NRO/RECOVERY/PACL/2022/57298/1
November 10, 2022

DEPUTY GENERAL MANAGER & RECOVERY OFFICER
NORTHERN REGIONAL OFFICE
Tel.: 011 69012958, recoverynro@sebi.gov.in

1. Vivaria Global Developers
(PAN: AAHFV8532F)
(Partnership Firm)
Office no. 4, Vishal Appartment,
L. T. Road, Borivali (West),
Mumbai – 400093

2. Devang Bhupendra Shah
(PAN: AADPS1211L)
(Partner)
Office no. 4, Vishal Appartment,
L. T. Road, Borivali (West),
Mumbai – 400093

3. Deval Devang Shah
(PAN: AADPS1212K)
(Partner)
Office no. 4, Vishal Appartment,
L. T. Road, Borivali (West),
Mumbai – 400093

4. Agnelorajesh Athaide
(PAN: AAIPA1723G)
(Partner)
Office no. 4, Vishal Appartment,
L. T. Road, Borivali (West),
Mumbai – 400093

5. Ralph Thomas Pereira
(PAN: AFFPP2325H)
(Partner)
Office no. 4, Vishal Appartment,
L. T. Road, Borivali (West),
Mumbai – 400093

Notice under section 28A of SEBI Act, 1992 read with Section 226 (3)(i) of the Income –tax Act, 1961

1. Whereas a Recovery Certificate No. 832 dated December 11, 2015 has been drawn up by the Recovery Officer for recovery of a sum of Rs. 49,100 crore *(Rupees Forty Nine Thousands One Hundred Crores)* along with promised returns, in terms of order no. WTM/PS/30/CIS/NRO/AUG/2014 dated August 22, 2014 issued by SEBI, further interest, all costs, charges and expenses in

recovering the said sum, against PACL Ltd. and its promoters and directors and the same is due from them in respect of the said certificate.

2. And Whereas the Hon'ble Supreme Court of India vide Order dated February 02, 2016 in Civil Appeal no. 13301/ 2015 – Subrata Bhattacharya Vs Securities and Exchange Board of India *inter alia* directed sale of properties of PACL Limited under the supervision of a Committee headed by Justice (Retd.) Shri R. M. Lodha (hereinafter referred to as "Committee").

3. And Whereas the Hon'ble Committee was in receipt of copy of letter(s) dated 13.12.2018, 01.11.2018, 06.09.2018 and 02.07.2018 addressed to Vivaria Global Developers (VGD) by PACL Ltd. *inter alia* demanding the refund of amount of ₹15,49,44,000/- (Rupees Fifteen Crore Forty-Nine Lakh and Forty-Four Thousand only) along with accrued interest, given to VGD against purchase of 3 flats in the project Santa Ritta, Plot no. 204 in the Estates plan no. of Salsatte, Catholic Co – operative Housing Society Limited, bearing Survey no. C/258 of village Bandra (West), Mumbai – 400050.

4. And whereas the Hon'ble Committee vide letter dated 14.01.2019 *inter alia* directed VGD to deposit the monies advance/received from PACL Ltd along with accrued interest in the bank account of the Committee. (**Copy of the letter dated 14.01.2019 is enclosed as Annexure "A").**

5. And Whereas the Economic Offence Wing, Bureau of Investigation (EOW-IB), Chandigarh, Punjab on 17.03.2022 *inter alia* informed the Hon'ble Justice (Retd.) R. M. Lodha Committee (Committee) about the 2 properties to be the properties of PACL Limited as found during an investigation in a case FIR No.79 dated 17.07.2020 being conducted by EOW-IB.

6. And whereas as directed by the Hon'ble Committee the prohibitory order dated 31.03.2022 was issued by the recovery officer, SEBI, in exercise of the powers conferred under Rule 16 and 48 of the Second Schedule to the Income tax Act, 1961 read with Section 28A of the SEBI Act, 1992, prohibiting the defaulters from disposing, transferring, alienating, or charging in respect of properties mentioned in the table below. Further, vide aforesaid prohibitory order, all persons were also

prohibited from taking any benefit under such disposal, transfer, alienation or charge in respect of the properties mentioned in the table below.

