<u>**BEFORE THE ADJUDICATING OFFICER**</u>

<u>**SECURITIES AND EXCHANGE BOARD OF INDIA**</u>

[ADJUDICATION ORDER NO. Order/SM/DD/ Order/SM/DD/2023-24/26617]

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

In respect of –

Sumpoorna Portfolio Ltd.

[PAN: AAOCS8998N]

In the matter of Illiquid Stock Options at BSE

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as, "**SEBI**") had examined trading in illiquid stock options at BSE Ltd. ("**BSE**") for possible violation of the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as, "**SEBI Act**") and various Rules and Regulation made thereunder.

2. An Interim Order No. WTM/RKA/ISD/106/2015 dated August 20, 2015 ('**Interim Order'**) was passed by SEBI in the matter of Illiquid Stock Options restraining 59 persons/entities from buying, selling or dealing in the securities market, either directly or indirectly, in any manner, till further directions. Confirmatory Orders dated July 30, 2016, August 22, 2016 and August 24, 2016 (collectively "**Confirmatory Orders**" in short) in this regard, were passed by SEBI confirming the directions issued vide the Interim Order against all 59 persons /entities.

3. The modus operandi that was identified in the Interim order and Confirmatory Orders, briefly stated, was that certain entities (clients) had continuously made profits and certain entities (clients) had continuously made losses by reversing their trades or executing reversal trades in various individual Stock Options contracts on BSE's Stock Options segment. In the Interim order, these reversal trades were also referred to as "non-genuine trades". Reversal trades executed by clients through brokers had been classified as those trades in which an entity (client) reverses its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day.

4. Subsequent to passing of aforementioned Interim Order against 59 persons /entities, SEBI passed an Interim Order dated February 17, 2016 against 22 Trading Members ("**Brokers**") in the same matter of Illiquid Stock Options. However, the said order was set aside by Hon'ble Securities Appellate Tribunal ("**SAT**") vide its orders dated February 25, 2016, March 04, 2016, March 09, 2016, March 14, 2016, March 15, 2016, March 18, 2016 and April 05, 2016. Pursuant to appeal filed by SEBI against the aforesaid orders of Hon'ble SAT, the Hon'ble Supreme Court, vide its order dated July 1, 2016, *inter-alia* directed as under:

"*Looking at the facts of the case, we are of the view that the respondents should give reply to the show cause notice, which had been issued to them by the SEBI by virtue of order dated 17th February, 2016, within two weeks from today. Upon getting the reply, within four weeks thereafter the SEBI shall decide the matter finally after giving a hearing to the parties, to whom the show cause notice had been given by the SEBI. In view of the above order, we dispose of these appeals. It is clarified that the SEBI shall pass an order after hearing the concerned parties and without being influenced by any observation made by the SAT. Looking at the facts of the case, the order* *passed by the SAT shall operate till the SEBI decides the case pending before it.*"

5. Subsequently, SEBI passed order no. WTM/RKA/ISD/94/2016 dated August 12, 2016 in the matter stating, inter alia, that a final view for appropriate action be taken after completion of ongoing investigation in the matter.

6. Pursuant to investigation for the period April 01, 2014-September 30, 2015(herein after referred to as "**IP/Investigation Period**"), it was observed that during the investigation period, a total of 2,91,744 trades comprising 81.40% of all the trades executed in BSE Stock Options Segment were trades which involved reversal of buy and sell positions by the clients and counterparties in contracts through 192 Brokers. The reversal trades involved squaring off transactions, but with significant difference in the sell value and buy value of the transactions. The aforesaid reversal trades allegedly led to generation of artificial volumes. It was observed that the broker including Sumpoorna Portfolio Ltd. (hereinafter referred to as "**Noticee**") had failed to identify and generate alerts and thereby it was alleged that the said brokers including Noticee had contravened the Schedule II A (2) of Code of Conduct for Stock Brokers r/w Regulation 9 (f) of the SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as "**Broker Regulations**")

7. Subsequently, SEBI initiated Adjudication Proceedings under Section 15HB of SEBI Act against Noticee, for allegedly not exercising care and diligence in the conduct of its business while dealing with its clients in violation of Schedule II A (2) of Code of Conduct for Stock Brokers r/w Regulation 9 (f) of the Broker Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

8. Vide order dated August 13, 2021, SEBI appointed the undersigned as Adjudicating Officer(**AO)** under Section 15-I read with Section 19 of SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**) to inquire into and adjudge under Section 15HB of the SEBI Act, the aforesaid alleged violations by Noticee. The appointment of the AO was communicated vide communique dated September 17, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

9. A show-cause notice dated July 14, 2022 (hereinafter referred to as '**SCN**') was issued to Noticee under Rule 4(1) of the Adjudication Rules to show-cause as to why, an inquiry should not be initiated against Noticee and penalty, if any, should not be imposed upon it under the provision of Section 15HB of SEBI Act for the aforesaid violation alleged to have been committed by it.

10. The allegations levelled against Noticee in the SCN are briefly stated as under:

"*BSE had issued notice to all the Trading Members (brokers) casting an obligation on the broker to, inter alia, monitor and report reversal of trades in derivatives segment. BSE notice no 20130307-21 (addressed to all the trading members) dated March 07, 2013 pertaining to "e-Boss", inter- alia, indicated the list of alerts that will be generated by BSE which includes reversal of trades in derivatives segment. Further, in terms of the aforesaid notice every broker was necessarily required to frame a surveillance policy, inter alia, covering suspicious/manipulative activity identification and reporting process.*

……

However, as informed by BSE vide email dated November 06, 2020, no broker had reported any suspicious transactions to exchange being executed on Stock Options segment of BSE during I.P. None of the brokers generated any alerts or reported any reversal of trades executed by their respective clients.

Analysis of Source Data

On analysing the source data, the data was segregated based on scenarios so as to identify scenario-wise violations by a Broker. Scenarios in which the source data was segregated is as given below:

Table 2: Summary of scenarios

Scenario	Particulars	Count of Brokers	Total number of non-genuine trades (both client and counterparty client)	Cumulative non-genuine trades through Brokers after removing duplicates (same broker for both clients)	As a % of total transactions
1	Same Broker for both clients on both legs of trade reversal	19	8,528	4,264	0.74
2	Different Broker for both clients on both legs of trade reversal	189	5,74,900	5,74,900	99.25
3	Trade reversals involving three Brokers	8	60	59	0.01
	Total	**192***	**5,83,488**	**5,79,223**	**100**

**Note – There are 3 unique brokers appearing in Scenario 1 and the remaining 16 brokers of Scenario 1 are overlapping with 189 unique brokers appearing in Scenario 2. Accordingly, total Brokers through whom 2,91,744 non-genuine trades have been executed is 3+189 = 192 brokers. Names of 8 brokers appearing in scenario 3 are overlapping with names appearing in either Scenario 1 or Scenario 2.*

In the instant proceedings, based on the analysis Scenario 2 is applicable, which is detailed below through illustrations:

Scenario 2: Different Broker for both clients on both legs of trade reversal

As an illustration, in the instant scenario, two clients execute reversal trade through two different Brokers. For the sake of clarity, a contract is shortlisted (i.e. "JPPW15JAN10.00CEW1") and trades that were executed in this contract on January 01, 2015 is shown below:

Table 3

SL. NO.	CLIENT PAN	CLIENT NAME	CP PAN	CP CLIENT NAME	ORDER TIME	CP ORDER TIME	TRADE TIME	TRADE RATE	TRADED QTY	MEMBER NAME	CP MEMBER NAME
1	AAGFC5601H	Chanakya Broking Company	BSUPS7339K	Vitrag R Sheth	11:40:42	11:40:42	11:40:42	1.2	90000	Skung Tradelink Ltd	Prudent Broking Services Pvt.Ltd.
2	BSUPS7339K	Vitrag R Sheth	AAGFC5601H	Chanakya Broking Company	11:41:03	11:41:03	11:41:03	2.8	90000	Prudent Broking Services Pvt.Ltd.	Skung Tradelink Ltd
3	AAGFC5601H	Chanakya Broking Company	BSUPS7339K	Vitrag R Sheth	11:42:48	11:42:48	11:42:48	1.3	90000	Skung Tradelink Ltd	Prudent Broking Services Pvt.Ltd.
4	BSUPS7339K	Vitrag R Sheth	AAGFC5601H	Chanakya Broking Company	11:43:15	11:43:14	11:43:15	2.8	90000	Prudent Broking Services Pvt.Ltd.	Skung Tradelink Ltd
5	AAGFC5601H	Chanakya Broking Company	BSUPS7339K	Vitrag R Sheth	11:43:54	11:43:54	11:43:54	1.3	15000	Skung Tradelink Ltd	Prudent Broking Services Pvt.Ltd.
6	BSUPS7339K	Vitrag R Sheth	AAGFC5601H	Chanakya Broking Company	11:44:17	11:44:17	11:44:17	2.8	15000	Prudent Broking Services Pvt.Ltd.	Skung Tradelink Ltd

It is observed from the above table that:

a. *In total 6 trades were executed in the contract "JPPW15JAN10.00CEW1" on January 01, 2015. Trade reversals are executed between clients Chanakya Broking Company and Vitrag R Sheth through Brokers Skung Tradelink Ltd and Prudent Broking Services Pvt. Ltd. respectively.*

b. *Total number of non-genuine trades that were executed in the contract "JPPW15JAN10.00CEW1" were 6 (trades shown at S. No. 1 to 6 at Table above) and total artificial volume generated through such non genuine trades was 3,90,000 units.*

c. *The Broker-wise contribution to number of non-genuine trades and artificial volume in the above contract is as shown below*:

Table 4

S. No.	***Entity Name***	***Artificial volume through non genuine trades***	***Number of Non genuine trades***
1	*Skung Tradelink Ltd*	*3,90,000*	*6*
2	*Prudent Broking Services Pvt. Ltd.*	*3,90,000*	*6*
Total		***7,80,000***	***12***

In the above illustration, trade reversals were executed by Chanakya Broking Company through Broker Skung Tradelink Ltd through same modus operandi on 3 instances on a same day. In a similar manner, Trade reversals were executed by Vitrag R Sheth through Broker Prudent Broking Services Pvt. Ltd. on 3 instances on a same day. Despite the repeated reversals of identical quantity and with more than 100% difference in price in less than a minute, the brokers through whom such transactions went through failed to notice them immediately or even much after the said transactions as they did not have any system in place to identify trade reversals. Though the broker may not know the counterparty client or counterparty broker in a transaction, however, the fact that certain quantity transacted by his client is getting reversed within the same day in a repeated manner should have alerted the brokers concerned.

It was observed that since Skung Tradelink Ltd and Prudent Broking Services Pvt. Ltd. did not take necessary steps to generate alerts by putting a system in place to detect and curb reversal of trades, both Skung Tradelink Ltd and

Prudent Broking Services Pvt. Ltd. failed to exercise care and diligence in the conduct of business while dealing with its respective clients.

Upon analysing all the 5,74,900 non-genuine trades in Scenario 2, it was observed that there were 189 unique brokers through whom clients had executed trade reversals. On further analysis, it was observed that there were 14,333 clients who had executed trade reversals in various combinations among each other.

While repeated transactions of at least 4 (2 cycles of reversal), it was observed that there are 5,316 unique set of PAN numbers who have executed repeated reversals with at least 4 transactions or more through 125 different Brokers. Names of said 125 Brokers. The Noticee was one of the 125 brokers.

Hence, it is alleged that the Noticee, being one of the aforementioned 125 brokers failed to exercise care and diligence in the conduct of business while dealing with its clients and therefore not in compliance with Schedule II A (2) of the Code of Conduct for Stock Brokers r/w regulation 9 (f) of the Brokers Regulations.

11. The SCN with reference no. SEBI/HO/EAD10/SM/S./28882/1/2022 dated July 14, 2022 was served on the Noticee via digitally signed email dated July 18, 2022. The proof of service is on record.

12. Thereafter, vide Supplementary SCN dated November 28, 2022 (herein after referred to as "**SSCN**"), Noticee was informed regarding SEBI settlement scheme for Stock Brokers, 2022 framed by SEBI (hereinafter referred to as "**SEBI Settlement Scheme**") in the matter of Illiquid Stock Options. The intimation regarding settlement scheme given to the Noticee SCN is reproduced herein below:

"*SEBI has framed the SEBI Settlement Scheme for Stock Brokers, 2022 in terms of Regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 whereby SEBI has introduced a one-time opportunity of settlement to all the Stock Brokers through whom trade reversals were executed by various clients/proprietary trades executed by the Stock Brokers in the Illiquid Stock Options segment of BSE during the period of April 1, 2014 to September 30, 2015 and against whom enforcement proceedings have been approved or initiated and are pending. The said scheme proposes payment of Settlement Amount as per the details given below:*

i. Settlement amount with respect to Stock Brokers through whom repeated reversals were executed by clients and the Stock Broker did not have a system in place to identify such repeated reversals resulting in violation of Code of Conduct for Stock Brokers of SEBI (Stock Brokers) Regulations, 1992:

Sl No	Sum of all the repeated trade reversal transactions executed by clients	Settlement Amount (Rs.)
1	Upto 1000	1,00,000
2	1001-10000	2,00,000
3	10001 and above	5,00,000

ii. Settlement amount with respect to Stock Brokers who did not have a system in place to identify trade reversals executed through their proprietary accounts resulting in violation of Code of Conduct for Stock Brokers of SEBI (Stock Brokers) Regulations, 1992:

Sl No	Settlement Amount (Rs.)
1	1,00,000

iii. *Additional Settlement amount with respect to Stock Brokers who failed to take any remedial measure despite having received alerts from BSE* *resulting in violation of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003*:

Sl No	Settlement Amount (Rs.)
1	5,00,000

The Settlement amount applicable to you under the Settlement Scheme for Stock Brokers, 2022 is as under:

Name	PAN number	Director 1	PAN number	Director 2	PAN Number	Alerts generated by BSE (A)	Trades executed through proprietary accounts (B)	Sum of all repeated trade reversal transactions executed by clients through the broker	Execution of repeated reversals by clients (C)	Settlement amount for A	Settlement Amount for B or C or (B and C) (in Rs.)	Total Settlement Amount (in Rs.)
SUMPOORNA PORTFOLIO LTD	AAOCS8998N	NITESH AGGARWALA	AFSPA3498K	RAHUL YADAV	AAPPY3944A	No	No	382	Yes	-	1,00,000	1,00,000

*The period of the Settlement Scheme for Stock Brokers, 2022 will commence on December **19, 2022** and will close on **January 19, 2023**, so as to provide an opportunity for settlement to the eligible stock brokers. In case you wish to avail the benefit of the said Scheme, you may access the details of the said Scheme, which would be available on the website of SEBI i.e. www.sebi.gov.in, during the said period.*

Necessary application for settlement may be filed within the validity period of the scheme and payment of the settlement amount shall be made online. Additionally, for any clarification in regard to settlement scheme, you may refer to the FAQs at SEBI website or send email to SS2022@sebi.gov.in.

In case you do not wish to avail of the facility under the SEBI Settlement Scheme for Stock Brokers, 2022, the adjudication proceedings initiated vide SCN shall stand automatically revived and the proceedings shall continue, *from the stage at which the said proceedings were kept pending. In such case, you are advised to file your reply within 14 days of receipt of this Intimation, if not filed earlier.*"

13. The aforesaid SSCN dated November 28, 2022 was duly served on Noticee through digitally signed email dated November 30, 2022 as well as through Speed Post AD(SPAD) at ABL Workspace, A 110, Udyog Marg, Block A, Sector 5, Noida-201301. The aforesaid settlement scheme had commenced on December 19, 2022 and ended on January 19, 2023. However, it is noted that Noticee did not avail of the one-time opportunity of settlement provided by SEBI to stock brokers. It is also noted that Noticee did not furnish any reply to the SCN and SSCN.

14. In the interest of natural justice vide Hearing Notice dated April 17, 2023, Noticee was granted an opportunity of personal hearing on April 24, 2023. The aforesaid Hearing Notice was duly served on the Noticee through Digitally Signed email dated April 17, 2023. However, Noticee failed to attend the said hearing granted to it. Accordingly, in the interest of natural justice, another opportunity of personal hearing was granted to Noticee on May 17, 2023, vide email dated May 04, 2023. However, Noticee again failed to attend the hearing granted to it.

15. I note that sufficient opportunities have been given to Noticee to represent itself and the principles of natural justice has been complied with. However, despite service of the SCN and hearing notices, none of the given opportunities of personal appearance was availed of by Noticee. The Hon'ble SAT in the matter of Classic Credit Ltd. v. SEBI [2007] 76 SCL 51 (SAT - MUM), inter alia, held 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*". Similarly, the Hon'ble SAT also, in the case of Sanjay Kumar Tayal & Ors. v. SEBI (in appeal No. 68/2013) decided on February 11, 2014, held 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 levelled against them in the show cause notices". Since no reply to the SCN has been filed by Noticee it can be reasonably presumed that the allegations has been admitted to by Noticee in this case.

16. In view of the aforesaid facts and placing reliance on the aforesaid judgement, I am compelled to proceed ex-parte in the matter against Noticee. I am of the view that Noticee has nothing to submit and in terms of Rule 4(7) of SEBI Adjudication Rules, the matter can be proceeded ex-parte on the basis of material available on record. Therefore, the present proceedings against is undertaken on ex-parte basis as well as on the basis of available documents and information.

17. While deciding the case, I also cannot lose sight of settled position of law that the charges in the SCN should be established with valid reasons and in accordance with law. I, therefore, deem it necessary to examine the charges based on the trades of Noticee and supporting documents available on record.

CONSIDERATION OF ISSUES AND FINDINGS

18. The issues that arise for consideration in the present case are:

Issue No.1 Whether Noticee has violated Schedule II A (2) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations?

Issue No.2 Does the violation, if any, attract monetary penalty under Section 15HB of SEBI Act?

Issue No.3 If the answer to issue no. 2 is in affirmative, then what should be the quantum of monetary penalty?

19. Before proceeding, it is pertinent to refer to the relevant provision of the Broker Regulations which was in force at the time of impugned transactions, which are reproduced as under:

<u>Relevant provisions of Broker Regulations:</u>

Conditions of registration

9(f) *he shall at all times abide by the Code of Conduct as specified in Schedule II;*

SCHEDULE II

CODE OF CONDUCT FOR STOCK BROKERS

A. General

(2) *Exercise of due skill and care: A stock-broker shall act with due skill, care and diligence in the conduct of all his business*

<u>Issue No. 1- Whether Noticee has violated Schedule II A (2) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations?</u>

20. It has been alleged in the SCN that Noticee had failed to exercise due skill, care and diligence in the conduct of its business in relation to reversal trades in the illiquid stock options executed by its clients and thereby allegedly violated the provisions of Schedule II Clauses A (1), (2), (3) and (4) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations.

21. I note that BSE notice no. 20130307-21 (addressed to all the trading members) dated March 07, 2013 pertaining to "e-Boss", *inter alia*, indicated

the list of alerts that will be generated by BSE which includes reversal of trades in derivatives segment. Thus, I note that BSE had issued a notice to all the brokers who were Trading Members at BSE, casting upon them an obligation to, inter alia, monitor and report reversal of trades in derivatives segment. Further, in terms of the aforesaid notice, every broker was necessarily required to frame a surveillance policy, *inter alia*, covering suspicious/manipulative activity identification and reporting process.

22. From a perusal of the BSE trade log, I find that Noticee was the broker for 8 clients in 34 reversal trades executed by them in 34 contracts on May 19, 2015, May 18, 2015, May 15, 2015, March 30, 2015, March 27, 2015, March 23, 2015, March 20, 2015 and January 21, 2015 wherein Noticee's clients executed buy and sell trades in which they reversed same their positions within a short period of time and there was significant variation in the buy and sell price of the aforesaid trades.

23. The trades executed by the Noticee's clients is illustrated through the dealings of the Noticee for one of the clients in the contract viz, "JBFW15MAY1800.00PE" executed on May 19, 2015, during the Investigation Period which is stated as under:

Sr. No	***Client Pan***	***Client Name***	***CP Pan***	***CP Name***	***Trade Time***	***Order Time***	***CP Order Time***	***Trade Rate***	***Traded Qty***	***Member Name***	***CP Member Name***
1	AAACD0852G	Db (Intl) Own Trading	AAFPA1615G	Naresh Kumar Aggarwal	11:22:25.05	13:53:05.89	11:22:25.05	47	5000	Db (International) Stock Brokers Ltd.	Sumpoorna Portfolio Ltd
2					11:22:11.35	11:22:11.29	11:22:11.29	41	5000		

Sr. No	Client Pan	Client Name	CP Pan	CP Name	Trade Time	Order Time	CP Order Time	Trade Rate	Traded Qty	Member Name	CP Member Name
3	AAFPA1615G	Naresh Kumar Aggarwal	AAACD0852G	Db (Intl) Own Trading	11:21:41.29	11:21:41.29	11:21:41.24	89	10000	Sumpoorna Portfolio Ltd	Db (International) Stock Brokers Ltd.

24. It is seen that in Stock option contract "JBFW15MAY1800.00PE" on May 19, 2015, at 11:21:41:24 hrs. Noticee executed 1 buy trade for 10,000 units at the average buy rate of Rs. 89 per unit with the counterparty DB International. Thereafter, at 11:22:11:35 hrs. and 11:22:25:05 hrs. Noticee executed 2 sells trades for 5,000 units each at the average sell rate of Rs. 44 with the same counter party. Thus, I note that within a gap of around 1 minute, Noticee reversed his trades, thus generating volume to the extent of 20,000 units in the said contract which was 18.18% of the total market volume in the said contract during the IP.

25. I note that buy order and sell order for 20,000 units in the JBFW15MAY1800.00PE contracts were placed within a short time gap of around 1 minutes. I also note that there is wide variation in the buy and sell prices of the reversal trades i.e. 10,000 units were bought at an average buy rate of Rs. 89 per unit at 11:21:41:29 hrs. and then 5000 units each were sold at an average sell rate of Rs. 44 per unit at 11:22:11:35 hrs. and 11:22:25:05 hrs. around 1 minutes from the said buy said trades, without there being any significant movement in the price of the underlying scrip in the cash segment.

26. Thus, I note from the above table that trade reversals were executed between Noticee's client, Naresh Kumar Aggarwal through the Noticee, Sumpoorna Portfolio Ltd. and counterparty client, namely, DB (INTL) through the counterparty broker, DB (International) Stock Brokers Ltd., indicating 3 trades that were executed in the aforesaid contract on the same day.

27. I note from the trade log that there were only 12 trades executed in the JBFW15MAY1800.00PE a total trading volume of 1,10,000 units on two days during the IP. Thus, I note that there was minimal trading activity in the aforesaid stock options contracts traded by the Noticee's clients. Therefore, I note from the number of trades and trading volume in the stock option contracts traded by Noticee's clients that these contracts were illiquid in nature.

28. A perusal of the BSE trade log, shows the contribution of Noticee's clients to the number of reversal trades during the IP which is depicted below:

S.No.	Trading Member Name	Total traded quantity/ Total volume generated in reversal trades through the Trading Member	Number of clients	Number of Contracts	Number of reversal trades (buy trades + sell trades)
1.	Sumpoorna Portfolio Ltd.	32,40,750	8	34	68

29. In view of the aforesaid, I note that Noticee acted as a broker for 8 clients in 68 reversal trades for 32,40,750 units, wherein Noticee's clients reversed their positions within a short period of time with a significant variation in their buy and sell price for the aforesaid trades in 8 illiquid stock options contracts.

30. I note that in terms of the BSE circular vide notice no. 20130307-21 dated March 07, 2013 mentioned in the preceding paragraph, all the Brokers are required to frame a surveillance policy and implement a system to identify and report reversal trades as well as suspicious trades to BSE.

31. However, BSE, vide email dated November 06, 2020, submitted to SEBI that no broker, including the Noticee, had reported to BSE any reversal trades or

suspicious trades being executed on Stock Options segment of BSE during the IP.

32. I further note that 68 non-genuine reversal trades in 34 different contracts were executed through the Noticee, wherein the positions taken were reversed with the same counterparty on the same day, at a significant price difference. Therefore, I note that though there were multiple instances of such reversal trades on the same day in the illiquid stock options contracts traded by its clients, the Noticee failed to generate any alerts regarding them and failed to report them to BSE as the Noticee did not implement a system to identify and generate alerts in response to trade reversals by its clients.

33. In terms of Regulation 9(f) of Broker Regulations read with Code of Conduct as specified in Schedule II, a stock broker is obligated to act with due skill, care and diligence and abide by various provisions of the SEBI Act and rules and regulations framed therein as well as by the Stock Exchange from time to time. Thus, Noticee was under an obligation to, *inter- alia*, abide by the BSE circular vide notice no. 20130307-21 dated March 07, 2013 as part of diligent conduct of its business by implementing a system for identification and generation of alerts regarding reversal trades and suspicious trades executed by its clients and reporting the said trades to BSE. However, I find that by failing to identify and generate alerts in relation of reversals of trades by its clients and by failing to frame a surveillance mechanism to identify and generate alerts of suspicious activities by its clients and a reporting such trades to BSE, the Noticee had failed to abide by the aforesaid BSE circular and thereby, failed to exercise due skill, care and diligence in the conduct of its business in relation to the trades executed by its clients in illiquid stock options on the BSE platform.

34. As no reply to the SCN has been filed by the Noticee, it can be reasonably presumed that the allegations has been admitted to by Noticee in this case.

35. In view of the foregoing, I conclude that the charge that Noticee has failed to exercise care and diligence in the conduct of business while dealing with its clients and thereby, has violated the provisions of Clause A (2) of the Code of Conduct for Stock Brokers under Schedule II read with Regulation 9 (f) of the Brokers Regulations, stands established.

Issue II If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15HB of the SEBI Act?

&

Issue III If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?

36. It has been established in the foregoing paragraphs that the Noticee has violated Clause A (2) of the Code of Conduct for Stock Brokers under Schedule II read with Regulation 9 (f) of the Brokers Regulations. In the context of the above, I refer to the observations of Hon'ble Supreme Court in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} wherein the Hon'ble Court 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...…*."

37. Therefore, in view of the foregoing findings and placing reliance on the above judgment of Hon'ble Supreme Court, I find that the Noticee is liable for monetary penalty under Section 15HB of SEBI Act, which is reproduced as follows:

SEBI Act: Penalty for fraudulent and unfair trade practices.

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 [1][liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.]

38. While determining the quantum of penalty under Section 15HB of SEBI Act, the following factors stipulated in Section 15J of the SEBI Act have to be given due regard:

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.

39. As established above, the material available on record shows that the Noticee has failed to exercise due skill, care and diligence in the conduct of its business. I observe that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, suffered by the investors due to such violations on the part of the Noticee. As regards the repetitive nature of the default, I do not find from material available on record any regulatory action taken by SEBI in past against the Noticee for similar violations. However, it is pertinent to note that the broker is the first point of contact for the majority of investors. In this regard, the role of a Broker is crucial as a facilitator of investors into the securities market. So, it is of utmost importance that every Broker abides by the relevant regulations, provisions of SEBI/ Stock Exchange circulars and

[1] Substituted for the words "liable to a penalty which may extend to one crore rupees" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.

various guidelines issued by SEBI/ Stock Exchanges. I cannot ignore the fact that the Noticee was under a statutory obligation to abide by the provisions of the SEBI Act, rules and regulations and circulars / directions issued thereunder, which it failed to do during the investigation period. The violations on the part of the Noticee as brought out in the preceding paragraphs clearly show that it has failed to exercise due care and diligence in the conduct of its business while dealing with the clients.

ORDER

40. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in section 15J of the SEBI Act, and in exercise of power conferred upon me under section 15-I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby impose a penalty of **Rs. 1,00,000/- (Rupees One Lakh only**) on Noticee i.e. Sumpoorna Portfolio Ltd. under Section 15HB of the SEBI Act.

41. The Noticee 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

42. The Noticee shall forward the confirmation of penalty so paid to the Enforcement Department –Division of Regulatory Action –I of SEBI.

43. The Noticee shall provide the following details while forwarding confirmation of e-payment in the following format:

a) Name and PAN of the entity (Noticee)

b) Name of the case / matter

c) Purpose of Payment –Payment of penalty under AO proceedings

d) Bank Name and Account Number

e) Transaction Number

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

45. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings 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 of Noticee.

46. Copy of this Adjudication Order is being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

DATE: May 24, 2023 **SOMA MAJUMDER**
PLACE: MUMBAI **ADJUDICATING OFFICER**