**BEFORE THE ADJUDICATING OFFICER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

[ADJUDICATION ORDER NO. Order/AN/PR/2022-23/24254

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

In respect of:
**Piyush Jain**
(Proprietor: Wealthmax Solution Investment Adviser)
SEBI Registration No.: INA000010751

In the matter of:
**M/s Wealthmax Solution Investment Adviser (Proprietor: Shri. Piyush Jain)**

## BRIEF BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') initiated adjudication proceedings under section 15C of the SEBI Act, 1992 ("**SEBI Act**") in respect of **Shri. Piyush Jain, Proprietor: Wealthmax Solution Investment Adviser** ("**Noticee**" **/ "IA"**), a SEBI Registered Investment Adviser having SEBI Registration No. INA000010751, for the alleged violations of SEBI Circular CIR/OIAE/1/2014 dated December 18, 2014 read with Regulation 21(1) of the SEBI (Investment Advisers) Regulations, 2013 ("**SEBI IA Regulations / IA Regulations**") read with Regulation 28(f) of the IA Regulations for failing to resolve investor grievances promptly and for failing to submit Action Taken Report ("**ATR"**) in a time bound manner.

## APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI appointed Dr. Anitha Anoop, Chief General Manager, SEBI as the Adjudicating Officer ("**AO**") vide Communique dated June 27, 2022 to inquire into

and adjudge under Section 15C of the SEBI Act the aforesaid alleged violation by the Noticee. Pursuant to the transfer of Dr. Anitha Anoop, the undersigned was appointed as Adjudicating Officer ("**AO**") vide Communique dated September 05, 2022.

## SHOW CAUSE NOTICE, REPLY & HEARING

3. A Show Cause Notice bearing reference No. SEBI/HO/EAD/EAD5/P/OW/2023/686/1 & 2 dated January 06, 2023 (**"SCN"**) was issued to the Noticee to show cause as to why an inquiry should not be held against the Noticee in terms of Rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and, why penalty, if any, should not be imposed on the Noticee under section 15C of the SEBI Act for the alleged violations. The SCN was duly served to the Noticee vide email dated January 06, 2023 and also through Speed Post Acknowledgment Due (SPAD).

4. The relevant extract of SCN is reproduced below:

*"…………………*

***3. BACKGROUND***

*3.1 SEBI had received a complaint bearing SCORES registration no. SEBIE/MP21/0000914/1 received on August 06, 2021, from the complainant Mr. Ganesh Rajesh Pol (hereinafter referred to as "the complainant") against the Noticee, a SEBI Registered Investment Adviser (IA) having SEBI Registration No. INA000010751. The registration of the IA is valid from December 27, 2018. The brief details of the complaint submitted by the complainant in SCORES is as under:*

*3.1.1 An executive of the Noticee assured profit of 3% on daily basis and the Noticee committed profit of Rs. 6,00,000/- within 6 months. Noticee asked the complainant to deposit some fund as registration amount. The complainant deposited some funds in the Noticee's account. After registration, the Noticee asked the complainant to deposit more funds and took Rs. 1,12,100/. After taking money from the complainant, the Noticee switched off his phones. The complainant has also sought his money to be refunded and to take strict action against that firm so that they can't do this type of thing with other person (Copy of SCORES complaint and Action History is placed as **Annexure-2**).*

*3.2 In view of the above, as the complainant had not submitted complete documents in support of the allegations made by the complainant, therefore complete documents were sought from the complainant in SCORES on August 10, 2021, August 11, 2021 and September 21, 2021.*

3.3 *Thereafter, vide email dated August 11, 2021, the complainant submitted copies of eight payment receipts (copy of payment receipts placed as* ***Annexure-3(i) to 3(viii)****), the details of which are depicted in succeeding paragraph. Further, vide e-mail dated September 07, 2021, the complainant also submitted copies of KYC form, income declaration form, suitability assessment form, risk profile questionnaire, and disclaimer document issued to him by the Noticee (****Annexure-4****).*

3.4 *The details of the payments made to Wealthmax Solution Investment Adviser are as under:*

| ***Date of payment*** | ***Amount (Rs)*** |
|---|---:|
| *March 12, 2021* | *2542.37/-* |
| *March 15, 2021* | *2542.37/-* |
| *March 17, 2021* | *8874.57/-* |
| *March 18, 2021* | *6567.79/-* |
| *March 19, 2021* | *14491.53/-* |
| *March 25, 2021* | *20127.12/-* |
| *March 30, 2021* | *14491/-* |
| *March 30, 2021* | *25762.71/-* |
| *Total* | ***95399.46/-*** |

## *4. OBSERVATIONS OF SEBI PURSUANT TO THE EXAMINATION OF THE MATTER & ALLEGED VIOLATIONS*

*Based on the examination in the matter, the following was inter alia observed and/or alleged by SEBI:*

***It has inter alia been alleged by SEBI that the IA has failed to resolve investor grievances promptly and has also failed to submit ATR in a time bound manner***

*In this regard, the following was inter alia observed by SEBI:*

4.1 *It is observed from the payment receipts that the complainant has been categorized as high risk client and was given 'Option HNI' advisory service for a duration of 6 months.*

4.2 *Thereafter, in line with para 9 of SCORES Circular dated December 18, 2014, pursuant to receipt of documents from the complainant the complaint was forwarded to the IA in SCORES on October 8, 2021 to take immediate efforts for its resolution within 30 days and submit ATR to SEBI. Further, in view of no reply from the IA, telephone calls were attempted on all the numbers available in SEBI's records. However, the numbers were found to be switched off and non-functional.*

4.3 *The above was informed to the IA in SCORES on November 16, 2021 and the IA was communicated in SCORES to provide valid contact details and speak with SEBI Official for dealing with the complaint. Subsequently, as there was no response from the IA in SCORES and also the IA did not communicate with SEBI Officials, therefore again in SCORES on December 07, 2021, the IA was strictly advised to resolve the complaint and submit the final ATR to SEBI and also provide contact details on which the IA can be reached. The complete action history is placed at* ***Annexue-2****.*

4.4 *However, in view of no response from the IA, a letter no. SEBI/WRO/ILO/AN/OW/P/03554/1/2022 dated January 28, 2022 was issued at* *the Registered Office Address of the IA available in our record to inter-alia submit the following details with respect to the complaint:*

*4.4.1 Copy of investment advisory agreement with the client;*
*4.4.2 Copies of Invoices with respect to the payment received from the client;*
*4.4.3 Copy of Risk Profiling of client along-with copy of mail sent to the client;*
*4.4.4 Copy of Suitability Assessment of client along-with copy of mail sent to the client;*
*4.4.5 All oral recordings held with the client including recording held prior to on boarding; and*
*4.4.6 Final ATR in respect of SCORES complaint bearing Registration No. SEBIE/MP21/0000914/1.*

*4.5 The scanned copy of the above letter dated January 28, 2022 was also sent to the IA through email on January 28, 2022 at wealthmax2017@gmail.com. However, the letter sent to the IA returned undelivered (copy India Post tracking sheet is placed as* ***Annexure-5****) and no reply was received from the IA through email (Copies of cited SEBI letter dated January 28, 2022 and SEBI's email dated January 28, 2022 sent to the IA are placed as* ***Annexure-6*** *and* ***Annexure-7*** *respectively).*

*4.6 SEBI had initiated an exercise of publishing names of intermediaries and listed companies against whom complaints were pending in SCORES for more than 3 months.*

*4.7 SEBI issued letter dated December 16, 2021, wherein it was informed to the IA that its name was published among the list of entities who failed to resolve complaints even after 3 months of receipt of the same, on the website of SEBI on December 10, 2021. The IA was advised to explain why the complaint could not be resolved within 30 days of receipt of the same and the reasons for the pendency for more than 3 months (copy of cited SEBI letter dated December 16, 2021 is placed as* ***Annexure-8****).*

*4.8 Though the IA has responded on January 01, 2022 (****Annexure-9****) to SEBI's letter dated December 16, 2022 and submitted that he would try to resolve the complaint as soon as possible. However even after elapse of more than a month's time, neither the IA has resolved the complaint nor the IA has filed ATR in SCORES.*

*4.9 In view of the above, in spite of several attempts and efforts made by SEBI, the IA had not submitted any response in SCORES with respect to SCORES Complaint bearing Registration No. SEBIE/MP21/0000914/1.*

*4.10 The status of the complaint as on February 11, 2022, is as under:*

| ***S. No.*** | ***SCORES Complaint number*** | ***Name of Complainant*** | ***Date of receipt of complaint*** | ***Date of forwarding complaint to the Noticee*** | ***Date of Reminders from investor / SEBI*** | ***Date of ATR filed by the Noticee*** | ***Pending no. of days from the date of forwarding to the Noticee*** |
|---|---|---|---|---|---|---|---|
| *1.* | *SEBIE/MP21/0000914/1* | *Ganesh Rajesh Pol* | *June 08, 2021* | *October 08, 2021* | *November 16, 2021, December 07, 2021* | *Not filed* | *127* |

*4.11 Since, the IA has not submitted the ATR in a time bound manner as prescribed by SEBI and has also not resolved investors' grievance, prima facie, it appears that the IA has not complied with SEBI Circular CIR/OIAE/2014 dated December 18, 2014. Further, Mr. Piyush Jain, Proprietor: Wealthmax Solution Investment Adviser has also violated Regulation 21(1) read with Regulation 28(f) of SEBI (Investment Advisers) Regulations.*

***In view thereof, it is alleged that the Noticee has violated provisions of SEBI Circular CIR/OIAE/1/2014 dated December 18, 2014 read with Regulation 21(1) of the IA Regulations read with 28(f) of the IA Regulations.***

*……………."*

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5. Vide email dated January 20, 2023, the Noticee sought extension of date for submission of his reply to the SCN. In this regard, vide Hearing Notice dated January 24, 2023, the Noticee was granted an opportunity of hearing on February 08, 2023 and was inter alia advised to submit his reply to the SCN by January 31, 2023.

6. Vide email dated January 31, 2023, the Noticee submitted his reply to the SCN attaching copy of its letter dated January 21, 2023. The relevant extract of the same is reproduced below:

"……………..

*My respond in return of your show cause notice is as under. –*

1. ***Allegation by complainant Mr. Ganesh Rajesh Pol*** *- An executive of the Noticee assured profit of 3% on daily basis and the Notice committed profit of Rs. 6,00,000/- within 6 months. Noticee asked the complainant to deposit some fund as registration amount. The complainant deposited some funds in the Notice's account. After registration, the Notice asked the complainant to deposit more funds and took Rs. 1,12,100/. After taking money from the complainant, the Notice switched off his phones.*

   ***Respond to his allegation:*** *The Allegation charged by the client is totally baseless without any proper records & justifications, The Documents submitted by Mr. Ganesh Rajesh Pol (Client) to SEBI are just administrative or SEBI Compliance documents that we use to give to Every Client, As we have to follow the IA rules and procedure mere submitting these documents doesn't conclusive evidence of allegation of guaranteed profit. We have followed all the procedure and compliances as per IA act and their amendments there to namely Client Agreement, Client confirmation, Risk profile, Suitability report etc. We don't give guaranteed profit services to any of our clients and the same is being also conveyed to the client as well. Each invoices given to Mr Ganesh Rajesh Pol have clearly mentioned that we don't give Guaranteed or assured profit.*

   *(Attachment 1- Extract of Invoice mentioning No Guaranteed return),*

*Apart from that we use to give Guidance to our client's "What we do and What we don't" and after guidance we use to get confirmation from client by signing – Disclaimer form where client have to give confirmation on the same. Here in case of Mr. Ganesh Rajesh Pol. We guide him and take confirmation on the declaration form. (Attachment -2 Disclaimer Form Duly Signed by Mr Ganesh Rajesh Pol) – Press Ctrl then clink on the link*

*If you closely Read, the point No. 2 of our disclaimer form that is clearly mentioned that*

*"COMPANY DOES NOT ASSURE ITS CLIENTS FOR ANY FIXED PROFIT. AS INVESTMENT IN MARKET IS SUBJECT TO MARKET RISK"*

*So Based on the document provided by my client Mr Ganesh Rajesh Pol should not be admissible as conclusive evidence that we have given any guaranteed profit and SEBI Should not accepted the complaint on score portal without any solid evidence.*

2. ***Background for Non Closure of complaint on time***

*During March 2020 – Due to Covid-19 Outburst my office was closed. I was not able to provide services to my clients and they started panicking. in spite of several massages to my clients that we will provide our service after Covid-19 situation normalized as its not allowed to open the office and all my clients data was stored in my CRM Database. My clients didn't agree and start filing complaints on score portal for refund of money. So I have to pay money to all my clients and my business turned into Massive losses.*

*In October 2020, Covid-19 situation started normal. I took money from market and some money from my friends and family to refund the money to clients close the complaints lying on score portal. I have closed all complaints at happy notes.*

*During February 2021 – After taking funds from market, I started my office again with limited resources, in just 45 days working again Second Waves Covid-19 started in April 2021 and again all working stopped. This time i have started provided services from my home and happily close the clients assignments.*

*After Covid-19 Second Wave - All my hope with advisory services were lost with huge debt on me. Then I have closed my advisor business during month the month of August 2021. Then i have started a job to pay off the debts.*

*I was not connected with market anymore and nor with my official emails – Wealthmax2017@gmail.com neither on SEBI Score Portal.*

*On 25th December 2021, I came to know that SEBI had received a complaint bearing SCORES registration no. SEBIE/MP21/0000914/1 received by on August 06, 2021, and the said complaint forwarded to me on 8th October 2021, So I immediately responded that on January 01, 2022 to SEBI's letter dated December 16, 2022 and committed that he would try to resolve the complaint as soon as possible.*

*As per my commitment i have tried a lot to approach the client on his mobile number available with us in our records "94210-33093" to solve the problem, most of the time his mobile number is not reachable/non-responding and he disconnect the calls (As per our records my client is an army officer may be he is at remote location so his mobile no is not reachable or may be due to protocol is not picking or disconnecting the calls).*

*From January 2022 to 15th February 2022, I wasted my time to approach client on his mobile number but it couldn't connect.*

*On top of that. On 16th February 2022, I have met with car accident due to this my left leg has been broken along with that ACI and Meniscus was teared (Annexure-3 Brief-Medical report) "Detailed surgery report of doctor and discharge report can be presented on demand" and lot of small damages happened to my entire body. Doctor suggested my bed rest of Six to Eight months for heal and recovery. During that period, I was not in a position to close the complaint.*

*After Recovery During the month of October 2022*

*On 05th of October 2022- I again approach to Mr Mr. Ganesh Rajesh Pol on the same contact Number "94210-33093" but this time he Picked my call and I came to know that he doesn't use that mobile no much and he is using other mobile Number ie. 87933-32380 " in day today life. (Attachment – 4 Whatsapp Communications started with client)*

*I have heard and understood his problem & given him immediate response and solved his problem in a Five day ie on 11th of October i have closed the complaint. . (Solution was to refund the money in 6 Installments) (Attachment 5 – Closure and satisfaction mail from client)*

*After closure of complaint from my side on dated 11th October 2022- I have uploaded the complaint resolution email at SEBI Score portal and submit the ATR (Attachment 6-ATR Attached)*

*I was surprised to know that my complaint was not closed till 4th of November 2022. Then i ask my client to call at Indore LO and tell them that I have provided the solution kindly close the complaint. (Attachment 7- Indore LO Contact details shared with client)*

*On 7th of November 2022. My Client had a words with SEBI officials at Indore-Lo. As per my client SEBI Officials Insist and influence my client to not to close the complaint by saying that "What will you do if Wealthmax Solution doesn't refund you the money". So he conveyed my client to not to close the complaint without full money.*

*(This type of Tricks should not be done by the SEBI Officials.)*

*(Attachment 8 Conversation with client where client confess that sebi provoked him) – conversation Recordings between Sebi officer and Client can be provided on demand - subject to availability with client.)After having words with SEBI Officials my client send the email Marked to me and SEBI Officials to not to close the complaint.*

*Attachment-9 Email Send by Client to not to close the complaint*

*After my client email (Mentioned at attachment 9) i tried to convince my client that take you email back I will refund the whole money as committed in 6 installments but my client didn't convince as my clients was influenced by SEBI officials.*

*As i was suffering from Car accident from last 8 months I don't have enough funds nor any source of funds to repay the amount in one go. So this time i approach to my relatives to get the money to repay the amount and to close the complaint. I took 2 months' time to arrange the money and close the complaint on 20th of January 2023.*

*Attachment-10 – Final complaint closure email received from Client email also marked to "amarn@sebi.gov" in as well.*

*Meanwhile on 6th of January 2023 i received the SCN for imposing penalties under different section of SEBI Act and IA Act. According to me the said complaint was already been solved on 11th October 2022 & If I consider my client statement if true that " he was influenced by the sebi officials by saying what will you do if I will not refund the money " and based on that statement, my client changed his decision to not to close* *complaint. This Show cause notice could not serve upon me if my client was not influenced to close the complaint.*

3. *Grounds for not to charge any penalty and inquiry.*

   *Based on the above facts that's –*

- *First, Clients Allegation was false and not supported by any conclusive evidence of that i have given guaranteed profit.*
- *Secondly, Client is not using the contact number that has been updated my client at the time of registration and using the another contact Number of which i am not aware of. That process wasted my 45 days' precious time.*
- *Additionally, Hindrance created by car accident. (bed rest of 8 months)*
- *On top of that My client was influences by SEBI officials to change his decision to not to close the complaint.*
- *As on date the said complaint is withdraw / closed.*

*As a sequel to the above-humble submission it is requested that the Show Cause Notice under reply may kindly be withdrawn, and the inquiry proceedings so initiated against the undersigned may be filed/dismissed.*

*…………………"*

*.*

7. The Noticee appeared for the hearing on February 08, 2023 through video conferencing. During the hearing, he relied upon and reiterated his written submissions made vide his letter dated January 21, 2023. As regards his specific submissions in respect of allegation of failing to redress investor grievance promptly and failing to submit ATR in a time bound manner and current status thereof, the Noticee requested further time to make his submissions along with documentary evidence in support thereof, accordingly time till February 10, 2023 was allowed.

8. Vide email dated February 11, 2023, the Noticee submitted his additional reply dated February 10, 2022. The relevant extracts of the same are reproduced below:

*"…………………*

*I am writing this letter in response to Minutes if meeting of Personal hearing through video conferencing Dt. **February 08, 2023/ 03:00 p.m**. Where my previous submission was failing to Justify non compliance of Redressal of client complaint promptly and Failing to to submit ATR in time bound manner and current status thereof. Further In the referred show cause notice I was advised to give replay why an inquiry should not be held against me under in terms of Rule 4 (1) of the SEBI (Procedure for holding inquiry and imposing penalties) rules, 1995 & Why penalty should not be imposed under section 15C of the SEBI Act. My respond in return of your show cause notice is as under. –*

1. ***Background for Non Closure of complaint on time.***

*During March 2020 – Due to Covid-19 Outburst I was not able to provide proper services to my clients and they started panicking. My clients start filing complaints on score portal for refund of money. So I have to pay money to all my clients and my business turned into Massive losses.*

*During February 2021 – After taking funds from market, I started my office again with limited resources, in just 45 days working again Second Waves Covid-19 started in April 2021 and again all working stopped. On April 2021 I have close the business (ie to not to take any money from any client. Only services provided) This time i have started provided services from my home and happily close the client's services.*

*I was not connected with market anymore and nor with my official emails – Wealthmax2017@gmail.com & Info@wealthmaxsolution.com neither on SEBI Score Portal.*

2. ***How i redress the grievance of client. & Justification for late solving client complaint.***

*As per **GRIEVANCE REDRESSAL MECHANISM (GRM)** Policy (Attachment 1 – GRM POLICY) mentioned on company's website first client have to write an email regarding his complaint/ clarification during his service tenure.*

*As per policy i have not received any complaint emails nor calls during the period of his service tenure (ie 15th of March 2021 to 15th of September 2021)*

*As i have closed the Advisory business. On 25th December 2021, I came to know that SEBI had received a complaint bearing SCORES registration no. SEBIE/MP21/0000914/1 received on 8th October 2021, So I immediately responded that on January 01, 2022 to SEBI's and committed that i will try to resolve the complaint as soon as possible.*

***Step 1-*** *As per Company companies GRM Policy i have check all emails again but I didn't find any of the complaint emails.*

***Step 2-*** *(As i have received the complaint on SCORE Portal so I have to approach the client). As per have tried a lot to approach the client on his mobile number available with us in our records "94210-33093" to solve the problem, most of the time his mobile number is not reachable/non-responding (As per our records my client is an army officer may be he is at remote location so his mobile no is not reachable or may be due to protocol is not picking the calls).*

*From 1st January 2022 to 15th February 2022, I wasted my time to approach client on his mobile number but it couldn't connect.*

*(Attachment 2- Call log Details attached)*

*On top of that. On 16th February 2022, I have met with car accident due to this my left leg has been broken along with that ACI and Meniscus was teared ( "Detailed surgery report of doctor and discharge report can be presented on demand" Doctor suggested my bed rest of Six to Eight months for heal and recovery. During that period, I was not in a position redress the grievance and submit the ATR to close the complaint.*

*I am well aware that if client not attending the calls or he is not responding same status can be update on ATR on score portal, Un fortunately due to car accident i didn't able to update the ATR in SEBI Score portal.*

***Step 3-*** *After Recovery During the month of October 2022. On 05th of October 2022- I again approach to Mr **Mr. Ganesh Rajesh Pol** on the same contact Number "94210-33093" but this time he Picked my call and I came to know that he doesn't use that mobile no much* *and he is using other mobile Number ie. 87933-32380 " in day today life. (Please refer attachment 2 for call log duration)*

*I have heard and understood his nature of complaint & given him immediate response and solved his problem in a Five day ie on 11th of October i have closed the complaint. . (Solution was to refund the money in 6 Installments)*

*(Attachment 3 – Client grievance solution to refund email and his confirmation & Closure and satisfaction mail from client)*

*After closure of complaint from my side on dated 11th October 2022- I have uploaded the complaint resolution email at SEBI Score portal and submit the ATR (Attachment 4- ATR Attached to close the complaint)*

*On Nov 7th My client again sent email to not to close the complaint unless he get the full refund of amount.*

*As on 19th of January I have paid total 80000 Rs where 20000 Rs paid on 11th October 2022, and balance 60000 on 19th of January 2023. And I have again submit the full and final ATR for closure of complaint on 23rd of January 2023.*

*(Attachment 5-Payment receipt of Rs 80000/- paid to client additional information ATR submit)*

