

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 11(1), 11(4) AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 IN THE MATTER OF M/S. GLOBAL PORTFOLIO MANAGEMENT, PROPRIETOR MR. IMRAN KHAN

In respect of:

Sr. No.	Name of the Entity	PAN
1	M/s. Global Portfolio Management (Proprietor Mr. Imran Khan)	BBZPK6473J

Background

1. The present proceedings have emanated from an *ex-parte ad-interim* order dated August 04, 2020 (for convenience "*the interim order*") passed by the Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") against M/s. Global Portfolio Management and its sole proprietor Mr. Imran Khan, (hereinafter collectively referred to as "**the Noticees**"), as the unregistered investment advisory and portfolio management activities of the *Noticees* were *prime facie* found to be in violation of the provisions of Section 12(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") read with regulation 3(1) of the SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as "**IA Regulations, 2013**") and regulation 3 of the SEBI (Portfolio Managers) Regulations, 1993 (hereinafter referred to as the "**PMS Regulations, 1993**"). Further, in the *interim order*, the activities of the *Noticees* were also, *prima facie*, found to be fraudulent and manipulative and in violation of provisions of Section 12A (a), (b) & (c) of the **SEBI**

Act, 1992 and regulations 3 (b), (c) & (d) and regulations 4(1) and 4(2)(k) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as "*PFUTP Regulations, 2003*").

2. I find that the *interim order* passed in the matter contained following observations with respect to the *Noticees*:

- i. SEBI received a complaint from Mr. S. K. Khalek (for convenience "*Complainant*"), *inter alia*, alleging that he got a call from Indore and was told to invest INR 1.5 lacs assuring him return of a 50% in 12-15 days. After the *Complainant* invested INR 93,000/-, he was informed that the money had been invested in stock market and that the said investment has resulted into losses.
- ii. Subsequently, vide email dated July 31, 2019, the *Complainant* was informed by the *Noticees* that INR 90,000/- has been received and that they would invest this amount. Further, he was asked to make payment of remaining amount of INR 60,000/- to complete the INR 1,50,000/- slot.
- iii. The *Complainant* had also attached alongwith the aforesaid complaint, the receipt in connection with the payment made to the bank account of the *Noticees* held with ICICI Bank. The bank statements and Know You Customer / Account Opening Forms (KYC/ AOFs) for the aforesaid account was revealed that payments had been received by the *Noticees* through Easebuzz. Therefore, account details were sought from Easebuzz and it was gathered that the said ICICI Bank Account number 144105500779 linked with Easebuzz belonged to the *Noticees*. The beneficiary details of the aforesaid ICICI account are mentioned below:

Name: Global Portfolio Management

Email: globalportfolio07@gmail.com

Name of Owner: Mr. Imran Khan

Bank Name: ICICI Bank Ltd.

Account Number: 144105500779

PAN ID: BBZPK6473J

- iv. From the aforementioned ICICI Bank Account statement, it was observed that around INR 1,26,86,921/- had been credited since the opening of the account i.e. from May 13, 2019. Examination also revealed that large number of payments were received in the aforementioned account of *Noticees* and it appeared that the payments had come from various individuals. Further, the narration in such transactions also mentioned terms such as “investment”, “profit payout”, etc..
- v. It was further gathered that the *Noticees* were hosting a website namely, www.globalportfolio.org. The website provided information that the firm is a financial advisory firm delivering “reliable recommendations and advice for stocks, futures, options and also offers portfolio management services”. Further, the following was also mentioned on the website ***“Pursuant to the obligations placed on an investment advisor by SEBI under SEBI (Investment Advisor) Regulations, 2013, we have decided to formulate policies for risk profiling and suitability assessment as required under regulation 16 and 17 of the said act.”*** It was also revealed that the said ICICI Bank Account number 144105500779 of the *Noticees* appeared on the afore-stated website of the *Noticees*.

