

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11(1), 11(4) and 11B of Securities and Exchange Board of India Act, 1992 read with Regulation 65 of the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999, in respect of Interim Order cum show cause notice dated July 15, 2014 in the matter of Remac Realty India Limited.

In respect of:

SR. No.	NOTICEES	CIN/PAN
COMPANY		
1.	Remac Realty India Limited	U70102WB2009PLC132005
DIRECTORS		
2.	Partha Pratim Tewari	ABIPT7044A
3.	Arnab Roy	AGKPR7967B
4.	Ganesh Kumar Bagaria	AFVPB4730Q
5.	Leena Tewari	ABUPT9628E
6.	Reena Vijay	AEEPV9521M
7.	Sandip Chattopadhyay	AGIPC6237B
8.	Debapratim Mazumder	AMYPM6746R

1. Securities and Exchange Board of India (SEBI), after a preliminary enquiry, had passed an *ex-parte* interim order dated July 15, 2014 (interim order), wherein it had *prima facie* observed that Remac Realty India Limited (Remac Realty / the company) was involved in illegal mobilization of funds from the public through schemes in the nature of Collective Investment Schemes (“CISs”) without obtaining certificate of registration from SEBI and thus had contravened section 12(1B) of the Securities and Exchange Board of India Act, 1992 (“the SEBI Act”) read with Section 11AA of the SEBI Act, 1992 and Regulation 3 of the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999 (“the CIS Regulations”). The activity of illegal mobilization of funds by

Remac Realty was also *prima facie* found to be a fraudulent practice in terms of regulation 4(2)(t) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practice Relating to Securities Market) Regulations, 2003 (“the PFUTP Regulations”). Accordingly, the following directions *inter alia* were issued against Remac Realty (Noticee no. 1) and its abovementioned directors (Noticee nos. 2 to 8), namely Shri Partha Pratim Tewari, Shri Arnab Roy, Shri Ganesh Kumar Bagaria, Ms. Leena Tewari, Ms. Reena Vijay, Shri Sandip Chattopadhyay and Shri Debapratim Mazumder (collectively referred to as ‘the Noticees’), vide the abovementioned interim order cum show cause notice:

- a. *not to collect any money from investors from its existing "schemes"/plans or to launch any new "scheme"/plan;*
- b. *to immediately submit the full and detailed inventory of the assets owned by Remac Realty out of the amounts collected from the "applicants"/investors under its existing "schemes"/plans;*
- c. *not to dispose of any of the properties or alienate the assets of the existing "schemes"/plans;*
- d. *not to divert any funds raised from public at large, kept in bank account(s) and/or in the custody of the company;*
- e. *to furnish the following information with regard to its various "schemes"/plans, including the scheme for advance booking of solar products,*
 - i. *scheme-wise list of "applicants"/investors, their contact numbers and addresses along with the details of amount mobilized and refunded till date.*
 - ii. *separate list of the "applicants"/investors, their contact numbers and addresses, who have, opted for the delivery of solar products and list of the "applicants"/investors who have availed the refund facility offered by Remac Realty, along with the list of solar products delivered by Remac Realty, till date,*
- f. *details of expenditure incurred under the head "Administration Overheads" (mentioned in the Paragraph No. 3.1 (xi) of the interim order), duly certified by an auditor.*

2. The said interim order came into force with immediate effect. The interim order was served on the company and its above-named directors (i.e. Noticee nos. 1 to 8) by way of speed post with acknowledgment due / affixture. Thereafter, the company vide letter dated July 31, 2014 to SEBI submitted *inter alia* that it has already stopped all business transactions

immediately on receiving the interim order. It further submitted that it has already delivered hundreds of solar products to the customers against their advance payments and that it had initiated the land allotment procedure to their customers and it is in the process of collecting the letter of intent from the customers for allotment of land in their various ongoing and proposed projects. The company also submitted that it has not initiated the process of collecting public fund in whatsoever manner although it has approval from ROC for Rs.4.7 crore under Preference Share and Rs.25 crore under Debentures. The company also furnished details of its fixed assets as on 31.3.2014.

3. As the company had submitted only partial information, SEBI vide letter dated January 10, 2015 sought from the Noticees the remaining information as mentioned in interim order. In response to this, the company vide letter dated February 19, 2015 submitted details of expenditure made towards administrative overheads of Rs.55.15 crores and requested for a personal hearing before passing the final order in the matter. However, the said details were not certified by an auditor, in accordance with the directions in the interim order.
4. Thereafter, SEBI vide letter dated March 04, 2015 sought from the Noticees the details of expenditure incurred under the head “Administrative Overheads” duly certified by an auditor, and various other information. In response to this, the company vide letter dated March 12, 2015 submitted *inter alia* that it is unable to provide the details, duly certified by an auditor, as its statutory auditor has refused to certify the same. The company also submitted the audited balance sheet of the company for 2011-12 and certain other documents purported to be the details of delivery of solar products to the customers and the details of list in respect of allotment of plots upon receipt of letter of intent. Thereafter, SEBI vide letter dated May 11, 2015 to the company and to Shri Partha Pratim Tewari, one of the Noticee directors, sought various documents. In the meantime, the company vide letter dated April 22, 2015 to SEBI, submitted *inter alia* the following:
 - a) Upon receipt of the interim order, whereby the company was directed not to dispose of any of the properties or alienate the assets of the existing “schemes/plan”, the

company had immediately suspended all its business and closed its offices and is waiting for further orders.

- b) More than 50% of the customers demand were satisfied either by supplying the booked products or due amount was refunded upon being asked for by them, whereas the rest of the customers' demand could not be satisfied due to suspension of business. Without doing any business, the company is not in a position to satisfy the demand of the customers or refund their money. Therefore, the company intends to develop its existing business in the field of real estate and other fields and dispose of the flats on the land of the company by arranging fund from private placement within or outside India.
 - c) The company prayed to SEBI that the restrictions on disposing of the property by the company be lifted and it be allowed to carry on the business so that the liability of the company towards existing customers be discharged.
5. In the meantime, Shri Arnab Roy, one of the Noticees, replied to SEBI vide letters dated February 16, 2015 and July 24, 2017 and submitted *inter alia* the following:
- a) He was appointed as one of the directors when the company was incorporated as SGP Realcon Pvt. Ltd. on 15.01.2009. At the time of incorporation, the main focus of business was agro based business. He resigned from the post of director after 4 months on 31.05.2009 when the company decided not to proceed with agro business. The same is apparent from Form 20B filed by the said company in 2009.
 - b) He was not involved in management of the company. During the time when he was officially director of SGP Realcon Pvt. Ltd., no bank account was opened and no financial transaction was made. He did not attend a single meeting among the directors during his four months' tenure.
 - c) He had no share in the said company, as apparent from Annual Return of the company for 2009.
 - d) It was not in his knowledge that SGP Realcon Pvt. Ltd. was renamed as Remac Realty India Ltd. after his resignation in 2009.
 - e) On September 11, 2014, he appeared before Hon'ble Justice Shyamal Sen Commission and submitted records of ROC that he had resigned from the post of director on 31.05.2009 of the SGP Realcon Pvt. Ltd., whose name was changed to Remac Realty

India Limited. The said fact was taken note of by Hon'ble Justice Shyamal Sen in his order dated 11.09.2014.

6. Similarly, Shri Ganesh Kumar Bagaria, one of the Noticees, replied to SEBI vide letter dated February 25, 2015 and submitted *inter alia* the following:
 - a) He has already informed SEBI vide his letter dated 19/07/2014 that he did join SGP Realcon Pvt. Ltd. as director on 15/01/2009 and resigned from the Board on 31/05/2009. In this regard, he has already submitted copy of the resignation letter duly stamped by the company along with MCA master data sheet evidencing that he was not the director of Remac Realty India Limited.
 - b) He is in no way connected to the affairs of the company. The company changed its name to Remac Realty India Pvt. Ltd. on 03/12/2009 and further to Remac Realty India Limited on 22/06/2010 and carried out the alleged activities only after his resignation. During his tenure of 4.5 months, the company did not carry on any business.
7. The Noticees were granted an opportunity of personal hearing in the matter before me on July 27, 2017 for which notices were served on the Noticees by post/affixture/hand delivery. In response to this, SEBI received a letter dated July 12, 2017 informing that Shri Sandip Chattopadhyay, one of the Noticees, was in police custody / judicial custody since December 2015 and thus would not be able to attend the hearing. Shri Arnab Roy, another Noticee director, informed SEBI vide his letter dated July 24, 2017 about his inability to attend the hearing and further reiterated his submissions made earlier.
8. The personal hearing on July 27, 2017 was attended by only one Noticee, namely Shri Ganesh Kumar Bagaria. During the hearing, Shri Bagaria reiterated the submissions made by him vide letter dated February 25, 2015 and further submitted that the mobilization of money by Remac Realty India Limited has happened only subsequent to his resignation from the company. As proof of resignation, he had already provided Form-32 filed with RoC and a copy of his resignation letter. He further submitted that he had joined Shri Tewary in forming SGP Realcon Pvt. Ltd. for doing business in real estate projects. However, he decided to leave the company subsequently and thus resigned as director ion

May 31, 2009. Shri Bagaria also submitted that during the time he was a director, there was no economic activity or transaction in the company, except some regular office expenses. He neither attended any meeting nor received any remuneration as director of the company.

9. I am convinced that sufficient opportunities have been granted to the Noticees to present their case before me. I note that the Noticee nos. 3 and 4 have made submissions to establish their non-involvement into the affairs of the company. However, as regards the rest of the Noticees, I note that none of them has responded to the *prima facie* findings regarding the nature of the schemes and the alleged violations, as mentioned in the interim order. Even though the company has responded to the interim order in a limited manner, as detailed above, it has failed to address the *prima facie* findings regarding the nature of its schemes and the alleged violations, as mentioned in the interim order. In view of these facts and circumstances, I deem it appropriate to decide the matter on the basis of material available on record.
10. I have examined the allegations levelled against the Noticees in the interim order, the submissions of the company and Noticee nos. 3 & 4 and other material available on record. According to the interim order, the company was engaged in carrying out “schemes” named “*Bhumi Sampadb*”, “*Advance booking of solar products*”, “*Jeevan Samriddhi*”, “*Banijya Sampadb*” and “*Griha Sampadb*”, relating to purchase of property / solar products / Remac county club membership, wherein money was mobilised from the public through one-time payment scheme or monthly installment payment scheme. In the interim order, after considering the available documents, a *prima facie* view was taken that the schemes in question satisfied the four tests of a collective investment scheme (CIS) as defined in section 11AA of the SEBI Act, 1992, namely (i) whether there was pooling of contributions for purposes of a scheme; (ii) whether contributions were made with a view to receive assured realisable value; (iii) whether the contributions were managed on behalf of the investors; and (iv) whether the investors did not have day to day control over the management of the scheme. I observe that the basic allegation against the Noticees is that they were involved in illegal fund mobilizing activity, without obtaining registration as a CIS and thereby violated section 12(1B) read with Section 11AA of the SEBI Act, 1992

and Regulation 3 of the CIS Regulations and Regulation 4(2)(t) of the PFUTP Regulations. As stated above, while the Noticee nos. 3 & 4 have denied their involvement altogether in the affairs of the company, the other Noticees have failed to address the *prima facie* conclusions in the interim order regarding the nature of the mobilisation of funds under various schemes to be a CIS.

11. I have perused the contents of the interim order and do not find any reason to differ with the *prima facie* conclusion arrived at in the interim order. In the absence of any evidence provided to refute the *prima facie* findings in the interim order, I reiterate that the activities of the company as described in the interim order constitute Collective Investment Schemes in terms of section 11AA of the SEBI and the same have been carried out by the company without seeking a registration from SEBI, thereby contravening section 12(1B) of the SEBI Act read with regulation 3 of the CIS Regulations and Regulation 4 (2) (t) of the PFUTP Regulations.
12. Having arrived at the findings as above, I now proceed to examine the submissions made by Shri Arnab Roy (Noticee no. 3) and Shri Ganesh Kumar Bagaria (Noticee no. 4). I note that the company was incorporated on January 15, 2009. I further note that Shri Roy and Bagaria had resigned from the directorship of company on 31.05.2009, even before the name of the company was changed from SGP Realcon Pvt. Ltd. to Remac Realty India Pvt. Limited in December 2009 and further to Remac realty India Limited in June 2010, as apparent from the MoA & AoA submitted by the company and the records obtained from Registrar of Companies, Kolkata. I note that all the complaints in the matter pertain to Remac Realty Pvt. Ltd. and not SGP Realcon Pvt. Ltd., indicating that the company had started mobilizing money only after changing its name from SGP Realcon Pvt. Ltd. I have considered the submissions made by Shri Roy and Shri Bagaria and I am inclined to accept their contention that they were not involved in the mobilization of funds from public by the company.
13. I note from the information obtained from MCA portal that Noticee nos. 2 & 5-8, namely Shri Partha Pratim Tewari, Ms. Leena Tewari, Ms. Reena Vijay, Shri Sandip Chattopadhyay and Shri Debapratim Mazumder are the present directors of Remac Realty. Hence, they

are accountable for the acts of the company and are liable for contravention of the provisions of section 12(1B) read with Section 11AA of the SEBI Act, 1992 and Regulation 3 of the CIS Regulations and Regulation 4(2)(t) of the PFUTP Regulations, in respect of floating of collective investment schemes by the company without obtaining registration from SEBI.

14. As observed above, the Noticee nos. 1-2 & 5-8 have failed to furnish complete information sought by SEBI. As per the information filed by the company to SEBI, it has collected Rs.62.93 Crores under its various schemes. However, in the absence of complete information, it is difficult to ascertain the total amount of money mobilized by the company; the period during which the mobilization continued and the number of investors affected by the schemes of the Company. Further, though the company has admittedly collected Rs.28.80 crores under its scheme “Advance booking of solar products”, it has submitted to SEBI invoices relating to purchase of only 1600 units of solar products for a total amount of about Rs.13.20 Lakh only. Apart from the same, the company has submitted to SEBI uncertified details of its expenses under “Administrative overheads” amounting to Rs.55.15 crores. The same indicates siphoning of funds by the company. Considering the violations committed by the Noticee nos. 1-2 & 5-8 in launching and operating schemes in the nature of CIS without obtaining registration from SEBI and the huge amounts said to be collected by them from the investors, I deem it necessary to issue appropriate directions to the said Noticees.

DIRECTIONS

15. In view of the foregoing and in the interest of investors and the securities market, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 and Sections 11(1), 11B and 11(4) thereof and regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999, hereby issue the following directions:
- (a) Remac Realty and its directors, namely Shri Partha Pratim Tewari, Ms. Leena Tewari, Ms. Reena Vijay, Shri Sandip Chattopadhyay and Shri Debapratim Mazumder (i.e.

Noticee nos. 1-2 & 5-8), are jointly and severally liable to wind up its existing collective investment schemes and refund the money collected by it under the schemes with returns which are due to the investors as per the terms of offer within a period of three months from the date of this order. The refund shall be made through 'Bank Demand Draft' or 'Pay Order'. Upon completion of the refund as directed above, within a further period of seven days, Remac Realty and its present directors, namely Shri Partha Pratim Tewari, Ms. Leena Tewari, Ms. Reena Vijay, Shri Sandip Chattopadhyay and Shri Debapratim Mazumder, shall submit a winding up and repayment report (WRR) to SEBI in accordance with the CIS regulations. The WRR shall be supported by the proof of the trail of funds claimed to be refunded, bank account statements indicating refund to the investors and receipt from the investors acknowledging such refunds along with a certification of such repayment from two independent Chartered Accountants. In the event of failure by Remac Realty and its directors to comply with the above directions, SEBI shall initiate recovery proceedings under the SEBI Act against the Noticee nos. 1-2 and 5-8.

- (b) Remac Realty and its above named directors (i.e. Noticee nos. 1-2 & 5-8) shall not alienate or dispose of or sell any of the assets of Remac Realty and any other asset acquired out of funds of Remac Realty, except for the purpose of making refunds to its investors as directed above.
- (c) Remac Realty and its above named directors (i.e. Noticee nos. 1-2 & 5-8) shall with immediate effect be restrained from accessing the securities market and prohibited from buying, selling or otherwise dealing in securities market, directly or indirectly, till the directions for refund/repayment to investors are complied with, as directed at subparagraph (a) above to the satisfaction of SEBI and WRR is submitted to SEBI and for a further period of four years from the date of completion of the refund, as directed above.
- (d) The above named directors (i.e. Noticee nos. 2 & 5-8) of Remac Realty shall be restrained from holding position as directors or key managerial personnel of any listed company for a period of 4 years from the date of this Order.
- (e) The directions as contained in the interim order dated July 15, 2014, as regards Shri Arnab Roy and Shri Ganesh Kumar Bagaria (i.e. the Noticee nos. 3 and 4), are hereby revoked.

16. This order shall come into force with immediate effect. A copy of this Order shall be forwarded to -
- (i) all the recognised stock exchanges and registered depositories for necessary compliance with the above directions; and
 - (ii) the Ministry of Corporate Affairs for information.

Date: March 19, 2018

Place: Mumbai

G. MAHALINGAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA