BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OFINDIA

ADJUDICATION ORDER NO. Order/BM/JR/2022-23/ 20379 - 20387

UNDER SECTION15-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 AND UNDER SECTION 23I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of:

S. No.	Name	PAN Number
1.	**M/s. F6 Finserve Pvt. Ltd.**	**AABCF0080D**
2.	**Pankaj Goel**	**ACTPG7828D**
3.	**Meenu Goel**	**AFSPG7531F**
4.	**Praveen Sharma**	**ACDPS3164Q**
5.	**Asha Sharma**	**AWHPS6616H**
6.	**Sanjay Anand**	**AADPA9398N**
7.	**Kavita Anand**	**ABHPA9289M**
8.	**Deepak Goel**	**ADEPG1122G**
9.	**Ruchika Goel**	**AIAPG7306B**

In the matter of F6 Finserve Private Limited

Facts of the Case:

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**) conducted a comprehensive inspection of M/s. F6 Finserve Private Limited (hereinafter referred to as "**Noticee 1**") from August 10 to August 30, 2017, at its office address at 206, 2nd Floor, Sewa Corporate Park, M. G. Road, Gurgaon – 122 002. The period covered in the inspection was from April 01, 2015 to July 31, 2017 (hereinafter referred to as '**Inspection Period/ IP'**). Noticee 1 is a SEBI-registered Stock Broker having SEBI registration number INB231467334, INF231467334,

INE231484739 with NSE and INB011467330, INF011467330, INB011467330 with BSE.

2. After the completion of inspection, the inspection report was forwarded to the Noticee 1 vide letter and email dated February 2, 2018 for its comments. However, no comments were received from Noticee 1. The extracts of violations alleged to have been committed by Noticee 1 and its directors and the corresponding provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**"), SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to securities market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**"), SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 (hereinafter referred to as "**Brokers Regulations**") and SEBI Circulars are given in the tabulation below:

Sr. No.	**Alleged Violations**	**Regulatory Provisions**
1	Non-settlement of funds and securities of inactive clients	Clause 12 of Annexure to SEBI Circular no. MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 33 of Rights and Obligations documents for Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 04 of the SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011
2	Non-segregation and misuse of clients' funds	SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993
3	Non-segregation and misuse of clients' securities	SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993
4	Mis-utilising client securities by pledging	Section 12A (a), (b) & (c) of SEBI Act and Regulation 3(a), (b), (c) and (d) of the PFUTP Regulations
5	Wrong reporting of margin	SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011 read with SEBI Master

Sr. No.	Alleged Violations	Regulatory Provisions
		Circular No. CIR/DNPD/1/2012 dated January 02, 2012 and NSE Circular No. NSE/INSP/19583 dated December 14, 2011
6	Non-redressal of investor grievances	Circular No. CIR/MRD/ICC/30/2013 dated September 26, 2013 and the conditions of registration as specified under Regulation 9 (e) of Brokers Regulations.
7	Non-submission of information	Regulation 26(ii) of Brokers Regulations

3. Based on the findings of inspection, SEBI initiated adjudication proceedings against Noticee 1 and its directors Pankaj Goel (hereinafter referred to as "**Noticee 2"**), Meenu Goel (hereinafter referred to as "**Noticee 3"**), Praveen Sharma (hereinafter referred to as "**Noticee 4"**), Asha Sharma(hereinafter referred to as "**Noticee 5"**), Sanjay Anand (hereinafter referred to as "**Noticee 6**"), Kavita Anand (hereinafter referred to as "**Noticee 7"**), Deepak Goel (hereinafter referred to as "**Noticee 8"**) and Ruchika Goel (hereinafter referred to as "**Noticee 9"**) (hereinafter collectively referred to as "**Noticees**") under the provisions of sections 15A(a), 15C, 15HA and 15HB of SEBI Act and section 23D of SCRA for the alleged violations of the relevant provisions of the securities law.

Appointment of Adjudicating Officer:

4. The undersigned was appointed as the Adjudicating Officer vide Communiqué dated November 17, 2021 to conduct adjudication proceedings in the manner specified under rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**SEBI AO Rules**") and rule 4 of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as "**SCRA AO Rules**") for the alleged violations committed by the Noticees.

Show Cause Notice, Reply and Personal Hearing:

5. Show Cause Notice dated May 24, 2022 (hereinafter referred to as 'SCN') was issued to the Noticees under rule 4(1) of the SEBI AO Rules and rule 4(1) of the SCRA AO Rules to show cause as to why an inquiry should not be held and penalty be not imposed on it under sections 15A(a), 15C, 15HA and 15HB of SEBI Act and section 23D of for the alleged violations. The SCN alleged that the Noticees committed the following:

   a) Non-settlement of funds and securities of inactive clients
   b) Non-segregation and misuse of clients' funds
   c) Non-segregation and misuse of clients' securities
   d) Mis-utilising client securities by pledging
   e) Wrong reporting of margin
   f) Non-redressal of investor grievances
   g) Non-submission of information

6. The SCN was delivered to the Noticees in the following way:

Noticee No.	Name of Noticee	Mode of Delivery
1	F6 Finserve Pvt. Ltd.	Newspaper publication
2	Pankaj Goel	Hand Delivery – Received by security
3	Meenu Goel	Hand Delivery – Received by security
4	Praveen Sharma	SPAD
5	Asha Sharma	SPAD
6	Sanjay Anand	Hand Delivery
7	Kavita Anand	Hand Delivery
8	Deepak Goel	Newspaper publication
9	Ruchika Goel	Newspaper publication

7. Noticee 4, vide letter dated June 15, 2022 replied to the SCN stating, inter alia, the following:

   - *My name is Praveen Sharma, s/o Late Maj M.L Sharma, a resident of Gurgaon and a Merchant Navy Officer.*
   - *Kotak bank officials in Delhi along with Pankaj Goel s/o M.L Goel, MD of F6 Finserve and F6 Commodities (Share broker in Gurgaon) cheated me and my wife Asha Sharma. Pankaj Goel's wife was a family friend of my wife and a resident of Gurgaon. From*

time to time Pankaj Goel had taken loans from me and when he was unable to pay, he convinced us to join his firm (F6 Finserve) as directors and later dishonestly persuaded us to submit our house papers to Kotak Mahindra Bank to increase the net worth of the company for IPO and assured that he would return the monetary loan taken on easy installments through monthly payments. He siphoned off funds and absconded with his family. The Loan became NPA and the bank initiated Sarfaesi act to recover its loans in 2018.

- *We are not the borrowers in this case but victims of a fraud and conspiracy hatched by Pankaj Goel- Director of F6 Finserve Ltd in collusion with the officials of the Kotak Mahindra Bank.*
- *FIR was filed on 26th Aug 2019 through Hon Patiala Court order against Pankaj Goel and the Bank officials and the case is under Investigation by the EOW Delhi.*
- *The bank failed to carry out due diligence on the credit worthiness of the borrowers prior giving loan against the personal guarantee of the guarantors. The principles of extending loan requires the net worth of the loan seeker to be considered as well as their payback capability in individual capacity but in this case, the officials of the kotak bank deliberately created liabilities on us despite the fact that we never had the commensurate capacity to pay back in case of default of the said loan against RBI guidelines.*
- *The bank did not deliberately provide us copies of signed documents under the Fair Practice Code for Lenders per the Guidelines of RBI under para 2 (ii) (a) Due diligence on the credit worthiness of the borrowers and under (b) & (c) vide its circular DBOD-BC104/09.07.2007/2002-03 dated 5.05.2003 directs that: The lender should convey to the borrower the credit limit along with the terms and conditions thereof and keep the borrower's acceptance of these terms and conditions given with his full knowledge on record- We were given none.*
- *Under BCSBI (Banking Codes and Standards Board of India)- The bank should give written receipt for all documents / title deeds etc. taken as security/collateral for any loan- We were given none in spite of multiple reminders.*
- *Cross mortgage of our properties to 2 diff companies (F6 Finserve & F6 Commodities). How could bank extend or enhance loans of appox 29 cr against property worth appox 3 cr jointly and severely. When they give loans of only 60 percent against the property value*
- *A letter from Sanjay Anand but signed by Meenu Goel, impersonating herself as "Sanjay Anand" accepted by the Bank on 01.02.2016 allowing a STL of 1.5 Cr shows clear collusion between the duo, where the Bank overlooked a serious flaw and impersonation. Sanjay Anand was never a director of F6 commodity still the bank accepted the request and extended the STL.*
- *On dated 26.04.2017, Mrs. Meenu Goel got approval for banking facility of 5 Cr without being a signing authority.*
- *I had asked for my house papers from Pankaj Goel in March 2017 but the renewal of Bank facilities was carried out and illegally signed on my behalf on 17th April 2017 in my absence when I was sailing onboard ship and out of India.*
- *Under Point no 12 of Kotak Mahindra MFA for loans & Guarantees, the stamp paper date should be equal to or greater than the date of sanction letter, directs the agreement papers to be prepared on or after the bank facility offer, but in this case, they were prepared before the said date i.e. 26 May 2016, shows fraud & collusion and fraud vitiates all agreements.*

- *Under Point no 22 of Kotak Mahindra MFA: Board of Resolution for the guarantee/security has to be executed prior execution of an agreement, but the BOR was never executed and given to the bank on or before 31 May 2016.*
- *The Bank gate pass entries are tampered and made for 2 dates while we visited bank only once on 31st May 2016.*
- *There are multiple instances where the bank renewed the facilities even after the expiration of the offer letter to Pankaj Goel.*
- *Our flat was in our joint name and without Asha sharma the property could not be mortgaged. Hence under the instructions of the bank, Pankaj Goel conspired and appointed Asha Sharma too as non-executive director in F6 Finserve Pvt. Ltd.*
- *Ajay Bansal in 2009 and Rakesh Garg in 2016 were made the directors of the company without their wives is proof of the modus operandi as the respective people had properties in their individual names but they resigned in due course. The sole purpose of inducting us (Praveen and Asha Sharma) as directors in F6 Finserve was to take our properties for the mortgage to raise loans.*
- *We have been duped and are victims in this case.*

8. Noticees 6 and 7, vide email dated July 14, 2022 replied to the SCN stating, inter alia, the following:

- *Before anything else, it is imperative and pertinent to place on record that I am not associated with M/s F 6 Finserve Private Limited (hereinafter referred to as the "said company") or any of its sister concerns or subsidiaries or agencies or group companies, in any manner, whatsoever. I had resigned from the Non-Executive Directorship of the said company with effect from January 1, 2018 and the said fact was duly communicated / intimated to Registrar of Companies (RoC) and the same has been duly noted, recorded and accepted by SEBI. Therefore, no negative insinuations and imputations, if any, can be made or asserted against the undersigned.*
- *That the undersigned has been wrongly blamed and the Notice has been issued without understanding the nature of association and involvement of the undersigned with the said company or other named entities in the notice under reference and the extent of control that the undersigned had over the said company. The fact that the undersigned himself being the victim of serious and grave offences of criminal breach of trust, abetment, cheating, dishonesty and fraud committed by Mr. Pankaj Goel (Managing Director of M/s F 6 Finserve Private Ltd.) against the undersigned, further beyond a shadow of doubt, goes on to prove and makes it clear that the undersigned has no role, whatsoever, with respect to the alleged non–compliances and other actions as recorded in the notice under reply.*
- *As explained herein the undersigned had no say in the affairs of the company and it was only Mr. Pankaj Goel (by whom the notice allegedly observes unusual transactions), who was and is solely responsible for the affairs of the said company and that the undersigned himself is the victim of fraud played by Mr. Pankaj Goel.*
- *That it is pertinent to mention that the undersigned resigned from the affairs of the Company, much before any action as brought about by SEBI existed or investigation was ever communicated to the undersigned. Furthermore, at no point during the limited and restricted association of the undersigned with the company, the SEBI reached out to the undersigned, involved the undersigned in its investigation or made him known of any such investigation or alleged violations. Regardless, it is humbly submitted that if*

Mr. Pankaj Goel had been successful in denying information or restrict SEBI or NSE and impede its investigation, as mentioned in the Notice under question, how can it be expected from undersigned , being a private citizen to have information of the affairs of the company. That said, SEBI being a powerful body, itself took several years to investigate and allegedly conclusively find violations. Therefore, to attribute the violations to the undersigned is farfetched and has no logical basis to it.

- *That the undersigned has never actively participated in the affairs of the company and is not an officer of the said company, instead has been retained by the company for his professional competency and other considerations as explained herein below.*
- *That the undersigned had no role to play with the operations of the company and was not involved in any decision taken by the management. The undersigned was not in control of the day to day affairs of the company and was merely associated with the company in the capacity of the Non-Executive Director. The undersigned's limited association with the company was hastened and established at the instance of Mr. Pankaj Goel, for the sole objective of fulfilling Mr. Goel's own criminal designs.*
- *Further, the undersigned neither ever held nor holds any shares in M/s. F 6 Finserve Private Limited and has never transacted therewith and has no role to play in respect of the trades or business or any other operations that the company conducted.*
- *The undersigned has no relation/ nexus either with the directors, promoters, preferential allottees or with any other shareholders of the company.*
- *That it is self-evident from the company's financials that the undersigned did not derive any benefit from any alleged transactions. Therefore, it is imperative for the SEBI to consider going through the financial details of the company, as it goes on to prove that the undersigned did not derive any benefit from his association with the company; moreover he lost substantial sums of money and even lost his house, his only place of abode, due to the fraud played by Mr. Pankaj Goel.*
- *It is to be appreciated by SEBI that the undersigned had initiated criminal as well as civil action against Mr. Pankaj Goel, much before the undersigned had any intimation or information or notice of the investigation of alleged violations by the Company.*
- *That presently a police complaint which had been filed by the undersigned against Mr. Pankaj Goel, Managing Director of the said company is pending investigation before Gurugram Police and the outcome of the said investigation is imperative and has bearing on the present inquiry or investigation undertaken by SEBI. For appreciation by SEBI, details of all bona-fide actions taken by the undersigned along with his wife-Ms. Kavita Anand who is also the Noticee No. 7 in the notice, against Mr. Pankaj Goel is also provided hereunder and the same shall be considered by SEBI before casting or fixing any blame or liability on the undersigned as per the notice:*
- *Criminal Complaint with SHO – DLF Phase – II, DCP East, Gurugram Police and Commission of Police, Gurugram; An LOC has been issued against him and is said to be absconding.*
- *Application under Section 156(3) Cr.P.C. along with Criminal Complaint under section 200 Cr.P.C., filed before the Hon'ble Court of Ld. Chief Judicial Magistrate, Gurugram, registered with Complaint case no. 332/2018, praying for action against the Accused persons under section 107, 109, 405, 408, 409, 415, 418, 420, 421, 468 of the IPC wherein the Hon'ble Court has taken notice of the application and the complaint filed along and has pursuant to its order dated July 10, 2018 an Action Taken Report from the concerned IO has been filed. Presently the matter has been transferred*

to EOW, Gurugram Police and therefore an ATR was filed by IO from EOW, Gurugram Police;

- *Mr. Pankaj Goel , had collectively executed four Loan Agreement in favour of the undersigned and his wife – Ms. Kavita Anand, whereby Mr. Pankaj Goel had specifically acknowledged the amounts payable by him to them and had also issued cheques to discharge the said amounts. A Complaint under Section 138 of Negotiable Instruments Act, 1881 had been filed before the Ld. Court of Sh. Vivek Tomar, Ld. Judicial Magistrate Ist Class, Gurugram, registered with Complaint no. 25735/2018. The Ld. Court vide its orders dated October 6, 2018 has issued Non-bailable warrants against the Accused i.e. Mr. Pankaj Goel and subsequently he has been declared PROCLAIMED OFFENDER in the said case.*
- *Additionally, the undersigned and his wife under inducement from Mr. Pankaj Goel had mortgaged their house property, for a loan facility availed by F6 Finserve Private Limited and have been dispossessed of their abode by the actions of Kotak Mahindra Bank Limited.*
- *The undersigned further states that the undersigned has not caused any loss to any investors nor has he made any wrongful profits at the cost of any other person, while being associated with the said company. It may also be noted that even where the corporate veil is lifted the undersigned cannot be held liable as there is nothing to show that the undersigned was responsible for causing any losses to investors or any wrongful gains or unjust enrichment to himself as he did not conduct the day to day operations of the company and has also been the victim of nefarious and sinister plans of Mr. Pankaj Goel. The undersigned is also a victim and has lost huge amounts of his hard earned savings.*
- *Mr. Pankaj Goel therefore has not only illegally and wrongfully defrauded the undersigned and his wife of their hard earned money which he took in the form of loans or advances for his personal and company's use but had also dishonestly and wrongfully, by way of inducement, caused them to mortgage their residential property which is their only place of abode. The undersigned and his wife have fallen trap of the foul play and are victims of well thought, planned and executed nefarious and sinister plans of Mr. Pankaj Goel, whereby they have lost everything to the cheating, criminal breach of trust and fraud committed by Mr. Pankaj Goel.*
- *In the light of the objections and facts mentioned above, the undersigned himself being the victim of the serious fraud played by Mr. Pankaj Goel accordingly and humbly requests that SEBI may most graciously drop all proceedings against the undersigned and his wife Kavita Anand (Noticee No.7) as this reply to the captioned notice may be construed as her's as well.*

9. In the interest of natural justice an opportunity of personal hearing was given to the Noticees. Noticee 1, 8 and 9 were intimated through newspaper publication (Times of India dated August 31, 2022, Delhi edition and Gurgaon Mail dated August 31, 2022) to appear for personal hearing on September 19, 2022. However, no one appeared on the scheduled date. Hearing notice dated August 22, 2022 was issued to Noticees 2 and 3 to appear for personal hearing on September 20, 2022. The notice returned undelivered. Another opportunity of personal hearing was given to

Noticees 2 and 3 on October 6, 2022 vide notice dated September 22, 2022. The notice was affixed at the last known address of Noticees 2 and 3. An opportunity of personal hearing was given to Noticees 4, 5, 6 and 7 to appear for personal hearing on September 20, 2022. Noticees 6 and 7 vide email dated September 1, 2022 stated that "*I think there is no need to appear for the hearing personally or through representatives*." Noticees 4 and 5, vide email dated September 18, 2022 requested to reschedule the date of personal hearing. Acceding to their request another opportunity of personal hearing was given to Noticees 4 and 5 on October 7, 2022. Noticees 4 and 5 appeared on the scheduled date and reiterated the submissions made vide letter dated June 15, 2022.

10. Further, vide email dated October 8, 2022, Noticees 4 and 5 made additional submissions stating, inter alia, the following:

- *"Ms. Meenu Goel (Noticee No.3) and Ms. Asha Sharma (Noticee No.5) have been friends since childhood. The friendship remained strong and owing to the same both of them remained friends post marriage as well. Resultantly, the families became very close to each other and the husbands also remained friends.*
- *That sometime in 2013, Noticee No.2 approached us asking for a personal loan for Noticee No.1 and for him as well. Initially I was not in favour of the same, however, after much persuasion by Noticee No.2, I agreed to loan some amount to Noticee No.2 only on the pretext and promise that the said loan amount would be returned to me. Owing to the personal relation no loan agreement was ever signed between us.*
- *Therefore, between 2013-16 I loaned Noticee No. 2 monies in personal capacity for Noticee No.1 and Noticee No.2. Till date I have loaned an amount of Rs. 49,80,000/- to Noticee No.1 and 2 in total. In 2016 I approached the Noticee No.2 for the repayment of the loan amount but, Noticee No.2 expressed his inability to do so. But I was adamant in taking back my monies as it was all my life savings. However, the Noticee No.2 in lieu of non-payment of loan amount offered me and my wife, Ms. Asha Sharma, a position as Non- Designated Directors in the Noticee No.1 along with share-holding in Noticee No.1.*
- *Unaware about the intentions of Noticee No.2 or the sick position of Noticee No.1 and only with the intent to have our monies back, we agreed for the same. Hence, a Board Resolution dated 03.04.2016 was passed wherein we were appointed as Non-Designated Directors of Noticee No.1, without any shareholding in Noticee No.1.*

- *On 11.04.2016, I approached Noticee No.2 regarding issuance of shareholding to us in Noticee No.1 as promised by him. However, Noticee No.2 informed us that he would be soon going for Noticee No.1's IPO and that we both would get 5% shareholding in Noticee No.2. Noticee No.2 then again asked us for monetary help, however, I categorically informed him that I had exhausted all my life savings for the initial loan amount. Then the Noticee No.2 suggested me that I should pool in my properties with Kotak Mahindra Bank as also done by other Directors and himself. The same would lead to an enhancement of net worth of Noticee No.1 which will consequently lead to IPO. He then promised that post the IPO he would return our loaned amount in instalments.*
- *After much persuasion from Noticee No.2 and misrepresentation by Kotak Mahindra Bank officials I along with Noticee No.4 were induced to pool in our properties for increasing the net worth. The two property papers owned by us were handed over to Kotak Mahindra Bank were:*
    - i. *Plot No. 122 L, Model Town, Rewari, Haryana - 123401.*
    - ii. *Flat No. 902, 9th Floor, Tower No. 12, Valley View Estate, Gwal Pahari, Gurugram – 122003.*
- *We handed over the documents of the said Properties to Kotak Mahindra Bank, Aerocity Office, New Delhi against the daily settling overdraft banking facility availed by Noticee No.1. On 31.05.2016. I repeatedly asked the bankers and Noticee no.2 for copies of documents for my record however, I was given none.*
- *It is pertinent to mention here that, I am a merchant navy officer and my work is mostly on the ship. In a year 7-8 months I spend on the ship. Hence, for me to sign documents every other day was not possible. Hence, Noticee No.2 got a few extra papers signed from me on the pretext of increasing over draft. I was scheduled to join ship in February 2016 however, Noticee No.2 lured me into joining Noticee No.1. Therefore, to be close to my family I joined the Noticee No.1 and assisted the online application development It is pertinent to mention that my wife and I even though being Directors never attended any Board meetings, signed any BOR, or were ever involved in any day to day functioning of the Noticee No.1. Further, during my tenure with Noticee No.2, I was paid no salary as well nor did we get 5% shareholding in Noticee No.1.*

- *I then decided to join back my shipping duties as it was getting difficult for me to survive without salary. Hence, in December 2016 I joined back the ship. In March 2017 I again asked Noticee No.2 to return the loan amount as well as my property papers, however, the Noticee No.2 again gave an evasive reply and advised to wait till the end of the financial year closing i.e. 31st Mar 2017 and post that he would return the papers. Thinking the assurances given by Noticee No.2 to be true and with due regards to the personal relations over the years, I did not pay much thought to it and assumed that I shall be repaid and the property papers will be returned as committed.*
- *However, on 31.12.2017 I received a call from one of the biggest investors of Noitcee No.1, Mr. Suresh Gupta, informed that Noticee No.2 had utilised his investments for personal use. After hearing the news, I was shocked as I had absolutely no clue about the daily working of the Noitcee No. 1. Therefore, I called one of the Director, Mr. Sanjay Anand(Noticee no 5), and asked him about the position. To my complete shock Mr. Anand informed me that Noticee no 2-Mr. Pankaj Goel has indeed played fraud. I was shocked and tried to reach out Noticee No.2 however, to no avail. Later, I came to know that Noticee No.2 along with Noticee No.3 and family escaped India and are living in the United States now. After getting knowledge of the entire events my wife and I tendered our resignations on 01.01.2018 and 02.01.2018 respectively.*
- *The above events are the true events and Noticee No.2 has played fraud on us.*
- *Later in Apr 2018, I was called to Kotak Mahindra, Aerocity Branch, where the bankers asked me to repay loan of approx. Rs. 21 crores, as I and my wife had signed as personal guarantors. I was taken aback by the said claim, as I and my wife had never signed any documents as personal guarantors. After inspection and detailed research, I found out that Noticee No.2 along with officials of Kotak Mahindra Bank, Aerocity Branch had played fraud upon my wife and I i.e., Noticee No.4 and 5. An FIR No. 0389/2019 dated 26.08.2019 is lodged at PS IGI Airport against the Accused and now being investigated by EOW Delhi. In furtherance of the same I also raised a complaint with the RBI against Kotak Mahindra Bank, Aerocity Branch dated 25.02.2019.*
- *Hence, the Show Cause Notice issued to us Noticee No.4and 6 is bad in law for the following reasons, inter-alia:*
  a. *It is trite law, that non-executive directors and directors who are not managing/involved in day-to-day affairs of the Company, hence, cannot be held*

liable. That the documents of the Noticee No.1 will clearly show that we were not abreast with the day-to-day affairs of the Company and were just used as scapegoat for monetary purposes. My wife nor I were ever present in any of the board meetings or signed any documents related to Noticee No.1.

b. *Additionally, we as non-executive directors did not have any decision-making power. Moreover, we never attended any board meetings nor did we have any professional expertise to deal with the day to day functioning of the Noticee No.1. Noticee No.2 had the decision-making power and signed all the documents in relation to Noticee No.1. We were mere directors on paper with no authority and knowledge about day to day functioning of Noticee No.1."*

11. I note that sufficient opportunities have been provided to Noticees 1, 2, 3, 8 and 9 to represent their case by way of reply to the SCN and also by way of personal hearing. However, it is a matter of record that the said Noticees failed to furnish their reply and also failed to appear for the personal hearing fixed on the stipulated date despite the service of the SCN through affixture/ hand delivery/ newspaper publication. Therefore, in the absence of reply from the said Noticees and/or their failure to make personal appearance, I am inclined to presume that the said Noticees have nothing to offer in their defence and therefore, they have admitted to the allegations levelled against them in the SCN. In this context, Hon'ble SAT in the matter of Sanjay Kumar Tayal vs SEBI, vide Order dated February 11, 2014 held that "*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 to the charges levelled against them in the show cause notice".* Hence, I am proceeding ex-parte in respect of Noticees 1, 2, 3, 8 and 9.

CONSIDERATION OF ISSUES AND EVIDENCE

12. I have carefully perused the charges levelled against the Noticees in the SCN, the replies and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:-

i. Whether the Noticees have violated the below mentioned provisions of securities Law?
ii. Clause 12 of Annexure to SEBI Circular no. MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 33 of Rights and Obligations documents for Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 04 of the SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011;
iii. SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993;
iv. Section 12A (a), (b) & (c) of SEBI Act and Regulation 3(a), (b), (c) and (d) of the PFUTP Regulations;
v. SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011 read with SEBI Master Circular No. CIR/DNPD/1/2012 dated January 02, 2012 and NSE Circular No. NSE/INSP/19583 dated December 14, 2011;
vi. Circular No. CIR/MRD/ICC/30/2013 dated September 26, 2013 and the conditions of registration as specified under Regulation 9 (e) of Brokers Regulations;
vii. Regulation 26(ii) of Brokers Regulations.

(a) Do the violations, if any, on the part of the Noticees attract monetary penalty under sections 15A(a), 15C, 15HA and 15HB of SEBI Act and section 23D of SCRA?; and,
(b) If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in section 15J of the SEBI Act and section 23J of SCRA?

13. Before moving forward, the relevant extracts of the provisions of SCRA, SEBI Act, Brokers Regulations and provisions of SEBI circulars alleged to be violated by the Noticees are mentioned as under:-

Clause 12 of Annexure to SEBI Circular no. MIRSD/SE/Cir-19/2009 dated December 03, 2009

Running Account Authorization
12. Unless otherwise specifically agreed to by a Client, the settlement of funds/securities shall be done within 24 hours of the payout. However, a client may

specifically authorize the stock broker to maintain a running account subject to the following conditions:
a.The authorization shall be renewed at least once a year and shall be dated.
b.The authorization shall be signed by the client only and not by any authorised person on his behalf or any holder of the Power of Attorney.
c.The authorization shall contain a clause that the Client may revoke the authorization at any time.
d. For the clients having outstanding obligations on the settlement date, the stock broker may retain the requisite securities/funds towards such obligations and may also retain the funds expected to be required to meet margin obligations for next 5 trading days, calculated in the manner specified by the exchanges.
e.The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. While settling the account, the broker shall send to the client a 'statement of accounts' containing an extract from the client ledger for funds and an extract from the register of securities displaying all receipts/deliveries of funds/securities. The statement shall also explain the retention of funds/securities and the details of the pledge, if any.
f.The client shall bring any dispute arising from the statement of account or settlement so made to the notice of the broker preferably within 7 working days from the date of receipt of funds/securities or statement, as the case may be.
g.Such periodic settlement of running account may not be necessary:
i.for clients availing margin trading facility as per SEBI circular ii.for funds received from the clients towards collaterals/margin in the form of bank guarantee (BG)/Fixed Deposit receipts (FDR).
h.The stock broker shall transfer the funds / securities lying in the credit of the client within one working day of the request if the same are lying with him and within three working days from the request if the same are lying with the Clearing Member/Clearing Corporation.
i.There shall be no inter-client adjustments for the purpose of settlement of the 'running account'.
j.*These conditions shall not apply to institutional clients settling trades through custodians. The existing practice may continue for them*.

Clause 33 of Rights and Obligations documents for Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 04 of the SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011.

33. *The stock broker shall make pay out of funds or delivery of securities, as the case may be, to the Client within one working day of receipt of the payout from the relevant Exchange where the trade is executed unless otherwise specified by the client and subject to such terms and conditions as may be prescribed by the relevant Exchange from time to time where the trade is executed.*

The text of the above provision is reproduced below ;

SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993

REGULATION OF TRANSACTIONS BETWEEN CLIENTS AND BROKERS

1. It shall be compulsory for all Member brokers to keep the money of the clients in a separate account and their own money in a separate account. No payment for transactions in which the Member broker is taking a position as a principal will be allowed to be made from the client's account. The above principles and the circumstances under which transfer from client's account to Member broker's account would be allowed are enumerated below.

A] Member Broker to keep Accounts: Every member broker shall keep such books of accounts, as will be necessary, to show and distinguish in connection with his business as a member -

i. Moneys received from or on account of each of his clients and,

ii. the moneys received and the moneys paid on Member's own account.

B] Obligation to pay money into "clients accounts". Every member broker who holds or receives money on account of a client shall forthwith pay such money to current or deposit account at bank to be kept in the name of the member in the title of which the word "clients" shall appear (hereinafter referred to as "clients account"). Member broker may keep one consolidated clients account for all the clients or accounts in the name of each client, as he thinks fit: Provided that when a Member broker receives a cheque or draft representing in part money belonging to the client and in part money due to the Member, he shall pay the whole of such cheque or draft into the clients account and effect subsequent transfer as laid down below in para D (ii).

C] What moneys to be paid into "clients account". No money shall be paid into clients account other than -

i. money held or received on account of clients;

ii. such money belonging to the Member as may be necessary for the purpose of opening or maintaining the account;

iii. money for replacement of any sum which may by mistake or accident have been drawn from the account in contravention of para D given below;

iv. a cheque or draft received by the Member representing in part money belonging to the client and in part money due to the Member.

D] What moneys to be withdrawn from "clients account". No money shall be drawn from clients account other than -

i. money properly required for payment to or on behalf of clients or for or towards payment of a debt due to the Member from clients or money drawn on client's authority, or money in respect of which there is a liability of clients to the Member, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for such each client;

ii. such money belonging to the Member as may have been paid into the client account under para 1 C [ii] or 1 C [iv] given above;

iii. money which may by mistake or accident have been paid into such account in contravention of para C above.

E] Right to lien, set-off etc., not affected. Nothing in this para 1 shall deprive a Member broker of any recourse or right, whether by way of lien, set-off, counter-claim charge or otherwise against moneys standing to the credit of clients account.

2. It shall be compulsory for all Member brokers to keep separate accounts for client's securities and to keep such books of accounts, as may be necessary, to distinguish such securities from his/their own securities. Such accounts for client's securities shall, inter-alia provide for the following:-

a. Securities received for sale or kept pending delivery in the market;

b. Securities fully paid for, pending delivery to clients;

c. Securities received for transfer or sent for transfer by the Member, in the name of client or his nominee(s);

d. Securities that are fully paid for and are held in custody by the Member as security/margin etc. Proper authorization from client for the same shall be obtained by Member;

e. Fully paid for client's securities registered in the name of Member, if any, towards margin requirements etc.;

f. Securities given on Vyaj-badla. Member shall obtain authorization from clients for the same.

3. Member Brokers shall make payment to their clients or deliver the securities purchased within two working days of pay-out unless the client has requested otherwise. Stock Exchange shall issue a Press Release immediately after the pay-out.

4. Member Brokers shall buy securities on behalf of client only on receipt of margin of minimum 20 percent on the price of the securities proposed to be purchased, unless the client already has an equivalent credit with the broker. Member may not, if they so desire, collect such a margin from Financial Institutions, Mutual Funds and FII's.

5. Member brokers shall sell securities on behalf of client only on receipt of a minimum margin of 20 percent on the price of securities proposed to be sold, unless the member has received the securities to be sold with valid transfer documents to his satisfaction prior to such sale. Member may not, if they so desire, collect such a margin from Financial Institutions, Mutual Funds and FII's.

6. Member brokers shall issue the contract note for purchase/sale of securities to a client within 24 hours of the execution of the contract.

7. In case of purchases on behalf of clients, Member brokers shall be a liberty to close out the transactions by selling the securities, in case the client fails to make the full payment to the Member Broker for the execution of the contract within two days of contract note having been delivered for cash shares and seven days for specified shares or before pay-in day (as fixed by Stock Exchange for the concerned settlement period), whichever is earlier; unless the client already has an equivalent credit with the Member. The loss incurred in this regard, if any, will be met from the margin money of that client.

8. In case of sales on behalf of clients, Member broker shall be at liberty to close out the contract by effecting purchases if the client fails to deliver the securities sold with valid transfer documents within 48 hours of the contract note having been delivered or before delivery day (as fixed by Stock Exchange authorities for the concerned settlement period), whichever is earlier. Loss on the transaction, if any, will be deductible from the margin money of that client.

Section 12A (a), (b) & (c) of the 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;

Regulation 3(a), (b), (c) and (d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.

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.

Regulation 9 (e) of the Stock Brokers SEBI and Sub Brokers) Regulations, 1992.

Conditions of registration.

9. Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-

(e) he shall take adequate steps for redressal of grievances, of the investors within one month of the date of receipt of the complaint and inform the Board as and when required by the Board;

Regulation 26(ii) of the SEBI (Stock Brokers and Sub Brokers) Regulations, 1992

26. A stock broker shall be liable for monetary penalty in respect of the following violations, namely—

(ii) Failure to furnish any information, books or other documents within 15 days of issue of notice by the Board.

14. I note that inspection findings are based on analysis of samples and test checking of various books and other records maintained by the Noticee. Consequently, the instances of irregularities/observations pointed out in inspection report are illustrative in nature and are not all-inclusive. I now proceed to discuss the allegations and my observations based on the documents available on record.

Non-settlement of funds and securities of inactive clients:

15. During the inspection it was observed that the Noticee 1 had not done the actual settlement of running accounts of inactive clients as depicted in the table below :

Table 1

Quarter ended	Quarter ended	No. of UCC's whose balances have remained same on last date of successive quarters.	Inactive Not Settled	
			Maximum Amount (in Rs.)	Credit balance not settled (in Rs.)
Jun-15	Sep – 15	401	24,98,956	10,06,659
Sep-15	Dec -15	535	9,74,503	66,98,402
Dec-15	Mar-16	504	9,74,503	32,28,246
Mar-16	June-16	287	9,74,503	26,90,921
Jun-16	Sep-16	258	1,24,093	17,71,281
Sep-16	Dec-16	886	19,97,399	1,49,09,587
Dec-16	Mar-17	891	19,97,399	1,43,31,406

16. From the table above, it is seen that the credit balance not settled ranged from Rs. 10,06,659 to Rs. 1,49,09,587 during the 7 quarters. Further, it was observed that the number of unsettled clients rose from 401 in June 2015 quarter to 891 in March 2017 quarter. Hence, it is alleged that Noticee 1 by not settling inactive clients' funds, was not only using the idle clients' funds but was also exposing the accounts of such clients to the risk of misuse/fraud/unauthorized trading.

17. Noticee 1 has therefore violated the provisions of Clause 12 of Annexure to SEBI Circular no. MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 33 of Rights and Obligations documents for Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 04 of the SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011.

Findings:

18. I note that as per SEBI circular dated December 3, 2009, the actual settlement of funds and securities has to be done by the stock broker, at least once in a calendar quarter or in a month, depending on the preference of the client. However, it is observed from the above table that during the quarter ending June 2015 to September 2015, there were 401 clients who had a consolidated unsettled credit balance of Rs. 10,06,659 and towards the end of the inspection period, i.e., during the quarter ending December 2016 to March 2017 the same had more than doubled in terms of number of clients and outstanding credit balances (running into crores) when SEBI circular dated December 3, 2009 specifically required stock broker to settle the funds of client at least once in a calendar quarter or in a month, depending on the preference of the client. Thus, Noticee 1 instead of taking steps to comply with the mandatory provisions of SEBI circular dated December 3, 2009, was progressively defaulting in its obligations to comply with the circular. It is pertinent to note that by not receiving the statement of account on time as stipulated by SEBI Circular, the clients were kept in dark with respect to the state of affairs in their running accounts maintained with the stock broker, giving rise to the possibility of unauthorised trading by employees, authorized persons, etc. of the stock broker from the accounts of these inactive clients. Clients, whether active or inactive, are entitled to receive the settlement statement periodically as per their preference. This is a prudential norm prescribed by SEBI in the interest of investors so that their funds are not kept unsettled by the stock broker for indefinite periods on any pretext. I note that the aforesaid circular was issued with a view to instill greater transparency and discipline in the dealings between the clients and the stock brokers and to protect the interests of investors in the securities market. The objective of the mandatory provisions of the circular is to keep the investor informed about his/her account, so as to curb any misutilization of funds, thereby safeguarding the integrity of the market which in the instant case, has been completely disregarded by the Noticee.

19. Hence, I find that the above acts of omission by Noticee 1 have been committed in violation of clause 12 of Annexure to SEBI Circular no. MIRSD/SE/Cir- 19/2009 dated December 3, 2009 and clause 33 of Rights and Obligations document for

Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 4 of the SEBI Circular no. CIR/MIRSD/ 16/2011 dated August 22, 2011.

Non-segregation and misuse of clients' funds:

20. During the inspection it was observed that in several instances the funds received from the client were transferred to the Business Account of the Noticee 1 (7511370042) which is an overdraft account. Further, it was observed that funds from clients accounts were transferred to the said overdraft bank account to reduce the burden of interest on the said overdraft exposure. In certain instances, funds received from clients were paid to other clients / transferred to Business account of Noticee 1 or paid to Noticee 2, Director of the Noticee.

21. In order to check whether the Noticee 1 was misusing clients funds, the inspection team sought 12 sample dates and observed that value of 'G" was negative on all the sample dates as depicted in the table below:

Table 2

Date	Total fund balance available in all client bank accounts, including the settlement account, maintained by the stock broker across stock exchanges	Collateral deposited with clearing corporation/ clearing member in form of Cash and Cash Equivalents (Fixed deposit (ED), Bank guarantee (BG), etc.) across all Stock Exchanges. Only funded portion of the BG, i. e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered	Total credit balances of all clients as obtained from trial balance across stock exchanges (after adjusting for open bills for clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligation)	Difference between total available fund & ledger credit balance of clients (G=A+B-C)	% of Credit Funds misused to total Credit Balance
	A	B	C	G	
03-06-2015	15,171,641	33,525,000	98,893,568.88	(50,196,927.74)	**50.76%**
16-06-2015	18,845,174	33,525,000	100,187,745.40	(47,817,571.15)	**47.73%**
30-09-2015	3,734,796	34,925,000	94,757,700.93	(56,097,904.76)	**59.20%**
20-05-2015	11,870,903	33,525,000	111,876,416.05	(66,480,512.93)	**59.42%**
04-05-2015	10,908,199	33,525,000	100,316,801.80	(55,883,602.31)	**55.71%**
08-09-2016	1,927,091	59,196,107	105,904,874.94	(44,781,676.89)	**42.28%**
22-06-2016	3,752,865	58,196,107	114,236,967.86	(52,287,996.33)	**45.77%**
09-09-2016	1,055,292	59,196,107	109,606,910.02	(49,355,510.90)	**45.03%**
28-06-2016	5,423,280	58,196,107	139,647,386.29	(76,027,998.85)	**54.44%**
12-09-2016	1,233,924	58,721,107	107,627,800.76	(47,672,769.82)	**44.29%**
07-08-2017	36,565,338	93.325,123	201,608,271.65	(71,717,810.60)	**35.57%**
05-04-2017	15,134,043	92,856,107	128,780,734.50	(20,790,584.29)	**16.14%**

22. Noticee 1 was alleged to have misused clients' funds ranging between 16.14% to 59.42%. The above alleged mis-utilization of credit balance clients fund is compared with the debit balance clients on the aforesaid dates as is depicted below :

Table 3

Date 2015-16	Client fund misused (G) Absolute Value of (G)	Debit balance client (D)	Funds Misused for debit balance clients
03-06-2015	50,196,927.74	207,753,541.32	50,196,927,74
16.06.2015	47,817,571.15	197,476,615.82	47,817,571.15
30-09-2015	56,097,904.76	163,380,028.99	56,097,904.76
20-05-2015	66,480,512.93	195,724,080.97	66,480,512.93
04-05-2015	55,883,602.31	196,139,371.88	55,883,602.31
08.09.2016	44,781,676.89	180,572,558.21	44,781,676.89
22.06.2016	52,287,996.33	123,060,789.79	52,287,996.33
09.09.2016	49,355,510.90	181,210,362.37	49,355,510.90
28.06.2016	76,027,998.85	118,677,248.18	76,027,998.85
12.09.2016	47,672,769.82	182,366,318.76	47,672,769.82
07.08.2017	71,717,810.60	190,979,568.27	71,717,810.60
05.04.2017	20,790,584.29	197,270,584.16	20,790,584.29

23. From the above table, it is observed that the amount of funds misused ranged between the minimum of Rs. 44,781,676.89 to the maximum of Rs. 76,027,998.85.

24. The negative value of "G" indicates that the funds of the credit balance clients have been utilized either for settlement obligations of debit balance clients or for the own purpose of Noticee 1.

25. Thus it is alleged that Noticee 1 by misusing the funds of the credit balance clients for settlement obligations of their own and for the debit balance clients is in violation of SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993.

Findings

26. I note that the total funds of credit balance clients ("C") shall be available either with the stock broker in the clients' bank accounts ("A") or / and as collaterals deposited with clearing corporations and/or clearing member ("B"). I understand that A+B should never be less than C. I understand that if A+B (as mentioned above) is less than C, it would decidedly imply that the clients' funds have been utilized for other purposes i.e. funds of credit balance clients are being utilized either

for settlement obligations of debit balance clients or for the stock brokers' own purposes.

27. It is observed that, there were 12 such days (on a sample basis) when the clients' funds were misutilised by Noticee 1 and this is evident from the fact that the aggregate of total credit balances of the clients of Noticee 1, was higher than the funds available with Noticee 1. The misutilisation of the clients' funds by the Noticee 1 as a percentage of the total credit balance of its clients as per stock broker's own records, was in the range of 16.54% to 59.42%.

28. Further, on comparing the misutilisation of credit balances of clients' fund with the debit balances of clients on the aforesaid 12 sample days, it is observed that the Noticee 1 has used the funds of its credit balance clients for the benefit of its debit balance clients or for its own purpose.

29. I note that the measure taken by SEBI (provisions of the circular) is intended to increase transparency in fund / client management by the stock brokers. The funds in the client's accounts cannot be applied for any purpose other than what is permissible under SEBI rules and regulations. The objective of opening and maintaining a separate account for the client's funds is to segregate and identify them separately and to prevent its misuse so that they are beyond the reach of the stock broker and / or its employees. The aforesaid actions of Noticee 1 wherein, the stock broker is transferring the funds of one client to the other or to its Promoter - Director, as per its own convenience without paying any heed to its obligation to maintain separate account for its client and for itself (proprietary account), cannot be viewed leniently. Thus, Noticee 1 is in violation of SEBI Circular SMD/SED/CIR/93/23321 dated November 18,1993.

Non-segregation and misuse of clients' securities :

30. During the investigation the inspection team observed that the securities in the pool account were transferred for settlement of the Noticee 1's own and client obligation from the Margin Beneficiary Account (1207770000000041). Further, it was

observed that the shares received in settlement account was also transferred to Margin Beneficiary Account and hence Noticee 1 allegedly had not maintained segregation between its clients and its own securities.

31. As the Margin Beneficiary account had securities of both the client and Noticee 1, the inspection team on cross checking with the Demat Ledger of the Pro Account, observed that in the following instances, the securities were not available in the Demat ledger of the Pro Account.

Table 4

Scrip	**Date of sale**	**Balance available in Demat ledger before sale**	**Sold Qty**	**Shares sold in excess of availability**
SBI Bank	03.06.15	0	8750	8750
ICICI Bank	03.06.15	0	10000	10000
HDFC Bank	03.06.15	0	4000	4000
Nectar Lifesciences	16.06.15	0	1142	1142
Raj TV	16.06.15	0	18117	18117
Unitech Ltd	05.04.17	10205	127042	116837
ITC	14.09.16	2	3	1
Bliss GVS Pharma Ltd	12.09.16	0	1285	0

32. Further, in the following instances the shares were received for settlement from client beneficiary account

Table 5

Trade Date	**Scrip**	**Qty traded in Pro A/c**	**Shares credited in Pool A/c (016)**	**Remarks**
08.09.2016	Meghmani Organics	3483	3483 shares transferred in pool a/c from Margin Ben A/c	3483 shares transferred from Margin Ben Account Shares received in Margin Ben A/c from Client Ben A/c (IN300095 11647782)
09.09.2016	Reliance Naval (INE542F01012)	4850	4900 shares transferred in pool a/c from Margin Ben A/c	4900 shares settled. Shares received in Margin Ben A/c from Client Ben A/c (IN300095 11647782)

09.09.2016	E-Land Apparel	200	500 shares transferred from Margin Ben	500 shares settled. Shares received in Margin Ben A/c from Client Ben A/c (IN300095 11647782)
05.04.2017	Harrisons Malayalam	2300	3003 shares transferred from Margin Ben	3003 shares settled. 3003 shares received in Margin Ben A/c from Client Ben A/c (IN30135630000419)
05.04.2017	Vikas Ecotech	2210	2235 shares transferred from Margin Ben	2235 shares settled. Shares received in Margin Ben Account from Client Ben A/c (IN30135630000419)
05.04.2017	Texmo Pipes	1499	1499 shares transferred from Margin Ben	1499 shares settled. Shares received in Margin Ben Account from Client Ben A/c (IN30135630000419)

33. Further, from the demat transaction statement of the Margin Beneficiary account of the Noticee 1, the inspection team observed that the securities received from one client were transferred by Noticee 1 to another client. Thus, Noticee 1 did not maintain inter-se client segregation of securities.

34. It was also observed that the Noticee 1 had utilised securities pertaining to other clients to meet pay in obligations of client. During the inspection, Noticee 1 submitted that 3 of its employees acted in collusion with KK Advisor and had sold shares in the client a/c (HOKL2) without owing those shares and utilised securities of other clients for the pay-in obligation.

35. Upon perusal of the demat account statement of client A/c of Noticee 1, it was observed that Noticee 1 has received 31 lac quantity of Scrip MEP Infrastructure Developers Limited in its client beneficiary account no. (12077700-00000073) in the month of September, 2016 (55000 quantity received on Sept 28,2016 and 2,550,000 quantity received on Sep 29,2016) from Mr. Mhaiskar Dattatray Pandurang (12077700-00028646) who is not a registered client of Noticee 1.

36. In view of the above, it is alleged that Noticee 1 failed to maintain separate accounts for proprietary and clients' securities as required and thus had violated SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993.

Findings

37. As per SEBI circular no. SMD/SED/CIR/93/23321 dated November 18, 1993, it shall be compulsory for all the member brokers to keep separate accounts for client's securities and to keep such books of accounts, as may be necessary, to distinguish such securities from his/their own (proprietary account) securities.

38. During the course of inspection, it was observed from the demat ledger of the proprietary account of the Noticee 1 that in certain instances, the securities were not available in the Demat ledger of the proprietary account when Noticee 1 had sold shares.

39. Moreover, it was further observed from the demat transaction statement of the Margin Beneficiary account of the stock broker that the Noticee 1 also indulged in activities wherein the securities received from one client were noticed to have been transferred by Noticee 1 to another client. Admittedly securities of other clients were used for pay-in obligation.

40. Noticee 1 used its clients' securities for settlement of its own obligations and has transferred securities *inter se* between its clients. The numerous instances as noted above which has taken place across months, shows that using client's securities for meeting its own obligations or meeting obligations of its other clients, was not a one time matter or an inadvertent error on the part of the stock broker, rather, Noticee 1 was habitually doing it, in blatant disregard to SEBI circular dated November 18, 1993. Such actions of Noticee 1, of not keeping separate accounts for client's securities from its own proprietary account and using client's securities to meet its own obligation and obligations of its other clients in the market, not only audaciously defies the transparency that SEBI is trying to achieve through its circular in handling of client's securities by the stock broker's, but also has caused a severe blow to the confidence of the investors in the securities market and at the same time it has also compromised the integrity of the market. Such actions of Noticee 1 have to be viewed seriously. As noted above, no explanation has been furnished rebutting or disputing the above findings of the inspection and the allegations made in the SCN, thereby constraining me to record that the aforesaid acts on the part of the Noticee 1 of using clients'

securities either for its own benefit or for the beneficial interest of its other clients, have violated the provisions of SEBI circular dated November 18, 1993.

Mis-utilising client securities by pledging :

41. During the inspection, it was observed that Noticee 1 pledged client securities with IL&FS, Edelweiss and Canara Bank to avail overdraft facility. The details of the securities pledged on a day when there was maximum utilization of overdraft in each financial year is as under :

Table 6

Date	Value of Shares pledged (Rs.)
20.08.2015	475004658.7
28.08.2015	416955145.38
14.10.2016	250941733.01
17.10.2016	250744528.84
29.04.2017	277424109.11
05.05.2017	245272521.01

42. During the investigation, Noticee 1 was advised to submit the following details on top two dates on which value of shares pledged was highest.
    a) Total value of shares pledged and amount availed.
    b) Client-wise details of securities pledged
    c) Financial Ledger balance of such clients

43. It is observed that the Noticee 1 failed to submit complete information like quantity of shares pledged, loan raised and amount of loan outstanding. From the data submitted by the Noticee 1 it was observed the Noticee had pledged securities of 1116 clients. However, as the Noticee 1 had failed to submit the ledger balance of these clients, it could not be ascertained whether the client had debit/credit balance.

44. It is therefore alleged that Notice 1 had raised funds by pledging securities of clients and violated Section 12A (a), (b) & (c) of the SEBI Act and Regulation 3(a), (b), (c) and (d) of the PFUTP Regulations.

Findings

45. From the available records, it is observed that the Noticee 1 has pledged securities of 1116 clients. It is to be noted that the securities lying with the stock broker are held by the stock broker in a fiduciary capacity. The stock broker has to credit the securities to the demat account of its clients if the securities are fully paid. Even for some reason, if the securities of the client are lying with the stock broker, the stock broker under law has been prohibited to use it for its own purpose, which in the instant case has been noticed to have been practiced on numerous occasions by Noticee 1 by pledging the securities belonging to its clients to the lenders of the Noticee, has knowingly misrepresented the truth to its clients that it is holding the shares on their behalf and has also knowingly concealed the fact from its lenders that Noticee 1 is not the actual beneficial holder of the securities that has been pledged with the lenders. The acts of the Noticee 1 of dealing with the shares of its clients in a deceitful manner by which it has intentionally, being fully aware of the consequences, has pledged the shares of its clients lying in its custody to avail loan/ overdraft facilities and thereby has acted in severe detriment to interest of its clients. Considering the material on record and absence of any evidence suggesting anything contrary to the allegations, I am of the firm view that Noticee 1 has not only defrauded its clients but has also engaged in acts which have severe adversarial ramifications on the business of lending in the financial sector by genuine Lenders. Consequently, I am constrained to hold that the above act of Noticee 1 has led to the violation of Sections 12A (a), (b) and (c) of the SEBI Act and Regulations 3(a), (b), (c) and (d) of PFUTP Regulations.

Wrong reporting of margin

46. During the course of the inspection, it was observed that were 10 instances of wrong reporting of margins by the Noticee 1 on the selected dates. The details of such instances is placed below :

Table 6

Date	Client Code	Margin collected	Minimum Margin required by Exchange	Margin reported as collected as provided by Noticee	Wrong reporting
17.0.3.2017	HOKL2	100240518.01	111767538.66	111767538.66	117672742.5
27.03.2017	HOKL2	63645289.30	116309170.46	118204588.7	52663881.16
28.03.2017	HOKL2	65403073.00	116488809.39	116996450.26	51085736.39
20.03.2017	HOKL2	99742289.81	117290827.09	11720827.09	17548537.28
23.03.2017	HOKL2	98338125.58	112479202.25	115020916.57	14141076.67
07.08.2017	PRO	32011326.67	46785509.97	46785509.97	14774183.30
01.08.2017	PRO	30075539.86	41343568.92	41343568.92	11268029.06
31.07.2017	PRO	25422172.72	38737012.35	38737012.35	13314539.63
17.05.2017	HOKL2	(54882155.44)	40442600.32	40442600.32	95324755.76
04.08.2017	PRO	31938428.23	46866119.79	46866119.79	14927691.56

47. Thus it is alleged that the Noticee 1 had not complied with SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011 read with SEBI Master Circular No. CIR/DNPD/1/2012 dated January 02, 2012 and NSE Circular No. NSE/INSP/19583 dated December 14, 2011 and therefore Noticee 1 had violated the provisions of the abovementioned Circulars.

Findings

48. Margin is the collateral that an investor deposits with the broker to cover the credit risk the investor poses for the broker. Correct reporting of the margin is essential as it gives the status of the financial health of the investor and its capacity to take risk. SEBI through its circulars have mandated the trading members to collect appropriate amount of margin and any short/ non-collection of margin from clients shall amount to imposition of penalty by the stock exchange along with suspension of trading for 1 day. In the present case, though the Noticee 1 had collected margin lower than the minimum margin required by the Exchange, it had wrongly reported the margin collected as the minimum margin amount required from the clients on 10 instances and therefore, not complied with SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011 read with SEBI Master Circular No. CIR/DNPD/1/2012 dated

January 02, 2012 and NSE Circular No. NSE/INSP/19583 dated December 14, 2011.

Non- redressal of investor grievances

49. During the inspection, it was observed that as on April 17, 2018, total 288 complaints having claim value of Rs. 41.92 Crores were pending against the Noticee.

50. Thus Noticee 1 had failed to resolve the complaints of its clients and thus Noticee 1 have allegedly violated Circular No. CIR/MRD/ICC/30/2013 dated September 26, 2013 and the conditions of registration as specified under Regulation 9 (e) of Brokers Regulations.

Findings:

51. I note that speedy and effective redressal of grievances is an important hallmark for the healthy and steady development of the securities market. If investors do not get the replies or their dues from the stock broker on time or do not get their shares demated expeditiously, it leads to frustration and they may be discouraged to invest any more in the scrip of the company or even in other shares. This may, therefore, adversely affect the growth of capital market. Hence the importance of complaint redressal cannot be undermined and its sanctity has to be maintained by all the intermediaries/ market participants. In the instant matter, as per available records, the default to redress investors' grievances in question had continued unabated for a considerable period of time, well beyond the time period of one month prescribed under the applicable regulations and circular. This is a blatant violation of law and I find that Noticee 1 by taking no effective steps towards their redressal has violated the provision of SEBI circular no. CIR/MRD/ICC/30/2013 dated September 26, 2013 and Regulation 9 (e) of Brokers Regulations.

Non-submission of information

52. It was observed that despite of several meetings, emails & reminders were sent to Noticee 1 seeking information, Noticee 1 did not submit the details regarding loan against securities, running account settlement compliance report and transaction statement, its demat accounts (Client A/c. No. 1207770000000073) and own A/c. (1207770000003800).

53. In view of the same, it is alleged that Noticee 1 failed to co-operate and provide complete information to SEBI and thus is liable for action under regulation 26(ii) of the Brokers Regulations.

Findings

54. It is noted from the materials made available on record that Noticee 1 has failed to provide complete information/data to the inspection team sought from it at the time of inspection. Further, I note that SEBI in order to solicit cooperation from Noticee 1, had post inspection held two rounds of meeting with Noticee 1 on September 26, 2017 and January 18, 2018 and had advised Noticee 1 to submit all the data/ information sought from it. Several emails (October 25, 2017, October 27, 2017, November 28, 2017 and January 19, 2018) and letters (January 25, 2018 and January 29, 2018) were also addressed to Noticee 1 reminding it to submit the requisite data. However, Noticee 1 failed to submit any data / information as sought by the inspecting team. Moreover, Noticee 1 also has failed to submit its response to the observations made during the inspection which were communicated to Noticee 1, vide letter dated February 2, 2018. Furthermore, I also note that Noticee 1 has also failed to cooperate and submit its response to the queries raised by NSE.

55. It is pertinent to note that SEBI as a statutory body has been constituted to *inter alia,* promote orderly and healthy growth of securities market apart from protecting investors' interest. For discharging this onerous job, and with a view to achieving the underlined object, SEBI as a regulator is required to conduct inspection/investigation and enquiries into the affairs of various registered intermediaries from time to time. It must be remembered that the purpose of carrying out inspection is not punitive and the object is to ensure compliance by a registered intermediary with the provisions of the Act, Rules, regulations, by- laws and circulars issued from time to time which are meant to regulate the securities market and are applicable to the said intermediary. For this purpose, first and the foremost requirement is active co-operation from the concerned officials of the intermediaries where inspection is being carried out. They are duty bound to not only

produce the relevant records as and when required by the inspecting team or enquiring authority or by any person authorised by SEBI in this behalf but to furnish all the data and information, as and when called upon or sought from it. The act of withholding of information and non-cooperation with the Regulator, shall amount to a hindrance in the way of conducting smooth inspection / investigation and enquiry by the Regulator to arrive at a just and fair conclusion as per the provisions of law. Thus, I find that Noticee 1 by not cooperating with the inspecting team and by not furnishing the data and information sought from it by SEBI, has committed a serious breach of regulations of SEBI which can have severe repercussions in the market. The aforesaid non- cooperation exhibited by Noticee 1 cannot be taken lightly as it has prevented SEBI from performing its statutory duties enjoined upon it under SEBI Act and therefore, it is held that Noticee 1 is liable for action under regulation 26(ii) of Brokers Regulations.

Role of Directors

56. It has been alleged that Noticees 2, 3, 4, 5, 6, 7, 8 and 9 being the directors of Noticee 1 also violated Clause 12 of Annexure to SEBI Circular no. MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 33 of Rights and Obligations documents for Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 04 of the SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011, SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993, Section 12A (a), (b) & (c) of SEBI Act and Regulation 3(a), (b), (c) and (d) of the PFUTP Regulations, SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011 read with SEBI Master Circular No. CIR/DNPD/1/2012 dated January 02, 2012 and NSE Circular No. NSE/INSP/19583 dated December 14, 2011, Circular No. CIR/MRD/ICC/30/2013 dated September 26, 2013 and the conditions of registration as specified under Regulation 9 (e) of Brokers Regulations and Regulation 26(ii) of Brokers Regulations for the acts done by Noticee 1 as mentioned in the table at para 2.

57. I note that any incorporated body cannot function independently and all the cations executed in its name are done by the natural persons who by their own minds and wisdom, are controlling the affairs and management of such artificial juristic person (company) in the capacity of its Directors. I note that the position of a 'Director' in

a company comes along with various onerous responsibilities and compliances under law that are associated with such position, which have to be adhered to by such Director and in case of default, he / she has to face the consequences thereof. The Directors of a company are persons appointed to manage and direct the affairs of the company. They are expected to diligently perform their duties with honesty, fairness, skill and care in administering the affairs of the company. Such a duty requires the Directors to devote adequate time and attention to the affairs of the company so as to be able to take decisions that do not expose the company to unnecessary risks / actions by enforcement agencies. This implies a high degree of accountability and knowledge of the overall functioning of the company. Therefore, the Director cannot wriggle out from his / her liability arising out of any wrongdoing by the company.

58. Accordingly, Noticees 2 to 9 have been attributed to be liable for the deeds of Notice 1. I have also recorded above that *Noticees 2, 3, 8 and 9* have neither disputed any fact nor any other specific plea has been taken by the said *Noticees* with any supporting evidence for refuting the allegation to escape the liability of the violation committed in the name of Noticee 1 by submitting any reply or appearing for personal hearing. Noticees 2, 3, 8 and 9, being part of the management of Noticee 1 was familiar with the overall functioning of Noticee 1. No contrary evidence has been brought on record to show otherwise. Here, it will be relevant to quote the order of Hon'ble Supreme Court of India in the matter of *N. Narayanan* vs*. Adjudicating Officer, SEBI* (2013) 12 SCC 152, wherein it was held that:

> *"33. Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. This Court while describing what is the duty of a Director of a company held in Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602 that a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provide against him personally. He cannot shut his eyes*

to what must be obvious to everyone who examines the affairs of the company even superficially."

59. In view of the aforesaid, it is held that Noticees 2, 3, 8 and 9 are liable for the violations of securities laws that have been committed by Noticee 1 during their tenure.

60. Noticees 4 to 7 have contended that they were not involved in any decision taken by the management pertaining to running the operations of Noticee 1 and it was primarily managed and controlled by Noticee 2. It has further been submitted that they did not derive any material benefit and have also not attended any of the Board meetings of Noticee 1. Moreover, they have claimed that they are themselves victims of criminal breach of trust, cheating and fraud committed by Noticee 2 as they have ended up becoming associated with Noticee 1 because of lending money to the Noticee 2. Having heard the submissions and documents submitted in support thereof, I note the existence of a common pattern. The first being, Noticees 4 and 5 had to become the Directors of Noticee 1 subsequent to giving loans to Noticee 1 and 2, followed by their failure to repay the said loan amount to them (Noticees 4 and 5). Similarly, Noticees 6 and 7 also became the Directors of Noticee 1 subsequent to giving loans to Noticees 1 and 2, followed by their failure to repay the said loan amount to Noticees 6 and 7. Thus, their association with Noticee 1 was not because they had the experience or expertise in stock broking activities but because of the loan extended by them to Noticee 1 on account of old association and family ties. Secondly, Noticees 4 to 7 have filed FIRs against Noticees 2 and 3 and officials of Kotak Mahindra Bank Ltd. for the irregularities related to mortgaging of their personal properties. Thirdly, Noticees No. 4 to 7 would not have been in the position in which they are currently, if they were not approached by Noticee 2 or 3 for the financial help. It has also been submitted by the Noticee 4 that he being employed with Merchant Navy used to travel during a substantial part of a year outside the country, hence he could not have been in a position to be a part of management of Noticee 1. It was under this situation that signatures of Noticee 4 were obtained on certain white papers under bona fide faith and believe, however, Noticee 2 misused those signatures without consent of Noticee 4 or his concurrence and knowledge. In the process, their sole residential

property also got mortgaged with Bank about which the above Noticees got to know much later, once Noticee 2 committed default. Finally, Noticees 4 to 7 by responding to the SCN have tried hard to explain the circumstances under which they had become the Directors in Noticee 1. I find that though Noticees 4 to 7 were Additional Directors and / or Non- Executive Directors of Noticee 1, their association with Noticees 1 and 2 was more as a creditor rather than as Additional Directors and / or Non- Executive Directors of Noticee 1. Moreover, filing of FIR against Noticee 2 by Noticees 4 to 7, auctioning off of their property by Kotak Mahindra Bank Ltd. further provide strength to the submission of Noticees 4 to 7 that they became Additional Directors and / or Non- Executive Directors of Noticee 1 only when *Noticee 2* failed to pay back the debt that he owed to them and had instead offered them directorship in the company in-lieu of non-payment of loan. I am of the view that considering the materials available on record and the factual evidence made available to me that the charges against the aforesaid four *Noticees* are not established.

61. In view of the above, I find that F6 Finserve Pvt. Ltd. (Noticee 1), Pankaj Goel (Noticee 2), Meenu Goel (Noticee 3), Deepak Goel (Noticee 8) and Ruchika Goel (Noticee 9) have violated the following provision of law:

(i) Clause 12 of Annexure to SEBI Circular no. MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 33 of Rights and Obligations documents for Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 04 of the SEBI Circular No. CIR/MIRSD/16/2011 dated August 22, 2011;
(ii) SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993;
(iii) Section 12A (a), (b) & (c) of SEBI Act and Regulation 3(a), (b), (c) and (d) of the PFUTP Regulations;
(iv) SEBI Circular CIR/DNPD/7/2011 dated August 10, 2011 read with SEBI Master Circular No. CIR/DNPD/1/2012 dated January 02, 2012 and NSE Circular No. NSE/INSP/19583 dated December 14, 2011;
(v) Circular No. CIR/MRD/ICC/30/2013 dated September 26, 2013 and the conditions of registration as specified under Regulation 9 (e) of Brokers Regulations;

(vi) Regulation 26(ii) of Brokers Regulations.

ISSUE II. Do the violations, if any, on the part of the Noticees 1, 2, 3, 8 and 9 attract monetary penalty under sections 15A(a), 15C, 15HA and 15HB of SEBI Act and section 23D of SCRA?

62. In view of the violation as established above, I refer to the order of the Hon'ble Supreme Court of India in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) which held that - *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant…".*

63. In view of the above, I am convinced that it is a fit case for imposition of monetary penalty on the Noticees under the provisions of sections 15A(a), 15C, 15HA and 15HB of the SEBI Act and section 23D of SCRA, which reads as under:

Section 15A (a) of SEBI Act: - Penalty for failure to furnish information, return etc.

15A *If any person , who is required under this Act or any rules or regulations made thereunder; -*

(a) to furnish any document, return or report to the Board, fails to furnish the same or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

Section 15C of SEBI Act: - Penalty for failure to redress investors' grievances

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

Section 15HA of 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 lakhs 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.*

Section 15HB of SEBI Act: - Penalty for contravention where no separate penalty has been provided:

***15 HB** 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.*

Section 23 D of SCRA- Penalty for failure to segregate securities or moneys of client or clients:

***23D** If any person, who is registered under Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be [liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

ISSUE III. If so, what would be the quantum of monetary penalty that can be imposed on the Noticees 1, 2, 3, 8 and 9 after taking into consideration the factors mentioned in section 15J of the SEBI Act and section 23J of SCRA?

64. While determining the quantum of penalty under sections 15A(a), 15C, 15HA and 15HB of the SEBI Act and section 23D of SCRA,, it is important to consider the relevant factors as stipulated in the section 15J of the SEBI Act and section 23J of SCRA which reads as under:-

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

15J.While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely:—

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

SCRA

Factors to be taken into account while adjudging quantum of penalty

23J. *While adjudging the quantum of penalty under section 12A or section 23-I, the Securities and Exchange Board of India or the adjudicating officer shall have due regard to the following factors, namely:*
(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default."

65. In the present matter, it is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by Noticee 1. Further, from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors /clients on account of default by Noticee 1. The observations against the Noticee 1 ostensibly suggest the non-settlement of funds and securities of inactive clients, non-segregation and misuse of clients' funds and securities, mis-utilising client securities by pledging which in my assessment cannot be taken leniently and such violations call for strong actions against the Noticee. In my view, the failure on the part of the Noticee 1 as discussed in the pre-paragraphs, would compromise the regulatory framework and would defeat the purpose of measures provided in the various aforementioned SEBI Circulars/Regulations/ Act on protection of clients' funds and other process. I cannot ignore the fact that Noticee 1 was under a statutory obligation to abide by the provisions of the SCRA, SEBI Act, Rules and Regulations and Circulars/ directions issued thereunder, which it failed to do during the inspection period. Noticee 1 being a registered intermediary is expected to adhere to fair practices

and maintain a high degree of professionalism in the conduct of their business, however, it is crystal clear has acted in deliberate disregard of its obligations towards its clients and has put the interests of lakhs of investors in jeopardy. Further, as brought out in foregoing paragraphs Noticees 2, 3, 8 and 9, being the directors of Noticee1 are responsible for all the violations by Noticee 1.

ORDER

66. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by the Noticees and also the factors mentioned in section 15J of the SEBI Act and section 23J of SCRA and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the SEBI AO Rules and section 23-I of SCRA read with rule 5 of SCRA AO Rules, I hereby impose a penalty in the following manner:

Noticee No.	**Noticee**	**Penalty (in Rs.)**					
		15A(a) of SEBI Act	**15C of SEBI Act**	**15HA of SEBI Act**	**15HB of SEBI Act**	**23D of SCRA**	**Total**
1	F6 Finserve Pvt. Ltd.	2,00,000 (Rupees Two Lakh only)	2,00,000 (Rupees Two Lakh only)	35,00,000 (Rupees Thirty Five Lakh only)	15,00,000 (Rupees Fifteen Lakh only)	35,00,000 (Rupees Thirty Five Lakh only)	**89,00,000 (Rupees Eighty Nine Lakh only)**
2	Pankaj Goel	2,00,000 (Rupees Two Lakh only)	2,00,000 (Rupees Two Lakh only)	50,00,000 (Rupees Fifty Lakh only)	20,00,000 (Rupees Twenty Lakh only)	50,00,000 (Rupees Fifty Lakh only)	**1,24,00,000 (Rupees One Crore and Twenty Four Lakh only) (jointly and severally)**
3	Meenu Goel						
8	Deepak Goel	2,00,000 (Rupees Two Lakh only)	2,00,000 (Rupees Two Lakh only)	50,00,000 (Rupees Fifty Lakh only)	20,00,000 (Rupees Twenty Lakh only)	50,00,000 (Rupees Fifty Lakh only)	**1,24,00,000 (Rupees One Crore and Twenty Four Lakh only)**
9	Ruchika Goel						

							(jointly and severally)

I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticees.

67. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR 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

68. The aforesaid Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department 1 DRA-3), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051." The Noticees shall also provide the following details while forwarding DD / payment information:
    - Name and PAN of the Noticee
    - Name of the case / matter
    - Purpose of Payment – Payment of penalty under AO proceedings
    - Bank Name and Account Number
    - Transaction Number

69. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

70. In terms of the provisions of rule 6 of SEBI AO Rules and rule 6 of SCRA AO Rules, a copy of this order is being sent to the Noticees and also to the Securities and Exchange Board of India.

Date: October 18, 2022	**BARNALI MUKHERJEE**
Place: Mumbai	**ADJUDICATING OFFICER**