S. No.	Property Description
1.	Flat no. 2 admeasuring about 571.9 Sq. M. on the entire 2nd floor of the building known as 'Santa Ritta', situated on Plot No. 204 in Kantwadi Scheme of Salsette Cooperative Housing Society Ltd. in its Estate Plant No.1 bearing CTS No. C/858 of village Bandra situated at St. John's Road, Bandra (West), Mumbai 400050
2.	Flat no. 3 admeasuring about 571.9 Sq. M. on the entire 3rd floor of the building known as 'Santa Ritta', situated on Plot No. 204 in Kantwadi Scheme of Salsette Cooperative Housing Society Ltd. in its Estate Plant No.1 bearing CTS No. C/858 of village Bandra situated at St. John's Road, Bandra (West), Mumbai 400050

7. And Whereas EOW- IB, Punjab on 21.04.2022 *inter alia* informed to the Hon'ble Committee that the properties mentioned at table above, were sold to PACL Ltd by Vivaria Global Developers (VGD).

8. And whereas, Mr. Devang Shah, one of the partners / directors of VGD through letters dated 04.05.2022, 17.05.2022 and 17.07.2022 has submitted before the Hon'ble Committee that VGD has received ₹16,49,44,000/- (Rupees Sixteen Crore Forty-Nine Lakh and Forty-Four Thousand only) from PACL Ltd towards booking of the properties mentioned at table above and subsequently ₹1,00,00,000/- (Rupees One Crore only) was returned to PACL Ltd through banking channel. It was also informed by VGD that neither the flats were allotted to PACL Ltd nor any agreement for the sale in respect of the aforesaid flats, had been executed in favour of PACL Ltd.

9. And whereas as VGD has failed to pay the aforesaid balance amount, the Nodal Officer Cum Secretary to the Hon'ble Committee vide letter dated 19.07.2022 *inter alia* directed VGD to remit ₹15,49,44,000/- along with accrued interest from the date of receipt of advance money by VGD, to the bank account of the Committee. It was also informed by the Hon'ble Committee to VGD that failure to comply with aforesaid direction would entail appropriate action as mandated by the Hon'ble

Supreme Court. (**Copy of the letter dated 19.07.2022 is enclosed as Annexure 'B'**)

10. And Whereas, VGD vide letter dated 28.07.2022 had accepted the receipt of net amount of ₹15,49,44,000/- from the PACL Ltd.

11. And Whereas the Hon'ble Supreme Court of India vide Order dated February 02, 2016 in Civil Appeal no. 13301/ 2015 – Subrata Bhattacharya Vs Securities and Exchange Board of India *inter alia* directed as :

"12. The amount, which is lying in the bank accounts of the Company and other cash belonging to the Company shall be released in favour of SEBI so that it can be used either for disbursement in favour of the investors or for incurring necessary expenditure".

12. And whereas the Hon'ble Committee has directed the Recovery officer, SEBI to recover the money of ₹15,49,44,000/- along with accrued interest, from Vivaria Global Developers and its directors / partners, from the date of receipt of aforesaid amount by aforesaid entities.

13. Accordingly, this notice is being issued under section 28 A of SEBI Act, 1992 read with Section 226(3)(i) of the Income Tax Act, 1961 to the Vivaria Global Developers and its partners viz. Devang Bhupendra Shah, Deval Devang Shah, Agnelorajesh Athaide and Ralph Thomas Pereira under section 226(3)(i) of the Income Tax Act, 1961, which stipulates as under:

"The Assessing Officer or Tax Recovery Officer may, at any time or from time to time, by notice in writing require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the Assessing Officer or Tax Recovery Officer either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount."

14. Accordingly, Vivaria Global Developers and its partners viz. Devang Bhupendra Shah, Deval Devang Shah, Agnelorajesh Athaide and Ralph Thomas Pereira are hereby directed to remit an amount of ₹15,49,44,000/- along with further accrued interest (i.e. 1% per month till the date of payment to SEBI) from the date of receipt of advance money by VGD from PACL Ltd, in SEBI RECOVERY PROCEEDS Account payable at Mumbai (or) through EFT / NEFT / RTGS to bank account no. – SEBIRRDCIS832 of ICICI Bank, IFSC code – ICIC0000106, as the amount belonging to PACL and due to PACL /investors of PACL, within 15 (Fifteen) days of the receipt of this Notice.

15. Upon remittance of funds, an email may be sent to the undersigned with details of remittance at rajeevr@sebi.gov.in, ishpreets@sebi.gov.in and recoverynro@sebi.gov.in .

16. The Hon'ble Supreme Court by order dated 06.10.2021 in C.A. No.13301/2015 titled Subrata Bhattacharya Vs. Securities and Exchange Board of India, has *inter alia* observed as follows:

"12. ……. This Court has created a mechanism by virtue which, third parties who have objections, including to orders of restraint or attachment are facilitated in having their objections heard through the auspices of an officer appointed by this Court, Shri R. S. Virk, former District Judge, has been entrusted with the task. ….."

Accordingly, in case of any objections to this notice, the same may be filed before the Justice Shri R S Virk (former district judge) at 4th Floor, Plot No.226, A-2, Sector 17, Dwarka, New Delhi.

17. This notice is being issued in exercise of powers conferred under section 28A of SEBI Act, 1992 read with 226 (3) of the Income–tax Act, 1961.

Given under my hand and seal at New Delhi this 10th day of November, 2022.

Rajeev Rastogi

Seal

भारतीय प्रतिभूति और विनिमय बोर्ड Securities and Exchange Board of India उ.क्षे.का. वसूली प्रभाग

Recovery Officer

राजीव रस्तोगी / RAJEEV RASTOGI
वसूली अधिकारी एवं उप महाप्रबंधक
Recovery Officer & Deputy General Manager
भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board
उत्तरी प्रादेशिक कार्यालय/Northern Regional Office
नई दिल्ली/New Delhi

Annexure- A

Justice (Retd.) R. M. Lodha Committee
(in the matter of PACL Ltd.)

Ref. No. JRMLC/PACL/ 6042/1517/2019 Date: 14.01.2019

Vivaria Global Developers
Plot No. AH-1, Unit No.-1
Cama Industrial Estate
Walbhat Road, Goregaon (East)
Mumbai- 400063

Sir,

Sub: Recovery notices dated December 13, 2018, November 01, 2018 & September 06, 2018 and July 02, 2018 issued by PACL Limited

Please refer to captioned letters addressed by PACL Limited (**"PACL"**) to Vivaria Global Developers (**"Vivaria"**) with a copy marked to the Committee, wherein it is mentioned that PACL Limited has advanced a total of Rs. 16,49,44,000/- (Rupees sixteen crore forty-nine lakh and forty four thousand only) to you (till May 31, 2012) against the booking of 3 flat in Santa Ritta, Plot. No. 204 in the Estate Plan No. of Salsatte, Catholic Co-operative Housing Society Limited, Survey No. C/258, Bandra (West). It is further observed that PACL has also mentioned therein that Vivaria has paid back Rs. 1,00,00,000/- (Rs. One Crore) on October 13, 2014, while the balance amount of Rs. 15,49,44,000/- (Rs. Fifteen Crore, forty nine lakh and forty four thousand) is pending with Vivaria. The copy of letters sent to you are enclosed and marked as **Annx A.**

In this regard, please note that the Hon'ble Supreme Court of India vide order dated February 02, 2016 has directed the constitution of a Committee under the Chairmanship of Retired Chief Justice of India Shri R M Lodha Committee ("Committee") to sell the properties of PACL Limited and refund the proceeds thereof to investors of PACL Limited.

You are therefore advised to handover the property documents pertaining to the aforesaid flats to the Committee and also deposit the monies advanced/ received from Vivaria along with interest in the bank account of the Committee, details whereof are as below:

Name of the bank :	Canara bank
Name Account Holder:	Securities and Exchange Board of India
Account Number :	0172101101304
IFSC Code:	CNRB0000172
Address :	Canara Bank, Nariman Point, Mumbai

Yours sincerely,

(Nodal officer cum Secretary)
Justice (Retd.) R M Lodha Committee in the matter of PACL Ltd.

Encl: as above

CC: PACL Limited, 410, Indraprakash Building, Barakhamba Road, New Delhi-110001

Address for correspondence only
SEBI Bhavan, BKC, Plot No. C4-A, 'G' Block, Bandra Kurla Complex, Bandra (East), Mumbai - 400 051

Justice (Retd.) R. M. Lodha Committee

(in the matter of PACL Ltd.)

Ref. No. JRMLC/PACL/ 4004|15/01/2019 Date: 14.01.2019

Vivaria Global Developers
Plot No. AH-1, Unit No.-1
Cama Industrial Estate
Walbhat Road, Goregaon (East)
Mumbai: 400063

Sir,

Sub: Recovery notices dated December 13, 2018, November 01, 2018 & September 06, 2018 and July 02, 2018 issued by PACL Limited

Please refer to captioned letters addressed by PACL Limited (**"PACL"**) to Vivaria Global Developers (**"Vivaria"**) with a copy marked to the Committee, wherein it is mentioned that PACL Limited has advanced a total of Rs. 16,49,44,000/- (Rupees sixteen crore forty-nine lakh and forty four thousand only) to you (till May 31, 2012) against the booking of 3 flat in Santa Ritta, Plot. No. 204 in the Estate Plan No. of Salsatte, Catholic Co-operative Housing Society Limited, Survey No. C/258, Bandra (West). It is further observed that PACL has also mentioned therein that Vivaria has paid back Rs. 1,00,00,000/- (Rs. One Crore) on October 13, 2014, while the balance amount of Rs. 15, 49,44,000/- (Rs. Fifteen Crore, forty nine lakh and forty four thousand) is pending with Vivaria. The copy of letters sent to you are enclosed and marked as **Annx A.**

In this regard, please note that the Hon'ble Supreme Court of India vide order dated February 02, 2016 has directed the constitution of a Committee under the Chairmanship of Retired Chief Justice of India Shri R M Lodha Committee ("Committee") to sell the properties of PACL Limited and refund the proceeds thereof to investors of PACL Limited.

You are therefore advised to handover the property documents pertaining to the aforesaid flats to the Committee and also deposit the monies advanced/ received from Vivaria along with interest in the bank account of the Committee, details whereof are as below:

Name of the bank :	Canara bank
Name Account Holder:	Securities and Exchange Board of India
Account Number :	0172101101304
IFSC Code:	CNRB0000172
Address :	Canara Bank, Nariman Point, Mumbai

Yours sincerely,

(Nodal officer-cum Secretary)
Justice (Retd.) R M Lodha Committee in the matter of PACL Ltd.

Encl: as above

CC: PACL Limited, 410, Indraprakash Building, Barakhabha Road, New Delhi-110001

Annexure-B

Justice (Retd.) R. M. Lodha Committee
(in the matter of PACL Ltd.)

Ref. No. JRMLC/PACL/ P49 | 6419 | 29404/1/2022 July 19, 2022

Vivaria Global Developers
Office No 4, Vishal Apartment,
LT Road, Borivali (W),
Mumbai: 400 092

Dear Sir,

Sub.: Regarding settlement of account of PACL with Vivaria Global Developers.

Ref: Your letters dated 17.05.2022, 04.05.2022 and our letter dated 14.01.2019 in the matter of PACL

1. This has reference to your communications dated 04.05.2022 and 17.05.2022 in respect of funds amounting to Rs. 15,49,44,000/- (Rs. Fifteen Crores Forty-Nine Lacs Forty-Four Thousand only) transferred by PACL Ltd. to Vivaria Global Developers towards purchase of residential properties in Santa Rita Building, Plot No. 204, Kantwadi Scheme of Salsette Co-operative Housing Society Ltd in Estate Plan No. 1, CTS No. C/858, Bandra, (West), Mumbai.

2. You have in the aforesaid communication informed that you have neither allotted the flats to PACL Ltd. nor any agreement for sale in respect of the said flats have been executed in favor of PACL Ltd.

3. In this connection your attention is drawn to the recovery notice sent by the Committee vide letter dated 14.01.2019 wherein reference was made to the recovery notice issued by PACL vide letter dated 06.09.2018 and 01.11.2018 and you were advised to deposit the money along with accrued interest in the bank account of the Committee.

Address for correspondence only:
SEBI Bhavan, BKC, Plot No. C4-A, 'G' Block, Bandra-Kurla Complex, Bandra (East), Mumbai - 400 051

Ref. No. JRMLC/PACL/

4. In view of the foregoing, you are, directed to forthwith remit the Rs.15,49,44,000/- along with accrued interested from the date of receipt of advance to the Bank account of the Committee, the details of which are as given below:

Bank Name - Canara Bank,
Account Name- Securities and Exchange Board of India
Account No. - 0172101101304
IFSC Code CNRB0006643

5. Please note that failure to comply would entail appropriate action as mandated by the Hon'ble Supreme Court.

Yours sincerely,

Nodal Officer cum Secretary
Justice (Retd.) R M Lodha Committee
(In the matter of PACL Ltd.)

Address for correspondence only:
SEBI Bhavan, BKC, Plot No. C4-A, 'G' Block, Bandra-Kurla Complex, Bandra (East), Mumbai - 400 051