

SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

ORDER

UNDER SECTIONS 11(1), 11(4) AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992.

IN RESPECT OF –

NOTICEE No.	NAME	PAN
1.	M/S CAPPROIN FINANCIAL ADVISORY SERVICES	AAJFC0166C
2.	SOURABH RAI	AVUPR3304B
3.	JASMEET KAUR BAGGA	BNTPB7100D

IN THE MATTER OF CAPPROIN FINANCIAL ADVISORY SERVICES.

BACKGROUND

1. Securities and Exchange Board of India (“SEBI”) received two separate complaints through the SEBI Complaints Redress System portal (“SCORES”) i.e. dated April 18, 2015 and June 16, 2015, against M/s Capproin Financial Advisory Services (“Capproin /Noticee no.1”), a partnership firm with two partners, viz. Sourabh Rai (“Noticee no. 2”) and Jasmeet Kaur Bagga (“Noticee no. 3”) (hereinafter collectively referred to as “Noticees”). The complainants *inter alia* stated that they had availed of investment advisory services from the Noticees upon payment of consideration. The complainants also stated that they had lost money on their investments.
2. Thereafter, the matter was examined by SEBI to verify the veracity of the information brought out in the complaints and to ascertain whether there had been any violation of the provisions of the SEBI Act, 1992 (“SEBI Act”), the SEBI (Investment Advisers) Regulations, 2013 (“IA Regulations”) and any other Rules or Regulations.

SHOW CAUSE NOTICE

3. Consequent to completion of examination in the matter, a *Show Cause Notice dated March 12, 2020* (“SCN”) was issued to the Noticees, based on the findings of the examination. In this regard, the SCN *inter alia* alleged that the Noticees carried out investment advisory activities and held themselves out as ‘*investment adviser*’ without obtaining a Certificate of Registration from SEBI in violation of the provisions of Section 12(1) of the SEBI Act read with Regulation 3(1) of the Investment Advisers Regulations.

4. The details with regard to service of SCN are provided as under:

Sr · No ·	NOTICEE	SCN No. AND DATE	SCN SENT THROUGH SPEED POST ACKNOWLEDGEMENT DUE (“SPAD”) AT THE FOLLOWING ADDRESS	DELIVERY STATUS	NEWSPAPER WHERE PUBLIC NOTICE WAS PUBLISHED
1.	M/S CAPPROIN FINANCIAL ADVISORY SERVICES	SEBI/WRO/ARO/ILO/P/OW/ 5401/1/2020 Dated 12.03.2020	88-89, OFFICE No.301, CENTRE POINT, SAPNA SANGEETA MAIN ROAD, INDORE- 452001	RETURNED UNDELIVER ED	ENGLISH – TIMES OF INDIA (INDORE EDITION) ON OCTOBER 12, 2021 HINDI – RAJ EXPRESS ON OCTOBER 12, 2021
2.	SOURABH RAI	SEBI/WRO/ARO/ILO/P/OW/ 5402/1/2020 Dated 12.03.2020	VILLAGE HATHWASH, TEHSIL PIPARIYA, HOSHANGABAD, MADHYA PRADESH- 461775	DELIVERED	
3.	JASMEET KAUR BAGGA	SEBI/WRO/ARO/ILO/P/OW/ 5403/1/2020 Dated 12.03.2020	401, CHHINDAVADA STEDIVAN, WARD No.24, CHHINDWARA, TEHSIL- CHHINDWARA, MADHYA PRADESH- 480002	RETURNED UNDELIVER ED	ENGLISH – TIMES OF INDIA (INDORE EDITION) ON OCTOBER 12, 2021 HINDI – RAJ EXPRESS ON OCTOBER 12, 2021

5. Although the service of the SCN was effected through SPAD /newspaper publication, no reply was received from any of the Noticees.
6. Thereafter, an opportunity of hearing was granted to the Noticees on July 5, 2022. The details with regard to service of hearing notice are provided as under:

Sr. No.	NOTICEE	HEARING NOTICE NO. AND DATE	HEARING NOTICE SENT THROUGH SPAD /E – MAIL AT THE FOLLOWING ADDRESS	DELIVERY STATUS	NEWSPAPER WHERE PUBLIC NOTICE WAS PUBLISHED
1.	M/S CAPPROIN FINANCIAL ADVISORY SERVICES	SEBI/WRO/ILO/AN/OW/P/25 183/1/2022 Dated 20.06.2022 SEBI/WRO/ILO/AN/OW/P/25 185/1/2022 Dated 20.06.2022	88-89, OFFICE No.301, CENTRE POINT, SAPNA SANGEETA MAIN ROAD, INDORE- 452001 410,CITY PLAZA REGAL SQUARE, MG ROAD, INDORE MADHAYA PRADESH-452001	RETURNED UNDELIVERED	ENGLISH – TIMES OF INDIA (INDORE/BHOP AL EDITION) ON 7.07.2022 HINDI – NAI DUNIA (INDORE EDITION) ON 7.07.2022
2.	SOURABH RAI	SEBI/WRO/ILO/AN/OW/P/25 189/1/2022 Dated 20.06.2022	VILLAGE HATHWASH, TEHSIL PIPARIYA, HOSHANGABAD, MADHYA PRADESH- 461775 EMAIL:SOURABH.RAI 09@GMAIL.COM	DELIVERED	ENGLISH – TIMES OF INDIA (INDORE/BHOP AL EDITION) ON 7.07.2022 HINDI – NAI DUNIA (INDORE EDITION) ON 7.07.2022
3.	JASMEET KAUR BAGGA	SEBI/WRO/ILO/AN/OW/P/25 188/1/2022 Dated 20.06.2022	401, CHHINDAVADA STEDIVAN, WARD No.24,CHHINDWAR A, TEHSIL- CHHINDWARA, MADHYA PRADESH- 480002 EMAIL:JASMEET178 8@GMAIL.COM	DELIVERED	

PERSONAL HEARING

7. On July 5, 2022, Noticee no. 2 appeared for the hearing in person while Noticee no. 3 appeared for the hearing through her authorised legal representative i.e. Advocate, Manish Gupta, who made oral submissions on her behalf. Upon conclusion of the hearing, the aforementioned Noticees were granted a weeks' time to file their written submissions. Noticee no. 3 submitted her written submissions vide an e-mail dated July 14, 2022 while Noticee no. 2, upon being granted an extension of four weeks, filed written submissions vide an e-mail dated August 9, 2022.
8. In his reply, Noticee no. 2 *inter alia* submitted as follows:
- i. *The SCN is issued beyond the period of reasonable limitation i.e. nearly after five years of lodging of the complaints by the purported complainants. I received the SCN after 5 years of leaving the firm. I cease working with Noticee no. 1 from February 2015 onwards. There has been an unreasonable and great delay in issuing the SCN which has caused great prejudice to me. Reliance is placed on the decisions of the Hon'ble Supreme Court in SEBI vs. Bhavesh Pabari (2019, SCC Online SC 294) and the Hon'ble SAT in Ashlesh Gunvantbhai Shah vs. SEBI (Appeal no. 169 of 2019), Ashok Shivrul Rupani vs. SEBI (Appeal no. 417 of 2018), Sanjay Jethalal Soni & Others vs. SEBI (Appeal no. 102 of 2019), Subhkam Securities Pvt. Ltd. vs. SEBI (Appeal no. 73 of 2012).*
 - ii. *I deny all the allegations contained in the SCN. I was not aware about the alleged transaction of the complainants and I have never received any money from them.*
 - iii. *I was working under the instruction of Noticee no. 3. The responsibility of day to day business were taken care by her and I was not aware about the old transactions which were entered by her. I was not a partner in Noticee no. 1 but rather, I was working as an employee and was a partner for namesake. I did not take part in the conduct of day to day business.*

- iv. *Noticee no. 3 diverted money from Avenue India Pvt. Ltd. payment gateway annexed in Noticee no. 1's bank account to her own other proprietorship entity account i.e. Research InfoTech. Since I have exited Noticee no. 1 since February 2015, I may not be held vicariously liable for the act done by Noticee nos. 1 and 3.*
- v. *Noticee no. 1 was engaged in research market preparation and publication of the content of the research report, providing research report and was making 'buy /sell /hold' recommendation regarding the current trends and economic situation and was offering an opinion concerning public offer. Accordingly, Noticee no. 1 comes under the ambit of a 'Research Analyst'.*

