

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: Order/AK/VP/2023-24/26811-26814)**

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

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

In the matter of Bull Research Investment Advisors Private Limited

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had conducted an examination of pending complaints in SCORES against Bull Research Investment Advisors Private Limited (hereinafter referred to as "**IA/BRIA/Noticee No. 1**"), registered as Investment Adviser under SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as '**IA Regulations**') with effect from April 02, 2018, and analysed the details available on the website of Noticee No. 1. Ashif Shaikh (**Noticee No. 2**), Vinit Satpute (**Noticee No. 3**) and Sandeep Kushwaha (**Noticee No. 4**) were the directors of Noticee No. 1 (Noticee Nos. 1 to 4 shall be hereinafter collectively referred to as "**Noticees**"). It was observed that the Noticees, prima facie, violated provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**'), SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market)

Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**'), IA Regulations and provisions of SEBI Circular CIR/OIAE/2014 dated December 18, 2014.

APPOINTMENT OF ADJUDICATING OFFICER

2. Upon being satisfied that there were sufficient grounds to inquire into and adjudicate upon the violations of provisions of SEBI Act, PFUTP Regulations and IA Regulations by the Noticees, SEBI, in exercise of powers u/s 19 r/w sub-section (1) of section 15-I of the SEBI Act and rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the "**Adjudication Rules**") appointed me as Adjudicating Officer (**AO**), vide order dated 20.12.2022, to inquire into and adjudge the alleged violations by the Noticees.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice Ref. No. EAD-6/AK/VP/6763/1-4/2023 dated February 16, 2023 (hereafter referred to as "**SCN**") was issued to the Noticees in terms of the provisions of rule 4(1) of the Adjudication Rules r/w Section 15-I of SEBI Act requiring the Noticees to show cause as to why an inquiry should not be held against them and why penalty, if any, should not be imposed on them under the provision of Sections 15A(a), 15C, 15EB and 15HA of SEBI Act for the alleged violation stated in the SCN.
4. The brief of alleged violations by the Noticees as per the SCN is given hereunder;
 - 4.1IA promised assured returns/ assured loss recovery and lured clients to make bigger investments.
 - 4.2IA showed payment received from family members of the primary client and raised invoices against their name, to hide the exorbitant fees being taken from the primary client.
 - 4.3IA raised invoices in the name of clients who did not have demat / trading account.

- 4.4 IA sold multiple packages to clients and did not make adequate disclosure with regard to fee. IA collected from its clients' multiple times for the same service. IA forced client to pay additional charges in the name of GST
- 4.5 IA took payment before doing KYC and risk profiling of clients. IA raised invoices for subscribed services in the name of entities who cannot even trade in the securities market as they did not have demat / trading account.
- 4.6 IA didn't carry out risk profiling of the clients in a prudent manner. IA didn't carry out suitability analysis for the client and sold products/ services based on suitability declaration which were not suitable to the client and which were not commensurate with the risk taking ability of the clients.
- 4.7 IA operated without being eligible to operate as NISM Level -1 certificate of the representative of the IA expired on January 13, 2020 and was not renewed.
- 4.8 IA did not submit information sought by SEBI.
- 4.9 IA did not meet the capital adequacy norms and took registration by submitting forged CA certificate to SEBI. The IA violated fit and proper criterion specified by SEBI.
- 4.10 IA failed to resolve investor grievance of a client and got complaint closed from the client by misleading him and making false commitments.

5. The Noticees, vide email dated April 06, 2023, submitted their reply to the SCN the relevant portion of the reply is reproduced as under:

Promise of assured returns: Lots of chats are attached with some number mentioned but we do not have any of our servers and systems, so the authenticity of these chats and calls can not be done by our end since we have no access to any of our assets. SEBI in its notice has shared some recordings and chats, we completely deny this all and also the authenticity of these are in question.

- *The written documents duly signed by clients are more than enough to support our claims. We shall attach one of the receipts from the active complainant to prove our claim. We still are attaching (Attachment 5) the signed documents of one of the complainants mentioned here in SCN as Devejyoti Chetia. He has signed and shared the entire payment receipt and disclaimer form as well. It states we have never ever kept anything hidden from clients.*
- *why is SEBI not showing the mails and documents they signed.? We have requested the same hundreds of times but those were blatantly ignore. Every signed document from the client states he has agreed to all our Terms as mentioned.*

- lots of clients have mailed us that they are giving us the amount for service and this amount is non refundable. They will have to trade in their own account by their own on the calls by the company.
- any company mentions all its Terms on its website. We too did the same and even has it all signed.
- active complaint of one (Mr Yagnesh Rawal and his family) have stated the following:
 In the emails sent from everyone from the family where they have stated on every payment, one of which from Mr Yagnesh dated 16/01/2019 3:14 PM is attached (**Attachment no 2**) which is sent from his own email ID. We have shared all similar emails received on every payment from these client but they were never seen or taken into consideration by SEBI and we strongly suppress these emails in our support to help with our claims. The content of the email dated 16/01/2019 is as under
*"I have paid INR 767561/- for platinum fortune future services with my free consent. I am very much familiar from Terms and conditions of the company(**point to be noted**). I know that I have to trade by my own in my demat account and I will get profit or loss by doing trade in my demat. I know that service amount is non refundable and company will provide recommendation in terms of service. I am in proper follow up with my concern executive Thanks for your support. BR/Yagnesh.*
We request you to place your kind consideration on the same. Here the client in most simplest of words is stating his approval, his understanding, his familiarity with T& Cs of the company, he has signed every singled page of the receipts as well and the same cannot be ignored all this and pass orders against us. There are similar emails from every member of the client's family.
- they had all the documents including aadhar pan and receipts duly signed from every one of them. We again would like to state that we denied the Prime client from any more services, following which he sought to take further services on name of his family members and our good services made them take services from us. SEBI's regulation of treating all the family members as a single client with limit to the service came up recently and was not in place at that time.
- A simple question shall answer all these false allegations, if we would not have provided them clear support and profits on our services, why the client moved up for nearly a year. Is a month or a week not enough to judge any service in the market.? Only a couple of days is enough. Here is has been months nearing to a year. We also have attached signed copies of PAN and aadhar of this client along with reciept of the first payment duly signed on every single page by the same. (Attachment No 3)
- Also the client is well educated and understands all the terms and conditions, he has signed it and shared it with us along with those emails. But we feel SEBI LO want to state us wrong so it states that we hide exorbitant fees by taking payment from family members. This kind of statements from this organization of extreme reputre is highly questionable. We request Sir to please view any of the signed receipts and the emails from the members.
- For us every client was treated differently with documents from every member being different which make each of them a different entity. And the new regulation for the same was not in place at that time.
- We also would like to place on record a fact sir, we have never and nor will ever ignore any of the regulations from SEBI.

- *As per KYC is concerned and our receipts also states that we start service only after complete documentation. We are being shown as delay in KYC and all, but we took the KYC details of those clients that time as well , the only delay was they shared the signed ones later on and not at that time. And we request you to provide us some liberty on the same as no regulation was ever violated.*
- *Why is SEBI ignoring all those at first place when this simple thing was taken up by Hon'able High Court of Indore while releasing the director held captive.*
- *Page 2 and page 3 of signed receipts from every client says :*
“ BRIA do not provide any kind of guarantee or assurance of profits “
“ Any amount paid to us is non refundable in any case “
“ Company does not have any refund/cancellation policy”
“By making a payment for services to our site, you acknowledge that you have read and agreed to the above T&Cs along with no refund policy”
Now when every client is signing these documents, are we not doing anything right.?
These lines in the receipts are well read and agreed and signed by clients, so why is SEBI calling our method as fraudulent. We have taken every single payment in account and most of it from our website through payment gateway, to which client agrees.
We request respected A.O. to consider our pleads and also we state that we have nowhere violated the PFUTP regulations. Each and every amount was under GST (paid on time) and was received with agreement from the client with all the terms and conditions very open and clear to them.
- *A government site or any site to which you make a payment states the same and we can no longer question or put false allegations, since we are agreeing to T&Cs of that site by paying. SEBI itself has attached the payment receipts in SCN as well but why have they for once not even read those.*
- *Hon'able SEBI has shared receipts without the signature of clients. If there are points of agreement then a signature is something which confirms it from the signing party. But again the personal Ignorance from SEBI indore officials are seen in this formal notice as well.*
- *We along with the one mentioned above are taking the mutual agreement as signed payment receipts which states the client's firm understanding and acknowledgment, but this again is being ignored by SEBI. They are selectively finding a word or anything which was against us without ignoring the rest.*
- *Is any authority passing orders only on basis on complaint and not on evidence.? We have everything in writing duly signed but what SEBI want to see is the heading of a complaint which says “ Fraud “ and SEBI declares us fraud. Why are these receipts and emails being ignored.*
- *In our later running tenure we even introduced the concept of acknowledgment receipt and disclaimer which were first signed by the client and then taken from the clients which even firmed our agreements with the client but we feel disappointed and sad that our own governing authority is passing judgements on mere cherry picking words and prejudice.*

4.7 of SCN states BRIA did not meet the capital adequacy and submitted the forged CA certificate. “This statement from SEBI is baseless and meaningless.” We met the capital adequacy , then only our registration

was approved. If it would not have been the same, Why did SEBI grant us certificate only.? And now after 4 years our certificate is wrong. This is seriously not acceptable.

- Funds were transferred to account to fulfill the requirement, the funds were transferred. But again SEBI is stating it in a wrong way which is unacceptable. Also the paid up capital was raised to 25 Lakhs so its quite and obvious thing any company shall get funds from its share holders or directors. Any transfer between company and its directors is its internal matter and any company as per MCA can give loans to its directors, The similar state was there and the same was reflected in our ITR as well. So SEBI's hard try on this point sir is baseless to prove us wrong.
 - Any new company will have a networth in what way.? Should they build a net worth without taking the license.? Won't they be called as frauds then.? We took the rising of paid up capital as directed by our CA. So there is absolutely no question of any offense on this.
 - Forged Certificate : SEBI states that the CA certificate which we gave had a different signature and was forged one. Was this confirmed by the CA himself.? Was there a different seal or CA registration number.? The answer here is NO. SEBI in its striving attempt to blame us is trying anything meaningless and baseless. SEBI is free to conduct any ask from anyone on the same. The certificate was not forged and we completely disagree to any such false allegations. Its on CA's personal wish which signature he is doing and not on us. The signature was different or same is not in our hands, we forwarded the one which we received and We boldly state that we have not done anything wrong in taking the registration from SEBI.
- C. SCN point 4.8 states that BRIA did not submit information sought by SEBI. : Our office were raised by Indore local governing bodies on directions of SEBI and have seized all our assets servers etc, due to which we were unable to submit any of those. There were no cloud based storage options and nor was anything used by us so that we can provide them the entire database. So we request you to consider our fact and prayer that we won't be able to submit the same as they are seized by police and entire system, backup drives and everything are with them only.
- D. SCN point 4.9: Non renewal of NISM certificate: It is stated the NISM Level 1 of Mr. ASHIF SHAIKH was valid till January 13, 2020. Dear Sir, We would like to state that there was Corona time and very high cases were coming up at that time. The director lost one of his family members in corona time and this led to the failure of complying to this at that part of time. The lockdown as done in March and since then there was no option to get it renewed. NISM on its website stated that certificates to be renewed from 15/03/2020 to 31/03/2022 are extended valid till 01/04/2022. The director however tried to book a slot in Indore after the 1st lockdown but was not getting it. However to his luck he got a slot in NSEiT, Khandwa and got his NISM renewed on July 2020. Also NISM ordered the extended validity but it was from period of lockdown only, but a couple of month before that were also very dangerous. This made us incapable to renew the certificate. BUt as soon as the things cleared up a bit , even in state of danger we traveled to very far center and got the exam done. Requesting your kind support on this.

However the statement by SEBI stating that no registration was made after that, then why are they not mentioning there were no slots as well. The centers were closed. And then how is the renewed certificate available now dated 15/07/2020.

- **E. SEBI** in its SCN also states that we made false commitments to mislead client from closing complaint. But this was never the case, his complaint was resolved and he again got some issues with the services so he poked at it again. Please understand there are some clients as well which are way too greedy and there were a few of them who wanted amounts back as well after the completion of services.
- **F. SEBI** also has attached that we have got the credit of around 8 crores from client in our bank accounts and have blatantly attached the same in a hurry to release this SCN. Dear Sir, we can see the statements and tell that there were credit entries from the Directors and others as well which were not clients. So is SEBI declaring the directors as clients too.? (First 2 entries from the statement is enough to show this.) The entire credit and debit entries in total here are shown as our business from clients, which is completely wrong. However we state a rough turnover figure of 2.5 to 3 crores while running the business. Whereas the one mentioned in SCN is vague and is completely disagreed.
- **Our part:** We have always duly responded to SCORES timeline in case of any complaint and there ever has been no delay in submitting the ATR and it was always done way before the prescribed 30 days. Also **SEBI local official** as mentioned wants to prove us wrong and shut us down in any way possible, we are unaware of the reasons behind this intention of theirs. There are many companies which are having multiple unresolved complaints and are running calmly under the Banner of SEBI but we were shut down on only 1 single active complaint.

Dear Sir, I would like to request you again, which business be it related to financials or non-financials exist without any of their customer/client being dissatisfied. From the biggest of companies like JIO to the smallest of shoe vendors would have customers/clients dissatisfied and complaining. So are the authorities going to shut them off directly.

We had let's say 1000 customers/client and there was only 1 active complaint, the complaint percentage coming to 1/1000 i.e. 0.1 percent. If it's less let's take the entire number of complaint i.e. 19 (Stated by SEBI in SCN, out of which some are duplicate as well) but we take the entire number only. So 19/1000 i.e. 1.9 percent only. Is this figure so huge that ur business be shut down and not to give us any chance to work in a better way where we can even improve this lowest of percentage as well.

We believe we have done our work with great honesty and fairness and we would like to request you to consider the same based on number and not only on our words. This is a very low number and we believe that any business can have this less percent of grievances in normal operations as well. We still are dealing with financials. We however again place it on record that we would still work with utmost compliance and strict rules so that even this number can be jolted down. For this we request support from your end.

We requested SEBI multiple times to consider our prayers but all those were blatantly ignored, even the material evidence to support our claims were ignored keeping all laws at bay. This forced us to seek relief from Hon'ble SAT (Securities Appellate Tribunal) where a judgment was passed seeing all the facts

and documents. **SAT in its order dated 06/02/2023** clearly bought SEBI's intentions to shut us down and passed a fine judgment.

It clearly stated that SEBI has cherry picked the word "Target" and passed an order over it.

SAT in its order has clearly stated in para 9.

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

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

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

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

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

SAT has ordered us to resume the business but we still want to take the complete relief your end sir and then have a fresh start. We assure all the requirements shall be made complete before restarting our day1 again.

We really request you to understand our situation, and pass a fair judgment without any prejudice. We have suffered very heavily already. Here are some of those points :

- Our business was shut down instantly.
- The police on SEBI's directions raided our offices as mentioned in fact 2 and ceased all our assets.
- The people working in the office was threatened.
- One of the person handling the office was taken into custody.
- One of the directors was held captive by local police as well.
- The people held were beaten up and was jailed for 40 long days without this being in their jurisdiction.
- The Hon'ble High court of Indore provided the relief and released them on clear grounds and even till date no charge sheet is filed due to lack of evidence. It was only on the order of SEBI local office that all this sufferings were given to us.
- The local indore police officials in similar days attacked the House of a director at 1 AM in night and threatened his mother with very abusive languages. Created a havoc in the colony at this time. (The entire camera video is available and we are ready to provide a copy if sought.)
- This has completely broken the family status and has defamed all the directors personally, were their parents and families a part of this.? Is there any regulation by SEBI which states to defame and malign the status of the families. Still SEBI clearly ignored all this.
- SEBI passed the order on 25th January, when the director was held in Jail and sought the reply in very few days. This clearly shows SEBI local office's intentions against BRIA. They were aware that the company is seized and all the assets are seized and hence the BRIA will not be able to give any response.
- Our accounts were frozen and SEBI without thinking of families swung the Axes on our lives.
- We only had one active complaint, on which the order was passed.(Clearly mentioned in interim order of SEBI dated 25th January)

6. An opportunity of a personal hearing was granted to the Noticees on 26.04.2023, vide Hearing Notice dated 10.04.2023. Noticee No. 2 and Noticee No. 4 i.e., Mr. Ashif Shaikh and Mr. Sandeep Kushwaha appeared in person and also on behalf of Noticee No. 1 and Noticee No. 4 and reiterated the submissions made vide email dated April 06, 2023.

CONSIDERATION OF ISSUES AND FINDINGS

7. I have taken into consideration the submissions of the Noticees, facts, and material available on record. The issues that arise for consideration in the present case are as follows:

ISSUE No. I: Whether the Noticees violated various provisions of SEBI Act, PFUTP Regulations, IA Regulations, SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as “Intermediaries Regulations” and/ or, SEBI circular CIR/OIAE/2014 dated December 18, 2014, as alleged in the SCN?

ISSUE No. II: Do the violations, if any, attract monetary penalty u/s Section 15A(a), 15EB, 15HB, 15HA, 15C of SEBI Act, as applicable?

ISSUE No. III: If so, what should be the monetary penalty that should be imposed upon the Noticees, after taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

8. Before moving forward, it is pertinent to refer to the relevant provisions which are alleged to have been violated by the Noticees. The said provisions are reproduced hereunder:

SEBI Act

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

12A. No person shall directly or indirectly—

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

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

IA Regulations

Consideration of application and eligibility criteria.

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

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

Qualification and certification requirement.

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

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

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

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

Networth.

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

Explanation. —

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

Conditions of certificate.

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

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

General responsibility.

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

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

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

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

Regulation 16

Risk profiling.

16. Investment adviser shall ensure that, -

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

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

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

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

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

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

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

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

Suitability.

17. Investment adviser shall ensure that, -

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

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

(i) meets the client's investment objectives;

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

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

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

Redressal of client grievances.

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

Liability for action in case of default.

28.An investment adviser who –

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

CODE OF CONDUCT FOR INVESTMENT ADVISER**1.Honesty and fairness**

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

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

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

6.Fair and reasonable charges An investment adviser advising a client may charge fees, subject to any ceiling as may be specified by the Board¹[***]. The investment adviser shall ensure that fees charged to the clients is fair and reasonable.

Intermediaries Regulations**Consideration of application.**

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

(e) where the applicant is not a 'fit and proper person' as stated in Schedule II;

PFUTP Regulations

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

(c) “fraud” includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include—

- (1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;*
- (2) a suggestion as to a fact which is not true by one who does not believe it to be true;*
- (3) an active concealment of a fact by a person having knowledge or belief of the fact;*
- (4) a promise made without any intention of performing it;*
- (5) a representation made in a reckless and careless manner whether it be true or false;*
- (6) any such act or omission as any other law specifically declares to be fraudulent,*
- (7) deceptive behaviour by a person depriving another of informed consent or full participation,*
- (8) a false statement made without reasonable ground for believing it to be true.*
- (9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself for anything derived from it other than the market price. And "fraudulent" shall be construed accordingly; Nothing contained in this clause shall apply to any general comments made in good faith in regard to—*
 - (a) the economic policy of the government*
 - (b) the economic situation of the country*
 - (c) trends in these securities market or*
 - (d) any other matter of a like nature**whether such comments are made in public or in private;*

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

- (a) buy, sell or otherwise deal in securities in a fraudulent manner;*
- (b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;*
- (c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*
- (d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.*

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

Explanation. – For the removal of doubts, it is clarified that any act of diversion, mutualisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always

be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.

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

a.....

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

(o) fraudulent inducement of any person by a market participant to deal in securities with the objective of enhancing his brokerage or commission or income;

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

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

(i) knowingly making a false or misleading statement, or

(ii) knowingly concealing or omitting material facts, or

(iii) knowingly concealing the associated risk, or

(iv) not taking reasonable care to ensure the suitability of the securities or service to the buyer;

9. I now proceed to deal with Issue No. I on merits:

9.1. In respect of allegation of promise of assured returns/ assured loss recovery, whether the Noticees violated provisions of Regulation 15(1) and clauses 1 and 2 as specified under Third Schedule of Code of Conduct for Investment Advisers read with Regulation 15(9) of IA Regulations, Regulation 3 (a), (b), (c), (d) and Regulations 4(1), 4(2)(k)(o) and 4(2)(s) of PFUTP Regulations, read with Section 12A(a), (b) and (c) of SEBI Act.

9.1.1 I note from the SCN that during the examination a total of 19 complaints were received in SCORES against the Noticee No.1, after March 12, 2020. Name of the complainant, SCORES Registration number, date of receipt and status of complaint stated in the SCN is as under:

Table No. 1

S. No.	Complainant Name	SCORES Registration No.	Date Of Receipt Of Complaint	Status

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

9.1.2 I further note from the last column of Table 1 above that complaints of Devajyoti Chetia and Krishna Katkar were disposed of in view of ATR submitted by the Noticee No. 1 that the complaint was resolved. However,

vide email dated October 17, 2020, Devajyoti Chetia, inter-alia, informed SEBI that the Noticee No. 1 assured them to solve their matter at the earliest but even after one month Noticee No.1 did not respond to their calls and messages. Devajyoti Chetia and Krishna Katkar also submitted documentary evidences with regard to their complaint. As documentary evidences were later received from the said complainants and the complaint of Devajyoti Chetia was not resolved by the Noticee No. 1.

9.1.3 Observations of examination team from documents, and transcript of call records submitted by the said complainants;

Table No. 2

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

Harish Chandra Maharana
Issue raised in complaint: Returns were assured by the Noticee No. 1. Client initially paid Rs 6000 and later Noticee No. 1 asked the client to pay more for better returns. Client paid Rs 76440 and incurred losses of Rs 150000.
Transcript of call records submitted by the complainant.
Audio File Name: Call@Akash Indor(00917611105161)_20200720152743
Time Slot: 08:46 – 09:53

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

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

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

Time Slot: 02:20 – 02:35

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

Payment receipts of following amount was submitted -

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

Ibrahim Shaikh

Issue raised in complaint: Lost Rs 150000 in a single trade. Complainant followed up with the executives of the Noticee No. 1 for stop loss but was assured by the Noticee No. 1 executives not to worry and shares will go up before market close.

As per the conversation in the call recordings, relevant transcript of which are mentioned below, it is understood that this call was made by the client after he suffered losses.

Audio File Name: Call@009172240062 (00917224006208) 20200319150348

Time Slot: 00:40 – 02:05

Client: Apna nuksaan ka kya

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

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

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

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

Time Slot: 02:30 – 02:35

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

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

Audio File Name: Call@009172240133(00917224013309) 20200319145352

Time Slot: 00:10 – 00:24

Client: Aap mujhe mera paisa recover kara ke do.

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

Time Slot: 00:37 - 00:39

Employee of Noticee No. 1: Main to aapko 5 hazaar kamaa ke de doongi.

Audio File Name: Call@009172240133(00917224013309) 20200319154348

Time Slot: 00:10 – 00:29					
Client: Market ko dhyan rakhte hue 50000 Rs lagana tha, Stop loss lagana tha.					
Employee of Noticee No. 1: Mujhe pataa hai. Mujhe 99% trust tha ki market profit mein aa jayega aur main apko profit nikal ke dunga.					
<u>Audio File Name: Call@009195893280(00919589328028) 20200321162350</u>					
Time Slot: 18:31 – 18:36					
Employee of Noticee No. 1: Main company ki taraf se baat kar rahin hoon. Apka jo loss hai company recover kara degi.					
Payment receipts of following amount was submitted -					
Date of payment	Payment (Rs.)	GST (Rs.)	Adjusted Amount (Rs.)	Remaining Amount (Rs.)	Service
18-03-2020	5100/-	918/-	-	-	-

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

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

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

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

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

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

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

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

Client: Lekin uske baad mein poora gaya na madam.

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

Payment receipts of following amount was submitted -

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

Taran Gupta

Issue raised in complaint: Complainant was assured profit and after making initial payment to the Noticee No.1 for a service, he was asked to pay more for another service package.

Transcript of call records submitted by the complainant.

Audio File Name: +916262755526_200813_161654

Time Slot: 01:10 – 02:45

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Audio File Name: Mansi Mam Bull 200728 145346

Time Slot: 00:01 – 01:19

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Client: Wahi lady ne bola mere ko.

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

Vijin Ravindran Nambiar					
Issue raised in complaint: Complainant invested Rs 2,50,000 and incurred losses.					
Payment receipts of following amount was submitted -					
Date of payment	Payment (Rs.)	GST (Rs.)	Adjusted Amount (Rs.)	Remaining Amount (Rs.)	Service
11-06-2020	16086.44/-	2895.56/-	5100/-	228813.56/- + GST (18%) on 228813.56/-	Platinum Prime (F&O)
12-06-2020	8474.58/-	1525.42/-	21186.44/-	220338.98/- + GST (18%) on 220338.98/-	

16-06-2020	47080.51/-	8474.49/-	29661.02/-	173258.47/- + GST (18%) on 173258.47/-	
18-06-2020	113559.32/-	20440.68/-	76741.52/-	59699.51/- + GST (18%) on 59699.51/-	
29-06-2020	30508.47/-	5491.53/-	190300.84/-	29190.69/- + GST (18%) on 29190.69/-	
30-06-2020	4237.29/-	762.71/-	220808.89/-	24953.82/- + GST (18%) on 24953.82/-	

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

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

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

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

Table No. 3

Issues raised in complaint
• Noticee No.1 did fraud and carried out transactions in the portfolio. • Noticee No.1 charged taxes without doing any transactions. • Noticee No.1 deducted money from the linked bank account without authorisation.
• Profit assurance on payment of Rs 13000. • Noticee No.1 took money, didn't provide any levels and demanded more money. • Noticee No.1 didn't receive calls when complainant requested refund. • Rude behaviour by the Noticee No.1.
• Did fraud of Rs 60000 in the name of opening account in NSE.
• Took Rs 125974 and guaranteed return of Rs 15 lakhs. Services were interrupted and Noticee No.1 demanded more money. • When denied by the complainant, Noticee No.1 didn't give any response and started ignoring calls when refund was sought by the complainant.
• Complainant availed premium amaze service for 4 months by paying Rs 75000 plus GST of Rs 18000. • Noticee No.1 didn't provide any service after 1 month.
• Noticee No.1 assured returns. • Noticee No.1 extorted money from the complainant in the name of GST. • Starting with small fees amount, Noticee No.1 gradually extorted money in the name of fees and threatened to forfeit the amount paid by the client.

9.1.4 I note from the call recordings provided by complainants of Noticee No. 1 that representatives of Noticee No. 1 had promised assured returns/ assured loss recovery to the clients despite fully knowing that all the investments in securities market are subject to market risk and that such returns cannot be assured.

9.1.5 I note from call recordings of the complainant Mr Krishna Katkar, that the representative of Noticee No. 1 was assuring him of huge returns and was luring him to make bigger investments. I note from the invoices submitted by Noticee No. 1 and by the complainant that the Noticee No. 1 had offered targeted returns in absolute monetary terms to the complainant and his family members and the service tenure of the product/ service was linked to the said target. For example, in one of the Invoice/ Payment receipts issued by Noticee No. 1 to Mr. Yagnesh Rawal, the service offered was Platinum Fortune Service (Cash) and payment of Rs. 92,311.50/- was received. In the same Invoice, Noticee No. 1 had mentioned that "Target (Not Guaranteed/Not Assured) is Rs. 26,00,000". Further, the said Invoice also

states the service tenure as “249-899 Trading Sessions or Target as mentioned in Point no.14 whichever occurs earlier”

9.1.6 Examples of target returns promised in the payment receipts/ Invoices of few clients are as under:

Table No. 4

Client Name	Proposed investment as per Risk Profile	Payment date	Name of the service	Target Return (in Rs)	Service Fee (in Rs) Exclusive of GST (18%)
Mr. Yagnesh Rawal	< 1Lac	07/01/2019	Platinum Fortune Service (Cash)	26,00,000	92311.50
Mr. Yagnesh Rawal	< 1Lac	08/01/2019	Platinum Fortune Service (Cash)	26,00,000	135593.20
Mr. Yagnesh Rawal	< 1Lac	09/01/2019	Platinum Fortune Service (Cash)	26,00,000	118471.20
Mr. Yagnesh Rawal	< 1Lac	11/01/2019	Fortune Platinum Stock (Cash)	26,00,000	2,99,000
Mr. Yagnesh Rawal	< 1Lac	23/04/2019	Superb Premium Cash	8,97,500	2,99,000
Mr. Paras Rawal	1-2 Lac	21/01/2019	Fortune Platinum (Stock Options)	19,50,000	6,50,000
Mr. Paras Rawal	1-2 Lacs	10/05/2019	Elite Premium Future Service	17,46,500	4,23,729
Mr. Janak Rawal	1-2 Lacs	26/04/2019	Elite Premium Services (Stock Cash)	17,46,500	4,21,500
Mrs. Devilaben Rawal	1-2 Lacs	21/01/2019	Fortune Platinum (Stock options)	26,00,000	6,50,000
Mrs. Devilaben Rawal	1-2 Lacs	29/01/2019	Superb Platinum (Stock Cash)	8,97,000	2,33,052
Mrs. Devilaben Rawal	1-2 Lacs	10/05/2019	Rapid Premium Future Service	4,97,500	1,62,489

9.1.7 I note from the invoices issued by Noticee No. 1, that Noticee No. 1 had stated “Target (Not Guaranteed/Not Assured) as Rs. 2600000” in the invoices issued by it. Although, Noticee No. 1 had mentioned the amount as ‘not guaranteed/ not assured’, Noticee No. 1 had also specified amount Rs. 26,00,000/- as target. Further, Noticee No. 1 had indicated a return of Rs.36,96,500/- to Mr. Paras Rawal on a proposed investment amount of Rs.1-2 lakh. Similarly, Noticee No. 1 had indicated a return of Rs.17,46,500/-

to Mr. Janak Rawal on a proposed investment amount of Rs.1-2 lakh. The amount of return indicated to Mrs. Devilaben Rawal was Rs.39,94,500/- on a proposed investment amount of Rs.1-2 lakh.

9.1.8 I note from the invoices that Noticee No. 1 had charged around Rs.9.44 lakh, 10.73 lakh, Rs.4.21 lakh and Rs.10.45 lakh as fees from Mr. Yagnesh Rawal, Mr.Paras Rawal, Mr. Janak Rawal and Mrs. Devilaben Rawal respectively. The amount of fees as stated above was exorbitant taking into account the investment amount disclosed by the clients to Noticee No. 1. Further, in case of Mr.Yagnesh Rawal, Noticee No. 1 had sold 'Platinum Fortune Service (Cash)' product 4 times in 5 days i.e. from January 7, 2018 to January 11, 2018 with the tenure mentioned as "249-899 Trading Sessions or Target as mentioned in Point no. 14 whichever occurs earlier". From the above, it is observed that Noticee No. 1 had sold the same package 4 times with identical tenures. It was also observed that for the same package sold 4 times, the amount of advisory fees charged by Noticee No. 1 are variable and ranges from Rs. 92,311.50 to Rs.2,99,000/-.

9.1.9 I note from the above table that, in most of the cases, the service fee itself was more than the proposed investment of the clients. Taking the example of Mr. Yagnesh Rawal, Noticee No. 1 charged him a service fee of around Rs.6.45 Lac for Platinum Fortune Service (Cash) and Fortune Platinum Stock (Cash) when his proposed investment was less than Rs. 1 lakh. The target return promised to him is Rs. 26 lakhs. It is observed that the target return indicated in the invoices by Noticee No. 1 was unrealistic and impossible to achieve taking into account the investment amount (of less than Rs.1 lakh) and the fees charged by the Noticee No. 1 (Rs.6.45 Lac) during 249 – 899 trading sessions or target mentioned whichever occurs earlier. Similarly, in the case of Mr. Paras Rawal, Noticee No. 1 charged him a service fee of Rs. 10.74 lacs for Fortune Platinum (Stock Options) and Elite Premium Future Service when his proposed investment was Rs. 1 – 2 lakh. The target return promised to him was Rs. 36.96 lakh, which was practically

impossible to achieve. Similarly, for Devilaben Rawal, service fee charged was much more than her proposed investment amount and the target returns indicated in the invoices were unrealistic.

9.1.10 I note that Noticee No. 1 provided tips/ recommendations pertaining to products of different segments of securities market viz. equity cash segment, equity derivatives segment, index derivatives, commodity derivatives, etc., which are traded on the exchange platform.

9.1.11 Regulation 15(1) and code of conduct under schedule III of IA Regulations provides that an investment adviser shall act in a fiduciary capacity towards its clients and shall disclose all conflicts of interests as and when they arise.

9.1.12 I note from the reply of the Noticees that they have denied that they have given promise of assured returns. The Noticees have submitted that, lots of chats are attached with some number mentioned but they do not have any of their servers and systems, so the authenticity of these chats and calls cannot be done by them since they have no access to any of their assets. Noticees have submitted that one of the complainant viz., Devejyoti Chetia has signed and shared the entire payment receipt and disclaimer form after doing the KYC wherein it is stated that Noticees have never ever kept anything hidden from their clients. Such written documents duly signed by their clients are more than enough to support their claims. The Noticees have provided a copy of receipts which is acknowledged by complainant viz., Devejyoti Chetia where in he has accepted all the terms and conditions of the services provided by Noticee No.1 Further, Noticees has provided a copy of receipts of the complainant Mr Yagnesh Rawal and his family members after doing the KYC wherein they have accepted all the terms and conditions of the services provided by Noticee No.1. The Noticees further submitted that each and every amount was under GST (paid on time) and was received with agreement from the client with all the terms and conditions very open and

clear to them. The Noticees further submitted the present proceeding are based on the complaints of their clients and not based on the evidences.

9.1.13 The Noticees had submitted that they have preferred an appeal before Hon'ble SAT against the interim order and confirmatory passed in the 11B proceedings and Hon'ble SAT, vide order dated 06.02.2023, had held that SEBI has cherry-picked the word "Target" and passed an order wherein it is stated that ***"We find that the receipt specifically stated that the company does not provide any kind of guarantee or assured returns"***. In para 10, Hon'ble SAT stated that SEBI has cherry picked a word and ***"Such non consideration of the entire sentence in our opinion is unwarranted"***. Following this Hon'ble SAT, in its order has provided relief by stating that ***"The appellant has a right to carry on his business under the constitution of India. The direction to cease and desist from carrying on business cannot be issued on such flimsy grounds especially when prima facie evidence is lacking."***

9.1.14 I note from the complaint of one Harish Chandra Maharana that he had submitted call records held between the representative of the Noticees and the complainant. The Transcript of call records submitted by the complainant is as follows:

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

Time Slot: 08:46 – 09:53

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

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

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

Time Slot: 02:20 – 02:35

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

I note from the above conversation that the employee of the Noticees is giving assurance of 80% returns to Harish Chandra Maharana.

9.1.15 I note from another complaint of one Ibrahim Shaikh that he had submitted call records held between the representative of the Noticees and the Ibrahim Shaikh. The Transcript of call records submitted by the complainant is as follows:

Audio File Name: Call@009172240062 (00917224006208)_20200319150348

Time Slot: 00:40 – 02:05

Client: Apna nuksaan ka kya

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

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

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

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

Time Slot: 02:30 – 02:35

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

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

Audio File Name: Call@009172240133(00917224013309)_20200319145352

Time Slot: 00:10 – 00:24

Client: Aap mujhe mera paisa recover kara ke do.

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

I note from the above call records that the employee of the Noticees is giving assurance to Ibrahim Shaikh that they will recover the loss incurred by him.

9.1.16 I note from another complaint of one Krishna Katkar that he had submitted call records held between the representative of the Noticees and the Krishna Katkar. The Transcript of call records submitted by the complainant is as follows:

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

Time Slot: 00:39 – 05:24

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

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

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

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

Client: Personally madam, kuch mail mein chahiye na.

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

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

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

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

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

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

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

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

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

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

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

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

Client: Lekin uske baad mein poora gaya na madam.

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

I note from the above communication held between the employees of the Noticees and Krishna katkar that when the client is asking that some one has to take responsibility to make the good of the loss incurred then the employee of the Noticees are taking the responsibility personally. Thereafter when the client said that someone has to give commitment when the company had made loss of 8 lakhs to him. In reply to this question the employee of the Noticees has given assurance of minimum 7 lakhs profit.

9.1.17 I note from another complaint of Taran Gupta that he had submitted call records held between the representative of the Noticees and the Taran Gupta. The Transcript of call records submitted by the complainant is as follows:

Audio File Name: +916262755526 200813 161654

Time Slot: 01:10 – 02:45

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Audio File Name: Mansi Mam Bull 200728 145346

Time Slot: 00:01 – 01:19

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Client: Wahi lady ne bola mere ko.

I note from the above communication held between the employees of the Noticees and Taran Gupta that employee of the Noticees is giving assurance that he will recover all the fund.

9.1.18 I note from the call recordings that the employees of the Noticees had given assurance to its clients, however, Noticees in their replies have stated that do not have any of their servers and systems, so the authenticity of these chats and calls can not be done by their end since they have no access to any of their assets. I place reliance on the judgement of Hon'ble Supreme Court in the matter of *Shafhi Mohammad vs The State Of Himachal Pradesh [SLP(Crl.)No.2302 of 2017]* on 30 January, 2018, wherein it was inter-alia held that –

“(11) The applicability of procedural requirement under Section 65B(4) of the Evidence Act of furnishing certificate is to be applied only when such electronic evidence is produced by a person who is in a position to produce such certificate being in control of the said device and not of the opposite party. In a case where electronic evidence is produced by a party who is not in possession of a device, applicability of Sections 63 and 65 of the Evidence Act cannot be held to be excluded. In such case, procedure under the said Sections can certainly be invoked. If this is not so permitted, it will be denial of justice to the person who is in possession of authentic evidence/witness but on account of manner of proving, such document is kept out of consideration by the court in absence of certificate under Section 65B(4)

of the Evidence Act, which party producing cannot possibly secure. Thus, requirement of certificate under Section 65B(h) is not always mandatory.

(12) Accordingly, we clarify the legal position on the subject on the admissibility of the electronic evidence, especially by a party who is not in possession of device from which the document is produced. Such party cannot be required to produce certificate under Section 65B (4) of the Evidence Act. The applicability of requirement of certificate being procedural can be relaxed by Court wherever interest of justice so justifies.”

Therefore, applying the rationale of the aforesaid judgement on the case under consideration, I am inclined to treat the aforementioned recordings as an evidence and do not find merit in the contentions of the Noticees.

9.1.19 I note that a SEBI registered IA has the responsibility to act in a fiduciary capacity towards its clients. A registered IA's duty is to advise its clients and ensure that the advise is provide appropriate to the risk profile of the client. An IA cannot go beyond the role as prescribed in the Regulations. I find from the record that target returns were promised by the Noticee No. 1 in the payment receipts/ Invoices for example in the invoices Noticee No. 1 had stated “*Target (Not Guaranteed/Not Assured) as Rs. 2600000*” in the invoices issued by the Noticees itself. Noticee No. 1 had mentioned the amount as ‘*not guaranteed/ not assured*’, Noticee No. 1 had also specified the amount Rs. 26,00,000/- as target. I note that while “*Target*” does not mean assured return, an IA cannot indicate a target which is unreasonable, devoid of any logic and unrealistically high as compared to the investment. In the instant context there was no basis for indicating the target amount as Rs.26,00,000/, especially when the proposed investment amount was less than Rs.1 lakh. Further, I find that on one side the Noticees are submitting that the client had signed the receipts and agreed to the term and conditions and submitting that they have mentioned on the risk profile form that Target (Not Guaranteed/Not Assured) and on the order hand the representatives of the

Noticees were calling their client and inducing their client that they will get good returns subject to additional payment.

9.1.20 I note from the records that Noticee No. 1 had charged around Rs.9.44 lakh, 10.73 lakh, Rs.4.21 lakh and Rs.10.45 lakh as fees from Mr. Yagnesh Rawal, Mr. Paras Rawal, Mr. Janak Rawal and Mrs.Devilaben Rawal respectively. The amount of fees as stated above was exorbitant taking into account the investment amount disclosed by the clients to Noticee No. 1. Further, in case of Mr.Yagnesh Rawal, Noticee No. 1 had sold 'Platinum Fortune Service (Cash)' product 4 times in 5 days i.e. from January 7, 2018 to January 11, 2018 with the tenure mentioned as "249-899 Trading Sessions or Target as mentioned in Point no. 14 whichever occurs earlier". From the above, I note that Noticee No. 1 had sold the same package 4 times with identical tenures. Further, the same package was sold 4 times, the amount of advisory fees charged by Noticee No. 1 are variable and ranges from Rs. 92,311.50 to Rs.2,99,000/-.

9.1.21 I find that the amount charged by Noticee No. 1 was unjust, unreasonable and devoid of any logic and deceived. Hence I do not accept the submission of the Noticees that their client has signed the KYC and accepted the terms and conditions by signing the receipts/ Invoices. I am of the view that Noticees cannot take shelter under the said disclaimer and give assurance of false returns to its clients and thus were misrepresenting its clients. Noticees cannot escape its liability for making such misrepresentation to the investor merely on the ground that the investors is aware that their investments are subject to market risks.

9.1.22 To substantiate its claim, I note that Noticee has produced copies invoices of two complainants Yagnes Rawal and Devajyoti Chetia. It is pertinent to mention that the role of an IA is to advise on financial products to its clients suitably and not resort to giving any assurance or guaranteed returns. I observe that these invoices were sent to the clients after they were on

boarded to the said product or package. Secondly, they were general disclaimers which does not permit the Noticees to give assured returns/assured loss and claim that disclaimers clause were communicated to the Noticee. I note from one of the complaints of Harish Chandra Maharana that he had paid Rs 78,440 and incurred loss of Rs 1,50,000. This in itself is a fraud on the investor. Thus I conclude that Noticees adopted business practices to lure the prospective clients into availing the services offered by giving assurances of the guaranteed returns and thus defrauding the investors.

9.1.23 Further, I do not accept the submissions of the Noticees regarding the authenticity of the chat or call recordings submitted by the complainant to SEBI. If the Noticees are claiming that the call recordings are manipulated then the Noticees ought to have filed a FIR with the police for examining the authenticity of the call recordings, however, the notices had not submitted any copy of the FIR or any evidence to prove that the call recordings were manipulated.

9.1.24 I note that every investment in the market is subject to market risk and any investment made by the client can also run into losses and even become zero, I find that assured returns / assured loss recovery given by Noticee No. 1, was an active concealment of truth and the above conduct was an act of being dishonest on the part of Noticee No. 1 and also not acting in the best interest of the clients.

9.1.25 I find that the above act of the Noticees giving assured returns was known to be false and misleading in a reckless and careless manner which is designed to influence the decision of investors dealing in securities. Such act of the Noticees are fraudulent inducement to its clients as a market participant to deal in securities with the objective of enhancing their brokerage or commission or income and is mis-selling of services relating to securities market

9.1.26 In view of the above I find that Noticees have violated Regulation 15(1) of IA Regulations and failed to abide by Clauses 1 and 2 of the Code of Conduct for Investment Advisors as specified in Schedule III of IA Regulations read with Regulation 15 (9) of IA Regulations and Regulation 3 (a), (b), (c), (d) and Regulation 4(1), 4(2)(k)(o) and 4(2)(s) of PFUTP Regulations, read with Section 12A(a), (b) and (c) of SEBI Act.

9.2. **W.r.t. allegation of Payment received from family members of the primary client to hide exorbitant fees taken from the primary client, whether the Noticees violated provisions of Regulation 15(1) and clauses 1 and 2 as specified under the Third Schedule of Code of Conduct for Investment Advisors read with Regulation 15(9) of IA Regulations and Regulation 3 (a), (b), (c) and (d) of PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act.**

9.2.1 I note from the SCN that it was stated from the complaint of Mr. Yagnesh Jankbhai Rawal and from the invoices submitted by Noticee No. 1 and documents submitted by the complainant that Noticee No. 1 had taken a total of Rs. 56.11 lakhs for multiple services and had raised invoices in the name of Mr. Yagnesh Janakbhai Rawal (YJR), Leena Rawal (Wife of YJR), Devilaben Rawal (Mother of YJR), Paras Rawal (Brother of YJR) and Janakbhai Rawal (Father of YJR). The details of the services shown against the primary clients and their family members are as under:

Table No. 5

S.No	Date of Payment in Invoice	Amount (inc GST) as per Invoice	Name in Invoice	Relationship with Primary client (YJR)	Services Sold
Invoices Provided by Noticee No. 1					
1	05/01/2019	6018	Yagnesh Rawal	Self	Stock Cash
2	07/01/2019	108928	Yagnesh Rawal	Self	Platinum Fortune Service (Cash)
3	08/01/2019	160000	Yagnesh Rawal	Self	Platinum Fortune Service (Cash)

4	09/01/2019	139796	Yagnesh Rawal	Self	Platinum Fortune Service (Cash)
5	11/01/2019	352820	Yagnesh Rawal	Self	Fortune Platinum (Stock Cash)
6	20/04/2019	160480	Yagnesh Rawal	Self	34 Equity Weekly Report
7	23/04/2019	352820	Yagnesh Rawal	Self	Superb Premium Cash
8	10/05/2019	500000	Paras Rawal	Brother	Elite Premium Future Service
9	21/01/2019	767000	Paras Rawal	Brother	Fortune Platinum (Stock Options)
10	26/04/2019	497370	Janak Rawal	Father	Elite Premium Services (Stock Cash)
11	14/01/2019	767001	Leena Rawal	Wife	Fortune Platinum (Stock Cash)
12	03/05/2019	565201	Leena Rawal	Wife	Elite Premium Future Service
13	29/01/2019	275002	Devilaben Rawal	Mother	Superb Platinum (Stock Cash)
Invoices Provided by Complainant					
14	10/05/2019	191737	Devilaben Rawal	Mother	Rapid Premium Future Service
15	21/01/2019	767000	Devilaben Rawal	Mother	Fortune Platinum (Stock options)
Total		5611173			

9.2.2 Further, the complainant vide e-mail dated October 21, 2019 also submitted his HDFC Bank Account Statement bearing account No. 01041140002490, reflecting the payments made to Noticee No. 1 from his HDFC Bank Account. Therefore, it was inferred that all the payments were made by the primary client Mr. Yagnesh Janakbhai Rawal and Noticee No. 1 had subsequently split the advisory fees among family members of the primary client so that a single exorbitant fee does not get reflected in the name of the primary client.

9.2.3 I note that during the examination client master data was sought by SEBI from the Noticee No. 1 which was not provided by Noticee No. 1. It is further observed from details of year wise fees collected since date of registration and in absence of details of fee collected and the fact that Noticee No.1 did not meet the capital adequacy norms and took registration by submitting the forged CA certificates to SEBI, entire credits in the bank accounts of Noticee

No. 1 was considered as advisory fees. Based on the above, it was alleged that Noticees had indulged in fraudulent and unfair trade practices relating to securities market. Details of the advisory fee credited into the bank account of the Noticee No. 1 are as under:

Table No. 6

S. No.	Bank Name	Branch	Account No.	Period of statement	Date of last credit	Total Credits (Rs.)
1	ICICI Bank	Vijay Nagar, Indore	18590500406	August 18, 2017 – January 27, 2021	January 27, 2021	6,26,07,606.55
2	HDFC Bank	Vijay Nagar, Indore	50200031073960	May 10, 2018 - March 30, 2021	January 27, 2021	1,47,38,725.47

9.2.4 It was inferred that Noticee No. 1 had not been honest, fair, diligent and transparent in its dealing with the clients about the fees charged to the client. The act of Noticee No. 1 was in complete disregard to the responsibility entrusted on him under IA Regulations to act in fiduciary capacity and in the best interest of its clients and keeping its own interest ahead of its client's interest. Further, Noticee No. 1 had shown payment being received from family members of the primary client and raised invoices against their name knowingly that the family members were not its client and to hide the exorbitant fees being taken from the primary client, thereby dealing with the client in a fraudulent manner.

9.2.5 It was alleged in the SCN that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have (a) failed in its responsibility to act in fiduciary capacity to its client which was entrusted upon them under regulation 15(1) of IA Regulations and (b) failed to abide by clauses 1 and 2 of the Code of Conduct for Investment Advisers as specified in Schedule III of IA Regulations r/w regulation 15(9) of IA Regulations. Further, through the amount of fees was received from the account of Mr.Yagnesh Rawal, the invoices have been

generated in the names of few of his relatives in violation of regulation 15(2) of IA Regulations.

9.2.6 Based on the above, it was alleged that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated Regulation 15(1) and clauses 1 and 2 as specified under Third Schedule of Code of Conduct for Investment Advisers read with Regulation 15(9) of IA Regulations and Regulation 3 (a), (b), (c) and (d) of PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act.

9.2.7 I note from the reply of the Noticees that they have not given any response with regard to the above allegations. It is pertinent to refer the judgment of Hon'ble Securities Appellate Tribunal (SAT) in the matter of *Classic Credit Ltd. vs. SEBI* (Appeal No. 68 of 2003 decided on December 08, 2006) wherein it, inter alia, 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 showcause notice were admitted by them".

9.2.8 I find from the above fact that Noticee No. 1 had not been honest, fair, diligent and transparent in its dealing with the clients about the fees charged to the client. The act of Noticee No. 1 was in complete disregard to the responsibility entrusted on the Noticees under IA Regulations to act in fiduciary capacity and in the best interest of its clients and keeping its own interest ahead of its client's interest. I find that Noticee No. 1 had shown payment being received from family members of the primary client and raised invoices against their name knowingly that the family members were not its client and to hide the exorbitant fees being taken from the primary client.

9.2.9 Hence I find that Noticees have violated provisions of Regulation 15(1) and clauses 1 and 2 as specified under the Third Schedule of Code of Conduct

for Investment Advisers read with Regulation 15(9) of IA Regulations. However, I am of the considerate view that the above doesn't satisfy the conditions envisaged as "fraud", as per PFUTP Regulations and hence I do not find the Noticees to be violating the provision of Regulation 3 (a), (b), (c) and (d) of PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act.

9.3. With respect to allegation that Noticee No. 1 raised invoices in the name of clients who did not have demat/ trading account, whether the Noticees violated provisions of Regulation 15(1) of IA Regulations and failed to abide by Clauses 1 and 2 of the Code of Conduct for Investment Advisors as specified in Schedule III of IA Regulations read with Regulation 15 (9) of IA Regulations and violated provisions of regulation 3 (a), (b), (c), (d) of PFUTP Regulations read with section 12A (a), (b) and(c) of SEBI Act.

9.3.1 I note from the SCN that it is stated that examination team had observed from the invoices submitted by Noticee No. 1 vide letter dated November 18, 2019 and by the complainant vide e-mail dated October 21, 2019, that out of total Rs. 56.11 lakh taken by Noticee No. 1 as advisory fees for which invoices have been raised, Noticee No. 1 raised invoices of around Rs. 25.66 lakh for payment of advisory fees for subscribed services against the names of Leena Rawal (Wife of YJR) and Devilaben Rawal (Mother of YJR), which are as follows:

Table No. 7

S.No	Date of Payment in Invoice	Amount (including GST) as per Invoice	Name in Invoice	Relationship with Primary client (YJR)	Services Sold
Invoices Provided by Noticee No. 1					
1	14/01/2019	7,67,001	Leena Rawal	Wife	Fortune Platinum (Stock Cash)
2	03/05/2019	5,65,201	Leena Rawal	Wife	Elite Premium Future Service
3	29/01/2019	2,75,002	Devilaben Rawal	Mother	Superb Platinum (Stock Cash)

Invoices Provided by Complainant					
4	10/05/2019	1,91,737	Devilaben Rawal	Mother	Rapid Premium Future Service
5	21/01/2019	7,67,000	Devilaben Rawal	Mother	Fortune Platinum (Stock options)
Total		25,65,941			

9.3.2 I note from the complaint, vide e-mail dated January 15, 2020, details of KYC of all the Demat/Trading accounts of the complainant and their family members were sought from CDSL and NSDL. CDSL informed that no demat accounts have been opened in the names of Leena Rawal (PAN: ALNPR1064K) and Devilaben Rawal (PAN: ALKPR3445D).

9.3.3 Further, NSDL also submitted that no BO account is found to be held against PANs viz. Devilaben J Rawal (PAN: - ALKPR3445D) and Leena Yagnesh Rawal (PAN: ALNPR1064K) with any DP of NSDL. It was observed that Noticee No. 1 had raised invoices in their names showing a receipt of around Rs. 25.66 lakh of advisory fees from these two entities. I note from the records that the money was received from primary client (Mr.Yagnesh Rawal) and Noticee No. 1 had taken the details of his family members and raised invoices in their names to show that services have been sold to the family members. Noticee No. 1 had merely raised invoices of subscribed services against the entities who did not even have a Demat account. Having a demat account is a basic necessity for placing orders in the stock exchange platform. I note that an entity can only act on the advices given by the Noticee No. 1, only if that entity has a demat account to place orders. In order to camouflage the exorbitant amount of fees charged by Noticee No. 1, it had issued numerous invoices against the names of relatives of YJR, without even doing basic due diligence. I find that the above act of Noticee No. 1 was fraudulent and in complete disregard to the responsibility entrusted on Noticee No. 1 under the provisions IA Regulations to act in fiduciary capacity and in the best interests of its clients.

9.3.4 Hence, it was alleged that, Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated regulation 15(1) of IA Regulations and failed to abide by Clauses 1 and 2 of the Code of Conduct for Investment Advisors as specified in Schedule III of IA Regulations read with regulation 15 (9) of IA Regulations. It was further alleged that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated regulation 3 (a), (b), (c), (d) of PFUTP Regulations read with section 12A (a), (b) and(c) of SEBI Act.

9.3.5 I note from the reply of the Noticees that they have not given any response with regard to the above allegations. Hence, in view of the judgment referred of *Classic Credit Ltd. vs. SEBI (supra)* I find that Noticees have violated regulation 15(1) of IA Regulations and failed to abide by Clauses 1 and 2 of the Code of Conduct for Investment Advisors as specified in Schedule III of IA Regulations read with regulation 15 (9) of IA Regulations. Further, the said act of the Noticees is found to be fraudulent and the Noticees have violated provisions of Regulation 3 (a), (b), (c), (d) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

9.4. **W.r.t multiple packages sold to clients, inadequate disclosure with regard to fee, collection from clients' multiple times for the same service and forcing clients to pay additional charges in the name of GST, whether the Noticees violated provisions of Regulation 15(1) of IA Regulations and clauses 1, 2, 5 and 6 of Code of Conduct for Investment Advisors read with Regulation 15(9) of IA Regulations and provisions of Regulation 3 (a), (b), (c) and (d) of PFUTP Regulations, read with Section 12A(a), (b) and (c) of SEBI Act.**

9.4.1 I note from the SCN that it is stated that examination team had observed that Noticee No. 1 was not fair and transparent in its dealing with clients regarding the fees charged to the client. It is noted that, Noticee No. 1 had sold the same product/service to the primary client and his family members again for the period of which fees/charges have already been collected. It was inferred

that these acts of Noticee No. 1 was in complete disregard to the responsibility entrusted on him under the provisions IA Regulations to act in fiduciary capacity and in the best interests of its clients.

9.4.2 Some of the instances where Noticee No. 1 had sold multiple services/products to its clients given in the SCN are given below:

Table No. 8

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

9.4.3 I note from the above table that the service namely Platinum Fortune Service (Cash) had been repeatedly sold to Mr. Yagnesh Rawal for the same or overlapping period for which service charges were collected through earlier invoice. It is noted that the service charges were collected on January 7,

2019 for Platinum Fortune Service (Cash) and the outer limit of the period of service is 899 Trading Sessions. However, from January 8, 2019, to January 11, 2019, Noticee No. 1 had again taken money for the same product viz. Platinum Fortune Service (Cash), even before the expiry of the earlier period as mentioned in the invoice dated January 7, 2019. Thus, it was alleged that the same product was sold multiple times to Mr. Yagnesh Rawal.

9.4.4 I further note that Noticee No. 1 had sold Fortune Platinum (Stock Options) service to Devilaben Rawal on January 21, 2019, and even before the expiry of the said service Noticee No. 1 on January 29, 2019, sold Superb Platinum (Stock Cash) service to the same client, even though Devilaben Rawal did not even have a Demat/Trading account. The duration for which the product “Platinum Fortune Service (Cash)” was sold to Mr. Yagnesh Rawal overlapped. Similarly, the duration for which the product ‘Elite Premium Future Service’ sold to Ms. Leena Rawal and Mr. Paras Rawal also overlapped. It was noted that as per information received from CDSL and NSDL, Ms. Leena Rawal did not even have a Demat/ Trading account.

9.4.5 I note that Noticee No. 1 had sold multiple products within a short period of time and before the completion of the service period of the earlier product sold. In the month of January 2019, Noticee No. 1 sold 5 services/products viz. *Platinum Fortune Service (Cash)*, *Fortune Platinum (Stock Cash)*, *Fortune Platinum (Stock Options)*, *Superb Platinum (Stock Cash)*, and *Rapid Premium Future Service* to Mr. Yagnesh Rawal and 3 members of his family.

9.4.6 I further note that the complainant Devajyoti Chetia was sold two packages within a short span of 1 month. Further, complainants Devajyoti Chetia, Harish Chandra Maharana, Krishna Katkar, Vijin Ravindran Nambiar, and Jitendra Jagannath Patil, were charged multiple times within a short period of time. It was found from the payment receipts that once the payment was made, there was an adjustment of some amount and a remaining amount was mentioned in the payment receipt. Furthermore, it is noted from the call

recordings and complaints that Noticee No. 1 also forced the clients to pay GST which was not disclosed upfront to the clients.

9.4.7 Based on the above, it was alleged in the SCN that Noticee No.1 and its directors viz., Noticee Nos. 2, 3, and 4 had (a) failed in their responsibility to act in fiduciary capacity to clients who were entrusted upon them under Regulation 15(1) of IA Regulations and failed to abide by Code of Conduct under Regulation 15 (9) read with clauses 1, 2, 5 and 6 of Code of Conduct for Investment Advisers. Further, Noticee No. 1 by charging the advisory fees by not making adequate disclosure to the clients and by forcing its clients to pay additional amounts in the name of GST, the Noticee No. 1 carried out such business practices which were mala-fide and detrimental to the interest of its clients and was misrepresentation of the truth on part of Noticee No. 1. Based on the above, it was alleged that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated Regulation 15(1) and clauses 1, 2, 5 and 6 of Code of Conduct for Investment Advisers read with Regulation 15(9) of IA Regulations and Regulation 3 (a), (b), (c) and (d) of PFUTP Regulations, read with Section 12A(a), (b) and (c) of SEBI Act.

9.4.8 I note from the reply of the Noticees that they have not given any response with regard to the above allegations. Hence, in view of the judgment referred of *Classic Credit Ltd. vs. SEBI (supra)* I find that Noticees have violated Regulation 15(1) and clauses 1, 2, 5 and 6 of Code of Conduct for Investment Advisers read with Regulation 15(9) of IA Regulations. Further, the said act of the Noticees is found to be fraudulent and the Noticees have violated provisions of Regulation 3 (a), (b), (c) and (d) of PFUTP Regulations, read with Section 12A(a), (b) and (c) of SEBI Act.

9.5. W.r.t. the allegation that Noticee No. 1 took payment before doing KYC and risk profiling of clients. Noticee No. 1 raised invoices for subscribed services in the name of entities who cannot even trade in the securities market as they did not have demat/ trading account, whether the Noticees

violated provisions of Regulation 16(a), 16(b)(ii) and 17(a) of IA Regulations and provisions of Regulations 3 (a), (b), (c), (d) of PFUTP Regulations read with section 12A (a), (b) and(c) of SEBI Act.

9.5.1 I note from the SCN that it was stated that in the SCORES Complaints number SEBIE/DD19/0000018/1 and from the documents obtained from the complainant and from Noticee No. 1, that Noticee No. 1 had received part payments for the products/services even before KYC and RPM were been done. The details of such instances are brought out as below:

Table No. 9

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

9.5.2 I note from the above table that, out of the total payment of Rs. 56.11 lakh received by Noticee No. 1 had received payments of Rs. 30.79 lakh from the primary client Mr. Yagnesh Rawal and had raised invoices in his name and his family members name for subscribed services even before doing the KYC, Risk Profiling and Suitability Assessment of the clients. As per regulation 15(2) of IA Regulations, Noticee No. 1 shall not receive any

consideration by way of remuneration or compensation or in any other form from any person other than the client being advised. Further, as per regulations 16(a),16(b)(ii) read with regulation 17(a) of IA Regulations, rendering of Investment Advice shall be done only after obtaining information from the client for carrying out his risk profiling, identifying whether client was unwilling or unable to accept the loss of capital and then starting his services after ensuring that investment advice was provided which was appropriate to the risk profile of the client. In the instant case, out of the total payment of Rs. 56.11 lakh obtained by Noticee No. 1, payments of Rs.30.79 lakh was obtained by Noticee No. 1 and invoices have been raised for subscribed services without doing the KYC, Risk Profiling and Suitability of the clients.

9.5.3 I note that in terms of Regulation 16 of IA Regulations Noticee No. 1 shall carry out risk profiling of the client for ascertaining client's risk tolerance, income, loss absorbing capacity, capacity of accepting loss of capital, liabilities/borrowing, etc. Further, it also states that the risk profiling should be communicated to the client after risk assessment is done. It appears that the primary purpose of the same is that the respective client is given an opportunity to assess his risk profile before agreeing to accept the advice for products/services.

9.5.4 Further, in terms of Regulation 17 of IA Regulations, which inter alia, states that all investments on which investment advice is provided are appropriate to the risk profile of the client. It should be, inter-alia, based on client's investment objectives and his financial situation. Further, the investment advice should be such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance.

9.5.5 I note from the SCN that the package/service (suitability) was decided upfront and fee was collected by Noticee No. 1 even before doing the KYC and the risk profiling. Further, in the case of two entities viz. Leena Rawal and Devilaben Rawal, package/service have been shown to be sold but the

entities were not even eligible to trade in the securities market as they did not even have a De-mat/Trading Account, as per the information obtained from CDSL and NSDL.

9.5.6 Based on the above, it was alleged in the SCN that Noticee No.1 had not followed the procedure detailed in regulation 16(a),16(b)(ii) read with regulation 17(a) of IA Regulations. Therefore, it was alleged that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated provisions of regulation 16(a), 16(b)(ii) and 17(a) of IA Regulations. Further, it was alleged that by raising invoices for subscribed services in the name of entities who cannot even trade in the securities market as they did not have De-mat/Trading Account, Noticee No. 1 had *prima facie* dealt in a fraudulent manner, hence, it was alleged that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated regulations 3 (a), (b), (c), (d) of PFUTP Regulations read with section 12A (a), (b) and(c) of SEBI Act.

9.5.7 I note from the reply of the Noticees that they have not given any response with regard to the above allegations. Hence, in view of the judgment referred of *Classic Credit Ltd. vs. SEBI (supra)* I find that Noticees have violated Regulation 16(a),16(b)(ii) read with regulation 17(a) of IA Regulations. Further, the said act of the Noticees is found to be fraudulent and the Noticees have violated provisions of Regulation 3 (a), (b), (c), (d) of PFUTP Regulations read with section 12A (a), (b) and(c) of SEBI Act.

9.6. **W.r.t. the allegation that Noticee No. 1 didn't carry out risk profiling of the clients in a prudent manner. Noticee No. 1 didn't carry out suitability analysis for the client and sold products/ services based on suitability declaration Whether the Noticees violated provisions of Regulation 15(1), 16(d), 17(a), 17(d), 17(e) of IA Regulations and failed to abide by Code of Conduct 1, and 2 of Schedule III read with regulation 15(9) of IA Regulations and provisions of Regulations 3 (a), (b), (c), (d) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.**

9.6.1 I note from the SCN that it was stated that from SCORES complaint no. SEBIE/DD19/0000018/1 of Mr. Yagnesh Rawal and from the documents obtained from the complainant and from Noticee No. 1, that the Risk Profiling was not done properly and products/ services were offered without assessing the appropriate risk bearing capacity of the clients. In Risk Profile Forms (RPF) of clients, Noticee No. 1 has recorded contradictory answers of the risk assessment questions. Some of the questions in the RPF of Mr. Yagnesh Rawal and his family members are reproduced below:

Table No. 10

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

Risk Tolerance ?	Low
Devilaben Rawal	
Experience in Market Products ?	Stock
What is your experience with equity investments ?	No Experience
What is your experience with Commodity investments?	No Experience
What is your experience with Forex investments?	No Experience
What is your experience with past investments?	Moderate
Risk Tolerance ?	Low
Proposed Investment Amount	1-2 Lac

9.6.2 I note from the SCN that from the response to the question in RPF to the family member of Mr. Yagnesh Rawal such as 'What is your experience in Equity/Commodity/Forex' markets, all the clients responded that they had no experience in Equity, Commodity and Forex markets. Further, it was observed from the same RPF document of the entities that the clients have responded to the question 'Experience in Market Products' as 'Stock and/or Derivatives'. On reading both questions in conjunction, the responses recorded by Noticee No. 1 were contradictory. Further, it was also observed from the RPF documents of the clients that all the entities responded to the question 'Risk Tolerance?' as 'low'. I note from the invoices raised by Noticee No. 1 that the clients Risk Profile was mentioned as 'HIGH' i.e. the assessment of the risk taking capacity of the clients based on the weights allotted by Noticee No. 1 was categorized as 'HIGH' by Noticee No. 1.

9.6.3 I note from the Suitability Assessment documents of the clients as submitted by Noticee No. 1 vide letter dated November 18, 2029, that Noticee No. 1 was merely taking a declaration of 'Suitability Assessment', which is brought out verbatim as under:

"Suitability Assessment

- *"Despite of your Age, Income and Occupation, you with your free consent have agreed to work in high risk profile services*
- *It is clearly been communicated to you that high risk profile services may be more risky but you still has opted that.*

- *In case you disagree with the suitability assessment done, kindly revert us back with your dissent else it will be assumed as accepted & suitable for you in case you fail to revert us back with your dissent within 24 hours.*

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

9.6.4 I note that it was alleged that Noticee No. 1 had not done any due-diligence with respect to the Risk Profiling and Suitability Assessment of the clients. The IA recorded responses in the RPF which were contradictory and had gone ahead with offering services/products on the mere declaration of suitability being taken from the clients rather than objective assessment of the risk appetite the clients, without following the procedure as enumerated in regulation 16 and 17 of IA Regulations.

9.6.5 Based on the above, it was alleged in the SCN that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have failed to take due care and diligence to ascertain the risk profile of the client before offering him suitable thereby violated regulation 15(1), 16(d), 17(a), 17(d), 17(e) of IA Regulations and failed to abide by Code of Conduct 1, and 2 of Schedule III read with regulation 15(9) of IA Regulations. Further, it was alleged that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated regulations 3 (a), (b), (c), (d) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

9.6.6 I note from the reply of the Noticees that they have not given any response with regard to the above allegations. Hence, in view of the judgment referred of *Classic Credit Ltd. vs. SEBI (supra)* I find that Noticees have violated Regulation 15(1), 16(d), 17(a), 17(d), 17(e) of IA Regulations and failed to abide by Code of Conduct 1, and 2 of Schedule III read with regulation 15(9) of IA Regulations. Further, the said act of the Noticees is found to be fraudulent and the Noticees have violated provisions of Regulation PFUTP

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

9.7. W.r.t the allegation that Noticee No. 1 did not meet the Capital Adequacy Norms and took Registration by submitting forged CA Certificate to SEBI, whether the Noticees violated provisions of Regulations 6(e) read with Regulations 6(f) and read with Regulation 8(1), 13(a) of IA Regulations and read with Regulations 2(1) (c) of IA Regulations read with regulations 3 (a), (b), (c), (d) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act and provisions of Schedule II of Intermediaries Regulations read with Regulation 7(2)(e) of Intermediaries Regulations.

9.7.1 I note from the SCN wherein it was alleged that Noticee No. 1 had applied on October 17, 2017, for Registration of an Investment Adviser. As per regulation 8(1) of IA Regulations, Investment Advisers which are body corporate shall have a Net-worth of not less than twenty-five lakhs rupees. In this regard, Noticee No. 1 had submitted a Net-worth Certificate certified by the CA which stated that Noticee No. 1 had net worth of Rs. 25.96 lakhs as on June 20, 2017 which included paid –up share capital of Rs. 1 lakh and reserves and surplus of Rs. 25.51 lakhs.

9.7.2 Accordingly, while dealing with the registration application, the latest Balance Sheet was sought from Noticee No. 1 which was submitted on February 3, 2018. I note from the Balance Sheet revealed that Noticee No. 1 had revenue from operations of Rs. 26.62 lakhs, of which trade receivables accounted for Rs. 26.53 lakhs. Further, Noticee No. 1 was, inter-alia, requested to clarify the nature of the business undertaken as well as submit details to whom services were provided along with GST and TDS certificate issued by Noticee No. 1 and it was clarified in SI-Portal that the revenue was from management consulting and no Investment Advisory services were provided but could not provide the GST and TDS certificates. Thereafter, Noticee No. 1 had submitted a revised net-worth certificate certified by CA which stated

that Noticee No. 1 had a net worth of Rs. 25.06 lakhs as on February 23, 2018, which included paid-up share capital of Rs.25 lakhs. I note from an e-mail dated February 23, 2018, Noticee No. 1 submitted that *“In order to meet the net worth requirement of INR 25 Lacs as per SEBI IA regulations, they have revised the paid up capital to INR 25 lacs. We would like to request you to kindly consider the revised net worth certificate. The same has been uploaded on the SI portal and kindly ignore the previous one.”* I note that Noticee No. 1 also enclosed its ICICI bank account statement of account number 185905000406 showing balance of Rs. 25.08 lakhs. Accordingly, Registration was granted to Noticee No. 1 on April 2, 2018.

9.7.3 During the examination of complaints, bank account statements of Noticee No. 1 were sought from ICICI Bank and HDFC Bank. On scrutiny of the ICICI Bank account statement, it was observed that on February 23, 2018, Noticee No. 1 was having Rs.0.00 in the said bank account. On further analysis of the bank statement, it was observed that there were certain credit entries between February 23, 2018 and February 26, 2018 and two credit entries of Rs.12,10,000 and Rs.12,00,000 respectively on February 27, 2018. On account of the said credits, the balance in the said account became Rs. 25.08 lakh on February 27, 2018. Thereafter, on March 1, 2018, it was observed that there were two debit entries of Rs.12,10,000 and Rs.12,00,000 and the account balance became Rs.97,147.94/- as on March 1, 2018. It was observed that the amount of Rs.12,10,000 and Rs.12,00,000 were received from the bank account of Mr. Ashif Shaikh and Mr. Vinit Satpute respectively. The said amounts went back to the accounts of Mr. Ashif Shaikh and Mr. Vinit Satpute on March 1, 2018.

9.7.4 It was further observed from the bank account of Mr. Vinit Satpute (HDFC Bank Account 50100048600778), that opening balance as on February 27, 2018 was Rs. 8,94,415.49/-. On the same day i.e. February 27, 2018, Mr. Satpute's account received two credits of Rs. 2,50,000 and Rs. 50,000 respectively from Mr. Sandeep Kushwaha and cash deposit of Rs. 1,50,000.

Due to these transactions, the balance in the account of Mr. Vinit Satpute became Rs.13,44,415.49/-. It was observed that on February 27, 2018, Rs. 12,00,000/- was transferred to the account of Noticee No. 1 from Mr. Satpute's account which came back to the account of Mr. Vinit Satpute from Noticee No. 1 account on March 1, 2018. Similarly, Rs. 3,00,000/- was transferred back to the account of Mr. Sandeep Kushwaha on March 1, 2018.

9.7.5 Based on the above the following was observed by the examination team:

- a. Noticee No. 1, which was a body corporate sought registration from SEBI as IA on October 17, 2017
- b. The net-worth certificate as certified by CA Anand Joshi, Partner, Jain Joshi, and Associates, inter alia, stated that Noticee No. 1 met the networth requirement of Rs. 25 lakh on June 20, 2017.
- c. As per the said certificate, Noticee No. 1 met the networth criteria of Rs. 25 lakh primary on account of trade receivables and surplus of Rs.25.31 lakh
- d. As SEBI sought further information in this regard, Noticee No. 1 submitted another networth certificate dated February 23, 2018, which, inter alia, indicated that the networth of Rs. 25 lakh was achieved due to paid up capital of Rs. 25 lakh
- e. From the bank account of Noticee No. 1, it was observed that as on February 23, 2018, Noticee No. 1 did not have the Rs.25 lakh in the bank account.
- f. The amount of Rs. 25 lakh was achieved on account of credits Rs.12,10,000 and Rs.12,00,000 received from the bank accounts of Mr. Ashif Shaikh and Mr. Vinit Satpute on February 27, 2018
- g. The aforesaid credits of Rs.12,10,000 and Rs.12,00,000 went back to Mr. Ashif Shaikh and Mr. Vinit Satpute on March 1, 2018.
- h. It was also observed from the bank accounts of Mr. Vinit Satpute and Noticee No. 1 that it was shown to SEBI that Noticee No. 1 met the capital adequacy norms, but in reality the money was borrowed to satisfy the norm, which were immediately returned to the borrowers after submitting the documents to SEBI.

9.7.6 Further, it was also observed that the signature of the CA, the seal of the CA, and the certificate format of the revised net worth certificate dated February 23, 2018, submitted by Noticee No. 1 did not match with the earlier net worth certificate dated June 20, 2017, submitted by Noticee No. 1 to SEBI, though both the certificates were issued the same partner Mr. Anand Joshi of the CA firm Jain Joshi and Associates. Thus, the revised net worth certificate dated February 23, 2018 of the CA was a forged document submitted by Noticee No. 1 to SEBI. Thus, by submitting the said forged document (CA Certificate dated February 23, 2018), Noticee No. 1 managed to show SEBI that it fulfilled the capital adequacy norms as required under regulation 8 of IA Regulations and took Registration.

9.7.7 Based on the above, it was alleged that (a) Noticee No. 1 did not meet the net worth as required under regulation 8(1) of IA Regulations; (b) Noticee No. 1's submission vide e-mail dated February 23, 2018 that it had revised the paid-up share-capital to INR 25 lacs was not correct as there was no share application money reflected in the Bank Account of Noticee No. 1 as on February 23, 2018; (c) Noticee No. 1 circumvented the capital adequacy requirements by series of credit and debit entries on February 27, 2018 and March 1, 2018; and (d) Noticee No. 1 had submitted a forged CA Certificate and took Registration from SEBI.

9.7.8 Hence it was alleged in the SCN that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 did not fulfill the capital adequacy requirement and submitted false documents regarding its net worth to SEBI and took registration from SEBI and violated regulation 6(e) read with regulation 6(f) and read with Regulation 8(1), 13(a) of IA Regulations. Further, it was alleged that the above conduct of Noticee No. 1 was fraudulent and hence it was alleged that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 violated regulations 2(1) (c) of IA Regulations read with regulations 3 (a), (b), (c), (d) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act. It was further alleged that Noticee No. 1 had violated the 'fit and

proper' criteria, as provided in Schedule II of Intermediaries Regulations hence, it was alleged that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated regulation 7(2)(e) of Intermediaries Regulations.

9.7.9 I note from the reply of the Noticees that they have submitted that they had met the capital adequacy, then only their registration was approved and now after 4 years our certificate is wrong, this is seriously not acceptable, SEBI is stating it in a wrong way which is unacceptable. It was further submitted that the paid up capital was raised to 25 Lakhs so its quite and obvious thing any company shall get funds from its share holders or directors. Any transfer between company and its directors is its internal matter and any company as per MCA can give loans to its directors, the similar state was there and the same was reflected in the Noticees ITR as well. The Noticees had further submitted that any new company will have a networth in what way? Should they build a net worth without taking the license? Won't they be called as frauds then? Noticees have submitted that they took the rising of paid up capital as directed by their CA, so there is absolutely no question of any offense on this. The Noticees had further submitted that SEBI states that the CA certificate which they gave had a different signature and was forged. Was this confirmed by the CA himself? Was there a different seal or CA registration number? The answer here is NO. It was further submitted that SEBI in its striving attempt to blame is trying anything meaningless and baseless. It was further submitted that SEBI is free to conduct any ask from anyone on the same. The certificate was not forged and Noticees completely disagree to any such false allegations. Its on CA's personal wish which signature he is doing and not on them. It was further submitted that, the signature was different or same is not in their hands, Noticees forwarded the one which they received and they boldly state that they have not done anything wrong in taking the registration from SEBI.

9.7.10 I note from the provisions of Regulation 6 of IA Regulations that it provides certain conditions and eligibility criteria on which the Board shall take into

account which are relevant to grant of certificate of registration to IA. One such condition is that the applicant fulfills the capital adequacy requirements as specified in Regulation 8 of IA Regulations and another condition is whether the applicant, its representatives and partners, if any, are fit and proper persons based on the criteria as specified in Schedule II of the Intermediaries Regulations. I note from Regulation 8 of IA Regulations that it provides that Investment advisers who are body corporate shall have a net worth of not less than twenty-five lakh rupees. For the purposes of this regulation, "networth" means the aggregate value of paid up share capital plus free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses, deferred expenditure not written off, including miscellaneous expenses not written off.

9.7.11 I note from the submissions of the Noticees that it had not denied the fact that on February 23, 2018, Noticee No. 1 was having Rs.0.00 in the said bank account. I further note that the Noticees had not denied the fact that on March 1, 2018, there were two debit entries of Rs.12,10,000 and Rs.12,00,000 and the account balance became Rs.97147.94/- as on March 1, 2018. Further, I find that the Noticees had admitted that there was a reduction in the networth by submitting that funds were transferred to the account of two directors. I note that it was further admitted that the paid-up capital was raised to 25 Lakhs so its quite obvious thing any company shall get funds from its shareholders or directors and any transfer between company and its directors which the Noticees submitted that it is their internal matter and any company as per MCA can give loans to its directors and the same was reflected in the Noticees ITR as well. The Noticees have failed to show that the amount received in the account of Noticee No.1 was against the share capital. I note that Noticee No. 1's submission vide e-mail dated February 23, 2018 that it had revised the paid-up share-capital to INR 25 lacs was not correct as there was no share application money reflected in the Bank Account of Noticee No. 1 as on February 23, 2018. I note that the Noticee No. 1 circumvented the capital adequacy requirements by series of

credit and debit entries on February 27, 2018 and March 1, 2018. This also shows that the Noticee No. 1 was not having the requisite networth at all times, which is one of the conditions of registration as Investment Advisor.

9.7.12 In view of the above, I find that the Noticees have violated regulation 6(e), 6(f) read with Regulation 8(1), 13(a) of IA Regulations and Regulation 7(2)(e) of Intermediaries) Regulations.

9.7.13 I note from the SCN that it was stated as under:

- a. Noticee No. 1, which was a body corporate sought registration from SEBI as IA on October 17, 2017.
- b. The networth certificate as certified by CA Anand Joshi, Partner, Jain Joshi and Associates, inter alia, stated that Noticee No. 1 met the networth requirement of Rs. 25 lakh on June 20, 2017.
- c. As per the said certificate, Noticee No. 1 met the networth criteria of Rs. 25 lakh primary on account of trade receivables and surplus of Rs.25.31 lakh.
- d. As SEBI sought further information in this regard, Noticee No. 1 submitted another networth certificate dated February 23, 2018, which, inter alia, indicated that the networth of Rs. 25 lakh was achieved due to paid up capital of Rs. 25 lakh.
- e. From the bank account of Noticee No. 1, it was observed that as on February 23, 2018, Noticee No. 1 did not have the Rs.25 lakh in the bank account.
- f. The amount of Rs. 25 lakh was achieved on account of credits Rs.12,10,000 and Rs.12,00,000 received from the bank accounts of Mr. Ashif Shaikh and Mr. Vinit Satpute on February 27, 2018.
- g. The aforesaid credits of Rs.12,10,000 and Rs.12,00,000 went back to Mr. Ashif Shaikh and Mr. Vinit Satpute on March 1, 2018.
- h. It was also observed from the bank accounts of Mr. Vinit Satpute and Noticee No. 1 that it was shown to SEBI that Noticee No. 1 met the capital adequacy norms, but in reality the money was borrowed to satisfy the norm,

which were immediately returned to the borrowers after submitting the documents to SEBI.

- i. Further, it was also observed by the examination team that the signature of the CA, seal of the CA and the certificate format of the revised net worth certificate dated February 23, 2018 submitted by Noticee No. 1 did not match with the earlier net worth certificate dated June 20, 2017 submitted by Noticee No. 1 to SEBI, though both the certificates were issued the same partner Mr. Anand Joshi of the CA firm Jain Joshi and Associates. Thus, it was alleged that the revised net worth certificate dated February 23, 2018 of the CA was a forged document submitted by Noticee No. 1 to SEBI. Thus, by submitting the said forged document (CA Certificate dated February 23, 2018), Noticee No. 1 managed to show SEBI that it fulfilled the capital adequacy norms as required under regulation 8 of IA Regulations and took Registration. It was alleged that the above conduct of Noticee No. 1 was fraudulent and hence it was alleged that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 violated regulations 2(1) (c) of IA Regulations read with regulations 3 (a), (b), (c), (d) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act.

9.7.14 I note that the fact that the CA certificate is in different version and thus it is claimed to be forged is not covered in the ingredients of Regulations 3 (a), (b), (c), (d) of the PFUTP Regulations read with section 12A(a), (b) and (c) of SEBI Act. Further, I note from the above facts and the alleged provision that the actions do not provide any evidence of 'fraud' or fraudulent trades/ transactions' in securities market as contemplated under PFUTP Regulations.

9.8. W.r.t the allegation that Noticee No. 1 did not submit information sought by SEBI, whether the Noticees violated provisions of Regulation 15(12) of IA Regulations.

9.8.1 I note from the SCN that it is stated that SEBI, vide letter dated August 28, 2021, advised Noticee No. 1 and its directors to submit information inter-alia with respect to compliance of SEBI's interim order dated January 25, 2021 and confirmatory order dated April 30, 2021, copy of risk profile form, bank account statements of the directors, details of fee structure, year wise fees collected since date of registration, client master data, copy of audited financial statements for last three years, sample copy of agreement entered into with the clients, etc.

9.8.2 I note that the Noticees had submitted their response to the letter dated August 28, 2021, Noticee No. 1 vide email dated February 28, 2022, submitted the following details:

- a. Bank details, information regarding demat account of Noticee No. 1, assets detail of Noticee No. 1 (the same information which was submitted by Noticee No. 1 vide email dated February 01, 2021 pursuant to passing of interim order dated January 25, 2021).
- b. Bank account details, demat account details and assets details of Sandeep Kushwaha, Vinit Satpute and Ashif Shaikh (the same information which was submitted by Noticee No. 1 vide email dated May 05, 2021 pursuant to passing of confirmatory order dated April 30, 2021).
- c. Details of advisory fee of various services and tenure.
- d. Copy of Income Tax Return (ITR) for the Assessment Year 2019-20 and copy of audited financial statement for the FY 2018-19.

9.8.3 It was observed by the examination team that though Noticee No. 1 had mentioned that it had submitted that all documents alongwith RPF, sample copy of receipts and all disclosures are attached with the email but the same weren't attached with the email. Therefore, Noticee No. 1 did not submit the following:

- a) Client master data from the date of registration.
- b) Copies of RPF.

- c) Total number of clients (client master) along with fees received from respective clients.
- d) Sample copy of the agreement entered with the clients and sample copy of invoices for different strategies/products offered.
- e) Details of the fee structure in respect of advisory services.
- f) Details of fee collected year-wise (from the date of registration).
- g) Copy of audited financial statement.

Based on the above facts, it was alleged that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated Regulation 15(12) of IA Regulations.

9.8.4 I note from the provision of Regulations 15 (2) that it is a general responsibility of the Noticees to furnish to the Board information and reports as may be specified by the Board from time to time. I note from the submissions of the Noticees that it had submitted that they could not provide the information or document sought by the examination team because the office of the Noticees was seized by police. Hence, I accept the submissions of the Noticees that it was beyond the control of the Noticees to provide the information/documents sought by the examination team. In view of the above I absolve the Noticees from the charges of violation of Regulations 15 (2) of IA Regulations.

9.9. W.r.t the allegation that Noticee No. 2 operated without being eligible to operate as his NISM Level -1 certificate expired on January 13, 2020 and was not renewed, whether the Noticees violated provisions of Regulation 6(c) read with Regulation 7(2) read with Regulation 13(a) read with Regulation 15(13) of IA Regulations.

9.9.1 I note from the SCN that examination team had observed from the submissions made in the Registration Application of Noticee No. 1 that Mr. Ashif Shaikh, Director, is directly involved in the rendering of the investment

advice on behalf of the company and will be the representative of the company. In this regard, it was observed that NISM Level -1 certification of Mr. Ashif Shaikh, was valid till January 13, 2020 and NISM Level -2 certification of Mr. Aahif Shaikh was valid till March 15, 2023. In this regard, information was sought from NISM regarding renewal of Level-1 certification by Mr. Ashif Shaikh. NISM, submitted that Mr. Ashif Shaikh had appeared for examination in the year 2017, after that he did not enroll himself for either examination or Continuing Professional Education. Mr. Ashif Shaikh, director and representative of Noticee No. 1 did not possess NISM Level-1 certification since January 13, 2020. It was observed that Noticee No. 1, of which Mr. Ashif Shaikh was a representative, had continued its operations as observed from the credit entry in the ICICI Bank Account Statement.

9.9.2 I note from the provision of Regulation 6(c) of the IA Regulations that Noticee No. 1 being a body corporate, the principal officer and all persons associated with investment advice i.e., Noticee No. 2 was required to be appropriately qualified and certified as specified in regulation 7 of IA Regulations. Further, as per Regulation 15(13) of IA Regulations, the Noticee No. 1 was required to ensure that its representatives and partners, as applicable, comply with the certification and qualification requirements under regulation 7 at all times.

9.9.3 I note from the reply of the Noticees that Noticees had submitted that there was Corona time and very high cases were coming up at that time. It was further submitted that one of the director lost one of his family members in corona time and this led to the failure of complying to this at that part of time. It was further submitted that due to lockdown in March and since then there was no option to get it renewed. NISM on its website stated that certificates to be renewed from 15/03/2020 to 31/03/2022 are extended and valid till 01/04/2022. It was submitted that the director however tried to book a slot in Indore after the 1st lockdown but was not getting it. However, to his luck he got a slot in NSEiT, Khandwa and got his NISM renewed on July 2020. The Noticees also provide copy of the certificate.

9.9.4 I note from the copy of certificate obtained by Mr. Ashif Shaikh that he had appeared for the NISM-Series-X-A: Investment Adviser (Level 1) Certification Examination on July 15, 2020 and the said certificate was valid till July 14, 2023. However, it is established that he did not possess the requisite certificate from January 13, 2020, even though lockdown was imposed in April 2020. The said Noticees should have taken extra care in obtaining the requisite certification since he was handling the affairs of the Noticee No. 1 and was dealing with clients and their investments.

9.9.5 Hence, I find that the charges against the Noticees of violating of Regulation 6(c) read with regulation 7(2) read with regulation 13(a) read with Regulation 15(13) of IA Regulations stand established.

9.10. W.r.t the allegation that Noticee No. 1 failed to resolve investor grievance of Mr Devajyoti Chetia and got complaint closed from the client by misleading him and making false commitments, whether the Noticees violated provisions of SEBI circular CIR/OIAE/2014 dated December 18, 2014 and Regulation 21(1) read with Regulation 28(f) of IA Regulations.

9.10.1 I note from the SCN that it was stated that SEBI observed with regard to a complaint filed by Mr. Devajyoti Chetia in SCORES on August 24, 2020, Noticee No. 1 submitted the ATR mentioning that the company had carried out talks with the client and the issue was mutually resolved, in view of which the complaint of Mr Devajyoti Chetia was disposed of in SCORES on September 09, 2020. However, vide email dated October 17, 2020, Mr Devajyoti Chetia, inter-alia, informed SEBI that the Noticee No.1 had assured him to solve his matter at the earliest but one month passed and the Noticee No.1 was not responding to his calls and messages. Based on the above facts, it was alleged that Noticee No.1 and its directors viz., Noticee Nos. 2, 3 and 4 have violated provision of SEBI circular CIR/OIAE/2014 dated December 18, 2014 and Regulation 21(1) read with Regulation 28(f) of IA Regulations.

9.10.2 I note from the reply of the Noticees that the client's complaint was resolved and he again got some issues with the services so he poked at it again. It was further submitted that there are some clients as well which are way too greedy and there were a few of them who wanted amounts back as well after the completion of services. It was further submitted that they have always duly responded to SCORES timeline in case of any complaint and there ever was no delay in submitting the ATR and it was always done way before the prescribed 30 days. It was further submitted that there were many companies which are having multiple unresolved complaints and are running calmly under the Banner of SEBI but we were shut down on only 1 single active complaint. It was further submitted that their business be it related to financials or non-financials exist without any of their customer/client being dissatisfied. From the biggest of companies like JIO to the smallest of shoe vendors would have customers/clients dissatisfied and complaining. So are the authorities going to shut them off directly. It was further submitted that let's say 1000 customers/client and there was only 1 active complaint, the complaint percentage coming to $1/1000$ i.e. 0.1 percent. If its less let's take the entire number of complaint i.e. 19 (Stated by SEBI in SCN, out of which some are duplicate as well) but we take the entire number only. So $19/1000$ i.e. 1.9 percent only. It was further submitted that is this figure so huge that their business be shut down and not to give us any chance to work in a better way where we can even improve this lowest of percentage as well. The Noticees have further stated that they believe that they have done their work with great honesty and fairness and we would like to request to consider the same based on number and not only on our words. It was submitted that the number of complaints are very low in number and we believe that any business can have this less percent of grievances in normal operations as well. It was also submitted that they still are dealing with financials. They however again place it on record that they would still work with utmost compliance and strict rules so that even this number can be jolted down. For this we request support from your end.

9.10.3 I note from the submissions of the Noticees that there were 1000 clients of the Noticees and out of 1000 client only 19 complaints were made against the Noticees and out of these 19 complaints only 1 complaint was active which is around 0.1%. In view of the above I give benefit of doubt to the Noticees and absolve the Noticees from the charges of violating provisions of SEBI circular CIR/OIAE/2014 dated December 18, 2014 and Regulation 21(1) read with Regulation 28(f) of IA Regulations.

10. ISSUE No. II: Do the violations, if any, attract monetary penalty u/s Section 15A(a), 15EB, 15HB, 15HA, 15C of SEBI Act? as applicable?

10.1 In view of the above finding monetary penalty is attracted under sections 15EB, 15HB and 15HA of SEBI Act and monetary penalty under section 15A(a) and Section 15C of SEBI Act is unwarranted.

11. ISSUE No. III: If so, what should be the monetary penalty that should be imposed upon the Noticees after taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

11.1. While determining the quantum of penalty under section 15EB, 15HB and under section 15HA of SEBI Act, the following factors stipulated in Section 15J of the SEBI Act have to be given due regard:-

SEBI Act

“15J. Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under Section 23-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. ”

11.2. I note that there is no material on record to indicate any specific disproportionate gains or unfair advantage which accrued to the Noticees, or loss suffered by the investors. The role of an investment advisor is crucial to the development of the securities market, especially for the entry of the small investors who may rely on the advice of such IAs. The misconduct of the Noticees as brought out in the preceding paragraphs clearly shows that he has failed in its fiduciary duties owed to its clients.

11.3. I note from the submissions of the Noticees that they have submitted to take lenient view and pass fair judgment without any prejudice. The Noticees have submitted that they have already suffered very heavily and provided some constraints which can be treated as mitigating factors in the present case. The constraints provided by the Noticees are as under:

- *Our business was shut down instantly.*
- *The police on SEBI's directions raided our offices as mentioned in fact 2 and ceased all our assets.*
- *The people working in the office was threatened.*
- *One of the person handling the office was taken into custody.*
- *One of the directors was held captive by local police as well.*
- *The people held were beaten up and was jailed for 40 long days without this being in their jurisdiction.*
- *The Hon'ble High court of Indore provided the relief and released them on clear grounds and even till date no charge sheet is filed due to lack of evidence. It was only on the order of SEBI local office that all this suffering was given to us.*
- *The local indore police officials in similar days attacked the House of a director at 1 AM in night and threatened his mother with very abusive languages. Created a havoc in the colony at this time. (The entire camera video is available and we are ready to provide a copy if sought.)*
- *This has completely broken the family status and has defamed all the directors personally, were their parents and families a part of this.? Is there any regulation*

by SEBI which states to defame and malign the status of the families. Still SEBI clearly ignored all this.

- SEBI passed the order on 25th January, when the director was held in Jail and sought the reply in very few days. This clearly shows SEBI local office's intentions against BRIA. They were aware that the company is seized and all the assets are seized and hence the BRIA will not be able to give any response.
- Our accounts were frozen. We had to give EMIs and all but all this had adversely affected our financial status and were forced to default on our payments affecting our CIBIL badly and seizure of asset i.e. vehicle by Bank.
- 2 of the directors even had children with less than 1 year of age, we prayed SEBI to give us some relief and assured our full support in the case,
- We even had suffered with our personal lives and we can not state that officially but we have lost many relations because of all this mess.
- We have never delayed any of our responses or replies to any complaint, not even took 30 days for revert on any complaint.
- We only had one active complaint, on which the order was passed.

ORDER

12. After taking into consideration the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose the following penalty on the Noticees;

Name of the Noticee (PAN)	Provisions Violated	Penalty u/s of SEBI Act	Penalty	Total Penalty against the Noticees
M/s Bull Research Investment Advisors Private Limited, INA000010210 PAN: AAHCB1200H	Regulation 6(c), 6(e), 6(f), 7(2), 8(1), 13(a), 15 (1), 15 (13), 15 (9), 16(a), 16(b)(ii), 16(d), 17(a), 17(d), 17(e) of IA Regulations read with Clauses 1, 2, 5 and 6 of Code of Conduct for Investment Advisors as specified in Schedule III of IA Regulations and	Section 15EB of SEBI Act (for violation subsequent to March 8, 2019); and Section 15 HB of the SEBI Act (for violation prior to March 8, 2019)	Rs. 2,50,000 (Rs. Two Lakhs Fifty Thousand Only, Jointly and severally) Rs. 2,50,000 (Rs. Two Lakhs Fifty Thousand	Rs. 10,00,000 (Rs. Ten Lakhs Only)
Ashif Shaikh, PAN: BGDPS3081F				

Vinit Satpute, PAN:EBMPS27 03F	Regulation 7(2)(e) of Intermediaries Regulations		Only, Jointly and severally)	
Sandeep Kushwaha PAN:DPBPK931 3F	Regulation 3 (a), (b), (c), (d) and Regulations 4(1), 4(2)(k)(o) and 4(2)(s) of PFUTP Regulations, read with Section 12A(a), (b) and (c) of SEBI Act.	Section 15HA of SEBI Act	Rs. 5,00,000 (Rs. Five Lakhs Only, Jointly and severally	

I find that the said penalty is commensurate with the violations committed by the Noticees in this case.

13. The Noticees 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

14. 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.
15. In terms of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticees and also to the Securities and Exchange Board of India.

Place: Mumbai

Date: May 29, 2023

AMIT KAPOOR

ADJUDICATING OFFICER