3. On the basis of the aforesaid observations, the information gathered and considering the nature of the activities undertaken by the *Noticees*, it was thought proper to pass order and issue direction as preventive measures protecting the interest of investors of securities market and consequently, following directions were issued against the *Noticees* in the *interim order*:

- i. *The Noticees shall 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 manner whatsoever, until further orders.*
- ii. *The Noticees shall cease and desist from acting as a portfolio manager including the activity of acting and representing through any media (physical or digital) as a portfolio manager, 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.*
- iii. *The Noticees shall not to divert any funds collected from investors, kept in bank account(s) and/or in their custody until further orders.*
- iv. *The Noticees shall not 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.*
- v. *The Noticees shall immediately withdraw and remove all websites, digital content, apps, advertisements, representations, literatures, brochures, materials, publications, documents, communications etc., in relation to their investment advisory activity, PMS activity or any other unregistered activity in the securities market until further orders*
- vi. *The Noticees shall not access the securities market and buy, sell or otherwise deal in securities in any manner whatsoever, directly or indirectly, until further orders.*
- vii. *The Noticees shall provide a full inventory of all assets held in the name of the proprietorship or the proprietor and firm or the partner, 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.

- viii. *Any person while working under the above mentioned Noticees as employee or otherwise, shall cease and desist from undertaking the activity of investment advisory or portfolio management services, including the activity of acting and representing through any media (physical or digital) as an investment advisor or portfolio management, directly or indirectly, till further orders.*
- ix. *The Banks are directed not to allow any debits/ withdrawals from or credits to the accounts of the Noticees, held jointly or severally, without the permission of SEBI. The Banks are directed to ensure that all the above directions are strictly enforced.*
- x. *The Depositories are directed to ensure that till further directions no debits are made in the demat accounts of the Noticees held jointly or severally.*
- xi. *The Registrar and Transfer Agents are also directed to ensure that till further directions the securities, including Mutual Fund units, held in the name of the Noticees, jointly or severally, are not transferred or redeemed.*

4. The above *interim order* issued to the Noticees was also in the nature of a Show Cause Notice (hereinafter also referred to “SCN”) whereby the Noticees were provided with the opportunity to file their objections/reply, if any, within 21 days from the date of the *interim order* and were also provided with an opportunity of personal hearing before SEBI, on a date and time to be fixed on a specific request to be made by the Noticees, in that regard. I note from the records available before me that an attempt was made to serve a copy of the *interim order* upon the Noticees on the last known addresses i.e. “102, Devdarshan, Above Car Spa Palasia, Indore Madhya Pradesh – 452001” and “Imran Khan, S/O Abdul Vahid Khan, Tanzeem Nagar, Khajrana Jhalariya Kuwa, Kanadia, Indore Madhya Pradesh – 452016”, however the same was returned undelivered. Therefore, the *interim order* was served upon the Noticees through newspaper publication dated December 03, 2020 in the newspapers namely,

Times of India and *Patrika*. I note that the *Notices* have neither filed any reply/objections to the *interim order* nor have sought any personal hearing. However, in conformity with the principles of natural justice, an opportunity of personal hearing was provided to the *Notices* on May 21, 2021 for which an attempt was made to serve the hearing notice upon the *Notices* through SPAD vide letters dated April 26, 2021 on the aforementioned last known addresses of the *Notices*. However, as the aforesaid letters were again returned undelivered, the notice about the personal hearing was served upon the *Notices* through newspaper publication dated May 03, 2021 in the newspapers namely *Times of India* and *Patrika*. I note that no one appeared before me on the scheduled date of personal hearing i.e. May 21, 2021 as indicated in the said newspaper publication. Under the circumstances, I observe that the principles of natural justice have been complied with adequately in the present matter, and as the *Notices* have preferred to not participate in the present proceedings before me, I am constrained to deal with the matter on merit based on the material available on record. After considering the charges levelled in the instant matter as spelt out in the *interim order*, it leads me to examine of the following issue:

- *Whether acts of the Notices as imputed in the interim order, have violated the provisions of SEBI Act, 1992 read with IA Regulations, 2013, PMS Regulations, 1993 and PFUTP Regulations, 2003 while providing the services related to Investment Advisory and Portfolio Management.*

5. Before advertng to the facts of the case to deal the aforesaid issue, it is apposite to refer to the relevant provisions of law alleged against the *Notices* in the *interim order* cum SCN which are reproduced herein for ready reference :

SEBI Act, 1992

Section 12 (1): "No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the

conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:"

Section 12A. No person shall directly or indirectly –

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;"

SEBI (Investment Adviser) Regulations, 2013

Regulation 3 (1): "On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations".

PMS Regulations, 1993

Regulation 3: "No person shall act as a portfolio manager unless it has obtained a certificate of registration from the Board under these regulations."

SEBI PFUTP Regulations, 2003

Regulation 2 (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
 ..."

"Prohibition of certain dealings in securities

3. No person shall directly or indirectly –

.....

- (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.

4. Prohibition of manipulative, fraudulent and unfair trade practices

- (1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.
- (2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:-

.....

(k) disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities”

6. As stated in the preceding paragraphs, SEBI received a complaint “**Complainant**”), *inter alia*, alleging that the *Complainant* had paid an amount of INR 93,000/- to the *Notices* to invest on his behalf. The said complaint was supported by the email issued to the *Complainant* by the *Notices*. From further scrutiny, it emerged that the *Notices* were hosting a website www.globalporfolio.org which was not found to be active at the time of passing of interim order, however, from the archived pages of the website obtained from web.archive.org, it was observed that the *Notices*, at the time of asking the *Complainant* to invest through them, claimed the following through their website:

- i. *It is a pioneering financial advisory firm having a team of specialized financial market analysts having massive experience in carrying out capital market research.*
- ii. *They deliver reliable recommendation and advice for stocks, future and option (F&O) traded in the NSE and BSE, commodities such as bullion, agri, and metals traded in the MCX and NCDEX.*
- iii. *They offer daily and weekly reports having stock and commodity market overview.*
- iv. *Valuable tips are provided through various methods.*

7. In addition to the above, the *Notices* had mentioned on the website that “Pursuant to the obligations placed on an investment advisor by SEBI under SEBI (Investment Advisor) Regulations, 2013, we have decided to formulate policies for risk profiling and suitability assessment as required under regulation 16 and 17 of the said act.”

8. I note that the following pricing details for availing various services from them were also stated on the website of the *Notices*:

Services	Monthly (in INR)	Quarterly (in INR)	Half Yearly (in INR)	Yearly (in INR)

<i>Standard MCX</i>	10,000	30,000	55,000	90,000
<i>HNI MCX</i>	60,000	1,40,000	2,70,000	5,30,000
<i>Bullions</i>	15,000	35,000	55,000	95,000
<i>Customized Service</i>	2,40,000	6,80,000	10,50,000	17,90,000

9. From the aforesaid facts, I find that M/s. Global Portfolio Management, which is the sole proprietorship concern of Proprietor Mr. Imran Khan was engaged in giving advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, as was proclaimed by the said firm through its website www.globalporfolio.org. At this juncture, it is pertinent to look at the definition of Investment Adviser (or short “**IA**”) as articulated in regulation 2(m) of the *IA Regulations, 2013* which 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*”. Further, I have also perused regulation 2(l) of the *IA Regulations, 2013* which 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.*”

10. In the light of the aforesaid definitions and the content published on the website of the *Notices* as well as the allegations imputed in the interim order, I note that the *Notices*, through their website were offering investment advice as defined under regulation 2(l) of the *IA Regulations, 2013* by offering to give advice related to investing in, purchasing and selling of securities and were also offering various service packages to investor at large for subscription against the services of investment advisory.

11. I also note that the *interim order* has recorded that the aforesaid investment advisory services were being offered by the *Notices* in lieu of consideration which was instructed to be paid by the investor concerned in the ICICI Bank Account number 144105500779, details of which were also provided on the website of the *Notices* under payment details section. As noted above that the ICICI Bank account statement of the *Notices* reveals that around INR 1,26,86,921/- have been credited to the said account from the account opening date i.e. from May 13, 2019 till the date of passing of the *interim order*.

12. Considering the above factual analysis about the activities of the *Notices* as proclaimed by them on their own websites, the details of payment received by the *Notices* from the *Complainant*, contents of the emails sent to the *Complainant*, the bank statement of the *Notices* supported by the KYC/ AOFs documents of the *Notices*, and most importantly, the fact that no arguments have been offered by the *Notices* in response to the allegations made in the *interim order* rebutting the charges levelled constraining me to conclude that the alleged activities of the *Notices* squarely fall under the category of investment adviser as defined under regulation 2 (m) of the *IA Regulations, 2013*.

13. Further, the credit entries in the bank account of the *Notices* are supported by narrations which indicate these credit entries as investment, profit payout, etc., clearly highlight the fact that the payments that were received in the said Bank Account were pertaining to proceeds from the business operations of the *Notices* and considering the fact that the website of the *Notices* clearly shows that its services were in the nature of investment advisory services coupled with the fact that the said Bank account was mentioned on the website itself, it leads to an unassailable conclusion that the said proceeds as reflected in the said ICICI Bank Account were received towards consideration for the advisory services offered by the *Notices*. Therefore, it can be conclusively inferred that the amounts that have been credited to

the ICICI Bank Account of the *Noticees*, were received by the *Noticees* in lieu of providing investment related services as indicated on the website of the *Noticees*.

14. In view of the above, I have no doubt that the *Noticees* were providing investment advice, in lieu of consideration which was received in their ICICI Bank Account and as discussed earlier, in terms of regulation 2(l) of *IA regulations, 2013* such kind of advice was in fact “investment advice”. Therefore, there is no ambiguity left that M/s. Global Portfolio Management, and its proprietor Mr. Imran Khan were engaged in the business of providing investment advice to the public, in lieu of monetary consideration and were thus, acting as an ‘investment adviser’, as defined under regulation 2(m) of the *IA Regulations, 2013*.

15. It is relevant to note here that in order to protect the interest of investors and to preserve the integrity of the securities market, *IA Regulations, 2013* provides various safeguards to ensure that the interest of the investors who receive investment advice are protected. One such safeguard provided under the said Regulations is that any person carrying out investment advisory activities has to obtain registration from SEBI as required under regulation 3(1) of the *IA Regulations, 2013*, which, *inter alia*, provides that, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from SEBI and has to conduct its activities in accordance with the provisions of *IA Regulations, 2013*. Further, safeguards provided under *IA Regulations, 2013* include continued minimum professional qualification and net-worth requirement for investment adviser, disclosure of all conflicts of interest, prohibition on entering into transactions which are contrary to advice given for 15 days, risk profiling of investors, maintaining documented process for selecting investments for clients based on client’s investment objective and risk profile and understanding of the nature and risks of products or assets selected for such client, etc.

16. The activities of the *Noticees*, as brought out from the various materials described above, seen in the backdrop of the aforesaid regulatory provisions show that the *Noticees* were holding themselves out and acting as an IA. However, it is noted that the *Noticees* are not registered with SEBI in the capacity of IA. Hence, I find that these activities/ representations as were being made by the *Noticees* without holding the certificate of registration as investment adviser are in violation of Section 12(1) of *SEBI Act, 1992* read with regulation 3(1) of the *IA Regulations, 2013*.

17. With regard to the activities of the *Noticees* as a Portfolio Manager, I note the following details regarding portfolio management services (for short “**PMS**”) which were displayed on their website:

- i. *In simple words, a portfolio management service provides professional management of your investments to create wealth.*
- ii. *PMS provides professional management of portfolios with the objective of delivering consistent long-term performance while controlling risk.*
- iii. *We understand the dynamics of equity as an asset class, so we track your investments continuously to maximize the returns.*
- iv. *Well defined investment philosophy & strategy acts as a guiding principle in defining the investment universe. We have very robust portfolio management software that enables the entire construction, monitoring and the risk management processes.*
- v. *Our Portfolio Management Service relieves you from all the administrative hassles of your investments. We provide periodic reports on the performance and other aspects of your investments.*
- vi. *Your Relationship manager will help you carefully understand your financial goals and advise you the right product mix. The relationship managers ensure that you receive periodic updates and account performance reports.*

- vii. *Individuals, HUFs, AOPs and limited companies can open PMS account with it.*
 - viii. *PMS is an alternative to mutual funds for the knowledgeable and educated investor.*
 - ix. *Performance fees only. No management fee.*
 - x. *We invest for you in marketable securities (stocks, bonds, etc.) with the goal of growing your assets at a rate which is materially above average without using high levels of debt or risk.*
18. I further note that the *Complainant* has furnished a copy of an email received by him from the *Notices*, which states the following:
- “As per your conversation about investment we have received your amount of Rs. 90,000/- and we will invest your investment. Request you to kindly complete the remaining amount 60,000/- to complete your Rs.1,50,000/- slot.”*
19. From the combined reading of the text of the afore-stated email sent by the *Notices* to the *Complainant* and the materials placed on the website of the *Notices* regarding their PMS activities, it can be easily deduced that the *Notices* were collecting funds from the investors for the purpose of investment in the securities market. In this regard, I have perused the definition of Portfolio Manager as given in regulation 2(cb) of the *PMS Regulations, 1993*, which states that Portfolio Manager means *“any person who pursuant to a contract or arrangement with a client, advises or directs or undertakes on behalf of the client (whether as a discretionary portfolio manager or otherwise) the management or administration of a portfolio of securities or goods or the funds of the client, as the case may be.”*
20. Considering the above mentioned narrations and details regarding the PMS activities placed on the website of the *Notices*, alongwith the bank statement of the *Notices* wherein credits of huge amounts have been received, nature and contents of the complaint received, the email sent by the *Notices* to the *Complainant* stating to

have invested the money received from the *Complainant* in the securities market and the fact that the *Notices* have not contested the aforesaid facts, it leads me to an unambiguous conclusion that apart from receiving the consideration for providing investment advisory services, some portion of the said proceeds were received towards consideration for the PMS offered by the *Notices* to the clients.

21. I note that as per extant regulatory framework, any person carrying out PMS activities has to first obtain registration from SEBI as required under the regulation 3 of *PMS Regulations, 1993*. I also note that various safeguards have been provided under *PMS Regulations, 1993*, including the conditions pertaining to net worth requirement and continued minimum professional qualification and net-worth requirement for providing PMS service, etc. to protect the interest of the investors availing such PMS services. However, as observed in the *interim order*, *Notices* have not taken a registration from SEBI under the *PMS Regulations, 1993*. Therefore, the activity of the *Notices*, by virtue of offering PMS to the investors and general public, was in gross violation of Section 12(1) of *SEBI Act, 1992* read with regulation 3 of the *PMS Regulations, 1993*.

22. In order to ensure protection of investors who receive investment advice or who avail portfolio management services, it is imperative that any person carrying out investment advisory activities or providing portfolio management services has to necessarily obtain registration from SEBI and has to conduct its activities in accordance with the provisions of the relevant SEBI Regulations.

23. In my view, unregistered investment advisors and unregistered portfolio managers like the *Notices* in the present case can put the interest of the investors at great risk by misleading them or misutilising their funds to the detriment of the interest of the investors. In the present case, *Notices* on their website have, *inter alia*, mentioned that M/s. Global Portfolio Management offer advices in stocks, future and option (F&O) and provide daily and weekly reports having stock and commodity market overview, etc. *Notices* on their website have further represented

that M/s. Global Portfolio Management, is a pioneering financial advisory firm having a team of specialized financial market analysts having massive experience in carrying out capital market research and have also stated that they *have decided to formulate policies for risk profiling and suitability assessment as required under regulation 16 and 17 of the IA Regulations, 2013*. Similarly, *Noticees* on their website have *inter alia*, advertised in detail about their PMS services declaring that they have very robust portfolio management software which enables the entire process of construction, monitoring and the risk management of the investments of the investors and that, they provide periodic reports on the performance and other aspects of investments made on behalf of the investors, etc. As stated above, *SEBI Act, 1992* and *IA Regulations, 2013* mandate that a investment advisor has to hold a certificate of registration to act as such. Similarly, the *PMS Regulations, 1993* require an entity to hold a certificate of registration to act as portfolio manager. However, as already pointed out above, I find that the *Noticees* were not holding any certificate of registration from SEBI either to act as investment advisor or as portfolio manager. Thus, the claims/representations made by the *Noticees* on their website were blatantly misleading and were made only to allure the investors to avail investment advisory and portfolio management services being offered by the *Noticees*. The *Noticees* have knowingly misrepresented on the websites floated by them that they are experts in stock market analysis and are experienced in investment advisory / PMS and without even holding any registered Investment Advisor certificate or Portfolio Manager certificate, the *Noticees* offered their investment advisory services / PMS through their website, in an illegal manner to investors, with the objective of raising money from the investors by way of subscriptions to their various plans. The above discussed misleading representations made by the *Noticees* are therefore, deceptive and fraudulent in nature and are well covered within the definition of “fraud” defined under regulation 2(1)(c) of the *PFUTP Regulations, 2003*. It is noted that fraudulent activities/ conduct/ act/ practice of the *Noticees*, as discussed above, are also in violation of provisions of Section 12A (c) of *SEBI Act, 1992* and regulations

3(d) and regulations 4(1) of *PFUTP Regulations, 2003*. Regulation 4(2)(k) of *PFUTP Regulations, 2003*, provides that dealing in securities shall be deemed to be a manipulative, fraudulent or an unfair trade practice if it involves even disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities. In the present case, *Notices* without holding a certificate of registration as investment adviser and Portfolio Manager have knowingly held themselves out as investment adviser and Portfolio Manager on their website. Thus, I find that the *Notices* have also violated regulation 4(2)(k) of *PFUTP Regulations, 2003*.

24. I note that the materials available on record do not indicate the exact amount of fees collected by the *Notices*, as a result of providing investment advice and PMS service to investors in violation of the provisions of the *IA Regulations, 2013* and *PMS Regulations, 1993, respectively*. However, the *interim order* records that the *Notices* have received credits worth INR 1.26 crores (INR 1,26,86,921/-) in their ICICI Bank account number 144105500779 and this account number was also published on their website to enable the investors to make payment to the *Notices*. Additionally, from the complaint that was received by SEBI against the *Notices* it is observed that the *Complainant* had claimed that he had paid an amount of INR 93,000/- to the *Notices*, for availing investment advisory services / portfolio management services from them.

25. In view of the foregoing discussions and findings about the activities engaged in by the *Notices* in rendering investment advisory and PMS services in unauthorised & illegal manner, I, in exercise of the powers conferred upon me in terms Sections 11, 11(4), 11B (1) and 11D, read with of Section 19 of the *SEBI Act, 1992* and regulation 11 of the *PFUTP Regulations, 2003*, while disposing of the allegations levelled in the *interim order cum SCN* hereby direct the following:

- i. The *Noticees* shall within a period of three months from the date of this Order, refund the money received from the clients / investors / complainant, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities and portfolio management services;
- ii. The *Noticees* shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of their contact person such as names, addresses and contact details, within 15 days of coming into force of this Order;
- iii. The repayments to the clients/investors shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments;
- iv. The *Noticees* are prevented from selling their assets, properties and holding of mutual funds/shares/securities held by them in demat and physical form except for the sole purpose of making the refunds as directed above. Further, the banks are directed to allow debit only for the purpose of making refunds to the clients/investors who were availing the investment advisory services and portfolio management services from the *Noticees*, as directed in this Order, from the bank account of the *Noticees*, wherein debit has been frozen by virtue of *interim order* dated August 04, 2020;
- v. After completing the aforesaid repayments, the *Noticees* shall file a report of such completion with SEBI addressed to the Division Chief, Investment Management Department, SEBI Bhavan, Plot No. C4 A, G Block, Bandra Kurla Complex, Bandra (East) Mumbai – 400051, within a period of 15 days, after completion of three months from the coming into force of this

Order, duly certified by an independent Chartered Accountant. The restraint on sale of assets in sub paragraph (iv) shall cease to operate once the refund to the investors is complete and the report as contemplated herein is filed;

- vi. In case of failure of the *Notices* to comply with the aforesaid directions in subparagraph (i) to (v), SEBI, on the expiry of the time period stipulated therein from the date of coming into force of this Order the investors may recover the amounts mentioned in paragraph 24 above or any other amount as may be found to have been raised by the *Notices*, from the *Notices*, in accordance with Section 28A of the SEBI Act, 1992 including such other provisions contained in securities laws;
- vii. The *Notices* are debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 02 (two) years from the date of this Order or till the expiry of 02 (two) years from the date of completion of refunds to investors as directed in sub-paragraph (i) above, whichever is later;
- viii. The *Notices* are also restrained from associating with any company whose securities are listed on a recognized stock exchange and any company which intends to raise money from the public, or any intermediary registered with SEBI in any capacity for a period of 02 (two) years from the date of this Order or till the expiry of 02 (two) years from the date of completion of refunds to investors as directed in sub-paragraph (i) above, whichever is later; and
- ix. The *Notices* shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in sub-paragraph (vii) and (viii) above, either directly or indirectly, investment advisory services, portfolio management services or any other activity in the securities

market without obtaining a certificate of registration from SEBI as required under the securities law.

26. The direction for refund, as given in paragraph 25 (i) above, does not preclude the clients/investors from pursuing the other legal remedies available to them under any other law, against the *Notices* for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

27. This Order comes into force with immediate effect.

28. The directions issued under the *interim* order against the employees of the *Notices* are directed to be discontinued.

29. It is further clarified that during the period of restraint, the existing holding of securities including the holding of units of mutual funds of the *Notices* shall remain frozen.

30. A copy of this Order shall be sent to the *Notices*, recognized Stock Exchanges, the relevant banks, Depositories and Registrar and Transfer Agents of Mutual Funds to ensure that the directions given above are strictly complied with.

-Sd-

DATE: AUGUST 03, 2021

S. K. MOHANTY

PLACE: MUMBAI

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA