

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER
INTERIM EX PARTE ORDER**

**Under Sections 11(1), 11(4), 11B and 11D of the Securities and Exchange Board of India
Act, 1992 and Regulation 35 of Securities and Exchange Board of India (Intermediaries)
Regulations, 2008**

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

**Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade
Practices Relating To Securities Market) Regulations, 2003**

In respect of:

S. No.	Name of the Entity	PAN	DIN
1	Ripples Advisory Private Limited	AACCR5455P	-
2	Mr. Nilesh Shukla	Not available	08392131
3	Mr. Hemant Solapurkar	Not available	08535494
4	Mr. Sanjiv Kumar	DLFPK2400B	07060034
5	Ms. Rakhi Rajput	BXPPR5541C	07067662
6	Mr. Hameed Khan	Not available	08374204
7	Ms. Anamika Pandey	BNMPP8375B	08209955
8	Mr. Amit Jaiswal	AGAPJ4053G	08226566
9	Balvinder Dhillon Kaur	CHCPD0925J	08392135

In the matter of Ripples Advisory Private Limited

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1. Ripples Advisory Private Limited, a company (hereinafter referred to as “**RAPL**” / “**IA**”) is registered as an Investment Adviser under the Securities and Exchange Board of India

(Investment Advisers) Regulations, 2013 (hereinafter referred to as the “**IA Regulations**”) with effect from June 09, 2015 under SEBI Registration No. INA000003049. RAPL is a corporate body and the Corporate Identification Number (CIN) of RAPL is U74140MP1989PTC005282. The registered office of RAPL is at 267-B, Sangam Nagar, Indore, Madhya Pradesh - 452006. Its website address is www.ripplesadvisory.com.

2. As per the information obtained from Registrar of Companies (ROC), Gwalior (M.P.), details of the past directors and present directors of RAPL are as under:

Sr. No.	DIN	Name	PAN	Address	Designation / category	Date of appointment	Date of Cessation
1	08392131	Mr. Nilesh Shukla	Not Available	144, Bara Vanvasi Gram Devra Dindori, Dindori - 481880, (M.P.), India	Present Director	05.03.2019	-
2	08525494	Mr. Hemant Solapurkar	Not Available	20 - C Pavitra Apartment, south Civil Line, Jabalpur – 482001, (M.P.) India	Present Director	08.07.2019	-
3	07060034	Mr. Sanjiv Kumar	DLFPK24 00B	Gram Nander, Post Nander, Sehore Baktare Sehore - 466448, (M.P) India	Past Director	30.12.2014	06.03.2019
4	07067662	Ms. Rakhi Rajput	BXPPR55 41C	43, Abhinandan Nagar, Sukhliya, Indore - 452010, (M.P.), India	Past Director	11.01.2015	30.08.2018
5	08374204	Mr. Hameed Khan	Not Available	391 Mundia Nayta, Indore – 452020, (M.P.) India	Past Director	05.03.2019	10.07.2019
6	08209955	Ms. Anamika Pandey	BNMPP8 375B	330, Ambedkar Nagar, Indore – 452001, (M.P), India	Past Director	30.08.2018	06.03.2019
7	08226566	Mr. Amit Jaiswal	AGAPJ40 53G	38, Ghatkarpar Marg, Freeganjm – I - Nagar, Ghatiya Ujjain- 456010, (M.P.) India	Past Director	17.09.2018	06.01.2019
8	08392135	Balvinder Dhillon Kaur	CHCPD0 925J	27, Marimata Square Shankar Bagh Colony, Indore- 452006, (M.P.) India	Past Director	05.03.2019	28.06.2019

3. It is noted that SEBI had granted registration to RAPL on June 09, 2015. RAPL is carrying out investment advisory activities from June 09, 2015 till date. Therefore, from the above table, it is noted that during the period June 09, 2015 till date, Mr. Nilesh Shukla, Mr. Hemant Solapurkar, Mr. Sanjiv Kumar, Ms. Rakhi Rajput, Mr. Hameed Khan, Ms. Anamika Pandey, Mr. Amit Jaiswal and Balvinder Dhillon Kaur as Directors were/are holding directorships during different periods in RAPL.
4. Securities and Exchange Board of India (“SEBI”) has been receiving a number of complaints against RAPL. Till September 20, 2019, a total of 490 complaints have been received against RAPL in SCORES portal, out of which 186 are unique complaints. The number of pending complaints as on September 20, 2019 against RAPL is as under:

Year	Pending Investors Complaints as on September 20, 2019
2018	3
2019	19
Total	22

5. SEBI conducted an examination in relation to the affairs of RAPL. The examination entailed, *inter alia*, an analysis of the details available on the website of RAPL, complaints filed by the complainants against RAPL & documents attached with complaints, Risk Profiling Form (hereinafter referred as “RPF”), KYC, invoices, emails correspondence, audio call recordings, etc. and bank account details of RAPL. The prima facie findings based on the examination are noted in the subsequent paragraphs.
6. In view of the facts and circumstances of the case and a preliminary examination of the material available, the following issues arise in the instant matter on a *prima facie* basis:

1. ***Whether RAPL has prima facie, violated the provisions of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market)***

Regulations, 2003 (hereinafter referred to as “PFUTP Regulations”) and IA Regulations?

- 2. If answer to issue no. 1 is in affirmative, whether present and past directors of RAPL are responsible for the violations committed by RAPL?***
- 3. If answer to issue no. 1 & 2 is in affirmative, whether urgent directions, if any should be issued against Ripples Advisory Private Limited and its present and past directors?***

ISSUE NO. 1: *Whether RAPL has prima facie, violated the provisions of PFUTP Regulations and IA Regulations?*

7. Upon examination the following *prima facie* findings were observed against Ripples Advisory Private Limited:

Examination of the details available on website of RAPL:

8. From the details available on the website of the RAPL, it is observed that -
 - 8.1. The advisory business of RAPL is based on ‘subscription model’;
 - 8.2. The fees charged is based on the product/ package subscribed and the subscription period for the product is quarterly, half-yearly, etc.;
 - 8.3. RAPL provides stock tips to its client through SMS;
 - 8.4. RAPL provides telephonic and online assistance to its clients.
 - 8.5. RAPL offers the packages namely Stock Cash/Options, Supersonic Stock Cash/Futures, Premium Stock Cash/Futures, HNI Cash, Stock Future HNI, Commodity and Currency Market services etc. to its clients as part of its advisory activity.
 - 8.6. The charges for the aforesaid packages depends upon the period of subscription. The advisory fee varies from Rs. 26,500/- to Rs. 5,50,000/-
 - 8.7. The payment to subscribe to the services can be made directly to the bank accounts opened in the name of Ripples Advisory Private Limited with ICICI Bank (A/c No. 004105500857), Axis Bank (A/c No. 915020027083474), SBI (A/c No. 35655522911)

and HDFC Bank (A/c No. 50200012318089) the details of which were mentioned on their website and alternatively through PayU money and EBS payment gateway.

RAPL promised assured/guaranteed returns to its Clients:

9. Upon analysis of complaints filed by the complainants against RAPL & documents attached with the complaints, it is observed that RAPL pursues with its clients telephonically and makes promises on phone calls but does not give the same in writing. While interacting with clients over the phone, RAPL has been assuring / guaranteeing target returns to its clients on the investment made by the clients based on the calls / tips given by RAPL.
10. Extract of the relevant portion of the complaints is reproduced below which shows that the complainants were given to understand that assured returns will be delivered by RAPL.

10.1. Complaint of **Shri Anil Dabhi** (SEBIE/MP19/0002114/1):

10.1.1. Vide complaint dated September 01, 2019, Shri Anil Dabhi has inter-alia alleged that RAPL is cheating the customer by giving surety about returns/profit but actually giving losses.

10.1.2. Vide email dated October 01, 2019, Complainant, Shri Anil Dabhi has submitted telephonic call recording. The extract of the conversation is produced below:

➤ At 5:08 **RAPL**: “Abhi yeh particularly yadi mein aapko baat karu toh apna capital market mein kitna rahega jisse hum kaam karenge, investment kitna hain aapka

Client: Mera 30 to 50 thousand”.

At 6:14 **RAPL** – “Agar aapne 50 lagaya aur maine aapko ek mahine mein maanlo jyada nahi toh 40 hazaar 50 hazaar bhi kamaake diya toh aapka investment next month ke liye 1 lakh rupaye, 80 hazaar rupaye tak ho gaya.”.

➤ At 11:49 **RAPL**: “Aapko ek aise level pe buy karvaaya jayega, jahaapar, aapke investment ke upar risk hain woh bilkul minimize ki jayegi. Risk ki baat karu to 99.099 per cent ki surety ke saath aapko returns aane hain, 0.001 per cent aapke investment ke upar risk ho sakti hain. Wo bhi option market mein. Kyunki options hamara bahut strong hota hain. Options mein hum carry forward bhi karwate hain”.

- At 12:28 **RAPL**: “Aaj yeh hain ki aapne 3 saal lagaya hua hain, aap mere saath 3 mahine doge, toh 3 mahine main 50 hazaar rupaye ko 8 to 9 lakh rupees mein kaise convert karke dena hai, it is our responsibility”.
- At 13:52 **RAPL**: “Minimum 50,000 aap maintain karte hain to 5000 - 7000 rupaye ke returns aapko aaram se nikal sakta hain. 5000 – 7000 rupaye aapko nikal ke aata hain, par kuch cheeze bhi bataunga ki 50000 ke investment par aap ek ek din mein 30 hazaar rupaye bhi 40 hazaar rupaye bhi kamaa sakte ho, 70 hazaar rupaye bhi returns milega”.

10.1.3. It is noted that the employees of RAPL had made the aforesaid phone call from telephone number 0731-2427071 to Shri Anil Dabhi. Vide email dated December 12, 2019, BSNL, Indore (M.P.) informed that PRI Main number registered in the name of RAPL is 0731-2427000 and telephone number 0731-2427071 is RAPL child number.

10.1.4. Thus, from the above prima facie it appears that RAPL has induced complainant, Shri Anil Dabhi by giving promise of assured returns/profits.

10.2. Complaint of **Shri Sauravendra Kumar Singh Tomar** (SEBIE/MP19/0001343/1):

10.2.1. Vide complaint dated May 02, 2019, Shri Sauravendra Kumar Singh Tomar has inter-alia alleged that RAPL has taken Rs.19 lac in one month towards service charges by assuring many times return.

10.2.2. Vide email dated September 21, 2019, Complainant, Shri Sauravendra Kumar Singh Tomar has submitted telephonic call recording. The extract of the conversation is produced below:

At 10.50 **Client**: “Client: Mein toh directly bol raha hu aapko, mere se aap 50,000 le lo aur uska 15% aap earn karke mujhe de do

RAPL: Sir aap 15% ki baat kar rahe hain, hamari company 30% dene ke liye ready hain”

At 22.15 **Client**: “Madam ye hi toh mein bol raha hu agar aap guarantee lo toh mein ready hu

RAPL: yeh meri guarantee hain ki mein aapko 30% return nikaal ke dunga”

At 31.30 **RAPL**: “Mein bhi aapko directly bol rahi hu, deal hi kar rahi hu, aapko 15% chahiye company 30% nikaal ke degi

Client: guaranteed na

RAPL: *Ha Sir guaranteed mein recorded line pe baat kar rahi hu*

Client: *Acha Theek Hain*

RAPL: *Yeh line record hoti hain, audit ki jaati hain SEBI mein, mein koi galat baat kyon karungi aapko*”.

At 37.00 **RAPL:** *“Aap sirf 11,000 rupaye company ko pay karo theek hain aur 10,000 rupaye apne demat mein daalo, aur phir mein aapko kya bol rahi hu, kal Friday hain, Friday aap mere saath kaam karo, Monday aur teusday kaam karo, maine aapke 11,000 rupaye aapko return nahi diye naa toh mein aapko ek mahine ki free service doongi, yeh meri guarantee hain. Mein bol rahi hu ek recorded line pe theek hain.*

Client: *Itni aap guarantee diya hain toh mein bhi 11,000 ka risk leta hu”.*

10.2.3. It is noted that the employees of RAPL had made the aforesaid phone call from telephone number 0731-2427231 to Shri Sauravendra Kumar Singh Tomar. Vide email dated December 12, 2019, BSNL, Indore (M.P.) informed that PRI Main number registered in the name of RAPL is 0731-2427000 and telephone number 0731-2427231 is RAPL child number

10.2.4. Thus, from the above prima facie it appears that RAPL has induced complainant, Shri Sauravendra Kumar Singh Tomar by giving promise of assured returns/profits.

11. It is noted that the aforesaid analysis of the complaints are on sample basis. However, apart from above referred complaints, there are various other complainants in SCORES wherein complainants have alleged that RAPL is luring them by promising guaranteed returns through telephonic conversation and extorting more and more amount towards service charges.

12. It is noted that RAPL provided tips/ tele-messages pertaining to products of different segments of securities market viz. equity cash segment, equity futures segment, stock derivatives, index derivatives, commodity derivatives, etc., which are traded on the exchange platform. The performance/ return / profits on investment in such securities cannot be predicted and is subject to market risk.

13. Thus, from the above it is observed that RAPL, while knowing very well that the investment by clients based on the advice given by IA, is subject to market risk, has promised assured /

guaranteed returns / profits to its clients on the investments made by the clients. It is a well-known fact that returns / profit on investments in stocks/ products in equity derivatives, currency derivatives and commodity derivatives are subject to market risk. This act of assuring of returns is prima facie, indulged for the purpose of luring more customers in its net and thereby increasing the income of the Investment Adviser.

14. The above conduct is also an act of being dishonest on the part of RAPL and also not acting in the best interest of the clients. In view of the above, RAPL has prima facie failed in its responsibility to act in fiduciary capacity to its clients which is entrusted upon him under Regulation 15 (1) of IA Regulations. Further, RAPL has prima facie failed to abide by clauses 1 and 2 of Code of Conduct as mentioned in Schedule III read with Regulation 15 (9) of IA Regulations. Thus, RAPL has prima facie violated the provision of clauses 1 and 2 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations and Regulation 15(1) of IA Regulations.
15. An investment adviser is required to comply with SEBI Act and other applicable Regulations. An IA cannot make a false statement without reasonable ground for believing it to be true as mandated in PFUTP Regulations. An investment adviser cannot sell products by assuring returns to investors as was being done by RAPL in the present case. RAPL was falsely assuring returns to investors knowing fully well that all investments in stocks, derivatives, commodity derivatives, etc. in respect of which it was offering investment advice are subject to market risk. Thus, RAPL has prima facie violated the provisions of Regulation 3 (a), (b), (c), (d) of the PFUTP Regulations, 2003 read with section 12A(a),(b) and(c) of SEBI Act.

Unfair Dealings with Clients

16. Upon examination, it is observed that RAPL has lured its clients to buy/subscribe multiple packages. It is noted that RAPL had sold newer services / product to its clients even though the subscription period for products earlier bought was not yet over. RAPL acted in the said manner with an objective to maximize its fees and with an objective of keeping its own

interest ahead of his client's interest. Some of the instances where RAPL has sold multiple services/products to clients are as under:

16.1. Client: Shri. Pramoden P.K

16.1.1. As per the invoices raised by RAPL in the name of client, Shri Pramoden PK, the details of services sold by RAPL to the said client are noted as below:

Sr. No.	Invoice Date	Product / Service	Period of service	Invoice Amount (Rs.)
1	10.08.2018	Stock cash circuit call	13.08.2018 to 31.08.2018	5,000/-
2	13.08.2018	Stock cash	20.08.2018 to 03.09.2018	6,000/-
3	14.08.2018	Stock cash	04.09.2018 to 04.10.2018	11,000/-
4	16.08.2018	Stock cash	05.10.2018 to 16.10.2018	3,000/-
5	22.08.2018	Stock cash	17.10.2018 to 31.12.2018	25,000/-
6	01.10.2018	Option platinum	03.10.2018 to 17.10.2018	25,000/-
7	01.10.2018	Option platinum	18.10.2018 to 01.11.2018	25,000/-
8	04.10.2018	Option platinum	02.11.2018 to 17.12.2018	90,000/-
9	04.10.2018	Option platinum	18.12.2018 to 25.12.2018	10,000/-
10	04.10.2018	Option platinum	26.12.2018 to 31.12.2018	1,010/-
11	15.10.2018	Option platinum	01.01.2019 to 31.10.2019	6,12,000/-
12	31.10.2018	Supersonic Cash	12.11.2018 to 31.12.2019	7,30,000/-
13	07.11.2018	Stock Future Circuit Call	13.11.2018 to 31.12.2018	1,00,000/-
14	12.11.2018	Stock Future Circuit Call	01.01.2019 to 28.06.2019	4,02,000/-
		Total		24,45,010/-

16.1.2. From the above table, it is observed that service in respect of client, Shri Pramoden P.K, has been upgraded to next package and new service is sold before completion of earlier service by RAPL.

16.1.3. It is also observed that within a period of 3 months, the client Shri Pramoden P.K has been sold 5 different products and made to pay 14 times. The total payment made by the client as per the invoice is Rs. 24,45,010/-.

16.1.4. It is also observed that the clients are made to pay for multiple subscriptions to the same package on the same day. For example, on October 01, 2018, RAPL had sold option platinum service/product to client Shri Pramoden P.K twice for different

duration i.e. for 03.10.2018 to 17.10.2018 and 18.10.2018 to 01.11.2018, similarly after 3 days on October 04, 2018, RAPL had again sold option platinum service/product to client Shri Pramoden P.K thrice for different duration i.e. for 02.11.2018 to 17.12.2018, 18.12.2018 to 25.12.2018 and 26.12.2018 to 31.12.2018. It would be in the best interests of the client that instead of charging for the same service being extended over a period of multiple times, the payment for any subsequent service is taken only after the period of the current subscription/ service has ended and the client has had the opportunity to use and experience the service first. By virtue of this practice, the client is already locked in to the services offered by having made advance payments for services to be delivered in the future.

16.2. Client: Dr. Vinod Dhar

16.2.1. As per the invoices raised by RAPL in the name of client, Dr. Vinod Dhar, the details of services sold by RAPL to the said client are noted as below:

Sr. No.	Invoice Date	Product / Service	Period of service	Invoice Amount (Rs.)
1	30.05.2018	Cash Premium	05.06.2018 to 22.06.2018	11,000/-
2	03.06.2018	Stock cash circuit call	07.06.2018 to 21.06.2018	40,000/-
3	05.06.2018	Stock cash circuit call	22.06.2018 to 20.07.2018	1,00,001/-
4	12.06.2018	Stock cash circuit call	23.07.2018 to 22.08.2018	1,00,001/-
5	16.06.2018	Stock future circuit call	23.08.2018 to 21.11.2018	2,50,001/-
6	21.06.2018	Stock cash circuit call	19.06.2018 to 17.09.2018	2,50,001/-
7	22.06.2018	Stock future circuit call	18.09.2018 to 30.11.2018	1,35,000/-
8	29.06.2018	Cash platinum	03.07.2018 to 01.10.2018	2,50,000/-
9	11.07.2018	Cash platinum	02.10.2018 to 31.10.2018	50,000/-
10	12.07.2018	Future platinum	01.11.2018 to 31.12.2018	2,00,000/-
11	14.07.2018	Future platinum	01.01.2019 to 30.01.2019	90,000/-
12	28.07.2018	Stock future circuit call	03.12.2018 to 31.01.2019	2,00,000/-
13	30.07.2018	Future platinum	01.02.2019 to 29.03.2019	2,50,000/-
14	31.07.2018	Option platinum	01.02.2019 to 31.05.2019	2,50,000/-
15	26.08.2018	Supersonic cash	01.01.2019 to 28.02.2019	70,000/-
16	27.08.2018	Supersonic future	01.03.2019 to 30.04.2019	56,000/-
17	30.08.2018	Future platinum	01.04.2019 to 24.06.2019	2,00,000/-

Sr. No.	Invoice Date	Product / Service	Period of service	Invoice Amount (Rs.)
18	31.08.2018	Cash platinum	01.11.2018 to 30.01.2019	2,00,000/-
		Total		27,02,002/-

16.2.2. From the above table, it is observed that service in respect of client Dr. Vinod Dhar, has been upgraded to next package and RAPL has sold new services/products to said client before the expiration of the earlier service.

16.2.3. It is also observed that within a period of 3 months, the client Dr. Vinod Dhar has been sold 8 different products and made to pay 18 times. The total payment made by the client as per the invoice, is Rs. 27,02,002/-.

16.3. Client: Ms. Deepanjali Nilesh Arekar

16.3.1. As per the invoices raised by RAPL in the name of client, Ms. Deepanjali Nilesh Arekar, the details of services sold by RAPL to said client are noted as below:

Sr. No	Invoice Date	Product / Service	Period of service	Invoice Amount (Rs.)
1	13.02.2019	Stock Cash	21.02.2019 to 01.03.2019	3,601/-
2	16.02.2019	Cash Premium	21.02.2019 to 28.02.2019	5,001/-
3	20.02.2019	Cash Premium	01.03.2019 to 15.03.2019	11,298/-
4	21.02.2019	BTST and STBT services	25.02.2019 to 11.04.2019	38,100/-
5	22.02.2019	BTST and STBT services	12.04.2019 to 18.04.2019	3,999/-
6	22.02.2019	Cash Premium	18.03.2019 to 30.05.2019	41,000/-
7	13.03.2019	Stock Cash circuit call	14.03.2019 to 28.06.2019	2,97,001/-
8	19.03.2019	Stock Cash circuit call	01.07.2019 to 22.07.2019	72,000/-
9	19.03.2019	BTST and STBT services	19.04.2019 to 24.05.2019	29,000/-
10	25.05.2019	Stock Futures circuit call	29.05.2019 to 08.08.2019	31,036/-
11	07.06.2019	Supersonic Cash	10.06.2019 to 05.07.2019	39,000/-
12	07.06.2019	Supersonic Cash	08.07.2019 to 24.07.2019	28,964/-
13	08.06.2019	Supersonic Cash	25.07.2019 to 16.08.2019	40,000/-
14	09.06.2019	Supersonic Cash	19.08.2019 to 12.09.2019	50,000/-
15	09.06.2019	Supersonic Cash	13.09.2019 to 03.10.2019	37,500/-
16	09.06.2019	Supersonic Cash	04.10.2019 to 17.10.2019	23,501/-
17	17.06.2019	Supersonic Cash	18.10.2019 to 18.02.2020	2,00,000/-

Sr. No	Invoice Date	Product / Service	Period of service	Invoice Amount (Rs.)
18	17.06.2019	Supersonic Cash	19.02.2020 to 24.04.2020	1,00,000/-
19	18.06.2019	Supersonic Cash	27.04.2020 to 30.06.2020	1,00,000/-
20	18.06.2019	Option Platinum	19.06.2019 to 20.09.2019	1,94,998/-
21	18.06.2019	Option Platinum	23.09.2019 to 30.09.2019	20,000/-
22	20.06.2019	Option Platinum	01.10.2019 to 11.10.2019	20,000/-
23	21.06.2019	Option Platinum	14.10.2019 to 20.11.2019	98,001/-
24	21.06.2019	Option Premium	24.06.2019 to 25.10.2019	91,300/-
			Total	15,75,300/-

16.3.2. From the above table, it is observed that service in respect of client Ms. Deepanjali Nilesh Arekar, has been upgraded to next package and RAPL has sold new services/products to said client before the expiration of the earlier service.

16.3.3. It is also observed that the clients are made to pay for multiple subscriptions to the same package on the same day. On June 09, 2019, RAPL had sold Supersonic Cash service/product to client Ms. Deepanjali Nilesh Arekar thrice for different duration i.e. for 19.08.2019 to 12.09.2019, 13.09.2019 to 03.10.2019 and 04.10.2019 to 17.10.2019.

16.3.4. It is also observed that within a period of 6 months, the client, Ms. Deepanjali Nilesh Arekar has been sold 8 different products and made payment 24 times. The total payment made by the Ms. Deepanjali Nilesh Arekar as per the invoice, is Rs. 15,75,300/-.

16.3.5. Further, from the RPF, it is observed that Ms. Arekar has mentioned that her annual income is below Rs.2 lac and her total value of assets held is less than Rs.1 lac. Despite the client lower annual income, total fees collected from the client is exorbitantly higher than her annual income as well as total assets as shown in the RPF.

16.4. Client: Shri Raghavendra Singh Rajput

16.4.1. As per the invoices raised by RAPL in the name of client Shri Raghavendra Singh Rajput, the details of services sold by RAPL to said client are noted as below

Sr. No.	Invoice date	Product / Service	Duration of service	Invoice Amount (Rs.)
1	13.09.2017	Cash Premium	1 month	15,000/-
2	21.09.2017	Stock cash circuit call	1 month	30,000/-
3	28.09.2017	HNI cash	3 months	56,000/-
4	24.10.2017	HNI cash	1 month	1,00,000/-
			Total	2,01,000/-

16.4.2. From the above table, it is observed that the charges for HNI cash product were taken for 3 months on September 28, 2017. Further, the same product i.e. HNI cash was sold to the said client on October 24, 2017 for a duration of 1 month at a higher price for less duration. It can be seen that the service fee charged by RAPL appears to be arbitrary and there does not appear to be any consistency in its pricing policy. For example, if fee for “HNI Cash” service for 3 months Rs. 56,000, then accordingly, the fee for the same service for one month should have been one third of this amount or slightly more than that as it could be a plausible business practice to provide discounts for larger periods. However, the fee for one month is Rs. 1,00,000/- As is evident from the above table, the fees charged by RAPL for “HNI Cash” service is proportionally very high, 5.3 times higher than the fee it should have been, in comparison to what has been charged for 3 months service.

16.4.3. It is also observed that within a period of one and half months, the client Shri Raghavendra Singh Rajput has been sold 3 different products and made payment 4 times. The total payment made by Shri Raghavendra Singh Rajput as per invoice is Rs. 2,01,000/-

16.4.4. Further, from the RPF and KYC form, it is observed that his existing investment/assets is between Rs.2 to 5 lacs and his income range per annum is written as Rs.2 to 5 lac. Considering his annual income as Rs. 5 lakh i.e. monthly income comes out to be approx. Rs. 41,666/-, which cannot be reasonably classified as High Networth Individual (HNI). Hence, despite the client is not HNI, still HNI cash product was sold by RAPL to him.

17. From the above it is noted that RAPL has not been fair in its dealing with the clients. The amount of fees charged by RAPL from its client is unreasonable, arbitrary and unfair. In order to determine the “reasonableness” of the fee charged by the Investment Adviser, I note that while no fixed standard can be devised to term whether the conduct of charging fee answers the test of reasonableness, it cannot also be stated that the reasonableness of the fee charged cannot be judged at all. The IA Regulations provides for the principle based determination of fee by the Investment Adviser indicating that such fees have to be fair and reasonable and the same can be tested as a violation of the Code of Conduct. What is reasonable in a particular circumstance may be the outcome of several competing factors which are relevant for such determination. While determining the reasonableness of the fee, the same has to be seen from the perspective of various factors such as proportionality, uniformity etc. However, the test of “reasonableness” of the fee, in my view does not mean, the same has been “agreed to and paid”. If such standard is adopted, the reasonableness of the fee cannot be tested if the client has agreed to and paid the same.

18. In the instant case, following is noted with respect to the unreasonable and arbitrary fee charged by RAPL:

18.1. In respect of client Mr. Pramoden, as per the invoice dated 01/10/2018, for the service/product of Option Platinum, RAPL had charged Rs. 25,000/- service fee for 15 days, however for the same service/product i.e. Option Platinum as per the invoice dated 04/10/2018, RAPL had charged Rs. 90,000/- service fee for 45 days and vide invoice dated 15/10/2018 for Option Platinum service / product, RAPL had charged Rs. 6,12,000/- service fee for 300 days. Thus, considering Rs. 25,000/- service fee for 15 days, the service fee for 45 days and 300 days comes out to be Rs. 75,000 and Rs 5,00,000/- respectively. The fee charged does not answer the test of “uniformity”. Such a disproportionate fee was charged within fifteen days of its first day i.e., 01/10/2018. Hence, I am of the prima facie view that fee charged by RAPL is arbitrary.

18.2. As per the invoice dated 31.10.2018, in respect of client Mr. Pramoden, for Supersonic Cash service / product, RAPL had charged Rs. 7,30,000/- for 405 days, whereas as per the invoice dated 26.10.2018 (i.e. a week before), in respect of client Dr. Vinod Dhar,

for Supersonic Cash service / product, RAPL had charged Rs. 70,000/- for 59 days, as per the invoice dated 09.06.2019, in respect of client Ms. Deepanjali Nilesh Arekar, for Supersonic Cash service / product, RAPL had charged Rs. 50,000/- for 25 days. Thus, considering Rs. 70,000/- service fee for 59 days, the service fee for 25 days and 405 days comes out to be approx. Rs. 30,000 and approx. Rs 4,80,000/- respectively. The fee charged does not answer the test of “uniformity”. Hence, I am of the prima facie view that fee charged by RAPL is unreasonable.

19. It is difficult to discern why a service/ product should be sold in this way in the first instance. Such way of charging fees can, in my view, qualify to be called as “unreasonable” and “arbitrary”. Similarly, if the test of proportionality is applied, the fees for the same service over a period should be proportional to the period. Though, the “reasonableness” can accommodate the commercial realities where “discounts” for longer commitment of the clients in terms of money and duration with the IA are extended, the same cannot be termed as “reasonable” where the clients commit to a longer relationship with the IA and effectively pay more for their longer commitment for instance as in the case of Mr. Pramoden. However same was not in the present case.
20. Similarly, the adoption of “fee” as a tool to force the investors to stay with the IA without any opportunity to sever their ties in case of dis-satisfaction, would in my view, surely be considered as “unreasonable”. In a scenario like this, though the fee may not be “unreasonable” in absolute standard, but the means for which it is used should also qualify as reasonable. There are instances, *prima facie*, where in order to force the client to continue with the IA, even before the service period for the particular product has expired, the same product is sold again, so that the client has no option but to continue with the IA. In my view such practice of using fee as tool to force the client to continue with the IA should also qualify as “unreasonable”.
21. RAPL has adopted dishonest business practices by making the client subscribe to multiple subscriptions to the same package on the same day and charging unreasonable and arbitrary

fee for the same service/product. These acts of RAPL are *prima facie*, in the manner in which the RAPL has charged fees to its clients is purely meant to generate more and more service fees for itself and is clearly not in the best interests of the clients. Therefore, I am of the, *prima facie*, view that RAPL has collected an unreasonable quantum of fees from its clients in an unfair manner without having any regard to client's best interest and the fiduciary capacity in which an IA is supposed to be associated with its client.

