

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref. No. ORDER/SM/LD/2022-23/23693-23694]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT,
1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND
IMPOSING PENALTIES) RULES, 1995.

In the respect of
Ms. Pooja Patidar
PAN: CJJPP8427L
And
Mr. Vikash Gupta
PAN: CUCPG7495R

*in the matter of Ms. Pooja Patidar, employee of Investment Research Advisor
(IRA) and Mr. Vikash Gupta, Portfolio Manager of M/s. Algo Systems.*

FACTS OF THE CASE:

1. SEBI received several complaints on its Online Complaint Redressal System ('SCORES') against M/s. Investment Research Advisors (hereinafter referred to as 'IRA'). In view of the same, SEBI ordered inspection of M/s. Investment Research Advisor, in terms of Regulation 23 of the SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as 'IA Regulations') under the provision of Section 11(2)(i) of SEBI Act, 1992.

BACKGROUND OF THE CASE:

2. IRA Proprietor Shri. Amit Gangrade is registered with SEBI as an Investment Adviser ('IA') under the SEBI IA Regulations, 2013 with effect from August 24, 2015 under SEBI Registration No. INA000003387. It has its registered office at 97-B, Ganga Colony, Dhar Road, Gali No. 4, Indore, Madhya Pradesh-452002.

3. Based on the complaints received by SEBI on SCORES, an inspection of IRA was scheduled from March 16, 2020 onwards. However, it was learnt that Mr. Amit Gangrade, the proprietor of IRA was under custody of the Crime Branch, and hence the inspection could not take place. Therefore, the inspection of IRA was carried out on the basis of complaints available on records from the date of registration i.e August 24, 2015 till June 05, 2020 and documents/information submitted by the complainants and documents/information obtained from banks.

Contents of the complaint lodged by one Ms R. Nadiya (hereinafter referred to as 'Nadiya')

As per the complaint, Nadiya alleged that she had received a call from an executive (Ms Ranjana Rajput) of IRA who offered her guaranteed returns and referred her name to a broker, who would be providing 40 times trading limit. On the same day one Mr Gaurav Varma introducing himself to be from the broker called her and told her to pay Rs 9500/- (which she duly paid) using link <https://easebuzz.in/pay/Algosystem>. She further informed that executives of Algo Systems namely Gaurav Verma and Bhupendra and Ms Ranjana Rajput and Sudeep Gangrade (representing IRA) called her several times and sought payments totalling to Rs 11.63 lakhs. Following emerged as the complaint of Nadiya:

- 1) IRA failed to give promised returns though she was promised to make return of Rs. 4000-5000/- on the investment of Rs 10,000/- on a daily basis.
- 2) IRA advised her to transfer funds into an associate company (Algo Systems) towards the fees/portfolio management fee etc.
- 3) Forced to pay huge amount towards trading however returns were negligible.
- 4) Each time IRA made losses on her investments, they promised to make up for it and requested her to pay huge amount again and ultimately she had nothing in her account.

Observations made against Noticee 1:

4. In line with a complaint filed by Nadiya Ms. Pooja Patidar, employee of IRA (hereinafter referred to as '**Noticee 1**') was asked to visit SEBI office, Indore on

November 20, 2019 to meet with Nadiya in order to resolve the complaint. Accordingly, three employees of IRA namely, Noticee 1 (Compliance & Employee ID: IRA62), Mr. Vaibhav Gangrade (Compliance, Employee ID: IRA62) and Mr. Sudeep Gangrade (Referred as Team Leader, Employee ID: IRA02) visited SEBI office. During the meeting, it was observed that the PAN and AADHAR furnished by Mr. Sudeep Gangrade was the same as that of the PAN and AADHAR of proprietor of Algo System (Mr. Sudeep Gangrade) and therefore, it was established that both i.e. employee of IRA (Mr. Sudeep Gangrade) and proprietor of Algo System (Mr. Sudeep Gangrade) were one and the same individual. Hence, the nexus/connection between the proprietor of IRA, Mr. Amit Gangrade and Mr. Sudeep Gangrade was established. Apparently they are brothers.

5. Further, Noticee 1, Compliance Manager of IRA, had, inter-alia, accepted in writing that another employee of IRA, Ms. Ranjana Rajput has done fraudulent activity with Nadiya. Further, it has also been accepted by her that Nadiya was IRA's client in the Premium Cash Service Package and that the said service was provided by IRA without doing Risk Profiling and Suitability Assessment of the client.
6. Noticee 1 in her written submission had submitted that the bank account of Algo System with ICICI Bank (being account number: 657405601184) belongs to one Bhupendra. However, as per ICICI Bank response to SEBI dated November 20, 2019, informed that the ICICI Bank account no. 657405601184 belongs to Algo System and its proprietor is Sudeep Gangrade and not Bhupinder. Therefore, the written submission of Noticee 1 to SEBI was false and misleading.

Observations made against Noticee 2:

7. One Dinesh Singh (hereinafter referred to as '**Complainant**') had filed a complaint against Algo Systems, it was observed that the complainant was a victim of fraud done by Algo Systems through Mr. Vikash Gupta, allegedly Portfolio Manager of Algo Systems (hereinafter referred to as **Noticee 2**), which took Rs. 25 lakhs from him.

8. From the WhatsApp chat pages submitted by the complainant, it was observed that Noticee 2 introduced himself as a Portfolio Manager of 'The Algo Trade System Pvt Ltd' wherein he shared pictures of his ID Card, PAN Card, AADHAR Card and SEBI IA Registration Certificate of 'Algo Systems' bearing SEBI Registration No. INH200003018 which lead the complainant to believe that 'Algo Systems' was a genuine entity eventually soliciting payments. Therefore the complainant made payments to ICICI Bank Account No. 237005500304 of Algo Systems.
9. The details of payments made to 'Algo System', provided by the complainant are asunder:

Table 1

S.No.	Date of Payment	Amount of Payment (in Rs.)	Payee Name
1	25.07.2019	300000	Algo System
2	05.08.2019	300000	Algo System
3	05.08.2019	200000	Algo System
4	09.08.2019	1	Algo System
5	12.08.2019	20000	Algo System
6	12.08.2019	20000	Algo System
7	20.08.2019	20000	Algo System
8	20.08.2019	20000	Algo System
9	27.08.2019	900000	Algo System
10	31.08.2019	15000	Algo System
		Rs. 17,95,001/-	

10. It is observed from the bank statement of Algo System (ICICI Account No.237005500304) as received from ICICI Bank that the payments made by the complainant matched with the credit entries in the bank account of Algo System. Therefore, it was established that the payments were received by Algo Systems.

11. Further, to know the ultimate beneficiary of the payments made by the complainant, the bank account statement of Mr. Amit Gangrade proprietor of IRA was analysed by SEBI and it was observed as under:

Table II

Account Name	Account Number	Date of Transaction	Narration	Debit Amount	Credit Amount
ALGO SYSTEM	237005500304	25-07-2019	RTGS- BARBR52019072500793579- DINESH SINGH SO SURESH		300000.00
ALGO SYSTEM	237005500304	26-07-2019	INF/021399697701/i	899000.00	
AMIT GANGRADE	144101503646	26-07-2019	INF/021399697701/i		899000.00
ALGO SYSTEM	237005500304	05-08-2019	RTGS- BARBR52019080500477001- DINESH SINGH SO SURESH		300000.00
ALGO SYSTEM	237005500304	05-08-2019	NEFT-BARBQ19217896954- DINESH SINGH SO SURESH SINGH		200000.00
ALGO SYSTEM	237005500304	05-08-2019	INF/021422402071/i	500000.00	
AMIT GANGRADE	144101503646	05-08-2019	INF/021422402071/i		500000.00
ALGO SYSTEM	237005500304	09-08-2019	UPI/922148251072/Payment from Ph/9826676422@ybl/Ba		1.00
ALGO SYSTEM	237005500304	12-08-2019	UPI/922244181194/Payment from Ph/9826676422@ybl/Ba		20000.00
ALGO SYSTEM	237005500304	12-08-2019	UPI/922233706243/Payment from Ph/9826676422@ybl/Ba		20000.00

ALGO SYSTEM	237005500304	20-08-2019	UPI/923216771315/Payment from Ph/9826676422@ybl/Ba		20000.00
ALGO SYSTEM	237005500304	20-08-2019	UPI/923232420731/Payment from Ph/9826676422@ybl/Ba		20000.00
ALGO SYSTEM	237005500304	22-08-2019	INF/021464232331/i	103000.00	
AMIT GANGRADE	144101503646	22-08-2019	INF/021464232331/i		103000.00
ALGO SYSTEM	237005500304	27-08-2019	RTGS- BARBR52019082700958235- DINESH SINGH SO SURESH		900000.00
ALGO SYSTEM	237005500304	27-08-2019	INF/021474072581/i	900000.00	
AMIT GANGRADE	144101503646	27-08-2019	INF/021474072581/i		900000.00
ALGO SYSTEM	237005500304	31-08-2019	UPI/924317092551/Payment from Ph/9826676422@ybl/Ba		15000.00
ALGO SYSTEM	237005500304	03-09-2019	INF/INFT/021493165961/a /i	160000.00	
AMIT GANGRADE	144101503646	03-09-2019	INF/INFT/021493165961/a /i		160000.00

12. Thus from the above table, it was observed that all the payments which were made by the Complainant to the account of Algo Systems had subsequently been transferred to the proprietor of IRA - Mr. Amit Gangrade's account. For example, the complainant had paid Rs. 5,00,000/- to Algo Systems in two tranches on August 5, 2019. On the same day, there is some debit entries from the account of Algo Systems and corresponding credit entry to the account of Amit Gangrade. Similar entries were seen between Algo Systems and Mr. Amit Gangrade, as depicted above in the table.

13. Further, it was observed that the picture of SEBI IA Registration Certificate of ‘Algo Systems’ bearing SEBI Registration No. INH200003018 shared by Noticee 2 to the complainant was forged, as the Registration No. for an Investment Adviser starts with ‘INA’ whereas the Registration No. on the picture starts with ‘INH’ which pertains to registration no. for Research Analysts. As per SEBI records as on date, it is observed that the said entity ‘Algo Systems’ having its registered office situated in Indore, is not registered with SEBI as an Investment Adviser or a Research Analyst .
14. Thus, Noticee 2 shared a forged SEBI IA registration certificate of “Algo Systems” to the complainant with an intention to defraud the investor and was successful in soliciting payments from the investor, fraudulently.
15. Subsequently adjudication proceedings were initiated against Noticee 1 for violating Clause 8 of Code of Conduct for Investment Advisers as specified in Schedule III of SEBI Investment Advisers Regulations read with Regulation 15(9) of SEBI IA Regulations and against Noticee 2 for violating Regulation 3(a) (b), (c) and (d) and (4) (2) (o) and 4 (2)(s) of PFUTP Regulations, 2003 read with Section 12A(a), (b) and (c) of SEBI Act, 1992.

APPOINTMENT OF ADJUDICATING OFFICER:

16. SEBI appointed Shri N. Hariharan, Chief General Manager vide order dated June 09, 2022 as the Adjudicating Officer (AO) under Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties Adjudicating Officer) Rules, 1995 read with Sections 15-I(1) and (2) of the SEBI Act, to inquire and adjudicate for the above mentioned violations by Noticee 1 & Noticee 2 respectively. Subsequently vide Order dated October 06, 2022, I was appointed as AO in the matter.

SHOW CAUSE NOTICE. REPLY AND HEARING:

17. Show Cause Notice (“SCN”) bearing reference no. SEBI/EAD- 1/SM/LD/55785/2/2022 dated November 01, 2022 was issued to the Noticees in terms of Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties)

Rules 1995 (hereinafter referred to as “AO Rules”) and why penalty, if any, should not be imposed on Noticee 1 under the provisions of Section 15HB of the SEBI Act, 1992 for the alleged violations of Clause 8 of the Code of Conduct for Investment Advisers as specified in Schedule III of SEBI IA Regulations read with Regulation 15(9) of SEBI IA Regulations and on Noticee 2 under the provisions of Section 15HA of the SEBI Act, 1992 for violation of Regulation 3(a), (b), (c) and (d) and 4(2) (o) and 4(2) (s) of PFUTP Regulations, 2003 read with Section 12A (a), (b), and (c) of SEBI Act, 1992.

18. The SCN, *inter alia*, alleged that Noticee 1 in a written submission to SEBI had provided false information intended to mislead SEBI. It was therefore alleged that Noticee 1 has violated Clause 8 of the Code of Conduct for Investment Advisers as specified in Schedule III of SEBI IA Regulations read with Regulation 15(9) of SEBI IA Regulations
19. The allegation levelled against Noticee 2 was that the Noticee had shared a forged SEBI registration certificate of Algo Systems bearing SEBI registration No. INH200003018 with a client to seek business from him. Further, the Noticee 2, being a portfolio manager of Algo Systems transferred the amounts of payments made by the client in Algo Systems’ bank account to the bank account of one Mr. Amit Gangrade, a proprietor of IRA. Therefore, Noticee 2 has violated Regulation 3(a), (b), (c) and (d) and 4(2) (o) and 4(2) (s) of PFUTP Regulations, 2003 read with Section 12A (a), (b), and (c) of SEBI Act, 1992.
20. The SCN was served on the Noticee 1 through Speed Post Acknowledgment Due (SPAD) at (403, Shreenath Avenue Chhavani Road, Near Madhumilan Square, Indore, Madhya Pradesh) and also through digitally signed email on pooja.patidar17@gmail.com.
21. The SCN was served on the Noticee 2 through Speed Post Acknowledgment Due (SPAD) at (Office No. 401, 402, 403, 4th Floor, Fortune Business Centre 165, RNT Marg, Indore, Madhya Pradesh) and also and through digitally signed email on

'thealgosystem@gmail.com'; 'sales@iresearch.co.in'; 'support@iresearch.co.in'. However, the physical notice was returned undelivered. On procuring the mobile no. of Noticee 2 from the UCC records, the Noticee was contacted to confirm his address and email ID. Thereafter, the SCN was once again sent to the Noticee at the address confirmed by him : House No. 17, Purani Bazar, Macharehata, Sitapur, Biswan, Uttar Pradesh and email ID ('VG5307909@gmail.com'.) and the same was received by Noticee 2.

22. After considering the cause and in the interest of natural justice, an opportunity of hearing was provided to the Noticees on January 09, 2023 vide Notice of hearing dated December 20, 2022. In the hearing notice, the Noticees were also reminded to file their respective reply to the SCN and informed that non receipt of any reply and non-appearance of the Noticee or its authorised representative on the date of the hearing, the matter would be decided on the basis of material available on record in terms of Rule 4(7) of the Adjudication Rules. However, the opportunity of the hearing was not availed by Noticee 1.
23. Noticee 2 attended the hearing but did not submit any reply to the SCN. During the hearing, Noticee 2 feigned ignorance of the matter and denied his association with any Sudeep Gangrade proprietor of Algo Systems, Amit Gangrade, proprietor of IRA and the client Mr. Dinesh Singh (complainant).
24. I note that sufficient opportunities have been provided to Noticee 1 to represent her case by way of reply to the SCN and also by way of personal hearing. However, it is a matter of record that Noticee 1 failed to furnish her reply and also failed to appear for the personal hearing fixed on the stipulated date despite due service of the SCN. Therefore, in the absence of reply from Noticee 1 and failure to make personal appearance, I am inclined to presume that Noticee 1 has nothing to offer in her defence and therefore Noticee 1 has admitted to the allegations levelled against her in the SCN. In this context, Hon'ble SAT in the matter of Sanjay Kumar Tayal vs SEBI, vide Order dated February 11, 2014 held 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 to the charges levelled against them in the show cause notice". In view of the above, I find no reason to take a different view and accordingly, I deem it appropriate to proceed against Noticee 1 ex parte, based on the material available on record.

CONSIDERATION OF ISSUES AND EVIDENCE

25. I have carefully perused the charges levelled against the Noticees in the SCN and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination: -

Issue I. **Whether Noticee 1 has violated Clause 8 of Code of Conduct for Investment Advisers as specified in Schedule III of SEBI Investment Advisers Regulations read with Regulation 15(9) of SEBI IA Regulations?.**

And

Whether Noticee 2 has violated Regulation 3(a) (b), (c) and (d) and (4) (2) (o) and 4 (2)(s) of PFUTP Regulations, 2003 read with Section 12A(a), (b) and (C) of SEBI Act, 1992?

Issue II. **Do the violations, if any, on the part of the Noticee I and Noticee II attract monetary penalty under Section 15HB & Section HA of SEBI Act, 1992 respectively?**

Issue V. **If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in Section 15J of the SEBI Act?**

26. Before proceeding further, I would like to refer to the relevant provisions of the IA Regulations & PFUTP Regulations :

Clause 8 of Code of Conduct for Investment Advisers as specified in Schedule III of SEBI Investment Advisers Regulations read with Regulation 15(9) of SEBI Investment Advisers Regulations.

THIRD SCHEDULE

Securities and Exchange Board of India (Investment Advisers) Regulations, 2013

CODE OF CONDUCT FOR INVESTMENT ADVISER

8. Compliance

An investment adviser including its partners, principal officer and persons associated with investment advice shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market.

Regulation 15(9) of SEBI Investment Advisers Regulations

General responsibility.

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

Regulation 3(a) (b), (c) and (d) and (4) (2) (o) and 4 (2)(s) of PFUTP Regulations, 2003 read with Section 12A(a), (b) and (c) of SEBI Act, 1992

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) use or employ, in connection with issue, purchase or sale of any*

Security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) inducing any person to subscribe to an issue of the securities for fraudulently securing the minimum subscription to such issue of securities, by advancing or agreeing to advance any money to any other person or through any other means;]

(d) inducing any person for dealing in any securities for artificially inflating, depressing, maintaining or causing fluctuation in the price of securities through any means including by paying, offering or agreeing to pay or offer any money or money's worth, directly or indirectly, to any person;

4. Prohibition of manipulative, fraudulent and unfair trade practices:

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

(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;

(p) ...

(q) ...

(r)

(s) mis-selling of securities or services relating to securities market;

Issue 1. Whether Noticee 1 has violated Clause 8 of Code of Conduct for Investment Advisers as specified in Schedule III of SEBI Investment Advisers Regulations read with Regulation 15(9) of SEBI IA Regulations?

And

Whether Noticee 2 has violated Regulation 3(a) (b), (c) and (d) and (4) (2) (o) and 4 (2)(s) of PFUTP Regulations, 2003 read with Section 12A(a), (b) and (C) of SEBI Act, 1992?

Noticee 1:

27. I note that it is alleged that Noticee 1 has provided false information intended to mislead SEBI. From the material before me, I note that Noticee 1 in her written submission to SEBI pursuant to the complaint filed by Ms R Nadiya had submitted that the bank account of Algo System 657405601184 belonged to one Bhupendra (an executive of Algo System). However, as per ICICI bank response to SEBI dated November 20, 2019 the said account no. belongs to Algo System and its proprietor was Sudeep Gangrade and not Bhupendra. I have perused the said response of the bank and I note that the account belongs to Algo System. From the misleading submission made by Noticee 1, I am inclined to believe that Noticee 1's intention was to cover up the fact that Sudeep Gangrade who was the proprietor of Algo System and related to Shri Amit Gangrade (brother), proprietor of IRA was also an employee of IRA. Hence Noticee 1 submitted that the bank account belonged to one Bhupendra, who as per the complaint lodged by Nadiya was from Algo Systems. It is learnt from the perusal of the said ICICI Bank Account of Algo systems, most of the proceeds received from the clients were received in the account of Algo System and then transferred to the bank account of the employer of Noticee 1, Shri Amit Gangrade, proprietor of IRA. Noticee 1 therefore tried to also cover up the wrongdoings with regard to fund transfer between her employer and Sudeep Gangrade who is related to him. This act on the part of Noticee 1, being an employee and Compliance Officer of IRA was contrary to the regulatory requirements for conducting its business activities in the interest of investors and the integrity of the securities market.

28. Further, I note that there was no response received by SEBI from the Noticee 1 to the SCN where the above mentioned allegation was levelled against her, therefore I presume that Noticee 1 has nothing to submit in her defense.

29. SCN dated November 01, 2022 and Hearing notice dated December 20, 2022 was duly delivered to Noticee -1 at the following address: Investment Research Advisor, 403, Shreenath Avenue, Chhavni Road, Near Madhumilan Square, Indore, Madhya

Pradesh. Also these notices were also delivered on her email account with digital signature (pooja.patidar17@gmail.com).

30. Noticee 1 was also afforded a personal hearing in the matter on January 09, 2023 with a reminder to file her reply to the SCN. However, I note neither did she reply to the SCN nor attended the personal hearing afforded in the matter.
31. In this regard, I refer to the judgement of Hon'ble Securities Appellate Tribunal (SAT) dated December 08, 2006 in the matter of Classic Credit Ltd. v SEBI (Appeal No. 68 of 2003) wherein, it 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".
32. **Clause 8 of the Code of Conduct for Investment Advisers** provides that an investment adviser including its partners, principal officer and persons associated with investment advice shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market. However, from the material available before me, I find that Noticee 1 paid no heed to the regulatory requirements with regard to the code of conduct for carrying out her business activities, by providing misleading information to SEBI. In view of all the above, I note that Noticee 1 has violated Clause 8 of Code of Conduct for Investment Advisers as specified in Schedule III of SEBI Investment Advisers Regulations read with Regulation 15(9) of SEBI IA Regulations.

Noticee 2:

33. I note that while **Regulation 3(a) (b), (c) and (d) of PFUTP Regulations, 2003** provides that no person shall buy, sell or deal in securities in a fraudulent manner, use or employ any manipulative or deceptive device, induce any person to subscribe by agreeing to advance any money to any of the person or induce any person for dealing in any securities, **Regulations (4) (2) (o) and 4 (2)(s) of PFUTP Regulations, 2003** provides that dealing in securities shall be deemed fraudulent if there is a fraudulent inducement of any person by a market participant to deal in

securities with the objective of enhancing his brokerage or commission or income; mis-selling of securities or service relating to securities market.

34. I note that the allegation against Noticee 2 is that he had shared a forged SEBI registration certificate of Algo Systems bearing SEBI registration no. INH200003018 with his client. I have perused the copy of the registration certificate shared and I find that the registration certificate was indeed a forged certificate as the registration no. for an investment adviser starts with 'INA' whereas the registration no. on the said registration certificate starts with 'INH' which pertains to registration no. allotted to a Research Analyst. Further, I have noted that though the Trade Name on the registration certificate was "Algo Systems", the name of the person mentioned therein was "Akhilesh Gupta" and not even "Vikash Gupta". It appears that the forged document shared with the client make the client believe Algo System was a SEBI Registered Investment Advisor. Thus Noticee 2 managed to misrepresent to an innocent investor by producing forged documents and soliciting huge payments from him i.e. to the tune of around Rs. 25 lakhs (*as shown in para 11 above*) by associating himself with an unregistered Investment Adviser. Furthermore, Noticee 2, who represented himself as the Portfolio Manager of Algo System, had transferred the payment amount made by the clients in Algo System bank account to the bank account of Shri Amit Gangrade, proprietor of IRA. This I note is another fraudulent act on the part of Noticee 2. I note that there is an entity with the similar name Algo Systems (other than Noticee-2) based out of Bangalore, Karnataka and is SEBI Registered Research Analyst bearing registration No. INH200003018. In the light of the above, I conclude that Vikash Gupta had misused the name of Algo Systems (SEBI Registered Research Analyst) by representing itself as SEBI Registered Investment Advisor and sought business for representing itself and its SEBI registration as a Research Analyst
35. In light of the aforesaid, I am of the view that Noticee 2 dealt with his client in a fraudulent manner employing manipulative and a deceptive device viz a forged registration certificate, to get business and solicit payments from the client to earn income. Moreover, Noticee 2 received the payment amount from his client in one

account and transferred the same proceeds to another account, with a manipulative intention and therefore I infer that Noticee 2 has violated Regulation 3(a) (b), (c) and (d) and (4) (2) (o) and 4 (2)(s) of PFUTP Regulations, 2003 read with Section 12A(a), (b) and (C) of SEBI Act, 1992.

Issue II.: **Do the violations, if any, on the part of the Noticees attract monetary penalty under sections 15HB & Section 15HA of SEBI Act, 1992 ?**

36. I note that the Hon'ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund[2006] 68 SCL 216(SC)held that

“In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant.....Hence, we are of the view that once the contravention is established, then the penalty has to follow and only the quantum of penalty is discretionary.”

21. In view of the foregoing, I am convinced that the Noticee 1 and Noticee 2 are liable for monetary penalty under Section 15HB & Section 15HA of the SEBI Act, 1992 respectively, for violation of the above mentioned IA and PFUTP Regulations. The provisions of **Section 15HB & Section 15HA of the SEBI Act, 1992** are reproduced as under:

15HB - Penalty for contravention where no separate penalty has been provided: *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

15HA - Penalty for fraudulent and unfair trade practices.

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.

III. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act, 1992?

22. While determining the quantum of penalty under Section 15HB & Section 15HA of the SEBI Act, 1992 it is important to consider the factors stipulated in Section 15J of the SEBI Act, 1992 read with Rule 5(2) of the Adjudication Rules, 1995 which read as under:

Factors to be taken into account by the adjudicating officer

15J While adjudging quantum of penalty under section 15-I, 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.*

23. From the material available on record, the amount of disproportionate gain or unfair advantage made out of the Noticees, is not quantifiable. Also, the amount of loss caused by an investor or a group of investors and repetitive nature of default cannot be ascertained.

24. However, I am inclined to refer to the judgement of Hon'ble Supreme Court in India in the matter of Adjudicating Officer, Securities and Exchange Board of India v. Bhavesh Pabari (MANU/SC/0296/2019 dated February 28, 2019) wherein, it held, "*We, therefore, hold and take the view that conditions stipulated in Clauses (a), (b) and (c) of Section 15-J are not exhaustive and in the given facts of a case, there can be circumstances beyond those enumerated by Clauses (a), (b) and (c) of*

Section 15-J which can be taken note of by the Adjudicating Officer while determining the quantum of penalty.”

25. Noticee 1 by providing false information intended to mislead SEBI lacked integrity while conducting her business. Noticee 2 by providing a forged registration certificate to his client, defraud the investor and solicited payments fraudulently. SEBI as a regulator is under a statutory duty to protect the integrity of the securities market and also the interest of investors in securities apart from promoting the development of and regulating the market by such measures as it may think fit. The purpose of the Regulations is to achieve the said objects and make the securities market a safe place to invest. Non adherence to the Code of Conduct as well as the SEBI regulations by intermediaries would lead to investors not having any confidence in investing their hard earned monies which in return would affect the development of the securities market.

ORDER

24. Having considered all the facts and circumstances of the case, the material available on record as well as the factors mentioned in and Section 15J of SEBI Act I, in exercise of the powers conferred upon me under Section 15HB and 15HA of the SEBI Act hereby impose the following penalty on Noticee 1 and Noticee 2 viz. Ms. Pooja Patidar and Mr. Vikash Gupta .

S. No.		Penalty	Under the provisions of
1.	Ms. Pooja Patidar (PAN: CJJPP8427L)	Rs 1,00,000/- (Rupees One Lakh only)	Section 15HB of the SEBI Act, 1992
2.	Mr. Vikash Gupta (PAN: CUCPG7495R)	Rs.5,00,000/- (Rupees Five Lakhs only)	Section 15HA of the SEBI Act, 1992

I am of the view that the said penalty is commensurate with the violations committed by the Noticees.

25. Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, OR through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW.

In case of any difficulties in payment of penalties, Noticees may contact the support at portalhelp@sebi.gov.in

- a) The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief, EFD1 – DRA - 2, Securities and Exchange Board of India, SEBI Bhavan, Plot no.C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai-400051". The Noticees shall also provide the following details while forwarding DD / payment information:

Case Name:	
Name of Payee:	
Date of Payment:	
Amount Paid:	
Transaction No.:	
Ban Details in which payment is made:	
Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount etc.)	Penalty

- b) In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under Section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

26. In terms of the provisions of Rule 6 Adjudication Rules, copy of this order is being sent to Noticees viz. **Ms. Pooja Patidar (PAN: CJJPP8427L)** and **Mr. Vikash Gupta (PAN : CUCPG7495R)** and also to the Securities and Exchange Board of India.

Date : **February 10, 2023**
Place: **Mumbai**

SAHIL MALIK
CHIEF GENERAL MANAGER
&
ADJUDICATING OFFICER



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