

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTIONS 11(1), 11(4), 11(4A), 11B(1), 11B(2) AND 11D OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 3(1) OF SEBI (INVESTMENT ADVISERS) REGULATIONS, 2013

In respect of -

Sr. No.	Name of the Entity	PAN
1.	Mr. Siddharth Pandey / Snigdha Equity Advisory	CEPPP8065P

In the matter of Unregistered Investment Advisory Services

BRIEF BACKGROUND

- Securities and Exchange Board of India (“SEBI”) conducted an examination, pursuant to receipt of a complaint dated March 10, 2023 alleging that the complainant was victim of online fraud by Mr. Siddharth Pandey (hereinafter referred to as the ‘Noticee’) to ascertain the veracity of the said complaint and to determine whether there has been any violation of the provisions of the Securities and Exchange Board of India Act, 1992 (“SEBI Act, 1992”), the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (“IA Regulations”) and any other Rules or Regulations made thereunder, by the Noticee.
- The complainant alleged that he invested Rs. 2 lakhs in August 2022 with the Noticee in an assured return membership plan but did not receive the returns as promised. Along with the said complaint, the complainant provided the following documents:
 - Copy of the front page of the complainant’s Bank Passbook – Federal Bank
 - Screenshot of payment of Rs. 5000/- to the Noticee on January 23, 2022.
 - Transaction particulars including proof of payment with respect to payment of

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Rs. 30,000/- to the Noticee on May 27, 2022.

- (iv) Copy of PAN Card of the complainant*
- (v) Copy of Aadhar Card of the Complainant*
- (vi) Copy of Aadhar Card of the Noticee*
- (vii) Transaction particulars including proof of payment with respect to payment of Rs. 1,70,000/- to the Noticee on August 30, 2022.*
- (viii) Copy of PAN Card of the Noticee*
- (ix) Extracts of Whatsapp chat with the Noticee from April 09, 2021 to February 16, 2023.*

3. The complainant had further stated that he had received a call from a person who identified himself to be Vijay. The details of the plan as provided in the body of the email from email id *snigdhafinancialadvisory@gmail.com* is given below:

*Plan: Assured Return Membership
Assured return of 10% on monthly basis
25th to 30th of every month – Settlement Period
Funds required - 1 lac minimum*

4. Upon examination of the aforesaid complaint, KYC documents, bank account statements and the extracts of WhatsApp chats available on record, SEBI, *prima facie*, found that the Noticee is engaged in investment advisory services without obtaining a certificate of registration from SEBI. Further, it was observed from the WhatsApp extracts provided by the complainant that the Noticee claimed to provide assured returns on amount invested with him.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice dated May 24, 2024 (“**SCN**”) was issued to the Noticee calling upon it to show cause as to why suitable directions under Sections 11(1), 11(4), 11(4A), 11B (1), 11B(2) and 11D of the SEBI Act, 1992, including direction to refund advisory fees collected from investors and imposing monetary penalty under Sections 15EB and 15HA of the SEBI Act, 1992, should not be issued against the Noticee for the alleged violation of the provisions of Section 12(1) of the SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations and Regulation 3(a), 3(d), 4(1) and 4(2)(k), (o) & (s) of the

SEBI (Prohibition of Fraudulent and Unfair Trade Practices in Securities Market) Regulations, 2003 (hereinafter referred to as the “**PFUTP Regulations, 2003**”) read with Section 12A(c) of the SEBI Act, 1992. The following documents were enclosed as annexures to the SCN dated May 24, 2024:

Annexures to SCN	
Annex. No.	Particulars
1.	Copy of complaint along with attachments
2.	Copies of communication with the Noticee
3.	Screenshots of Facebook profile
4.	Copy of Whatsapp chat submitted by the complainant

6. The details of the allegations made in the SCN are as under:

6.1 Upon receipt of the complaint dated March 10, 2023 along with the attachments, on a search of the keyword ‘*Snigdha Equity Advisory*’ on Facebook, a profile was found with the name – *Snigdha Equity Advisory Cash*. The said Facebook profile was created as an individual profile and not a page/community. This profile has three friends as on date – *Snigdha Equity’s Cash Segment, Snigdha Equity Advisory and Siddharth Pandey*. The profile *Snigdha Equity Advisory* mentions that it provides Intraday, BTST, Positional Calls in Equity Cash segment only. The contact number provided on the profile is xxxxxx1212. *Snigdha Equity Advisory* is a locked profile.

6.2 Further, upon perusal of the WhatsApp extracts submitted by the complainant, it is alleged that the Noticee was holding himself out as an investment advisor, offering investment advisory services as evinced by the below extract. He also mentions that he provides intraday calls with 85% accuracy:

09/04/2021, 5:02 am - Sidharth Pandey Call: I provide daily 2 INTRADAY calls with 85%accuracy (EQUITY cash Segment only)

CHARGES

Rs.75/- per Trading day

Rs.250/- Weekly

RS.800/- MONTHLY

RS.2000/- for 3 month's

09/04/2021, 5:03 am - Mohammed Shijauddin: I prefer for 1 month

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09/04/2021, 5:05 am - Mohammed Shijauddin: Provide your account details to transfer amount

09/04/2021, 5:38 am - Sidharth Pandey Call: *.ACCOUNT TRANSFER*

KOTAK MAHINDRA BANK

NAME - SIDDHARTH PANDEY

A/C - XXXXXX5155

IFSC - KKBK0006566

18/04/2021, 5:28 pm - Sidharth Pandey Call: FLASH OFFER

RS.3000/- FOR 1 YEAR

INTRESTED THEN PLEASE COMPLETE YOUR PAYMENT PROCESS & SHARE SCREENSHOT

THANK YOU

21/04/2021, 7:31 am - Sidharth Pandey Call: RAMNAVMI OFFER

RS.1800/- FOR 6 MONTH'S (OCTOBER 2021)

Intrested then please complete your Payment process &Share Screenshot

Thank you

28/04/2021, 6:51 pm - Sidharth Pandey Call: 3 month's FLASH MEMBERSHIP OFFER

RS.1500/- for 3 month's

Intrested then please complete your Payment process &Share Screenshot before 9.30am

30/04/2021, 9:35 pm - Sidharth Pandey Call: Hello your MEMBERSHIP is VALID till 10.05.2021

Satisfied & intrested to Further then Please complete your Payment process &Share Screenshot before 10.05.2021

CHARGES

RS.800/- MONTHLY

RS.1200/- for 2 month's

RS.2500/- for 6 months

Thank you

01/05/2021, 1:40 pm - Sidharth Pandey Call: Hello
If you have any QUERY related your PORTFOLIO stocks
Please Feel to Ask
Thank you 😊

02/05/2021, 8:42 am - Sidharth Pandey Call: FLASH OFFER
RS.3600/- FOR 1 YEAR

02/05/2021, 7:42 pm - Mohammed Shijauddin: Namaste sirji, I have snowman
2500 shares @ 56

02/05/2021, 7:42 pm - Mohammed Shijauddin: Should I hold it for long term

02/05/2021, 7:52 pm - Sidharth Pandey Call: Namaste 🙏

02/05/2021, 7:53 pm - Sidharth Pandey Call: Yes absolutely you can hold it for
long term Prospective EXPECTED 30 to 40% move as POSITIONAL

04/05/2021, 5:50 pm - Sidharth Pandey Call: Hello

Your MONTHLY MEMBERSHIP is VALID till 10.05.2021

Satisfied & intrested to continue then please complete your Payment process
&Share Screenshot

CHARGES

RS.800/- MONTHLY

RS.1200/- for month's

RS.2500/- for 6 month's

Rs.4000/ for 1 year

Thank you 🙏😊

..

....

09/05/2021, 12:36 pm - Sidharth Pandey Call: Hello your MONTHLY
MEMBERSHIP is VALID till Tomorrow.

Satisfied & Intrested to continue then please complete your Payment process
&Share Screenshot

CHARGES

Rs.75/- per Trading day

Rs.250/- Weekly

RS.800/- MONTHLY
RS.3000/- for 6 month's

Thank you 😊

..

...

22/01/2022, 5:58 pm - Sidharth Pandey Call: New Year offer is Going to Close
.... interested then Please complete Your Payment Process and share
screenshot

Rs.5000/- for 2 Years
Rs.10000/- for 5 Years

23/01/2022, 6:23 pm - Mohammed Shijauddin: Please add me your whastup
subscription group

23/01/2022, 6:23 pm - Sidharth Pandey Call: Done

6.3 The Whatsapp chats further mentioned on the Noticee's advisories which are as
under:

25/01/2022, 12:37 pm - Sidharth Pandey Call: BUY ☞ GREAVES COTTON
CMP 202
TARGET 235+
SL 188

BUY 490+ quantity

25/01/2022, 12:38 pm - Mohammed Shijauddin: OK THANKS SIRJI

25/01/2022, 12:38 pm - Sidharth Pandey Call: BUY SOBHA

CMP 864

TARGET 935+

SL 840

BUY 115 Quantity

28/01/2022, 10:42 am - Mohammed Shijauddin: Sir ji any recommendations to
buy to gain in budget

28/01/2022, 10:47 am - Mohammed Shijauddin: Shall I buy gnfc

28/01/2022, 10:47 am - Sidharth Pandey Call: GNFC

CMP 476

TARGET 510+

28/01/2022, 10:47 am - Sidharth Pandey Call: Yes

6.4 It was further observed that the Noticee had launched an assured returned scheme.

The extract of chats indicating the same is as below:

JOIN(ARM)

ASSURED RETURN MEMBERSHIP

Fund Required ₹ 50k minimum

Monthly Assured Return ₹10%

Profit or Loss not to worry You will get Your Assured 10% Return on monthly Basis.

You need to Share Fund With me and 5th to 10th of every month will be Settlement Period.

Charges: 25% of Profit Sharing

For more details: Intrested member's msg me personally

6.5 The complainant provided the proofs of the payments made into the account of the Noticee, which is as under:

Name of Account holder	Name of Bank	Bank account No.	Dt. of transaction	Amount deposited by the complainant (in Rs.)
Siddharth Pandey	Kotak Mahindra Bank	xxxxxx5155	23-01-2022	5,000/-
Siddharth Pandey	Kotak Mahindra Bank	xxxxxx5155	27-05-2022	30,000/-
Siddharth Pandey	Kotak Mahindra Bank	xxxxxx5155	30-08-2022	1,70,000/-

6.6 In order to gather additional information on the Noticee's activities and for examining the same, KYC (Account Opening Forms – AOF) and transaction statements of bank accounts of the Noticee were sought from various banks based on the PAN - CEPPP8065P which belongs to the Noticee. Information was received from HDFC Bank, Kotak Bank, ICICI Bank, Axis Bank. Brief summary follows as below:

Name of Bank	Account No.	Date of account opening	Date of last transaction	Balance as on date of last transaction
Kotak Mahindra Bank	xxxxxx5155	12-06-2018	31-03-2023	4.00
ICICI Bank	xxxxxxxx4014	14-10-2014	30-06-2023	577
Axis Bank	xxxxxxxxxxx1539	02-06-2016	21-01-2017	0.00
HDFC Bank	NIL	N.A.	N.A.	N.A.

6.7 Upon analysis of the information, the following was observed:

6.7.1 ICICI Bank account xxxxxxxx4014 appears to be a salary account of the Noticee, the name of his employer is mentioned as *Savera Marketing Agency Pvt. Ltd.* The entries mainly pertain to salary credits and miscellaneous shopping and cash withdrawals. Therefore, no amount has been considered towards investment advisory activities for this particular ICICI account. A total amount of Rs. 86,145/- was credited into the ICICI Bank account of the Noticee during the period November 07, 2014 to June 30, 2023.

6.7.2 With respect to the Axis Bank account no. xxxxxxxxxxxx1539, it is observed that the said account contains 18 entries for the period April 18, 2016 to August 03, 2017 and the amounts reflected against the credit entries is Rs. 24,551/-.

6.7.3 As per the WhatsApp chat, it is observed that, the Noticee claims to provide daily, weekly, monthly, yearly, 2 years, 3 years and lifetime investment advisory services. The fees charged by the Noticee for his advisory services range from Rs. 75/- for providing intraday calls for 1 day to Rs. 25,000/- for

availing lifetime advisory services. He changes the applicable fees on a random basis – Offering new rates during festivals or offering discount at random to lure customers. It is observed that multiple UPI payments have been received from several persons into the Kotak Mahindra bank account bearing no. xxxxxx5155 held by the Noticee.

6.7.4 Credit entries below Rs. 75/-, interest payments, fees and certain refund credits have been excluded from consideration for the purpose of ascertaining the amount collected through illegal investment advisory services. On analysis of the bank account statement of bank account held by the Noticee with Kotak Mahindra Bank, it is observed that there are several credit entries with relevant narrations pertaining to securities market viz 'share', 'call', 'intra', 'week', 'daily', 'month', 'year', 'market', 'stocks', 'membership', 'subscription', etc. Further, it is noted that the amount paid by the complainant did not contain any relevant narration in the credit entry. In view of the same, it is possible that not all credit entries would contain the aforesaid narrations, however, it is alleged that such amounts have been collected from public in the guise of investment advisory services. It is further observed that the Whatsapp chat mentions the mode of payment as GOOGLE PAY/PHONE PAY/ PAYTM – xxxxxx5860, UPI ID - snigdha12345@kotak.

6.8 Thus, from the bank statement it is observed that Rs.32,77,942/- was credited into the Kotak Mahindra Bank account of the Noticee. Out of Rs. 32,77,942/- credit, it is alleged that approximately Rs. 27,67,172/- appears to be from unregistered investment advisory activities. The same is identified based on the key words observed in the narration of the statements and patterns of payments observed. Further, multiple credit entries from numerous persons have been made into the Kotak Mahindra Bank account of the Noticee. The oldest of such credit into the account was on April 07, 2019, and the latest such credit is on March 02, 2023 which has been considered for the purpose of ascertaining the amount collected

through illegal investment advisory activities.

6.9 It was further observed from the WhatsApp chats provided by the complainant that the Noticee has claimed to provide assured returns on amount invested with him.

7. During the examination period, vide email dated August 22, 2013 and subsequent reminder email dated September 13, 2023, the Noticee was advised to provide the details with respect to the advisory services allegedly being provided by him. However, no reply was received. Letter dated August 21, 2023 was also sent seeking details with respect to advisory and/or other services, which was delivered to the Noticee on August 24, 2023 as per the details on India Post Website, however, no reply was received from the Noticee.
8. It was, therefore, alleged in the SCN that the Noticee was involved in providing unregistered investment advisory services without obtaining registration from SEBI as required under section 12(1) of the SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations, 2013. Further, it is alleged that the Noticee has collected Rs. 27,67,172/- during the period May 27, 2019 to March 31, 2023 by way of indulging in the said activities. Also, by rendering such services and promising assured returns the Noticee has allegedly influenced the decisions of the investors and therefore, he is alleged to have defrauded the investors and violated the provisions of Regulation 3(a)(d), 4(1) and 4(2)(k), (o), (s) of the PFUTP Regulations, 2003 read with Section 12A(c) of the SEBI Act, 1992.
9. The aforesaid SCN was issued to the Noticee at the addresses available on record and as mentioned in the KYC documents with the Banks viz. by way of Speed Post. However, the same was returned undelivered with a remark "*Left / Out of Station*". In view of the same, as prescribed under Rule 7(b) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the "**Adjudication Rules**"), the SCN was duly affixed at the said address and the affixture report is available on record. However, in compliance with the principles of natural

justice, considering that the affixture report mentioned that the Noticee is not available at the said address, it was felt appropriate to proceed with delivery of the SCN by way of Newspaper publication in terms of Rule 7(c) of the Adjudication Rules. Further, along with the publication of the SCN, an opportunity of personal hearing was also granted to the Noticee on July 23, 2024. An attempt was once again made to deliver the hearing notice dated July 02, 2024 by way of Speed Post AD before going ahead with the Newspaper publication. It is noted that the said hearing notice was not accepted and was returned undelivered with the remark “*refused*”. Here, I find it pertinent to refer to the case of ***Dave Harihar Kirtibhai vs SEBI (Appeal No. 181 of 214 dated December 19, 2014)***, wherein the Hon’ble Securities Appellate Tribunal (‘SAT’) observed as under:

“...further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices / letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non-receipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal...”

10. Notwithstanding the above, in compliance with the principles of natural justice, the SCN and the hearing notice were published in leading newspapers, Kolkata Edition viz. Times of India (English), Sanmarg (Hindi) and Bertman Patrika (Bengali) on July 02, 2024. However, I note that the Noticee neither filed any reply to the SCN issued to him nor did he appear for the hearing scheduled on July 23, 2024. In this regard, reliance is placed on the decision of the Hon’ble SAT in the case of ***Classic Credit Ltd Vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006)***, wherein the Hon’ble SAT observed that, “*.....the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them*”.

11. Further, the Hon'ble SAT in the case of **Sanjay Kumar Tayal & Others Vs. SEBI (Appeal No. 68 of 2013 decided on February 11, 2014)** has also, inter alia, observed that,

"..... appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices..."

12. Therefore, it can be said that the Noticee has admitted to the charges levelled against him by not filing any reply to the SCN.

13. In view of the aforesaid, I am of the view that the principles of natural justice have been adhered to, as the SCN and the hearing notice were duly served upon the Noticee which is on record and sufficient opportunity was granted to him to reply to the SCN and appear for the personal hearing. Thus, I deem it fit to proceed with passing of the order in respect of the Noticee *ex-parte*, on the basis of the material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

14. I have carefully considered the allegations levelled against the Noticee in the SCN along with the findings of examination by SEBI stated therein and the other documents available on record. I note that the issue that arises for consideration in the present proceeding is whether the Noticee has acted as an unregistered investment adviser in violation of the provisions of the SEBI Act, 1992 and the IA Regulations and whether by promising assured returns on the investments, the Noticee has defrauded the investors and induced them to invest thereby, violating the provisions of the PFUTP Regulations, 2003.

15. In this regard, I note that the definition of 'Investment Adviser' as given under Regulation 2(1)(m) of the IA Regulations is as follows:

"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;"

16. Further, Regulation 2(1)(I) of the IA Regulations, which defines 'investment advice', reads as follows:

"investment advice means 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:

Provided that investment advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public shall not be considered as investment advice for the purpose of these regulations;"

17. For ease of reference, the provisions of the SEBI Act, 1992, IA Regulations, 2013 and PFUTP Regulations, 2003 alleged to have been violated by the Noticee are reproduced as under:

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."

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly-

.....

(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

“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:*

SEBI (PFUTP) REGULATIONS, 2003

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;

3. Prohibition of certain dealings in securities

No person shall directly or indirectly-

- (a) buy, sell or otherwise deal in securities in a fraudulent manner;*
- (b).....*
- (c).....*
- (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 manipulative, fraudulent or an unfair trade practice in securities markets.

(2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following:

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

(o) fraudulent inducement of any person by a market participant to deal in securities with the objective of enhancing his brokerage or commission or income;

(s) mis-selling of securities or services relating to securities market; Explanation- For the purpose of this clause "mis-selling" means sale of securities or services relating to securities market by any person, directly or indirectly, by—

(i) knowingly making a false or misleading statement, or

(ii) knowingly concealing or omitting material facts, or

(iii) knowingly concealing the associated risk, or

(iv) not taking reasonable care to ensure suitability of the securities or service to the buyer;

18.I note that SEBI, upon receipt of the complaint alleging that the Noticee was giving investment advice and assuring returns in lieu of consideration, conducted an examination into the activities of the Noticee. Upon examining the bank account statements, the AoF and the KYC documents (*as received from the banks*), it is noted that Noticee is having three bank accounts i.e. one with Kotak Mahindra Bank, one with ICICI Bank and another with Axis Bank. Upon examining the bank account statements obtained from the respective banks for the relevant period, it is noted that there were very few entries in the Axis bank account during the period under examination and the said credit entries do not have any narration which would show that the said credits were received from any business done in the securities market. Therefore, the credits in the said account cannot be considered for the present proceedings. Also, the ICICI bank account bearing no. xxxxxxxx4014 held by the Noticee is seen to be a 'salary' account

and the name of the employer mentioned in the AoF is 'Savera Marketing Agency Pvt. Ltd'. The entries observed are mainly salary credits and miscellaneous personal shopping and cash withdrawals. Therefore, the amount of credits in the said account as well cannot be considered towards monies received from unregistered investment advisory services.

19. Further, upon analyzing the credit entries in the Kotak Mahindra Bank account bearing no. xxxxxx5155 held in the name of the Noticee, it is noted that the said account was opened on June 12, 2018. Further, proofs of payment as provided by the complainant to the Noticee for the advisory services into the Kotak Mahindra bank account have been traced in the bank account statement of the account held by the Noticee bearing no. xxxxxx5155 with the Kotak Mahindra Bank; the dates of transactions being January 23, 2022 (Rs. 5000/-), May 27, 2022 (Rs. 30,000/-) and August 30, 2022 (Rs. 1,70,000/-). Additionally, I note that several credit entries with relevant narrations pertaining to securities market viz. 'share', 'call', 'intra', 'week', 'daily', 'month', 'year', 'market' 'stocks' 'membership', 'subscription' etc. are appearing in the bank statement of the said account held by the Noticee with Kotak Mahindra Bank which shows that the Noticee was indeed collecting fees / monies from his clients / investors. It is noted that a total of Rs.32,77,942/- was credited into the Kotak Mahindra Bank account of the Noticee during the period starting from April 07, 2019 to March 02, 2023, out of which, approximately Rs. 27,67,172/- are having the aforementioned narrations and thus, associated / related to the investment advisory services indulged into by the Noticee.

20. I further note from the extracts of the WhatsApp chats provided by the complainant that the Noticee was giving investment advice in lieu of consideration by way of membership charges in his name and in the name of "Snigdha Equity Advisory". The email id provided in the extracts of the WhatsApp chats is seen to be snigdhafinancialadvisory@gmail.com. Further, from the chats, it is noted that the Noticee provided intraday calls and also assured 85% accuracy on the said advices in Equity Cash Segment. Further, for the said services, the Noticee had monthly, bi-monthly, 6

monthly, yearly and 5 yearly membership plans starting from Rs. 800/- and going upto Rs. 10,000/-. I note that in some of the WhatsApp Chats provided by the complainant, the Noticee was also promising 'assured returns on the membership' with fund requirement mentioned to be minimum Rs. 50,000 (monthly assured returns of 10%). The WhatsApp chats further clearly show the details of the Kotak Mahindra Bank account held in the name of the Noticee and the IFSC Code to make the payments towards various membership plans offered. During examination, SEBI, in order to ascertain whether the Noticee was operating in the name of 'Snigdha Equity Advisory', undertook a Facebook search which displayed an account in the name of "Snigdha Equity Advisory Cash" having three friends including the Noticee. Further, the Facebook account was also found in the name of "Snigdha Equity's Cash Segment" displaying five friends including the Noticee. However, the said page is locked and therefore, no further details could be ascertained. It is noted that the profile "Snigdha Equity Advisory" mentions that it provides Intraday, BTST, Positional Calls in Equity Cash segment only and the contact number provided on the said profile is xxxxxx1212. A search on the MCA website for the entity Snigdha Advisory also did not yield any results.

21. In view of the foregoing, it is clearly established that the Noticee was engaged in investment advisory through WhatsApp and was giving advice in Equity Cash Segment by offering various membership plans. Thus, I conclude that in terms of Regulation 2(1)(I) of the IA Regulations, 2013, the Noticee was providing investment advice through WhatsApp. I find it appropriate to refer to the definition of the term 'investment adviser' as per Regulation 2(1)(m) of IA Regulations, 2013 reproduced in preceding paragraph no. 15 which defines the term to mean; 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, Regulation 3(1) of the IA Regulations, 2013 as reproduced in preceding paragraph no. 17 above is an unambiguous provision which clearly bars any person to 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. As per the SEBI website, the Noticee and / or Snigdha Advisory is not registered as an Investment Advisor.

22. I note that if an entity is engaged in providing advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advise on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client in lieu of consideration, including any person who is holding itself out as investment adviser, will be covered by the definition of “*Investment Adviser*” as given in Regulation 2(1)(m) of the IA Regulations. From the documents available on record and as mentioned in the preceding paragraphs, the Noticee, by giving unregistered investment advisory services has collected Rs. 27,67,172/- in his bank account held with Kotak Mahindra Bank. The breakup of the total amount collected under the Investment Advisory services is as under:

Sl. No	Name of Bank	Date of Account Opening	Amount credited in the A/c in Rs.	Amount considered under IA activity in Rs. (approximate)	Date of last trans	Available balance in Rs.
1.	Kotak Mahindra Bank A/c No. 7712635155	12-06-2018	32,77,942	27,67,172	31-03-2023	4.00
2.	ICICI Bank A/c No. 000601554014	14-10-2014	86,145	0	30-06-2023	577
3.	Axis Bank A/c No. 916010021351539	02-06-2016	24,551	0	21-01-2017	0
Total			33,88,638	27,67,172		581

23. Hence, as mentioned in the preceding paragraphs, I find that these services were being offered by the Noticee *in lieu* of the consideration and thus, the Noticee is acting as investment adviser/s, as defined under Regulation 2(1)(m) of the IA Regulations, 2013.

24. I note that for seeking a certificate of registration for acting as an investment adviser, an entity is required to satisfy, *inter alia*, the following requirements, as provided under IA Regulations:

- (i) An application for seeking certificate of registration to be made to Local Office, Regional Office or Head Office, of SEBI, as the case may be, in Form A as specified in the First Schedule to IA Regulations, 2013 along with requisite non-refundable application fee;
- (ii) The applicant, in case of an individual investment adviser or its principal officer in case of a non-individual investment adviser shall be appropriately qualified and certified as under:
 - a. A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognized foreign university or institution or association or a professional qualification by completing a Post Graduate Program in the Securities Market (Investment Advisory) from NISM of a duration not less than one year or a professional qualification by obtaining a CFA Charter from the CFA Institute;
 - b. An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;
 - c. Applicant in case of individual investment adviser or its principal officer in case of a non-individual investment adviser, and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services, from (a) NISM; or (b) any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM.

(iii) Individual applicant must have net worth of not less than 5 lakh rupees and non-individual applicant must have net worth of not less than 50 lakh rupees.

25. I note that safeguards provided under IA Regulations, 2013 requires continued minimum professional qualification and net-worth requirement for investment adviser, including disclosure of all conflict 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 investment for client based on client's objective and risk profile, understanding the nature and risks of products or assets selected for clients, etc. These requirements are aimed at protection of investor's interest.

26. As per Regulation 3(1) of IA Regulations the registration of the investment advisers is mandatory. It provides that, *"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"*.

27. I also find from the extracts of the WhatsApp chats that the Noticee was providing investment advisory services with 'assured returns'. As already mentioned in paragraph 19 above, the Noticee was also promising 'assured returns on the membership' with fund requirement mentioned to be minimum Rs. 50,000 (monthly assured returns of 10%). I find that such claim to provide a specific return on client's investment or to claim guaranteed profit, is an active concealment of the material fact that every investment in the market is subject to market risk. This act of conveying specific returns or certainty of profit is with the motive of luring customers in its net, thereby, increasing the income. In the light of the same, the said act of promising assured returns, is a non-genuine and a deceptive act and is with the sole intent to influence the client to avail its advisory services and deal in securities thereby, engaging in acts, practices, course of businesses which operated as 'fraud' as defined under Regulation 2(1)(c) of the PFUTP Regulations.

28. Regulation 4(2)(k) of the PFUTP Regulations, 2003, provides that dealing in securities

shall be deemed to be a manipulative, fraudulent or an unfair trade practice if it involves 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. Further, Regulation 4(2)(o) of the PFUTP Regulations, 2003 specifically states that fraudulent inducement of any person by a market participant to deal in securities with an objective of enhancing income / brokerage / commission also amounts to an unfair trade practice. Furthermore, Regulation 4(2)(s) of the PFUTP Regulations, 2003 provides that dealing in securities shall be deemed to be a manipulative, fraudulent or an unfair trade practice if it involves mis-selling of securities or services relating to securities market by knowingly making a misleading and false statement and / or knowingly concealing or omitting material facts.

29. It is pertinent to refer to the case of **SEBI Vs. Kishore Ajmera (2016) 6 SCC 368**, the Hon'ble Supreme Court observed that,

“the SEBI Act and the Regulations framed there under are intended to protect the interests of investors in the Securities Market which has seen substantial growth in tune with the parallel developments in the economy. Investors' confidence in the Capital / Securities Market is a reflection of the effectiveness of the regulatory mechanism in force. All such measures are intended to preempt manipulative trading and check all kinds of impermissible conduct in order to boost the investors' confidence in the Capital market. The primary purpose of the statutory enactments is to provide an environment conducive to increased participation and investment in the securities market which is vital to the growth and development of the economy. The provisions of the SEBI Act and the Regulations will, therefore, have to be understood and interpreted in the above light”.

30. The PFUTP Regulations, 2003 are intended to curb market abuse. The Hon'ble Supreme Court in the case of **SEBI Vs. Kanaiyalal Baldevbhai Patel (2017) 15 SCC 1**, has observed that-

“The definition of 'fraud', which is an inclusive definition and, therefore, has to be understood to be broad and expansive, contemplates even an action or omission, as may be committed, even without any deceit if such act or

omission has the effect of inducing another person to deal in securities. Certainly, the definition expands beyond what can be normally understood to be a 'fraudulent act' or a conduct amounting to 'fraud'. The emphasis is on the act of inducement and the scrutiny must, therefore, be on the meaning that must be attributed to the word "induce"

.....to make inducement an offence the intention behind the representation or misrepresentation of facts must be dishonest whereas in the latter category of cases like the present the element of dishonesty need not be present or proved and established to be present. In the latter category of cases, a mere inference, rather than proof, that the person induced would not have acted in the manner that he did but for the inducement is sufficient."

31. Thus, I find that the Noticee, by promising assured returns on the investments based on the advice given by him has knowingly made misleading statement, thereby, defrauding the investors at large as investments in securities market is subject to market risks. Further, the said act also amounts to mis-selling of securities or services relating to securities market by knowingly making a misleading and false statement and / or knowingly concealing or omitting material facts. In view of the above, I do not have any hesitation to conclude that the Noticee has violated the provisions of Regulations 3(a), (d), 4(1), 4(2)(k), (o) and (s) of the PFUTP Regulations, 2003 read with Section 12A(c) of the SEBI Act, 1992.

32. The SCN referred above, also calls upon the Noticee to explain as to why appropriate penalty be not imposed upon him under Section 15HA and 15EB of the SEBI Act, 1992 for acting as an unregistered investment advisor and further, by inducing people to invest by promising assured returns on the investments through WhatsApp Chats. The relevant extracts of the penalty provisions, is reproduced, hereunder:

"Penalty for default in case of investment adviser and research analyst.

15EB. *Where an investment adviser or a research analyst fails to comply with the regulations made by the Board or directions issued by the Board, such investment adviser or research analyst shall be liable to penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees."*

“Penalty for fraudulent and unfair trade practices

15HA. *If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.”*

33. Upon consideration of the penalty provisions as reproduced in the above paragraph, I find that Section 15EB of the SEBI Act, 1992 has been invoked in the present case as the Noticee has carried out the business of giving investment advice after March 08, 2019 without obtaining a certificate of registration from the Board under the IA Regulations, 2013 and that Section 15HA of the SEBI Act, 1992 has been invoked for fraudulently inducing investors to deal in securities by providing promises of assured returns in violations of provisions of PFUTP Regulations, 2003. It has been clearly established in the preceding paragraphs that the Noticee had acted as an investment adviser without obtaining a certificate of registration from SEBI and therefore, violated Regulation 3(1) of the IA Regulations read with Section 12(1) of the SEBI Act, 1992. It has also been clearly established that the Noticee, fraudulently, has been inducing investors to deal in securities by incorrectly / fraudulently promising assured returns of the investments in the securities in violation of Regulation 3(a) and (d), 4(1) and 4(2)(k), (o) & (s) of the PFUTP Regulations, 2003 read with Section 12A(c) of the SEBI Act, 1992. In view of the same, I find that monetary penalties under Sections 15EB and 15HA of the SEBI Act, 1992 are attracted against the Noticee in the present case.

34. It is relevant to mention here that in order to determine the amount of penalties to be imposed under the provisions of the SEBI Act, 1992, guidance is provided under Section 15J of the SEBI Act, 1992, which is reproduced as:

“15J. Factors to be taken into account while adjudging quantum of penalty.

While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely: —

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.”

Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and(c)of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.”

35.As mentioned in paragraph nos. 19 and 22 above, total amount of Rs. 27,67,172/- has been received / collected by the Noticee in the bank account/s for the investment advisory services provided by it. Thus, in the light of the findings in the preceding paragraphs, I am of the considered view that the Noticee is liable for a direction to refund the aforementioned amount collected by him/ it as an unregistered investment adviser in addition to monetary penalties which are attracted for the aforesaid violations under Sections 15EB and 15HA of the SEBI Act, 1992.

ORDER AND DIRECTIONS

36.In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11(1), 11(4), 11(4A), 11B (1), 11B (2) and 11D read with Section 19 of the SEBI Act, 1992 and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, do hereby pass the following directions:

36.1 The Noticee, Mr. Siddharth Pandey shall, within a period of three (3) months from the date coming into force of this direction, refund the money received from any complainants/ investors/ clients, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities;

36.2 The Noticee, Mr. Siddharth Pandey 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 contact person such as names, addresses and contact details, within 15 days of coming into force of this direction;

36.3 The repayments to the complainants/ 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;

- 36.4** The Noticee, Mr. Siddharth Pandey is prevented from selling his / its assets, properties and holding of mutual funds / shares / securities held by him/ it 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/ complainants who were availing the investment advisory services from the Noticee, as directed in this order, from the bank accounts of the Noticee / Mr. Siddharth Pandey;
- 36.5** After completing the aforesaid repayments, the Noticee shall file a report of such completion with SEBI addressed to the “Division Chief, Division of Post - Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, SEBI Bhavan II, Plot No. C7, 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 the directions at para 36.1 and 36.2 above, duly certified by an independent Chartered Accountant and the direction at para 36.4 above shall cease to operate upon filing of such report on completion of refunds to complainants/ investors;
- 36.6** The remaining balance amount shall be deposited with SEBI which will be kept in an escrow account for a period of one year for distribution to clients/complainants/investors who were availing the investment advisory services from the Noticee / Mr. Siddharth Pandey. Thereafter, remaining amount, if any, will be deposited in the ‘Investors Protection and Education Fund’ maintained by SEBI;
- 36.7** The Noticee / Mr. Siddharth Pandey shall cease and desist from carrying out the investment advisory services, either in his name and / or in the name of Snigdha Equity Advisory, immediately;
- 36.8** In case of failure of the Noticee/ Mr. Siddharth Pandey to comply with the aforesaid directions in sub-paragraph 36.1 and 36.5 above, SEBI, on the expiry

of the stipulated time period therein from the date of coming into force of this order, may recover such amounts, from the Noticee, in accordance with Section 28A of the SEBI Act, 1992 including such other provisions contained in securities laws;

36.9 The Noticee / Mr. Siddharth Pandey is 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 one (1) year from the date of this order or till the expiry of one (1) year from the date of completion of refunds to complainants/ investors as directed in paragraphs 36.1 and 36.6 above, whichever is later;

36.10 The Noticee / Mr. Siddharth Pandey shall not undertake, either during or after the expiry of the period of debarment / restraint as mentioned in paragraph 36.9 above, either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws;

36.11 The Noticee / Mr. Siddharth Pandey is hereby imposed with monetary penalties as provided hereunder:

Name of the Noticee	Provisions under which penalty is imposed	Amount of penalty (Rs.)
Mr. Siddharth Pandey	Section 15EB of the SEBI Act, 1992	Rs. 1,00,000/-
	Section 15HA of the SEBI Act, 1992	Rs. 5,00,000/-
TOTAL		Rs. 6,00,000/-

36.12 The Noticee / Mr. Siddharth Pandey shall remit / pay the said amounts of penalty within a period of 45 days from receipt of the order through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of EDs/CGMs -> PAY NOW. In case of any difficulties in online payment of penalties, the

Noticee / Mr. Siddharth Pandey may contact the support at portalhelp@sebi.gov.in.

- 37.** It is hereby clarified that if the Noticee has any open position in any exchange traded derivative contracts, as on the date of this order, he 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. The Noticee / Mr. Siddharth Pandey is 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.
- 38.** The direction for refund, as given in paragraph 36.1 above, does not preclude the clients/investors to pursue the other legal remedies available to them under any other law, against the Noticee for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.
- 39.** This order shall come into force with immediate effect.
- 40.** A copy of this order shall be sent to the Noticee / Mr. Siddharth Pandey, 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.

Date: August 21, 2024

Place: Mumbai

**Dr. ANITHA ANOOP
CHIEF GENERAL MANAGER
SECURITIES AND EXCHANGE BOARD OF INDIA**