22. In view of the above, RAPL has *prima facie* (a) failed in its responsibility to act in fiduciary capacity to its client which is entrusted upon him under Regulation 15(1) of IA regulation and (b) failed to abide by clauses 1, 2 and 6 of Code of Conduct of Schedule III read with Regulation 15 (9) of IA Regulations. Thus, RAPL has *prima facie* violated the provision of clauses 1, 2 and 6 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations and Regulation 15(1) of IA Regulations
23. Further, the above acts of RAPL were *prima facie* done with the purpose of generating more and more service fees (income) for RAPL by defrauding its clients. Such act of RAPL is *prima facie* fraudulent and is covered within the definition of "fraud" as defined in regulation 2(1)(c) of PFUTP Regulations, 2003. Thus, RAPL has *prima facie* violated regulations 3 (a), (b), (c), (d) of the PFUTP Regulations, 2003 read with section 12A(a),(b) and(c) of SEBI Act.

Irregularities in Risk Profiling of the clients and Suitability Assessment of products/services given to its clients:

24. As per Regulation 16 of IA Regulations, Investment Adviser shall carry out risk profiling of the client for ascertaining client's risk tolerance, income details, loss absorbing capacity, capacity of accepting loss of capital, liabilities/borrowing, etc; Further, the risk profiling should be communicated to the client before the client agrees to accept the advice. In addition to that, Investment Adviser shall ensure that information provided by clients and their risk assessment has been updated periodically.

25. As per Regulation 17 of IA Regulations, Investment Adviser shall ensure that all investments on which investment advice is provided is appropriate to the risk profile of the client. It should be, inter-alia, based on client's investment objectives and his financial situation. The investment advice should be such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance. Further, whenever a recommendation is given to a client to purchase of a particular complex financial product, such recommendation or advice is based upon a reasonable assessment that the structure and risk reward profile of financial product is consistent with clients experience, knowledge, investment objectives, risk appetite and capacity for absorbing loss.
26. Upon analysis of products/services offered by RAPL to its various categories of clients vis-à-vis their risk profile, it is observed that RAPL has decided the package/service (suitability) for its clients upfront and has also collected the fee from client, before the risk profiling of client is done.

27. Client: Shri Pramoden P.K.

- 27.1. As per invoice dated August 10, 2018 issued to Shri. Pramoden, Stock Cash Circuit Call sold to him on August 10, 2018 whereas risk profiling is done on August 11, 2018 i.e. the package/service has been decided by RAPL before the risk profiling of client was done.
- 27.2. In the RPF dated August 11, 2018, Shri. Pramoden has mentioned that he is a beginner having less than 1 year experience and has "Low" risk tolerance capacity. He has also mentioned that he does not want to lose his money i.e. he is very risk averse person. As per the RPF signed by the client on August 11, 2018, client risk is shown as "Medium risk". In RPF, Shri. Pramoden has mentioned that his value of assets are less than Rs.1 lakh. It is noted that RAPL is required to take into account the "loss absorbing capacity" of its clients as per Regulation 16(b) of IA Regulations. The loss absorbing capacity is dependent on among other factors such as the level of income of the clients. The fact that fees extending upto Rs. 20.45 lakhs has been charged for a client whose income is

shown less than Rs. 1 Lakh clearly indicates the norm of looking into loss bearing capacity of clients has been thrown to the wind, in order to increase the income of RAPL. Details of the products / services sold to him by RAPL are mentioned at paragraph 16.1.1 above and the same has not been reproduced here to avoid repetition.

28. Client: Ms. Deepanjali Nilesh Arekar

28.1. As per RPF of Ms. Deepanjali Nilesh Arekar, the RPF has been signed on February 16, 2019 whereas, the first invoice was raised on February 13, 2019 i.e. before completion of risk profiling. Thus, the package/service has been decided by RAPL before the risk profiling of client was done.

28.2. From the RPF, it is observed that Ms. Deepanjali Nilesh Arekar is a housewife having trading experience of less than 1 year, income below Rs.2 lacs per annum, value of assets held are less than Rs.1 lac and risk appetite falling in Medium Risk category. In spite of the same RAPL has collected approx. Rs.15.75 lakh towards service charges. As stated earlier, the fact that fees extending upto Rs.15.75 lakh has been charged for a client whose income is shown less than Rs. 2 Lakh per annum, clearly indicates the requirement of looking into loss bearing capacity of clients has been given a go-by in order to increase the income of RAPL. Details of the products / services sold to him by RAPL are mentioned at paragraph 16.3.1 above and the same has not been reproduced here to avoid repetition.

29. Client: Shri Raghavendra Rajput: In RPF of Shri. Raghavendra Rajput, it has been mentioned that his existing investments/assets are between Rs.2 to 5 lacs. Considering his annual income as Rs. 5 lakh i.e. monthly income comes out to be approx. Rs. 41,666/-, which cannot be reasonably classified as HNI. Hence, despite the client is not HNI, RAPL sold HNI Cash product / service to him and in the process collected Rs.1,56,000/- from him towards the same. Details of the products / services sold to him by RAPL are mentioned at paragraph 16.4.1 above and the same has not been reproduced here to avoid repetition.

30. **Client: Shri Vinay Kumar Shukla:** In RPF, Vinay Kumar Shukla has mentioned his existing investments/assets are below Rs.1 Lac, Annual income is below Rs.2 lac, having less than 1 year trading experience and is a beginner. Considering his annual income as Rs. 2 lakh i.e. monthly income comes out to be approx. Rs. 16,666/-, which cannot be reasonably classified as HNI. However, as per the invoices raised in the name of Shri Vinay kumar Shukla by RAPL, HNI cash product / service was sold to him and collected Rs.95,380/- from him towards the service charges.
31. **Client: Shri Lalta Prasad:** In RPF, Shri Lalta Prasad has mentioned that his trading amount is less than Rs.1 lakh and the approximate value of assets held like property, FD, shares, mutual fund, etc. are between Rs.1 to 2 lakhs. In spite of the same, as per the invoices raised in the name of Shri Lalta Prasad by RAPL, an amount of Rs.97,200/- was collected from him towards RAPL's service charges which is equal to his trading/investment amount and about half of his asset size.
32. From the above, it is observed that:
- 32.1. The products sold by RAPL to clients are not matching with the risk tolerance level of clients. Investment advices provided by RAPL to its clients are not appropriate to the risk profile of the client.
 - 32.2. RAPL has charged disproportionate / unreasonable fees/charges towards its services and they are disproportionate as compared to clients' assets/investment amount and his financial strength. RAPL has not sold products/services based on client's financial situation.
 - 32.3. The package/service has been decided by RAPL before the risk profiling of client was done.
33. It is the duty of Investment Adviser to act with due skill, care and diligence in the best interests of its clients whereas it is seen that RAPL has failed to take due care and diligence to ascertain risk profile of the client and to offer him suitable advice. RAPL has kept his own interest at higher pedestal compared to the interest of his clients. In view of the above, RAPL

has *prima facie* failed to comply with Regulations 15(1), 17(a), 17(d), 17(e) of IA Regulations and has also *prima facie* failed to abide by clauses 1, 2 and 6 of Code of Conduct as mentioned in Schedule III read with regulation 15(9) of IA Regulations.

34. Further, the above conduct of RAPL is also *prima facie* fraudulent and is covered within the definition of “fraud” as defined in regulation 2(1)(c) of PFUTP Regulations, 2003. Thus, RAPL has *prima facie* violated regulations 3 (a), (b), (c), (d) of the PFUTP Regulations, 2003 read with section 12A(a),(b) and (c) of SEBI Act.
35. In summary, following *prima facie* findings are observed:
- 35.1. That despite knowing the fact that the investment by clients based on the advice given by Investment Adviser is subjected to market risk, RAPL has promised assured / guaranteed returns / profits to its clients on the investments made by the clients.
 - 35.2. That RAPL has not been fair in its dealing with the clients. The amount of fees charged by RAPL from its clients is unreasonable, arbitrary and unfair. RAPL has adopted dishonest business practices by making the client subscribe to multiple subscriptions to the same package on the same day. Further, RAPL had sold HNI services to non-HNI clients.
 - 35.3. That the package/service has been decided by RAPL before the risk profiling of client was done. RAPL has failed to take due care and diligence to ascertain risk profile of the client and to offer him suitable advice.
36. The definition of investment adviser as given in regulation 2(m) of the IA Regulations, states that investment adviser means “*any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called*”. Regulation 2(l) of the IA Regulations defines investment advice as “*advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning.*”

37. On a perusal of these definitions, it becomes clear that the role of an “investment adviser” envisaged under IA Regulations is that of a person rendering advice relating to investing, buying, selling or dealing in securities or investment products and advice relating to investment portfolio containing securities / investment products. In my view, looking at the scheme of IA Regulations, the role of an investment adviser is to provide honest and fair advice to its clients considering their financial situation, investment experience, investment goals, etc. The investment adviser should also make adequate disclosures of the relevant material information to its clients and should charge fair and reasonable fee from its clients, which is also stipulated under the Code of Conduct for investment advisers under the IA Regulations.
38. An investment adviser is required to comply with SEBI Act and other applicable Regulations. An investment adviser cannot make a false statement without reasonable ground for believing it to be true as mandated in PFUTP Regulations. An investment adviser cannot sell products by assuring returns to investors as was being done by RAPL in the present case. RAPL was falsely assuring returns to investors knowing fully well that all investments in stocks, derivatives, commodity derivatives, etc. in respect of which it was offering investment advice are subject to market risk.
39. It is also noted from the payment receipts, complaints, email exchanges, call recordings and other material discussed earlier that the advisory process being followed by RAPL was akin to selling pre-fixed plans and extracting more and more money from the clients. The modus operandi adopted by RAPL discussed hereinabove, *prima facie*, show that RAPL was actually not practicing investment advisory in the manner envisaged under the IA Regulations, which essentially would involve advising the client considering his/ her financial situation, risk appetite, financial goal, prior experience, etc. From the findings of the preliminary examination and the overall modus operandi discussed in this order, *prima facie*, it appears that RAPL was running a pre-meditated device, plan or scheme wherein, employees/ representatives of RAPL would lure innocent investors by assuring them returns and then more money would be extracted from them by making them subscribe to additional

packages, assurance of full service after additional money was paid, etc. RAPL by assuring returns was inducing the investors to deal in securities and was thereafter also charging unreasonable and arbitrary fee from them, thereby increasing its income at the expense of the best interests of its clients.

40. The above discussed non-genuine and deceptive activities of RAPL are, *prima facie*, fraudulent and are covered under the definition of ‘fraud’ under Regulation 2(1)(c) of the PFUTP Regulations, which provides as under:

“(c) “fraud” includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include—

- (1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;*
- (2) a suggestion as to a fact which is not true by one who does not believe it to be true;*
- (3) an active concealment of a fact by a person having knowledge or belief of the fact;*
- (4) a promise made without any intention of performing it;*
- (5) a representation made in a reckless and careless manner whether it be true or false;*
- (6) any such act or omission as any other law specifically declares to be fraudulent,*
- (7) deceptive behaviour by a person depriving another of informed consent or full participation,*
- (8) a false statement made without reasonable ground for believing it to be true.*
- (9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself or anything derived from it other than the market price.*

And “fraudulent” shall be construed accordingly ...”

41. I also take note of some of the provisions of Section 12A(a), (b) and (c) of the SEBI Act, 1992 and Regulations 3 (a), (b), (c) and (d) of the PFUTP Regulations, which are reproduced below:

SEBI Act, 1992

“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 recognized stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;”*

PFUTP REGULATIONS

“Prohibition of certain dealings in securities

3. 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.*

42. Thus, RAPL through its fraudulent activities/ dealings as discussed above, has *prima facie* violated the above mentioned provisions of Section 12A(a), (b) and (c) of the SEBI Act, 1992 and Regulations 3 (a), (b), (c) and (d) of the PFUTP Regulations.

43. I note that a person acting as a securities market intermediary is expected to protect the interest of investors in the securities market in which he/she/it operates and it ill-behooves him to become a party to any market misconduct. Every market intermediary is required to maintain high standards of integrity, promptitude and fairness in the conduct of his business dealings, and not be motivated purely by prospects of financial gain. The intermediary should not abuse the certificate of registration granted to it, in any manner, for carrying out any non-genuine, deceptive or fraudulent acts. Under Regulation 15 (1) of the IA Regulations, an investment adviser shall act in a fiduciary capacity towards its clients. In order to maintain fiduciary relationship, one of the essential elements is to strictly adhere to the Code of Conduct for an investment adviser prescribed under the IA Regulations.

44. The relevant provisions of IA regulations are reproduced below:

IA Regulations:

Regulation 15(1): *An investment adviser shall act in a fiduciary capacity towards its clients and shall disclose all conflicts of interests as and when they arise.*

Regulation 17: *Investment adviser shall ensure that:-*

- (a) All investments on which investment advice is provided is appropriate to the risk profile of the client;*
- (b)*
- (c)*
- (d) It has a reasonable basis for believing that a recommendation or transaction entered into:*
 - (i) meets the client's investment objectives;*
 - (ii) is such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance*
 - (iii) is such that the client has the necessary experience and knowledge to understand the risks involved in the transaction*

- (e) *Whenever a recommendation is given to a client to purchase of a particular complex financial product, such recommendation or advice is based upon a reasonable assessment that the structure and risk reward profile of financial product is consistent with clients experience, knowledge, investment objectives, risk appetite and capacity for absorbing loss*

Regulation 15(9): *An investment adviser shall abide by Code of Conduct as specified in Third Schedule.*

CODE OF CONDUCT FOR INVESTMENT ADVISER
(Regulation 15(9) of IA Regulations)

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. *Diligence*

An investment adviser shall act with due skill, care and diligence in the best interests of its clients and shall ensure that its advice is offered after thorough analysis and taking into account available alternatives.

.....

5. *Information to its clients*

An investment adviser shall make adequate disclosures of relevant material information while dealing with its clients.

6. *Fair and reasonable charges*

An investment adviser advising a client may charge fees, subject to any ceiling as may be specified by the Board, if any. The investment adviser shall ensure that fees charged to the clients is fair and reasonable.

.....”

45. Looking at the activities and manner of operation of RAPL in the present case, which have been discussed in detail in the preceding paragraphs, I am of the *prima facie* view that RAPL has failed to abide by the Code of Conduct on all counts mentioned above. I, therefore, find that RAPL while carrying out his activities as an investment adviser has, *prima facie*, violated the provisions of Regulations 15(1), 17(a), 17(d), 17(e) of IA Regulations and Clauses 1, 2,

5 and 6 of the Code of Conduct for investment advisers as mentioned in Schedule III read with regulation 15(9) of IA Regulations.

46. Additionally, SEBI has also taken note of the complaints made against RAPL in SCORES Portal. The said complaints have not been relied upon to arrive at the aforesaid *prima facie* findings against RAPL, nevertheless have been reproduced below to represent the allegations against RAPL. Upon analysis of complaints on sample basis obtained from SCORES, following table reflects assured return promised by the RAPL to its clients / complainants:

Table 1

Client Name	Name of the service	Return Assured	Service Fee paid by the client
Dr. Vinod Dhar	Stock cash /Futures /circuit calls	Rs.37 lakhs in 4 months	Rs.27.00 lakhs
Pramoden P.K.	Stock cash/ Option Platinum/ Supersonic cash	Profit in 4 weeks	Rs.20.45 lakhs
Basant Tamrakar		Profit of Rs.8,000/- per day with investment of Rs.40,000/- to Rs.50,000/- in share market.	Rs.3.35 lakhs
Lalta Prasad	Stock cash	Profit of Rs.6,70,000/-	Rs.97,800/-
Shiv Pratap Singh		Double the money within 3 to 6 months	Rs.1,48,500/-

46.1. Complaints of **Shri Pramoden P.K.** (SEBIP/MP19/0000031/1 and SEBIE/MP19/0001468/1):

46.1.1. Vide complaints dated January 15, 2019 and June 15, 2019, Shri Pramoden P.K has inter-alia, alleged that till date RAPL has taken approximately Rs.20 lakhs towards advisory fees by assuring profit in 4 weeks.

46.1.2. Complainant, Shri Pramoden P.K vide letter dated January 15, 2019 has stated:

- “I have paid in 3 months total of Rs.20,45,000/- after taking loans.”
- “I paid so much money because they assured they will give profit in 4 weeks”
- “I have clearly mentioned in risk profile my salary and risk profile is medium”

- 46.1.3. Shri Pramoden has submitted proof of statement of loan taken from Bajaj Finance Ltd. of Rs.7.50 lakh and from ICICI Bank Ltd of Rs.11 lakh (Rs.6 lakh + Rs.5 lakh). Further, Shri. Pramodan has submitted his ICICI bank statement wherein it is found that the amount of loan received (from Bajaj Finance Ltd. and ICICI Bank Ltd) is paid to RAPL through PAYU money on the same day.
- 46.1.4. Shri. Pramodan, vide email dated September 18, 2019 sent a letter dated July 07, 2019 wherein it is mentioned that he has taken loan by mortgaging wife's jewellery for making payment to RAPL and it has become very difficult for him to manage his household expenses due to huge loan EMIs.
- 46.1.5. It is noted that RAPL issued 14 invoices and sold 5 different services to Shri. Pramoden P K for the period August 13, 2018 to December 31, 2019 and collected Rs.20.45 lakhs.
- 46.1.6. Thus, from the above, it prima facie appears that RAPL has induced complainant, Shri Pramoden P.K for buying different services by giving promise of assured returns/profits.

46.2. Complaints of **Dr. Vinod Dhar** (SEBIE/MP18/0004485/1 and SEBIE/MP19/0000250/1):

- 46.2.1. Vide complaints dated September 30, 2018 and January 29, 2019, Dr. Vinod Dhar has inter-alia alleged that RAPL has taken Rs.27 lakhs towards service charges and promised to give returns of Rs.37 lakhs in 4 months. RAPL employees gradually took money from complainant stating that if he refused to pay the amount, then his services will stop and earlier payment made will be forfeited.
- 46.2.2. Complainant further alleged that, since, RAPL did not deliver the amount of Rs.37 lakhs as profits / returns in 4 months; Dr. Dhar asked RAPL to deduct 4 months service charges and repay balance advance amount paid by him to RAPL. However, RAPL did not repay the amount stating that they do not have refund policy and sent signed service agreement dated September 19, 2018 on stamp paper and asked

complainant to sign the same and send back to RAPL. Complainant refused to sign the said agreement and demanded his advance payment made.

46.2.3. It is noted that RAPL has issued 18 different invoices and sold 9 different services during the period June 05, 2018 to June 24, 2019.

46.2.4. Thus, prima facie it appears that RAPL has induced complainant, Dr. Vinod Dhar for buying different services by giving promise of assured returns/profits.

46.3. Complaint of **Shri Shiv Pratap Singh** (SEBIE/MP18/0004309/1):

46.3.1. Vide complaint dated September 29, 2018, Shri Shiv Pratap Singh has inter-alia, alleged that RAPL took Rs.1,48,500/- and assured him of doubling his money within 3 to 6 months.

46.3.2. Complainant vide email dated June 01, 2018 to RAPL alleged that RAPL's employee assured returns of Rs.9.50 lakhs in 4 months as against advisory fees of Rs.3.60 lakhs. Vide said email, he also alleges that RAPL employee assured him that upfront he has to make payment of Rs.1,00,100/- only and he will immediately make profit and balance payment can be made afterwards.

46.3.3. RAPL vide emails dated June 04, 2018 and September 11, 2018 acknowledge the receipt of email dated June 01, 2018 of Shri Shiv Pratap Singh and has not refuted to the allegations mentioned in email dated June 01, 2018.

46.3.4. Thus, prima facie it appears that RAPL has induced complainant, Shri Shiv Pratap Singh for buying different services by giving promise of assured returns/profits.

46.4. Complaint of **Shri Basant Tamrakar** (SEBIE/MP18/0001813/1):

46.4.1. Vide complaint dated June 04, 2018 and letter dated September 11, 2019, Shri Basant Tamrakar has inter-alia alleged that RAPL's employee Shri Abhay Sharma has taken Rs.3.35 lakhs in the name of fees, loan etc. and assured him guaranteed returns of Rs.10,000/- per day and/or Rs.70,000/- per lot/per day.

46.4.2. Shri Basant Tamrakar vide email dated November 17, 2016 to RAPL had stated that Shri Abhay Sharma has borrowed Rs.1.3 lakhs. RAPL vide email dated November 22, 2016 acknowledge the receipt of email dated November 17, 2016 of

Shri Basant Tamrakar. Subsequently, RAPL vide email dated December 05, 2016 to Shri Basant Tamrakar had confirmed that they are crediting Rs. 2.25 lakhs in his bank account and requested the bank account details. Thus, prima facie it appears that the employees of RAPL were soliciting money from the client.

46.4.3. Thus, from the above prima facie it appears that RAPL has induced complainant, Shri Basant Tamrakar for buying different services by giving promise of assured returns/profits.

Bank Accounts of RAPL:

47. From the website of RAPL, it is noted that under the head “Payment”, RAPL has provided details of 4 bank accounts [i.e. RAPL has bank accounts with ICICI Bank having account no. 004105500857, HDFC bank Ltd having bank account no. 50200012318089, State bank of India (SBI) having account no. 35655522911 and with Axis Bank having account no. 915020027083474] and the clients / investors may make payments in any of these bank accounts. The total debit and total credit in the said bank accounts are as under:

Sr No	Bank Name	Branch	Period	A/c no.	Total Credit in Rs	Total Debit in Rs	Balance in Rs	Date of last receipt	A/c Active
1	ICICI Bank Ltd	Malav Parisar Branch, Indore	27.01.2015 to 07.12.2019	004105500857	22,12,78,578	22,12,43,879	34,699	07.12.2019	Yes
2	HDFC Bank Ltd	LIG Square Branch, Indore	30.05.2015 to 02.12.2019	50200012318089	20,20,61,025	20,18,29,581	2,31,444	02.12.2019	Yes
3	Axis Bank Ltd	Sukhliya Branch, Indore	27.06.2015 to 02.12.2019	915020027083474	3,86,94,689	3,86,31,612	63,077	02.12.2019	Yes
4	SBI	Basant Vihar Colony, Indore	12.04.2016 to 15.04.2019	35655522911	6,71,83,300	6,68,67,591	3,15,709	15.04.2019	Yes
Total					52,92,17,592	52,85,72,663	6,44,929		

48. From the bank account statements of RAPL maintained with the above mentioned banks, it is noted that Rs. 52,92,17,592 was credited and Rs. 52,85,72,663 was debited since January 2015 till December 2019. Since these bank accounts were designated by RAPL itself for the purpose of receiving payments for its investment advisory activity, it can reasonably be

inferred that the amount credited in these bank accounts was paid by the investors / clients towards advisory fee. Considering the above, it is noted that an amount of Rs. 52,92,17,592 has been collected by RAPL prima facie through fee for fraudulent investment advisory activity.

ISSUE NO. 2: *If answer to issue no. 1 is in affirmative, whether present and past directors of RAPL are responsible for the violations committed by RAPL?*

49. Any 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. In terms of section 179 of the Companies Act, 2013, the Board of Directors of a company shall be entitled to exercise all such powers and do all such acts and things as the company is authorized to exercise and do. Therefore, the Board of Directors being responsible for the conduct of the business of a company are liable for any non-compliance of law and such liability shall be upon the individual directors also. Hon'ble Supreme 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 so 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 the business of a Company even though no specific act of dishonesty is proved against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the Company even superficially*”. Further, in cases of fraud, it is a settled position of law that the corporate veil can be lifted and the directors can be held liable for the fraud of the Company.
50. Further, Hon'ble Supreme Court in *N. Narayanan vs. Adjudicating Officer, SEBI* dated April 26, 2013 (MANU/SC/0426/2013) had stated that: “....., *the Directors of the company have greater responsibility, especially when the company is a registered company. Directors of the companies, especially of the listed companies, have access to inside knowledge, such*

as, financial position of the company, dividend rates, annual accounts etc. Directors are expected to exercise the powers for the purposes for which they are conferred. Sometimes they may misuse their powers for their personal gain and makes false representations to the public for unlawful gain....”

51. In the present case, as noted earlier in paragraph 2, Mr. Nilesh Shukla and Mr. Hemant Solapurkar are the present directors of RAPL. Further, Mr. Sanjiv Kumar (from December 30, 2014 to March 06, 2019), Ms. Rakhi Rajput (from January 11, 2015 to August 30, 2018), Mr. Hameed Khan (from March 05, 2019 to July 10, 2019), Ms. Anamika Pandey (from August 30, 2018 to March 06, 2019), Mr. Amit Jaiswal (from September 17, 2018 to January 06, 2019) and Balvinder Dhillon Kaur (from March 05, 2019 to June 28, 2019) were the past directors of RAPL. It is noted that SEBI had granted registration to RAPL on June 09, 2015 and RAPL is carrying out investment advisory activities from June 09, 2015 till date. The fact that the money has been collected, prima facie, in the form of service fee from date of registration, indicates that these directors were involved at the time of violation. Thus, the prima facie violations committed by RAPL which have been discussed above, pertain to the time periods when these persons were acting as directors of RAPL. Therefore, I am of the view that all the present and past directors of RAPL are prima facie responsible for the violations committed by RAPL.

ISSUE NO. 3: *If answer to issue no. 1 &2 is in affirmative, whether urgent directions, if any should be issued against Ripples Advisory Private Limited and its present and past directors?*

52. As a regulator of capital market, 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. IA Regulations have been formulated with the main objective of regulating such activities to safeguard the interests of investors and hence registration of such activities with SEBI has been made mandatory. IA Regulations *inter alia* seek to create a

structure within which investment advisers will operate and also make them duly accountable for their investment advice by requiring investment advisers to comply with the relevant provisions of the IA Regulations. The same is imperative for the protection of interests of investors and to safeguard the integrity of the securities market.

53. Since the conduct of RAPL, mentioned above does not, prima facie, appear to be in the interest of investors and the securities market, therefore, urgent necessary action has to be taken against RAPL and its present and past directors immediately, else it may lead to loss of investors' trust in the securities market. Considering the facts and circumstances of the present matter and on the basis of prima facie findings, it is necessary to prevent, RAPL from collecting any more funds from the public and luring innocent investor to avail its services under false / misleading assurance of return. I note that RAPL website and telephone number given on website are in operation. Therefore, the probability of investors reaching RAPL through a website and telephone is high. Further, it is also noted that the bank accounts and payment gateway details are mentioned in website to receive credit for investment advisory services. Therefore, the threat of investors getting lured to the registered advisory services is still looming large and is imminent. Further, as per the information available on website, investors can become prey to the different packages offered by RAPL.
54. Thus, considering the facts and circumstances of this case and such a fraudulent scheme, plan, device and artifice as, prima facie, found in this case, I am convinced that this is a fit case where, pending detailed examination, effective and expeditious preventive and remedial action is required to be taken by way of *ad interim ex parte order* against Ripples Advisory Private Limited and its directors (present and past) for preventing them from collecting funds and indulging in investment advisory services; to protect the interests of investors and preserve the safety and integrity of the securities market. Such action needs to be taken to prevent any further harm to investors. In order to protect prospective investors and present investors from making payment or further payment to the bank accounts of RAPL, credit into bank accounts through any channels also needs to be stopped.

55. It is pertinent to mention that a number of complaints have been filed against RAPL alleging perpetration of fraud on the clients and in almost all the complaints, the complainants have claimed refund of the money given by them to RAPL. One of the directions that can be passed against Ripples Advisory Private Limited, subject to the adjudication of the allegation on the merits in the final order, under Sections 11(1), 11(4), 11B and 11D of SEBI Act is that of direction to refund the money collected by Ripples Advisory Private Limited from their clients. With the initiation of quasi-judicial proceedings, it is possible that Ripples Advisory Private Limited may divert the money collected from its clients. The same may result in defeating the effective implementation of the direction of refund, if any, to be passed after deciding the matter on merits. Non-interference by the Regulator at this stage would therefore result in irreparable injury to interests of the securities market and the investors. It therefore becomes necessary for SEBI to take urgent steps of stopping the debits from the bank accounts of Ripples Advisory Private Limited.

ORDER:

56. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11B and 11D read with Section 19 of the SEBI Act and Regulation 35 of Securities and Exchange Board of India (Intermediaries) Regulations, 2008 hereby direct by way of this *interim ex-parte order*, the following directions: -

56.1. *Ripples Advisory Private Limited (PAN: AACCR5455P) and its directors (present and past) namely, Mr. Nilesh Shukla, Mr. Hemant Solapurkar, Mr. Sanjiv Kumar, Ms. Rakhi Rajput, Mr. Hameed Khan, Ms. Anamika Pandey, Mr. Amit Jaiswal and Balvinder Dhillon Kaur are directed:-*

56.1.1. *to cease and desist from acting as an investment advisor including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any matter whatsoever, until further orders;*

- 56.1.2. *not to access the securities market and buy, sell or otherwise deal in securities or associate themselves with securities market, either directly or indirectly, in any manner whatsoever, until further orders; If Ripples Advisory Private Limited and its directors, named in this order have any open position in any exchange traded derivative contracts, they are permitted to close out/ square off such open positions within one month from the date of receipt/knowledge of this order.*
- 56.1.3. *not to divert any funds raised from investors, kept in bank account(s) and/or in their custody until further orders;*
- 56.1.4. *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.*
- 56.1.5. *not to dispose of or alienate any assets, whether movable or immovable, or any interest or investment or charge on any of such assets held in their name, including money lying in bank accounts except with the prior permission of SEBI*
- 56.2. *Banks including ICICI Bank, HDFC Bank Limited, Axis Bank and State Bank of India, wherein Ripples Advisory Private Limited (PAN: AACCR5455P) are holding bank accounts, are directed not to allow any debits / withdrawals and credits from the said accounts, without the permission of SEBI, until further orders. The Banks are also directed to ensure that all the above directions are strictly enforced.*
- 56.3. *Any person while working under RAPL or under its 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.*
- 56.4. *The Depositories are directed to ensure that till further directions no debits are made in the demat accounts of RAPL, and its directors (present and past) named in this order, held jointly or severally.*

- 56.5. *The Registrar and Transfer Agents are also directed to ensure that till further directions the securities held in the name of RAPL, and its directors (present and past) named in this order, jointly or severally, are not transferred.*
57. This Order is without prejudice to the right of SEBI to take any other action that may be initiated against Ripples Advisory Private Limited and its directors (present and past) in accordance with law.
58. The *prima facie* observations contained in this Order, pending enquiry, are made on the basis of the material available on record. In this context, Ripples Advisory Private Limited and its directors (present and past) may, within 21 days from the date of receipt of this Order, file their reply/objections, if any, to this Order and may also indicate whether they desire to avail an opportunity of personal hearing on a date and time to be fixed on a specific request to be made in that regard.
59. The above directions shall take effect immediately and shall be in force until further orders.
60. A copy of this order shall be served upon Ripples Advisory Private Limited and its directors (present and past), Banks, Stock Exchanges, Registrar and Transfer Agents and Depositories for necessary action and compliance with the above directions.

-Sd-

Date: December 31, 2019

Place: Mumbai

MADHABI PURI BUCH

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA