BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. ORDER/NH/KL/2023-24/26478]

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

In respect of

KRIPA SECURITIES PVT LTD.

[PAN: AACCK2399D]

In the matter of Trading Members in Illiquid Stock Options

FACTS OF THE CASE IN BRIEF

1. As part of ongoing surveillance, Securities and Exchange board of India ('**SEBI**') came across instances/internal alerts wherein a set of entities were seen executing reversal trades in options on individual stocks ('stock options') in Equity Derivative Segment of the BSE. Accordingly, examination of trading in stock options segment was done for the period April 1, 2014 to March 31, 2015 from the perspective of examining trading of these entities. Pursuant thereto, an *ex-parte ad interim* Order ref. No. WTM/RKA/ISD/106/2015 dated August 20, 2015 (hereinafter referred to as '**Interim Order**') was passed by Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') in the matter of Illiquid Stock Options restraining 59 persons /entities from buying, selling or dealing in the securities market, either directly or indirectly, in any manner, till further directions.

2. Thereafter, confirmatory Orders dated July 30, 2016, August 22, 2016 and August 24, 2016 (collectively referred to as '**Confirmatory Orders**') were passed by SEBI

confirming the directions issued vide the Interim Order against all 59 persons /entities.

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

4. Subsequent to passing of aforementioned Interim Order against 59 persons /entities, SEBI passed an Interim Order dated February 17, 2016 against 22 Trading Members ('Brokers') in the same matter of Illiquid Stock Options. However, the said order was set aside by Hon'ble Securities Appellate Tribunal ('SAT') vide orders dated February 25, 2016, March 04, 2016, March 09, 2016, March 14, 2016, March 15, 2016, March 18, 2016 and April 05, 2016. Pursuant to appeal, in terms of order of Hon'ble Supreme Court dated July 01, 2016, SEBI passed Order No. WTM/RKA/ISD/94/2016 dated August 12, 2016 in the matter stating, inter alia, that a final view for appropriate action be taken after completion of ongoing investigation in the matter.

5. Investigation was carried out in the instant matter for the period April 01, 2014 – September 30, 2015 (hereinafter referred to as '**IP/ Investigation Period**'), which is same as the examination period referred in the Interim Order dated February 17, 2016 in respect of Brokers in the matter of Illiquid Stock Options.

6. Trade data of BSE's Stock Options segment during the I.P. for the Illiquid Stock Options was analysed to identify reversal trades. Pursuant to said analysis it was observed that a total of 2,91,744 trades were executed by 14,720 entities through 192 Brokers that resulted in reversal trades during the Investigation period. The

aforesaid trades comprised 81.40% of all the trades executed in the BSE Stock Options Segment during the said period.

7. In this context, it is alleged that the Noticee being one of the aforementioned 192 stock brokers did not exercise due care and diligence in the conduct of its business while dealing with its clients, which is in violation of Schedule II A (2) of Code of Conduct for Stock Brokers r/w Regulation 9 (f) of the SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as '**Broker Regulations**'). Further, it is alleged that the Noticee continued to enable its clients in execution of fraudulent transactions on exchange which is in violation of Section 12 A(a), (b), (c) of SEBI Act, 1992 r/w Regulations 3 (a), (b), (c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as **'PFUTP Regulations**').

8. In view of the above, SEBI had initiated Adjudication Proceedings against the Noticee viz. Kripa Securities Private Limited.

APPOINTMENT OF ADJUDICATING OFFICER

9. Shri Suresh Menon was appointed as Adjudicating Officer (hereinafter referred to as '**AO**'), under Section 15-I of the SEBI Act read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**'), vide communique dated August 13, 2021 to inquire into and adjudge under Section 15HA and Section 15HB of the SEBI Act, the aforesaid alleged violations by the Noticee. Pursuant to the superannuation of Shri Suresh Menon, the undersigned was appointed as Adjudicating Officer in the instant matter vide Communique dated July 27, 2022.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

10. A show-cause notice dated June 16, 2022 (hereinafter referred to as '**SCN**') was issued to Noticee under Rule 4(1) of the Adjudication Rules to show-cause as to why, an inquiry should not be initiated against Noticee and penalty, if any, should

not be imposed upon it under the provision of Section 15HA and Section 15HB of SEBI Act for the aforesaid violation alleged to have been committed by it.

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

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

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

iii *Without a system in place to identify repeated trade reversals between the same clients, the brokers facilitated those clients in executing fraudulent transactions in the stock market who transferred profits and losses to each other in a pre-meditated manner.*

Analysis of Source Data

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

Scenario	*Particulars*	*Count of Brokers*	*Total number of non-genuine trades (both client and counterparty client)*	*Cumulative non-genuine trades through Brokers after removing duplicates (same broker for both clients)*	*As a % of total transactions*
1	*Same Broker for both clients on both legs of trade reversal*	*19*	*8,528*	*4,264*	*0.74*
2	*Different Broker for both clients on both legs of trade reversal*	*189*	*5,74,900*	*5,74,900*	*99.25*

Sce nario	Particulars	Count of Brokers	Total number of non-genuine trades (both client and counterparty client)	Cumulative non-genuine trades through Brokers after removing duplicates (same broker for both clients)	As a % of total transactions
3	Trade reversals involving three Brokers	8	60	59	0.01
	Total	192*	5,83,488	5,79,223	100

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

ii *Repeated reversals with at least 4 transactions or more (2 cycles of reversals between the same set of PAN numbers) on the same day in a particular contract between two unique PAN numbers were examined. Accordingly, it was observed that there are 64 unique set of PAN numbers who have executed repeated reversals with at least 4 transactions or more (2 cycles of reversal) through 7 different Brokers. Names of said 7 Brokers are as given below:*

Sl. No.	Name of Broker	Sl. No.	Name of Broker
1.	..	2.	**KRIPA SECURITIES PVT.LTD. (Noticee)**
3.	..	4.	..
5.	..	6.	..
7.	..		

iii *Hence, out of the 19 unique brokers through whom 557 clients had executed trade reversals, it is alleged that the Noticee being one of the aforesaid 7 Brokers, failed to exercise care and diligence in the conduct of business while dealing with its clients and therefore are not in compliance with Schedule II A (2) of Code of Conduct for Stock Brokers r/w Regulation 9 (f) of the SEBI (Stock Brokers) Regulations, 1992.*

<u>Alerts generated by BSE during IP</u>

iv *BSE vide email dated November 06, 2020, November 18, 2020, January 12, 2021 and February 05, 2021 informed that alerts were generated and communicated to 20 Brokers whose clients had executed trade reversals on same day as well as T+1 day. BSE further* *informed that no broker reported any suspicious transactions to exchange being executed on stock options segment of BSE during I.P.*

v Further, vide email dated December 28, 2020, BSE forwarded notice no 20130307-21 dated March 07, 2013 pertaining to "e-Boss" which inter-alia gives the list of alerts which also includes reversal of trades in derivatives segment.

vi In terms of the aforesaid notice no 20130307-21 dated March 07, 2013, all the Brokers should necessarily frame a surveillance policy so as to identify and report suspicious/manipulative activities. In line with the aforesaid notice from exchange, the brokers were expected to consider various factors including but not limited to repeated reversal trades on same day, reversal price, entities involved in repeated reversal transactions on same day in various scrips, etc and accordingly put in place a system so as to identify and report suspicious/manipulative activities.

vii BSE generated and communicated alerts to 20 Brokers whose clients had executed trade reversals on same day as well as T+1 day. Of the 20 Brokers, clients executed trade reversals on same day through 18 Brokers. Further, of the said 18 brokers, clients executed repeated reversals on same day as envisaged in Scenario 1 through 15 brokers. However, despite alerts being generated and communicated to these 15 Brokers through whom clients executed repeated reversals, the Brokers did not adopt any corrective measures to stop reversal of trades. This suggests negligence on part of Brokers, though these Brokers were made aware of the fact that reversal of trades were being executed through them. Further, by not taking necessary steps to generate alerts by putting a system in place to detect and curb reversal of trades, the Brokers indirectly facilitated all the clients registered with the Broker in executing reversal of trades. Names of said 15 Brokers are as given below:

Sl. No.	*Name of Broker*	*Sl. No.*	*Name of Broker*
1.	*..*	*2.*	*..*
3.	*..*	*4.*	*..*
5.	*..*	*6.*	*..*
7.	*..*	*8.*	*..*
9.	*..*	*10.*	***KRIPA SECURITIES PVT.LTD. (Noticee)***
11.	*..*	*12.*	*..*

Sl. No.	*Name of Broker*	*Sl. No.*	*Name of Broker*
13.	*..*	*14.*	*..*
15.	*..*		

viii *Hence, by continuing to enable their clients in executing fraudulent reversal trades on the stock exchange system despite having received alerts on reversal trades from the stock exchange during I.P., the Noticee being one of the aforesaid 15 Brokers, facilitated their clients too in execution of fraud in alleged violation of Section 12 A(a), (b), (c) of SEBI Act, 1992 r/w Regulations 3(a), (b), (c), (d) and 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.*

ix *Further, by not taking necessary steps to generate alerts by putting a system in place to detect and curb reversal of trades, aforesaid 15 Brokers have failed to exercise care and diligence in the conduct of business while dealing with its clients and are alleged to be in non-compliance with Schedule II A (1) and (2) of Code of Conduct for Stock Brokers r/w Regulation 9 (f) of the SEBI (Stock Brokers) Regulations, 1992.*

12. The SCN dated June 16, 2022 was sent to Noticee through Speed Post Acknowledgement due (herein after referred to as '**SPAD**'). In reply to the SCN, the Noticee vide email and letter dated August 04, 2022, requested for additional time to make submissions and was granted the same. Subsequently, the Noticee vide its letter dated September 27, 2022 made submissions in reply to the SCN.