9. In her reply, Noticee no. 3 *inter alia* submitted as follows:

- i. *There is an unexplained delay of five years in bringing this prosecution and the notice was not delivered to me. I only came to know about this proceeding in 2022. That such a long unexplained delay itself destroys the case of the prosecution as it is barred by limitation.*
- ii. *The complaints were closed in 2015 only within 10–20 days of institution of complaints. So adjudicating on a complaint closed seven years ago would attract Wednesbury principle of reasonableness. I had earlier admitted that I was part of Noticee no. 1; however, the entire operation and functioning of the Company was in the hands of Noticee no. 2, who was the main partner and I was only the sleeping partner who played no active role in Noticee no. 1.*
- iii. *Noticee no. 1 was only giving buy /sell signals in the financial markets and it started functioning in 2013 when the SEBI (Research Analyst) Regulations, 2014 were not in force. An investment adviser undertakes risk profiling and thus, provides personalize service as per financial planning; however, a research analyst provides general buy /sell signals in market.*

FINDINGS:

10. I have considered the SCN, the written submissions filed by the Noticees along with all the material available on record. I note that Noticee no. 1 has not filed

any reply to the SCN or made any submission for consideration during the course of these proceedings despite the opportunities granted to them. Accordingly, in this context, I rely upon the observations of the Hon'ble SAT in ***Sanjay Kumar Tayal & Ors. vs. SEBI (Order dated February 11, 2014 in Appeal no. 68 of 2013)***, wherein it had observed: “... Appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices.” Even though Noticee no. 1 has remained *ex parte*, I nonetheless find it relevant that I should be guided by the documents available on record.

- 10.1 **PRELIMINARY OBJECTION RAISED BY NOTICEE NOS. 2 AND 3:** Before I proceed with the determination of issues in the matter, I feel it appropriate to first deal with the preliminary objection raised by Noticee nos. 2 and 3 regarding the delay in issuance of the SCN in the matter. The Noticee has contended that the SCN was issued beyond the period of reasonable limitation i.e. after a delay of five years from the date of receipt of the complaints by SEBI. From the material available on record, I note that pursuant to receipt of the aforementioned complaints on the SCORES portal in 2015, the complaints were closed on the said portal as they were physically transferred to the SEBI Local Office at Indore for action at their end since the complaints were against an Indore based entity. Thereafter, SEBI conducted an examination into the affairs of Noticee no. 1 which *inter alia* involved collection of relevant material including website pages, ascertaining bank accounts operated by the Noticee(s), etc. for ascertaining the veracity of the allegations contained therein. During the course of the examination, it was also discovered that Noticee no. 3 was also the Proprietor of Research InfoTech, a SEBI registered Investment Adviser with effect from October 30, 2015. SEBI also received several complaints against Research InfoTech in the year 2018 including a complaint dated April 25, 2018 wherein it was alleged that the entity was offering assured return of ₹25 Lakh on an investment of ₹12 Lakh. This therefore also entailed examining the affairs of the aforesaid SEBI registered Investment Adviser. Vide SEBI letter dated December 10, 2018, the Noticees were advised to provide information in

respect of all the investors who had availed advisory services since the start of operations, amount collected from each investors as fees, date of collection of amount, etc. However, even at that stage, the Noticees had not cooperated with SEBI in submitting the required information despite the said letter being delivered to them. The aforementioned fact also contradicts the submission made by Noticee no. 3 that she was not aware of the examination conducted by SEBI in the instant matter and only came to know of the same in the year 2022. Upon completion of the examination in the instant matter and also in the matter of Research InfoTech, an Interim Order dated December 12, 2019, was issued by SEBI, against Noticee no. 3, in the matter of Research InfoTech while the SCN was issued to the Noticees in the instant proceedings. Incidentally, post the aforementioned Interim Order, SEBI issued a Final Order dated June 1, 2021, against Noticee no. 3 in the matter of Research InfoTech *inter alia* restraining her from accessing the securities market and further, prohibiting her from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner whatsoever, for a period of four years. The aforementioned directions were issued in respect of violations committed by Noticee no. 3 of the provisions of the SEBI Act, Investment Advisers Regulations and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003.

- 10.2 In their submissions, apart from the contention that the SCN was issued beyond the period of reasonable limitation, Noticee nos. 2 and 3 have not specifically pointed out as to how the purported delay, if any, had prejudiced them in putting up their defense. It is not the Noticees' contention either that on account of the purported delay, records /documents /evidences that perhaps may be relevant for their defense, if any, could not be accessed by them. Having regard to the chronology of events detailed in the preceding paragraph, I am of the considered view that no prejudice has been caused to Noticee nos. 2 and 3 due to the purported delay in issuance of the SCN. I therefore, find that the Noticees' contention is not sustainable in the facts and circumstances of the present matter.

11. As per the SCN, it is alleged that the Noticees held themselves out as *'investment advisers'* without obtaining registration from SEBI in violation of the provisions of Section 12(1) of the SEBI Act read with Regulation 3(1) of the Investment Advisers Regulations. The aforementioned provisions of law read as under:

Provisions of the SEBI Act:

"Section 12 of the SEBI Act – Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a Certificate of Registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

Provided further that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration."

Provisions of the Investment Advisers Regulations:

“Regulation 3 of the Investment Advisers Regulations – Application for grant of certificate.

3.(1) On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations.”

12. In their submissions, Noticee nos. 2 and 3 have denied carrying on unregistered investment advisory services in violation of the SEBI Act and Investment Advisers Regulations. Noticee nos. 2 and 3 have further contended that the services offered by them were in the nature of ‘*research analyst*’ and not ‘*Investment Adviser*’ as Noticee no. 1 was only giving buy /sell signals in the financial markets. In this context and from the material available on record, the following is noted:

- 12.1 The archived pages of Noticee no. 1’s website i.e. www.capproin.com (the website is no longer active) contained the following information /assertions:

- i. We have been known for serving our customers with utmost care and dedication. Our moto has been always aligned with “Delivery Quality Services” and “Customer Satisfaction”.*
- ii. Our key strengths are “Refined Analysis” and Better Profit Margins”.*
- iii. The following products /services were made available on Noticee no.1’s website, to prospective clients /investors:*
 - *Stock tips,*
 - *Stock future tips,*
 - *Nifty tips,*
 - *Stock option tips,*
 - *positional cash,*
 - *positional future,*
 - *bullion & energy tips,*
 - *base metal & energy tips,*
 - *MCX commodity tips,*

- *premium calls, bullion (Gold + Silver),*
- *Data based inventory calls,*
- *Sure shot premium tips,*
- *BTST /STBT.*

- iv. *Specialized customized services: This service is a new innovative step by Capproin. In this service the calls (are) frequent, domain is tailored according to customer requirements. Definition of this service varies for each customer. This is the best optimized way to achieve great profit.*
- v. *Stock Tips: We provide you with the refined stock cash tips... As a day trader in stock cash with Capproin tips, you can earn profits regularly both in rising and falling markets.*
- vi. *Stock Future Tips: In this package we provide excellent calls in stock futures... Calls in this packages are strictly intraday.*
- vii. *Nifty Tips: ... Capproin studies world market trend and provide tips on major index NIFTY and BANK NIFTY in futures and options in this service.*
- viii. *Stock Options Tips: ... Capproin stock options service is we work with very small orders values of premium and gives high percentage of returns...*
- ix. *Bullion + Energy Tips: In Bullion category capproin is offering Gold Tips and Silver Tips... Combined pack we deliver 2–3 calls in a day according to the moment in the market. We take care of profit margins while making appropriate calls.*

12.2 Through their website, the Noticees offered prospective clients /investors, various subscription packages relating to recommendations for stocks in cash, futures and option, etc. An illustration of the pricing details for some of the services offered, for periods ranging from one month to a year, is reproduced below:

I. Stock Tips

<i>1 Month</i>	<i>6000 Buy</i>
<i>2 Month</i>	<i>9000 Buy</i>
<i>Quarterly</i>	<i>12000 Buy</i>
<i>Half Yearly</i>	<i>17000 Buy</i>
<i>Yearly</i>	<i>25000 Buy</i>

II. Nifty Tips

<i>1 Month</i>	<i>5000 Buy</i>
<i>2 Month</i>	<i>8000 Buy</i>
<i>Quarterly</i>	<i>10000 Buy</i>
<i>Half Yearly</i>	<i>15000 Buy</i>
<i>Yearly</i>	<i>23000 Buy</i>

12.3 Payment for the services offered by the Noticees could be made at the following Bank accounts mentioned on Noticee no. 1's website i.e. *ICICI Bank account no. 657105600203* and *Axis Bank account no. 913020014398053*. From the Account Opening Forms received from ICICI Bank and Axis Bank, it is observed that Noticee nos. 2 and 3 were the authorised signatories to access and operate the said bank accounts and the total credits received in the aforesaid bank accounts for the period from January 1, 2014 to September 2015 amounted to ₹75,19,961, as detailed below:

BANK	AS PER THE ACCOUNT OPENING FORM, AUTHORISED SIGNATORIES TO ACCESS AND OPERATE THE A/C	AMOUNT IN ₹
<i>ICICI BANK ACCOUNT NO. 657105600203</i>	<i>SOURABH RAI AND JASMEET KAUR BAGGA, PARTNERS OF CAPPROIN FINANCIAL ADVISORY SERVICES</i>	<i>75,19,961</i>
<i>AXIS BANK ACCOUNT NO. 913020014398053</i>		

12.4 From the Account Opening Form for the ICICI Bank account of Noticee no. 1, it is seen that the nature of business was recorded as '*Financial Advisory Services*'. Further, from the Establishment Certificate issued for Noticee no. 1, by the concerned Assistant Labour Commissioner /Inspector, Madhya Pradesh Govt. under the provisions of the Madhya Pradesh Shops and Establishments Act, 1958 (the aforementioned was part of the KYC documents submitted to ICICI Bank and Axis Bank), the nature of business was also recorded as '*Financial Advisory*'.

12.5 From the above, it is gathered that the Noticees were offering tips relating to the share market to investors so that they could trade in the share markets and

earn profits. Also, from the screen-grabs of the webpages of www.capproin.com (which was active at the given point of time), it is seen that the Noticees were offering tips relating to shares, bullion, futures and options. Further, it is also seen that the tips relating to the above-mentioned asset classes were curated into various services /packages, viz. Stock future tips, Nifty tips, MCX commodity tips, etc. I find that a) the Noticees were offering tips and recommendations relating to securities; and b) the tips and recommendations were for the clients /investors to invest, purchase, sell or deal in securities. Thus, it is established that the services offered by the Noticees were indeed in the nature of '*investment advice*'.

12.6 Furthermore, for making payment for the said services /packages, the website provided details with respect to bank accounts maintained with ICICI Bank (A/c no. 657105600203) and Axis Bank (A/c no. 913020014398053). In this context, it is noted that earlier, vide a SEBI letter dated December 10, 2018, the Noticees were advised to provide information in respect of all the investors who had availed advisory services since the start of operations, amount collected from each investors as fees, date of collection of amount, etc. However, even at that stage, the Noticees had not cooperated with SEBI in submitting the required information. Considering the conduct of the Noticees in the instant proceedings, I find that the amount of ₹75,19,961/- which was received in the Noticee no. 1's ICICI Bank and Axis Bank accounts, was nothing but consideration /fees received from investors /clients in lieu of investment advisory services offered to them.

12.7 It is reiterated that although both the ICICI Bank and Axis Bank accounts were opened in the name of Noticee no. 1, the authorised signatories to access and operate the said bank accounts were Noticee nos. 2 and 3. In view of the said fact, I find that the beneficiaries of the amounts credited to aforementioned bank accounts were Noticee nos. 2 and 3.

12.8 The definition as given in Regulation 2(m) of the Investment Advisers Regulations states that '*Investment Adviser*' shall mean "*any person, who for consideration, is engaged in the business of providing investment advice to*

clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called". Further, Regulation 2(l) of the Investment Advisers Regulations defines '*Investment Advice*' as "*advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning.*" The aforementioned definitions when viewed in light of the observations contained in the preceding paragraphs lead me to conclude that the Noticees had indeed held themselves out as '*Investment Adviser*' by offering to give '*Investment Advice*' related to investing in, purchasing and selling of securities in lieu of consideration received for subscription to services offered by it, to prospective investors /clients. Considering the aforementioned, I am not inclined to accept the Noticees' contention that the services offered were in the nature of '*research analyst*' and not '*Investment Adviser*'.

12.9 Section 12(1) of the SEBI Act *inter alia* provides that no investment adviser shall buy, sell or deal in securities except under, and in accordance with, the conditions of a Certificate of registration obtained from the Board. Further, Regulation 3(1) of the Investment Advisers Regulations provides that no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a Certificate of registration from the Board. It is pertinent to mention that while Noticee nos. 1 and 2 were never registered with SEBI in any capacity as an intermediary, Noticee no. 3 was registered with SEBI as an investment adviser in her capacity as Proprietor of Research InfoTech with effect from October 30, 2015. Therefore, by operating as '*Investment Adviser*' as defined under Regulation 2(m) of the Investment Advisers Regulations for the period from January 1, 2014 to September 2015, without obtaining registration from SEBI, I find that the Noticees had violated Section 12(1) of SEBI Act read with Regulation 3(1) of the Investment Advisers Regulations.

12.10 In their submissions, Noticee nos. 2 and 3 have both contended that although they were partners in Noticee no. 1, they nonetheless were partners for

namesake and were not involved in the day to day running of Noticee no. 1's business. Further, Noticee nos. 2 and 3 have each sought to portray themselves as mere employees working under instructions from one another. I find that the aforementioned Noticees have not substantiated their claims of being mere employees with relevant documentary evidences. In this context, it is pertinent to state that the partnership deed which was obtained from ICICI Bank and Axis Bank, clearly indicated them both as partners in Noticee no. 1. Further, the bank account statements of Noticee no. 1, while containing debit entries towards salary payments made to certain individuals, did not however contain similar debit entries evidencing salary paid by Noticee no. 1 to Noticee nos. 2 and 3.

12.11 In view of the above, specific reference is made to Section 27 of the SEBI Act. The said provision reads as under:

"27. (1) Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time of the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section, —

(a) “company” means anybody corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.”

12.12 It is evident from the above—mentioned provision that for a contravention by a partnership firm, the persons who at the time of the contravention were in charge of and were responsible to the partnership firm for the conduct of the business of the partnership firm shall also be deemed to be guilty. Accordingly, the partners of Noticee no. 1, viz. Sourabh Rai and Jasmeet Kaur Bagga, squarely fall within the scheme of this provision. Further, the partners who have made submissions in response to the allegations in the SCN, have not been able to show that the contraventions were committed without their knowledge or that they had exercised all due diligence to prevent the commission of such actions. That being the case, there is no ground to exclude liability of any of the partners for the contraventions of Noticee no. 1.

12.13 Specific reference is also made to Section 4 of the Indian Partnership Act, 1932 (**“Partnership Act”**). The said section defines a *‘partnership’* as the relation between persons who have agreed to share the profits of a business carried on by all or any of them for all. The persons entering into a partnership with one another are individually called as *‘partners’* and collectively the *‘firm’*, and the name under which their business is carried out is called the *‘firm name’*. Under section 2(a) of the Partnership Act, an *‘Act of Firm’* means any act or omission by all the partners, or by any partner or agent of the firm which gives rise to a right enforceable by or against the firm. Further, as per Section 25 of the Partnership Act, *“Every partner is liable jointly with all the other partners and also severally, for all acts of the firm done while he is a partner.”* Therefore, even under the scheme of the Partnership Act, as partners, Noticee nos. 2 and 3 were responsible for the contraventions committed by Noticee no. 1.

12.14 Thus, from the above, it is clear that the partners, namely Jasmeet Kaur Bagga and Sourabh Rai are liable for the amount of fees /consideration collected by the Noticees as a result of providing unregistered *‘Investment Advice’* to clients /investors.

13. The SCN had *inter alia* called upon the Noticees to show cause as to why suitable directions under Sections 11(1), 11(4) and 11B of the SEBI Act, should not be issued against them. In the instant proceedings, the amount of fees /consideration collected by the Noticee as a result of providing unregistered '*Investment Advice*' to investors, amounted to ₹75,19,961. In light of the findings in the preceding paragraphs, I am of the considered view that the Noticees' are liable to refund the aforementioned amounts collected as fees in lieu of unregistered '*Investment Advice*' offered to its clients /investors. Accordingly, a direction to the Noticees to refund such amount will be in the interest of investors in the securities market. I however, note that the SCN does not identify any particular investor or any specific group of investors who have suffered losses due to unauthorized activity carried out by the Noticees.

ORDER

14. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11(1), 11(4) and 11B read with of Section 19 of the SEBI Act, hereby direct that:
- (a) The Noticees, Capproin Financial Advisory Services and its partners i.e. Sourabh Rai and Jasmeet Kaur Bagga, shall within a period of three months from the date of coming into force of this Order, refund the money received from any complainants /investors /clients, as fees /consideration or in any other form, in respect of its unregistered investment advisory activities.
 - (b) The Noticees shall cause to effect a public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, inviting claims from complainants /investors /clients within a period of fifteen (15) days from the date of this Order. The said public notice shall detail the modalities for refund, including the details of the contact persons such as names, addresses and contact details. A period of two (2) months from the date of the publication of the public

notice shall be provided to the complainants /investors /clients for submitting their claims.

- (c) The repayments to the complainants /investors /clients shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments.
- (d) Within a period of 15 days after completing the refund as directed in paragraph 14(a) above, the Noticee shall file a report detailing the amount refunded to complainants/ investors / clients, which should be addressed to the *“Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, SEBI Bhavan II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai –400051”*. The above mentioned report should be duly certified by an independent Chartered Accountant and should indicate the amount of refund, mode of payment by bank transactions, name of the parties, communication address, mobile / telephone numbers, etc.
- (e) The remaining balance amount shall be deposited with SEBI, which shall be kept in an escrow account for a period of one year for distribution to complainants/ clients / investors who were availing the investment advisory services from the Noticee. Thereafter, the remaining amount, if any, shall be deposited in the Investors Protection and Education Fund, maintained by SEBI.
- (f) The Noticees are restrained from selling their assets, properties and holding of mutual funds /shares /securities held by them in demat and physical form except for the sole purpose of making the refunds /depositing balance amount with SEBI, as directed above. Further, the banks are directed to allow debit only for the purpose of making refunds to the complainants /investors /clients who were availing the

unregistered investment advisory services from the Noticee, as directed in this Order, from the bank accounts of the Noticee.

- (g) The Noticees are debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of **three years** from the date of this Order or till the expiry of **three years** from the date of completion of refunds to complainants /investors /clients along with depositing of balance amounts, if any, with SEBI, as directed in paragraphs 14(a) and 14(e), whichever is later.
 - (h) Upon submission of reports on completion of refunds to complainants /investors /clients to SEBI and deposit of the balance amount if any, with SEBI, the direction at paragraph 14(f) shall cease to operate within fifteen days thereafter.
 - (i) The Noticees shall not undertake, either during or after the expiry of the period of debarment /restraint as mentioned in paragraph 14(g), either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws.
15. The above direction for refunds /repayment to clients /investors and depositing the balance amount with SEBI, as given in paragraphs 14(a) and 14(e) above, does not preclude such complainants /investors /clients to pursue other legal remedies available to them under any other law against the Noticees for refund of money or deficiency in service.
16. This Order shall come into force with immediate effect.

17. A copy of this Order shall be served upon the Noticees. A copy of this Order shall also be forwarded to the recognised Stock Exchanges, Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions and also the Government of Madhya Pradesh for its information.

Place: Mumbai
Date: December 26, 2022

ASHWANI BHATIA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA