RIA is not excluded to provide such extended services to the client, merely because client has expressed willingness to buy annual service or such like services it cannot be said that the conduct of the company is unfair or unreasonable.*
s. *Furthermore, the allegations of selling multiple services are totally unwarranted, unfair and inappropriate as there has been no guideline/rule/regulation prohibiting the company to sell multiple products to its client, further, if the client is satisfied and wants to subscribe to an annual package or so, it is also not barred under the applicable laws, in such circumstances holding the company culpable for such acts is totally undesirable and is contrary to the settled position of law.*
t. *That, the observation made in para 16 of SCN are false and frivolous as entire data sought during inspection was provided and any such observation was not there in interim order or the confirmatory order which itself proves that this allegation is an afterthought and made without any basis.*
u. *That, the allegation in para 17 of SCN are totally and entirely baseless, arbitrary and made only with an intention to find needle in a haystack, that is to make any allegation possible under the sun. As this allegation was not made in the interim and confirmatory order, secondly, the screenshot of FAQ are useless as the website was updated in Jan 2020 and the TAB which is seen in the screenshot of SEBI marked as FREE TRIAL is not seen in other Screenshots. It can be verified from the archive.org website that the TAB where people can click for free trial has been removed in January 2020. Thirdly, SEBI has not received a single complaint that respondents have provided any free trial to any person thus the allegations have been made only on the basis of presumptions and surmises and has no evidentiary value.*
v. *That, the allegations in para 18 of SCN are absurd and arbitrary, it is beyond comprehension as to how these allegations are made without application of judicial mind, the SEBI has annexed the RPM, Invoices of respondents, further*

during inspection respondents have provided all data and records that were asked for, the respondents are further willing to provide any record, data that SEBI wants to seek in such a case on the basis of a business process document the allegations are levelled without any regards to facts of the case. These allegations are false and unsubstantiated and thus deserve to be set-aside.

w. *That, the allegations made in para 19 of SCN are arbitrary, capricious, false and frivolous as there is nothing in Annex 13 which suggests that there is any misrepresentation, about research team, advices and there are no false claims on the said screenshot, it is not clear as to what the inspection team is trying to point out from the said Annexure, However if the effort is to point out to track-sheets, all track-sheets are genuine and original and there is nothing misleading in the said track-sheets, if the allegation pertains to clients testimonials, they belong to client which were served by the company in 2012 and this can be verified from companies website screenshots from archive.org and thus the testimonials are genuine but the company has not maintained their records as there was no regulation at that point in time and even at the time of inspection it was a matter more then 5 years old for which there is no mandate in regulations to maintain data. In the said screenshot there is no claim of performance made by the respondents and thus the allegations of violation of PFUTP have been made carelessly without any regards to the settled principals of law.*

x. *That, the allegations made in para 20 of SCN are false, frivolous, arbitrary and capricious as the company after registration as per IA Regulations has not received any amount as unregistered investment adviser, the allegation is absurd as firstly, a registered investment adviser even if they receive amount in accounts not belonging to the company but if the company accepts such deposits, and provides service to the client, such amounts cannot be termed as unregistered investment advice, secondly, it is unequivocally denied that the company has received any amount as unregistered entity, the bank account annexed at Annexure 15 belongs to Shri Kamlesh Dhole so he should come forward and give his reply on the entries in the said account, the company or its other directors cannot be held vicariously liable for the act of Mr. Kamlesh Dhole as this is a private limited company and liability is limited by share holding and cannot be extended to private act of other directors. Thirdly, with regards to Bhavana Baria and her unregistered activities, it is submitted that Bhavana Baria was an employee of the company and thus she was paid her salary, further she left the job in 2018 and thereafter she started operating unregistered company, when the respondents learned about her activity the directors personally approached the SEBI Indore LO and filed a complaint against her and thus by no stretch of imagination the respondents can be said to be involved with her activities, further, the company or any of its directors have never received a single penny from Bhavana Baria or her unregistered company Green Wealth and there is no such allegations when the company has not received any thing then how can it be alleged that the company or its director were involved in such activities, these allegations are totally unsubstantiated and are a proof of the fact that the Indore LO team has*

forced to sign the said written submissions which does not make any legal sense and thus as submitted earlier the said submissions are inadmissible.

8. Subsequently, vide Notice dated May 28, 2024, Noticee Nos.1 to 3 were granted an opportunity of personal hearing on June 14, 2024. Vide email dated June 07, 2024, Noticee Nos.1 to 3 authorized Mr. Manish Gupta, Advocate to appear on behalf of Noticee Nos.1 to 3.

9. The Authorised Representative of Noticee Nos.1 to 3 (hereinafter referred to as "**AR**") appeared for the hearing on June 14, 2024 and reiterated the submissions made vide reply dated May 22, 2024. The AR of Noticee Nos.1 to 3 further submitted that the submissions made vide aforesaid reply and during the hearing may be taken on record for both Adjudication proceedings as well as the Enquiry proceedings in the subject matter.

10. Pursuant to transfer of AO, another opportunity for personal hearing was granted to Noticee Nos. 1 to 3 on May 21, 2025. The AR of Noticee Nos. 1 to 3 appeared for the hearing and reiterated the submissions made vide reply dated May 17, 2024. Further, Noticee also relied upon following SEBI orders:

    10.1 Abhishek (Investment Adviser) – order dated December 28, 2023;

    10.2 M/s Nestra Capital Prop: Dhirendra Ramraj – order dated March 19, 2024.

11. The SCN and the hearing notices were delivered to Noticee No. 4 through email and SPAD. Proof of delivery is available on record. Since, Noticee No. 4 did not appear for the hearing, vide notice dated June 14, 2024, Notice No. 4 was granted a final opportunity of hearing on June 21, 2024. However, Noticee No. 4 did not appear for the same. Another opportunity of personal hearing was granted to Noticee No. 4 pursuant to transfer of AO vide hearing notice dated May 13, 2025. The said notice of hearing was served on Noticee No.4 through digitally signed email on May 13, 2025. However, Noticee No. 4 neither replied to the SCN nor appeared for the

personal hearing. Therefore, I am constrained to proceed ahead in the matter on the basis of material available on record with respect to Noticee No. 4

CONSIDERATION OF ISSUES AND EVIDENCE

12. I have carefully perused the allegations levelled against the Noticees in the SCN, their replies and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:

I. Whether Noticee No.1 promised assured returns to its clients on its as per the complaints, screenshots of its website, emails sent to its clients and call recordings, despite knowing that all the investments in securities market are subject to market risk, and thus tried to deceive its clients by misrepresentation of truth to attract/lure the clients towards its investment advisory services and whether such misrepresentation was, prima facie, fraudulent and is covered within the definition of "fraud" defined under regulation 2(1)(c) of PFUTP Regulations?

II. If so, whether Noticee No. 1 had violated the provisions of regulation 2(1)(c), 3 (a), (b), (c) and (d), 4(1), 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act?

III. Whether Noticee No. 1 was dishonest and failed to take due care in its dealings in the best interest of its clients and therefore failed to act in a fiduciary capacity towards clients and thereby violated regulation 15(1) and clauses 1, 2 and 5 as specified under Third Schedule of Code of Conduct for investment advisers read with regulation 15(9) of IA Regulations?

IV. Whether the employees/ representatives of Noticee No. 1 were not qualified and certified to deal with the clients and thereby Noticee No.1 violated regulation 7 of IA Regulations and Clause 1, 2, 3, 8 and 9 of Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations?

V. Whether Noticee No. 1 submitted forged documents to SEBI during the course of inspection and thereby violated regulation 25(1), 25(2) and 25(4) read with 24(3) of IA Regulations read with clause 8 of Code of Conduct for investment advisers provided in Third Schedule of IA Regulations read with regulation 15(9) of IA Regulations?

VI. Whether Noticee No. 1 attributed inappropriate weight to three questions (answers) and its risk profiling questionnaire was vague, ambiguous and misleading and thereby Noticee No. 1 violated regulation 16(b)(iii), 16(d)(i) and (ii) of IA Regulations?

VII. Whether Noticee No. 1 failed to obtain supporting documents / evidence from clients while doing risk profiling and failed to keep recording of telephone conversation with respect to the risk profiling of its clients and thereby violated regulation 16(a), 16(b) and regulation 19(1) and 19(2) of IA Regulations?

VIII. Whether Noticee No. 1 changed risk category of its client Mr. Virendra Kumar Jain in a very short time period by manipulating responses to Risk Profile Form questions and thereby violated regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act and regulation 15(1) and Clauses 1, 2, 4, 5 and 8 of Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations?

IX. Whether Noticee No. 1 sold same advisory product / service again and charged advisory fees multiple times to its clients before completion of the tenure of the previous service and charged arbitrary / illogical fees from its clients, charged fees more than the fees specified on its website and thereby violated regulation 15 (1) read with regulation 17(b), (d) and (e) of IA Regulations, clauses 1, 2, 6 and Clause 9 of the Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations and regulation 3 (a), (b), (c) and (d), 4(1) and 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act?

X. Whether Noticee No. 1 failed to provide proof of communication to clients about details of its advisory services and thereby violated regulation 18 (6) of IA Regulations, clause 1, 2, 5, 8 and 9 of the Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations?

XI. Whether Noticee No. 1 provided free trials to its prospective clients and thereby violated SEBI Circular dated December 27, 2019?

XII. Whether Noticee No. 1 failed to maintain records of risk profiling, suitability assessment, selling advisory service, etc., and thereby violated regulations 19(1) and 19(2) of IA Regulations?

XIII. Whether Noticee No. 1 made misrepresentation on its website with respect to its research team and advices/services, false claims about its performance and accuracy of the services and thereby violated regulation 3(a), (b), (c), (d), 4(1), 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act?;

XIV. Whether Noticee No. 1 was involved in the unregistered advisory activity of Green Wealth and thereby violated regulation 3(1) of the IA Regulations, regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act?

XV. Whether Noticee No. 1 failed to disclose risk profile to its clients and thereby violated regulation 16(e) of the IA Regulations?

XVI. Whether Noticee No. 1 failed to redress the investor complaints on time and thereby violated SEBI Circular dated December 18, 2014 and regulation 21(1) read with regulation 28(f) of IA Regulations?

XVII. Whether Noticee Nos. 2 to 4 being the directors of Noticee No.1 who were having knowledge of the contraventions committed by Noticee No.1 are liable for the said contraventions under section 27 of the SEBI Act?

XVIII. Do the violations, if any, on the part of the Noticees attract monetary penalty under sections 15C, 15HA, 15EB (for violations on or after March 08, 2019), 15HB (for violations prior to March 08, 2019) read with section 27 of the SEBI Act?

XIX. If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into account the factors mentioned in section 15J of the SEBI Act?

13. Before proceeding with the matter on merits, it would be relevant to reproduce the provisions of law alleged to have violated by the Noticees:

*"**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;

Contravention by companies.
27. (1) Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder] has been committed by a company, every person who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.
(2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.
Explanation : For the purposes of this section,—
(a) "company" means any body corporate and includes a firm or other association of individuals; and
(b) "director", in relation to a firm, means a partner in the firm.

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 behavior 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 or 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, misutilisation 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:—
…
(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 suitability of the securities or service to the buyer;

IA Regulations

Application for grant of certificate.

3.(1) On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations:

Qualification and certification requirement.

7.(1) An individual investment adviser or a principal officer of a non-individual investment adviser registered as an investment adviser under these regulations, shall have the following minimum qualification, at all times-

(a)A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognised foreign university or institution or association or a professional qualification by completing a Post Graduate Program in the Securities Market (Investment Advisory) from NISM of a duration not less than one year or a professional qualification by obtaining a CFA Charter from the CFA Institute;

(b) An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;

(c) Persons associated with investment advice shall meet the following minimum qualifications, at all times –

(i) a professional qualification as provided in clause (a) of sub-regulation (1) of regulation 7; and

(ii) an experience of at least two years in activities relating to advice in financial products or securities or fund or asset or portfolio management:

Provided that the investment advisers registered under these regulations as on the date of commencement of these regulations shall ensure that the individual investment adviser or principal officer of a non-individual investment adviser registered under these regulations and persons associated with investment advice shall comply with the qualification and experience requirements within such time as may be specified by the Board

Provided further that the requirements at clauses(a) and (b) shall not apply to such existing individual investment advisers as maybe specified by the Board.

(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.

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.

Risk profiling.

16. *Investment adviser shall ensure that,-*

(a)it obtains from the client, such information as is necessary for the purpose of giving investment advice, including the following:-

(i)age;

(ii)investment objectives including time for which they wish to stay invested, the purposes of the investment ;

(iii)income details;

(iv)existing investments/ assets;

(v)risk appetite/ tolerance;

(vi)liability/borrowing details.

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

(i) assessing a client's capacity for absorbing loss;

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

(iii)appropriately interpreting client responses to questions and not attributing inappropriate weight to certain answers.

(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;

Suitability.

17. Investment adviser shall ensure that,-

…

(b)It has a documented process for selecting investments based on client's investment objectives and financial situation;

…

(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.

Disclosures to clients.
18….
(6)An investment adviser shall, while making an investment advice, make adequate disclosure to the client of all material facts relating to the key features of the products or securities, particularly, performance track record.

Maintenance of records.
19.(1) An investment adviser shall maintain the following records,-
(a)Know Your Client records of the client;
(b)Risk profiling and risk assessment of the client;
(c)Suitability assessment of the advice being provided;
(d) Copies of agreements with clients, incorporating the terms and conditions as may be specified by the Board;
(e)Investment advice provided, whether written or oral;
(f)Rationale for arriving at investment advice, duly signed and dated;
(g)A register or record containing list of the clients, the date of advice, nature of the advice, the products/securities in which advice was rendered and fee, if any charged for such advice.
(2) All records shall be maintained either in physical or electronic form and preserved for a minimum period of five years:
Provided that where records are required to be duly signed and are maintained in electronic form, such records shall be digitally signed.

Redressal of client grievances.
21*.(1) The Investment Adviser shall redress investor grievances promptly but not later than twenty-one calendar days from the date of receipt of the grievance and in such manner as may be specified by the Board.*

Notice before inspection.
24.
…
(3) During the course of an inspection, the investment adviser against whom the inspection is being carried out shall be bound to discharge its obligations as provided in regulation 25.

Obligation of investment adviser on inspection.
25*.(1)It shall be the duty of every investment adviser in respect of whom an inspection has been ordered under the regulation 23and any other associate person who is in possession of relevant information pertaining to conduct and affairs of such investment adviser, including partners, directors, principal officer and persons associated with investment advice], if any, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with such statements and information as the inspecting authority may require for the purposes of inspection.*
(2) It shall be the duty of every investment adviser and any other associate person who is in possession of relevant information pertaining to conduct and affairs of the

investment adviser to give to the inspecting authority all such assistance and shall extend all such co-operation as may be required in connection with the inspection and shall furnish such information as sought by the inspecting authority in connection with the inspection.

…

(4)The inspecting authority shall, for the purposes of inspection, have power to obtain authenticated copies of documents, books, accounts of investment adviser, from any person having control or custody of such documents, books or accounts.

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.

3.Capabilities

An investment adviser shall have and employ effectively appropriate resources and procedures which are needed for the efficient performance of its business activities.

4.Information about clients

An investment adviser shall seek from its clients, information about their financial situation, investment experience and investment objectives relevant to the services to be provided and maintain confidentiality of such information.

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.

…

8.Compliance

An investment adviser including its partners, principal officer and persons associated with investment advice shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market.

9. Responsibility of senior management

The senior management of a body corporate which is registered as investment adviser shall bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the body corporate."

SEBI Circular dated December 27, 2019
Subject: Measures to strengthen the conduct of Investment Advisers (IA)
1.Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (IA Regulations) provides for code of conduct to be followed by IAs. In order to further strengthen the conduct of IAs, while providing investment advice and to protect the interest of investors seeking their advice, the IAs shall comply with the following:

(i)Restriction on free trial As per SEBI (Investment Advisers) Regulations, 2013, investment advice can be given after completing risk profiling of the client and ensuring suitability of the product. It has come to the notice that IAs are providing advice on free trial basis without considering risk profile of the client. Hence the IAs shall not provide free trial for any products/services to prospective clients. Further, IAs shall not accept part payments (where some part of the fee is paid in advance) for any product/service. "

14. From the material available on record, it is noted that SCN sent via speed post was duly served upon Noticee No. 4. Further, the hearing notices were also served upon Noticee No. 4 through digitally signed email. However, Noticee No. 4 neither submitted reply to the SCN nor appeared for the personal hearings granted to him.

15. I note that sufficient opportunities have been provided to Noticee No. 4 to represent his case by way of reply to the SCN and also by way of personal hearing. However, it is a matter of record that Noticee No. 4 failed to furnish his reply to the SCN and also failed to appear for personal hearing. Therefore, in the absence of reply to the SCN from Noticee No. 4 and his failure to avail the multiple opportunities of personal hearings for making any submission in response to the allegation levelled in the SCN, I am inclined to presume that Noticee No. 4 has nothing to offer in his defense and therefore, he has admitted to the allegations levelled against him in the SCN.

16. In this regard, I refer to the judgment of Hon'ble Securities Appellate Tribunal (SAT) dated December 08, 2006 in the matter of *Classic Credit Ltd. v. SEBI (Appeal No. 68 of 2003)* wherein, it observed that "... *the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them".*

17. I also observe that Hon'ble SAT in the matter of *Sanjay Kumar Tayal & Ors. v. SEBI* (Appeal 68 of 2013 dated February 11, 2014) had, *inter alia*, observed that,"... *appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices..."*

18. Therefore, I am constrained to proceed in the matter with respect to Noticee No. 4 on the basis of the material available on record.

19. With respect to Noticee Nos. 1 to 3, the reply is available on record and therefore, the matter is proceeded on the basis of the reply and submissions made by the AR of Noticee Nos. 1 to 3 during the hearing.

20. Before proceeding in the matter, I would like to address the preliminary objections raised by Noticee Nos. 1 to 3. Noticee Nos. 1 to 3 in their reply contended that SCN contains allegations that have not been made either in the interim order or in the confirmatory order which were issued after the inspection and thus, no allegation can be made against the Noticees on the basis of the inspection report which was not relied upon by the WTM in the interim order or the confirmatory order. The same is barred by the rule of estoppel as held by Hon'ble SAT in Appeal No. 580 of 2019 order dated June 8, 2021. In this regard, the aforesaid order of Hon'ble SAT observes that "*once an issue, on the same facts and between the same parties has been determined, it gives rise to an issue estoppel. It operates not only in the same proceedings but also in subsequent proceedings."*

21. In this regard, I note that the confirmatory order dated June 08, 2022 at paragraph 4 stated that "The Interim Order inter alia alleges following main violations by Noticee no. 1:

    i. Making false and misleading representation by promising assured profits and returns to clients.

    ii. Charging unfair and unreasonable fees from clients."

Thus, the ambit of the said two orders were limited, compared to the extant SCN, wherein the charges are not limited to the aforesaid two allegations made in the said orders. Besides, in the absence of a final order in the said proceedings under section 11B of the SEBI Act, it is incorrect to state that the issue on the same facts and between the same parties has been determined to invoke the applicability of issue estoppel as contended by the Noticees.

22. I note that subsequent to the confirmatory order, vide letter dated October 27, 2022 certain information was sought from the Noticees and an examination was conducted thereafter based on the information received, pursuant to which the current proceedings were initiated against the Noticees and Noticee is aware of the said fact and the said examination report is provided as Annexure 3 to the SCN, thus, this is proceedings are broader in ambit than the said interim and confirmatory orders.

23. Further, proceedings under section 11B of the SEBI Act and adjudication proceedings are two distinct proceedings and can be initiated for the same set of violations. In this regard, Hon'ble SAT in the matter of *National Stock Exchange of India Ltd. v. SEBI*[1] observed that *"We are of the opinion, that under the SEBI Act two separate proceedings can be initiated. One to be decided by the WTM and other to be decided by the AO. We are of the opinion, that principles of res judicata will not apply as parallel proceedings can be initiated under the SEBI Act."*

24. In view of the aforesaid finding of Hon'ble SAT, I am of the opinion that the objection of Noticee Nos. 1 to 3 is devoid of any merit.

25. Now, I proceed to the examination of the allegations made in the SCN

I. Whether Noticee No.1 promised assured returns to its clients as per the complaints, screenshots of its website, emails sent to its clients and call recordings, despite knowing that all the investments in securities market are

[1] *Appeal No. 445 of 2022, Date of order – December 14, 2023*

subject to market risk, and thus tried to deceive its clients by misrepresentation of truth to attract/lure the clients towards its investment advisory services and whether such misrepresentation was, prima facie, fraudulent and is covered within the definition of "fraud" defined under regulation 2(1)(c) of PFUTP Regulations?

II. ***If so, whether Noticee No. 1 had violated the provisions of regulation 2(1)(c), 3 (a), (b), (c) and (d), 4(1), 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act, 1992?***

III. ***Whether Noticee No. 1 was dishonest and failed to take due care in its dealings in the best interest of its clients and therefore failed to act in a fiduciary capacity towards clients and thereby violated regulation 15(1) and clauses 1, 2 and 5 as specified under Third Schedule of Code of Conduct for investment advisers read with regulation 15(9) of IA Regulations?***

26. Since the aforesaid three issues are arising out of the same set of facts, they are dealt together in the following paragraphs.

27. It was alleged in the SCN that by promising assured returns to its clients, Noticee No. 1 tried to deceive its clients. SCN alleged that promising assured returns is a misrepresentation of the truth on part of Noticee No. 1 to attract/lure the clients towards its advisory services. Such representation is therefore, prima facie, fraudulent and is covered within the definition of “fraud” defined under regulation 2(1)(c) of PFUTP Regulations. It was further alleged that by promising the assured returns, Noticee No. 1 failed to act in the fiduciary capacity to its clients. The SCN relied on three sets of evidences to substantiate this allegation, i.e., Noticee No.1’s website, emails sent to clients and telephone calls made to the clients.

28. In this regard, Noticee No. 1 submitted that the purported evidence submitted by the complainants are forged and frivolous. The emails are not coupled with a certificate under

section 65B of the Indian Evidence Act. Noticee No. 1 further submitted that the invoices and agreements sent alongwith the welcome email clearly gives a disclaimer that the "Investment/trading in market is subject to market risk".

29. In this regard, Noticee Nos. 1 to 3 relied upon section 1 of the Indian Evidence Act, 1872 which mentions that the said Act applies to "all judicial proceedings in or before any Court". However, it is noted that as per section 1 of the Indian Evidence Act, 1872, the said Act applies to *"all judicial proceedings in or before any Court*" whereas the extant proceedings are quasi-judicial in nature. Hon'ble Supreme Court's in the matter of *Tata Consultancy Services Limited v. Cyrus Investments Pvt. Ltd.* (2021 INSC 217) held that "*It is true that the rigors of Code of Civil Procedure and the Evidence Act are not applicable to Tribunals/Quasi-Judicial Authorities. These rigours do not even apply to Courts dealing with constitutional matters (refer the Explanation Under Section 141 Code of Civil Procedure*)." Similarly, Hon'ble Madras High Court in the matter of *LKS Gold House Private Limited v. The Deputy Commissioner of Income Tax*, MANU/TN/2304/2024 further clarified the applicability of section 65B on quasi-judicial authorities as under:

> *"75. The Assessment proceedings under the Income Tax Act, 1961 before an Assessing Officer is not a judicial proceeding. It is a Quasi judicial proceeding before a Quasi judicial officer. Therefore, the provisions of The Evidence Act, 1872 particularly special provisions relating to evidence relating to Section 65A, Section 65B and Section 66 are not relevant."*

30. Thus, section 65B pertaining to admissibility of electronic records before a court of law, is not applicable to quasi- judicial proceedings before SEBI. Hence, I do not find any merit in the aforesaid contention of Noticee.

31. With regard to the complaints, Noticee No. 1 submitted that the evidences submitted by the complainants are forged. However, Noticee No. 1 has not brought any documents/evidence on record that the evidence submitted complainants are forged apart from email addresses being not visible. In the examination report, i.e., Annexure 3 of the SCN at pages 9 to 15, a brief narration of the dealings with the 14 clients referred

at 5(p) above and IA is provided. In this regard, it was alleged that Noticee No. 1 had promised assured profit/returns to clients, viz., Archana Gupta, (client complained that weekly profit of 60 to 70K was offered), Gaurav Gupta (client complained that 100% profit was offered), Mohit Chattani (client complained that 35000 return in a week was offered), Prem Chandra Sonker (client complained that profit of 3 times and more was offered). From the audio recordings provided by the client Archana Gupta, it can be heard that the representative of the client was promising exact amount of profit. Transcripts of the said conversations is provided as under:

> Employee of the IA –"…तो company इसमें हमारी क्या बोलती है sir की each and every call पर trade करना compulsory है, यदि आपको 55 calls मिल रही हैं one month के अंदर तो आपको 80% की accuracy मिलेगी। कभी ये होता है ना sir आप एक call पर trading करोगे 2 call पर नहीं करोगे तो आप profit नहीं earn कर सकते। यही आप सारे call पर 55 calls पर trade करोगे तो आपको 80% की accuracy मिलेगी। On an average ये मान कर चलिए की आप daily basis पर 1500-2000 का profit gain करोगे। Clear बात समझ आ रही ji मैं आपको क्या बोलना चाह रहा हूँ। Each and every call पर आप 1500-2000 का profit आसानी तरीके से gain करोगे। और ये मान कर चलिए कि 55 calls पर 80% accuracy मतलब 44 call. 44 calls पर आपका जो profit gain होगा वो मान कर चलिए 88-90 thousand के आस पास। जिसमें वो मान कर चलिए कि 10 calls पर 15 calls पर आपको loss हो जाएगा और company का 10000 service charge pay करने के बाद आपको 50 thousand profit gain करेंगे within a month."
>
> Employee of the IA –"क्योंकि ये जो call है ये proper technical level की call होती है, मतलब आपको 2-4 points की call provide करवाई जाएगी जिसमें आपका 1500-2000 का profit निकल कर आएगा"
>
> Employee of the IA –"आपको मैं return निकाल दूँगा। 2-3 लाख का profit निकाल के दूँगा…"

32. In this regard, Noticees submitted that the call recording cannot be relied upon for the reasons that the call recording purported to be belonging to Archana Gupta is that of a male, the telephone numbers are not disclosed and none of the complainant was willing to come up for cross examination. However, I note that as per the records, Noticees did not seek cross examination of the complainants. The submission of the Noticees that none of the complainants were willing to come up for the cross examination appears to be an afterthought. Given the state of the evidence on record with respect to the call

recording, I am inclined to accept the argument of Noticee No.1 and benefit of doubt is given to Noticee No. 1 in this regard. Irrespective of said call recording, there are other complaints as above wherein clients had complained on the SCORES system of SEBI itself that Noticee 1 had promised assured returns. In this regard, reference is drawn to one such complaint on SCORES which later closed by Noticee given at Annexure 1 of SCN:

Complaint Against	CAPITAL STROKE INVESTMENT SERVICES PVT. LTD.
Complaint Details	I avail services in capital stroke investment services pvt. ltd. company by so much force to do so I was not ready to avail that service but they force to much I have only 60K to invest and they offer me a services of 60k they told me to pay only 45K prior and they promising me that they will earn me a profit of 35000 in a week otherwise payback my return but now I incur a losses of 30K and now they tell me that we are not responsible and wait for while now i have only 1000 in my account and now they not even response to my calls and talk very rudely that mujhe mat btao. I have all call recordings that show how they talk to me after receiving payment and incurred losses.

33. All these complaints have recorded action history and the complaint given in the example was resolved by Noticee No.1 after settlement of the matter with client by paying Rs.36000/-. Given the above, Noticee's denial that it did not provide assured return to clients cannot be accepted.

34. With respect to the allegation on contents of the website, Noticee No.1 denied the same and argued that SEBI made interpretations which are entirely unsubstantiated and arbitrary and against the settled principle of law that "Any Documents/record which is relied upon has to be read as whole and cannot be read in piecemeal. Noticee No. 1 submitted that the officer had picked the word *"can*" from the statement "*investor can get huge profit by holding the stocks"* denotes "a mere possibility". In this regard, Blacks Law Dictionary has been perused and as per the dictionary, "can" means "to be able to do something/to have permission". The usage of word "can" in the statement "investor can get huge profit by holding stocks" appears to be a persuasive statement. Therefore, I cannot accept the contention of Noticee No. 1 in this regard. Upon reading the entire

statement together, it appears that Noticee No. 1 is assuring guaranteed returns. Further, in the stock tips section of its website, Noticee No. 1 had mentioned that the tips provided by it helps its clients earn good profit. In the section SF Premium on its website, Noticee No. 1 had categorically mentioned that :

> "*All the packages and services serve by call and SMS as per clients comfort to gain **maximum profit** possibilities".*
>
> ".. *Investor can get **huge profit** by holding the stocks."*

36. Noticee No. 1 failed to provide the reason behind such statements on its website. In fact, Noticee No. 1 had submitted that "huge profit" is underlined without taking into consideration the entire paragraphs. Noticee No. 1 further relied upon the order of Hon'ble Securities Appellate Tribunal (SAT) in the matter of *Bull Research Investment Advisors Pvt. Ltd. v. SEBI* (Order dated February 06, 2023), wherein Hon'ble SAT made the following observations:

> "*we find that WTM has cherry picked a word "target" to come to a prima facie finding that this amounts to an assured returns without considering the words "not assured / not guaranteed" and without considering the contention that the Company does not provide any guarantee or assured returns. Such non-consideration of the entire sentence and cherry picking a single word from the sentence in our opinion is unwarranted*."

In this regard, I note that the said observation of Hon'ble SAT was with respect the Invoice issued by the IA wherein it was stated that *'Target (Not Guaranteed/Not Assured) is Rs. 26,00,000'.* In the said background, the entire paragraph provided at Noticee No.1 website is perused to ascertain whether the assured returns were promised or not. For the ease of reference, the screenshot from the website is reproduced below:

Investor can get huge profit if the stocks are bought with great care and research, investor purchases the stocks when the prices are low and sell when prices are high. Therefore investor can get huge profit by holding the stocks.

These tips help clients to invest money in the best scrip and earn good profit.

You can also book the selling limit of the particular scrip by using these tips.

By using these intraday tips you can buy the stocks at a lower price and sell stocks at a higher price to that of the market.

You can also book profit on their portfolio by using these tips.

37. Thus unlike Bull Research's Invoice wherein it is specifically stated that the target is not *'guaranteed/not assured',* Noticees No.1 website assures huge profit/good profit. The screenshot of the entire web page of Noticee No.1's website is part of the SCN as Annexure 5, however, the said page is silent on market risk. The website nowhere mentioned that the investment is the stock market is subject to the market risk. In fact, Noticee No. 1 had given emphasis to the profit in different ways. The said statements on its website was used for soliciting the clients. Noticee No. 1 submitted that in the invoices, it had mentioned that *"Investment/trading in market is subjected to market risk"*. I find that a mere standard statement in the receipt that investment is subject to market risk cannot dilute the conduct of Noticee No. 1 in making false representation that it can help its clients to earn good/huge profit in the website. It is pertinent to note that such a statement in its invoice is of no use as by then, the client had already committed and paid up for the services of Noticee No.1. Therefore, the submissions of Noticee No. 1 cannot be accepted. The misleading information of "earning good/huge profit" disseminated through the website is nothing but fraudulent inducement to lure clients.

38. Noticee No.1 further relied on the SEBI Order in the matter of GRS Solutions wherein it stated that allegations are same though Noticee was exonerated in the said matter on the ground that it was mere marketing gimmick. I note that the said matter is completely different from the case of Noticee No.1. It was found in the said matter that use of certain words in the website was a mere representation about quality / accuracy of his tips and does not amount to promising assured returns. In the said matter, it was also found that

the website clearly mentioned that "*We do not provide any guaranteed returns*." Unlike the case of Noticee No.1.

39. In view of the above, I find that Noticee No. 1 had promised assured return to the clients with the knowledge that investment in equity, equity derivatives and commodity derivatives are subject to market risk. Such knowing misrepresentation of the truth and concealment of material fact of market risk to induce investors/clients to subscribe the service of Noticee No.1 amounts to fraud within the ambit of regulation 2(1)(c) of PFUTP Regulations. Therefore, I am of the opinion that Noticee No. 1 had indulged in concealment and misrepresentation of facts and failed to act in the best interest of its clients and also failed to exercise care and due diligence. Therefore, by giving assurance of profit on its website while soliciting the clients, Noticee No. 1 had violated provisions of regulation 2(1)(c), 3 (a), (b), (c) and (d), 4(1), 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act, 1992. Further, from the aforesaid it is also evident that Noticee No. 1 had failed to act in a fiduciary capacity towards its clients and thereby violated regulation 15(1) and clauses 1, 2 and 5 as specified under Third Schedule of Code of Conduct for investment advisers read with regulation 15(9) of IA Regulations.

IV. Whether the employees/ representatives of Noticee No. 1 were not qualified and certified to deal with the clients and thereby Noticee No.1 violated regulation 7 of IA Regulations and clause 1, 2, 3, 8 and 9 of Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations?

40. It was alleged in the SCN that its employees/ representatives of Noticee No.1 did not have requisite qualification and certification to deal with the clients.

41. In this regard, Noticee No. 1 submitted that at the relevant time before the amendment of 2020, the qualifications requirements were only imposed on those employees who were involved in offering investment advice, subsequently such qualification was mandated to

all client facing employees. In the list of employees, only three employees were involved in offering investment advice, remaining were from the sales team and the sales team had nothing to do with advising.

42. In view of the above submissions, the list of employees of Noticee No.1 given at Annexure 6 of SCN has been perused and it is observed that out of 314 employees of Noticee No. 1, only seven employees had NISM certification. Out the NISM qualified employees, three employees were in research and four were sales executives. However, it is found from the records that vide joint submission dated November 10, 2020 (a copy of same was provided to the Noticees along with the SCN as Annexure 14), Noticee No. 2 and 4 had submitted that around 35 employees were providing investment advisory related services.

43. Subsequently, in its reply to the SCN, Noticee No. 1 submitted that the said joint submission was made under pressure and the same is inadmissible. Noticee submitted that the Inspecting team had assured the Noticees that these submissions are inadmissible and will not be used against the Noticees. However, Noticee No. 1 has failed to submit any record/evidence to corroborate such submission. In view of the above, it is noted that no cogent evidence has been brought on record by Noticee No. 1 so as to indicate any factual inaccuracy in the original joint submission made during the inspection. In this regard, reference is drawn to the judgment of Hon'ble Supreme Court in the matter of *Avadh Kishore Das v. Ram Gopal And Ors*.[2], wherein Hon'ble Supreme Court, *inter alia*, observed as under:

"*It is true that evidentiary admissions are not conclusive proof of the facts admitted and may be explained or shown to be wrong, but they do raise an estoppel and shift* ***the burden of proof on to the person making them or his representative-in-interest. Unless shown or explained to be wrong, they are an efficacious proof of the facts admitted.***" (Emphasis supplied)

[2] AIR 1979 SC 861

44. In view of the above, it is noted that retraction from any previous statement given before any authority should be supported by evidence to suggest that the statement which was recorded earlier was factually incorrect. Hence, the attempt made by Noticee Nos. 2 to 3 to retract from their original joint statement without any supporting evidence and that too after the issuance of SCN, appears to be an afterthought. In addition, given the large scale of operations of Noticee No.1 employing 314 persons, 35 employees being 11% of the total workforce providing investment advice appears to be more cogent state of affairs than just three employees out of 314 giving investment advice to 9000 clients of Noticee No. 1.

45. Noticee No. 1 further submitted that the earlier provision did not mandate the sales staff to be subjected to such qualification/certification. In this regard, regulation 7 of IA Regulations prior to 2020 amendment is reproduced below:

7. Qualification and certification requirement.
…
"(2) An individual registered as an investment adviser and partners and representatives of investment advisers registered under these regulations offering 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 India or any recognized stock exchange in India provided that such certification is accredited by NISM.:
Provided that the existing investment advisers seeking registration under these regulations shall ensure that their partners and representatives obtain such certification within two years from the date of commencement of these regulations:
Provided further that fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements." (underline supplied)

46. Therefore, it can clearly be seen from regulation 7 of the IA regulation prior to 2020 amendment, that certification was a mandatory requirement for representatives of the investment adviser. Even if a limited interpretation is drawn and the sales staff is excluded as argued by Noticees, still there are 32 employees providing investment advisory related services without requisite qualification and certification.

47. In view of the above, it is found that employees/ representatives of Noticee No. 1 were not qualified and certified to deal with the clients and thereby Noticee No. 1 had violated regulation 7 of IA Regulations and clause 1, 2, 3, 8 and 9 of Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations.

V. Whether Noticee No. 1 submitted forged documents to SEBI during the course of inspection and thereby violated regulation 25(1), 25(2) and 25(4) read with 24(3) of IA Regulations read with clause 8 of Code of Conduct for investment advisers provided in Third Schedule of IA Regulations read with regulation 15(9) of IA Regulations?

48. It was alleged in the SCN that Noticee No. 1 submitted forged documents during the inspection. In this regard, Noticee No. 1 submitted that since the files were bulky, they were compressed and therefore, the date of creation was changed.

49. After examining the evidence, I am inclined to agree with the submissions of Noticee No. 1 that the date of creation changes when the files are compressed as the new files are created in compressed form. However, the allegation with respect to the forged documents is not restricted to the compressed documents, it goes into the content of these documents. Noticee Nos. 1 to 3 vide submissions dated November 10, 2020 as above, admitted that that they had submitted false and fabricated documents during the inspection. Further, Noticee Nos. 1 to 3 did not produce any evidence to suggest that the averments made in the submissions dated November 10, 2020 are incorrect. So, it is inferred that Noticee No. 1 first fabricated the documents then compressed those documents before forwarding them to SEBI. For reference, the invoices submitted by the client Mohsin Dhale and the IA were compared and it was observed that none of the invoices submitted by the IA matched with the invoices submitted by the client;

Sr. No.	Documents submitted by Complainants	Creation Date	Digital Signature Date	Documents submitted by IA	Creation Date	Modified Date	Digital Signature Date
1	14187	18/04/2019	18/04/2019	Inv—2274	30/10/2020	17/04/2019	17/04/2019
2	14292	26/04/2019	26/04/2019	Inv-2334	30/10/2020	24/04/2019	24/04/2019
3	14247	24/04/2019	24/04/2019	Inv-2357	30/10/2020	25/04/2019	25/04/2019
4	14299	27/04/2019	27/04/2019	Inv-2377	30/10/2020	27/04/2019	27/04/2019

50. The aforesaid documents are part of the inspection Report at internal page number 11 which was given to the Noticees along with the SCN as Annexure 2. A sample screenshot of the invoice no. 14187 provided by the complainant and invoice no. 2274 given by Noticee No. 1, are given below for the purpose of comparison:

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Screenshot of the invoice submitted by the Client

INVOICE

Capital Stroke Binary For All..	Capital Stroke Investment Services Pvt. Ltd 404,Gravity Tower zanzirwala square Indore , Madhya Pradesh SEBI Reg. No: INA000001316 GSTN- 23AAFCC1815M1ZT	INVOICE NO. 14187	DATE 18-04-2019

BILL TO	START DATE : 23-04-2019
NAME : MOHSIN HANIF DHALE	END DATE : 22-05-2019
MOBILE NO. : STATE : Maharashtra	
EMAIL :	
PAN NO. : STATE CODE: 27	

SR.NO.	DISCRIPTION OF SERVICES	QTY	RATE	PRE	AMOUNT
1	Stock Cash	1			3000
				TOTAL	3000
				NET SERVICE AMOUNT	2542.37288
				CGST	
				SGST	
				IGST	457.62712
				GRAND TOTAL	3000
				E. & O.E	

Terms & Conditions:

- No claim of charge-back / refund shall be admissible on the service. Payment is Non Refundable under any circumstances.
- Also, no request for change neither in ordered Services nor in the duration of the plan opted can be entertained nor any chargeback / refund claimed at any point of time during the contract period.
- Investment / Trading in Market is subject to market risk.
- We do not provide any guaranteed or assured return services, profit sharing services, Demat Account services, Investment related services or any other services which are not mentioned at ourwebsite.

This computer generated invoice, no need for any signature & stamp

for Capital Stroke Investment Services Pvt Ltd

KAMLES DHOLE Digitally signed by KAMLESH DHOLE Date: 2019.04.18 10:27:14

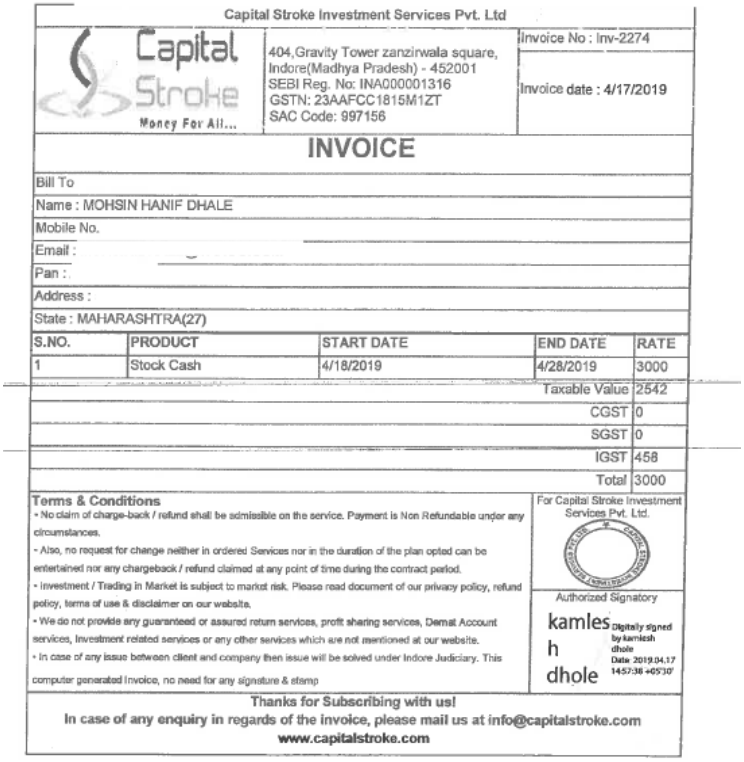
Authorized Signatory

Thanks for Subscribing with us!

In case of any enquiry in regards of the invoice, please mail us at info@capitalstroke.com

www.capitalstroke.com

Screenshot of invoice submitted by Noticee No. 1



Capital Stroke Investment Services Pvt. Ltd

Capital Stroke
Money For All...

404,Gravity Tower zanzirwala square,
Indore(Madhya Pradesh) - 452001
SEBI Reg. No: INA000001316
GSTN: 23AAFCC1815M1ZT
SAC Code: 997156

Invoice No : Inv-2274

Invoice date : 4/17/2019

INVOICE

Bill To

Name : MOHSIN HANIF DHALE

Mobile No.

Email :

Pan :

Address :

State : MAHARASHTRA(27)

S.NO.	PRODUCT	START DATE	END DATE	RATE
1	Stock Cash	4/18/2019	4/28/2019	3000
			Taxable Value	2542
			CGST	0
			SGST	0
			IGST	458
			Total	3000

Terms & Conditions

- No claim of charge-back / refund shall be admissible on the service. Payment is Non Refundable under any circumstances.
- Also, no request for change neither in ordered Services nor in the duration of the plan opted can be entertained nor any chargeback / refund claimed at any point of time during the contract period.
- Investment / Trading in Market is subject to market risk. Please read document of our privacy policy, refund policy, terms of use & disclaimer on our website.
- We do not provide any guaranteed or assured return services, profit sharing services, Demat Account services, Investment related services or any other services which are not mentioned at our website.
- In case of any issue between client and company then issue will be solved under Indore Judiciary. This computer generated Invoice, no need for any signature & stamp

For Capital Stroke Investment Services Pvt. Ltd.

Authorized Signatory

kamlesh dhole Digitally signed by kamlesh dhole Date: 2019.04.17 14:57:38 +05'30'

Thanks for Subscribing with us!
In case of any enquiry in regards of the invoice, please mail us at info@capitalstroke.com
www.capitalstroke.com

51. From the screenshots and the table above, it is evident that though the services offered are the same within a span of 1 day, the invoice numbers, invoice dates and digital signature dates provided by the client do not match with the invoices provided by Noticee No. 1. Therefore, I find that Noticee No. 1 had submitted forged documents to SEBI and therefore, violated regulation 25(1), 25(2) and 25(4) read with 24(3) of IA Regulations read with Clause 8 of Code of Conduct for investment advisers provided in Third Schedule of IA Regulations read with regulation 15(9) of IA Regulations .

VI. Whether Noticee No. 1 attributed inappropriate weight to three questions(answers) and its risk profiling questionnaire was vague, ambiguous and misleading and thereby Noticee No. 1 violated regulation 16(b)(iii), 16(d)(i) and (ii) of IA Regulations?

52. It was alleged in the SCN that Noticee No. 1's Risk Profile Questionnaire were vague, ambiguous and misleading and undue weight was assigned to three questions, hence proper risk profiling was not done for its clients.

53. Noticee No.1 denied the allegations and stated that the allegations are levelled only on the basis of questions without considering the replies and the weightage for those replies. Further, the regulations do not provide for any specific format of risk profiling that is left on the discretion of the IA and cherry picking certain questions/part from a document and leaving the rest part for making allegations is bad in law.

54. The requirement for risk profiling questionnaire is to ascertain as to whether the investment adviser had in place a process for assessing the risk bearing capacity of the clients. As per the IA Regulations, it is left to the investment adviser to frame the risk profiling questionnaire as per the necessary requirements. Therefore, in order to verify the claims of Noticee No.1 as above, I have perused that risk profile questionnaire. Noticee No.1 has 21 questions in its risk profiling questionnaire and on the basis of the score obtained, risk classification of low, medium and high are arrived. There are two questions to which the maximum weightage (2) is given. These questions were:

    i. Investment goal;
    ii. Experience with investment in the past.

    There were 4 questions to which the weightage given was less (1.5) as follows:

    iii. Size of emergency fund;
    iv. Preference to securities with low risk;
    v. Do you prefer to buy when the market is not performing well;
    vi. The percentage of monthly income allotted to pay off debt including EMIs.

    There were other questions where the weightage given was lesser (1) and (0.5) such as:

    vii. Age;

viii. Source of income;
ix. Proposed investment amount;
x. Preferred investment type;
xi. Number of dependents;
xii. Years of investment experience;
xiii. Risk tolerance, etc.

Thus, on granular examination of the risk profile questionnaire of Noticee No.1, I find that Noticee No.1 did not provide undue weightage to certain questions and the questions do not appear vague or misleading. Since, the questionnaire is designed as per the unique investment strategy of the IA who is qualified to do so, I am of the opinion that the violation of regulation 16(b)(iii), 16(d)(i) and (ii) of IA Regulations is not established.

VII. Whether Noticee No. 1 failed to obtain supporting documents / evidence from clients while doing risk profiling and failed to keep recording of telephone conversation with respect to the risk profiling of its clients and thereby violated regulation 16(a), 16(b) and regulations 19(1) and 19(2) of IA Regulations?

55. In this regard, Noticee No. 1 submitted that the law does not mandate such requirement. Since it is impractical, even in the amendment in 2020, such a provision was not incorporated by SEBI when KYC is verified from CKYC. Besides, the RPM was done by client himself on website and thus the question of keeping call recordings did not arise.

56. I tend to agree with the submission of Noticee No. 1 as regulation 19(1) of IA Regulations provides maintenance of the risk profile but does not require the maintenance of the supporting documents. Therefore, I am of the opinion the violation of regulation 16(a) and (b) of IA Regulations and regulations 19(1) and 19 (2) of IA Regulations by Noticee No. 1 is not established.

VIII. Whether Noticee No. 1 changed risk category of its client Mr. Virendra Kumar Jain in a very short time period by manipulating responses to Risk Profile

Form questions and thereby violated regulation 3(a), (b),(c) and (d) of PFUTP Regulations read with section 12A(a),(b) and (c) of SEBI Act and regulation 15(1) and clauses 1, 2, 4, 5 and 8 of Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations?

57. Noticee No. 1 had submitted that the Risk Profile was submitted online through the website. Therefore, amendments, if any, were done by the clients.

58. In order to see the claim of Noticee No.1, I have perused the risk profiles of Mr. Vijender Jain which was alleged to have been amended by Noticee No.1. It is observed that in the risk profile questionnaire, the risk appetite of the client was changed from low to high. Further, the client profile was changed from moderate to aggressive. The proposed investment was changed from Rs. 1-2 Lakh to Rs. 2-5 Lakh.

59. It is further observed that Mr. Vijender Jain had filed a complaint on SCORES that Noticee No. 1 had done two risk profiling for him. It was stated that Noticee No. 1 dictated him to fill the risk profile step by step. In this regard, Noticee No. 1 submitted that the said complaint was closed on SCORES portal and the client did not make any complaint that his Risk profile was altered.

60. In order to verify its claim, I have perused the Action Taken Report (ATR) of Noticee No. 1 with respect to the said complaint. From the ATR, it is observed that the said complaint was closed as there was no response and supporting documents from the complainant with regard to the resolution of the complaint.

61. Further, I have noted from the record that the client had forwarded the risk profile to Noticee No. 1 through emails. Therefore, I am inclined to give Noticee No. 1 benefit of doubt.

62. Hence, I am of the opinion that violation of regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with section 12A(a),(b) and (c) of SEBI Act and regulation 15(1) and

Clauses 1, 2, 4, 5 and 8 of Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations by Noticee No. 1 is not established.

IX. Whether Noticee No. 1 sold same advisory product / service again and charged advisory fees multiple times to its clients before completion of the tenure of the previous service and charged arbitrary / illogical fees from its clients, charged fees more than the fees specified on its website and thereby violated regulation 15 (1) read with regulation 17(b), (d) and (e) of IA Regulations, clauses 1, 2, 6 and Clause 9 of the Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations and regulation 3 (a), (b), (c) and (d), 4(1) and 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act?

63. It was alleged in the SCN that Noticee No. 1 sold same advisory product / service again and again and charged advisory fees multiple times to its clients before completion of the tenure of the previous service which was more than the fees mentioned on its website.

64. In this regard, Noticee No. 1 submitted that SEBI has never provided any ceiling on the fees to be charged. Noticee No. 1 further submitted that the client's complaints in this regard were already closed to the satisfaction of SEBI by processing a refund and the reasonableness of the fees can only be decided between the client and Noticee No.1.

65. In this regard, I note that as per the Code of Conduct, investment advisers shall ensure that fees charged to the clients are fair and reasonable. I note from the invoices provided to the Noticees along with the SCN as Annexure 10 (Client Master and 4 sets of invoices), Noticee No. 1 had charged the clients multiple times for the same period for different services which cannot be termed as fair and reasonable. The details of fees collected by Noticee No.1 in case of three clients is given below:

Sr. No	Client	Invoice date	Product	Fees collected	Period collected for
1	Amit Pravinbhai Dudhat	November 04 2020	Stock Cash	Rs. 25,000	06.11.2020-10.12.2020
		November 05, 2020	Stock Cash Premium	Rs. 20,000	06.11.2020-22.11.2020
		November 10, 2020	Stock Option	Rs. 10,000	11.11.2020–01.12.2020
		November 24, 2020	Stock Cash Premium	Rs. 20,000	25.11.2020-17.12.2020
		November 25, 2020	Stock Future	Rs. 10,000	26.11.2020-21.12.2020
		December 02, 2020	Stock Option	Rs. 10,000	03.12.2020-28.12.2020
			Total	**Rs. 95, 000**	
2	Mohsin Hanif Dhale	April 18, 2019	Stock Cash	Rs. 3,000	23.04.2019 - 22.05.2019
		April 24, 2019	Stock Cash Premium	Rs. 22,000	26.04.2019 - 25.05.2019
		April 25, 2019	Stock, Cash Premium	Rs. 10,555	26.04.2019 - 25.05.2019
		April 26, 2019	Stock Cash, Cash Premium	Rs. 15,000	29.04.2019 - 28.05.2019
		April 27, 2019	Equity Plus	Rs. 25,000	02.05.2019 - 31.05.2019
		April 27, 2019	Equity Plus	Rs. 24,445	02.05.2019 - 31.05.2019
		May 08, 2019	Equity Plus	Rs. 19,000	02.05.2019 - 31.05.2019
		May 08, 2019	Equity Plus	Rs. 31,000	02.05.2019 - 31.05.2019
		May 27, 2019	Stock Cash, Cash Premium	Rs. 27,981	06.06.2019 - 01.07.2019
		May 28, 2019	Stock Cash	Rs. 14,333	06.06.2019 - 09.08.2019
		May 28, 2019	Stock Cash	Rs. 6,656	06.06.2019 - 09.08.2019
		May 28, 2019	Stock Cash Premium	Rs. 14,902	06.06.2019 - 25.06.2019
		May 31, 2019	Stock Future Premium	Rs. 26,333	06.06.2019 - 09.07.2019
		May 31, 2019	Stock Cash	Rs. 13,500	06.06.2019 - 20.09.2019
			Total	**Rs. 2,53,705**	
3	Milind Arvind Puranaik	August 20, 2018	Stock Cash	Rs. 5,000	NA
		September 18, 2018	Stock Cash	Rs. 35,000	NA
		September 21, 2018	Stock Cash, Stock Cash Premium	Rs. 80,000	NA

		September 21, 2018	Stock Cash, Stock Premium	Rs. 85,000	NA
		September 26, 2018	Stock Cash, Stock Cash Premium	Rs. 40,000	NA
		October 04, 2018	Stock Cash	Rs. 10,000	NA
			TOTAL	**Rs. 2,55,000**	

66. It is noted from the invoices that Noticee No. 1 had charged high fees multiple times in short period for the same service, which do not appear to be reasonable. Noticee No.1 submitted that the said payment was under instalments. However, the aforesaid invoices do not indicate so. It can clearly be seen from these invoices that Noticee No. 1 charged its clients for the same period for different services. For example, Mr. Amit Pravinbhai Dudhat was charged for the same period for three difference services, Stock Case, Stock Cash Premium and Stock Option. The payment made towards these services do not appear to be instalments as per the invoices.

67. In order to substantiate the aforesaid violation, the submissions of the Noticee No.1 as above is also relied upon wherein it stated that the complaints were closed pursuant to payment of refund to SEBI's satisfaction. Noticee No.1 had submitted that the refunds were issued to the complainants who had complained of unreasonable fee and the complaints were closed on the SCORES portal. Though the complaints are closed and concerns addressed, such payment of refunds invariably point to the fact that there had been excess collection of fees as alleged.

68. Noticee has further relied upon the order of SEBI in the matter of Star World Research and Desire research and stated that SEBI considered the fees charged in the said orders as unreasonable as the fees charged was between Rs. 20-25 Lakh. However, it is not the same in the present case. In this regard, I note from the above table, that Noticee No. 1 charged more than Rs.2 Lakh fees within a month's time which appears to be in the same proportion as the fees charged in the matters of Star World Research as in an year, it would be approx. Rs. 24 lakh. Therefore, I do not find merit in the submissions of Noticee No. 1 in this regard.

69. Therefore, I am of the opinion that Noticee No. 1 had violated regulation 15 (1) read with regulation 17(b), (d) and (e) of IA Regulations, Clauses 1, 2, 6 and Clause 9 of the Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations and regulation 3 (a), (b), (c) and (d), 4(1) and 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

X. Whether Noticee No. 1 failed to provide proof of communication to clients about details of its advisory services and thereby violated regulation 18 (6) of IA Regulations, clauses 1, 2, 5, 8 and 9 of the Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations?

70. It was alleged that during inspection, Noticee No. 1 did not produce any proof of communication to its clients about details of its advisory services.

71. Noticee No. 1 submitted that whatever data sought during the inspection was provided and no such observation was made in interim or confirmatory order. In this regard, it is noted that regulation 18 of IA Regulations, mandates that an IA while making advice, shall make adequate disclosure to the client of all material facts relating to the key features of the products or securities, particularly, performance track record.

72. However, Noticee No. 1 could not provide any document to prove that such information was provided to the clients. In fact, apart from a general welcome email, Noticee No. 1 had not produced any communication wherein the details, material facts and key features of the product or securities, etc., were provided to the clients. During the personal hearing, Noticee No.1 submitted that the communications were made with the clients through SMSs, however, not even a single such SMS was produced as evidence considering extent of the operations of Noticee 1 as discussed above. Moreover, I am not inclined to accept the claim for another reason that SMSs have the word limit and therefore, it is improbable that it could convey such details as mandated in regulation 18(6) of the IA Regulations.

73. Therefore, I hold that by not providing the aforesaid details to the clients, Noticee No. 1 had violated regulation 18 (6) of IA Regulations, clauses 1, 2, 5, 8 and 9 of the Code of Conduct for investment advisers as specified under Third Schedule read with regulation 15(9) of IA Regulations.

XI. Whether Noticee No. 1 provided free trials to its prospective clients and thereby violated SEBI Circular dated December 27, 2019?

74. It was alleged that Noticee No. 1 provided free trials to its clients. Noticee No. 1 submitted that no such allegation was made in the interim or confirmatory order, that the tab for free trial was removed from the website in January 2020 and that SEBI did not receive any complaints for the same.

75. Even though Noticee No. 1 claimed the tab for free trial was removed from the website in January 2020, I note that the FAQs available on the website in August 2020 stated that Noticee No. 1 provided free trail. The screenshot of the same is provided below:

Q. Is there any Free-Trial Service? If yes, how can I avail that?

Yes we give 2 days free trial and to avail this trial you just have to visit our Company Website and you have to register your Details there. http://www.capitalstroke.com/free-trial.php

76. Mentioning of free trial in the FAQs gives an impression to the clients that they could have registered with Noticee No. 1 to avail the free trial. Further, from the website archives, it is found that even in August 2020, the free trial form was available on the website of Noticee No. 1. Therefore, it is seen that Noticee No. 1 offered free trials even after it claimed that it had removed the said tab from its website. Therefore, I am of the opinion that Noticee No. 1 violated SEBI Circular dated December 27, 2019.

XII. Whether Noticee No. 1 failed to maintain records of risk profiling, suitability assessment, selling advisory service, etc., and thereby violated regulations 19(1) and 19(2) of IA Regulations?

77. On the basis of the Business process details submitted by Noticee No. 1 given as Annexure 12 to the SCN, it was alleged that Noticee No. 1 did not maintain records of risk profiling, suitability assessment, selling of advisory service, etc. As against the allegation, it was stated by Noticee No. 1 that it had submitted all the required documents during the inspection.

78. I have perused the Business Process detail provided along with the SCN to Noticee No. 1. From the said document, it is observed that it only provides flow of the investment advisory process to enable its clients to understand as to what process the client shall go through to make an investment decision. The said document does not deal with the maintenance of records. Further, I have observed that all the documents like risk profiling, suitability assessment, invoices were made available by Noticee No. 1 during the inspection.

79. Regulation 19 of the IA Regulations require an IA to maintain a record of KYC, risk profile and risk assessment of the client, suitability assessment, investment advice provided, rationale for the same, a register of clients and records of communications. On the basis of the Business Stability Report, the maintenance of such records cannot be assessed. Further, these records were provided to SEBI by Noticee No. 1 during the inspection. Therefore, the allegation that Noticee No. 1 did not maintain certain records based on the Business Process does not appear to be appropriate. Hence, I am of the opinion that violation of regulations 19(1) and 19(2) of IA Regulations by Noticee No. 1 is not established.

XIII. Whether Noticee No. 1 made misrepresentation on its website with respect to its research team and advices/services, false claims about its performance and accuracy of the services and thereby violated regulation 3(a), (b), (c), (d), 4(1), 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act?

80. It was alleged in the SCN that Noticee No. 1 misrepresented about its research team and advices/ services on its website and made false claims about its performance and accuracy of the services.

81. As against the said allegation, Noticee No. 1 submitted that the track record and testimonials on the website are genuine but it did not maintain the records as there was no regulation to maintain data which was more than 5 years old. It also submitted that the client testimonials are of 2012 which could be verified from archive.org.

82. In this regard, it is observed from the homepage of Noticee No.1's website under the heading "Welcome to Capital Stroke Investment Services Pvt. Ltd." as follows:

"*Our highly qualified research team comprising of MBAs (Finance), CFA and Engineers and they are competent and well versed with the complexities and finer details of the Indian financial market. Our main goal is to provide accurate and timely calls (tips) to our clients, where the clients can earn handsome profit. Our clients are supported by a dedicated business development team, available 24x7 to solve their queries. We are thankful as you have visited our site*."

83. However, from the details of employees submitted by Noticee No. 1 during the inspection, it was observed that Noticee No. 1 had 4 employees in its research department with following qualifications:

Sr. No.	Name	Designation	Degree/highest qualification	NISM qualification
1.	Akshey Sakalle	Researcher	B.Com	Not qualified
2.	Amar Singh Kushwaha	Researcher	BBA	NISM Qualified
3.	Kamlesh Dhole	Research Analyst	MBA Finance	NISM Qualified
4.	Lokesh Gupta	Research	Not provided	NISM Qualified

84. It can be clearly seen from the aforesaid details provided by Noticee No. 1 that none of its employees were CFA qualified. Except the employee at Sr. No. 3 in the table above, none of the employees had qualification mentioned on the homepage of the website of

Noticee No. 1. The only employee with MBA as claimed in the records of Noticee No. 1, is actually the director of Noticee No.1, i.e., Noticee No.4. who did not reply to the SCN.

85. Further, it is observed that following testimonials were available on the website of Noticee No. 1:

    I. *…this is one of the best tips provider available, I've never had an issue with them or their trading platform – by Madhu Shetty, Erode (T.N.)*

    II. *Rare to find this kind of quality in today's advisors. Highly recommended. By Gaurav Wadwani, Bhatinda (Puj.)*

    III. *It's really been great trading with these guys. They know their stuff. By Mukesh Bhai, Surat (Guj.)*

86. However, it is noted from the joint submissions of directors of Noticee No. 1, made vide letter dated November 10, 2020, it had no record with respect to such clients and the said testimonials were false.

87. Noticee No. 1 in its reply to the SCN submitted that the said joint statement was made under coercion. This aspect on joint statement dated November 10, 2020 made by all directors of Noticee No.1 is already dealt at paragraphs 42 to 44 above. Therefore, I am not inclined to accept the subsequent submissions of Noticee No.1 in this regard that the records were not maintained as these testimonials were of clients whom it served in 2012. Moreover, Noticee No.1 flaunting testimonials of clients whom it claimed to have served in 2012 is a blatant lie as it was incorporated only on March 14, 2013 and obtained its registration of investment adviser in March 21, 2014.

88. Such act of Noticee No. 1 amounts to knowing misrepresentation of the truth, a suggestion as to a fact which is not true, active concealment of a fact by a person having knowledge or belief of the fact, a representation made in a reckless and careless manner and a false statement made without reasonable ground for believing it to be true. Thus,

Noticee No. 1 fraudulently induced prospective clients to avail its services by publishing false testimonials on its website and by making bogus claims about its research team. Further, Noticee No.1, in a reckless or careless manner, disseminated information/ advice through its website which it knew as false/misleading, which was likely to influence the decision of prospective clients dealing in securities.

89. The conduct of Noticee No.1 is also a fraudulent inducement of prospective clients by a registered market participant to deal in securities with the objective of enhancing its income. It is also established that the Notice was mis-selling services relating to securities market by knowingly making false and misleading statement in its website.

90. Therefore, I am of the opinion that Noticee No. 1 had violated regulation 3(a), (b), (c), (d), 4(1), 4(2)(k), (o) and (s) of PFUTP Regulations read with section 12A(a),(b) and (c) of SEBI Act.

XIV. Whether Noticee No. 1 was involved in the unregistered advisory activity of Green Wealth and thereby violated regulation 3(1) of the IA, Regulations, regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act?

91. On the basis of the bank statement of Noticee No. 1, the SCN alleged that it was involved in the unregistered advisory activities of Green Wealth, an unregistered investment advisory firm of its employee, Ms. Bhavana Baria and it received funds from Green Wealth.

92. In this regard, Noticee No. 1 submitted that Ms. Bhavana Baria was an employee who had left the job and started her own business in the name of Green Wealth. Noticee No. 1 further submitted that Noticees never received any money from Ms. Bhavana Baria or her unregistered company Green Wealth. It was submitted that Noticees had filed a complaint against Ms. Bhavana Baria with SEBI Local Office. It further claimed that the bank account where funds were received does not belong to it rather to Noticee No.4 who

is the director and he shall come forward to give reply for the entries in those bank accounts. Therefore, Noticee No.1 and the other directors cannot be held vicariously liable for the act of Noticee No.4.

93. In this regard, Noticee No. 1 has failed to produce any proof that it had filed a complaint regarding the unregistered investment advisory activity by Ms. Bhavana Baria with SEBI. It is interesting to note here that Noticees did not file a police complaint and did not follow up the matter with SEBI if they had filed a complaint as claimed. It is further observed that the spouse of Ms. Bhavna Baria was working with Noticee No. 1 as an employee. In spite of Noticee No.1's claim that Ms. Bhavna Baria had left the job, she continued to receive salary in her bank account from Noticee No.1. It was further found that Green Wealth was using the IA Registration Number of Noticee No. 1.

94. With respect to the receipt of funds from Green Wealth, Noticee No.1 claimed that the bank accounts where the credits from Ms. Bhavana Baria's Green Wealth was received did not belong to it rather to Noticee No.4. I have perused Annexure 15 of SCN in this connection. It is found that there is one bank account each with ICICI Bank, HDFC bank and Axis Bank in the name of Capital Stroke Financial Services where Noticee No.4 is the proprietor. Apparently, Noticee No.4 was operating these bank accounts even after the incorporation of Noticee No.1 into a private limited company on March 21, 2013.

95. It is further observed that Noticee No. 4 received advisory fees in proprietary bank account to the tune of approx. Rs. 18 Lakh from Green Wealth. Further, Noticee No. 2 had also received the advisory fees in his sister's bank account from Green Wealth which shows that Noticee No. 2 was also engaged in the unregistered advisory activities.

96. Noticee No.1 has three directors and as per records, Noticee No.4 is the one who had established the proprietorship. He later joined with other two directors to make the private limited company which is Noticee No.1. It is curious to note that as per the MCA website Noticee No.2 to 4 are still the directors of Noticee No.1 while an attempt is made by Noticee No.1 to disassociate itself from Noticee No.4 who is the promoter and the longest

serving director of Noticee No.1 as discussed above. The deliberate silence of Noticee No.4 in this context shows the mala fide of the Noticees to keep it unregistered investment advisory activities through Green Wealth under wraps.

97. The gamut of affairs in this matter where Noticee No.1 employing the husband of Ms. Bhavana Baria, continuing payment of salary to Ms. Bhavna Baria in her bank account, permitting Green Wealth to use its IA Registration Number and two out of the three directors of Noticee No.1 receiving funds from Green Wealth, on one hand and Noticee No.1's false claim of filing a complaint with SEBI against the same Ms. Bhavana Baria on the other, is riddled with contradictions. Thus, given the above factual matrix, it is impossible to find that Noticee No.1 had no role in the said activities rather the preponderance of probabilities point to the fact that Noticee No. 1 was complicit in the unregistered investment advisory services of Green Wealth and was a beneficiary too.

98. Hence, I am of the opinion that Noticee No. 1 had violated regulation 3(1) of the IA Regulations, regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

XV. Whether Noticee No. 1 failed to disclose risk profile to its clients and thereby violated regulation 16(e) of the IA Regulations?

99. It is alleged in the SCN that Noticee No. 1 did not communicate the risk profile to the client Mr. Vijendra Gupta after risk assessment as mandated under regulation 16(e). In this regard, Noticee No.1 submitted that the client did not file any complaint on SCORES with respect to such non-disclosure. Further, if the client needs the document, the same shall be provided within 2 days.

100. I have noted that apart from the email wherein the client had shared its risk profile form with Noticee No. 1, there are no communication between the client and Noticee No.1. Noticee No. 1 did not produce any evidence/document on record that risk profile was communicated to the clients. Further, Noticee No. 1 did not produce any document to

show that it took any confirmation from the client regarding the risk categorization. It is important that a client is aware of his risk assessment to make an informed investment decision. Therefore, I am of the opinion that Noticee No. 1 violated regulation 16(e) of the IA Regulations as it failed to communicate the risk profile to clients.

XVI. Whether Noticee No. 1 failed to redress the investor complaints on time and thereby violated SEBI Circular dated December 18, 2014 and regulation 21(1) read with regulation 28(f) of IA Regulations?

101. It was alleged in the SCN that Noticee No. 1 did not redress the following investor complaints:

S. No.	Complainant Name	SCORES Registration No.	Date of Receipt of Complaint
1.	Abhijit Ragit	SEBIE/MP21/0000549/1	22/04/2021
2.	Amit Dudhat	SEBIE/MP21/0000672/1	26/04/2021
3.	Anupama Appana	SEBIE/MP21/0000255/1	10/02/2021
4.	Archana Gupta	SEBIE/MP21/0001287/1	01/12/2021
5.	Avdhesh Kumar	SEBIE/MP21/0000595/1	04/05/2021
6.	Gaurav Gupta	SEBIE/MP21/0001085/1	02/09/2021
7.	Kuldeep Kumar Sharma	SEBIE/MP20/0002099/1	25/11/2020
8.	Manish Parmar	SEBIE/MP21/0000395/1	20/02/2021
9.	Milind Arvind Puranik	SEBIE/MP22/0000815/1	09/11/2022
10.	Mohit Chhattani	SEBIE/MP22/0000033/1	12/01/2022
11.	Prem Chandra Sonker	SEBIP/MP22/0000031/1	23/05/2022
12.	Rahul Solanki	SEBIE/MP21/0000831/1	16/07/2021
13.	Shyam Nandan Kishor	SEBIE/MP21/0001310/1	08/11/2021
14.	Vijaya Kiran Sawant	SEBIE/MP21/0001128/1	12/10/2021

102. Noticee No. 1 submitted that it had served around 9000 clients out which only 73 unique complaints were filed on SCORES which is less than 1%. Further, the actual pending complaints were only three.

103. I note that the SCN alleged that 14 unique complaints were pending to be resolved by Noticee No. 1 which is 0.15% of the total clients of Noticee No. 1. I have also noted the efforts taken by Noticee No.1 in redressing the said complaints as evident from the Annexures to the SCN. Taking into account the same, I am inclined to give Noticee No. 1 benefit of doubt and absolve Noticee No. 1 from the charge of violation of SEBI Circular dated December 18, 2014 and regulation 21(1) read with regulation 28(f) of IA Regulations.

XVII. Whether Noticee Nos. 2 to 4, being the directors of Noticee No.1 who were having knowledge of the contraventions committed by Noticee No.1 are liable for the said contraventions under section 27 of the SEBI Act?

104. It was alleged in the SCN that Noticee Nos. 2 to 4 were the directors of Noticee No. 1 at the time of the contravention and they were having knowledge of the said contravention. Therefore, as per the provision of section 27 of the SEBI Act, the contravention by Noticee No. 1 are deemed to be committed by Noticee Nos. 2 to 4.

105. In the present case, as discussed above, it is not in dispute that Noticee Nos. 2 to 4 have been at the helm of affairs of Noticee No. 1. They are the promoter directors and continues to be so as per the MCA website till date. As per section 27 of the SEBI Act, a person is deemed to be guilty of an offence committed by the company on the condition that he was in charge of and responsible for conduct of the business of the company.

106. Noticees Nos. 2 and 3 could not provide any evidence to show that the contraventions were committed without their knowledge or they had exercised due diligence to prevent the commission of such contravention. As far as Noticee No.4 is concerned, he did not

even bother to file a reply to the SCN despite service of the SCN and hearing notices. In addition, direct involvement of Noticee No.2 and Noticee No.4 in the unregistered investment advisory services of Green Wealth is evident from the receipt of funds in the bank accounts as discussed above. Therefore, I am of the opinion that Noticee Nos. 2 to 4 are deemed to be guilty of the contraventions committed by Noticee No.1 as above under section 27 of SEBI Act.

XVIII. Do the violations, if any, on the part of the Noticees attract monetary penalty under sections 15C, 15HA, 15EB (for violations on or after March 08, 2019), 15HB (for violations prior to March 08, 2019) read with section 27 of the SEBI Act?

107. I note that the Hon'ble Supreme Court of India in the matter of *SEBI v. Shri Ram Mutual Fund* [2006] 68 SCL 216(SC) had held that "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established.....".* As discussed above, it is established the Noticees have violated various provisions of the IA Regulations, PFUTP Regulations and SEBI Act.

108. In view of the violations committed by the Noticees as established above, I am of the opinion that it warrants imposition of monetary penalty under sections 15EB, 15HA and 15HB of the SEBI Act on the Noticees. The said sections are reproduced as under:

"Penalty for default in case of investment adviser and research analyst.
15EB. Where an investment adviser or a research analyst fails to comply with the regulations made by the Board or directions issued by the Board, such investment adviser or research analyst shall be liable to penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees."

"Penalty for fraudulent and unfair trade practices.
15HA.If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees

but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher."

"***Penalty for contravention where no separate penalty has been provided.***
15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees."

XIX. If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into account the factors mentioned in section 15J of the SEBI Act?

109. While determining the quantum of penalty under sections 15EB, 15HA and 15 HB of the Act, the following factors stipulated in section 15J of SEBI Act are taken into account:-

"15J. While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely :—
(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.
Explanation.—For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

110. From the material available on record, I observe that any quantifiable gain or unfair advantage accrued to the Noticees or loss cause to investors, is not available.

111. Noticees with respect of quantum of penalty, have relied upon SEBI orders in the matter of Abhishek (Investment Advisor) wherein Rs. 2 Lakh penalty was imposed and M/s Nestra Capital Prop: Dhirandra Ramraj wherein it was observed that penalty may

not be justified as the Noticee had closed its operations and they were not taking any new clients.

112. In this regard, I observe that the facts in the present case are clearly distinguishable from that of SEBI orders in Abhishek (Investment Adviser) as in the matter of Abhishek, on the basis of material available on record, out of 9 allegations, only one allegation could be held and therefore on the said one violation, Rs. 2 Lakh penalty was imposed. Besides the allegation of violation of PFUTP Regulations was not established. Further, in the matter of Nestra Capital Prop: Dhirendra Ramraj, Noticee had ceased to operate its business after the inspection and there were no receipt of fee from its clients. However, in the present case, Noticee No. 1 continued to conduct its business until SEBI order dated August 27, 2021.

ORDER

113. Having considered all the facts and circumstances of the case, the material available on record including submissions of the Noticees as well as the factors mentioned in section 15J of SEBI Act and in exercise of the powers conferred upon me under section 15-I of the SEBI Act read with rule 5 of the Rules, I hereby impose following penalty on the Noticees:

Sr. No.	Noticee	Penalty
1	**Capital Stroke Investment Services Pvt. Ltd.**	Rs. 5,00,000/- (Rupees Five Lakh) under section 15HA of SEBI Act Rs. 5,00,000/- (Rupees Five Lakh) under sections 15EB and 15HB of SEBI Act
2	**Mr. Upendra Singh Rajput**	
3	**Mr. Prashant Singh Baghel**	
4	**Mr. Kamlesh Dhole**	

Noticees are jointly and severally liable to pay the said penalty. I am of the view that the said penalty is commensurate with the violations committed by Noticees.

114. Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW.

In case of any difficulties in payment of penalties, Noticees may contact the support at portalhelp@sebi.gov.in.

115. In the event of failure to pay the said amount of penalty by Noticees within 45 days of the receipt of this Order, recovery proceedings may be initiated against Noticees under section 28A of the SEBI Act, for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

116. In terms of the provisions of rule 6 of the Rules, copies of this order are being sent to the Noticees and also to Securities and Exchange Board of India.

JAI SEBASTIAN
Digitally signed by JAI SEBASTIAN
Date: 2025.08.28 17:41:15 +05'30'

Date : August 28, 2025
Place : Mumbai

Jai Sebastian
Adjudicating Officer