3. ***Reason for non-submission of ATR in time bound manner.***

   *Being as a SEBI Registered investment advisor, i am well aware that i have to file the ATR in time bound manner. But due to my client has changed his contact number so i was not in a position to approach to client for grievance redressal. Secondly due to my car accident i was on bed rest, hence i was not in position to talk to client or file the ATR in time bound manner.*

4. ***Current Status of Complaint:***

   *Currently the complaint has been closed at my end, I have submit the final ATR at SEBI score portal. Currently the complaint has been pending with Mr Amit Nigam (Indore LO office) for kind consideration for closure.*

   *(Attachment 6- Screenshot of ATR / Complaint pending with SEBI for closure)*

   *……………………."*

## CONSIDERATION OF ISSUES AND FINDINGS

9. I find that the following issues require consideration in the instant proceedings:

**Issue No. I:**

Whether Noticee has violated the provisions of SEBI Circular CIR/OIAE/1/2014 dated December 18, 2014 read with Regulation 21(1) of the IA Regulations read with 28(f) of the IA Regulations?

**Issue No. II:**

If yes, whether the Noticee is liable for imposition of monetary penalty under Section 15C of SEBI Act, 1992?

**Issue No. III:**

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

10. Relevant extract of the provisions of law alleged to have been violated are reproduced below for reference:

***SEBI Circular CIR/OIAE/1/2014 dated December 18, 2014:***

*"…………..*

*To*

*…..*

*All Intermediaries registered with SEBI*

*…..*

*Subject : Redressal of investor grievances through SEBI Complaints Redress System (SCORES) platform*

*…..*

*9. …The listed companies and SEBI registered intermediaries to whom complaints are forwarded through SCORES, shall take immediate efforts on receipt of a complaint, for its resolution, **within thirty days**. The listed companies and SEBI registered intermediaries shall keep the complainant duly informed of the action taken thereon.*

*10. The listed companies and SEBI registered intermediaries shall update the ATR along with supporting documents, if any, electronically in SCORES. ATR in physical form need not be sent to SEBI. The proof of dispatch of the reply of the listed company / SEBI registered intermediary to the concerned investor should also be uploaded in SCORES and preserved by the listed company / SEBI registered intermediary, for future reference.*

*11. Action taken by the listed companies and SEBI registered intermediaries will not be considered as complete if the relevant details/ supporting documents are not uploaded in SCORES and consequently, the complaints will be treated as pending.*

*12. A complaint shall be treated as resolved/disposed/closed only when SEBI disposes/closes the complaint in SCORES. Hence, mere filing of ATR by a listed company or SEBI registered intermediary with respect to a complaint will not mean that the complaint is not pending against them.*

*13. Failure by listed companies and SEBI registered intermediaries to file ATR under SCORES **within thirty days** of date of receipt of the grievance shall not only be treated as failure to furnish information to SEBI but shall also be deemed to constitute non-redressal of investor grievance.*

*………………"*

***Regulation 21, IA Regulations***

*"……………..*

***Redressal of client grievances**.*

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

*………………"*

***Regulation 28, IA Regulations***

***"**………………*

***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.*

*…………………..."*

11. Before proceeding to deal with the issues on merits, it is relevant to firstly deal with the aspersions made by the Noticee that SEBI officials insisted and influenced his client (complainant) to not close the complaint by saying that "what will you do if Wealthmax Solution doesn't refund you the money". So he conveyed to Noticee's client to not close the complaint without full money. In this regard, it is noted that the key issue under consideration in the present proceedings is about alleged failure on part of the Noticee to resolve investor grievance promptly and alleged failure on part of Noticee to submit ATR in a time bound manner and hence the Noticee was at liberty to submit his Action Taken Report accordingly demonstrating and detailing about steps taken by him towards resolution /redressal of the investor grievance instead of taking guise of what /how the complainant ought to be doing /writing. In any case, the Noticee is at liberty to take up the same with concerned department of SEBI. Accordingly, the submissions of the Noticee in this regard does not require further discussion. I now proceed to deal with the matter on merits.

**Issue No. I:**

**Whether Noticee has violated the provisions of SEBI Circular CIR/OIAE/1/2014 dated December 18, 2014 read with Regulation 21(1) of the IA Regulations read with 28(f) of the IA Regulations?**

12. In this regard, the SCN inter alia observed and alleged that SEBI had received a complaint on August 06, 2021 against the Noticee (complaint /instant complaint). The brief details of complaint are as under:

> *"…*
> *An executive of the Noticee assured profit of 3% on daily basis and the Noticee committed profit of Rs. 6,00,000/- within 6 months. Noticee asked the complainant to deposit some fund as registration amount. The complainant deposited some funds in the Noticee's account. After registration, the Noticee asked the complainant to deposit more funds and took Rs. 1,12,100/. <u>After taking money from the complainant, the Noticee switched off his phones. The complainant has also sought his money to be refunded </u>and to take strict action against that firm so that they can't do this type of thing with other person…*
> *..."*

13. The complaint was forwarded by SEBI to the Noticee on October 08, 2021 on SCORES portal and the Noticee was inter alia advised to resolve the complaint and submit ATR to SEBI. Thereafter several reminders were sent to the Noticee through SCORES as well as letter and emails. Despite several attempts and efforts made by SEBI, the IA had not submitted any response in SCORES with respect to SCORES Complaint bearing Registration No. SEBIE/MP21/0000914/1.

14. The status of the complaint as on February 11, 2022, was as under:

| ***S. No.*** | ***SCORES Complaint number*** | ***Name of Complainant*** | ***Date of receipt of complaint*** | ***Date of forwarding complaint to the Noticee*** | ***Date of Reminders from investor / SEBI*** | ***Date of ATR filed by the Noticee*** | ***Pending no. of days from the date of forwarding to the Noticee*** |
|---|---|---|---|---|---|---|---|
| *1.* | *SEBIE/MP21/ 0000914/1* | *Ganesh Rajesh Pol* | *June 08, 2021* | *October 08, 2021* | *November 16, 2021, December 07, 2021* | *Not filed* | ***127*** |

15. In view of the above, the SCN alleged that the Noticee failed to resolve investor grievances promptly and also failed to submit ATR in a time bound manner.

16. Before dealing with the contentions of the Noticee, it is relevant to take note of the key developments brought out in the matter before initiation of the adjudication proceedings as detailed here under:

16.1. It is noted that the Noticee is a SEBI Registered Investment Adviser ("**IA"**) having SEBI Registration No. INA000010751 wef December 27, 2018. SEBI had received a complaint against the Noticee on August 06, 2021 on SCORES portal which was forwarded to the Noticee through SCORES on October 08, 2021 inter alia advising him to resolve the complaint and submit ATR to SEBI. In view of no reply from the Noticee, SEBI attempted telephone calls on all the numbers available in SEBI's records however, the numbers were found to be switched off and non-functional. The same was informed to the Noticee through SCORES portal on November 16, 2021 and the Noticee was advised to provide valid contact details and talk to SEBI official to deal with the complaints. On December 07, 2021, through SCORES portal, the Noticee was inter alia strictly advised to resolve the complaint and submit the final ATR to SEBI on an urgent basis. However, apparently no response was received from the Noticee.

16.2. SEBI issued a letter dated December 16, 2021 to the Noticee. The relevant extracts of the same are reproduced below:

> *"….*
> *SEBI has published the list of entities, <u>who have failed to resolve the complaints even after three months of receipt of the same,</u> on its website on December 10, 2021……..*
>
> *At Sl. No.11 of the list, name of your company is appearing against which 01 (Nos) complaints are pending unresolved for more than three months (details of the complaints enclosed).*
>
> *Therefore, you are advised to explain why these complaints could not be resolved within 30 days of receipt of the same and the reasons for its pendency for more than three months.*
> *Your reply should reach SEBI on or before 21/12/2021.*
> *………"*

16.3. It is noted that the Noticee vide his email dated January 01, 2022 responded to SEBI letter dated December 16, 2021. The relevant extract of the response of the Noticee is reproduced below:

> *"……….*
> *I am extremely sorry for the delayed response and the <u>nonsolving of the complaint in the stipulated time frame.</u>*

*The reason behind is that I have closed the business since a long. And I am not looking into it.*
*Thank you so much for your mail and for awaking me regarding the pending complaint.*
*Now I am taking this complaint and will try to solve the complaint as soon as possible.*
*……….."*

16.4. In view of no response from the Noticee, SEBI issued a letter dated January 28, 2022 to the Noticee at his registered office address available on record and also sent a scanned copy of the letter to the registered email id of the Noticee, inter-alia advising the Noticee to submit the following details with respect to the complaint:

16.4.1. Copy of investment advisory agreement with the client;
16.4.2. Copies of Invoices with respect to the payment received from the client;
16.4.3. Copy of Risk Profiling of client along-with copy of mail sent to the client;
16.4.4. Copy of Suitability Assessment of client along-with copy of mail sent to the client;
16.4.5. All oral recordings held with the client including recording held prior to on boarding; and
16.4.6. Final ATR in respect of SCORES complaint bearing Registration No. SEBIE/MP21/0000914/1

16.5. It is noted that the letter dated January 28, 2022 was returned undelivered from the Noticee's registered office address.

17. The Noticee as part of his submissions has broadly made two contentions viz. first, regarding the allegations made by the complainant and second, regarding the non-closure of complaint on time.

18. As regards his first contention regarding the allegations made by the complainant, the Noticee has submitted that-

*" The Allegation charged by the client is totally baseless without any proper records & justifications, ………..We don't give guaranteed profit services to any of our clients and the same is being also conveyed to the client as well. Each invoices given to Mr Ganesh Rajesh Pol have clearly mentioned that we don't give Guaranteed or assured profit.*
*……………*

*Apart from that we use to give Guidance to our client's "What we do and What we don't" and after guidance we use to get confirmation from client by signing – Disclaimer form where client have to give confirmation on the same.*
*So Based on the document provided by my client should not be admissible as conclusive evidence that we have given any guaranteed profit and SEBI Should not accepted the complaint on score portal without any solid evidence.*
*…………"*

19. In this regard, it is observed that broadly speaking the complaint was primarily about two aspects viz., one that the Noticee had assured profits on a daily basis and two that after taking money from the complainant, the Noticee switched off his phones and therefore the complainant has also sought his money to be refunded. In this regard, as regards the aspect about assured profits on daily basis, I note that the material available on record does not evidence the said allegation and accordingly benefit of doubt is allowed to the Noticee. As regards the aspect of refund of money by the Noticee, I note from the copy of Noticee's email dated October 10, 2022 to the complainant (as provided by the Noticee in his written submission dated February 10, 2022) the Noticee has himself acknowledged the grievance of the complainant and admitted that he did not provide services to the complainant. The relevant extracts of the same are reproduced below:

*"As discussed over the Phone. That Due to the lockdown we couldn't provide you with the service & as of now, you are not looking for any services from us. To resolve the issue with you and Wealthmax solution, we have both concluded that Wealthmax solution will return you Rs. 80000.00 (in six Months' instalments) as a full and final settlement……………I will pay you 20000.00 immediately. After receiving first 20000.00 you will close the complaint pending with SEBI by giving written mail to Sebi Officials…."*

20. Further, it would also be relevant here to draw reference to the submissions of the Noticee as part of reply to the SCN whereby the Noticee has inter alia submitted vide email dated January 31, 2023 as under:

*"…………*
*I have heard and understood his problem & given him immediate response and solved his problem in a Five day ie on 11th of October i have closed the complaint. . (Solution was to refund the money in 6 Installments) (Attachment 5 – Closure and satisfaction mail from client)*
*…………"*

21. The very fact that the Noticee agreed to refund and resolve the complaint itself indicates that there indeed was a grievance by the complainant and the Noticee had recognised the same. The Noticee has neither denied nor disputed that he was in receipt of fees from the complainant and that he was obliged to render services to the client rather he has agreed to refund money to the complainant in six instalment subject to condition that the complainant will send email to Sebi Official to close the complaint. It is evident that there indeed was a grievance against the Noticee as brought out in the complaint by the complainant and therefore, the contention of the Noticee that the complaint by the complainant is baseless is devoid of merit and accordingly cannot be accepted.

22. As regards the contention of the Noticee regarding the non-closure of complaint on time, the Noticee has submitted that his investment Advisory services suffered due to the Covid waves and he closed his business in August 2021. The relevant extract of Noticee's reply is reproduced below:

> *"………..*
> *After Covid-19 Second Wave - All my hope with advisory services were lost with huge debt on me. <u>Then I have closed my advisor business during month the month of August 2021</u>. Then i have started a job to pay off the debts.*
>
> *I was not connected with market anymore and nor with my official emails – Wealthmax2017@gmail.com neither on SEBI Score Portal.*
>
> *On 25th December 2021, I came to know that SEBI had received a complaint bearing SCORES registration no. SEBIE/MP21/0000914/1 received by on August 06, 2021, and the said complaint forwarded to me on 8th October 2021, So I immediately responded that on January 01, 2022 to SEBI's letter dated December 16, 2022 and committed that he would try to resolve the complaint as soon as possible.*
> *…………"*

23. In this regard, it is noted that the SEBI registration of the Noticee as Investment Adviser is valid and he continues to be a SEBI registered Investment Adviser since December 27, 2018. It goes without saying that being a registered intermediary, it is but obligatory on part of the Noticee to comply with the extant applicable provisions including the SEBI Circular CIR/OIAE/1/2014 dated December 18, 2014 read with Regulation 21(1) of the SEBI IA Regulations read with Regulation 28(f) of the SEBI IA Regulations for failing to resolve investor grievances promptly and for failing to submit Action Taken Report ("**ATR"**) in a

time bound manner. Accordingly, the contention of the Noticee that he was not connected to SCORES portal or his official email id when the complaint was forwarded to him is devoid of merit and cannot be accepted.

24. It is further noted that at one instance the Noticee has stated in his reply to SCN that he closed his business in August 2021 (extract reproduced above under para 09) whereas at another instance, in his additional submissions dated February 10, 2022 he stated that the service tenure for the complainant was 15th of March 2021 to 15th of September 2021. Since the service tenure for the complainant was until 15$^{th}$ September 2021, it was obligatory for the Noticee to provide services for the full service period considering that the Noticee was in due receipt of the fees for the same from the complainant. Therefore, the contention of the Noticee that he had closed his business is devoid of merit and cannot be accepted.

25. The Noticee has further submitted that he came to know about the complaint on December 25$^{th}$ 2021 and then from January 2022 to February 15, 2022, the Noticee tried to approach the complainant on the mobile number available in records to resolve the complaint, however, he could not connect to the complainant. Subsequently on February 16, 2022, the Noticee met with a car accident.

26. In this regard, I note that the complaint was forwarded to the Noticee on October 10, 2021 itself, and thereafter, SEBI tried to contact the Noticee through multiple modes including through calling him on his mobile number available on record, sending emails on email id available on record, communicating through the SCORES portal and sending letters through speed post on his registered address available on records of SEBI. Despite all the above, the Noticee could not be approached. This clearly indicates that the Noticee was not reachable by both the complainant and SEBI (as the complainant has also alleged that the Noticee had switched off his phone). Therefore, the assertion by the Noticee that he came to know about the complaint on December 25, 2021 and thereafter took immediate measures to resolve the complaint could not be accepted as the delay was due

to his own conduct and by that time the complaint was already pending for more than 30 days without being resolved.

27. Further, Noticee has made submissions regarding the steps or measures taken by him after 30 days had expired from the date of receipt of the complaint by the Noticee wherein he submitted that after recovery, during October 2022, the Noticee again approached the complainant and was able to connect to the complainant. The Noticee heard and understood the complainant's problem and gave him immediate response and solved his problem in five days i.e. on October 11, 2022. After closure of complaint, the Noticee uploaded the complaint resolution email at SEBI Score portal and submitted the ATR.

28. In this regard, I note from the copy of Noticee's email dated October 10, 2021 (reference is drawn to relevant extract of reproduced under para 19) that in light of arriving at a settlement with the complainant, the Noticee had put forth a condition that he will return Rs. 80000/- to the complainant but after the receipt of first Rs. 20000/- the complainant should write to SEBI officials to close the complaint. I note that the Noticee had made his refund of money contingent on the condition that the complainant should close the complaint first. The complainant vide his email dated October 11, 2022 and October 15, 2022 wrote the following to SEBI:

> *"To Sebi officials*
> *There was some misunderstanding between wealth max solution and me. Now the misunderstanding is solved between us.*
> *I hereby request you to close complaint No SEBIE/MP21/0000914/1 with immediate effect.*
> *Ganesh pol"*

However, it is noted that even after the passage of more than one year from the receipt of the complaint by the Noticee, he was still not redressing the grievance of the complainant. His focus was to close the complaint by making assurances to the complainant than by actually resolving/redressing it. Such assurances cannot be considered as redressal of grievance. In view of this, it cannot be accepted that the Noticee had redressed the grievance and submitted the ATR in the matter in a time bound manner. The same is corroborated by the subsequent events that the Complainant again wrote to SEBI vide his email dated November 07, 2022 that *"…Currently Because They haven't given me a full refund yet. Don't close My Complaint. Complaint No :-SEBIE/MP21/0000914/1……..".*

29. It is further noted that the Noticee has submitted in his additional reply dated February 10, 2022 that he paid the total of Rs. 80000 to the complainant as on January 19, 2023 and has again submitted the full and final ATR for closure of complaint on January 23, 2023. In this regard, in light of the submission of the Noticee, information was sought from SEBI regarding current status of the complaint wherein SEBI informed as under:

> *"…The primary grievance of the complainant was refund of money. As per the action history sheet obtained from SCORES for the complaint bearing SEBIE/MP21/0000914/1, there is no evidence submitted by the intermediary in SCORES of having refunded the entire money to the complainant towards resolving the primary grievance of the complainant. Therefore, the current status* of the *complaint as per information available in SCORES is "not resolved"…."*

In this regard it is noted that the Noticee had made total payment of Rs. 95399.46 (details given in the table below). However, the Noticee has only refunded Rs. 80000/- to the complainant. Therefore, the complaint remains unresolved as on date.

| ***Date of payment*** | ***Amount (Rs)*** |
|---|---:|
| *March 12, 2021* | *2542.37/-* |
| *March 15, 2021* | *2542.37/-* |
| *March 17, 2021* | *8874.57/-* |
| *March 18, 2021* | *6567.79/-* |
| *March 19, 2021* | *14491.53/-* |
| *March 25, 2021* | *20127.12/-* |
| *March 30, 2021* | *14491/-* |
| *March 30, 2021* | *25762.71/-* |
| *Total* | ***95399.46/-*** |

30. As regards Noticee having failed to submit Action Taken Report ("ATR") in a time bound manner, it would be pertinent to draw reference to the relevant text of Para 13 of SEBI Circular dated December 18, 2014 is reproduced as under:

> *"…..*
> *Failure by listed companies and SEBI registered intermediaries to file ATR under SCORES within thirty days of date of receipt of the grievance shall not only be treated as failure to furnish information to SEBI but shall also be deemed to constitute non-redressal of investor grievance.*
> *….."*

I note that in the instant matter going by the chronology of events the ATR was required to have been filed by the Noticee latest by November 07, 2021 (i.e., considering that the complaint was forwarded to the Noticee on October 08, 2021 and that a timeline of 30 days is allowed to file the ATR under SCORES), however the same was not filed. Even assuming that the benefit of the Noticee having met with a car accident is to be allowed, the accident being during month of February 2022, the ATR was already overdue by about two-three months. However, in the instant matter, the Noticee failed to submit the ATR itself, leave aside the merit of the ATR. Going by the submissions of the Noticee himself, the ATR on the compliant was submitted for the first time by the Noticee on October 11, 2022. Evidently, the ATR was not submitted by the Noticee timely i.e., within thirty days of date of receipt of grievance.

31. In view of the foregoing, it is evident that the Noticee neither redressed the grievance of the complainant nor filed the ATR within stipulated time of thirty days as mandated per SEBI Circular CIR/OIAE/1/2014 dated December 18, 2014 and therefore failed to resolve investor grievances promptly and failed to submit Action Taken Report ("**ATR"**) in a time bound manner.

32. In view thereof, I find that the Noticee has violated SEBI Circular CIR/OIAE/1/2014 dated December 18, 2014 read with Regulation 21(1) of the IA Regulations read with 28(f) of the IA Regulations.

**Issue No. II:**

**If yes, whether the Noticee is liable for imposition of monetary penalty under Section 15C of SEBI Act, 1992?**

33. It has been established in the preceding paragraphs that the Noticee has violated SEBI Circular CIR/OIAE/1/2014 dated December 18, 2014 read with Regulation 21(1) of the IA Regulations read with 28(f) of the IA Regulations.

34. I note that the Hon'ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC) held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established......"*

35. Therefore, for the above violations, as brought out in the foregoing paragraphs, I find that Noticee is liable for monetary penalty under section 15C of the SEBI Act which provides as following: -

> *"……………*
>
> ***Penalty for failure to redress investors' grievances.***
>
> ***15C**. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing including by any means of electronic communication, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.*
>
> *……………..."*

**Issue No. III:**

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

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

> **<u>SEBI Act</u>**
>
> *"………..*
>
> *Factors to be taken into account while adjudging quantum of penalty.*
>
> *15J. While adjudging quantum of penalty under 15- or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely:—*

*a. the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
*b. the amount of loss caused to an investor or group of investors as a result of the default;*
*c. the repetitive nature of the default.*

*Explanation.—For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.*

*…………..”*

37. The material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, caused to the investors as a result of the Noticee's failure or the repetitive nature of the default. However, it is important to consider the purpose of SCORES portal which is to provide a platform overseen by SEBI through which the investors can approach the SEBI registered intermediary in an endeavour towards speedy redressal of grievances of investors in the securities market. The Noticee, closed his business and stopped providing services to its client while he was already in receipt of the fees for the given tenure and therefore was obliged to render services for such period. Being a registered intermediary, the Noticee is required to abide by the regulatory framework. He failed to resolve the investor's grievance within stipulated time despite repeated reminders. He was not only unavailable on his registered contact addresses but was also avoiding the resolution of investor's grievance by resorting to conditional settlement with the complainant and inducing him to close the complaint.

**ORDER**

38. After taking into consideration the facts and circumstances of the case, the material available on record, the factors mentioned in preceding paragraphs and in exercise of powers conferred upon me under Section 15-I of the SEBI Act 1992 read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. 100,000/- (Rupees One Lakh only) under the provision of Section 15C of the SEBI Act on the Noticee viz. **Shri. Piyush Jain, Proprietor: Wealthmax Solution Investment Adviser**.

39. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the 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** or by using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.

40. 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.

41. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

**February 28, 2023**
**Mumbai**

**Amar Navlani**
**Adjudicating Officer**