13. Thereafter, I note that vide letter ref no. SEBI/HO/EAD2/NH/KL/61634/2022 dated December 08, 2022, the Noticee was, *inter-alia*, informed about the SEBI Settlement Scheme for Stock Brokers, 2022 (hereinafter referred to as 'Settlement Scheme, 2022'), in terms of Regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 in the matter of Illiquid Stock Options. Further, it was conveyed that in case the Noticee did not wish to avail the facility under the Settlement Scheme, 2022, it could file further reply to the SCN within 30 days of its receipt. The settlement window under Settlement Scheme, 2022 was closed on January 19, 2023. In this regard, as per available records, I

note that Noticee has not availed the facility under the Settlement Scheme, 2022. Consequently, Adjudication proceedings were resumed in the instant matter.

14. I also note that the Noticee vide letters dated January 03, 2023 and February 02, 2023 made submissions during the course of the adjudication proceedings. In the interest of natural justice, the Noticee was granted an opportunity of personal hearing on March 27, 2023 vide Hearing Notice dated March 14, 2023. Mr. Vinod Kumar Goyal and Mr. Ajay Sureka appeared as the Authorised Representatives (‘ARs’) on behalf of the Noticee on the stipulated date of hearing. During the course of hearing, the ARs reiterated the earlier submissions made by the Noticees in their reply to the SCN vide letters dated September 27, 2022, January 03, 2023 and February 02, 2023.

15. The submissions made by the Noticee vide the aforementioned letters are, *inter-alia*, given below:

    i. *The trades were executed for clients duly registered as per prescribed procedure of KYC, UCC, etc. on the online trading platform of the exchange with due compliance with all the rules and regulations of the exchange;*

    ii. *At no point of time was there any warning or any observation about anything amiss in the contracts in Stock Options which were executed by us for clients.*

    iii. *None of the trades are deceptive in nature or have any impact on the investors or their investment decisions which is a sine qua non of "fraud"*

    iv. *We feel that inclusion of our name in the list of 15 brokers to whom BSE had sent alerts seems to have been wrongly included as we never ever received any such alert as alleged nor there was any reference by BSE during the period. Accordingly, Part-A of Rs.5 lakhs has been applied wrongly to us and is requested to be withdrawn*

    v. *As per data available with us, trades on behalf of clients were executed only on three dates viz. 12/03/2015, 17/03/2015 and 19/03/2015*

    vi. *Regarding alert generated BSE on reversal trades, please note the following:-*

    - *Alert for 12/03/2015: There were "NIL" alerts for trades executed on 12/03/2015.*

- *Alert for 17/03/2015 : Alerts were generated after-market hours for trades executed on 17/03/2015. Hence while executing trades for 17/03/2015 there were NIL alerts regarding "reversal of trades"*
- *Alert for 19/03/2015: Alerts were generated for trades executed on behalf of few clients on 19/03/2015 for which we came know after-market hours from BSE. On becoming aware, we immediately discontinued executing such trades on behalf of clients*

vii. *It may kindly be observed from the above, that our compliance team missed to check the BSE alerts On 17/03/2015 post market hours. There was no clue of such alerts being generated, On coming to know about such alerts been generated we immediately discontinued such trades.*

viii. *Additionally, it may be noted that allegations are made ignoring the fact that at the relevant time when we executed impugned alleged objectionable trades of that client there was no such thing as a "'reversal trades" in existence and the fact that our clients trades got executed at the relevant time clears all the doubts regarding the genuineness and legality of those trades.*

ix. *It was only after March 2016 that "Reversal Trade Prevention Check" (RTPC) came into existence for the Stock Option segment of BSE and there after the phenomenon of "reversal trades" was recognized as not permissible*

x. *Hence, we humbly pray that we not be penalized so heavily for overlooking some alerts which might have been generated and Which we were totally unaware and there was no follow up from the respective exchange either regarding the same. We not aware about such alerts for just One day and that too for trades executed on behalf of clients.*

16. It is noted that the SCN long with the annexures and the Hearing Notice were duly served on the Noticee. The Noticee was granted sufficient opportunities to make submissions in reply to the SCN, of personal hearing and to make additional submissions post hearing. Thus, the principles of natural justice were adhered to.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

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

Issue No.1 Whether the Noticee has violated the provisions of Section 12 A(a), (b), (c) of SEBI Act r/w Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations and Schedule II A (2) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations?

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

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

18. Before proceeding further, it is pertinent to refer to the relevant provisions of the Broker Regulations and PFUTP Regulations, in force at the time of impugned transactions, reproduced as under:

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;

PFUTP Regulations

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 fraudulent or an unfair trade practice in securities markets.

Broker Regulations:

Conditions of registration.

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

II;

SCHEDULE II

CODE OF CONDUCT FOR STOCK BROKERS

A. General

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

Issue No. I- Whether the Noticee has violated provisions of Section 12 A (a), (b), (c) of SEBI Act r/w Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations and Schedule II A (2) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations?

BSE Notice to brokers on e-Boss dated March 07, 2013

19. I note that BSE had issued notice ref. no. 20130307-21 dated March 07, 2013 (hereinafter referred to as '**BSE notice dated March 07, 2013**'), to all the Brokers

casting an obligation upon them to, *inter alia,* monitor and report reversal of trades in derivatives segment. The said notice pertains to 'e-Boss' system, which *inter alia*, indicated the list of alerts that would be generated by BSE including reversal of trades in derivatives segment. Further, in terms of the aforesaid notice, every Broker was necessarily required to frame a surveillance policy, *inter alia,* covering suspicious/manipulative activity identification and reporting process. The notice further stated that the trading members were required to put in place the required procedures and processes duly approved by their relevant authority latest by May 15, 2013.

20. The relevant extract of the aforesaid notice is reproduced below:

'…..

The trading members are hereby further informed that the aforementioned transactional alerts are indicative in nature and the trading members can derive their own alerts in addition to the said transactional alerts as per their surveillance policy.

……

Monitoring and reporting:

1. For effective monitoring, Trading Member shall:

a. Frame a surveillance policy covering:

…

iii. Suspicious / Manipulative activity identification and reporting process.

b. The surveillance policy of the Trading Member shall be approved by its Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) as the case may be.

c. A quarterly MIS shall be put up to the Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) on the number of alerts pending at the beginning of the quarter, generated during the quarter, disposed off during the quarter and pending at the end of the quarter. Reasons for pendency shall be discussed and appropriate action taken. Also, the Board (in case of corporate trading member), Partners (in case of *partnership firms) or Proprietor (in case of sole proprietorship firm) shall be apprised of any exception noticed during the disposition of alerts.*

d. The surveillance process shall be conducted under overall supervision of its Compliance Officer.

e. Designated directors / partners / proprietor / Compliance Officer would be responsible for all surveillance activities carried out by the Trading Member and for the record maintenance and reporting of such activities.

2. Internal auditor of Trading Member shall review the surveillance policy, its implementation, effectiveness and review the alerts generated during the period of audit. Internal auditor shall record the observations with respect to the same in their report.'

21. In terms of the aforesaid notice, all the Brokers are required to necessarily frame a surveillance policy so as to identify and report suspicious/manipulative activities. In this context, BSE vide email dated November 06, 2020, submitted to SEBI that no broker had reported any suspicious transactions to it being executed on Stock Options segment of BSE during investigation period. In this context it is alleged that Noticee had failed to exercise due care, skill and diligence in the conduct of its business while dealing with its clients during the IP which in turn has facilitated reversal trades which were allegedly non-genuine and resulted in generation of artificial volume in stock option segment at BSE.

22. From the perusal of the material available on record i.e. trade logs, I note that the clients of the Noticee had engaged in a total of 5 reversal trades on March 19, 2015 resulting in artificial volume of 20,000 shares. The said trades were executed in a single contract viz. 'WOCK15MAR1950.00PE'. The extracts of the trade log of the aforesaid trades are given in the table below:

SL. NO.	1	2	3	4	5
TRADE_DATE	19/03/2015	19/03/2015	19/03/2015	19/03/2015	19/03/2015
CLNT_NAME*	S K ..	N..	N..	N..	S K ..

CP_NAME*	N..	S K ..	S K ..	S K ..	N..
ORDER_TIME	12:45:11.946324	12:49:50.803241	12:53:39.707082	12:50:06.504116	12:52:37.003317
CP_ORDER_TIME	12:45:09.846120	12:49:53.303395	12:53:41.707198	12:50:07.804192	12:52:32.503024
ORDER_RATE	95.0	45.0	50.0	45.0	90.0
CP_ORDER_RATE	95.0	45.0	50.0	45.0	90.0
TRADE_TIME	12:45:11.946324	12:49:53.303395	12:53:41.707198	12:50:07.804192	12:52:37.003317
TRADED_QTY	5000	2500	5000	2500	5000
TRADE_RATE	95	45	50	45	90
MEMBER_NO	3190	3190	3190	3190	3190
MEMBER_NAME	**KRIPA SECURITIES PVT.LTD.**	**KRIPA SECURITIES PVT.LTD.**	**KRIPA SECURITIES PVT.LTD.**	**KRIPA SECURITIES PVT.LTD.**	**KRIPA SECURITIES PVT.LTD.**
CP_MEMBER_NO	3190	3190	3190	3190	3190
CP_MEMBER_NAME	**KRIPA SECURITIES PVT.LTD.**	**KRIPA SECURITIES PVT.LTD.**	**KRIPA SECURITIES PVT.LTD.**	**KRIPA SECURITIES PVT.LTD.**	**KRIPA SECURITIES PVT.LTD.**
USER_NAME	PAMPA BISWAS	PAMPA BISWAS	PAMPA BISWAS	PAMPA BISWAS	PAMPA BISWAS
RQTY	**5000**	**2500**	**5000**	**2500**	**5000**

***Details of client names masked for the purpose of confidentiality*

23. It is pertinent to mention that the Noticee had not disputed the execution of the aforementioned trades by its clients.

24. As evident from the trade logs, the impugned 5 reversal trades, involving those with identical quantities, with substantial differences in buy and sell rates, were executed through the Noticee on the stock options segment of BSE during the I.P. Further, I note that the position taken was reversed between the clients amongst the same counterparty on the same day, at a substantial price difference. It cannot be a matter of coincidence or lack of awareness, or without knowledge of the counterparty. The non-genuineness of these transactions executed by the clients of the Noticee is evident from the fact that there was no commercial basis as to why, within a short span of time, the clients of the Noticee reversed the position with their counterparties with significant price differences.

25. In this regard, it is pertinent to refer to the following orders of The Hon’ble Securities Appellate Tribunal:

    a. in the matter of Global Earth Properties and Developers Pvt. Ltd. Vs Securities and Exchange Board of India (Appeal No.212 of 2020 decided on September 14, 2020), it was, inter-alia, held that:

12. Such execution of trades, in our opinion, are non-genuine trades and creates artificial volumes giving misleading appearance. ***The reversal of trades executed by the Appellant cannot be called a normal trading transaction in as much as these trades were reversed within a short span ranging from a few seconds to a few minutes with the same counter parties****. By no stretch of imagination, it can be held to be a mere coincidence that the Appellants trades matched consistently with the same counter parties unless there was a meeting of minds with a view to trade at a predetermined time. Such kind of transaction, in our opinion, is a manipulative device and is also synchronised trading.*

..

19. In the light of the aforesaid, buying and selling of equivalent quantities within the day may not be illegal but if the trades were done with ulterior purposes then the same are non-genuine. ***In the instant case, we find that one party is making a profit and the other party is making a loss. In addition, there is proximity in the time of sell orders at a higher price and the same quantity is being reversed to the same party in a lower price within a fraction of seconds or few minutes****. We find that contracts got matched between the same parties. We fail to understand as to why the Appellants who made the transactions repeatedly incurred substantial losses within a few minutes. Given the fact that there was proximity of time between buy and sell orders one can reasonably point to some kind of manipulative exercise with prior meeting of minds especially when one can see it plainly that it was a clear case of synchronised trading namely that a synchronised trade is one where the buyer and seller enter quantity and time of shares they wish to transact at the same time.*

20. From the aforesaid cumulative analysis of the reversed transactions with the counter party, quantity, time and significant variation of the price clearly indicates that the trades were non-genuine and had only misleading appearance of trading in the securities market without intending to transfer the beneficial ownership. One finds it to be naive to presume that the perception of the two counter parties to a trade changed within few seconds/minutes and positions were interchanged and the contracts were *changed where one party made profit and the other party ended up making losses every time without prior meeting of mind. It is not a mere coincidence that the Appellants could match the trades with the counter party with whom he had undertaken the first leg of respective trade.* ***In our opinion, the trades were non-genuine trades and even though direct evidence is not available in the instant case but in the peculiar facts and circumstances of the present case there is an irresistible inference that can be drawn that there was meeting of minds between the Appellants and the counter parties, and collusion with a view to trade at a predetermined price****"*

(Emphasis added)

b. in the matter of Ketan Parekh vs Securities and Exchange Board of India (order dated July 14, 2006), it was, inter-alia, held that:

*"****When a person takes part in or enters into transactions in securities with the intention to artificially raise or depress the price he thereby automatically induces the innocent investors in the market to buy /sell their stocks****. The buyer or the seller is invariably influenced by price of stocks and if that is being manipulated person doing so is necessarily influencing decision of buyer / seller thereby inducing him to buy or sell depending upon how the market has been manipulated. We are therefore of the view that inducement to any person to buy or sell securities is the necessary consequence of manipulation and flows therefrom.* ***In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is require****d. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged.* ***This, in our view, clearly flows from the plain language of Regulation 4(a) of the Regulations****"*

(Emphasis added)

26. In view of the above, I note that the trades were executed through a pre-meditated plan by both parties and hence are unfair and non-genuine trades for the purpose of PFUTP Regulations.

27. The Noticee contented that there was no concept of 'reversal trades' during the time period of execution of the instant trades by its clients, i.e. on March 19, 2015. Therefore, Noticee submitted that the violations cannot be alleged upon it. In this context, I note that the contentions of Noticee are baseless. The aforementioned BSE Notice ref no. 20130307-21 dated March 07, 2013 clearly mentioned "reversal of trades" as one of the categories where transactional alerts need to downloaded from 'e-Boss' system. The relevant extracts are reproduced below:

NOTICES

Notice No.	20130307-21	Notice Date	07 Mar 2013
Category	Compliance	Segment	General
Subject	Surveillance Obligations for Trading Members		
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Content			

To

All Trading Members of the Exchange

Sub: Surveillance Obligations for Trading Members

This is in continuation to Exchange notice no. 20130220-23 dated February 20, 2013 informing trading members regarding release of Beta Version of e-BOSS (Member Surveillance System) for downloading the following Transactional Alerts to the trading members of the Exchange.

Sr. No.	Transactional Alerts	Segment
1.	Significant increase in client activity	Cash
2.	Sudden trading activity in dormant account	Cash
3.	Clients/Group of Client(s), dealing in common scrips	Cash
4.	Client(s)/Group of Client(s) concentrated in a few illiquid scrips	Cash
5.	Client(s)/Group of Client(s) dealing in scrip in minimum lot size	Cash
6.	Client / Group of Client(s) Concentration in a scrip	Cash
7.	Circular Trading	Cash
8.	Pump and Dump	Cash
9.	Wash Sales	Cash & Derivatives
10.	Reversal of Trades	Cash & Derivatives
11.	Front Running	Cash
12.	Concentrated position in the Open Interest / High Turnover concentration	Derivatives
13.	Order book spoofing i.e. large orders away from market	Cash

The trading members are hereby further informed that the aforementioned transactional alerts are indicative in nature and the trading members can derive their own alerts in addition to the said transactional alerts as per their surveillance policy.

Therefore, the contentions of the Noticee cannot be accepted in this regard.

28. The investigation of SEBI brought out that none of the brokers generated any alerts or reported any reversal of trades executed by their respective clients. Thus, by not having a system in place to identify repeated trade reversals which they were required to do as per the aforesaid notice of BSE, the brokers failed to prevent such clients from executing fraudulent transactions in the stock options of BSE. In the instant matter, I also note that the Noticee failed to identify the impugned reversal trades in the instant matter right away or even later, which also indicates that they lacked a system in place to identify such trade reversals.

29. In this regard it is pertinent to refer to the following orders of The Hon'ble Securities Appellate Tribunal:

a. In the matter of M/s. Triveni Management Consultancy Services Ltd. vs SEBI (Appeal no. 33 of 2013), it was, *inter-alia*, held that:

"..15

.. Clearly in almost all deals, orders are placed so as to ensure matching of buy and sell quantity and buy and sell price with counter party, with whom prior tacit understanding existed. ***Buy and sell orders are placed at almost same time between counter party clients, with just difference of a few seconds. Matching of these trades was not noted in a solitary incident or two****, instead, a large number of synchronized trades got matched regularly,* ***most of which were also reversed****.*

.. This Tribunal in Ketan Parekh Vs. Securities & Exchange Board of India (Appeal No. 2 of 2004) held that in order to find out whether a transaction has been executed with intention to manipulate market or defeat its mechanism will depend upon intention of parties which could be inferred from attending circumstances because direct evidence in such cases may not be available.

..16.

From foregoing it can be seen that Appellant by allowing its client to trade in fashion as described above which led to manipulation of the market, ***cannot be absolved of responsibility bestowed on him as a market intermediary to provide access to clients without conducting due diligence as required under provisions of law****. Basic duty of due* *diligence could be least expected from any market participant and failure on part of Appellant in this basic duty and has led to manipulation through synchronized, structured trades, **which were also found to be reversal in nature too**, among Mehta Group entities."*

b. In the matter of M/s SPFL Securities Limited vs SEBI (Appeal no. 177 of 2018) order dated October 11, 2019, it was, inter-alia, held that:

   "..10.

   Therefore, it is clear that at the time of the impugned trades no mechanism had been implemented by the broker in avoiding such self-trades and synchronized trades which are clearly a negligence from the side of the broker. Therefore, there is no defect in the finding that the broker did not follow due diligence and skill in avoiding market manipulation by their clients.

   ..15.

   .. Similarly, given the frequency of self-trades and the fact that some of these were executed from the same terminal of SPFL, the finding that SPFL failed to do proper due diligence and therefore violated the code applicable for brokers under the Broker Regulations also cannot be disputed"

c. In the matter of Magnum Equity Broking Limited vs SEBI (Appeal no. 393 of 2015), it was, inter-alia, held that:

   ..

   22.

   *..In the case before us however, the Impugned Order against the Appellants **herein states clearly that by acting as broker for buyer and the counterparty broker for the seller of shares,** it was rather easy for the Appellant to ensure synchronization of trades to give the impression of a large number of trades being executed in the scrip of the two aforementioned companies. **In any case, it is hard to deny that the Appellant definitely failed in its duty to be responsible and diligent by not stopping the perfectly synchronized trades and aiding its clients** in creating an artificial volume in the scrips of ADPL and WTIL."*

30. In view of the above and in view of the fact that 5 reversal trades were executed by the clients of Noticee on March 09, 2015, I hold that the Noticee failed to exercise care and diligence in the conduct of business while dealing with its clients.

Alerts generated and communicated by BSE with the Noticee during IP

31. BSE vide email dated November 06, 2020, informed SEBI that alerts were generated and communicated to 20 Brokers whose clients had executed trade reversals on same day as well as T+1 day. BSE further informed that no broker reported any suspicious transactions to exchange being executed on stock options segment of BSE during I.P. The aforesaid mentioned communication of BSE and additional relied upon documents in this regard were also provided to the Noticee vide email dated January 31, 2023.

32. On perusal of the said records it is noted that the Noticee is one of the aforementioned brokers, to whom BSE had communicated alerts in respect of reversal trades executed by its clients during the investigation period. In this context, I note that the Noticee, *inter-alia*, made the following submissions in its reply to the SCN:

   i. *Alert for 17/03/2015 :* ***Alerts were generated after-market hours for trades executed on 17/03/2015****."*

   ii. *Alert for 19/03/2015:* ***Alerts were generated for trades executed on behalf of few clients on 19/03/2015 for which we came know after-market hours from BSE.***

   iii. *It may kindly be observed from the above,* ***that our compliance team missed to check the BSE alerts On 17/03/2015 post market hours****. There was no clue of such alerts being generated, On coming to know about such alerts been generated we immediately discontinued such trades*

(Emphasis added)

33. On perusal of the above it is clear that BSE had communicated alerts to the Noticee starting March 17, 2015. The same has not been disputed by the Noticee. Further,

the Noticee submitted that its compliance team missed to check the alerts received for March 17, 2015. It is an undisputed fact the clients of the Noticee executed reversal trades on March 19, 2015 i.e. even after the Noticee receiving alerts from BSE on March 17, 2015. In this context, I note that on receiving the alerts, the Noticee as a registered stock broker and a market intermediary was expected to carry due diligence and skill in detecting and avoiding non-genuine trades such as reversal trades by its clients. It was further expected of the Noticee to identify and put in place systems to avoid execution of non-genuine trades by its clients. However, the fact that reversal trades were executed by the clients of Noticee on March 19, 2015, indicates that the Noticee continued to enable and facilitate its clients in execution of such trades. Further, I note that despite making the Noticee aware of the reversal trades through BSE alerts, the Noticee failed to prevent the execution of such trades by its clients. Further, it is reiterated that the Noticee was also obligated to *inter alia,* ensure*,* monitor and report reversal of trades in derivatives segment and have a surveillance policy as given under BSE notice dated March 07, 2013. However, I note that the Noticee failed to fulfil the aforementioned obligations as regards the instant case.

34. In this regard it is pertinent to refer to the following orders of The Hon'ble Securities Appellate Tribunal:

    a. In the matter of M/s. Triveni Management Consultancy Services Ltd. vs SEBI (Appeal no. 33 of 2013), it was, *inter-alia*, held that:

    "..17. Regulation 4(1) of PFUTP lays that no person shall indulge in fraudulent or an unfair trade practice in securities. Regulation 4(2) (a) of PFUTP, prohibits a person from indulging in an act which creates false or misleading appearance of trading in securities market. Regulation 4(2)(b) of PFUTP prohibits dealing in a security not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in price of such security for wrongful gain or avoidance of loss. Regulation 4(2)(e) lays down that any act or omission amounting to manipulation of price of a security will amount to manipulation. Regulation 4(2)(o) prohibits encouraging client by an intermediary to dealt in securities

solely with object of enhancing his brokerage or commission. Clauses A (1) to A (5) of Code of Conduct in Brokers Regulations state that a broker shall maintain integrity, exercise due skill and care in his business and not indulge in manipulative, fraudulent or deceptive transactions with a view to distort market equilibrium or shall not create false market singly or in concert with others that leads to inference with fair and smooth functioning of the market. Furthermore, a broker shall abide by all provisions and statutory requirements of SEBI Act and rules.

18. It is noted from submissions made by Appellant that Appellant has not substantiated its claim that they were in fact acting in the prudent manner. Appellant was expected to be diligent and use required skill and care while acting as a broker, in which Appellant has failed. ***Appellant cannot plead ignorance and shrug off its responsibility as a broker. Therefore, explanations of Appellant are not satisfactory.***

19. ***In the light of the above transactions, it is established that Appellant has violated Regulations 4(1), (2) (a), (b), (e) & (o) of PFUTP and Regulation 7 read with Clauses A(1), A(2), A(3) A(4) & A(5) of Code of Conduct for Stock Brokers as specified in Schedule II of the Broker Regulations****.*

b. In the matter of Galaxy Broking Limited. vs SEBI (Order dated January 29, 2010) it was, inter-alia, held that:

"

..The appellant before us is a stock broker registered with the Securities and Exchange Board of India (for short the Board). It is alleged to have executed circular and reverse trades while trading on behalf of its client. It is not in dispute that the appellant executed trades (both buy and sell orders) on behalf of a client by the name of Chaitanya Raote. On January 8, 2004 it is alleged to have sold shares on behalf of the client and the counter party broker was Pilot Credit and the buy client was Deepak Vyas. This trade was reversed 17 minutes later on the same day at a higher price. Deepak Vyas then sold the very shares through Pilot Credit and the appellant purchased the same on behalf of its client. It is a clear instance

of reverse trades which cannot happen on the trading system unless the client and the brokers are in league with each other.

2.

*..***The present appeal has been filed by the broker who executed the trades. Since these very trades have already been found to be manipulative and circular in nature, the impugned order has to be upheld***. In this view of the matter, no fault can be found with the impugned order passed by the adjudicating officer imposing a monetary penalty of Rs.4 lacs on the appellant.*

In the result, the appeal fails and the same is dismissed with no order as to costs.

c. In the matter of Sunil Shares and Stock Pvt. Ltd. vs SEBI (Order dated August 05, 2010) it was, inter-alia, held that:

"3.

Having seen the frequency with which they were trading and reversing the trades, we have no doubt that the trades were being manipulated and that the buy and sell orders were put into the system at almost the same point of time with a difference of a second or two for the same quantity and at the same price. We have also no doubt that such matching orders could not result into trades without the knowledge and connivance of the appellant as a stock broker. Their pattern of trading leaves no room for doubt that they executed synchronized trades with a manipulative intent and created artificial volumes by executing fictitious trades. ***There was no change of beneficial ownership in the traded shares. In this view of the matter****, no fault can be found with the findings recorded by the adjudicating officer.*

..

5.

..We have also no hesitation in rejecting the plea of the appellant that because the terminal had been used by the client, it (the appellant) was not liable for the manipulative trades. ***No matter who used the terminal, the appellant as a stock broker cannot escape its liability for the orders***

that were punched through its terminals. *For the reasons recorded above, we find no merit in the appeal and the same stands dismissed with no order as to costs.”*

35. In view of the observations made above and in respect of the fact that reversal trades were executed by the clients of Noticee during the investigation period, I hold that the Noticee did not exercise due care and diligence in the conduct of its business while dealing with its clients, which is in violation of Schedule II A (2) of Code of Conduct for Stock Brokers r/w Regulation 9 (f) of the Broker Regulations. Further, I hold that the Noticee not only failed to identify such non genuine trades but also continued to enable its clients in execution of fraudulent transactions (reversal trades) on exchange which is in violation of Section 12 A(a), (b), (c) of SEBI Act, 1992 r/w Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations.

Issue No. 2- Does the violation attract monetary penalty under Section 15HA and Section 15HB of SEBI Act?

36. As the violations were established against the Noticee as observed in the previous paragraphs, I note that the Noticee is liable for monetary penalty under Section 15HA and Section 15HB of the SEBI Act. The text of Section 15HA and Section 15HB of the SEBI Act is reproduced below:

SEBI Act

Penalty for fraudulent and unfair trade practices.

15HA.*If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.*

SEBI Act

Penalty for contravention where no separate penalty has been provided.

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

<u>Issue No.3 - What should be the quantum of monetary penalty</u>?

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

Factors to be taken into account while adjudging quantum of penalty.

Section 15J *- While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

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

38. I note that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, suffered by the investors due to such violations on the part of the said Noticee.

39. However, it is pertinent to note that the role of a Broker/Trading Member(TM) is crucial to the development of the securities market, as the broker is the first mile of contact for the majority of the investors. In this regard, the role of a Broker is crucial as a facilitator of investors into the securities market. So, it is of utmost importance that every Broker abides by the relevant regulations, provisions of SEBI/ Stock Exchange circulars and various guidelines issued by SEBI/ Stock Exchanges. Stock-Brokers are also required to maintain high standards of integrity, promptitude and fairness and to act with due skill, care and diligence in conduct of its business. The non-compliances on the part of the Noticee as brought out in the preceding

paragraphs clearly shows that it has failed to exercise due care and diligence in the conduct of their business while dealing with their respective clients. Further, I the Noticee has not submitted anything to prove that they had put in place an effective surveillance policy. It is further pertinent to mention that an adjudication order dated February 28, 2023 was passed against the Noticee wherein a monetary penalty of Rs. 10,00,000 /- was imposed in respect of the violations as mentioned therein. Thus, the present case is another instance of violation of securities laws by the Noticee.

40. I am of the view that as a regulator of the capital markets, SEBI has the duty to safeguard the interest of investors and protect the integrity of the securities market. Since the conduct of the Noticee was not in the interest of investors in the securities market, penalty needs to be imposed on it, else it may lead to loss of investors' trust in the securities market.

ORDER

41. Having considered all 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, read with Rule 5 of the Adjudication Rules, I hereby impose the monetary penalty on the Noticees as given in the table below:

Noticee	Violations established	Penal Provisions	Penalty
M/s/ Kripa Securities Private Limited	Section 12 A (a), (b), (c) of SEBI Act r/w Regulations 3(a), (b), (c), (d) and 4(1) of PFUTP Regulations	Section 15HA of the SEBI Act	Rs. 5,00,000/-(Rupees Seven Lakhs only)
	Schedule II A (2) of Code of Conduct for Stock Brokers r/w Regulation 9 (f) of the Broker Regulations	Section 15HB of the SEBI Act	Rs. 2,00,000/-(Rupees Seven Lakhs only)
Total amount of penalty			**Rs. 7,00,000/- (Rupees Seven Lakhs Only)**

42. I am of the view that the penalty imposed on the Noticee as mentioned above will be commensurate with the violations committed by the Noticee.

43. 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

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

Place: Mumbai **N HARIHARAN**

Date: May 12, 2023 **ADJUDICATING OFFICER**