

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER

ORDER

**Under Sections 11, 11B and 11D of the Securities and Exchange Board of India Act, 1992
and Regulation 35, Chapter VI of the Securities and Exchange Board of India
(Intermediaries) Regulations, 2008**

**In Re: Violation of provisions of Securities and Exchange Board of India (Investment
Advisers) Regulations, 2013**

In respect of:

Sr. No.	Name of the Entities	Registration Number	PAN
1	Money Classic (Proprietor Mr. Deepak Mishra)	INA000001431	BLVPM9284R

Background:

1. Money Classic, Proprietor Mr. Deepak Mishra, (hereinafter interchangeably referred to as “Money Classic/ IA / Mr. Deepak Mishra/ Noticee”) is registered as an Investment Adviser (“IA”) under the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (hereinafter referred to as the “IA Regulations”) with effect from April 07, 2014. As per records available, the registered office of the Noticee is 203, Modi Mansion, EB250, Scheme No. 94, Ring Road, Indore 452010.

2. SEBI had received 255 complaints against the Noticee through SCORES and in view of this large number of complaints, the Noticee was selected for inspection as part of the inspections to be carried out for FY 2019-20, by SEBI. The Noticee had applied for change in its registered address to 13-ESI, Scheme No. 94, Satya Sai, Ring Road, Indore 452010 but did not submit the physical documents regarding the change to SEBI. Accordingly, a pre-inspection questionnaire was sent to this address and the same was returned undelivered with the remark *“Item Returned Addressee Left Without Instructions”*. SEBI conducted site visits of both the addresses mentioned above at different times and it was observed that the premises at these addresses were closed.
3. From the bank statements of the Noticee, it was observed that in its Axis Bank account bearing no. 914020017622338, there were credit entries till August 01, 2019, which totaled up to Rs. 87 lacs. The last transaction in this account was on August 01, 2019. There were also numerous debit entries in this account with nomenclature ‘salary’ during the month of July 2019. This indicates that the Noticee was conducting its operations, atleast till August 01, 2019.
4. As on November 22, 2019, there are 35 complaints against the Noticee, which are pending for redressal. Out of these 35 complaints, 25 complaints are pending for redressal by the Noticee for more than 6 months. It was also observed that the Noticee has not filed an Action Taken Report (ATR) in 10 complaints and in another 7 complaints the ATR has been filed after 30 days. The details regarding these 17 complaints are as under:

Sr. No.	Complainant Name	Status	Date of receipt	Date of forwarding to Noticee	Date of receipt of ATR	No. of days (if ATR filed beyond 30 days)
1	Alpesh Patel	Pending	05-11-18	06-12-18	19-02-19	75
2	Anil Kumar /Self	Pending	27-06-18	19-07-18	25-09-18	68
3	Jay Dayanand Shelar /Self	Pending	17-07-18	30-10-18	19-02-19	112
4	Manoj Kumar Sati	Pending	06-02-19	08-02-19	Not Filed	Not Filed
5	Om Prakash Pandey	Pending	20-11-18	20-11-18	Not Filed	Not Filed
6	Avtar Singh	Pending	14-06-19	17-06-19	Not Filed	Not Filed
7	Dhaval Dayarambhai Khodiyar	Pending	14-03-19	15-03-19	Not Filed	Not Filed
8	Prasad Somnath Durgude /Self	Pending	15-04-19	20-05-19	26-06-19	37
9	Sunit N Buchanalli	Pending	16-04-18	26-06-18	30-07-18	34
10	Tarun Kumar	Pending	09-12-18	14-01-19	27-02-19	44
11	Vihar V Wankhade	Pending	11-12-18	12-12-18	Not Filed	Not Filed
12	Virender Khatri	Pending	11-03-19	12-03-19	13-05-19	62
13	Suresh Toppo	Pending	31-07-19	03-08-19	Not Filed	Not Filed
14	Ashish Kumar Mishra	Pending	25-07-19	27-07-19	Not Filed	Not Filed
15	Rohit Sinha	Pending	16-10-19	22-10-19	Not Filed	Not Filed
16	Mohammad Haroon	Pending	27-09-19	27-09-19	Not Filed	Not Filed
17	Sushil Kumar	Pending	02-09-19	05-09-19	Not Filed	Not Filed

5. On perusal of the complaints, it is observed that the allegations are in the nature of, *inter alia*, fraud, cheating, services not received and asking for more and more service fee. It is observed as per the allegations made in these pending complaints that the total amount of fees/ money

charged by the Noticee works out to around Rs. 1.40 crores. The highest amount of fee charged, as alleged by one particular client, is Rs. 29,00,000/-.

6. From the above table, it is observed that the Noticee has last filed an ATR on June 26, 2019. After that, till date, no communication has been received from the Noticee as regards the investor grievances. As already mentioned earlier, due to non-traceability of the Noticee, the scheduled inspection of SEBI also could not be initiated and the investor grievances have remained unresolved.
7. An online search revealed that the Noticee had a website www.moneyclassicresearch.com, which is not active anymore. A search of the archived pages of this website show that Mr. Deepak Mishra, the Proprietor, was also its compliance officer. It is also seen that the Noticee has a presence on social media platforms such as Facebook and Twitter and that these pages/accounts are still accessible to clients/ investors.
8. I note that Regulation 21 of the IA Regulations, *inter alia*, stipulates that an investment adviser shall expeditiously redress investor grievances. Further, all registered IAs are also governed by the provisions of SEBI Circular CIR/OIAE/2014 dated December 18, 2014, regarding redressal of investor grievances received through SCORES. These provisions are reproduced below:

Redressal of client grievances

21. (1) *An investment adviser shall redress client grievances promptly.*

(2) *An investment adviser shall have adequate procedure for expeditious grievance redressal.*

CIR/OIAE/2014 dated December 18, 2014

“9. All listed companies and SEBI registered intermediaries shall review their investors’ grievances redressal mechanism so as to further strengthen it and correct the existing shortcomings, if any. The listed companies and SEBI registered intermediaries, to whom complaints are forwarded through SCORES, shall take immediate efforts on receipt of a complaint, for its resolution, within thirty days. The listed companies and SEBI registered intermediaries shall keep the complainant duly informed of the action taken thereon.

13. Failure by listed companies and SEBI registered intermediaries to file ATR under SCORES within thirty days of date of receipt of the grievance shall not only be treated as failure to furnish information to SEBI but shall also be deemed to constitute non-redressal of investor grievance.”

9. In view of the observations of non-redressal of investor grievances and non-submission of ATRs to SEBI as per the specified timelines, I am of the view that the Noticee has, *prima*

facie, violated Regulation 21 of the IA Regulations read with provisions of SEBI Circular CIR/OIAE/2014 dated December 18, 2014.

10. I note that Regulation 13 of the IA Regulations sets out the ‘Conditions of Certificate’, which are reproduced below:

Conditions of certificate

13. The certificate granted under regulation 9 shall, inter alia, be subject to the following conditions:

(a) the investment adviser shall abide by the provisions of the Act and these regulations;

In view of the, *prima facie*, violation of Regulation 21 of the IA Regulations by the Noticee, coupled with the fact that the Noticee is no longer traceable for meeting its regulatory obligations, I note that the Noticee is no longer fulfilling the ‘conditions of certificate’, as set out in Regulation 13 (a).

11. I note that Regulation 6 (f) of the IA Regulations, which is reproduced below, speaks about the ‘fit and proper’ person condition:

Consideration of application and eligibility criteria

6. For the purpose of grant of certificate the Board shall take into account all matters which are relevant to the grant of certification of registration and in particular the following, namely,-

.....

(f) whether the applicant, its representatives and partners, if any, are fit and proper persons based on the criteria as specified in schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

12. Schedule II of the SEBI (Intermediaries) Regulations, 2008, deals with criteria for determining a 'Fit and Proper' person. The same is reproduced below for reference:

Further, for the purpose of determining as to whether an applicant or the intermediary is a 'fit and proper person' the Board may take account of any consideration as it deems fit, including but not limited to the following criteria in relation to the applicant or the intermediary, the principal officer, the director, the promoter and the key management persons by whatever name called –

- (a) integrity, reputation and character;*
- (b) absence of convictions and restraint orders;*
- (c) competence including financial solvency and net-worth; and*
- (d) absence of categorization as a wilful defaulter.*

While the ‘fit and proper person’ criteria is required to be satisfied at the time of seeking registration, I note that the requirement of satisfying the ‘fit and proper person’ criteria, being an ongoing requirement, the Noticee is required to satisfy the same continuously. I note that the, *prima facie*, observations of non-redressal of investor grievances, non-submission of ATRs to SEBI as per the specified timelines and non-traceability of the Noticee for compliance of the regulatory obligations, have raised questions on the integrity and competence of the Noticee. It is also noted that it is not just the non-traceability of the Noticee but also non-traceability without redressing investor grievances. This is a more serious situation where the Noticee is not only unavailable for its investors but also avoiding the resolution of grievances by absconding from the investors. This, *prima facie*, goes to the root of the requirement of the Noticee being a ‘fit and proper person’ as this conduct reasonably damages the reputation of the Noticee. Hence, I note that, *prima facie*, the Noticee is not satisfying the ‘fit and proper person’ criteria to operate as an investment adviser and as such, he is not in compliance with Regulation 6 (f) of the IA Regulations.

13. I note that in terms of Regulation 15 (9) of the IA Regulations, every investment adviser shall abide by the Code of Conduct specified in the Third Schedule, the relevant provisions whereof are reproduced below:

Code of Conduct for Investment Adviser

1. Honesty and fairness

An investment adviser shall act honestly, fairly and in the best interests of its clients and in the integrity of the market.

2. ...

8. Compliance

An investment adviser including its representative(s) shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market. ...

14. An investment adviser is required to act in a manner and comply with all applicable regulatory requirements which are in the best interests of its clients and uphold the integrity of the securities market. I note that adherence to the Code of Conduct is an ongoing requirement and the conduct of the Noticee with respect to non-redressal of investor grievances and non-submission of ATRs in a timely manner is, *prima facie*, a serious violation of Clauses 1 and 8 of the Code of Conduct. Hence, in view of the above observations, I find that, *prima facie*, the Noticee has violated Clauses 1 and 8 of the Code of Conduct read with Regulations 15(1) and 15 (9) of the IA Regulations.

15. SEBI has a statutory duty to protect the interests of investors in securities and promote the development of, and to regulate, the securities market. Section 11 of the SEBI Act has empowered it to take such measures as it thinks fit for fulfilling its legislative mandate. The IA Regulations have been formulated with the main objective of regulating the activities of investment advisers so as to safeguard the interests of investors and hence the requirements/ conditions laid down therein have to be mandatorily followed. I note that the IA Regulations,

inter alia, provide the framework for regulating the activity of entities who are in the business of providing investment advice in respect of securities and investment products. These Regulations seek to create a structure within which investment advisers will operate and also make them duly accountable to their clients by requiring them to comply with the criteria set out in the relevant provisions.

16. The conduct of Mr. Deepak Mishra, proprietor of Money Classic, with regards to non-redressal of investor grievances and non-submission of timely ATRs to SEBI does not, *prima facie*, appear to be in the interest of investors and the securities market. Further, the Noticee is also not traceable which has hampered SEBI, including by way of inspection, to find out whether the Noticee is complying with the various regulatory requirements under IA Regulations. It has also been observed that the Noticee was active in August 2019. It is noted that one of the essential requirements for effective investor protection is that the provider of service to the investors should be reachable to all the investors. The investors' interest would be at jeopardy, if the Intermediary is not traceable by the Regulator. While the Noticee is not traceable, as the certificate of registration granted to the Noticee as Investment Adviser is valid and still in force and the Noticee still has a presence on social media, with these pages/accounts still accessible to clients/ investors, there is reasonable grounds for the view that he may solicit new clients for investment advisory services as well as solicit additional service fees from existing clients on the strength of the certificate of registration granted by SEBI as an investment adviser. Urgent action needs to be taken in this matter to prevent the investment advisory activities of the Noticee and to prevent him from taking any new clients and also protect the existing investors. The balance of convenience is also not in favour of permitting

the Noticee to carry out such activities without imposing suitable restrictions. Such action needs to be taken not only to prevent any further harm to existing clients of the Noticee but also to protect prospective clients.

17. As noted earlier, allegations in the complaints received against the Noticee are of the nature of, *inter alia*, fraud, cheating, services not received and asking for more and more service fee. In the event, upon detailed examination of the matter, it is found that the money was taken by the Noticee from the clients in violation of the applicable law, the Noticee would be liable to refund the money collected by it from the clients subject to the adjudication of the allegations on merits. In view of the observation that the Noticee is not traceable and is not available for inspection of its activities by SEBI, there is a possibility that the Noticee may divert the money collected from the clients while the detailed examination in the matter is pending. I, therefore, find that pending detailed examination, in view of the alleged liabilities and the, *prima facie*, observations made against the Noticee, it is essential to take urgent steps to prevent the Noticee from alienating any assets, whether movable or immovable, or any interest or investment or charge in any of such assets, so that the final remedies, if any, do not become infructuous.
18. In summary, the Noticee, which is a SEBI registered intermediary, has not acted in the best interests of the investors by non-redressal of investor grievances and non-submission of timely ATRs to SEBI. SEBI is also not able to verify the compliance of the Noticee with the applicable regulatory requirements due to its non-traceability. On the basis of this conduct, the Noticee does not, *prima facie*, satisfy the 'fit and proper person' criteria to continue to act as investment adviser. Hence, I am convinced that this is a fit case where, pending detailed

examination, effective and expeditious preventive action is required to be taken by way of an *ad interim ex-parte* order to protect the interests of investors and preserve the safety and integrity of the securities market.

Order

19. In view of the above, I, in exercise of the powers conferred upon me by virtue of Section 19 read with Sections 11, 11B and 11D of the SEBI Act, 1992, and Regulation 35, Chapter VI of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby issue the following directions against Money Classic and its proprietor Mr. Deepak Mishra (SEBI Registration Number: INA000001431 and PAN: **BLVPM9284R**):

- a. The Noticee/ its proprietor Mr. Deepak Mishra is restrained from buying, selling or dealing in the securities market or associating themselves with securities market, either directly or indirectly, in any manner whatsoever, till further directions. If the Noticee/ its proprietor Mr. Deepak Mishra has any open position in any exchange traded derivative contracts, they are permitted to close out/ square off such open positions within a month from the date of receipt of this Order.
- b. The Noticee/ its proprietor Mr. Deepak Mishra and any person while working under it/ him or under its/ his instructions as employee or otherwise, shall cease and desist from undertaking the activity of investment advisory services, including the activity of acting

and representing through any media (physical or digital) as an investment advisor, directly or indirectly, till further orders.

- c. The Noticee/ its proprietor Mr. Deepak Mishra is directed to provide a full inventory of all assets held in their name, whether movable or immovable, or any interest or investment or charge on any of such assets, including details of all bank accounts, demat accounts and mutual fund investments, immediately but not later than 5 working days from the date of receipt of this Order.
 - d. The Depositories are directed to ensure that till further directions no debits are made in the demat accounts of the Noticee/ its proprietor Mr. Deepak Mishra, held jointly or severally.
 - e. The Banks are directed to ensure that till further directions no debits/ withdrawals are made from and credits are made to the bank accounts held by the Noticee/ its proprietor Mr. Deepak Mishra, jointly or severally.
 - f. The Registrar and Transfer Agents are also directed to ensure that till further directions the securities held in the name of the Noticee/ its proprietor Mr. Deepak Mishra, jointly or severally, are not transferred.
20. The Order shall come into force with immediate effect. A copy of the Order shall be sent to the Banks, Stock Exchanges, Depositories and Registrar and Transfer Agents to ensure that all the above directions are strictly enforced.

21. This Order is without prejudice to the right of SEBI to take any other action that may be initiated against the aforementioned entity in accordance with law. The person against whom this Order has been passed may file his objections, if any, within twenty one days from the date of this Order and, if he so desires, avail himself of an opportunity of personal hearing before SEBI, on a date and time to be fixed on a specific request, received from the said person.

Date: December 27, 2019

MADHABI PURI BUCH

Place: Mumbai

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA