

SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: RAJEEV KUMAR AGARWAL, WHOLE TIME MEMBER

ORDER

UNDER SECTION 11(1), 11(4), 11B AND 11D OF THE SEBI ACT, 1992 IN RESPECT OF MR. IMTIYAZ HANIF KHANDA (PROPRIETOR OF M/S RIGHT TRADE AND M/S SAI TRADERS) AND MR. VALI MAMAD HABIB GHANIWALA (PROPRIETOR OF M/S BULL TRADER AND M/S LAXMI TRADERS)

1. The Securities and Exchange Board of India (hereinafter referred to as SEBI) noticed that during the month of July, 2013 certain entities have been offering intraday tips and stock advisory services through Short Message Services (SMSs) *via* mobile phones. The contents of such SMSs are reproduced below:

"If you want to earn daily 5,000 to 75,000 in equity and MCX market with our confirm intraday tips contact now for sure shot call at 09638912434"

"If you want to earn daily 5,000 to 75,000 in equity and MCX market with our confirm intraday tips contact now for sure shot call at 09974454277"

"If you want to earn daily 5,000 to 75,000 in equity and MCX market with our confirm intraday tips contact now for sure shot call at 07405251290"

2. SEBI undertook preliminary examination of the above messages. On verification, it was observed that the above three mobile numbers mentioned in the respective messages were operated by M/s Right Trade, M/s Bull Trader and M/s Sai Traders, respectively. It was further observed that these entities were engaged in providing intraday tips for a consideration/profit sharing under a plan under which the trading tips are provided after depositing registration fees into account of the entity as an advance.
3. It was also observed that M/s Right Trade on its website; www.righttrade.in has claimed to provide portfolio management services and investment advisory services with regard to equity and commodity in several countries. Some of the contents of the claims made on the said website are as follows:

"SERVICES DETAILS:

- *Portfolio Management Service (PMS) is designed to grow your Capital with the help of expert Fund Manager by Managing your Fund.*

- We create & manage your Portfolio with short term & long term returns using Fundamental Analysis and our Experience.
- Charges & Return (%) will be depends on investment amount.
- FII Based Calls are also available with Portfolio Management Service.

STOCK FUTURE & OPTIONS SERVICES IN GLOBAL MARKET

- Intraday Calls.
- Positional Calls.
- Jackpot Calls in Nifty & Banknifty (for Indian Markets)..
- Stock futures monthly package: 300 USD / month.
- Pay per call scheme can be activated in 30% Profit Sharing Scheme. "

4. The above mentioned website also contained details of the bank accounts where the money was to be deposited by the customer to avail the above mentioned services of M/s. Right Trade. The said website also contained two customer care mobile numbers. SEBI sought details with respect to said bank accounts from the concerned bank. Details with regard to the bank accounts so obtained are as following:

Sr. No.	Entity Name	Bank Account No.	Bank Name and Branch	Proprietor	Address
1	M/s Right Trade	138605500216	ICICI Bank, Surat, Gujarat.	Mr. Imtiyaz Hanif Khanda	A/901, Shilpraj Apartment, Adajan Patiya, Surat, Gujarat
2	M/s Sai Traders	138605500213	ICICI Bank, Surat, Gujarat.	Mr. Imtiyaz Hanif Khanda	A/901, Shilpraj Apartment, Adajan Patiya, Surat, Gujarat
3	M/s Bull Trader	138605500252	ICICI Bank, Surat, Gujarat.	Mr. Vali Mamad Habib Ghaniwala	Plot No. 62-65, Room No. 104, Ist Floor, Aayeshma Apt, Unn, Surat, Gujarat
4	M/s Laxmi Traders	138505500616	ICICI Bank, Surat, Gujarat.	Mr. Vali Mamad Habib Ghaniwala	Plot No. 62-65, Room No. 104, Ist Floor, Aayeshma Apt, Unn, Surat, Gujarat

5. From the above details, it is observed that all the above mentioned accounts are with the same branch of ICICI Bank i.e., Rander Branch, Surat (Gujarat). In all these bank accounts,

most of the transactions were cash deposits from various parts of the country and cash was withdrawn therefrom through ATMs. It was observed from the bank account details that M/s Right Trade and M/s. Sai Traders have common address. Further, M/s Bull Trader and M/s. Laxmi Traders have the common address.

6. From the information gathered from the telecom service providers with regard to the aforesaid mobile numbers, it was observed those mobile phone numbers were subscribed in the names of certain individuals as described in the following Table :

<i>Sr. No</i>	<i>Mobile Number</i>	<i>Operated By</i>	<i>Subscribed in the name of</i>	<i>Address of the subscriber</i>	<i>Remarks</i>
1.	09638912434	M/s Right Trade	Mr. Imran Hanif Khanda	12/3, SMC Tenament, Surat , Gujarat	Brother of Imtiyaz Hanif Khanda
2.	09974454277	M/s Bull Trader	Mr. Rohit Shitaldas	B153, Deendayal Nagar, SOC, Palanpur, Surat, Gujarat	Ex-employee of Imtiyaz Hanif Khanda
3.	07405251290	M/s Sai Traders	Mr. Mohd. Firoz Khanda	A/1004, Shilpraj Apartment, Adajan Patiya, Surat, Gujarat	Relative of Imtiyaz Hanif Khanda. He stays in the same building where Imtiyaz Hanif Khanda stays
4.	09601528972	M/s Right Trade	Ms. Shakuben Parsuram	Indapur 921, Bathena Kabrasthan, Surat, Gujarat	Employee of Imtiyaz Hanif Khanda. Number is mentioned as customer care contact on: www.righttrade.in
5.	07405343602	M/s Right Trade	Mr. Latbiya Shaseabrar Iqbal Shakoora	11, Diamond Nagar, SOC Anjana, Umarvada, Surat, Gujarat	Employee of Imtiyaz Hanif Khanda. Number is mentioned as customer care contact on: www.righttrade.in

7. In view of the above, it was felt that there was a reasonable ground to believe that the above entities were dealing in securities in a manner detrimental to the interest of the securities market and they were associated with the securities market in violation of the provisions of the securities laws. Therefore, SEBI appointed Investigating Authority under section 11C of the SEBI Act. The Investigating Authority, on August 01, 2013, undertook a surprise inspection of the premises from where aforesaid entities were operating. It was observed that

Mr.Vali Mamad Habib Ghaniwala is proprietor of M/s Bull Trader and M/s Laxmi Traders, and the above mentioned common address of M/s Bull Trader and M/s Laxmi Traders is his residential address. Mr. Vali Mamad Habib Ghaniwala stated on oath before the Investigating Authority *inter alia* that :

- i. He is the maternal uncle of Mr. Imtiyaz Hanif Khanda.
- ii. He has no knowledge of the stock market and he is not registered with SEBI in any manner. He has no knowledge about M/s Bull Trader and M/s Laxmi Traders or the ICICI Bank accounts linked with them. He had merely signed the Know Your Client documents as directed by Mr. Imtiyaz Hanif Khanda.
- iii. He was aware that “M/s Right Trade and M/s Sai Traders advise on stock market trading, seeking clients to subscribe to them and do business on profit-loss sharing. They send SMS to enrol/advertise to clients.

8. It was further observed that Mr. Imtiyaz Hanif Khanda is the proprietor of M/s Right Trade and M/s Sai Traders and the above mentioned common address of M/s Right Trade and M/s Sai Traders is his residential address. Mr. Imtiyaz Hanif Khanda was not available at the said address during the visit by the Investigating Authority. However, he responded to the summons issued to him by the Investigating Authority and appeared before him on August 05, 2013 when he *inter alia* submitted on oath that:

- i. He is the proprietor of M/s Right Trade and M/s Sai Traders, and also handles functioning of M/s Bull Trader and M/s Laxmi Traders. Neither he nor any of his firms are registered with SEBI in any manner.
- ii. Through M/s Right Trade, M/s Sai Traders, M/s Bull Trader and M/s Laxmi Traders, he carried out business of providing investment advice in both equities and commodities in lieu of consideration and under profit/loss sharing schemes. While for some of his clients, he provided investment advice on receipt of fees upfront, for some other clients, he worked on a profit and loss sharing model where the client after trading on his investment advice informed him the amount of profit or loss made by him and shared the profit and loss.
- iii. He advertised through SMS inviting prospective clients to enrol with him for his services.
- iv. All the mobile numbers indicated in the advertisement belong to his staff/relatives.
- v. No documentation was entered into with his clients for providing the above investment advice services.
- vi. On his website i.e., www.righttrade.in, he had published that M/s Right Trade had offices in several countries. However, he had office in Surat only.

9. From the above facts and circumstances revealed during preliminary examination and ongoing investigation, Mr. Imtiyaz Hanif Khanda is the proprietor of M/s Right Trade and M/s Sai Traders and they share common address. Further, Mr. Vali Mamad Habib Ghaniwala is proprietor of M/s Bull Trader and M/s Laxmi Traders who share a common

address. I further note that Mr. Vali Mamad Habib Ghaniwala is maternal uncle of Mr. Imtiyaz Hanif Khanda. These facts are admitted by them. I, therefore, find that they are connected/related to each other and have acted in concert.

10. I further note that Mr. Vali Mamad Habib Ghaniwala has claimed though he is proprietor of M/s Bull Trader and M/s Laxmi Traders, he has no knowledge of activities of these concerns and has merely acted on instructions of Mr. Imtiyaz Hanif Khanda. Mr. Imtiyaz Hanif Khanda has admitted that besides being proprietor of M/s Right Trade, M/s Sai Traders he also handles M/s Bull Trader and M/s Laxmi Traders. I, therefore, find that admittedly the said four proprietary are operated and managed by Mr. Imtiyaz Hanif Khanda and Mr. Vali Mamad Habib Ghaniwala is acting in concert with him in his scheme, plan, device or artifice.
11. Considering the facts and circumstances of the matter, I am of the *prima facie* view that under a scheme, plan device or artifice, Mr. Imtiyaz Hanif Khanda (proprietor of M/s Right Trade and M/s Sai Traders) and Mr. Vali Mamad Habib Ghaniwala (proprietor of M/s Bull Trader and M/s Laxmi Traders) are engaged in providing investment advisory services to investors on payment of fees. I *prima facie* find that the activities of these entities of giving intraday tips, stock specific recommendations, etc. to the investors on a contractual basis on payment of fees falls within the definition of activities of investment advisor as defined under regulation 2(m) of the SEBI (Investment Advisers) Regulations, 2013 (Investment Advisers Regulations) which provides as under:

" 2(m) – Investment adviser means any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called."

12. I note that M/s Right Trade (proprietor- Mr. Imtiyaz Hanif Khanda) has claimed on its website at www.righttrade.in that it provides portfolio management services to investors on payment of fees. I further note that the website of M/s Right Trade makes very explicit representations to solicit the clients to join its portfolio management and investment advisory activities. The contents of the representations further suggest that M/s Right Trade was acting as a portfolio manager. I, therefore, *prima facie* find that the aforesaid representations put forth on the website of M/s Right Trade solicited business of portfolio management services from the general public and offered portfolio management services. Admittedly, it is not registered with SEBI as portfolio manager as defined in regulation 2(cb) of the SEBI (Portfolio Managers) Regulations, 1993 (Portfolio Managers Regulations) which provides as under-

"2(cb) Portfolio manager means any person who pursuant to a contract or arrangement with a client, advises or directs or undertakes on behalf of the client (whether as a discretionary portfolio manager or

otherwise) the management or administration of a portfolio of securities or the funds of the clients, as the case may be."

13. Admittedly, the aforesaid entities i.e. Mr. Imtiyaz Hanif Khanda (proprietor of M/s Right Trade and M/s Sai Traders) and Mr. Vali Mamad Habib Ghaniwala (proprietor of M/s Bull Trader and M/s Laxmi Traders) are neither registered as investment advisors nor as portfolio manager under section 12(1) of the SEBI Act read with the Investment Advisers Regulations and the Portfolio Managers Regulations, respectively. The relevant provisions of the SEBI Act, Investment Advisers Regulations and the Portfolio Managers Regulations are reproduced as following:-

"SEBI Act, 1992

Section 12(1) –

"No stock-broker, sub- broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act."

SEBI (Investment Advisers) Regulations, 2013

Regulation 3(1) –

"On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations:

Provided that a person acting as an investment adviser immediately before the commencement of these regulations may continue to do so for a period of six months from such commencement or, if it has made an application for a certificate under sub regulation (2) within the said period of six months, till the disposal of such application."

SEBI (Portfolio Managers) Regulations, 1993

Regulation 3 –

"No person shall act as portfolio manager unless he holds a certificate granted by the Board under these regulations:"

14. I, therefore, *prima facie* find that Mr. Imtiyaz Hanif Khanda and Mr. Vali Mamad Habib Ghaniwala have acted as an investment advisor without obtaining registration from SEBI to act as an investment advisor, thereby, violated the provisions of section 12(1) of SEBI Act read with provisions of regulation 3 of the Investment Advisers Regulations. Further, Mr. Imtiyaz Hanif Khanda (proprietor M/s Right Trade) has also *prima facie* violated the provisions of section 12(1) of SEBI Act read with regulation 3 of the Portfolio Managers Regulations.

15. I further note that the aforesaid entities have made known misrepresentations by making unrealistic claims, false statements such as having office in various countries, FII based calls, jackpot calls, etc., and they have also made representation in reckless and careless manner in their messages and website and have suggested facts which are not true. By their acts and omissions they have solicited, enticed and induced investors to deal in securities on the basis of their investment advices, stock trade tips, etc. In my view the *modus operandi* of Mr. Imtiyaz Hanif Khanda and Mr. Vali Mamad Habib Ghaniwala indicates a scheme, plan, device or artifice or contrivance that is, besides being in contraventions of the SEBI Act and regulations as discussed above, is *prima facie* 'fraudulent' as defined in regulation 2(1)(c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (PFUTP Regulations) which reads as under:-

Definition of 'fraud' – Regulation 2(1)(c).

(c) "fraud" includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include—

- (1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;*
- (2) a suggestion as to a fact which is not true by one who does not believe it to be true;*
- (3) an active concealment of a fact by a person having knowledge or belief of the fact;*
- (4) a promise made without any intention of performing it;*
- (5) a representation made in a reckless and careless manner whether it be true or false;*
- (6) any such act or omission as any other law specifically declares to be fraudulent;*
- (7) deceptive behaviour by a person depriving another of informed consent or full participation;*
- (8) a false statement made without reasonable ground for believing it to be true;*
- (9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself or anything derived from it other than the market price.*

And "fraudulent" shall be construed accordingly;

.....”

16. In light of the aforesaid observations, it is *prima facie* established that Mr. Imtiyaz Hanif Khanda and Mr. Vali Mamad Habib Ghaniwala not only contravened the provisions of the SEBI Act, Investment Advisors Regulations and Portfolio Managers Regulations but have also acted in fraudulent and deceitful manner which attracts prohibitions enshrined in section 12A (a) (b) and (c) of the SEBI Act and regulation 3 (b), (c) and (d) and regulation 4(1) and 4(2) (k) and (r) of the PFUTP Regulations which read as following:-

Section 12A of the 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 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 this Act or the rules or the regulations made there under;

(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;"

Regulation 3 of the PFUTP Regulations -

"3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a).....

(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 fraudulent or an unfair trade practice in securities.

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—

.....
.....

(k) an advertisement that is misleading or that contains information in a distorted manner and which may influence the decision of the investors;

.....

(r) planting false or misleading news which may induce sale or purchase of securities."

17. The conduct of Mr. Imtiyaz Hanif Khanda and Mr. Vali Mamad Habib Ghaniwala as described above is *prima facie* inimical to the interest of investors in the securities market. It is apprehended that investors at large could be further misled on account of the fraudulent activities of such unregistered entities. SEBI has been casted upon the duty to protect the interest of investors in the securities and I am of the view that considering the facts and circumstances of the present matter, it is necessary to take immediate steps to prevent such persons from further misleading investors and impairing the integrity of the market. I, therefore, am of the view that in the present matter immediate action is called for in the interest of common investors.

18. In view of the aforesaid *prima facie* findings, it is felt necessary to intervene in this matter to safeguard the interest of the investors and protect the integrity of the securities market. I am convinced that this is also a case where, pending investigation, effective and expeditious

action is required to be taken to prevent any further harm to investors and to send a stern message to prevent any person from indulging in acts of omissions and commissions as observed in this case.

19. Therefore, in order to protect the interest of investors and the integrity of the securities market, I, in exercise of the powers conferred upon me by virtue of section 19 read with sections 11(1), 11(4), 11B and 11D of SEBI Act, pending investigation, by way of this *ad-interim ex-parte* order:

- i. restrain following entities from buying, selling or dealing in the securities market, either directly or indirectly, in any manner whatsoever, till further directions-

Sr. No.	Name of Entity	PAN
1.	Mr. Imtiyaz Hanif Khanda (proprietor of M/s Right Trade and M/s Sai Traders)	AVQPK5639L
2.	Mr. Vali Mamad Habib Ghaniwala (proprietor of M/s Bull Trader and M/s Laxmi Traders)	BGHPG6861M

- ii. the above entities are further directed to:-
 - (a) to cease and desist from acting as an investment advisors and portfolio managers and not to solicit or undertake such activities or any other unregistered activity in the securities market, directly or indirectly, in any manner whatsoever;
 - (b) immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, websites, etc. in relation to their investment advisory and portfolio management activities or any unregistered activity in the securities market.

20. The stock exchanges and the depositories are directed to ensure that the above directions are strictly enforced.

21. The above order is without prejudice the right of SEBI to take any other action that may be initiated against Mr. Imtiyaz Hanif Khanda, Mr. Vali Mamad Habib Ghaniwala and their proprietary firms in accordance with law.

22. I also take this opportunity to caution investors to take their informed investment decisions without being influenced by such messages and advices and to deal with only intermediaries registered with SEBI.

23. The entities against whom this order is being passed may file their objections, if any, within twenty one days from the date of this Order and, if they so desire, may avail themselves of an opportunity of personal hearing before the Securities and Exchange Board of India at its

Head Office at SEBI Bhavan, C4-A, G-Block, Bandra Kurla Complex, Bandra (East), Mumbai-400 051 on a date and time to be fixed on a specific request, to be received in this behalf from the entities/persons.

24. This order shall come into force with immediate effect.

DATE: August 20, 2013

PLACE: MUMBAI

**RAJEEV KUMAR AGARWAL
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**