

SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

ORDER

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

IN RESPECT OF –

NAME	PAN
MANISH LALWANI PROPRIETOR – SECURE INVESTOR INVESTMENT ADVISORY	AGCPL2573P

IN THE MATTER OF **SECURE INVESTOR INVESTMENT ADVISORY.**

BACKGROUND

- Vide an Order No. WTM /ASB /WRO/WRO/22921/2022–23, dated January 18, 2023 (“**Final Order**”), Securities and Exchange Board of India (“**SEBI**”), had held that Manish Lalwani, Proprietor–Secure Investor Investment Advisory (“**Noticee**”) was engaged in investment advisory services without obtaining a Certificate of Registration from SEBI, in violation of the provisions of Section 12(1) of the SEBI Act, 1992 (“**SEBI Act**”) read with Regulation 3(1) of the SEBI (Investment Advisers) Regulations, 2013 (“**Investment Advisers Regulations, 2013**”). SEBI also found that the Noticee was liable to refund an amount of ₹31,74,870.82, which was collected as fees in lieu of unregistered investment advisory services offered to its clients /investors. Accordingly, vide the aforesaid Final Order, SEBI had issued *inter alia* the following directions against the Noticee:

- “The Noticee, **Manish Lalwani, Proprietor – Secure Investor Investment Advisory**, shall within a period of three months from the date of coming into force of this Order, refund the money received from any complainants /investors /clients, as fees /consideration or in any other form, in respect of its unregistered investment advisory activities.*
- The Noticee 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 3 (three) years from the date of this Order or till the expiry of 3 (three) years from the date of completion of refunds to Complainants /investors /clients along with depositing of balance amounts, if any, with SEBI, as directed in paragraphs 7(a) and 7(e), whichever is later. ...”

2. Aggrieved by the Final Order, the Noticee had filed an Appeal before the Hon'ble Securities Appellate Tribunal (“SAT”) i.e. **Appeal No. 310 of 2023 – Mr. Manish Lalwani vs. SEBI**. Vide an Order dated April 13, 2023 (“SAT Order”), the Hon'ble SAT disposed of the Appeal with the following directions:

“2. Admittedly the appellant was carrying on the investment advisory services without obtaining registration under Regulation 3 of the Investment Advisory Regulations and, therefore, to that extent the order of the WTM does not suffer from any error of law.

3. It was urged that the amount directed to be refunded by the WTM is erroneous. In this regard, certain documents have been filed by the appellants to show that the amount collected from the clients towards advisory services was far less than what has been depicted in the impugned order.

*4. In view of the admitted fact that the appellant was carrying on Investment Advisory Services without getting itself registered under Regulation 3 of the Investment Advisory Regulations, **the appeal fails and is dismissed.***

5. Considering the aforesaid, while dismissing off the appeal we direct the WTM to reconsider the quantum to be refunded by the appellant. We direct the appellant to file an appropriate application on an affidavit within three weeks from today submitting proof of the fees collected from the clients which is required to be refunded as per the impugned order. Such application shall be considered by the WTM and appropriate order shall be passed within four weeks thereafter.”

3. In compliance with the SAT Order, the Noticee filed an application dated May 11, 2023 (“**Application**”), with SEBI (complete application with all the relevant original documents was received at SEBI on May 24, 2023), *inter alia* submitting as under:
- a. *I was the Proprietor of the firm, M/s Secure Investor Investment Advisory, which operated from August 2016 to June 2017.*
 - b. *Throughout the tenure I had only a single bank account in which fees from the clients were received, viz. ICICI Bank bearing A/c No. 388005500025. The fees collected amounted to Rs. 26,40,116. A copy of the statement for the period from August 8, 2016 to July 11, 2017, is attached.*
 - c. *Almost all the entire fees were received through Payment gateway, PayUMoney and also included Rs. 10,00,000, which was refunded by me to the complainant, Surendra Yadav.*
 - d. *Apart from the above mentioned transactions, there is no receipt of any amount related to the advisory activity in the said bank account. The remaining amounts were personal transactions, self-cash deposits, reverse entries, unidentified transactions and has nothing to do with unregistered investment advisory activity.*
4. I have considered the Application filed by the Noticee along with all the material available on record. It is reiterated that the Hon’ble SAT had observed: “*In view of the admitted fact that the appellant was carrying on Investment Advisory Services without getting itself registered under Regulation 3 of the Investment Advisory Regulations, **the appeal fails and is dismissed.**” Therefore, the Final Order has attained finality with regard to the direction prohibiting the Noticee from accessing / buying, selling or otherwise dealing in the securities market, for a period of 3 (three) years from the date of the Final Order or till the expiry of 3 (three) years from the date of completion of refunds to Complainants /investors /clients along with depositing of balance amounts, if any, with SEBI.*

5. Accordingly, in compliance with the SAT Order (see paragraph 5 of the SAT Order as reproduced at page 2), the limited issue for consideration in these proceedings, is the quantum of refund to be made by the Noticee. From the material available on record, it is noted that the total credits received in the Noticee's above mentioned ICICI bank account for the period from August 8, 2016 to July 11, 2017 amounted to **₹41,74,870.82**, as under:

TABLE 1 – TOTAL CREDITS IN NOTICEE'S BANK ACCOUNT		
BANK	AS PER THE ACCOUNT OPENING FORM, AUTHORISED SIGNATORY TO ACCESS AND OPERATE THE A/C	AMOUNT IN ₹
ICICI BANK ACCOUNT No. 388005500025 NEW SIYAGANJ BRANCH.	MANISH LALWANI	*41,74,870.82
*THIS ALSO INCLUDED AMOUNTS RECEIVED FROM THE COMPLAINANT.		

6. In his Application, the Noticee while providing a statement of his ICICI Bank Account for the period August 8, 2016 to July 11, 2017, has detailed the amounts therein, which are reproduced as under:

TABLE 2 – AMOUNTS RECEIVED IN NOTICEE'S BANK ACCOUNT AS PER HIS SUBMISSIONS		
S. No.	NO. OF TRANSACTIONS	AMOUNT IN Rs.
1.	1	50,000
2.	121	26,40,116
3.	10	6,45,000
4.	3	21,000
5.	2	50,000
6.	13	3,99,000
7.	7	51,800
8.	1	15,000
9.	26	3,02,955
TOTAL		41,74,871/-

7. I have considered the amounts indicated in Table 2 as against the amounts indicated at Table 1 and accordingly, my observations are as under:
- The amount of **Rs. 50,000/-** indicated at S. N. 1 of Table 2, was admittedly the initial deposit made by the Noticee while opening the Bank account. Having regard to the fact that the said deposit was made on August 8, 2016 i.e. on the date when the Noticee admittedly started carrying on unregistered investment advisory services, I am inclined to hold that the same could not have been fees collected from clients.

- b. The amount of **Rs. 26,40,116/-** indicated at S. No. 2 of Table 2, was admittedly fees collected/ received by the Noticee for the period from August 8, 2017 to June 27, 2017 on account of carrying on unregistered investment advisory services. It is pertinent to note that the aforementioned amount also includes the amount of Rs. 10,00,000/- which the Noticee had submitted to have been refunded to the Complainant, Surendra Yadav. In the Final Order, the aforementioned amount had also been taken into account while computing the refund obligation of the Noticee in these proceedings. In this regard, I am inclined to accept the Noticee's submission.
- c. For the amount of **Rs. 14,84,755/-** indicated at S. No. 3 to 9 of Table 2, the Noticee has submitted that the same were amounts either received from a friend, relatives, transaction reversal or cash deposits made by him and do not pertain to fees collected/ received from unregistered investment advisory services. The submissions made by the Noticee have also been substantiated for some transactions by statements on Affidavits made by such friend and relatives. Having regard to the conduct of the Noticee in the instant proceedings wherein he had himself admitted to SEBI, of having carried out unregistered investment advisory services, which was also recorded in the Final Order and has been upheld by the Hon'ble SAT in its Order, I am inclined to accept his submissions that such amounts did not pertain to fees collected/ received from unregistered investment advisory services.
8. In light of the findings in the preceding paragraphs, I am of the considered view that the Noticee is liable to refund an amount of **Rs. 16,40,116/-**, collected as fees in lieu of unregistered '*Investment Advice*' offered to its clients /investors, and accordingly, a direction to the Noticee to refund such amount will be in the interest of investors in the securities market. The amount has been arrived at after deducting the amount of Rs. 10,00,000/- submitted by the Noticee to have already been refunded to the Complainant, Surendra Yadav.

ORDER:

9. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11(1), 11(4) and 11B(1) read with of Section 19 of the SEBI Act, hereby direct that:

- (a) The Noticee, **Manish Lalwani, Proprietor–Secure Investor Investment Advisory**, shall within a period of three months from the date of coming into force of this Order, refund the money received from any complainants /investors /clients, as fees /consideration or in any other form, in respect of its unregistered investment advisory activities.
- (b) The Noticee shall cause to effect a public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, inviting claims from Complainants /investors /clients within a period of fifteen (15) days from the date of this Order. The said public notice shall detail the modalities for refund, including the details of the contact persons such as names, addresses and contact details. A period of two (2) months from the date of the publication of the public notice shall be provided to the Complainants /investors /clients for submitting their claims.
- (c) The repayments to the complainants /investors /clients 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.
- (d) After completing the refund as directed in paragraph 9(a) above, the Noticee shall file a report detailing the amount refunded to investors / clients, which should be 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*”. The above mentioned report should be duly certified by an independent Chartered Accountant and should indicate the amount of refund, mode of payment

by bank transactions, name of the parties, communication address, mobile / telephone numbers, etc. The report shall also include the proof of payment to the Complainant for the amount of ₹10,00,000/-, as discussed at paragraph 7 (b).

- (e) The remaining balance amount shall be deposited with SEBI, which shall be kept in an escrow account for a period of one year for distribution to clients / investors who were availing the investment advisory services from the Noticees. Thereafter, the remaining amount, if any, shall be deposited in the Investor Protection and Education Fund, maintained by SEBI.
 - (f) The Noticee is restrained from selling his assets, properties and holding of mutual funds /shares /securities held by him in demat and physical form except for the sole purpose of making the refunds /depositing balance amount with SEBI, as directed above. Further, the banks are directed to allow debit only for the purpose of making refunds to the Complainants /investors /clients who were availing the unregistered investment advisory services from the Noticee, as directed in this Order, from the bank accounts of the Noticee.
 - (g) Upon submission of reports on completion of refunds to complainants /investors /clients to SEBI and deposit of the balance amount if any, with SEBI, the direction at paragraph 9(f) shall cease to operate within fifteen days thereafter.
10. The above direction for refunds /repayment to clients /investors and depositing the balance amount with SEBI, as given in paragraphs 9(a) and 9(e) above, does not preclude such complainants /investors /clients to pursue other legal remedies available to them under any other law against the Noticee for refund of money or deficiency in service.
11. This Order shall come into force with immediate effect.

12. This Order shall always be read with the Final Order issued by SEBI against the Noticee having Order No. WTM/ASB /WRO/WRO/22921/2022–23, dated January 18, 2023.

13. A copy of this Order shall be served upon the Noticee. A copy of this Order shall also be forwarded to the recognised Stock Exchanges, Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions and also the Government of Madhya Pradesh for its information.

Place: Mumbai
Date: May 25, 2023

ASHWANI BHATIA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA