WTM/AN/WRO/WRO/29356/2023-24

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11(1), 11(4) and 11B(1) of the Securities and Exchange Board of India Act, 1992

In respect of:

Sr. No.	Name of Noticee	PAN / DIN
1.	Highbrow Market Research Private Limited (Ways 2 Capital)	AACCH8077M
2.	Chandan Singh Rajput	AWYPR5207Q
3.	Rahul Trivedi	AQNPT9607R
4.	Sunil Atode	07857476
5.	Girish Kumar Pahwani	CILPP0738B
6.	Laxmikant Sharm	BNYPS4320M
7.	Mohit Chhaparwal	AGOPC0896Q
8.	Hemant Agrawal	AOBPA3520Q
9.	Swapnil Prajapati	BTWPP9571K

(The entities mentioned above are individually known by their respective names or Noticee Nos. and collectively referred to as "Noticees")

In the matter of Highbrow Market Research Private Limited

Background

1. Securities and Exchange Board of India (hereinafter referred to as **"SEBI"**) received multiple complaints against Highbrow Market Research Private Limited (hereinafter referred to as "**Highbrow / Company / IA**") a SEBI registered Investment Adviser bearing registration no. INA000001134. Thereafter, SEBI examined *inter alia* the website of Highbrow, payment receipts issued by Highbrow, risk profiling of clients conducted by Highbrow, written correspondence between Highbrow and its clients, etc.

2. During the pendency of the examination, based on *prima facie* SEBI passed an *ex parte Interim Order* dated May 23, 2019, against Highbrow and its Directors viz.,Chandan Singh Rajput, Rahul Trivedi , Sunil Atode , Girish Kumar Pahwani , Laxmikant Sharma, Mohit Chhaparwal, Hemant Agrawal and Swapnil Prajapati

(hereinafter referred as the "**Interim Order**") for violation of provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**"), SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as "**IA Regulations**") and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**"). The *prima facie* findings of the *Interim Order inter alia* are as follows:

2.1. Highbrow has been providing assurance to its clients that it will provide them service till the approachable profit is achieved.

2.2. Highbrow has sold multiple packages to clients with the threat of forfeiture and has charged unreasonable and undisclosed fees.

2.3. Highbrow has manipulated the risk profiles of its clients.

2.4. Highbrow has failed to abide by the principles of suitability.

2.5. Highbrow has also indulged in other unfair dealings such as splitting of fees among the relatives of the client and refusing to acknowledge clients even after receiving payment and forcefully capturing card details.

2.6. Highbrow has failed to promptly redress investors' grievances.

3. In light of the *prima facie* findings of the *Interim Order*, following directions among others, were issued against Highbrow and its Directors:

3.1. Highbrow and its Directors (present and past) are restrained from buying, selling or dealing in the securities market or associating themselves with securities market, either directly or indirectly, in any manner whatsoever, till further directions.

3.2. Highbrow, its Directors and any other employee/person working under them as part of the overall *modus operandi* discussed in the order shall cease and desist from undertaking any activity in the securities market including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, in any manner whatsoever till further directions.

3.3. The depositories are directed to ensure that till further directions, no debits are made in the demat accounts, of Highbrow held jointly or severally.

3.4. The banks are directed to ensure that till further directions, no debits are made in the bank accounts held by Highbrow jointly or severally.

4. Subsequently, a *Confirmatory Order* dated January 30, 2020 was passed against Highbrow and its Directors wherein all the directions issued vide the *Interim Order* was confirmed against the Noticees.

Show Cause Notice, Reply and Hearing

5. Pursuant to the completion of the examination in the matter, a common Show Cause Notice dated July 13, 2022 (hereinafter referred to as "**SCN**") was issued to the Noticees alleging that Highbrow and its Directors (present and past) have acted in complete disregard to the responsibility entrusted on the Investment Advisor under the applicable provisions of SEBI Act and IA Regulations. Further, it was alleged that in the course of its investment advisory activities, Highbrow and its Directors have acted in a fraudulent and manipulative manner while dealing with clients and have violated provisions of PFUTP Regulations.

6. It is noted from the records that the SCN was served on all the Noticees. The details of the service of the SCN is mentioned in the table below:

Table No. 1

Noticee No.	Name	Delivery by way of SPAD	Delivery by Market Infrastructure Institutions	Delivery way of affixture/ newspaper publication
1.	Highbrow Market Research Private Limited (Ways2Capital)	No, SCN returned undelivered.	-	SCN served by way of newspaper publication on August 12, 2022 in Times of India (Indore Edition) and Nai Dunia (Indore Edition).
2.	Chandan Singh Rajput	No, SCN returned undelivered.	Could not be served	SCN served by way of newspaper publication on August 12, 2022 in Times of India (Indore Edition) and Nai Dunia (Indore Edition).

Noticee No.	Name	Delivery by way of SPAD	Delivery by Market Infrastructure Institutions	Delivery way of affixture/ newspaper publication
3.	Rahul Trivedi	Yes, SCN delivered on July 15, 2022.	-	_
4.	Sunil Atode	Yes, SCN delivered on July 16, 2022.	-	_
5.	Girish Kumar Pahwani	Yes, SCN delivered on July 15, 2022.	-	_
6.	Laxmikant Sharma	No, SCN returned undelivered.	Could not be served	SCN served by way of newspaper publication on August 12, 2022 in Times of India (Indore Edition) and Nai Dunia (Indore Edition).
7.	Mohit Chhaparwal	Yes, SCN delivered on July 19, 2022.	-	_
8.	Hemant Agarwal	No, SCN returned undelivered.	Could not be served	SCN served by way of newspaper publication on August 12, 2022 in Times of India (Indore Edition) and Nai Dunia (Indore Edition).
9.	Swapnil Prajapati	Yes, SCN delivered on July 19, 2022.	-	_

7. In response to the SCN, Highbrow vide its letter dated November 14, 2022 submitted as follows:

7.1. The number of complaints against the Noticee is miniscule (2.56%) compared to the clientele of the Noticee. Hence, majority of its clients were satisfied with its services. In any case, there was a surge (3.72%) in number of complaints post the *Interim Order* only on account of suspensions of the activities of the Noticee.

7.2. The Noticee has mostly submitted the action taken report of most complaints within 7 days. In case of long pending complaints, the complaints must be pending either with SEBI officials or with the complainant.

7.3. With respect to the total fees collected by Highbrow since its incorporation, the Noticee has submitted that the client master data submitted by it is true and correct.

7.4. There were enough disclaimers and disclosures on the website of the IA as well as in their communication with the clients including payment receipt about market risks and the fact that profits were not assured.

7.5. The commitment of the Noticee to continue the service post the tenure of the package was its commitment to serve the client to his satisfaction.

7.6. The term approachable profit is not equivalent to guaranteed profit. It is calculated based upon scientific data and past records of the company.

7.7. Assuming that the fee charged is 1/4th of the target / approachable profit and no other consideration is weighed in, the same is not violative of any regulation. The only rider on the fees to be charged was that it was expected to be reasonable. There is nothing on record to show that fees charged by the Noticee was unreasonable.

7.8. There was no requirement to record the conversation with clients till the year 2020. So Noticee has no call recording to defend itself. Further, the call recordings submitted by the complainants needs to be checked and forensic authentication of such call recordings needs to be made.

7.9. With respect to selling of multiple packages to clients, it is submitted that to opt for further services was always a choice of the client. Many clients have subscribed to multiple packages after being satisfied with the services and earning profit based on the advice.

7.10. The Noticee's model of fees collection was service based and not commission based. Therefore, there need not be any co-relation between the investment amount and the service fees.

7.11. In instances where part payment was received, the outstanding part was adjusted towards another package because of change in service or upgradation of package. The same cannot be mean to read that the outstanding amounts are purposefully shown as unpaid.

7.12. With respect to the manipulation of risk profile forms, it is submitted that no purpose is served by creating two risk profiles, if the risk category of the client has not changed. Hence, there cannot be any presumption of manipulation of the risk profile rather it is the correction of a prior mistake.

7.13. It was a regular practice of the Noticee to collect all the requisite information regarding the risk profile of the client over the phone and accordingly provisional risk profile used to be communicated to the client over phone before the fee is processed. Once the client confirms his intention to subscribe to the services, thereafter again risk profile is re-conducted or preliminary risk profile is reconfirmed from the client, on which the client signs.

7.14. Only because the communication of risk profile is late does not mean that the package is sold upfront without any risk profiling and suitability assessment. Accordingly, fee would be charged on the basis of risk assessment and then the same communication is being forwarded to the client over email.

7.15. It is submitted that the two questions highlighted by SEBI in the risk profile form as leading questions, does not affect the overall assessment of the risk appetite of the client. Further, the said questions are not leading questions as two clear alternatives are contemplated where client has a choice. The said questions are necessary to understand the aggressiveness of the client and his real intent behind staying invested in the market. Hence, no adverse inference can be drawn from against the Noticee.

7.16. It is submitted that it has always taken into consideration the proposed investment amount and the financial strength of the clients. Further, the clients have made the payment with their free consent and after making profits.

7.17. The Noticee has always treated every client as separate entity. In any case, prior to the year 2020, there was no law to treat family members as a single client.

7.18. With respect to the capturing card details of the client, it is submitted that it is the client who can provide the OTP for the transaction. Therefore, if the transaction was processed, it was with the consent of the client. Furthermore,

there were instances where the client due to certain technical discrepancies provided the card details. All the acknowledgment for the payment received were sent to the clients.

8. Girish Kumar Phawani vide his letter dated September 15, 2022 while denying the allegations levelled against him in the SCN *inter alia* submitted as follows:

   8.1. Noticee wants to cross-examine all the complainants who have been referred to in the SCN.

   8.2. Noticee was appointed as an Additional Director just to fulfil the requirement of the quorum of the Board. Rahul Trivedi and Chandan Singh Rajput were the Whole Time Directors of the IA who were dealing with the IA's affairs.

   8.3. Noticee was not involved in the day to day affairs of the IA and was not aware about the financial dealings of the IA.

   8.4. Noticee was appointed as a research officer on May 23, 2014. His directorship tenure was for the period June 23, 2017 to December 19, 2018. Out of 4 years that he was with Highbrow, for 1.5 years, he worked as a Director Research. He was responsible for economic operations in the area of research and its related activities.

   8.5. He had attended only 3 board meetings.

9. Mohit Chhaparwal had sought inspection in the matter and his request for inspection was acceded to. However, as per the available records he failed to conduct the physical inspection of documents in the matter on multiple occasions. Therefore, vide an email dated September 15, 2022, all the annexures to the SCN was sent to the email address of Mohit Chhaparwal,

10. Subsequently, vide hearing notice dated May 12, 2023 a personal hearing in the instant matter was scheduled on July 20, 2023 which was served on all the Noticees. The details of the service of the personal hearing notices is mentioned in the table below:

Table No. 2

Sl. No.	Name	Hearing Notice delivery status (Delivered / Undelivered)	Service of Hearing Notice through Newspaper Publication
1.	Highbrow Market Research Private Limited (Ways2capital)	Hearing Notice Returned Undelivered to SEBI	Date of Newspaper Publication (Times of India – Indore; Nai Duniya – Indore): June 12, 2023
2.	Chandan Singh Rajput	Hearing Notice Returned Undelivered to SEBI	Date of Newspaper Publication (Times of India – Indore; Nai Duniya – Indore): June 12, 2023
3.	Rahul Trivedi	Hearing Notice delivered to the Noticee	-
4.	Sunil Atode	Hearing Notice delivered to the Noticee	-
5.	Girish Kumar Pahwani	Hearing Notice Returned Undelivered to SEBI	Date of Newspaper Publication (Times of India – Indore; Nai Duniya – Indore): June 12, 2023
6.	Laxmikant Sharma	Hearing Notice Returned Undelivered to SEBI	Date of Newspaper Publication (Times of India – Indore; Nai Duniya – Indore): June 12, 2023
7.	Mohit Chhaparwal	Hearing Notice delivered to the Noticee	-
8.	Hemant Agrawal	Hearing Notice Returned Undelivered to SEBI	Date of Newspaper Publication (Times of India – Indore; Nai Duniya – Indore): June 12, 2023
9.	Swapnil Prajapati	Hearing Notice Returned Undelivered to SEBI	Date of Newspaper Publication (Times of India – Jabalpur; Nai Duniya – Jabalpur): June 12, 2023

11. On the day of the scheduled hearing, the Authorized Representative (hereinafter referred to as "**AR**") of Highbrow and Rahul Trivedi, appeared for the hearing. Rahul Trivedi also appeared for the hearing. The AR reiterated the submissions made vide the reply dated November 14, 2022. Further, the AR was informed about the Enquiry Proceedings initiated against Highbrow. In response to the same, the AR requested for one weeks' time to submit his response and the same was acceded to. The AR of Girish Kumar Pahwani appeared for the hearing. He also reiterated the submissions made vide the reply dated September 15, 2022. Mohit Chhaparwal appeared for the hearing. He adopted the submissions made vide his

reply dated August 30, 2019. The other Noticees in the matter failed to appear for the personal hearing inspite of due service of the hearing notice on them. Accordingly, the personal hearing in the matter was concluded.

12. Mohit Chhaparwal vide his reply dated August 30, 2019 while denying the *prima facie* findings of the *Interim Order* against him *inter alia* submitted as follows:

12.1. The Noticee has ceased to be the Director of the IA since April 1, 2016.

12.2. SEBI had conducted inspection of the IA one month prior to his resignation. SEBI had issued a letter dated February 22, 2018 pointing out certain corrective actions that had to be taken by the IA to rectify the deficiencies observed during inspection. No enforcement action was taken against the IA or its Directors.

12.3. During his directorship, all the investors' complaint were resolved.

12.4. The Noticee cannot be held liable unless it is proved that the breach was committed with his knowledge or that he had not exercised due diligence to prevent the commission of such breach or the breach is attributable to any neglect on his part.

Consideration of Issues and Findings

13. After considering the SCN and the reply filed by the Noticee Nos. 1, 5 and 7, I find that essentially, the following issues arise for determination in the present matter:

13.1. Whether Highbrow was providing assured returns to its clients?

13.2. Whether Highbrow was selling multiple services to its clients?

13.3. Whether Highbrow had manipulated the risk profiles of its clients?

13.4. Whether Highbrow had failed to abide by the principles of Suitability while advising its clients?

13.5. Whether Highbrow had charged unreasonable fees from its clients?

13.6. Whether Highbrow had forcefully captured the card details of its clients?

13.7. Whether Highbrow had failed to promptly redress its clients' grievances?

13.8. Whether Highbrow had violated provisions of the PFUTP Regulations read with Sections 12A (a), (b) and (c) of the SEBI Act?

14. Before proceeding to adjudicate the allegation levelled against the Noticees, I shall first deal with the request of cross examination of the complainants made by Highbrow and Girish Kumar Pahwani. In this regard, the SCN issued in the matter was examined and the following is observed with respect to the allegations levelled against the aforesaid two Noticees and the evidence adduced to substantiate the same:

Table No. 3

Sl. No.	Allegation	Nature of Evidence
1.	Promising assured profit / target returns to clients	Payment receipts / invoices and call recordings
2.	Selling multiple packages to clients with threat of forfeiture and charging unreasonable and undisclosed fee	Payment receipts
3.	Manipulation of risk profile of clients	Risk Profile Forms
4.	Failure to abide the principles of Suitability	Risk Profile Forms and Invoices
5.	Splitting of fees among the relatives of the clients	Invoices
6.	Forcefully capturing card details	Email communication
7.	Non redressal of clients complaints	SCORES portal

15. Thus, from the above table it is noted that the evidence, which have been adduced in the matter to support the allegations levelled against the Noticees, are not in the nature of statements of the complainants. Rather, a significant majority of them are documentary evidence. With respect to call recordings, it is noted that the said recordings have been made by the complainants on the devices owned / operated by them and such conversations were recorded while they were in communication with the employees of the IA. In other words, call recordings are not akin to statements given by the complainants to SEBI and hence cannot be made the subject matter of cross examination. Further, the said call recordings are not the only evidence, which have been relied upon to level the allegation against the Noticees. There are invoices', payment receipts and other documents to corroborate the allegations levelled against the Noticees. Moreover, upon a perusal of the SCN, it is observed that it is interspersed with excerpts of complaints made by the complainants to SEBI. It is noted that the complaints only serve as the basis for initiation of the examination in the matter by SEBI and they have been used in the SCN to give context to the allegations levelled therein.

16. In view of the aforesaid discussion, I find that the request for cross examination of the complainants made by Highbrow and Girish Kumar Pahwani, is devoid of merit.

17. It will be relevant here to reproduce the legal provisions which are alleged to have been violated by the Noticees. The same are reproduced below:

SEBI Act

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

12A. No person shall directly or indirectly—

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

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

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

PFUTP Regulations

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

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets.

Explanation.–For the removal of doubts, it is clarified that any act of diversion, mutualisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.

(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;

…

(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

Investment Advisers Regulations

General responsibility.

15.(1) An investment adviser shall act in a fiduciary capacity towards its clients and shall disclose all conflicts of interests as and when they arise.

…

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

***Risk profiling**.*

16. Investment adviser shall ensure that,-

(a) it obtains from the client, such information as is necessary for the purpose of giving investment advice, including the following:-

(i) age;

(ii) investment objectives including time for which they wish to stay invested, the purposes of the investment ;

(iii) income details;

(iv) existing investments/ assets;

(iv) risk appetite/ tolerance;

(vi) liability/borrowing details.

(b) it has a process for assessing the risk a client is willing and able to take, including:

(i) assessing a client's capacity for absorbing loss;

(ii) identifying whether client is unwilling or unable to accept the risk of loss of capital;

(iii) appropriately interpreting client responses to questions and not attributing inappropriate weight to certain answers.

(c) where tools are used for risk profiling, it should be ensured that the tools are fit for the purpose and any limitations are identified and mitigated;

(d) any questions or description in any questionnaires used to establish the risk a client is willing and able to take are fair, clear and not misleading, and should ensure that:

(i) questionnaire is not vague or use double negatives or in a complex language that the client may not understand;

(ii) questionnaire is not structured in a way that it contains leading questions.

(e) risk profile of the client is communicated to the client after risk assessment is done;

(f) information provided by clients and their risk assessment is updated periodically.

Suitability

17. Investment adviser shall ensure that,-

(a) All investments on which investment advice is provided is appropriate to the risk profile of the client;

(b) It has a documented process for selecting investments based on client's investment objectives and financial situation;

(c) It understands the nature and risks of products or assets selected for clients;

(d) It has a reasonable basis for believing that a recommendation or transaction entered into:

(i) meets the client's investment objectives;

(ii) is such that the client is able to bear any related investment risks consistent with its investment objectives and risk tolerance;

(iii) is such that the client has the necessary experience and knowledge to understand the risks involved in the transaction.

(e) Whenever a recommendation is given to a client to purchase of a particular complex financial product, such recommendation or advice is based upon a reasonable assessment that the structure and risk reward profile of financial product is consistent with clients experience, knowledge, investment objectives, risk appetite and capacity for absorbing loss.

***Redressal of client grievances**.*

21.(1) An investment adviser shall redress client grievances promptly.

THIRD SCHEDULE

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

CODE OF CONDUCT FOR INVESTMENT ADVISER

1. Honesty and fairness

An investment adviser shall act honestly, fairly and in the best interests of its clients and in the integrity of the market.

2. Diligence

An investment adviser shall act with due skill, care and diligence in the best interests of its clients and shall ensure that its advice is offered after thorough analysis and taking into account available alternatives.

…

5. Information to its clients

An investment adviser shall make adequate disclosures of relevant material information while dealing with its clients.

6. Fair and reasonable charges

An investment adviser advising a client may charge fees, subject to any ceiling as may be specified by the Board. The investment adviser shall ensure that fees charged to the clients is fair and reasonable.

SEBI circular no. CIR/OIAE/2014 dated December 18, 2014

9. All listed companies and SEBI registered intermediaries shall review their investors grievances redressal mechanism so as to further strengthen it and correct the existing shortcomings, if any. The listed companies and SEBI registered intermediaries to whom complaints are forwarded through SCORES, shall take immediate efforts on receipt of a complaint, for its resolution, within thirty days. The listed companies and SEBI registered intermediaries shall keep the complainant duly informed of the action taken thereon.

10. The listed companies and SEBI registered intermediaries shall update the ATR along with supporting documents, if any, electronically in SCORES. ATR in physical form need not be sent to SEBI. The proof of dispatch of the reply of the listed company / SEBI registered intermediary to the concerned investor should also be uploaded in SCORES and preserved by the listed company / SEBI registered intermediary, for future reference.

11. Action taken by the listed companies and SEBI registered intermediaries will not be considered as complete if the relevant details/ supporting documents are not uploaded in SCORES and consequently, the complaints will be treated as pending.

12. A complaint shall be treated as resolved/disposed/closed only when SEBI disposes/closes the complaint in SCORES. Hence, mere filing of ATR by a listed company or SEBI registered intermediary with respect to a complaint will not mean that the complaint is not pending against them.

13. Failure by listed companies and SEBI registered intermediaries to file ATR under SCORES within thirty days of date of receipt of the grievance shall not only be treated as failure to furnish information to SEBI but shall also be deemed to constitute non-redressal of investor grievance.

***Issue No. 1:** Whether Highbrow was providing assured returns to its clients?*

18. It has been alleged in the SCN that Highbrow had been promising targeted returns / for a profit of (terming them as “approachable profit”) under various pre-defined packages on the investments made by the clients. The terms listed in the payment receipts which specify the target returns were —

“The service tenure is of 20 days, 131 days, or 181 days on minimum basis, after this period advisor company will provide complementary services for rest of the approachable profit, if required”.

Further, a sample of the service fee charged to clients vis-à-vis the target return is tabulated hereunder:

Table No. 4

Client Name	Payment date	Name of the service	Target Return / for a profit of (in INR)	Service Fee (in INR) exclusive of GST (18%)
Mohammad Alanoor	16-01-2018	Admire Forex Package	10,60,500	3,03,000
Routhu Sriramulu Naidu	22-08-2017	Radiant Option Package	6,50,000	2,60,000
Sujeet Chandrvar	05-10-2015	Bonanza Mcx Platinum	16,25,000	3,25,000
Kelvin Wilson	04-01-2018	Crack Future Package	10,99,000	3,14,000
Lakshmi Narain Singh	27-10-2016	Tip Top Future Package	21,76,000	5,44,000
Jai Prakash Singh	26-06-2018	Future Leader Package	6,50,000	2,60,000

19. With respect to the aforesaid allegation, Highbrow has submitted that it has never promised or assured any profits to the clients. It had publicly displayed the terms and conditions along with its disclaimer and disclosures which were always available to the clients. All of the investment related documents such as MoUs and payments receipts clearly communicate to the client that the investments are subject to market risks and no assured profits are promised. Further, Highbrow has submitted that in case the "approachable profit" was not achieved, Highbrow would continue to provide the said client with complimentary services till the time approachable profit was achieved.

20. In this regard, I note from the payment receipt dated October 27, 2016 of Lakshmi Narain Singh that his service tenure would be for a minimum of 180 days, and after that period, Highbrow would provide complimentary services for the balance of the approachable profit. This is an indication that Highbrow was enticing the clients with the prospect of achieving high returns irrespective of the tenure of the service, by terming them 'approachable profits'. Further, Highbrow has submitted that its commitment to continue service post the tenure of package was motivated by its commitment to serve its client to his satisfaction. The said submission is untenable. Highbrow was under a contractual obligation to provide services to its client for consideration till the tenure of the service. The promise of continued service till the 'approachable profit' was reached, suggests that a particular profit is achievable provided the client avails the service of Highbrow. In effect, Highbrow was making a

representation to its client that, irrespective of the dynamics of the market, the specified profit was achievable. To infer otherwise would mean that Highbrow which has a commercial relationship with its client was magnanimous enough to forego it fees for the same service which it was been charging its client. Highbrow's conduct lent the impression that clients would get high returns within short span of time basis the advice provided by Highbrow. This impression was aided by the offer of "complimentary service" to achieve a definitive target (in terms of a specified amount).

21. The submission of Highbrow that the term 'approachable profit' is not equivalent to guaranteed profit and the calculation for the same is based upon scientific data and past records of the company, is unconvincing. If Highbrow was not inducing its clients by the optics of high returns, then there would be no need for the IA to quantify the return / profit. The very fact that a particular sum was quantified shows that the client was lured in by giving the impression that a specific high return can be achieved by availing the services of the IA. Moreover, the submission that Highbrow's calculation for 'approachable profit' is based upon scientific data and past records of the company is devoid of any merit as securities market returns are volatile and unpredictable, particularly in the short term. Being a registered IA, Highbrow can be reasonably expected to know the fundamental principle of the securities market, that all investments in securities market are subject to market risks and that returns cannot be assured no matter how much and for how long the investment is made. Yet, the IA committed to achieve an 'approachable profit', which can be regarded as nothing but an act of enticing its clients.

22. Thus, on a perusal of the material available on record, I conclude that irrespective of the nomenclature used by Highbrow, I am of the view that its conduct shows that it was enticing the clients with the prospect of high and quick returns. However, I note that Hon'ble Securities Appellate Tribunal (hereinafter referred to as "**SAT**") in the matter of *Bull Research Investment Advisors Pvt. Ltd.* vs. *SEBI* (Appeal No. 62/2022, Order dated February 06, 2023) has held as follows:

> "*8. The finding in the impugned orders is, that the appellants were providing assured returns. This finding is based on a payment receipt in which the appellant has used the word "target" and, on this basis, the WTM has come to the conclusion that the word "target" indicates that it is an assured return.*

Further, a finding has been given that the payment receipt also indicates the fact that the service is promised to continue till the target is achieved and, on this basis, a presumption has been arrived that the appellant is giving an assurance that the target would be achieved and, therefore, providing assured returns. Apart from this document there is no other document to show that the appellant is providing an assured return. There is no evidence to show that a fixed amount was being given to the investors either on a monthly basis or quarterly basis or yearly basis.

9. Further, the word "target" does not mean assured return. As per Webster Dictionary "target" means an object, usually marked with concentric circles, to be aimed at in shooting practice or contests. What it means in the given context is a marker. The payment receipt shows "target (not assured/ not guaranteed)" meaning thereby that no assurance or guarantee is given for reaching the projected target. In another receipt, we find that it specifically states that the Company does not provide any kind of guarantee or assured returns.

10. In the light of the aforesaid, we find that WTM has cherry picked a word "target" to come to a prima facie finding that this amounts to an assured returns without considering the words "not assured / not guaranteed" and without considering the contention that the Company does not provide any guarantee or assured returns. Such non-consideration of the entire sentence and cherry picking a single word from the sentence in our opinion is unwarranted."

23. I note that the aforesaid Order of Hon'ble SAT has not been challenged by SEBI. I note that the facts in SEBI's order dated January 25, 2021 in the matter of Bull Research Investment Advisors Private Ltd. *(which was appealed against and led to the aforesaid SAT order)* has similarities to the facts in this Order in the context of the allegation of assured returns. In deference to the aforesaid Hon'ble SAT order, notwithstanding my views and conclusions arrived at in previous paragraphs, the Noticee cannot be said to have assured clients of the prospect of high and quick returns on the basis of the material on record. Therefore, Highbrow cannot be said to have violated regulation 15(1) and clauses 1 and 2 as specified under Third Schedule of Code of Conduct for Investment Adviser read with regulation 15(9) of IA Regulations.

Issue No. 2: *Whether Highbrow was selling multiple services to its clients?*

24. It has been alleged in the SCN that in the very first month of the client's association with Highbrow, large number of packages were sold and substantial amount by way of fee was extracted by Highbrow from the clients. Analysis of the fees collected from the clients (sample basis) **in the first month of their association** with Highbrow is provided hereunder:

Table No. 5

S. No	Name	Date	No. of product/ package sold	Proposed investment as per Risk Profile (INR)	Amount of fees collected (INR)
1.	Mohammad Alanoor	29/11/2017 to 29/12/2017	03	*2-5 lakh*	3,24,702
2.	Routhu Sriramulu Naidu	22/08/2017 to 20/09/2017	04	*1-2 lakh*	7,34,538
3.	Sujeet Chandrvar	06/07/2015 to 06/08/2015	07	*Risk profile not filled*	8,87,962
4.	Ayush Kumar Agrawal	24/09/2018 to 24/10/2018	06	*5-10 lakh*	8,33,023

Further, it is also alleged that same package was sold twice or more, even prior to the completion of existing continuing service.

25. With respect to the aforesaid allegation I note from table no. 5 that several clients were sold multiple packages within a month of availing the advisory services. Further, the fees charged is much more than the proposed investment amount (except in one instance). In this regard, Highbrow has submitted that it was the choice of the clients to opt for multiple services and the clients have subscribed to multiple packages after being satisfied with the services and earning profit based on the advice. I find it difficult to believe that several clients, within days of availing the services of the IA, were satisfied such that all of them enrolled for multiple services and ended up paying fees which is much more than there proposed investment amount. Further, all of the clients subscribing to various packages made profits within a few days of availing the services of the IA across segments of securities markets (derivatives, equity, forex, etc.). The aforesaid raises red flags with respect to the way

the IA was operating its business. The conduct of the IA shows that the moment a new client has enrolled, the IA sells him multiple packages irrespective of the clients' proposed investment amount or his / her gross annual income. Considering that the IA was expected to carry out risk profiling of its clients, it was expected to be aware of the gross annual income details and proposed investment amount of the clients, yet multiple services were sold within a month for a consideration which was almost equivalent to their gross annual income. For. e.g. as per the risk profiling form of Mohammad Alanoor and Ayush Kumar Agarwal, it is noted that their gross annual income was INR 5 lakh and INR 10 lakh, respectively whereas the fees charged by the IA within a month is INR 3.24 lakh and INR 8.33 lakh, respectively. Paying up an amount almost equivalent to the gross annual income, cannot be by any stretch of imagination, in the best interest of the client. Rather it only furthers the interest of the IA towards maximising its revenue from a single client within a short span of time. The aforesaid conduct of Highbrow also reinforces the conclusion drawn in the preceding paragraphs that the clients are being enrolled / sold multiple services by enticing them with the prospect of abnormally high returns which is achievable by availing the services of the IA, irrespective of their proposed investment amount. There is no other rational explanation that can justify the actions of the clients of simultaneously subscribing to multiple services, if not for Highbrow, giving them the impression of achieving super normal returns. Thus, the conduct of Highbrow is in complete disregard to the interests of its clients.

26. The email correspondences that the IA has submitted in support of its submissions showing consent given by its clients merely states that the client has availed of a particular service and paid a particular price. The client then expressed his desire to shift to a new service and transfer of the earlier paid amount to that new service. In response to the client's email, the IA replied that the client of his own free consent has upgraded from one service to another. Few such email correspondences of the IA with its clients are reproduced in the table below:

Table No. 6

Sl. No.	Client Name	Clients Email	Highbrow's email
1	Mohammed Alanoor	Email dated December 14, 2017: "*This is to inform you that I am Mr. MD Alaoor have*	"*… As per telephonic conversation held with your concerned executive and*

Sl. No.	Client Name	Clients Email	Highbrow's email
		paid INR 5900/- for STOCK CASH SERVICE in your company. Now kindly SHIFT my service from STOCK CASH to OPTION SIGNATURE PACK INR 229999/- and Transfer my paid amount in OPTION SIGNATURE PACK. "	*acknowledged by you, you have willingly upgraded your service from Stock Cash to Options Signature Package.* *The amount of Rs. 1,10,848/- paid by you for up gradation of services is with your free consent and with sound mind.*"
2	Ayush Agrawal	Email dated September 26, 2018: "*I have paid INR 27.612/- for Primo Option Package. Kindly issue the Payment Receipt and relevant Document. And PAN is BCNXXXXX6J*".	"*… As per telephonic conversation held with your concerned executive and acknowledged by you, you have willingly upgraded your services from Options to Primo Option Package.* *The amount of Rs. 27,612/- (INR 23,400/- +GST INR 4,212/-) paid by you for up gradation of services is with your free consent and with sound mind.*"
3	Dipak Bharvad	Email dated December 10, 2018: "*TODAY I HAVE PAID (INR RS. 20502.50/-) FOR CANDIT CASH,* *KINDLY PROVIDE ME PAYMENT RECEIVED & AT THIS MY EARLIER AMOUNT (INR RS. 5900/-) IN TO CANDIT CASH,* *PLEASE REVERT BACK IMMEDIATE.*"	"*… As per telephonic conversation held with your concerned executive and acknowledged by you, you have willingly upgraded your services from Stock Cash to Decisive Cash Package.* *The amount of Rs. 20,503/- (INR 17,375/- +GST INR 3,128/-) paid by you for up gradation of services is with your free consent and with sound mind.*"
4	Bhagirath Mal	Email dated November 24, 2018: "*My name is Bhagirath Mal & Today I paid INR 30,500.00 FOR Decisive Cash Pack (INR 2,60,000.00).*""	"*… As per telephonic conversation held with your concerned executive and acknowledged by you, you have willingly upgraded your services from Stock Cash to Decisive Cash Package.* *The amount of Rs. 30,499/- (INR 25,847/- + INR 4,653/-) paid by you for up gradation of services is with your free consent and with sound mind.*"

27. From the aforesaid email correspondences following is noted:

27.1. The client asked to be shifted from one service to another.

27.2. The client had engaged in a telephonic conversation with an employee of the IA, content and background of which is unknown.

Considering that all of email correspondences listed in the table above are on similar lines, the content of the emails appears to be a standard template of the IA, likely positioned as a formality to the client, creating the pretence of voluntary and informed consent of the client.

28. Further, it is noted from the services sold to a client, Kelvin Wilson that apart from selling him multiple services within a few days, he was sold same service within a couple of days. Not only was he charged different fees but the tenure of the services were overlapping as they had the same duration. The following table shows the relevant details:

Table No. 7

Sl. No.	Date	Payment Amount (including GST)	Adjusted Amount	Remaining amount + GST (18 % on Remaining amount	Name of the Service	Period of service as per bills provided	Quoted profit amount
1.	29/09/2017	5,900	Nil	26000	Stock Cash	12 months	NA
2.	03/10/2017	7,080	5000	20000	Stock Cash	12 months	NA
3.	05/10/2017	15,600	11000	235780	Decisive Cash Package	50 trading session	6,50,000
4.	09/10/2017	25,000	24220	214594	Decisive Cash Package	50 trading session	6,50,000
5.	10/10/2017	49,160	45406	2,13,933	Bounce Cash Service	NA	10,53,500
6.	12/10/2017	45,000	87067	175797	Bounce Cash Package	NA	10,53,500
7.	13/10/2017	9,200	125203	168000	Bounce Cash Package	NA	10,53,500

29. With respect to the above, the IA has merely reiterated his submission that its client had subscribed to multiple services out of his own free will and after earning profit. The email correspondence submitted by the IA with the client does not show

that the client has subscribed to multiple packages after making profits. Rather the email correspondence is in the standard format as noted in the preceding paragraph of the Order. One interesting thing to note from table no. 7 is that if the client is making profit from a particular service then why he would again subscribe to the same service at a different fee for the same duration. The said action of the client does not make any rational sense. Therefore, the true objective appears to be for the IA to maximise its fees from a particular client within a short period of time and the means to achieve the same was enticing the clients with the prospect of high and abnormal returns, in complete disregard to the inherent market risks involved in making investments in the securities market.

30. Highbrow has submitted that there is no co-relation between the investment amount and the service fees as the fees are not based on the amount proposed to be invested by the client but was dependent on the service provided to the client. Further, according to Highbrow there is nothing on record to show that the fees charged by Highbrow was unreasonable. It is observed that while offering its services to a client, the IA has to take into consideration a host of factors related to a client that are broadly covered by doing risk profiling of the client and adhering to the principles of suitability. The client's capacity to absorb loss is an important factor. The IA, has the obligation, under the IA Regulations, to act in the best interests of its clients. In a situation like the one in hand, if the client has paid in fees, an amount which is almost equivalent to his total annual income within a month, and higher than his/ her investable surplus, then how would the client invest any amount and how he would be in a position to absorb any loss. The IA has a fiduciary duty towards its clients to see that the client is not exposed to unnecessary economic hardship due to the IA knowingly charging him fees that is beyond client's source of income. Thus, in the overall scheme of things and the nature of relationship between the IA and his client, there does exist a relation between the proposed investment amount and the fees that an IA can charge from his client. Moreover, there are enough material in the form of risk profile of clients showing their proposed investment amount, gross annual income, payment receipts showing the kind of services sold, time gap between multiple services sold and tenure of services sold which when cumulatively seen shows that the fees charged by Highbrow from its clients were unreasonable. Further, the fact that the fees charged by Highbrow was mostly equivalent to the gross annual

income and was more than the proposed investment amount of the client also shows that Highbrow has not taken reasonable care to ensure that the client is able to bear any related investment risks consistent with its investment objectives and financial capacity.

31. In view of the aforesaid discussion, I find that Highbrow by selling multiple packages to its clients within a short period of time, selling the same package within a few days and by charging unreasonable fees, has failed to act in a fiduciary capacity towards its clients as its interest of maximising revenue was in direct conflict with the interests of its clients. Further, the aforesaid act of Highbrow shows that it was not honest in its dealings with its clients and has failed to exercise due care, skill and diligence while advising its clients. Hence, it is held that Highbrow has violated regulation 15 (1) of IA Regulation and has also failed to abide by Code of Conduct under regulation 15(9) of IA Regulations read with clauses 1, 2 and 6 of Code of Conduct for Investment Adviser.

Issue No. 3: *Whether Highbrow had manipulated the risk profiles of its clients?*

32. The next allegation against Highbrow pertains to the issue of manipulating risk profiles of its clients. It is noted from the SCN that Highbrow had created two risk profiles of its clients and thereby it is alleged that the risk profiles were manipulated in order to sell a particular product. Further, it has also been alleged that the risk profile questionnaire of the IA contains two leading questions. The same were as follows:

i. What is your preference w.r.t securities with low risk, low return over high risk, high return?

ii. When market is not performing well do you prefer to buy risky investments and sell less risky investments?

33. With respect to the allegation of manipulation of risk profile, I note from records (on a sample basis) that Shahjad Ahmed Khan and Jai Prakash Singh had two risk profiles. In the case of Shahjad Ahmed Khan, in one of the risk profile (December 27, 2018), it has been noted that the client has very less experience with forex investment unlike other risk profile (January 02, 2019) of the client which provides that client has

extensive experience with the forex investment. The same shows disparity in the two risk profiles of the same client done within a week's time.

34. In this regard, Highbrow has submitted that no purpose is served by creating two risk profiles, if the risk category does not change, which is the instant case. Further, it is not the mandate of the IA Regulations that forex services can be sold only to those who have extensive experience in the forex market. To sell an ideal forex package, category of risk profile must be high as it is high risk segment and in both the risk profile assessments, the risk category of Shahjad Ahmed Khan was high.

35. The aforesaid contentions of the IA are not tenable. I have perused the risk profile forms of Shahjad Ahmed Khan as available on record. It is noted that both the risk profile forms are specific to a particular product / service offered by Highbrow as opposed to being general in nature as noted in certain other instances. The risk profile form (December 27, 2018) is for the product "Options" and under the head "Experience in market products" it has been mentioned as "Derivative Stocks". The other risk profile (January 02, 2019) of Shahjad Ahmed Khan is for the service "Ideal Forex Package" and hence the need to show "Forex" under the head "Experience in market products". The aforesaid cannot be a coincidence. The submission of Highbrow that no purpose is served by creating two risk profiles if the risk category does not change, is without any merit as selling to a client who has experience in derivative segment of the market, a product related to forex, is against the wisdom of asking him about his experience in market products. Therefore, it can be inferred that the risk profile of the client was manipulated to ensure that the product, which is being sold to him, is considered suitable for him.

36. The objective of Regulation 16 of IA Regulations which deals with risk profiling of the investors, is that the IA should be able to ascertain the risk appetite of the client and then recommend a product/service suitable to a client having such risk profile. Further, the regulation also provides that the IA should have a process for assessing that the client is able to bear the risk related to the investments, being recommended by the IA to the client. Thus, the overall risk category as well as the questions about various aspects pertaining to financial condition of the client and experience of the client in various segments of the market, are relevant. Thus, the contention of Highbrow with respect to selling of forex package to Shahjad Khan, is untenable.

37. With respect to the risk profile forms of Jai Prakash Singh, the following is noted:

37.1. Proposed Investment Amount has been changed from less than INR 1 lakh to INR 5 – 10 lakh.

37.2. Gross annual income has been changed from INR 1-5 lakh to INR 5-10 lakh.

37.3. Investment experience has been changed from less than 3 years to more than 5 years.

37.4. Risk tolerance has been changed from medium to high.

37.5. Occupation has been changed from Government sector to Private Sector.

38. Regarding the risk profiles of Jai Prakash Singh, Highbrow has made similar submissions as made for Shahjad Ahmed Khan that modifications of answers to certain questions in the risk profile questionnaire, has not changed the risk category of the client. As noted in preceding paragraphs, the risk category cannot be seen in isolation. It has to be always read with the answers given in the risk profile form as certain answers of the client, would help the IA in arriving at an informed decision about the product to be recommended to the client. For e.g., answer of the client to the question about experience in securities market would show his inclination towards a specific category of security. From the changes in the risk profile of Jai Prakash Singh, I note that the changes that have taken place are all material in nature viz., proposed investment amount, gross annual income, investment experience and occupation. All the aforesaid will have a considerable bearing on the product which can be advised by the IA to him and the said parameters cannot be brushed aside as being irrelevant by merely stating that the modified answers to them, has not led to the change in the risk category of the client.

39. Highbrow has submitted that only after communicating the provisional risk profile to the client, it used to process the fees. Further, Highbrow contends that once the client confirms his intention to subscribe to the services, his risk profile was re-conducted or preliminary risk profile is reconfirmed from the client. In this regard, I note that Highbrow has not submitted any documented proof of following the practice of having provisional risk profile of the client or any process flow where it would be

mentioned that provisional risk profiling has to be done by its employees before processing the fees or any communication with its clients demonstrating that the risk profiling which was done is only provisional. Moreover, once the client has paid the fees, he has no option but to confirm the provisional risk profile since as per material available on record, Highbrow does not have a policy of giving refund / cancellation / transfer policy. Thus, the submission of Highbrow is untenable.

40. Highbrow has contended that the delayed communication of risk profile does not mean that the package is sold upfront without any risk profiling and suitability assessment. Accordingly, fee would be charged based on risk assessment and then the same communication is being forwarded to the client over email. I note that the very purpose for which the IA Regulations mandate that the IA must necessarily carry out risk profiling before selling his services, is that in the first place the IA has to verify the information submitted by the prospective clients and thereafter, it must give informed advice to the client which will be in the best interest of its client. Processing fees or selling services by the IA even before communicating the risk profiling of the client to the client, demonstrates that the IA has scant regard for conducting any due diligence and for the sacrosanct regulatory principle that any kind of investment advice can be offered only after thorough analysis of the risk profile of the client. Therefore, selling of a product prior to communicating risk profile to the client is not an informed investment advice.

41. In view of the aforesaid discussion, I note that the risk evaluation and the category of risk assigned to the clients was done by Highbrow in a reckless and careless manner without paying any heed to the responses given by its clients during the risk assessment process. It can be inferred based on the actions of Highbrow that it was pre-decided to sell a particular service to the prospective clients without placing reliance on the response of the client or on any objective metric to determine the risk profile of a client. Thus, Highbrow was keeping its own interest at higher pedestal at the cost of the interest of its clients, which shows that Highbrow was not acting honestly while advising its client. The same also shows that Highbrow's interest is in conflict with the interests of its client, which is a failure of fiduciary duty of Highbrow.

42. Regarding having two leading questions in the risk profile form, Highbrow has submitted that the said two questions do not affect the overall assessment of the risk

appetite of the client. According to Highbrow, the said questions are necessary to understand the 'aggressiveness' of the client. I note from the risk profile form that there are 21 questions which a client has to answer. As observed earlier, one has to read the entire risk profile form holistically before a product is advised to the client. Thus, when a product has to be advised to the client, reliance would not be placed merely on the alleged two leading questions but on the overall information provided by the client. In any case, Highbrow has stated that the aforesaid two questions were intended to gauge the 'aggressiveness' of the clients. Thus, with respect to specific allegation of including leading questions in the risk profile form, I do not draw any adverse inference against Highbrow. However, in view of the other observations and conclusions arrived above, I find that Highbrow has failed to abide by clause 1 of Code of Conduct for Investment Adviser as mentioned in Schedule III read with regulation 15 (9) of IA Regulations.

Issue No. 4: *Whether Highbrow had failed to abide by the principles of Suitability while advising its clients?*

43. The next allegation against Highbrow is that it has not followed the requirement of suitability of advice to its clients. It is alleged in the SCN that without considering the proposed investment amount and the financial strength of the clients, IA had sold multiple services and charged them advisory fees, which is multiple times of their proposed investment amount and a significant portion of their annual income in such cases. Further, it is alleged that multiple services are sold to the clients within short span of time and most of such services are active at a given point of time.

44. Regulation 17 of the IA Regulations requires that investment advice should be, *inter-alia*, based on client's investment objectives and his financial situation. Further, the investment advice should be such that the client is able to bear the investment related risks consistent with its investment objectives and risk tolerance. The regulation envisages that IA shall carry out risk profiling of the client for ascertaining the suitability of the advice he needs and expects from the IA. Thus, there is a clear onus on the IA to reasonably satisfy itself of the suitability of its investment advice with respect to every specific client, keeping in mind the factors as stated above.

45. I note from the available record that Highbrow has sold investment products to its clients without taking into consideration even the client's annual income and

proposed investment amount. The details of some such instances are tabulated below:

Table No. 8

Sl. No.	Client Name	Annual Income (in INR)	Proposed Investment amount (in INR)	Fees charged by the IA (in INR)
1.	Mohammad Alanoor	5 lakh	2-5 lakh	8,65,011
2.	Routhu Sriramulu Naidu	5 lakh	1-2 lakh	22,32,018
3.	Ayush Kumar Agrawal	10 lakh	5-10 lakh	8,33,023
4.	L N Singh & Family	1-5 lakh	0-1 lakh	78,38,050

46. As noted from the instances highlighted in the above table no. 8 and table no. 5 under the heading “Selling multiple packages to clients” that the IA has knowingly disregarded the sacrosanct parameters as prescribed under regulation 17 of IA Regulations, such as client’s financial situation, his investment objectives, his risk appetite etc. and kept on selling multiple products and charging unreasonable fees from its clients, turning a blind eye to the actual financial status and investment needs of such clients. The instances shown in table no. 8 shows that there is no rationale or justification behind charging fees to the tune of INR 22.32 lakh from a client (Routhu Sriramulu Naidu) whose Annual Income as disclosed to the IA is INR 5 lakh and proposed investment amount was INR 1-2 lakh. Further, 4 investment products were sold to Routhu Sriramulu Naidu, as noted in table no. 5, whose proposed investment amount was INR 1-2 lakh. On the other hand, Mohammad Alnoor whose proposed investment amount was higher, was sold less number of products implying that the former client, Routhu Sriramulu Naidu was more amenable and vulnerable to be influenced and exploited by the IA, than other clients. The only reasoning one can derive from the aforesaid irrational and inconsistent conduct of Highbrow is that the IA was more interested in generating income for itself by unduly influencing and giving inappropriate investment advice rather than acting honestly, fairly and in the best interests of its clients. The said act of Highbrow was also in complete disregard to client’s investment objectives and financial situation. Further, it is noted that substantial amount of service fee was extracted from the client by allotting multiple packages in a very short span of time even when the tenure of initial package was

still continuing, which is evidently in complete disregard to the intended investment amount and annual income declared by the client. Moreover, a client who does not have a substantially high gross annual income and intends to invest a small portion of its gross annual income in the securities market but actually ends up paying the IA fees which is significantly much more than his gross annual income, only goes on to show that the IA has enticed him to part with unusually high fees by showing the prospect of high and quick returns which is achievable. On the other hand, the conduct of Highbrow shows that it has paid no heed that whether or not the client has the capacity to absorb the loss or the fact that whether or not the client has the necessary experience and knowledge to simultaneously handle multiple products related to securities market.

47. From the table no. 8, it is noted that while the clients have mentioned their proposed investment amount in the risk profiling form, Highbrow has charged service fees which are much more than their proposed investment amount and in certain cases, more than even their annual income, in complete disregard to their financial capacity. In this regard, Highbrow has submitted that it has always taken into consideration the proposed investment amount and the financial strength of the clients. Further, according to Highbrow the clients have made the payment with their free consent and after making profits. I note that the figures in the above table speaks for themselves that the fees charged by Highbrow was disproportionate to the gross annual income and to the proposed investment amount. There is no reasonable basis to believe that a client whose gross annual income is INR 5 lakh will be able to bear any related investment risks after paying INR 8.65 lakh in fees. Thus, the submission of Highbrow that it always taken into consideration the proposed investment amount and the financial strength of the clients, is not supported by its conduct of charging exorbitant fees from its clients. Highbrow was under a legal obligation to charge fees to its clients that is fair and reasonable. Even if one were to accept the incredulous argument that the clients gave consent to be charged unreasonable fee, such a consent does not permit the registered IA to ignore the clear obligation cast on it by the IA Regulations. Highbrow cannot waive of the obligation under the IA Regulations.

48. The allegation that multiple services were sold to the clients within a short span of time and that most of such services were active at a given point of time have been

dealt in the preceding paragraphs under the heading “Selling multiple packages to clients”.

49. In light of the aforesaid, I am constrained to find that Highbrow’s conduct as noted from the afore discussed transactions is in glaring violation of regulations 15 (1) and 17 (d) (i), d (ii) and (e) of IA Regulations and clause 1 of Code of Conduct read with regulation 15(9) of IA Regulations.

Issue No. 5: *Whether Highbrow had charged unreasonable fees from its clients?*

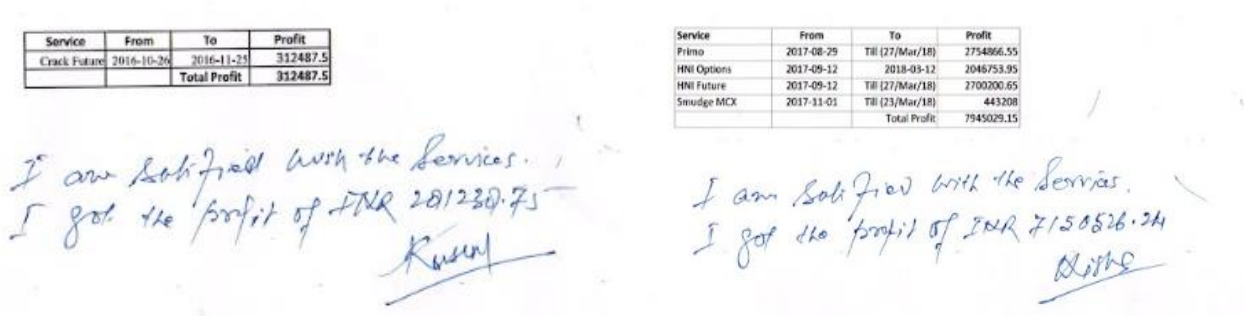
50. It is alleged in the SCN that Highbrow was following a practice of obtaining details of relatives of the clients. These relatives were also treated as clients. The payment received from the primary client and services provided is then split among the relatives to show that Highbrow was not charging exorbitant fee from a single client. Some of the instances in which payments have been taken from the family members of the client, is tabulated as under:

Table No. 9

Sl. No	Clients name	Relative’s name	Relationship
1	L N Singh	Kusum	Wife
2	L N Singh	Usha	Daughter
3	L N Singh	Nisha	Daughter
4	Sujeet Sunder Chandavar	Vrinda Chandavar	Mother

51. Highbrow has submitted that it has always treated every client as separate entity and family members opted for its service only after being satisfied with the service. With respect to LN Singh, Highbrow has submitted email correspondences with him showing that LN Singh was satisfied with the service of Highbrow and one P&L Sheet. It is noted that the email correspondence nowhere states that LN Singh would be referring his family members to Highbrow. Therefore, the said email correspondences are not relevant to the submission that the client referred the family members. Further, the P&L Sheet submitted by Highbrow *prima facie* appears to be a ledger maintained by Highbrow. In any case, it is not supported by a demat statement and hence cannot be taken on record. Similarly, the P&L Sheets of Kusum Singh and Nisha Singh is not supported by any independent statement and hence cannot be accepted. The extract of P&L sheets of Kusum Singh and Nisha Singh are reproduced below:

Figure No. 1



Service	From	To	Profit
Crack Future	2016-10-26	2016-11-25	312487.5
		Total Profit	312487.5

I am Satisfied with the Services.
I got the profit of INR 201230.75

Service	From	To	Profit
Primo	2017-08-29	Till (27/Mar/18)	2754866.55
HNI Options	2017-09-12	2018-03-12	2046753.95
HNI Future	2017-09-12	Till (27/Mar/18)	2700200.65
Smudge MCX	2017-11-01	Till (23/Mar/18)	443208
		Total Profit	7945029.15

I am Satisfied with the Services.
I got the profit of INR 7150826.24

The acknowledgement on the said P&L Sheets appears to be signed by the same person as seen in the figure above. With respect to the contention of Highbrow that Usha Singh was a separate client, it has submitted a service agreement of Usha Singh. It is observed that from the available records one cannot ascertain whether it has been signed by Usha Singh as her signature in other documents is not available. In view of the above, the records submitted by Highbrow to support its claim that each of the family members of LN Singh were its separate clients, does not appear to be genuine.

52. It is observed from the risk profile of LN Singh that his gross annual income is between INR 1-5 lakh. However, the fees collected from him is INR 78,38,050/-. The said fees is highly disproportional to the gross annual income of LN Singh. Further, Highbrow has not submitted any response to the material fact whether or not the wife and daughters of LN Singh had independent source of income. Therefore, in the given facts and circumstances of the case, on a preponderance of probability it can be held that the family members of LN Singh were on-boarded by Highbrow to justify exorbitant fees charged by it from the client.

53. Highbrow's submission regarding Vrinda Chandravar is that she has given her consent of her own free will and has submitted an email correspondence to that effect. The said email on its own accord is not adequate to substantiate the submission of Highbrow especially in the absence of any background to the said email and lack of any documents to show independent source of her income. On the other hand it is noted that the gross annual income of Sujeet Sunder Chandavar is between INR 5-10 lakh and the fees collected from him is INR 38,26,409/-. The said fees is highly disproportionate to the gross annual income of Sujeet Sunder Chandavar. Therefore, in the given facts and circumstances of the case, on a preponderance of probability it

can be held that the family members of Sujeet Sunder Chandavar were on-boarded by Highbrow to justify exorbitant fees charged by it from the client.

54. It has been contended by Highbrow that prior to the year 2020, there was no law to treat family members as a single client. Irrespective of whether or not there was any law to treat all family members as one client, the conduct of the IA shows that it did try to treat the family members as separate clients in its attempt to justify the astronomical fees charged from a single member of that family.

55. In view of the aforesaid discussion I note that by charging abnormal fees to its clients without paying any heed to their gross annual income or proposed investment amount and by not taking adequate care and diligence to ensure that the client is able to bear any related investment risks consistent with his investment objectives, leads to a conclusion that Highbrow has failed in its fiduciary duty towards its client. It has prioritised its own interest of maximising its revenue over the best interest of its clients. Further, Highbrow has induced its clients with the optics of abnormally high and quick return within a short span of time and by providing "complimentary services" post the tenure of the service as no reasonable person would part with unreasonable fees unless the said person is not enticed with high returns. Hence, I find that Highbrow has violated regulation 15 (1) of IA Regulations and has failed to abide by clauses 1, 2 and 6 of Code of Conduct read with regulation 15 (9) of IA Regulations.

Issue No. 6: *Whether Highbrow had forcefully captured the card details of its clients?*

56. It is alleged in the SCN that Highbrow had used the card details of a client to make huge payments. Highbrow has submitted that assuming that card details had been taken, it is the most secure system from RBI that without OTP, payment cannot be made. OTP always comes on the registered mobile number with the bank. Therefore, the transaction was processed with the consent of the client. It is observed that the onus of not sharing the card details and OTP lies with the clients. The Examination Report does not record whether the mobile phone of clients were also accessed by the Noticee. In the absence of adequate evidence to support this allegation made in the SCN, I cannot draw any adverse inference against Highbrow.

Issue No. 7: *Whether Highbrow had failed to promptly redress its clients' grievances?*

57. The SCN has also alleged that Highbrow has failed to redress client grievances promptly. As per SCN, a total of 148 unique complaints are pending against the IA. The year wise break up of unique complaints received and pending are provided as under:

Table No. 10

Sl. No.	Year	Complaints from unique investors	Complaints pending
1	2014	6	-
2	2015	42	-
3	2016	52	-
4	2017	66	-
5	2018	75	56
6	2019	76	75
7	2020	13	13
8	2021	5	4
Total		**335**	**148**

58. The SCN also observes that out of 187 closed complaints, total of 85 unique complaints have not been adequately closed or resolved by the IA. The said 85 complaints were closed prior to the examination in the matter of Highbrow. It has been noted that most of the complaints have been closed as sufficient evidence was not submitted by the complainants to support the content of the complaint. Therefore, these 85 complaints may be construed as pending along with the aforesaid 148 complaints.

59. It is also alleged that Highbrow has not submitted the ATR in a time bound manner as prescribed by SEBI.

60. Highbrow has submitted that the number of investor complainants is miniscule (2.56%) compared to its clientele. Hence, majority of its clients are satisfied with its services. It is observed that aforesaid submission of Highbrow is irrelevant to the allegation of non-redressal of investor complaints as even if the majority of clients of the IA are satisfied still it has to resolve the complaints of its clients who have some grievance against it.

61. Highbrow has further contended that there was a surge (3.72%) in number of complaints post the *Interim Order* only on account of suspensions of its activities.

From the records, I note that as on date there are 155 complaints pending against Highbrow out of which 93 complaints were unresolved prior to passing of the *Interim Order* dated May 23, 2019. Thus, 60% of the unresolved complaints are prior to the *Interim Order* that Highbrow has failed to resolve.

62. Regarding the allegation that 85 closed complaints have not been adequately addressed and hence should be treated as pending, I note that the said complaints were treated as resolved and closed in the SCORES portal. Subsequently, also upon examination of affairs of the IA, no specific finding against each of the aforesaid 85 complaints has been given. Thus, in the absence of any findings in the Examination Report with respect to the 85 complaints even on a sample basis and the fact that the said complaints have already been closed in the SCORES portal on the ground that the complaints are not supported by adequate evidence, I am inclined to give the benefit of doubt to Highbrow with respect to the aforesaid 85 complaints.

63. Highbrow has also submitted that it has mostly submitted the action taken report of most complaints within 7 days. On a sample basis, 31 complaints out of 93 unique complaints filed against Highbrow prior to passing of *Interim Order* were checked. In two complaints, Highbrow did not submit the final action taken report. In other complaints, Highbrow has submitted final action taken report but after submission of action taken report, Highbrow was again advised to resolve the complaint and submit action taken report. However, Highbrow did not subsequently submit any action taken report. I note that merely submitting an action taken report without adequately resolving the investor complaint is paying lip service to the provision of law related to redressal of client grievances. Therefore, when SEBI directs to submit a revised action taken report after resolving the complaint, it is mandatory for the IA to submit the same within the timelines as prescribed under the SEBI Circular which in the instant case Highbrow has failed to do so with respect to at least 31 complaints.

64. It is noted from the aforesaid that there are at least 93 investors' complaints which were forwarded to Highbrow on SCORES and it has failed to resolve the said complaints. I note that SEBI registered intermediaries, to whom complaints are forwarded through SCORES, are under the statutory obligation to take immediate steps on receipt of a complaint, for its resolution, in a prompt manner. Failure to do

so would adversely affect the confidence in the integrity of the securities market. Hence, the importance of complaints redressal cannot be undermined and its sanctity has to be maintained by all the registered intermediaries. In the instant matter, as per available records, the default to redress investors' grievances in question has continued for a considerable period of time, well beyond the time period stipulated under the applicable regulations and circular. Therefore, I find that Highbrow has violated regulation 21 (1) of IA Regulations and provisions of SEBI circular no. CIR/OIAE/2014 dated December 18, 2014.

Issue No. 8: *Whether Highbrow had violated provisions of the PFUTP Regulations read with Sections 12A (a), (b) and (c) of the SEBI Act?*

65. It has been alleged in the SCN that Highbrow has violated the provisions of PFUTP Regulations. Central to the said allegation is that Highbrow has assured / promised returns to its clients and to that effect, it has manipulated the risk profile of its clients and has sold them multiple services by charging them unreasonable fees and without paying any heed to the principles of suitability. It has been noted in the preceding paragraphs that in light of the Hon'ble SAT Order in the matter of *Bull Research Investment Advisors Pvt. Ltd. (supra)* and in the facts and circumstances of the case, relevant parts of which are similar to the facts in this Order, the 'assured returns' allegation made against Highbrow is not established. Consequently, it cannot be held that Highbrow has violated provisions of PFUTP Regulations read with SEBI Act. The charge of fraud under PFUTP regulations in the context of other alleged defaults by Highbrow essentially flow from the allegation of Highbrow having fraudulently assured returns. In my view, once the charge of fraud is inconclusive in the context of the 'assured returns' allegation, the charge of fraud in the context of other defaults also would not survive, particularly since there is no specific material to individually support the allegation of fraud vis-à-vis other defaults. In view of the above, Highbrow cannot be said to have violated regulations 3 (a), (b), (c) and (d) and regulations 4(2)(k) and (s) of the PFUTP Regulations read with Sections 12A (a), (b) and (c) of the SEBI Act.

Conclusion

66. In the instant matter, as noted in the preceding paragraphs, Highbrow has violated various provisions of IA Regulations with the sole aim of generating more

income for itself at the cost of its clients. Not only were the clients induced and their grievances not resolved within the prescribed timelines, even their risk profiling was done in a reckless manner without following any objective standards and investment advice in the form of various packages was given to the clients without paying any heed to the principles of suitability as envisaged under IA Regulations. Further, by giving the impression of abnormally high and quick returns to the clients, Highbrow has placed the interest of its clients at great risk. Such acts of Highbrow not only cast a shadow of doubt over its operations but also jeopardises the integrity of the market and the confidence of the investors to deal in the securities market.

67. It is also noted from records that multiple FIRs have been filed against Highbrow at Indore for cheating and criminal breach of trust and SEBI has received reference from Office of the Commissioner of Police, Cyberabad whereby it has been informed that several complaints/FIRs have been filed by investors alleging cheating by Highbrow. It has also been learnt that one of the Directors of Highbrow namely, Swapnil Prajapati was arrested by the Police in connection with alleged cheating/fraud by Highbrow. Further, there are numerous complaints that have been filed by various clients of Highbrow in the SCORES portal. The aforesaid is reflective of the systemic issues in the way Highbrow was conducting its business.

68. At this juncture, it will be relevant to note here that Highbrow had collected INR 72,96,17,002.95/- as advisory fees. The details of the fees collected is as follows:

Table No. 11

Sl. No.	Financial Year	Amount (INR)
1	F.Y. 2014-2015	7,22,36,081.50
2	F.Y. 2015-2016	13,66,84,538.75
3	F.Y. 2016-2017	12,26,96,500.79
4	F.Y. 2017-2018	22,19,75,888.31
5	F.Y. 2018-2019	17,40,16,845.94
6	F.Y. 2019-2020 (April)	20,07,147.66
Total		**72,96,17,002.95**

The SCN has called upon the Noticees to show cause why directions including refund of advisory fees amounting to INR 72,96,17,002.95/- should not be issued against the

Noticees. Highbrow has submitted that all the allegations in the SCN has been replied to and addressed with proper evidence. Hence, according to it, the question of refund is completely unreasonable.

In this regard, I note that generally the direction to make refunds are relevant in certain situations. Where there exists a specific statutory mandate for refunds, such directions are necessary *(For instance in deemed public issues where the Companies Act, both of 1956 and of 2013, mandates that a direction to refund can be given where monies are collected pursuant to public issue of securities. Similarly, the Guidelines for Investment Advisers issued under IA regulations mandate that in the event of pre-mature termination of the IA services in terms of arrangement, the client shall be refunded the fees for unexpired period)*. Another possible situation warranting refund directions is in cases of agreements entered into by an unregistered investment adviser and a client, since the unregistered investment adviser is legally barred from providing investment advice in accordance with regulation 3(1) of the IA Regulations. The factual matrix of this case does not fall into any of the aforesaid categories. Further, as noted in previous paragraphs of this Order, in view of the Hon'ble SAT's order in *Bull Research case*, the charge of violation of PFUTP regulations against Highbrow would not be tenable. Consequently, it would not be appropriate to direct refund of any fees collected by Highbrow.

69. In the present matter, based on the finding arrived at the preceding paragraphs, it has been held that Highbrow has failed to live upto the standards and objectives of IA Regulations. The actions of the IA has caused damaged to the integrity of the market and has dented the investor confidence, which must be remedied. However, the Noticees have undergone debarment of more than four years since the passing of the *Interim Order* and the same needs to be taken into consideration while arriving at the directions that have to be issued against the Noticees.

Liability of Directors

70. Before closing my deliberations, I must also evaluate the roles and liabilities of the other Noticees, viz., Noticees No. 2 to 9 who are / were Directors of Highbrow. The details of present Directors and past Directors of Highbrow along with their respective tenures, as obtained from the MCA website, are as under:

Table No. 12

Sl. No.	Name	Designation	Tenure of Directorship
1	Chandan Singh Rajput	Present Director	May 21, 2018 – till date
2	Rahul Trivedi	Present Director	December 19, 2018 – till date
3	Sunil Atode	Past Director	June 23, 2017 to May 1, 2018
4	Girish Kumar Pahwani	Past Director	June 23, 2017 to December 19, 2018
5	Laxmikant Sharma	Past Director	December 26, 2011 to April 01, 2016
6	Mohit Chhaparwal	Past Director	December 26, 2011 to April 01, 2016
7	Hemant Agrawal	Past Director	December 26, 2011 to July 01, 2017
8	Swapnil Prajapati	Past Director	December 26, 2011 to July 01, 2017

71. I note that the affairs of Highbrow have been examined for the period February 21, 2014 to December 27, 2021. Noticees No. 2 to 9 were primarily considered liable for the deeds of Highbrow by virtue of their directorship. In so far as the functioning of an artificial person, i.e., a company is concerned, it is observed that all the acts which are executed in the name of an incorporated entity, are actually done by the natural persons in the capacity of Directors, who by their own minds and wisdom, are controlling the affairs and management of such artificial juristic person (company). The company, being an artificial entity, cannot function on its own and will operate under the directions of its Directors who are controlling the overall functioning of the company. I note that the position of a 'Director' in a company comes along with various onerous responsibilities and compliances under the law that are associated with such position, which have to be adhered to by such Director and in case of default, he / she has to face the consequences thereof. The Directors of a company are expected to diligently perform their duties with honesty, fairness, skill and care. This implies a high degree of accountability and knowledge of the overall functioning of the company.

72. I find it apt to refer to the judgment of Hon'ble Supreme Court of India in *N. Narayanan* vs. *Adjudicating Officer, SEBI* (2013) 12 SCC 152, where Hon'ble Court, while dealing with the role of a Director held as follows:

"*33. Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company*

with utmost care, skill and diligence. This Court while describing what is the duty of a Director of a company held in Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602 that a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provide against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the company even superficially."

73. Further, the Hon'ble SAT while dealing with the liability of Directors of a registered IA in the matter of *Pinnacle Market Investment Advisory et. al.* vs. *SEBI* decided on September 6, 2023, where none of the Directors were categorised as Managing Directors or Non-Executive Directors or Independent Directors, held as follows:

"The WTM in paragraph 46 to 48 of the impugned order has evaluated the role and liabilities of the directors of the Appellants Company (Appellant nos. 2 to 4) for the deeds of the Company (Appellant no. 1) by virtue of their directorship. We agree that the Company acts through its directors who control the affairs and management of the Company. Therefore, the Directors are liable for the acts of the Company and consequently are responsible for any commission or omissions of the Company."

74. In the instant matter, there is nothing on record to show that Highbrow had a designated Managing Director or any other officer who is designated as key managerial personnel viz., CEO, CFO etc. Further, none of the Noticees No. 2 to 9 have been designated as Independent Director or a Non-Executive Director. Thus, on a preponderance of probability, all the Noticees No. 2 to 9 who have been appointed to the Board of Highbrow as Directors, are in effect, in charge and are responsible for managing the affairs / business of Highbrow during their respective tenure.

75. I note that apart from Noticees No. 5 and 7, none of the other Directors have submitted their reply in the instant matter. Further, the aforesaid Directors of Highbrow have not availed the opportunity of hearing granted to them inspite of due service of notices. Noticee No. 3 appeared as an AR of Highbrow. However, he did not make

any submissions in his capacity as a Director of Highbrow. Thus, the aforesaid Directors of Highbrow (Noticees No. 2, 3, 4, 6, 8 and 9) have failed to explained their act / omission and have not cooperated in the instant proceedings. Hence, I am inclined to hold that Noticees No. 2, 3, 4, 6, 8 and 9 were at the helm of the day to day affairs of Highbrow during the commission of the violations as held above against Highbrow and are equally liable for those violative acts on part of Highbrow.

76. Girish Kumar Phawani has submitted (Noticee No. 5) that Noticees No. 2 and 3 were the Whole Time Directors and he was appointed as Additional Director to fulfil the requirement of quorum on the Board. The submission of the Noticee that Noticees No. 2 and 3 were the Whole Time Directors, is factually incorrect as there is nothing on record to show that Noticees No. 2 and 3 were the Whole Time Directors of Highbrow. As per the available records, it is noted that Girish Kumar Phawani was appointed as Director along with Sunil Atode on June 23, 2017 as the tenure of Hemant Agarwal and Swapnil Prajapati was nearing completion. Hemant Agarwal and Swapnil Prajapati tenure ended on July 1, 2017. Noticees No. 2 and 3 were appointed on May 21, 2018 and on December 19, 2018, respectively. Thus for the period June 23, 2017 till May 20, 2018 when Chandan Singh Rajput (Noticee No. 2) was appointed, there were only two Directors on the Board of Highbrow, namely Girish Kumar Phawani and Sunil Atode who would naturally have been responsible for the affairs of Highbrow. Thus, the submission of Girish Kumar Phawani that he was not involved in the day to day affairs of Highbrow, is also not borne out of the facts of the case. Even his submission regarding his appointment to maintain quorum is also not correct as in a private limited company, minimum two Directors are required, which in the instant case was fulfilled much prior to the appointment of Noticees No. 2 and 3.

77. Girish Kumar Phawani has contended that he was responsible for economic operations in the area of research and related activities of Highbrow. I have already noted above that for a certain period of time he along with Sunil Atode were responsible for the affairs of the company. He has himself admitted that he had attended three board meetings, which shows that he was involved in the decision making process of Highbrow. Moreover, it is not reasonable to expect that when there are only two Directors in the company, one of the Director is given only a specific portfolio to handle while the rest of the affairs is managed by the other Director. In

any case, the Noticee has not submitted any board resolution or any term sunder the Article of Association where the responsibility for economic operations were specifically delineated to him. Hence, I find the submission of the Noticee is devoid of any merits.

78. Mohit Chhaparwal has submitted that he has ceased to be a Director in Highbrow since April 1, 2016. It is noted from records that he is one of the initial four Directors of Highbrow and is also the Promoter of Highbrow. The examination period also covers the period 2014 to March 31, 2016 during which various violations as noted above have been committed by Highbrow. I have already noted in preceding paragraphs that there is no material available on record which would show that Highbrow had a Managing Director or there was any categorisation of its various Directors (Executive, Non-Executive and Independent) or there was any bifurcation of duties amongst its various Directors. Considering, Mohit Chhaparwal was associated with Highbrow as a Director for more than 4 years, I find him in charge of and responsible to the company for the conduct of business of the company. He has not submitted any documentary evidence to show that he was not aware of the business of Highbrow or the way it conducted its business. Therefore, the Noticee cannot feign ignorance that he has no idea about the way the business was conducted at Highbrow. Thus, I am not inclined to agree with the submission of the Noticee that he had no knowledge of the functioning of Highbrow.

79. I agree with the submission of Mohit Chhaparwal that during his tenure all the investors' complaints were resolved. However, as noted in the preceding paragraphs Highbrow during his tenure has committed other violations such as selling multiple packages to clients risk profile manipulation, failure to abide by the principles of suitability etc.

80. The submission of Mohit Chhaparwal that SEBI did not initiate any enforcement proceedings from an inspection, which was conducted one month prior to his resignation, is without any merit. When a detailed examination of the affairs of Highbrow was done by SEBI, many deficiencies came to light. Considering the gravity of deficiencies noted in the detailed examination, it was deemed appropriate to initiate the current enforcement action.

Directions

81. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11 (1), 11 (4) and 11B (1) read with Sections 19 and 27 (1) of the SEBI Act along with regulation 28 of IA Regulations, pass the following directions:

81.1. Highbrow is directed to resolve the complaints pending in SCORES or otherwise within seven days from this Order.

81.2. Noticees No. 1 to 9 are debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 1 (one) year from the date of this Order. Further, during the period of debarment, Noticees No. 2 to 9 are also prohibited from holding position of a Director or a Key Managerial Personnel in any listed company or registered intermediaries.

82. The Order shall come into force with immediate effect.

83. A copy of this Order shall be forwarded to the Noticees, all recognized stock exchanges, depositories, banks, registrar and transfer agents and BSE Administration and Supervision Ltd. (BASL) for ensuring compliance with the above directions.

-Sd-

Date: September 20, 2023
Place: Mumbai

ANANTH NARAYAN G.
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA