BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SM/AD/2022-23/16006]

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

M/s. Accurate Securities and Registry Private Limited
[SEBI Registration No: INR000004173]

In the matter of M/s. Accurate Securities and Registry Private Limited

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FACTS OF THE CASE IN BRIEF

1. M/s. Accurate Securities and Registry Private Limited (hereinafter referred to as '**Accurate/ASRPL/Noticee/By Name'**) is a SEBI-registered Registrar to an Issue and Share Transfer Agent, having SEBI registration number as INR000004173. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') conducted inspection of Noticee from December 17, 2018 to December 19, 2018, at its office 23, 3rd floor, Sarthik Complex, Nr. Fun Republic, Iscon Cross Road, Satellite, Ahmedabad - 380 015. The period covered in the inspection was from April 01, 2017 till December 17, 2018 (hereinafter referred to as '**Inspection Period'**).

2. Based on the findings of inspection conducted by SEBI and the response of Noticee dated May 30, 2019, SEBI observed certain non-compliances, *inter-alia* of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act"**), SEBI (Listing Obligations and Disclosures Requirements) Regulations, 2015(herein after referred to as "**LODR Regulations, 2015"**), RTI Circular No.1 (2000-2001) dated May 09, 2001, and Code of conduct as specified in SEBI (Registrars To An Issue And Share Transfer Agents) Regulations, 1993(herein after referred to as "**RTI/STA Regulation"**).Therefore, SEBI

initiated adjudication proceedings against Noticee under provisions of Section 15HB of SEBI Act for the aforementioned alleged violations by Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

3. Vide order dated December 04, 2020, SEBI appointed the undersigned as the Adjudicating Officer under Section 15(I) 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 the provisions of Section 15HB of the SEBI Act, the various violations alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A show-cause notice dated July 28, 2021 (hereinafter referred to as '**SCN**') was issued to Noticee under Rule 4 of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against Noticee and penalty, if any, not be imposed upon them under the provisions of Section 15HB of SEBI Act, for the aforesaid violation alleged to have been committed by them.

5. The allegations levelled against Noticee in the SCN are as under:

A. Processing the transfer request without signature of transferor/ Power of Attorney (POA) holder

i. During the course of inspection, it was observed that Noticee had received share transfer request of thirty (30) shares of Real News and Views Ltd. (earlier known as Hiloc Agro Foods (India) Ltd.) as per details given below:

Date of transfer	***Certificate No.***	***Name of Company***	***Name of Transferor***	***Name of Transferee***	***No. of shares***
20.07.2018	*0001774*	*Real News and Views Ltd.*	*M Mohd Nazeer*	*A Bagavatayraj*	*30*

ii. It was observed that Noticee had transferred the shares in favour of transferee based on affidavit and indemnity submitted by transferee. It was observed that Noticee had transferred the shares without adhering to the norms laid down in part-2, Norms for processing transfer sr. no. 5 of RTI Circular No.1 (2000-2001) *dated May 09, 2001 and Clause B (2) of Schedule VII of Regulation 40(7) of LODR Regulation 2015.*

iii. *In view of the same it is alleged that Noticee has violated part-2, Norms for processing transfer sr. no. 5 of RTI Circular No.1 (2000-2001) dated May 09, 2001 and Clause B (2) of Schedule VII of Regulation 40(7) of LODR Regulation 2015.*

B. *Signature mismatch and absence of witness details*

i. *During the course of inspection, it was observed that in respect of two (2) shareholders, Noticee had transferred their shares without adhering to the laid down norms as specified in part-2, Norms for processing transfer sr. no. 5 of RTI Circular No.1 (2000-2001) dated May 09, 2001 and Clause B (2) of Schedule VII of Regulation 40(7) of LODR Regulation 2015. The details of the same is given below:*

Date of transfer	***Folio No.***	***Name of Company***	***Name of Transferor***	***Name of Transferee***	***No. of shares***	***Observation***
15.3.18	*M01383*	*Mena Mani Industires Ltd.(formely known as Anar Industries ltd.*	*Pusha K. Bhavsar*	*Madhubhai Barad*	*270*	*Name, Address and Signature of witness not available in securities transfer form*
17.9.18	*S05217*	*Kanel Industries Ltd.*	*Satyanarayan Sah and Saroj Shah*	*Sweety Amit Sah and Amit S. Sah*	*100*	*Transferor signature does not match with the specimen signature in STA records. Seller notice not issued.*

ii. *In view of the same, it is alleged that Noticee has violated part-2, Norms for processing transfer sr. no. 5 of RTI Circular No.1 (2000-2001) dated May 09, 2001, and the provision of Clause B (2) of Schedule VII of Regulation 40(7) of LODR Regulation 2015.*

C. *Continuity of Data and record keeping*

i. *During the course of inspection, it was submitted by Noticee that, it had not received the previous records from the erstwhile share transfer agent (STA such as share certificate lying undelivered, unpaid dividend data, physical share transfer, demat request forms, issuance of duplicate share certificate/conversion of shares/transposition of shares, transmission of shares, remat, split, consolidation, payment of dividend, bonus, shareholder address, no. of shareholders at the time of agreement, no. of physical shares, no. of shares in demat mode, dividend amount transferred to IEPF, share forfeiture, partly paid-up shares etc. and no further efforts were made by them to obtain all such records from the following issuer companies:*

Sr. No	***Name of client Company***
1	*Boston Leasing and Finance Ltd*
2	*Creative Merchants Ltd*
3	*Dhanvarsha Finvest Ltd*
4	*Kemistar Corporation Ltd*
5	*Pervasive Commodities Ltd*
6	*Real News and Views Ltd*
7	*Trupti Twisters Ltd*

ii. *Noticee in its reply dated May 30, 2019, stated that, it had not executed tripartite agreement with the former STA and with the aforesaid issuer companies.*

iii. *In view of the same it is alleged that by not executing tripartite agreement with former STA and the issuer companies, Noticee has violated Regulation 7(4) of LODR Regulations 2015 and Clause 20 of Code of Conduct as specified in Schedule III of RTI/STA Regulation.*

D. Internal Control and Conflict of interest

i. *During the course of inspection, it was observed that Noticee was not having any system/policy for maker-checker while processing transfer, dematerialisation, rematerialisation, transmission request etc., and all the aforesaid request were processed by either, Mr. Bhavin Patel, who is one of the key employees of Noticee or Mr. Viral Ranpura, who is also director of*

Noticee. Further, the software used by Noticee was not having log trails and maker checker system.

ii. It was also observed that one of the key employees of Noticee, Mr. Bhavin Patel, was a director in the client company of Noticee, namely, Pervasive Commodities Ltd. and was handling all the work at ASRPL including work related to Pervasive Commodities Ltd. As such there was conflict of interest which was not disclosed by Noticee to Pervasive Commodities Ltd. This was detrimental to the interest of the investors/ shareholders of Pervasive Commodities Ltd.

iii. In view of the same, it is alleged that Noticee has not complied with Clauses 8 and 9 of Code of Conduct as specified in Schedule III of RTI/STA Regulation.

E. NISM Certification

i. During the course of inspection, it was observed that one of the key employees of Noticee, i.e. Mr. Bhavin Patel, who was handling/processing all the dematerialisation, rematerialisation, transfer, transmission related work had not obtained NISM certificate. Further, it was observed that NISM certificate of Mr. Viral Ranpura, who was also one of the director of Accurate, had expired on June 04, 2018 and he had not renewed his NISM certificate.

ii. In view of the same, it is alleged Noticee has violated Regulation 9 and Regulation 10 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007.

6. The SCN was sent to Noticee through Speed Post Acknowledgement due (hereinafter referred to as '**SPAD**') and digitally signed email dated July 28, 2021 and was duly served on Noticee. Noticee was given fifteen (15) days' time to make its submissions in respect of the allegations made in the SCN. Noticee, vide letter dated August 12, 2021, submitted its reply to the SCN.

7. In the interest of natural justice, vide hearing notice dated September 24, 2021, Noticee was granted an opportunity of personal hearing before the undersigned on October 21, 2021. The aforesaid hearing notice was sent to Noticee through SPAD and also through digitally signed email dated September 27, 2021 and was duly served upon it. Noticee availed the opportunity of hearing granted to it on October 21, 2021.During the hearing,

Noticee made its submissions, reiterating its earlier reply filed in the matter on August 12, 2021. In view of the difficulties posed due to Covid-19 pandemic, hearing proceedings were conducted online through videoconferencing on the Webex platform.

8. The submissions made by Noticee vide its letter dated August 12, 2021 are given hereunder:-

   i. *SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 has been repealed by SEBI and the new rules, the SEBI (Procedure for Holding Inquiry and, Imposing Penalties) Rules, 2002 has been implemented w.e.f. September 27, 2002. As the rules set out in the notice are not in effect, the SCN issued under the said rules is void ab-initio.*

   ii. *With regard to the allegation that Noticee has processed a transfer request without the signature of transferor/ power of attorney (POA) holder, Noticee submitted that the impugned transfer is not the case of normal (simple) transfer as mentioned in the SCN, rather the same has to be construed as the case of blank transfer, which was prevailing practice in the early 90's. Noticee submitted that that there was no element of fraud involved in the transfer and that transferee had submitted the affidavit and indemnity bond as part of the transfer request to prove the genuineness of his case. Further, value of the shares involved in the transfer is meager Rs. 703, while expense incurred by transferee for effecting the transfer of shares is Rs. 500.*

   iii. *With regard to the allegation that Noticee had processed transfer request having signature mismatch absence of witness details, Noticee submitted that inspecting officer had not mentioned that under which rules and regulations, the witness details are required to be filled in the share transfer form, SH-4. As per the prevalent rules and regulations, witness details in the share transfer form, SH-4 is not mentioned anywhere as compulsory fields.*

   iv. *With regard to the allegation that it had processed transfer request having absence of witness details, Noticee submitted that it had processed the said transfer by exercising professional judgment and good faith. There were no element of fraud/ forgery involved in the said transfer.*

   v. *With regard to the allegation of violation of Regulation 7(4) of LODR Regulations, 2015 and clause 20 of schedule III of RTI/STA Regulations, Noticee submitted that obligation lies on old STA to hand over data/records to new STA, in the present matter Noticee.*

   vi. *With regard to the allegation the Noticee has not complied with rules relating to internal control and conflict of interest between Noticee and one of its client listed* *companies, Pervasive Commodities Ltd, Noticee submitted that there was sufficient disclosure of such conflict of interest.*

vii. *With regard to the allegation that Noticee has violated Regulations 9 and 10 of the SEBI (Certification of Associated Persons in the Securities Market) Regulations, 2007, Noticee submitted that Mr. Viral Ranpura, Director of Noticee was unable to renew his NISM certification, as during the period of June, 2018 to December, 2018, only 1 (one) CPE was conducted by the NISM authorized entity BSE Ltd , i.e. on August 25, 2018. Noticee stated that Mr. Viral Ranpura is an experienced Company Secretary having 8+ years of post-qualification experience on the date of inspection. Noticee contended that merely having NISM Certification or non-having the same, would not have impacted Mr. Bhavin Patel's professional wisdom.*

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

9. I have carefully perused the charges levelled against Noticee, reply/submissions filed by Noticee and other documents/evidence available on record. The issues that arise for consideration in the present case are:
   I. Whether Noticee has violated
      A. Sr. no. 5 of Part-2 of "Norms for processing transfer" of RTI Circular No.1 (2000-2001) dated May 09, 2001 and Clause B(2) of Schedule VII of Regulation 40(7) of LODR Regulation 2015?
      B. Regulation 7(4) of LODR Regulations 2015 and Clause 20 of Code of Conduct as specified in Schedule III of RTI/STA Regulations?
      C. Clauses 8 and 9 of Code of Conduct as specified in Schedule III of RTI/STA Regulation?
      D. Regulation 9 and Regulation 10 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007?
   II. Does the violation, if any, attract monetary penalty under Section 15HB of SEBI Act?
   III. If the answer to issue no. 2 is in affirmative, then what should be the quantum of monetary penalty?

10. Before moving forward, it is pertinent to refer to the text of the abovementioned alleged provisions, which are reproduced as under:

    I. RTI circular No.1(2000-2001) dated May 09,2001

    …….

1. General norms for processing of documents
2. Norms for processing of transfers
3. Norms of Objection

………

2 TRANSFER NORMS (For Cos/ SHARE TRANSFER AGENTS)

>A.TRANSFER DEED		
Sr. No.	***Description***	***Can company/STA return as Company objection***
1	*….*	*….*
2	*….*	*….*
3	*….*	*….*
4	*….*	*….*
5	*Transfer Deed with signature of the transferor is in an Indian language other than the scheduled languages of India (English, Assamese, Bengali, Gujarati, Hindi, Kannada, Kashmiri, Malayalam, Marathi, Oriya, Punjabi, Sanskrit, Tamil, Telugu and Urdu) or when the transferor has affixed his thumb impression*	*No, if attested by any person authorized to attest signatures under the seal / stamp of his office and if the signature matches with the specimen signature available with the Company/ STA.*

II. LODR Regulations, 2015

i. Regulation 7(4): *In case of any change or appointment of a new share transfer agent, the listed entity shall enter into a tripartite agreement between the existing share transfer agent, the new share transfer agent and the listed entity, in the manner as specified by the Board from time to time:*
*Provided that in case the existing share transfer facility is managed in-house, the agreement referred above shall be entered into between the listed entity and the new share transfer agent**.***

ii. **Regulation 40(7):** *The listed entity shall comply with all procedural requirements as specified in Schedule VII with respect to transfer of securities.*

Schedule VII: - Transfer of Securities [See Regulation 40(7) and 61(4)]

Clause B: DIFFERENCES IN SIGNATURE

1. *In case of minor differences in the signature of the transferor(s), the listed entity shall follow the following procedure for registering transfer of securities:*

   (a)the listed entity shall promptly send to the first transferor(s), via speed post an intimation of the aforesaid defect in the documents and inform the transferor(s)that objection, supported by valid proof, is not lodged by the transferor(s) with the listed entity within fifteen days of receipt of the listed entity's letter, then the securities shall be transferred;

   (b)if the intimation to the transferor(s) is delivered and the objection from the transferor(s) with supporting documents is not received within fifteen days, the listed entity shall transfer the securities provided the listed entity does not suspect fraud or forgery in the matter:

   Provided that the listed entity shall maintain proof of delivery for in their record(s).

2. *In case of major differences in, or non-availability of, the signature of the transferor(s), the listed entity shall follow the following procedure for registering transfer of securities:*
   a) *The listed entity shall promptly send to the transferee(s), via Speed Post, an Objection Memo along with the documents in original marking the reason as "material signature difference/ non-availability of signature" and an advice to ensure submission of requested documents of the transferor(s).*
   b) *The listed entity shall also send a copy of the Objection memo as per clause (a) of sub-para (2) to the transferor(s), via Speed Post, simultaneously;*
   c) *The above Objection Memo in clause (a) and (b) of sub-para (2) shall also state the requirement of additional documents of transferor(s) as follows for effecting the transfer:*

      (i)an Affidavit to update transferor(s) signature in its records;

      (ii)an original unsigned cancelled cheque and banker's attestation of the transferor(s) signature and address);

(iii) contact details of the transferor(s) and

d) If the intimation to both the transferor(s) and the transferee(s) are delivered, requested documents of the transferor(s) are submitted to the listed entity and the address attested by the bank tallies with the address available in the database of listed entity, the listed entity, shall transfer the securities provided the listed entity does not suspect fraud or forgery in the matter.

III. Code of conduct as specified in RTI/STA Regulation

Clause 8*: - Registrar to an Issue and Share Transfer Agent shall avoid conflict of interest and make adequate disclosure of its interest.*

Clause 9*: - A Registrar to an Issue and Share Transfer Agent shall put in place a mechanism to resolve any conflict of interest situation that may arise in the conduct of its business or where any conflict of interest arises, shall take reasonable steps to resolve the same in an equitable manner.*

Clause 20*: - A Registrar to an Issue and Share Transfer Agent shall take adequate and necessary steps to ensure that continuity in data and record keeping is maintained and that the data or records are not lost or destroyed. Further, it shall ensure that for electronic records and data, up-to-date back up is always available with it.*

IV. Regulation 9 and Regulation 10 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007

Continuing Professional Education requirements for associated persons

Regulation 9

(1) NISM may specify the requirements for continuing professional education (CPE) for associated persons holding certificate and approve the programmes of CPE that may be conducted by entities accredited and engaged in accordance with regulation 8.

(2) No intermediary shall permit any associated person to continue and no associated person shall continue to perform duties as an associated person unless

such person has complied with the requirements specified by NISM under sub regulation (1) within 3 years from the date of obtaining the certificate or revalidation thereof.

(3) The requirements of sub regulations (1) and (2) shall apply to associated persons who are engaged in any of the activities mentioned in clauses (a) to (f) of sub regulation (4) of regulation 3.

Intermediary to ensure participation in continuing professional education

Regulation 10

(1) Each intermediary shall be responsible to ensure that its associated persons participate in a programme of continuing professional education approved by NISM under sub regulation (1) of regulation 9.

(2) Associated persons shall take all appropriate and reasonable steps to participate in a programme of continuing professional education as required by the intermediary.

11. Before I proceed to deal with the matter on merits, I would like to address the preliminary objection raised by Noticee as regards the SCN. Noticee, *inter alia*, has contended that SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules,1995 has been repealed by SEBI and the new rules, SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2002 has been implemented w.e.f. September 27, 2002. It is the contention of Noticee that as the rules set out in the notice are not in effect, SCN issued is void ab-initio. In this regard, I note that there has been no repeal of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and no new rules as stated by Noticee exists. Therefore, I note that the contention of Noticee that SCN issued in the matter is void-ab-initio is of no merit.

<u>ISSUE I</u>

A. Whether Noticee has violated sr. no. 5 of Part-2 of "Norms for processing transfer" of RTI Circular No.1 (2000-2001) dated May 09, 2001 and Clause B(2) of Schedule VII of Regulation 40(7) of LODR Regulation 2015?

12. It has been alleged in the SCN that Noticee has violated sr. no. 5 of Part-2 of "Norms for processing transfer" of RTI Circular No.1 (2000-2001) dated May 09, 2001 and Clause B(2) of Schedule VII of Regulation 40(7) of LODR Regulation 2015. In this regard, I record my findings and observations on the same hereunder:

<u>Processing the transfer request without signature of transferor/Power of Attorney Holder</u>

13. It has been alleged in the SCN that Noticee had transferred shares of Real News and Views Ltd. to transferee, namely, Mr. A Bagavatayraj from the transferor, namely, Mr. M Mohd Nazeer, without obtaining the signature of transferor or his power of attorney holder and solely based on affidavit and indemnity submitted by the transferee. The SCN has alleged that aforementioned action of Noticee amounts to violation of sr. no. 5 of Part-2 of "Norms for processing transfer" of RTI Circular No.1 (2000-2001) dated May 09, 2001 and Clause B(2) of Schedule VII of Regulation 40(7) of LODR Regulation 2015.

14. In this regard, I note that Sr 5 of part 2 i.e " Norms for processing of transfer" of RTI Circular No.1 (2000-2001) dated May 09, 2001, is applicable in situations where "transfer deed with signature of the transferor is in an Indian language other than scheduled languages of India". However, I note that the instant matter pertains to case in which signature of transferor/ power of attorney holder was not present in the share transfer form and the same is distinct from situation envisaged in the sr. no. 5 of Part-2 of "Norms for processing transfer" of RTI Circular No.1 (2000-2001) dated May 09, 2001. In light of the foregoing, I find that the sr. no. 5 of Part-2 of "Norms for processing transfer" of RTI Circular No.1 (2000-2001) dated May 09, 2001 is not applicable to facts and circumstances involved in the aforementioned allegation.

15. The Schedule VII read with Regulation 40 of LODR Regulations, 2015 deals with transfer, transmission or transposition of securities. As per Regulation 40(2) of LODR Regulations, 2015, a listed entity can delegate the power of transfer of securities to, *inter alia*, to share transfer agent. Further, Regulation 40(7) of LODR Regulations, 2015 provides that a listed entity is under an obligation to comply with all procedural requirements specified in Schedule VII with respect to transfer of securities. Clause B(2) of Schedule VII of LODR Regulations, 2015 deals with procedure to be followed by the listed entity when there is difference in signature of transferor or non-availability of signature of the transferor in the share transfer form with that of specimen signature. On combined reading of the aforementioned provisions, I note that Noticee, being share transfer agent of its client listed companies, is under an obligation to follow the procedure laid down in Clause B(2) of Schedule VII read with Regulation 40(7) of LODR Regulations, 2015 when there is a non-availability of signature of transferor in the securities transfer form.

16. In the instant matter, on perusal of the securities transfer form, I note that Noticee had transferred shares of Real News and Views Ltd in favour of transferre, Mr. A Bagavatayraj without obtaining signature of transferor Mr. M Mohd Nazeer or his power of attorney holder solely based on an affidavit and indemnity submitted by transferee. I also note that Noticee in its letter to SEBI dated May 31, 2019 and in its reply to the SCN dated August 12, 2021 had admitted to the same. In light of foregoing, I find that Noticee had transferred shares of Real News and Views Ltd in favour of transferre, Mr. A Bagavatayraj without obtaining signature of transferor Mr. M Mohd Nazeer or his power of attorney holder and the said transfer of shares was done solely based on an affidavit and indemnity submitted by transferee.

17. I note that Noticee in its reply to the SCN had tried to explain the circumstances surrounding such transfer to indicate that aforementioned transfer had been done in good faith. In this regard, Noticee has contended that the impugned transfer of shares were not the case of normal transfer as mentioned in the SCN, rather the same has to be construed as the case of blank transfer which was the prevailing practice in the early 90s. In this context, I note that in the aforesaid affidavit, the transferee states that he had purchased 100 equity shares of Hillock Agro Foods (India) Ltd (presently known as Real News and Views Ltd), and he was not able to lodge the aforementioned shares with the company for registration as the same got misplaced. He further states in his affidavit that after finding the shares in his house, he requested Noticee to transfer shares in his name. Noticee has also stated that value of equity shares involved at the time of transfer was mere Rs 703/- and transferee had incurred Rs 500 as expense for transfer and therefore chance of foul play is very less as the amount involved is meagre. In this regard, I note that the issue involved in the present matter is not about the bonafides of the impugned transfer but whether the Noticee while processing the transfer request had complied with applicable legal provisions. Therefore, I do not find it relevant to look into the genuiness or factors like value involved in the aforementioned share transactions for determining violation of Clause B(2) of Schedule VII read with Regulation 40(7) of LODR Regulations, 2015.

18. I am of the view that legal requirement of obtaining signature of transferor in the share transfer form cannot be waived away by share transfer agent solely because of production of an affidavit and letter by transferee as done in the present matter. Thus, I find justification offered by Noticee for undertaking the above transfer to be of no merit. In light of above, I find that allegation in the SCN that Noticee has contravened Clause B(2) of Schedule VII read with Regulation 40(7) of LODR Regulations, 2015 stands established.

Absence of witness details

19. It has been alleged in the SCN that Noticee has processed securities transfer form wherein name, address and signature of witness were not available. The SCN has alleged that aforementioned actions of Noticee amounts to violation of the norms laid down in part-2, Norms for processing transfer sr. no. 5 of Part-2 of "Norms for processing transfer" of RTI Circular No.1 (2000-2001) dated May 09, 2001 and Clause B (2) of Schedule VII of Regulation 40(7) of LODR Regulation 2015.

20. In this regard, as established earlier in the preceding sr. no. 5 of Part-2 of "Norms for processing transfer" of RTI Circular No.1 (2000-2001) dated May 09, 2001, deals with situations in which "transfer deed with signature of the transferor is in an Indian language other than scheduled languages of India" and the same is not applicable to situation in which there is a mismatch between signature of transferor in securities transfer form and specimen signature. I note that Clause B(2) of Schedule VII read with Regulation 40(7) of LODR Regulations, 2015 deals with procedure to be followed by the listed entity when there is difference in signature of transferor or non-availability of signature of the transferor in the share transfer form with that of specimen signature. The same is also not applicable in situation where there is absence of witness details in securities transfer form. Since the allegations in the SCN do not match with that of the legal provisions quoted in the SCN and are incorrect, I am not inclined to proceed further in this regard.

Signature Mismatch

21. It has been alleged in the SCN that Noticee has processed securities transfer form without issuing seller notice, wherein transferor signature does not match with the specimen signature in STA records.

22. In this regard, I note from share transfer form that Noticee had processed securities transfer form for 100 shares of Kanel Industries Ltd from Mr. Satyanarayan Sah and Mr. Saroj Sah (transferors) to Mr. Sweety Amit Sah and Mr. Amit S. Sah (transferee) even though there was mismatch of signature of one of transferors, Mr. Satyanarayan Sah, in share transfer form with that of signature maintained in the record of Noticee. In this context, it is pertinent to note that specimen signature of Mr. Satyanarayanan Sah as maintained by Noticee does not form part of material available on record. Therefore, I am unable to verify independently whether there was a mismatch of signature given in securities transfer form with that of signature available in records of Noticee. However, I note from Noticee's reply dated May 30, 2019 to the findings in the inspection of SEBI that

while processing the aforementioned share transfer requests, Noticee had observed that signature of Mr. Satyanarayanan Sah in share transfer form did not match with signature record maintained by Noticee. Thus, I note that in its reply dated May 30, 2019 to SEBI, Noticee had admitted there was a mismatch of signature of transferor Mr. Satyanaray Sah in securities transfer form to that of signature available in records. Further, Noticee had also admitted in its aforementioned reply that it had not issued a seller notice or objection memo to the transferor i.e. Mr. Satyanaray Sah as required under Clause B(2) of Schedule VII read with Regulation 40(7) of LODR Regulations, 2015. I also note that Noticee in its reply to the SCN has not disputed that there was mismatch of signature of Mr. Satyanaray Sah with that of specimen signature or that no seller notice/objection memo in this regard was issued by it.

23. I note that Noticee in its reply to the SCN has stated that the impugned transfer was effected in good faith and while exercising it professional judgment. Noticee also stated that there was no foul play involved in the impugned transfer. In regard to the aforementioned contention of Noticee, I note that in light of the fact that Noticee has not issued an objection memo, the aforementioned contention of Noticee doesn't hold ground.

24. In light of the foregoing, I note that Noticee has violated Clause B(2) of Schedule VII read with Regulation 40(7) of LODR Regulations, 2015.

B. Whether Noticee has violated Regulation 7(4) of LODR Regulations 2015 and Clause 20 of Code of Conduct as specified in Schedule III of RTI/STA Regulations?

25. It has been alleged in the SCN that Noticee has violated Clause 20 of Code of Conduct as specified in Schedule III of RTI/STA Regulations. I note that Noticee, vide its letter to SEBI dated December 19, 2018, stated that it had not received the previous records such as share certificate lying undelivered, unpaid dividend data, physical share transfer, demat request forms, issuance of duplicate share certificate/conversion of shares/transposition of shares, transmission of shares, remat, split, consolidation, payment of dividend, bonus, shareholder address, no. of shareholders at the time of agreement, no. of physical shares, no. of shares in demat mode, dividend amount transferred to IEPF, share forfeiture, partly paid-up shares etc. of following issuer companies from their erstwhile STA:-

Sr. No	Name of client Company
1	Boston Leasing and Finance Ltd

2	Creative Merchants Ltd
3	Dhanvarsha Finvest Ltd
4	Kemistar Corporation Ltd
5	Pervasive Commodities Ltd
6	Real News and Views Ltd
7	Trupti Twisters Ltd

26. In this regard, Noticee in its reply to the SCN has submitted that onus lies on the old STA to hand over the data and not on the new STA. Without denying the liability of old STA to hand over the data, I note that under clause 20 of Code of Conduct as specified under RTI/STA Regulations, Noticee was also under an obligation to take necessary steps to ensure smooth handing over data and records from old STA of aforementioned issuer companies to it. In this regard, I note that Noticee in its aforementioned letter to SEBI had stated that it had not put any efforts to collect all this information from respective companies. In light of the above observations, I find that allegation in the SCN that Noticee has violated clause 20 of Code of Conduct as specified under RTI/STA Regulations stands established.

27. It has been alleged in the SCN that Noticee has not executed tripartite agreement with its client issuer companies and their former STAs in accordance with Regulation 7(4) of LODR Regulations, 2015. In this regard, I note that as per Regulation 7(4) of LODR Regulations, 2015, in case of any change or appointment of a new share transfer agent, the listed entity shall enter into a tripartite agreement between the existing share transfer agent, the new share transfer agent and the listed entity, in the manner as specified by the Board from time to time. Further, proviso to Regulation 7(4) of LODR Regulations, 2015, provides that in case the existing share transfer facility is managed in-house, the tripartite agreement have to be entered into between the listed entity and the new share transfer agent. I note that tripartite agreement specified in Regulation 7(4) of LODR Regulations, 2015 deals with handing over of data/ records and documents from previous STA to new STA. Further, I note that as per Clause 20 of the Code of Conduct as specified in Schedule III of RTI/STA Regulations, *"A Registrar to an Issue and Share Transfer Agent shall take adequate and necessary steps to ensure that continuity in data and record keeping is maintained and that the data or records are not lost or destroyed. Further, it shall ensure that for electronic records and data, up-to-date back up is always available with it.* From the combined reading of Regulation 7(4) of LODR Regulations, 2015 and Clause 20 of Code of Conduct as specified in Schedule III of

RTI/STA Regulations, I note that Noticee was under an obligation to enter into tripartite agreement in terms of Regulation 7(4) of LODR Regulations, 2015 with the issuer companies and their previous STA. However, I note that Noticee in its letter to SEBI dated May 30, 2019 and in its reply to the SCN admitted that it had not executed tripartite agreement with aforementioned issuer companies mentioned and their former STAs.

28. In light of the foregoing, I find that Noticee by not executing tripartite agreement with issuer companies and their erstwhile STAs has violated Regulation 7(4) of LODR Regulations, 2015 and Clause 20 of Code of conduct as specified in Schedule III of RTI/STA Regulation.

C. Whether Noticee has violated Clauses 8 and 9 of Code of Conduct as specified in Schedule III of RTI/STA Regulation?

29. It is alleged in the SCN that Noticee was not having any system/policy for maker-checker while processing transfer, dematerialisation, rematerialisation, transmission request etc., and all the aforesaid request were processed by either Mr. Bhavin Patel, who is one of the key employees of Noticee or Mr. Viral Ranpura, who is also director of Noticee. Further, the SCN alleges that software used by Noticee was not having log trails and maker checker system In this regard, I note that Noticee, in its reply to the SCN, has neither specifically denied the aforementioned allegation in the SCN nor produced any evidence to contradict the allegation. In light of the above, I find that Noticee was not having any system/policy for maker-checker while processing transfer, dematerialisation, rematerialisation, transmission request etc.

30. It is also alleged in the SCN that one Mr. Bhavin Patel, an executive officer of Noticee was a director of one of the client companies of Noticee, namely, M/s Pervasive Commodities Ltd and was handling all the work at ASRPL including work related to M/s Pervasive Commodities Ltd. Due to the aforementioned reason, it was observed by SEBI that there was conflict of interest and the same was also not disclosed by Noticee to Pervasive Commodities Ltd. I note that Noticee in its letter to SEBI dated May 31, 2019 had accepted the existence of aforementioned conflict of interest and stated in the said letter that it had taken corrective action with regard to the same. Vide the said letter, Noticee stated that Mr. Bhavin Patel had resigned as executive officer of Noticee and was no longer associated with the organization. I also note that Noticee in its reply to the SCN has also admitted the aforementioned observation in SCN and stated that there exists common interest between Noticee and M/s Pervasive Commodities Ltd Noticee in its submissions has also stated that main promoter of Noticee and M/s Pervasive Commodities Ltd are relatives, namely, husband and wife and thus Pervasive Commodities Ltd. were aware of

the said common interest which exist between them. Noticee in its submissions has contended that SEBI has not prohibited the entities from carrying on the share transfer activities and has not specified any mechanism for disclosure of interest.

31. In this context, I note that Clause 8 of Code of Conduct as specified in RTI/STA Regulations provides that RTI and STA shall avoid conflict of interest and make adequate disclosure of its interest. As per Clause 9 of Code of Conduct as specified in RTI/STA Regulations, RTI and STA shall put in place a mechanism to resolve any conflict of interest situation that may arise in the conduct of its business or where any conflict of interest arises, shall take reasonable steps to resolve the same in an equitable manner. In this light of above, I note that appointment Mr. Bhavin Patel who was director of M/s Pervasive Commodities Ltd as an executive officer of Noticee and him being responsible for work relating to M/s Pervasive Commodities Ltd in ASRPL is a clear violation of Clause 8 and Clause 9 of Code of Conduct as specified in RTI/STA Regulations. I do not agree with Noticee's contention that SEBI has not prohibited the entities from carrying on the share transfer agent activities on common interest criteria. I am of the view that letter and spirit of the clause 8 and clause 9 of code of conduct as specified in the RTI/STA Regulations envisages that conflict of interest should be avoided by RTI/STA in the functioning of the business so that they could offer their services to clients and in turn investors in non-prejudicial, fair, efficient and in non-discriminatory manner. Further, Noticee has stated that it had made disclosure of its conflict of interest as the management of M/s Pervasive Commodities Ltd was the aware of the aforementioned conflict of interest. I am of view that disclosure of conflict of interest as envisaged under clause 8 of Code of Conduct as specified in the RTI/STA does not mean awareness of the management of the listed company regarding the conflict of interest that exist with the STA but disclosure to the public and investors of the client. Further, I consider that conflict of interest as existing in the present case could prejudicially affect the interest of investors and is not in interest of securities market. In light of the foregoing, I find that allegation that Noticee has violated Clause 8 and Clause 9 of the code of conduct as specified in the RTI/STA Regulations stands established.

D. Whether Noticee has violated Regulation 9 and Regulation 10 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007?

32. It is alleged in the SCN that one of the key employees of Noticee, Mr. Bhavin Patel, who was handling/processing all the dematerialisation, rematerialisation, transfer, transmission

related work had not obtained NISM certificate. It is also alleged in the SCN that Mr. Viral Ranpura, who was one of the directors of Noticee had not renewed his NISM certificate.

33. SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 prescribes requisite certification to be obtained by associated persons for engagement or employment with SEBI registered intermediaries. Regulation 2(c) of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 defines associated person as "*associated person" means a principal or employee of an intermediary or an agent or distributor or other natural person engaged in the securities business and includes an employee of a 1[foreign portfolio investor] or a foreign venture capital investor working in India"*. I note from the material available on record that Mr Bhavin Patel was the executive officer of Noticee and Viral Ranpur was the director of the Noticee during the inspection period. I note from materials available on record that Mr. Viral Ranpura, was responsible for works related to Corporate Action Restructuring, Accounts and Finance, Legal Compliance, Business Development and Reconciliation of share data". I also note that Mr. Bhavin Patel was involved in the works of Noticee relating to share transfer agent like share transfer, transmission, transposition, split, exchange requests, demat remate approval, dividend distribution etc. I note that being employees/director of Noticee during inspection period, Mr. Bhavin Patel and Mr. Viral Ranpura fell within the definition of associated person under Regulation 2(c) of (Certification of Associated Persons in the Securities Markets) Regulations, 2007.

34. Regulation 5(2) of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 mandates that on expiry of his/her certificate, an associated person is under an obligation to complete a programme of continuing professional education specified by NISM in accordance with Chapter IV of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 for revalidating his/her certificate. I note that Regulation 9(2) in Chapter IV of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 prohibits an intermediary from permitting any associated person to continue and to perform duties as an associated person unless such person has complied with the requirements specified by NISM under Regulation 9(1) of the aforementioned Regulations within 3 years from the date of obtaining the certificate or revalidation thereof. Further, clause 3 of Regulation 9 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 states that requirement under clause 1 and clause 2 of the aforementioned Regulation applies only to associated persons who are engaged in any of the activities mentioned in clauses (a) to (f) of sub regulation

(4) of regulation 3.In this regard, I note that the following activities are covered under the aforementioned clauses:

i. activities like dealing or interacting with the investors, issuers or clients of intermediaries;
ii. dealing with assets or funds of investor or clients;
iii. handling redressal of investor grievances;
iv. responsible for internal control or risk management;
v. responsible for compliance of any rules or regulations;
vi. engaged in activities that have a bearing on operational risk of the intermediary

35. On combined reading of the above provisions, I note that Mr Viral Ranpura, being engaged in the share transfer activities of Noticee on expiry of his certificate is under an obligation to complete programme of continuing education prescribed under Chapter V of the SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 in order to revalidate his certificate. However, I note from the records of the inspection that Mr. Viral Ranpura had not revalidated his NISM Certification. The same has also been admitted by Noticee in its letter to SEBI dated May 31, 2019 as well as in its reply to the SCN. In this regard, Noticee in its reply to the SCN has stated that Mr. Viral Ranpura was unable to renew his NISM Certification as during the period of June, 2018 to December 2017, only 1 (one) CPE was conducted. I am of the view that the same cannot be considered to be a valid justification for not renewing NISM certification.

36. Regulation 3(2) of the SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 states that " *An associated person on being employed or engaged by an intermediary on or after the date specified by the Board shall obtain the certificate within one year from the date of being employed or engaged by the intermediary*." Regulation 4 of the SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 provides that a person can obtain NISM in any of the following manners: a) by passing a certification examination conducted by any organization or self-regulatory organization approved or engaged as may be specified by NISM from time to time; or(b) by obtaining such number of classroom credits accumulated through attending classes on such subjects as may be specified by NISM from time to time; or(c)bydelivering such number of formal classroom sessions in all or specific programmes of continuing professional education as may be specified by NISM from time to time. I note from the aforementioned provisions that Mr Bhavin Patel, being associated

person of Noticee engaged in the share transfer activities of Noticee is under an obligation to obtain the requisite certificate.

37. However, I observe from material available on record that Mr Bhavin Patel had not obtained NISM certification. The same has also been admitted by Noticee in its letter to SEBI dated May 31, 2019 as well as in its reply to the SCN. I note that Noticee in its reply to the SCN has stated that Mr Bhavin Patel is an experienced company secretary having more than 3 years of post-qualifications experience on the date of inspection. Noticee in its reply has further stated that absence of NISM certificate would not have any impact on its professional wisdom. I find that aforementioned contentions of Noticee has no merits as Noticee being a SEBI registered intermediary is bound by applicable SEBI Regulations.

38. I note that in terms of Regulation 10 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007, onus lies on Noticee to ensure that its associated persons (in the instant case Mr. Viral Ranpura and Mr. Bhavin Patel) participate in continuing professional education. In light of preceding pargaraphs, I find that Noticee has failed to discharge its obligation in this regard with respect to Mr. Viral Ranpura and Mr. Bhavin Patel.

39. In light of the above, I find that the allegation in the SCN that Noticee has violated Regulation 9 and Regulation 10 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 stands established.

Issue No. II: <u>If yes, whether the failure on the part of Noticees would attract monetary penalty under Section 15HB of the SEBI Act?</u>

40. It has established in the preceding paragraphs that Noticee has violated provisions of Clause B(2) of Schedule VII read with Regulation 40(7) of LODR Regulations, 2015, Regulation 7(4) of LODR Regulations 2015 and Clause 20 of Code of Conduct as specified in Schedule III of RTI/STA Regulations, Clauses 8 and 9 of Code of Conduct as specified in Schedule III of RTI/STA Regulations and violated Regulation 9 and Regulation 10 of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007.

41. In 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 "*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 and hence the intention of the parties committing such violation becomes wholly irrelevant. A*

breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not.''

42. Therefore, in light of the aforesaid violations as established and placing reliance on the aforementioned decision of Hon'ble Supreme Court, I find that the above violations by Noticee would attract monetary penalty under Section 15HB of SEBI Act. The text of Section 15HB of SEBI Act is reproduced below:

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 there under 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.*

Issue No. III: <u>What would be the monetary penalty that can be imposed upon Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?</u>

43. While determining the quantum of penalty under Section 15HB of the SEBI Act, it is important to consider the factors as stipulated in Section 15J of the SEBI Act, which reads as under:-

<u>SEBI Act</u>

Factors to be taken into account by the adjudicating officer.

Section 15J *- While adjudging quantum of penalty under section 15-I, 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 of an adjudicating officer 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.

44. In the instant case, it is not possible from the material on record to quantify the amount of disproportionate gain or unfair advantage resulting from the violations of Noticee or the consequent loss caused to investors as a result of the default. Further, I also note that facts on record also does not indicate violations of Noticee are repetitive in nature. However, I find that Noticee being a registered intermediary i.e. Registrar to an Issue and Share Transfer Agent is required to comply with the provisions of various Regulations issued by SEBI for safeguarding the interest of investors. Further, such multiple violations of SEBI Regulations by Noticee especially violations of Code of Conduct specified in RTI/STA Regulations would adversely affect the interest of public shareholders and such infractions need to be dealt with appropriate penalty would act as a deterrent for Noticee.

ORDER

45. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by Noticee and also the factors mentioned in Section 15J of the SEBI Act, as enumerated above, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs. 5,00,000 /-(Rupees Five Lakh only) on Noticee i.e. M/s. Accurate Securities and Registry Private Limited under the provisions of Section 15HB of SEBI Act. I am of the view that the said penalty is commensurate with the lapse/omission on the part of Noticee.

46. Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e., 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, Noticee may contact the support at portalhelp@sebi.gov.in.

47. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD – DRA - II, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

48. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated 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.

49. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticee viz M/s. Accurate Securities and Registry Private Limited and also to SEBI.

Place: Mumbai
Date: April 19, 2022

SOMA MAJUMDER
ADJUDICATING OFFICER