

SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S. K. MOHANTY, WHOLE TIME MEMBER

ORDER

UNDER SECTION 11(1), 11(4) AND 11B(1) OF THE SECURITIES AND
EXCHANGE BOARD OF INDIA ACT, 1992

In respect of

Sl. No.	Name of the Noticee	PAN
1.	Right Target Advisory Services	AZDPC8667K
2.	Mr. M Ashok Kumar	AWIPA1302K
3.	Mr. D Murugan	AOOPM6615H
4.	Mr. D Saravanan	BHUPS1380R
5.	Mr. D Kumar	AZNPK8135G

In the matter of Right Target Advisory Services

Background

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') received a complaint dated June 13, 2019, wherein it was alleged that Right Target Advisory Services (hereinafter referred to as '**Noticee no. 1**'/'**firm**') was providing investment advisory services from a website called <https://righttarget.in/> without obtaining registration from SEBI. On the basis of such complaint, SEBI carried out a preliminary examination to ascertain whether unregistered investment advisory activities are being carried out by the *firm*.

2. It is noted in the course of the said preliminary examination that the website <https://righttarget.in/> was active at that time in which the *firm* had presented itself as an Investment Adviser/Tips Provider. The website of the *firm* had also contained information that it was offering packages in stocks trading/investment tips in cash, futures and options segments to its clients as part of its investment advisory services.
3. It was observed from the website of the *firm* that an account with City Union Bank (hereinafter referred to as ‘**CUB**’) bearing account number 27XXXXXXXXXX56 and another account with Bank of Baroda bearing account number 59XXXXXXXXXX89 were mentioned under the head payment details. However, upon inquiry with the two aforesaid banks, it was found out that the said two bank accounts were opened in the name of one Mr. D Kumar (hereinafter referred to as ‘**Noticee no. 5**’). Further examination of the aforementioned website of the *firm* showed that the *firm* also has bank accounts with ICICI Bank Ltd. (A/c. No. 61XXXXXXXXXX21), HDFC Bank Ltd. (A/c No.: 50XXXXXXXXXX16) and Axis Bank Ltd. (A/c. No. 91XXXXXXXXXX36). As per the account opening form submitted by the account holder to ICICI Bank Ltd. as well as the documents submitted with the payment gateway CC Avenue, while opening the accounts with them, it was *prima-facie* found that the *firm* was a partnership firm wherein Mr. M Ashok Kumar (hereinafter referred to as ‘**Noticee no. 2**’), Mr. D Murugan (hereinafter referred to as ‘**Noticee no. 3**’) and Mr. D Saravanan (hereinafter referred to as ‘**Noticee no. 4**’) were the partners of *Noticee no. 1* by virtue of partnership deed dated March 09, 2013. Further, the address of *Noticee no. 1* was stated to be ‘No. 469, Madurai Road, Thirumangalam, Madurai, Tamil Nadu and *Noticee no. 3* (D Murugan) was shown as Authorized signatory in the aforesaid accounts maintained with ICICI Bank Ltd and HDFC Bank Ltd. whereas, the name of

Noticee no. 2 was mentioned as a contact person in the merchant details submitted by CC Avenue and all the three partners viz. *Noticees no. 2 to 4* had signed the agreement with CC Avenue as the partners of *Noticee no. 1*.

4. It was observed during the examination that none of the *Noticees* was registered with SEBI to act as an Investment Adviser in the securities markets.
5. A further scrutiny of the materials available on record showed that the aforesaid website of the *firm* was active at the time of preliminary examination. It was observed that *Noticee no. 1*, at the time of inviting the investors to invest in the securities market as per various investment advisory services rendered to the clients, was also making tall claims before the public through its website such as '85-95% accuracy rate to its calls' etc.
6. I note from the material available on record that the pricing details for various investments products being offered by *Noticee no. 1* as mentioned on the aforementioned website were as following:

Table 1: Subscription plans:

S.No.	Package	One Month Fee (in Rs.)	Three Months Fee (in Rs.)	Six months Fee (in Rs.)	One Year Fee (In Rs.)
1	Stock Cash	6000	15000	30000	55000
2	Stock Future	10000	28000	55000	100000
3	Stock Option	8000	20000	45000	80000
4	Nifty Futures	6000	15000	30000	55000
5	Stock Combo (Cash + Fut)	14000	40000	80000	160000
6	Stock Combo (Fut+Opt)	15000	42000	85000	180000
7	Stock Combo (Fut + Nifty)	14000	40000	80000	160000
8	Stock Combo (Nifty + Opt)	12000	33000	68000	130000

9	All in One Pack	28000	80000	160000	320000
10	Jackpot Tips	12500	35000	68000	130000
11	Bonanza Future Tips	15000	40000	80000	165000
12	Bonanza Option Tips	12000	30000	60000	130000

7. A preliminary examination into the abovementioned five bank accounts, three opened in the name of the *firm* and the two accounts opened in the name of *Notices no. 5*, showed that the *Notices* have *prima-facie* collected a total sum of INR 43,83,290/- in the aforesaid five bank accounts by way of 1471 transactions during the period of operations of the *firm*, viz. March 10, 2013 to December 09, 2020.
8. In the light of the fact that the *Notices* were continuously luring gullible investors by making unreasonable and outlandish claims through the aforesaid website and monies were continuously being collected from the investors in the aforesaid five bank accounts by offering them various investment advisory packages in an unauthorized manner, it was deemed necessary by SEBI to take urgent and preventive action in this matter to stop the *Notices* from collecting any more fees from the public and from indulging in such unauthorized investment advisory activities. Therefore, an *ex-parte ad Interim Order* dated December 09, 2020 (hereinafter referred to as “**Interim Order**”) under Sections 11, 11B(1) and 11D of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) was passed wherein the above activities of the *Notices* were *prima facie* held to be in violation of the provisions of Section 12(1) of the SEBI Act read with Regulation 3(1) of the SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as “**IA Regulations, 2013**”).
9. On the basis of the aforesaid findings from the preliminary examination, the evidence gathered during the examination and considering the sensitive nature

of the allegedly illegal advisory activities being undertaken by the *Notices*, in order to protect the interest of investors in the securities market and, as a preventive measure, *Interim Order* was passed to prevent the *Notices* from carrying on those illegal investment advisory services both directly or indirectly, which were *prima-facie* found to be being undertaken in violation of the provisions of SEBI Act as well as IA Regulations, 2013. Consequently, the following directions were issued against the *Notices* in the aforesaid *Interim Order*: -

“22.1. Right Target Advisory Service and its partners, Mr. M Ashok Kumar, Mr. D Saravanan, Mr. D Murugan and Mr. D Kumar are directed to:

- 22.1.1. 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.*
- 22.1.2. Not to divert any funds raised from investors, kept in bank accounts and/or in their custody until further orders.*
- 22.1.3. 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.*
- 22.1.4. Immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, communications etc., physical or digital in relation to their investment advisory activity or any other unregistered activity in the securities market until further orders.*
- 22.1.5. Not to access the securities market and buy, sell or otherwise deal in securities in any manner whatsoever, directly or indirectly, until further orders.*
- 22.1.6. 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.

22.1.7. To submit the number and details of clients who have availed their investment advisory services and to submit details of fees collected from each such client, immediately but not later than 5 working days from the date of receipt of this order.

22.2. If Right Target Advisory Service or its partners have any open positions in any exchange traded derivative contracts, as on the date of the order, they can close out/square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. Right Target Advisory Service and its partners are permitted to settle the pay-in and pay-out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.

22.3. ICICI Bank Ltd. (A/c no.: 61XXXXXXXXX21), HDFC Bank Ltd. (A/c No.: 50XXXXXXXXXXXX16) and Axis Bank Ltd. (A/c no.: 91XXXXXXXXXXXX36) wherein Right Target Advisory Service is holding an account and City Union Bank (A/c no.: 27XXXXXXXXXXXX56) and Bank of Baroda (A/c no.: 59XXXXXXXXXXXX89) where Mr. D Kumar is holding an account, are directed not to permit any debits/ withdrawals and not to allow credits to the said accounts, without the permission of SEBI. CC Avenue where Right Target Advisory Service is holding an account, is directed to deactivate the said account till further orders. The Banks and payment gateway are directed to ensure that all the above directions are strictly enforced.

22.4. The Depositories are directed to ensure that till further directions not to permit any debits and not to allow any credits in the demat accounts of Mr. M Ashok Kumar, Mr. D Saravanan, Mr. D Murugan and Mr. D Kumar held jointly or individually.

22.5. 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 Right Target Advisory

Service are not transferred or redeemed. Further, Registrar and Transfer Agents are also directed to ensure that till further directions the securities, including mutual fund units, held in the name of Mr. M Ashok Kumar, Mr. D Saravanan, Mr. D Murugan and Mr. D Kumar, held jointly or individually, are not transferred or redeemed."

10. The aforementioned *Interim Order* issued to the *Notices* was also in the nature of a Show Cause Notice (hereinafter also referred to as “**SCN**”) whereby the *Notices* were called upon to show cause as to why the investment advisory plans floated by them should not be held as "Investment Advisory Services" in terms of the IA Regulations, 2013 and thereby the activity of Right Target Advisory Service should not be treated as unregistered investment advisory activity under the SEBI Act and relevant Regulations.
11. In the said *Interim Order*, the *Notices* were also directed to show cause as to why appropriate directions, under Sections 11, 11(4), 11B(1) and 11D of the SEBI Act and relevant SEBI Rules/Regulations should not be issued against them, including directions for imposing prohibition on buying, selling or otherwise dealing in the securities market, either directly or indirectly in any manner whatsoever for a particular period as well as not to be associated with any registered intermediary/listed entity in the securities market in any manner whatsoever, and also why any direction to refund the amounts so far collected from the investors/clients by offering such unregistered and unauthorized investment advisory services, should not be issued against them.
12. In this regard, the *Notices* were provided with an opportunity to file their respective objections/replies 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 them.

13. I note from the records available before me that the *Interim Order* was delivered to the *Notices* at their respective addresses through Email as well as through SPAD, out of which, *Noticee no. 1* confirmed receipt of the said *Interim Order* by way of an email dated December 15, 2020. I further note that the acknowledgement receipts of delivery of the said *Interim Order* to *Notices no. 2 to 5* are also available on record.
14. I note from the material available on record that *Noticee no. 2*, vide his email dated July 02, 2021, has submitted his reply to the allegations and *prima-facie* findings in the *Interim Order* and sought an opportunity of personal hearing. In the said reply *Noticee no. 2* has contended that he had made no capital investment and there was no profit sharing involved in his favour in the said partnership. Further, he has stated to have retired from the partnership *firm* w.e.f. August 25, 2014.
15. I note that the rest of the *Notices* did not make any submissions on merit. However, vide email dated July 07, 2021, *Noticee no. 1* sought an opportunity of personal hearing.
16. Subsequently, in compliance with the principles of natural justice, an opportunity of personal hearing was granted to the *Notices* on December 07, 2021, during which *Notices no. 2, 4 & 5* appeared in person through video conferencing. *Noticee no. 2* reiterated his submissions made vide email dated July 02, 2021. *Notices no. 4 to 5* (also appearing on behalf of *Notices no. 1 and 3*) were questioned about the submissions of *Noticee no. 2* regarding his retirement from the *firm* w.e.f. August 25, 2014, which was confirmed by them. Further, the *Notices* were given 10 days' time to submit their comprehensive reply to the allegations and on the preliminary findings mentioned in the *Interim Order* along with supporting documents, if any, along with replies to the queries raised during the course of personal hearing.

17. Thereafter, *vide* email dated December 07, 2021, *Noticee no. 2* made his submissions wherein he submitted a copy of Retirement Deed dated August 25, 2014. Further, *Noticee no. 2* requested for lifting of the directions imposed *vide Interim Order* on him.
18. I note that, *vide* email dated December 17, 2021, *Notices no. 3 to 5* have submitted their respective replies to the *Interim Order* along with certain documents sought during the course of the hearing and submitted also expressing therein, their apology for entering into unregistered investment advisory services.
19. Subsequently, *vide* email dated January 07, 2022, *Noticee no. 5* submitted a list of transactions claiming them to be gold loans from Bank of Baroda and City Union Bank. In support of his claim, he submitted three letters from City Union Bank attesting three transactions to be on account of gold loans taken by *Noticee no. 5* from the said bank.

Consideration of Issues and Submission

20. I have carefully perused the observations recorded in the *Interim Order*, the submissions made by the *Notices* and other materials available on record. I note that it was *prima-facie* held in the *Interim Order* that the *Notices* were providing Investment Advisory Services through the website in the name of *Noticee no. 1* namely <https://righttarget.in/>. It was found in the preliminary examination that the said website was being used to collect funds from the investor clients and the amounts so collected as fees, were being deposited in five different accounts at different points of time, three of which were opened & held in the name of *Noticee no. 1* and two accounts in the name of *Noticee no. 5*. In view of the aforesaid finding, it was *prima-facie* held in the *Interim Order* that the *Notices* have violated the relevant provisions of IA Regulations, 2013 read with provisions of SEBI

Act. Those relevant provisions are being reproduced hereunder, for the benefit of ready reference:

SEBI ACT, 1992

Registration of stock brokers, sub-brokers, share transfer agents, etc.

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:*

SEBI (INVESTMENT ADVISER) REGULATIONS, 2013

Application for grant of certificate.

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:*

21. As stated earlier, SEBI had received a complaint dated June 13, 2019, against *Noticee no. 1* alleging it to be involved in unauthorized Investment Advisory activities through its website i.e. [https:// righttarget.in/](https://righttarget.in/) which was found to be an active website at the time of passing of the *Interim Order*. It was observed that the *Noticees* were making certain irresponsible and outlandish claims about their investment advisory services and were enticing the investors to invest as per the investment advisory services rendered by them, by claiming 85-90% accuracy in the calls being given by *Noticee no. 1* to its clients.

22. I also note that the *Notices* have not refuted the aforesaid allegations during the whole proceedings and have admitted to having undertaken the business of Investment Advisory Service during the whole period of operation. Only *Notice no. 2* has submitted that he had retired from *Notice no. 1* w.e.f. August 25, 2014, which has been confirmed by *Notices no. 4 & 5* during the course of personal hearing as well as in their comprehensive post hearing submissions.

23. I note from the material available on record that *Notice no. 1* had five different bank accounts as publicized on the aforesaid website, details of which has been mentioned earlier in the present order. The funds were being deposited in the said five bank accounts either directly or through CC Avenue. I note from the materials available on record that the said CC Avenue account was also opened in the name of *Notice no. 1* and the agreement for the same was signed by the then partners viz. *Notices no. 2 to 4*. A perusal of the said bank accounts show that the *Notices* started receiving money in the said bank accounts from October 21, 2013, onwards and the last deposit received into the said accounts was on November 24, 2020.

24. Further, a perusal of the bank statement of the above noted five bank accounts, listed for purpose of receiving fees on the website of *Notice no. 1*, reveals that there have been numerous deposits into the said accounts wherein, the figures of various amounts deposited match with different plan/package fees as have been highlighted in the abovementioned Table no. 1. An illustrative list of narrations supporting various credit entries in the account held with ICICI Bank Ltd. having A/c number 61XXXXXXXXX21 is as under:

Transaction Date	Narration	Credit (in INR)
04-03-2016	BIL/000928308139/subscription/NSP	7000

14-03-2016	BIL/000933740987/nifty/NSP	5500
28-03-2016	BIL/000939871451/nifty/NSP	5500
29-04-2016	BIL/000959185745/May2016Subscription/NSP	20000

The afore-cited narrations clearly establish that the funds being received in the said bank account were for the purpose of Investment Advisory services only. Further, during the course of the personal hearing, *Notices no. 3 to 5* have admitted to have accepted funds in the said five accounts for providing the said advisory services to their clients/subscribers.

25. I find that the name of none of the *Notices* appears in the list of registered Investment Advisors available in the database maintained by SEBI. The same has not been disputed even by the *Notices* either in their respective written submission or during the course of the personal hearing attended by them.

26. From the aforesaid narration of facts, the replies filed by the *Notices* in response to the allegations made in the *Interim Order* and the submissions so advanced in the course of personal hearing, I find that the *Notices*, acting through their partnership firm (arraigned at *Notice no. 1* in the present Order), were indeed engaged in rendering advice in an unauthorized manner relating to investing in, purchasing, selling or otherwise dealing in securities and in various other investment products of securities, as was proclaimed by the *Notices* through their website viz. <https://righttarget.in/>.

27. At this juncture, it is pertinent to look at the definition of Investment Adviser (or short “**IA**”) as articulated in regulation 2(1)(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 perused regulation 2(1)(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.*”

28. In the light of the aforesaid definitions and the content published on the aforementioned website of the *Notices* clearly describing Noticee no. 1 as ‘Stock Market Advisory Company’ read with the allegations imputed in the *Interim Order*, I note that the *Notices*, through their website were offering investment advice as defined under regulation 2(1)(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 investment advisory service plans/packages to investors at large for subscription, which were nothing but purely in the nature of the services of investment advisory.
29. The *Interim Order* has recorded that the aforesaid investment advisory services were being offered by the *Notices* in lieu of monetary considerations which were being paid by the concerned investors into the aforementioned five bank accounts, either by way of direct transfer or through CC Avenue platform, all of which were registered either in the name of *Noticee no. 1* or *Noticee no. 5*. The details of these payment methods were also suggested to the public under the payment option section on the aforementioned website being run by them.
30. Further, the credit entries in the said five bank accounts are supported by narrations clearly indicating the specific investment plan subscribed by the said client with the deposit amounts which also matched with different payment plans as already highlighted in Table 1 above, thereby clearly demonstrating the fact that the monies that were received into the said bank Accounts were received by

way of proceeds from the business operations of the *Notices* as Investment Adviser. Considering the fact that the website of the *Notices* ostensibly demonstrated that the services offered by the *Notices* were in the nature of investment advisory services, coupled with the fact that the aforesaid five bank accounts were specified in the website intimating the investors to deposit the fees into these accounts, it leads me to an unassailable conclusion that the said pay-in amounts as reflected in the said five bank accounts were in fact the amounts received towards consideration in lieu of the advisory services offered by the *Notices*.

31. Considering the above factual analysis about the activities of the *Notices* as proclaimed by them on their own website, the details of payment received by the *Notices* from various investors, the bank statements of *Noticee no. 1* (supported by the KYC records of the *firm* along with that of other *Notices*), and most importantly, the fact that the *Notices* have admitted to the charges/allegations levelled against them in the *Interim Order* in their respective written submission as well as during the course of hearing held on December 07, 2021, it constrains me to conclude that the activities indulged into by the *Notices* squarely fall into the category of investment advisory services as defined under regulation 2(1)(l) of the IA Regulations, 2013.
32. In view of the aforesaid discussions and overwhelming factual findings pertaining to the advisory activities being undertaken by the *Notices* during the relevant period, I have no doubt that in terms of Regulation 2(1)(l) of the IA regulations, 2013 such kind of advisory services rendered by the *Notices* in fact constituted “investment advice” and the *Notices* were providing investment advice through their partnership concern viz. *Noticee no. 1*, in lieu of consideration which was received and credited into the five bank accounts opened by them in the name of either *Noticee no. 1* or *Noticee no. 5*. Therefore, there is no ambiguity left that the

Notices were engaged in the business of providing investment advice to the public, in lieu of monetary consideration and were thus, acting as an ‘investment advisers’, as defined under regulation 2(1)(m) of the IA Regulations, 2013.

33. In this regard, I find it necessary to deal with certain submissions made by *Noticee no. 2* in his submissions dated July 02, 2021, which were again reinforced by his submissions dated December 07, 2021. *Noticee no. 2* has firstly argued that he had retired from the said *firm* w.e.f. August 25, 2014, in support of which he has produced a deed of retirement. I note that the said fact has been affirmed by the other *Notices*.

34. At this stage, I find it relevant to refer to Section 25 of the Partnership Act, 1932 which states that “*every partner is liable jointly with all the other partners and also severally, for all acts of the firm done while he is a partner*”. As noted in the preceding paragraphs, credit transactions in the bank accounts of the *firm* pertaining to rendering investment advisory services were observed during the period October 2013 to November 2020. In view of the same, the aforesaid partners of *Noticee no. 1*, are jointly and severally liable for the activities of the *firm* during their respective terms as partners which are found to be as following:

Sl. No.	Name of the Partner	Tenure
1	Mr. M Ashok Kumar	10-03-2013 to 25-08-2014
2	Mr. D Saravanan	10-03-2013 to till date
3	Mr. D Murugan	10-03-2013 to till date

35. Another contention raised by *Noticee no. 2* is that he was only a working partner with having no investment in the partnership *firm* and no profit sharing covenant in his favour. Effectively he was merely an employee receiving salary for his services. However, I am unable to accept the said contentions of *Noticee no. 2* for the following reasons:

- firstly, there is no distinction available under Indian Partnership Act, 1932 between working partner and investing partner and all are equally liable for the acts of the firm under Section 25 reproduced above.
- Secondly, clause 8 of the said partnership deed dated March 09, 2013 enumerates the profit sharing arrangement amongst the partners viz. *Notices* no. 2 to 4 and, in the said arrangement, *Notice no. 2* was entitled to 20% of the profit earned by the *firm* in a financial year.

36. Another defense advanced by *Notice no. 2* has been that they had started offering investment advisory services prior to the coming into force of the IA Regulations, 2013 when there were no restrictions on carrying out such activities or any mandate to get registered with SEBI and they were not aware about the notification of the IA Regulations, 2013 and the mandate thereunder requiring investment advisers to get registered with SEBI.

37. It is a cardinal principle of law that ignorance of the law is no excuse and the same cannot be taken as a defense in any proceedings to avoid liability in case of breach. The IA Regulations, 2013 were notified by SEBI in the year 2013 and it came into force w.e.f April 21, 2013, i.e. immediately after *Notice no. 1* came into existence. From such date, it was imperative for any person carrying out investment advisory activity to get registered with SEBI. The IA Regulations, 2013, as it stood when it was notified, had a transitional provision enabling persons carrying on investment advisory activities prior to the notification of the IA Regulations, 2013, to seek registration with SEBI. The proviso to regulation 3(1) of IA Regulations, 2013, as it stood then, provided that such persons could continue to do investment advisory activity for a period of 6 months from the date of commencement of the IA Regulations, 2013 without obtaining SEBI Registration. It was further provided that in case such a person makes an

application for registration before SEBI within the said six months, then they could continue with the investment advisory activity till the application is disposed of by SEBI. In view of the fact that the *firm* was incorporated in March 2013 and it started receiving funds in its three accounts mentioned above only from October 21, 2013, I find no merit in the contention of the *Notices* that they were engaged in investment advisory activities prior to the notification of the IA Regulations, 2013 which came into force from April 2013. If the *Notices* had any intention of carrying on with the investment advisory activity after coming into force of the IA regulations, 2013 then it was obligatory on their part to seek registration from SEBI.

38. Therefore, the facts of the case don't support the submission of *Notice no. 2* and it was imperative for all the *Notices* to obtain registration as Investment Advisor under the IA Regulations, 2013 prior to starting their investment advisory services. However, I note that *Notice no. 2* admittedly continued providing tips/investment advice in an unauthorized manner through *Notice no. 1* during the period when he was a partner in the *firm* i.e. from October 2013 to August 2014. Subsequently also, *Notice no. 1* admittedly continued the unregistered Investment Advisory services supposedly through an employee (whose name was not disclosed by *Notices no. 3 to 5* despite giving undertaking to do so during the course of personal hearing) and thereafter, the advisory activities were continued by *Notice no. 5*. It was only after the passing of the *Interim Order* that *Notice no. 1* stopped its operations as an unregistered investment advisor. In view of the same, I do not find any merit in the contentions advanced by *Notice no. 2*. In fact, I find it important to mention here that it is not the case of *Notice no. 2* that after his retirement from *Notice no. 1*, he altogether stopped the unregistered investment advisory services. Rather, I find that *Notice no. 2* went on to open a sole proprietorship concern under the name 'Profit Mount Advisory Services'

and another partnership concern under the name ‘Always Gain Advisory Services’ to continue with the same business of rendering unregistered Investment Advisory services to the gullible clients. Both these entities have stopped their operations only in December 2020 when SEBI passed interim orders against them. Subsequently, both these entities have also appeared before me (through *Noticee no. 2*) for the purpose of final disposal of their respective proceedings and in the Orders passed by me, I have directed those two entities to refund investors’ money to their respective clients vide the said Final Orders dated December 22, 2021.

39. I find it necessary to highlight here the impunity with which the operations of *Noticee no. 1* were being run by *Notices no. 3 to 5* without having any regard to the law of the land. As pointed out earlier, out of five bank accounts mentioned on the website of *Noticee no. 1*, two accounts were in the name of *Noticee no. 5*, although the name of *Noticee no. 5* was not reflected in the partnership deed available with SEBI. Consequently, during the course of the personal hearing, a specific query was raised to *Notices no. 3 to 5* to clarify the status of *Noticee no. 5* and to explain as to how his bank accounts were being displayed on the website of the *firm*. In this regard, from the post hearing submissions of *Notices no. 3 to 5*, I find that *Noticee no. 5* was never inducted in the *firm* as a partner, and yet his account details were not only shown on the website of *Noticee no. 1* but also funds were continuously received in his bank accounts on behalf of the *Noticee no. 1* from January 2018 to November 2020. Further, *Notices no. 3 to 5* have submitted that the investment advisory tips were actually being provided by one lady employee of the *firm* (name not disclosed by the *Notices* despite specific query raised in this regard) and when she left, it was *Noticee no. 5* who used to collect the investment tips from various websites and other places and forward them to the clients without doing any research on their end. It clearly shows how

fraudulently and in such an irresponsible manner the *Notices* were providing investment advisory services to their clients. It also shows how cleverly and for the reason best known to them, the *Notices* have utilised the bank account of the *Noticee no. 5* for receipt of fees from their clients against such illicit investment advisory services rendered to them without even inducing him (*Noticee no. 5*) either as a partner so as to hoodwink the clients and to ensure that the client/investors can not have any recourse against him under the law, in case of any wrongdoing by *Noticee no. 5*.

40. It is relevant to note here that in order to protect the interest of investors and to preserve the integrity of the securities market, the IA Regulations, 2013 provide various safeguards to ensure that the interests 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 also has to conduct its activities in accordance with the provisions of IA Regulations, 2013. Further, various crucial safeguards as provided under IA Regulations, 2013 include, continued minimum professional qualification and net-worth requirement for an investment adviser, disclosure of all conflicts of interest, prohibition on investment adviser entering into transactions on its own account which is contrary to the advice given by investment adviser to its clients for a period of 15 days from the day of such advice given, monetary 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.

41. The activities of the *Notices*, executed through their partnership concern viz. *Notice no. 1*, as brought out from various materials described above including their aforementioned website, seen in the backdrop of the aforesaid regulatory provisions show that the *Notices* were holding themselves out as an Investment Advisory service and through *Notice no. 1*, other *Notices* were holding themselves out as Investment Advisors too. However, it is noted that none of the *Notices* was registered with SEBI as an Investment Advisor, which is mandatory under IA Regulations, 2013. Hence, I find that these activities/representations as made by the *Notices* through their website and conduct *vis-à-vis* their clients without holding a certificate of registration as an investment adviser, is in violation of Section 12(1) of SEBI Act read with regulation 3(1) of the IA Regulations, 2013.
42. In order to ensure the protection of investors who receive investment advice, it is imperative that any person carrying out investment advisory activities should be competent enough to deal with investors' monies and SEBI as a regulator, has made it necessary for anyone to conduct Investment Advisory service to first obtain registration after acquiring the relevant qualification, as prescribed by SEBI, and such person has to conduct his activities in accordance with the provisions of the relevant SEBI Regulations.
43. In my view, unregistered investment advisors like the *Notices* in the present case, can put the interest of the common investors at great risk by misleading them or misutilising their funds to the detriment of the interest of such investors as well as others in the securities market. In the present case, the *Notices*, on the aforementioned website have, *inter alia*, mentioned that M/s Right Target Advisory Services offered advices in stocks as well as for future and option (F&O) trading etc. The *Notices* through the aforementioned website, have further represented that M/s. Right Target Advisory Services is a leading Indian Stock Market Advisory Company, having a strong hold in providing most

authentic and accurate Stock Market Tips after huge analysis and research. It is also stated that the *firm* is ‘a professionally managed company’ with as high as 85-95% accuracy in the calls generated by them. However, as mentioned above, the *firm* was managed in a completely unprofessional manner wherein all the time the advisory work was being done by completely incompetent/unqualified persons. As pointed out earlier, initially such unauthorized services were being rendered by *Noticee no. 2* on whose retirement from the *firm*, it was delegated to an employee and then the said task was overtaken by *Noticee no. 5* who even had no formal connection with the *firm*. Further, *Noticee no. 5* was also not doing any research and was just collecting stock tips from numerous third party sources on a random basis and was forwarding those tips to the gullible investors. From the above, it is evident that the *Noticees* have knowingly engaged themselves into activities with the sole objective of fraudulently misleading the gullible investors to play with their hard earned money by making them follow their random stock tips which were provided to them by the *Noticees*, without any research or any effort. In fact, they did so successfully conduct such unauthorized advisory activities for a quite long period of time until they were stopped by SEBI by virtue of *Interim Order* dated December 09, 2020. The website of *Noticee no. 1* mentioned that they are a leading Indian Stock Market Advisory Company offering advices for trading in the futures and options segments of the securities market and their stock tips are based on detailed analysis and research. The *Noticees* also misrepresented to the investors by claiming that they have a stronghold in providing the most authentic tips which were based on research and analysis leading to more than 85% accuracies in their calls.

44. I find it important to mention here that unregistered investment advisory services are a menace to the securities market and SEBI has been fighting hard to curb this evil since long. In that direction, SEBI has enacted IA Regulations, 2013, and

has been conducting investment awareness seminars throughout the country to alert the public about such unregistered investment advisory activities. Curbing this breed of unregistered investment advisors is a necessity to make the securities market more reliable for retail investors so that they get an opportunity to approach the persons who are qualified and eligible to give such kind of advisory services to them. Permitting the investors to receive an investment advisory service from an unregistered entity in effect, means that the same is received from an unqualified person without following the safeguards prescribed in the IA Regulations, 2013. An investor receiving a service from an unregistered investment advisor stands at a disadvantageous position *vis-a-vis* an investor who receives such service from a registered investment adviser with respect to his protection as an investor, as envisaged under the IA regulations, 2013. An unregistered investment adviser has not even satisfied the Regulator that he is a fit and proper person to hold the certificate of registration as an investment adviser. Availing of service from such persons is detrimental to investors and such unqualified service would result in irreparable damage, as the investors' money is invested based on advices given by an unqualified and un-regulated advisor. Exposing investors to such unauthorized and unregulated services also has the effect of interfering with the development of the securities market, as victims of such services as well as their close ones tend to lose faith in the securities market. Such an injury/detriment to the development of the securities market also qualifies as an "irreparable injury" not only to the said investor but to the securities market as a whole, as it deters the confidence of gullible small investors in the securities market. The objective of SEBI as enshrined in the SEBI Act is not only the protection of investors but also the orderly development of the securities market. Therefore, the investment advisory services should only be

allowed to be conducted by persons who are deemed fit under the IA Regulations, 2013 after following the safeguards mentioned therein.

45. 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 to investors, in violation of the provisions of the IA Regulations, 2013. However, I find from the *Interim Order* that the *Notices* have received credits worth a total sum of INR 43.83 Lakhs (INR 43,83,290/-) through their five bank accounts enumerated above, either directly through account transfer of funds or through various other payment mediums such as CC Avenue, out of which three accounts belonged to *Noticee no. 1* and two accounts belonged to *Noticee no. 5*. I also find that these five account numbers were published on the abovementioned website being run by the *Notices* in order to enable the investors to make payment for availing the unauthorized investment advisory services offered by the *Notices*.

46. In this regard, I find that *Noticee no. 5* has contended that he had obtained jewels/gold loan from City Union Bank and Bank of Baroda in his accounts. A perusal of the two bank accounts of *Noticee no. 5* shows that either the narration mentions obtaining of loan or the loan account number from which the amount has been raised, the details of which are as below:

Transaction Date	Narration	Amount Credited
Bank of Baroda Account No. 59XXXXXXXXXX89		
09-01-2018	T05/578	65000
25-07-2018	05/1710	69500
08-11-2018	BY 05/2252	70000

City Union Bank Account No. 27XXXXXXXXXXXX56		
22-03-2019	BY TRANSFER: LOAN 502112024954315:00273	55000
29-03-2019	BY TRANSFER: LOAN 502112024955130:00273	69000
04-06-2019	BY TRANSFER: LOAN 502112024962196:00273	21000
	Total	349500

I find it relevant to mention here that there were certain more transactions in the aforementioned City Union Bank account of *Noticee no. 5* where narration suggested that these deposits were loan transactions. However, since the deposits prior to October 05, 2018, were not taken into consideration in calculating the amount collected from the investors, the said loan transactions prior to this date were not considered. Similarly, an amount of INR 74,000 was also claimed to be a jewel loan in Bank of Baroda Account. However, no such entry was found in the bank statement available on record.

47. Here I find it fair to exclude such amount of INR 3,49,500/- from the consideration of the other amounts that were collected by the *Notices* by way of subscription to their Unauthorized Investment Advisory Services by various clients as the evidence on record suggest that the said amount was taken by *Noticee no. 5* by way of a loan. Therefore, after excluding the abovementioned amount of INR 3,49,500, the amount collected by way of subscription to their Unauthorized Investment Advisory services aggregates to approx. INR 40,33,790/-.

48. After holding that the *Notices* were running an unauthorized Investment Advisory services through which they lured numerous gullible retail investors to subscribe to their service packages, who are the most vulnerable sections of the participants of the securities market, as the Regulator, it is an avowed duty of SEBI to protect the interest of such investors. As the *Notices* have failed to

provide specific details of the funds collected by them in lieu of their unauthorized investment advisory services which were credited into their five bank accounts, I take the entire amount of funds received by them through the said five bank accounts (sans the aforementioned loan amount of INR 3,49,500/-), which amounts to INR 40,33,790/-, treating the same as the funds collected by them from their unauthorized Investment Advisory services only. The only method I find feasible to redeem the investors is to direct the *Notices* to repay such funds collected from the investors. At this stage, I also clarify that *Notice no. 2* is liable for repayment of amounts by the *firm* collected in the three bank accounts of M/s Right Target Advisory Services at least upto August 25, 2014.

ORDER

49. In view of the foregoing discussions and observations/findings about the activities engaged in by the *Notices* in rendering investment advisory in an unauthorized and illegal manner, as has been established in facts & circumstances of the case, and in order to achieve the avowed object of SEBI Act, 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, while disposing of the allegations levelled in the *Interim Order* cum SCN hereby direct the following:

49.1. The *Notices* 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;

49.2. The *Notices* shall issue a 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;
- 49.3. 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;
- 49.4. The *Notices* 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 from the *Notices*, as directed in this Order, from the bank account of the *Notices*; wherein debit has been frozen by virtue of *Interim Order* dated December 09, 2020.
- 49.5. The *Notices* shall resolve all the complaints pending against them and file a report of such resolution 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 30 days from the date of this Order.
- 49.6. After completing the aforesaid repayments, the *Notices* 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 paragraph 49.4 shall cease to operate once the

refund to the investors is complete and the report as contemplated herein is filed;

- 49.7. The *Notices* are debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 06 (six) months from the date of this Order or till the expiry of 06 (six) months from the date of completion of refunds to investors as directed in paragraph 49.1 above, whichever is later;
- 49.8. 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 06 (six) months from the date of this Order or till the expiry of 06 (six) months from the date of completion of refunds to investors as directed in paragraph 49.6 above, whichever is later;
- 49.9. The *Notices* shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in paragraphs 49.7 and 49.8 above, either directly or indirectly, investment advisory services or any other activity in the securities market without obtaining a certificate of registration from SEBI as required under the Securities Laws;
- 49.10. The *Notices* shall not divert any funds collected from investors, kept in bank account(s) and/or in their custody except for the purpose of refund as directed in paragraph 49.1 above;
- 49.11. The *Notices* 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

for the purpose of refund as directed in paragraph 49.1 and until the refund is completed and a report as mandated under paragraph 49.6 is filed with SEBI.

50. The direction for refund, as given in paragraph 49.1 above, does not preclude the clients/investors of Right Target Advisory Services from pursuing the other legal remedies available under any other law, against the *Notices* for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

51. This Order shall come into force with immediate effect.

52. Obligation of the *Notices*, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange(s), as existing on the date of this Order, can take place irrespective of the restraint/prohibition imposed by this Order, only in respect of pending unsettled transactions, if any. Further, all open positions, if any, of any of the *Notices* in the F & O segment of the stock exchange, are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.

53. A copy of this Order shall be served upon the *Notices*, all the recognized Stock Exchanges, Depositories, registrar and transfer agents and Banks for necessary compliance with the above directions.

Sd/-

DATE: March 28, 2022

S. K. MOHANTY

PLACE: Mumbai

WHOLE TIME MEMBER