BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

Under Sections 11, 11B and 11 D of the Securities and Exchange Board of India Act, 1992

In the Matter of Shukul Wealth Advisory, Shukul Wealth Creator LLP and Money Founder Advisory

In respect of –

Sr. No.	Noticee/Entity	PAN
1.	Shukul Wealth Advisory	ADYFS5029C
2.	Shukul Wealth Creator LLP	ADRFS8026Q
3.	Pradip Shukla	BQCPS5057E
4.	Dhananjay Barad	CKUPB4161P
5.	Devesh Surendra Tiwari	ANBPT6472D
6.	Sandeepkumar Manubhai Patel	-

1. Background –

1.1. The present matter emanates from an examination by SEBI into the activities of Shukul Wealth Advisory ("**SWA**") and Shukul Wealth Creator LLP ("**SWCL**") and its partners, to ascertain possible violation, if any, of the provisions of the SEBI Act, 1992 ("**SEBI Act**") and Rules and Regulations made thereunder, pursuant to a complaint received on September 19, 2020.

1.2. During the examination, it was found that Shukul Wealth Advisory was a partnership firm, established by way of a Deed of Partnership dated June 04, 2019, with Pradip Shukla and Dhananjay Barad as its partners. The said firm was located at Office No. D-418, Ambrossia Business Hub, VIP Road, Surat-395007. Similarly, it was also found that Shukul Wealth Creator LLP (SWCL) was a Limited Liability Partnership ("**LLP**") firm, formed by way of an LLP Agreement dated June 15, 2018, with Pradip Shukla and Sandeepkumar Patel being the designated partners. The said firm was located at Shop No. 407, Ambrossia Business Hub, VIP Road, Surat-395007.

1.3. At the conclusion of the said examination, it was *inter alia* found that –

a. SWA and SWCL were soliciting investments from investors and offering them steady returns under their 'Daily Get Unit Plan' ("**DGP Scheme**");

b. SWA and SWCL were soliciting money from investors to invest the same in shares by running a scheme akin to a Mutual Fund scheme, by offering daily NAVs (called Daily Net Value ("**DNV**") in their scheme) to investors; and

c. SWA was holding itself out as an advisory firm, guaranteeing profit to investors; and

d. carrying out investment advisory activities by offering assured returns and mutual fund activities without obtaining registration from SEBI amounts to a violation of the SEBI Act, 1992 ("**SEBI Act**") and Regulations made thereunder.

2. Summary of Interim Order cum SCN - (i) The Modus Operandi; and (ii) The Directions Passed –

2.1. Pursuant to the findings of the examination by SEBI, an ex-parte ad interim order dated February 11, 2021 (and a corrigendum dated February 12, 2021) was passed in respect of the Noticees, and the Noticees were called upon to show-cause as to why suitable directions/ prohibitions under Sections 11(1), 11(4), 11B(1) and 11D of the SEBI Act and relevant SEBI Rules/Regulations, should not be issued / imposed against the Noticees ("**Interim Order cum SCN**"), for the alleged violation of the provisions of the SEBI Act, Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities

Market) Regulations, 2003 ("**PFUTP Regulations**") and Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 ("**IA Regulations**"), including:

a. directions prohibiting the Noticees from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, for an appropriate period;

b. directions not to be associated with any registered intermediary/ listed company and any public company which intends to raise money from public in the securities market, in any manner whatsoever; and

c. any other direction as deemed necessary.

2.2. In this regard, the Interim Order cum SCN relying on the examination of complaints by SEBI has *inter alia* alleged that—

A. SWA and SWCL raised funds from the public by selling them units in the scheme, called the DGP scheme, with the promise of investing these funds in the securities market. Each unit of the DGP scheme denoted one undivided share of the investor in the assets of the DGP scheme. Also, the arrangement put in place by SWA and SWCL included collection of funds, entry and exit charges, calculation of value of units, investment of funds in the securities market. This structure satisfies the definition of mutual fund as defined in

Regulation 2(q) of the MF Regulations. Also, it is required under law that a mutual fund be set up as a trust and no such structure existed in the present case. So, SWA and SWCL were sponsoring and/ or carrying out the activities of a mutual fund through the DGP scheme

B. SWA and SWCL were putting information in the public domain/ advertising by using websites, namely https://shukuladvisory.com/, http://dailygetplan.com/ and www.mfbroka.in. The websites provided information about the various services/schemes offered by them in the securities market. The content of the information found in the above-mentioned websites relate to investing in, purchasing and selling in securities and offering various investment packages for subscription. These services fall within the definition of 'Investment Advice' as provided in Regulation 2(l) of the IA Regulations. The Noticees by offering to provide services which amount to 'Investment Advice' held themselves out as investment advisers.

C. SWA and SWCL advertised different types of plans under the DGP scheme, including the "Secure Locked Unit Plan System". The said plan allowed for a monthly fixed return of 4% to be provided. So, SWA was offering guaranteed profit as part of its various investment advisory packages.

D. Prima facie an amount of approximately Rs. 102 crore had been collected by the entities.

2.2 (I) ***The Modus Operandi***

A. Websites namely, https://shukuladvisory.com/, http://dailygetplan.com/ and http://www.mfbroka.com/ were being used by the entities to disseminate information regarding the various schemes/plans floated by them. The Noticees were offering 4 types of Unit plans and 3 types of Wallet System as part of its schemes. The names of the 4 Unit plans offered by the Noticees were: Unlocked Unit Plan System, Semilocked Unit Plan System, Locked Unit Plan System and Secure Locked Unit Plan System. Similarly, the names of the three wallet systems were: Unit Wallet System, DNV Wallet System and Maturity Wallet System.

B. The Noticees have also used various social media platforms for marketing their schemes. SWA has a YouTube channel with the name, DailyGet which has 436 subscribers and a total of 15 videos have been uploaded by the channel. SWA also has a Facebook page providing details of its website. Further, SWA has its own Google App, DailyGet 0 Plan, which on the date of submission of examination by SEBI had 31 reviews and had been downloaded 1000 times. Furthermore, the Noticees also have an Instagram account sharing content similar to that of the Facebook page. Lastly, SWA has a Telegram channel which

had around 1400 subscribers and information regarding DNV was uploaded daily on that channel.

2.2 (II) ***The Directions Passed***

A. Considering the facts, as brought out in the examination by SEBI, the following directions have been passed against the Noticees :

" *56.1. Shukul Wealth Advisory, Shukul Wealth Creator LLP, Mr. Pradip Shukla, Mr. Dhananjay Barad and Mr. Sandeepkumar Patel are directed to cease and desist from sponsoring and/ or carrying out activities of a mutual fund, including the activity of representing through any media (physical or digital) schemes for collection of funds, directly or indirectly, and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any manner whatsoever.*

56.2. Shukul Wealth Advisory, Shukul Wealth Creator LLP, Mr. Pradip Shukla, Mr. Dhananjay Barad and Mr. Sandeepkumar Patel, are directed to cease and desist from holding themselves out as investment advisors, including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any matter whatsoever.

56.3. Shukul Wealth Advisory, Shukul Wealth Creator LLP, Mr. Pradip Shukla, Mr. Dhananjay Barad, Mr. Devesh Tiwari and Mr. Sandeepkumar Patel are directed:

56.3.1. Not to divert any funds collected from investors, kept in bank account(s) and/or in their custody;

56.3.2. To immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, websites, communications, etc., in relation to their, DGP scheme, mutual fund and investment advisory activities or any other unregistered activity in the securities market;

56.3.3. Not to access the securities market and buy, sell or otherwise deal in securities, either directly or indirectly, in any manner whatsoever;

56.3.4. To provide a full inventory of all assets held in their name, whether movable or immovable, or any interest or investment or charge on any of such assets, including details of all bank accounts, demat accounts and mutual fund investments, immediately but not later than 5 working days from the date of receipt of this order;

56.3.5. To submit the number and details of clients who have availed the services of their mutual fund scheme and investment advisory services and to submit details of fees collected from each such client, immediately but not later than 5 working days from the date of receipt of this order.

56.4 If Shukul Wealth Advisory, Shukul Wealth Creator LLP, Mr. Pradip Shukla, Mr. Dhananjay Barad, Mr. Devesh Tiwari and Mr. Sandeepkumar Patel have any open position in any exchange traded derivative contracts, as on the date of the order, they can close out/

square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. Shukul Wealth Advisory, Shukul Wealth Creator LLP, Mr. Pradip Shukla, Mr. Dhananjay Barad, Mr. Devesh Tiwari and Mr. Sandeepkumar Patel are permitted to settle the pay-in and pay-out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.

56.5. ICICI Bank is directed not to permit any debits/ withdrawals and not to allow credits to the following bank accounts, till further orders, without the permission of SEBI. However, credits into the bank accounts, which are resulting out of the pay-out of funds, from transactions mentioned in paragraph 56.4 above, shall be permitted to be received and kept frozen. ICICI Bank is directed to ensure that all the above directions are strictly enforced.

56.6. The Depositories are directed to ensure, till further direction, that they neither permit any debits nor any credits in the demat accounts held by:

(a) Shukul Wealth Advisory,

(b) Shukul Wealth Creator LLP,

(c) Mr. Pradip Shukla, either individually or jointly,

(d) Mr. Dhananjay Barad, either individually or jointly,

(e) Mr. Sandeepkumar Patel, either individually or jointly,

(f) Mr. Devesh Tiwari, either individually or jointly.

However, credits into any demat accounts, which are resulting out of the payout of securities, from transactions mentioned in paragraph 56.4 above, shall be permitted to be received and kept frozen.

56.7. The Registrar and Transfer Agents are directed to ensure, till further directions, that they neither permit any transfer nor redemption of the securities, including Mutual Funds units, held by

(a) Shukul Wealth Advisory,

(b) Shukul Wealth Creator LLP,

(c) Mr. Pradip Shukla, either individually or jointly,

(d) Mr. Dhananjay Barad, either individually or jointly,

(e) Mr. Sandeepkumar Patel, either individually or jointly,

(f) Mr. Devesh Tiwari, either individually or jointly."

3. Personal Hearing, and Replies and Written Submissions from the Noticees –

3.1. Pursuant to the SCN, the Noticees have filed their replies. The Noticees also sought inspection of documents. Based upon the request of the Noticees, opportunities of inspection of the records/ documents (which were relied upon

by SEBI) were provided to the Noticees. Details with respect to the same are furnished hereunder:

Table- 1

Noticee No.	**Noticee seeking inspection**	**Date of Inspection of Documents**	**Inspection Conducted By**
1	Shukul Wealth Advisory	February 25, 2021	Mr. Pradip Shukla, Ms. Rinku Valanju and Mr. Pratham Maswekar
2	Shukul Wealth Creator LLP		
3	Pradip Shukla		
4	Dhananjay Barad		
5	Sandeepkumar Patel		
6	Devesh Tiwari		

3.2. Also, the Noticees were provided an opportunity of hearing on June 17, 2021. The details of the personal hearing in the matter are provided hereunder:

Table- 2

Noticee No.	Name of the Noticee	Date of Hearing	Represented by
1	Shukul Wealth Advisory	June 17, 2021	Mr. JJ Bhat, Ms. Rinku Valanju, Mr. Pratham Maswekar and Ms. Hetal Joshi, Advocates instructed by R.V. Legal appeared collectively for all the Noticees named here.
2	Shukul Wealth Creator LLP		
3	Pradip Shukla		
4	Dhananjay Barad		
5	Sandeepkumar Patel		
6	Devesh Tiwari		

3.3. In response to the Interim Order cum SCN, replies have been submitted by the Noticees. In addition to the replies, the Noticees have also submitted an Application for interim relief dated June 25, 2021, Proposal for payment dated July 01, 2021, CA certificate dated June 25, 2021 providing the details of the mobilised amount, and a common written submissions on behalf of all the Noticees dated June 25, 2021.

3.4. A summary of the replies/written submissions as submitted by the Noticees is provided hereunder:

Noticee No.1 (Shukul Wealth Advisory), Noticee No.2 (Shukul Wealth Creator LLP), Noticee No. 3 (Pradip Shukla), Noticee No. 4 (Dhananjay Barad), Noticee No. 5 (Devesh Surendra Tiwari), Noticee No. 6 (Sandeepkumar Manubhai Patel)

3.4.1. Shukul Wealth Advisory has submitted its reply by way of a letter dated April 25, 2021. Sandeepkumar Manubhai Patel has submitted his reply by way of a letter dated April 06, 2021. Dhananjya Barad has submitted his reply by way of letter dated April 05, 2021. Devesh Surendra Tiwari has submitted his reply by way of letter dated April 05, 2021. Consequent to the hearing, the Noticee Nos. 1 to 6 have filed common written submissions dated June 25, 2021. The replies received from the above Noticees are identical, and as such they have been clubbed together.

Common Submissions

3.4.2. By way of the replies, the Noticees have *inter alia* made the following common submissions:

a. in the facts and circumstances of the case, Sections 11(1), 11 (4) and 11B of the SEBI Act have no relevance and the same are inapplicable;

b. the interim order must set out the circumstances requiring such drastic use of power, and should state clearly as to how in the absence of the

proposed action, the interest of the securities market would not be maintained;

c. the facts of the present case do not in any manner constitute an 'emergent situation' or present an 'impending danger' to the security of the markets, which would necessitate a remedial or a preventive direction to be issued by the SEBI;

d. the ex-parte ad interim order is legally and technically defective as it does not disclose the nature, type and kind of direction which is proposed to be issued against the Noticees;

e. there was a public notice in the newspaper issued by detective police inspector fraud cell CID Crime, Gandhinagar, Gujarat inviting the depositors to contact them against Shukul Group of companies namely Shukul Wealth Advisory and Shukul Wealth Creation LLP under their Get Unit Plan, however, not a single depositor has approached them or lodged any complaint against the Noticees;

f. the Noticees have not violated the provisions of Section 12A (a), (b), (c) of the SEBI Act Regulation 3(a), (b), (c), (d) and Regulations 4(1) and 4(2)(k) of PFUTP Regulations as alleged or otherwise;

g. alleged violations of provisions which are same, similar and identical (Sec. 12 A (a) = Reg. 3 (b), Sec. 12 (b) = Reg. 3 (c), Sec. 12(c) = Reg. 3

(d)) have been considered twice for imposition of direction of disgorgement as well as debarment;

h. transactions by nature cannot be said to be fraudulent without adducing evidence as to how they have affected the securities market

Specific submissions of Shukul Wealth Advisory, NoticeeNo.1; Shukul Wealth Creator LLP, NoticeeNo.2 and Pradip Shukla, NoticeeNo.3

3.4.3.By way of the replies, the above-mentioned Noticees have *inter alia* stated the following :

a. SWA and SWCL were not sponsoring and/or carrying out activities of a mutual fund as no fund management fees or AMC charges were ever collected;

b. no offer document or other compliances, inter alia, as required under the MF Regulations have been carried out by SWA and SWCL;

c. SWA and SWCL were not holding out as Investment Advisors as not a single rupee has been collected towards advisory fees;

d. SWA and SWCL entered into private agreements with the payers and repaid the money in accordance with the privities of private agreement of borrowing and lending;

e. The use of words 'unit', advisory, 'DNV', 'dividend', 'entry load', 'exit load', 'investment of funds in securities market' are loosely used and no such activities relating to advisory or fund management were carried out as contended by SEBI;

f. Mere mention of jargons cannot be led to believe that SWA and SWCL manipulated the investors by holding out as Investment advisors or Mutual Fund without providing them any service whatsoever related to Investment Advisory or Mutual Funds;

g. With respect to the schemes, it is clarified that four schemes:

SWA – i) For 'Unlocked Unit Plan System' there was no lockin period and investors could redeem the monies deposited at any given point of time. ii) There was not a single investment made in 'Semilocked Unit Plan Systems'. iii) The 'Locked Unit Plan System' had a few investors only for some time. iv) There was not a single investment made in 'Secured locked Unit Plan Systems';

SWCL – i) SWCL only had one scheme which was 'Unlocked Unit Plan System' there was no lockin period and investors could redeem the monies deposited at any given point of time. ii) The monies collected from the scheme were either refunded or the investors opted to get transferred to SWA;

h. all the decisions, business or otherwise, of SWA were taken by Pradip Shukla, whose contribution to the partnership was 90 per cent;

i. similarly, Pradip Shukla, is the controlling mind of SWCL and whose contribution to the partnership was 90 per cent;

Specific submissions of Dhananjay Barad, Noticee No. 4

3.4.4.By way of the replies, the above-mentioned Noticee has *inter alia* stated the following :

a. he is aged 28 years and was made a partner of Shukul Wealth Advisory with effect from June 04, 2019 and was reporting to Pradip Shukla, Noticee No. 3;

b. he was only a partner for name's sake and all the decisions, business or otherwise, of Shukul Wealth Advisory were taken by Pradip Shukla, whose contribution to the partnership was 90 per cent;

c. he was reporting to Pradip Shukla, who is the controlling mind of the firm;

d. the Noticee cannot be said to have been involved/responsible in any kind of activities of Shukul Wealth Creator LLP that would warrant the

issue of the directions as more specifically set out in the ex parte ad interim order.

e. the Noticee was only a partner for name's sake and all the decisions, business or otherwise, of Shukul Wealth Creator LLP were taken by Pradip Shukla, whose contribution to the partnership was 90 per cent;

f. he had no role in the structuring of any scheme or role in the business strategy of SWCL;

g. no specific allegation has been made against the Noticee in the Interim Order cum SCN;

h. the Noticee cannot be made liable for any acts of SWA as he was only a partner for name's sake;

i. the Noticee cannot be made liable for any acts of SWCL as he was not involved in any capacity, whether directly or indirectly with SWCL;

Specific submissions of Devesh Tiwari, Noticee No.5

3.4.5.By way of the replies, the above-mentioned Noticee has *inter alia* stated the following :

a. the Noticee is aged 29 years and was on boarded as a Partner in Shukul Wealth Creator LLP on 13th June 2018 and was reporting to Mr. Pradip Shukla, who is the controlling mind of the firm and whose contribution

to the partnership was only 90 per cent. Mr. Tiwari resigned as partner of SWCL w.e.f. 19th January 2021 i.e., a month prior to the issue of the ex-parte ad-interim order;

b. he was only a name's sake partner and all the decisions, business or otherwise, of SWCL were taken by Pradip Shukla;

c. he was reporting to Pradip Shukla, who is the controlling mind of the firm;

d. the Noticee cannot be said to have been involved/responsible in any kind of activities of SWCL that would warrant the issue of the directions as more specifically set out in the ex parte ad interim order.

e. the Noticee was only a partner for name's sake and all the decisions, business or otherwise, of SWCL were taken by Pradip Shukla, whose contribution to the partnership was 90 per cent;

f. he was only an employee;

g. he had no role in the structuring of any scheme or role in the business strategy of SWCL;

h. no specific allegation has been made against the Noticee in the Interim Order cum SCN;

i. the Noticee cannot be made liable for any acts of SWCL as he was only a partner for name's sake; and

j. the Noticee cannot be made liable for any acts of SWA as he was not involved in any capacity, whether directly or indirectly with SWA.

Specific submissions with respect to Sandeep Patel, NoticeeNo.6

3.4.6.By way of the replies, the above-mentioned Noticee has *inter alia* stated the following :

a. he is aged 38 years and was made a partner of Shukul Wealth Creator LLP w.e.f. 19th January 2021 only a month prior to the issuance of the Order;

b. he was reporting to Pradip Shukla, who is the controlling mind of the firm;

c. the Noticee cannot be said to have been involved/responsible in any kind of activities of Shukul Wealth Creator LLP that would warrant the issue of the directions as more specifically set out in the ex parte ad interim order.

d. the Noticee was only a partner for name's sake and all the decisions, business or otherwise, of Shukul Wealth Creator LLP were taken by Pradip Shukla, whose contribution to the partnership was 90 per cent;

e. he was only an employee;

f. he had no role in the structuring of any scheme or role in the business strategy of SWCL;

g. no specific allegation has been made against the Noticee in the Interim Order cum SCN;

h. the Noticee cannot be made liable for any acts of SWCL as he was only a partner for name's sake; and

i. the Noticee cannot be made liable for any acts of SWA as he was not involved in any capacity, whether directly or indirectly with SWA.

3.5. As already stated, in addition to the replies/submissions the Noticees have also submitted a report of Ms. Dimple Shah of Dimple Shah and Associates, Chartered Accountants dated June 25, 2021 providing the details of the mobilised amount ("**CA Report**") and a proposal for payment dated July 01, 2021 with respect to the investors yet to be paid. A summary of the above mentioned details is provided hereunder:

Amounts Mobilised and Refunded

3.5.1. The details of the amounts mobilised and repaid, as per the CA Report, are as follows:

a. SWCL stopped taking any fresh amount after April 2020;

b. since the initiation of the scheme in 2019 by SWCL, the total deposits accepted was INR 25,23,56,100;

c. out of the total amount mobilised, an amount of INR 13,53,96,100 was refunded at the relevant time, and deposits worth INR 11,69,60,000 on the request of the payers, was transferred to SWA, so no amount is due and payable by SWCL;

d. SWA had received a sum of INR 87,33,17,200/- from about 12,430 persons during the period April 21, 2020 to February 11, 2021; out of which 2,616 investors holding a sum of INR 11,69,60,000/- were transferred from SWCL in March 2020;

e. details of the refunds made by SWA are as follows:

Table- 3

Sr. No.	**Particulars**	**Amount (**INR)
1	Including partial and complete repayment to 9,365 investors	14,98,42,953
2	Payments made from personal bank account and group/ associate company accounts by Shukul Wealth Advisory and Mr.Pradip Shukla to 917 investors	3,38,16,704
3	Payments made from personal bank account and group/associate company accounts by Shukul Wealth Advisory and Mr.Pradip Shukla to 603 investors	2,36,09,000

	Total	**20,72,68,657**

f. the said payments were made from the ICICI Bank Accounts of SWA and Shukul Infra.

Proposal for Payment

3.5.2. The summary of the proposal for payment to investors, as received from SWA, is as follows:

a. it has been submitted that the amount repaid, as mentioned above, should be set off against the total mobilised amount of INR 87,33,17,200;

b. the liability should be accordingly modified;

c. in respect of the funds available with SWA/SWCL, it has been submitted that –

Table- 4

	Bank A/c	**Amount (INR)**	**Trading A/c**	**Securities/credit balance**
Shukul Wealth Advisory	239905500457	18.13 crores	85,14,000.75 (ledger credit)	-
Shukul Wealth Creator LLP	239905000324	15.87 lac	-	-

d. in addition to the funds lying in the above-mentioned bank accounts, it has been stated that SWA and its associate Shukul Showbiz Private Limited is involved in the production of Gujarati, Marathi and Punjabi movies, and the following movies are ready for release:

Table- 5

Sr. No.	**Movie Name**	**Region**	**Production House**	**Expected total Revenue from theatre collection, satellite rights and subsidies (INR)**	**Duration for collecting the total revenue**
1	Nadi Dosh	Gujarati	Shukul Showbiz	20 Cr	8-10 Months
2	Locha Lapsi	Gujarati	Shukul Showbiz	20 Cr	8-10 Months
3	Color Full	Marathi	Shukul Showbiz	10 Cr	8-10 Months
4	Raado	Gujarati	Shukul Showbiz	60 Cr	8-10 Months
5	Kankotri	Gujarati	Shukul Showbiz	40 Cr	8-10 Months

e. the total estimate of revenue of the above movies from theatre collections, satellite rights and subsidies will be INR 150 crores, which would be sufficient to meet the liabilities towards the balance amount of INR 47,43,17,200;

f. the tentative time line for monetisation of the movies is as follows:

Table- 6

Sr. No.	**Month (after the release of the movie)**	**Particulars**
1.	3rd Month	Shukul Showbiz Private Limited will start collecting the monies received from the theaters
2.	5th to 7th Month	Digital and Satellite rights of the movies will be sold by Shukul Showbiz Private Limited
3.	9th to 10th Month	Shukul Showbiz Private Limited will receive subsidies for the movies

g. it has been prayed that the Noticee may be allowed to make payment of the balance monies of INR 47,43,17,200 through Shukul Showbiz Private Limited under supervision of SEBI, within 12 months from the date of passing of the final order in the matter.

3.6. An application for interim relief has also been filed by the Noticees. A summary of the contents of the application is provided hereunder:

a. allow the Noticees to submit a list of depositors to SEBI in order for SEBI to disburse the frozen funds of INR 19.14 crores lying in the ICICI Bank account of Shukul Wealth Advisory and Shukul Wealth Creator LLP and the trading account of Shukul Wealth Advisory (ledger credit - INR 85,14,000), or in the alternative;

b. defreeze the below mentioned bank accounts (held with ICICI Bank Limited) of Shukul Wealth Advisory and Shukul Wealth Creator LLP for the purpose of credit as well as debit that are required to be made for the purpose of repaying the monies to the payers:

Table- 7

	Bank A/c	**Amount (INR)**
SWA	239905500457	18.13 crores
SWCL	239905000324	15.87 lacs

The disbursement would be subject to the supervision of SEBI;

c. defreeze the trading account of Shukul Wealth Advisory showing ledger credit of INR 85,14,000.75 and allow Shukul Wealth Advisory to utilise

the same towards repayment to the payers, and the disbursement will be subject to the supervision of SEBI;

d. exonerate Noticee No.s 4, 5 and 6 from the present proceedings as they had no role to play when the monies were collected from the payers. Also, they have no role to play in the current disbursement process; and

e. SWA and SWCL may be allowed to make payments towards accumulated TDS and GST dues as and when they become due, if any.

3.7. **Relevant Provisions**

3.7.1. Provisions of the SEBI Act —

Section 12

Registration of stock brokers, sub-brokers, share transfer agents, etc.

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

Provided that a person buying or selling securities or otherwise dealing with the securities market as a 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 immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

Provided further that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

(1A) No depository, participant, custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or 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:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a depository, participant, custodian of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

(1B) No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.

Explanation- For the removal of doubts, it is hereby declared that, for purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by an insurer.

Section 12 A (a), (b), (c)

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"

3.7.2.Provisions of the SEBI (PFUTP) Regulations, 2003 —

Regulation 3(a), (b), (c) and (d)

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 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".

4. Issues –

4.1. The Interim Order cum SCN has already delineated some of the issues that require examination by me. In this respect, the following issues are for consideration:

I. Whether SWA and SWCL sponsored and/ or carried out activities of a mutual fund?

II. Whether SWA and SWCL held themselves out as investment advisers?

III. Whether SWA and SWCL offered assured/ guaranteed returns to the investors?

IV. If the answer to any of the Issue Nos. I, II, III or to all the said issues are in the affirmative, then who all were responsible for the same?

5. Consideration and findings –

Issue I- Whether SWA and SWCL sponsored and/ or carried out activities of a mutual fund without registration?

5.1. The Interim Order cum SCN has, *prima facie*, held that SWA and SWCL through their schemes had sponsored and/ or carried out activities in the nature of a mutual fund.

Daily Get Unit Plan

5.2. A website was maintained with the web address http://dailygetplan.com/. The said website provided an investment scheme by the name Daily Get Unit Plan or DGP. As per the plan, investors could invest in the multiples of Rs. 10,300/- (Rs. 10,000 as investment and Rs. 300 as entry fees) for each unit of the plan.

5.3. The description of the DGP is found on an YouTube channel named 'DailyGet'. The said channel has 15 videos and has 436 subscribers, as on the date of examination i.e., October 08, 2020. A video by the name, "Get Daily Profits with our Dailyget Unit Plan' gives an explanation of the DGP Scheme. The relevant transcript of the video is as sunder:

"First of all, we start by investing a minimum of Rs. 10,000/- that is one unit. We can invest more also. For example- If I invest Rs. 500,000/-, I get 50 units in the plan. The company invests the entire funds in trading and earn daily profit. The company decides the Daily Unit Value called the DNV. In this plan, if I have invested in 50 units, and today's DNV is Rs.

152/-, then my day profit is Rs. 7600/-. With the expected result calculation, you can earn upto Rs. 40,000 monthly with this plan".

5.4. The DGP scheme has four types of Unit plans and three types of Wallet System. The Unit Plans are as follows: a) Unlocked Unit Plan System – This plan has no lock-in period and provides exit to the investor at any point of time. The plan does not provide for any maturity benefits. b) Semi-locked Unit Plan System – This plan has a lock-in period of four months and does not provide for any maturity benefits. However, an "Assurance Letter" is provided to the investors for "Capital Security". c) Locked Unit Plan System – This plan has a lock-in period of 12 months and provides 24% yearly extra maturity benefits to the invetsors**.** Also, an "Assurance Letter" is provided to the investors for "Capital Security". d) Secure Locked Unit Plan System – This plan has a lock-in period of 12 months, and comes with a plot of land as "Capital Security", 12% extra maturity benefits and "4% Monthly Fix Returns".

5.5. Similarly, the three types of wallet systems are as follows: a) Unit Wallet System – This system of wallet is described as being designed for unit entry and exit management. The invested amount is shown as units in the wallet and with the availability of "Unit lock option". Also, the exit process is stated to be completed within a period of seven days. b) DNV Wallet System – This system of wallet is described as being designed for investor profit management. In this wallet, the DNV per unit, which is declared daily is reflected in this wallet. In case of profit,

the DNV amount is added and in case of loss the DNV amount is subtracted. The DNV starts with zero balance every month, and the withdrawal of profit is effected automatically at the closing of each month. c) Maturity Wallet System – This system of wallet is described as being designed for locked units maturity amount management. The maturity amount offered for each locked unit is 24%, and cash withdrawal is allowed after the completion of the 12 month lock-in period.

5.6. Further, the brochure of the DGP Scheme brought out by SWA provides the formula for the calculation of the DNV. The said formula , as illustrated in the brochure, is as under:

Table- 8

	Amount (INR) /Units
Assume that the	
Total DNV Fund =	5 Cr
Total Company Unit =	5000 Unit
If in Today's Trading, **Company gets Profit** =	20 lakh
Corporate Tax =	25% = 5 lakh
Company Profit Sharing =	25% = 5 lakh
Sales Plan Sharing =	10% = 2 lakh
Remaining Amount =	40% = 8 lakh

So as per this, Unit Holder Sharing =	 40% = 8 lakh
So, 8,00,000 /5000 = Rs. 160 per unit. If you have 10 units in wallet, so 160 X 10= 1,600. Rs. 1,600 added in your DNV wallet. Withdraw this amount anytime and get it in 24 hrs.	

So as per the above illustration, the DNV is Rs. 160 per unit i.e., Rs. 8 lakh/5000 units.

Daily Get Unit Plan's Connection with SWA and SWCL

It is seen that in the 'Contact Us' section of the website, an email ID bearing the SWA domain name i.e., info@shukuladvisory.com is provided. Similarly, in the 'Payment Detail' section, details of an ICICI Bank account belonging to SWA have been provided for investors to make payments. A mobile app named 'DailyGet Plan', mentioning the name of Shukul Group, was also available on the Google App Store, with the description that it was "an investment management tool for our investors".

5.7. Examination also observed that SWA had a Facebook page, where the name, address, contact details and website link of SWA had been provided. The said Facebook page uploaded details of employees/agents of SWA who crossed certain number of units. One of the messages seen on the page read, *"Congratulations Mr. Mayur Navadiya! A great achievement. Mr. Mayur Navadiya has successfully completed 11,111*

DailyGet team units" (emphasis supplied). Similarly, the Instagram page of SWA had congratulatory messages with respect to 'achievements' of its employees/agents in respect of the DGP scheme. Also, SWA's channel on the messaging app, Telegram had daily information about the DNV in respect of the DGP scheme.

5.8. Further, the bank statements belonging to SWA and SWCL were also examined by SEBI. In this regard, it was observed that the ICICI Bank account bearing no – 239905500453 in the name of SWA, which had been provided in the 'Payment Details' section of dailygetplan.com, there were multiple credit entries of Rs. 10,300, Rs. 20,600, Rs. 30,900, Rs. 41,200 etc., which are in conformity with the per Unit pricing of the DGP scheme as shown above**.** Similarly, in respect of SWCL, it was observed that in its ICICI Bank account bearing no- 239905000324, multiple credit entries of Rs. 10,300, Rs. 20,600, Rs. 30,900, Rs. 41,200 etc. were present, which are in conformity with the per Unit pricing of the DGP scheme as shown above**.**

5.9. Furthermore, as per the CA Report submitted by the Noticees, it is seen that SWCL had received funds till April 2020, and in March 2020, a sum of Rs. 11,69,60,000 of 2,616 investors was transferred to SWA by SWCL.

Trading by SWA/SWCL

5.10. Information regarding the trading activity undertaken by SWA/SWAL and their partners was sought from the exchanges and depositories. In this regard, it was informed by BSE by way of emails dated October 05, 2020 and October 08, 2020 has informed that none of the entities had traded on the exchange. It was informed by NSE by way of emails dated October 06, 2020 and October 08, 2020 that neither SWA nor any of its partners had traded on the exchange. With regard to SWCL, it was informed that it had traded in Index Futures, Stock Futures and Index Options. It was further informed that the trading activity had started from November 26, 2019**,** with the total number of trades being 1304, out of which the total buy value was Rs. 46.91 crore and the total sell value was Rs. 47.63 crore. Further, SWCL, on the date it started trading on NSE, i.e., November 26, 2019, paid Rs. 50 lakh to its broker, PSPL, from the ICICI Bank account having number 239905000324.

5.11. Similarly, MCX informed that SWCL had a trading turnover of Rs. 215.9 crore during January 01, 2019 to January 31, 2021. Similarly, Pradip Shukla had a trading turnover of Rs. 318.17 crore during the above period. It was also informed by them that SWA was not registered on its UCC database.

5.12. Thus from the above facts, it is clear that DGP scheme was conceptualized and marketed as an investment plan by SWA through the website dailygetplan.com, the dailygetplan app and other social media platforms. Consequent to the above,

money was received by investors as reflected in the bank accounts of SWA and SWCL. The funds received from the investors were thereafter invested in the securities market by SWCL, as is evident from the information submitted by NSE and MCX. Thus, SWA and SWCL in conjunction conceptualised the scheme, collected funds from the investors, and thereafter traded in the securities market with the said funds.

Features of the Daily Get Unit Plan

5.13. In summary, the salient features of the DGP Scheme are as under:

a. the scheme intended to raise funds from the public;

b. the funds were for the purpose of investment in the securities market;

c. the investors were provided units in consideration of the amount invested; and

d. the earnings made from the investment were passed on to the investors, after deduction of charges and share of the profit.

Daily Get Unit Plan Scheme and Mutual Funds

5.14. It would be relevant herein to examine the definitions of "mutual fund", "sponsor" and "units" as provided in Regulations 2(q), 2(x) and 2(z) of the SEBI (Mutual Fund) Regulations, 1996, ("MF Regulations").

Mutual fund has been defined as "a *fund established in the form of a trust to raise monies through the sale of units to the public or a section of the public under one or more schemes for*

investing in securities including money market instruments or gold or gold related instruments or real estate assets".

Sponsor has been defined as *"any person who, acting alone or in combination with another body corporate, establishes a mutual fund*".

Lastly, Unit has been defined as *"the interest of the unit holders in a scheme, which consists of each unit representing one undivided share in the assets of a scheme"*

5.15. It is quite clear that the attributes associated with the investment schemes run by the Noticees have exactly similar features as conventional Mutual Funds. In view of the definitions as mentioned above and the facts brought out in the previous part of the Order in respect of the DGP Scheme, whereby SWA and SWCL, raised funds from the public by selling them units in the DGP scheme with the intention of investing the funds collected from the investors in the securities market, I find that the said activity of SWA/SWCL clearly falls within the definition of Mutual fund as defined in Regulation 2(q) of the MF Regulations.

5.16. It has been submitted by the Noticees that " *the words 'unit', 'advisory', 'DNV', 'dividend', 'entry load', 'exit load', 'investment of funds in securities market' are loosely used and no such activities relating to advisory or fund management were carried out*". In this regard, it would be relevant to examine the documents of SWA and SWCL.

Clause 3 of the Deed of Partnership dated June 04, 2019, whereby SWA was constituted as a partnership firm, relates to the nature of business of the firm. It states that the business of the said partnership firm is "*to carry on in India or outside*

India….the business of providing consulting service, providing guidance, and giving scrip tips regarding stocks and commodity in stock and commodity markets in partnership for the mutual benefits".

Similarly, Clause 2 of the LLP Partnership Agreement, whereby SWCL was constituted as a partnership firm, states that its business "*shall be of Investment Advisor and Sub-broker of Stocks and Derivatives, more particularly described in Schedule- 1 annexed herewith or any other business in any other manner as may be decided by the majority of the Partners.*"

Schedule -1 of the said agreement reads,

" *OBJECT TO BE CARRIED OUT BY SHUKUL WEALTHCREATOR LIMITED LIABILITY PARTNERSHIP:*

1. *To undertake business related to capital markets as Share Brokers, Stock Brokers, Dealers, Under-writers, Promoters, General Brokers, Sub-brokers, Remiciers for shares, Stocks, Debentures, Debenture Stocks, Bonds, Units, Securities, Debt Market instruments, derivatives, and such other corporate, both public and private, government and semi-government instruments, growth schemes of mutual funds and for that purpose to acquire the membership of any stock-exchange whether in India or out of India or to set up BOLT terminals and to take all necessary steps in connection with the same.*

2. *To carry on the business as advisors, canvasser, consultants, market makers, developers, brokers, sub-brokers, of all types of Mutual Funds and other investment and financial products including shares, securities, fixed deposits, GOI securities, Units of Mutual Funds, Insurance Products, Government Securities, RBI Securities and similar businesses on secondary Market Trading on nay Stock Exchanges of India either as direct member of the Stock Exchange or a Sub-brokers.*

3. *To carry on in India the business of marketing, promoting, franchising or dealing in financial and insurance products or schemes, both in internal and external markets and to appoint sub-franchisers etc. for any of the above purpose."*

5.17. From the above, it is clearly seen that the partnership firms, including their Partners, had a good understanding of the various financial products, the markets in which such products are traded and the manner of carrying out business in such products. Given the understanding of the market, I do not find it acceptable that the terms used by the Noticees to seek investments from the investors were 'loosely' or inadvertently used. In fact, it is clear that the terms associated with Mutual Funds were used to explicitly lure the investors who have familiarity with Mutual Funds.

5.18. Thus, I agree with the finding in the Interim Order cum SCN that SWA/SWCL were sponsoring and/ or carrying out the activities of a mutual fund through the DGP scheme.

Violations of provisions of law

5.19. It has already been established that SWA/SWCL were running the DGP Scheme, which was akin to the running of a mutual fund.

5.20. In this regard, reference is made to Section 12 (1B) of the SEBI Act. The said provision reads, " *12 (1B) No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations…"*

5.21. From the records of SEBI, it is seen that the DGP Scheme was not registered with SEBI as a mutual fund when the funds were mobilised from the public. Further, no material has been provided by SWA/SWCL to show that at any point they had been registered with SEBI.

5.22. To begin with, I note that the Noticee without obtaining any registration from SEBI before mobilizing funds from the public is trying to defend its activities by distinguishing its activities from the requirements under the Mutual Fund Regulations, such as non-collection of fees, non- publication of offer documents etc. It is apparent that the Noticees have floated schemes to mobilise public funds under the names SWA and SWCL. Section 12 (1B) inter alia prohibits the carrying on the activity of a mutual fund, unless necessary certificate of registration has been obtained from SEBI. The case is that entities who are ineligible to carry out Mutual Fund activities have fraudulently carried out activities by misleading the public, and

by projecting it as a Mutual Fund. However, I would like to deal with their contentions on merit.

5.23. With regard to the defence of the said Noticees that SWA and SWCL were not charging any fees or AMC charges, I find that the investors could invest in multiples of Rs. 10,300/- (Rs. 10,000 as investment and Rs. 300 as entry fees) for each unit of the plan. Further, it is seen from the table elaborating the calculation of DNV that 25% would go to the 'Company'. So, clearly fees and charges were collected by the said Noticees from the investors.

5.24. The second defence taken by the said Noticees is that as there was no offer document or other compliances, *inter alia*, as required under the MF Regulations, it cannot be considered as a Mutual Fund. In this regard, it is stated that Section 12(1B) of the SEBI Act provides that any person sponsoring or causing to sponsor a mutual fund has to necessarily obtain registration from SEBI and upon such registration conduct its activities in accordance with the provisions of the MF Regulations. Any activity, otherwise satisfying the definition of mutual fund, cannot escape the requirement of registration merely because it was not formed in the manner provided or that it did not carry out the mandated compliances.

5.25. Admittedly having conducted activities that are similar to a Mutual Fund, I find that Noticee Nos. 1 and 2 have violated Section 12 (1B) of the SEBI Act, as alleged in the Interim Order.

Issue II- Whether SWA and SWCL held themselves out as investment advisers without registration?

5.26. The Deed of Partnership executed on June 04, 2019, whereby SWA was constituted as a partnership firm, states that its business is "*to carry on in India or outside India….the business of providing consulting service, providing guidance, and giving script* (sic) *tips regarding stocks and commodity in stock and commodity markets in partnership for the mutual benefits*".

5.27. Also, the 'About Us' page on their website describes SWA as:

"Shukul Wealth Advisory Investment Advisor is one of India's leading Advisory Company. It offers services regarding Equity, MCX & Currency with an experience of over fifteen years, SWA-Investment Advisor has contributed significantly to the growth and development of the Advisory industry in India. SWA has carved a niche in the Advisory sector due to its rich heritage, integrity, adherence to prudent practices, technology advancement, customized products and services and most of all due to its experienced, qualified and professional Representatives".

5.28. Further, as seen from the archived pages of its website, it is seen that SWA describes itself as the 'Best Advisory Hub'. It is claimed that "*we* [SWA] *offer advisory services to people who are keen to invest in equities, commodities or any other aspect of the financial market.*" Furthermore, with respect to its services, it has been stated on its website that –

- *We offer intra-day, positional and BTST services in the equity market, future & options, commodity market and currency market.*

- *An advisor from our team of experts will interact closely with you to understand your financial needs and expectations.*

- *You can try our services through a 3-days free trial or contact us to make an appointment with one of our expert advisor.*

5.29. It is also noted from the brochure that SWA was providing 'packages' for investment by investors. The packages as mentioned in the brochure are as under:

Table- 9

Sr. No.	**Package Amount**	**Guaranteed Profit**	**Ratio Charge**
1.	10,000	50,000	20%
2.	30,000	2,00,000	15%
3.	50,000	5,00,000	10%

5.30. With respect to the facilities/features provided with the above-mentioned investment packages, it has been stated, "*Get some premium benefits with this pack in free cost*". It is further stated that the said pack *inter alia* provides,

- *Live markets consultancy*

- *Special consultancy for selected stocks.*

- *Portfolio consultancy with proper daily track.*

5.31. Further, it is noted that on the website, www.mfbroka.com, features of advisory services such as, which segments are permitted, whether SMS will be sent, etc. are mentioned under the trade name 'Moneyfounder Advisory'. In the FAQ section, it is claimed that they provide intra-day, positional and BTST services in the equity, futures, options and commodity markets. It is noted from the payment details section, that the bank account details i.e., 239905000324 are of SWCL.

5.32. Investment Adviser as provided in Regulation 2(m) of the IA Regulations reads, "*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*". Similarly, Regulation 2(l) of the IA Regulations defines investment advice as "*advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning.*" I note that SWA has used "Advisory" as part of its name. Further, it is seen from the description in the website that SWA was a "*leading Advisory Company*". Also, they were offering packages which provided market consultancy and consultancy with respect to specific stocks. Further, they were offering investment advice including intra-day, positional and BTST services in the equity, futures, options and commodity markets. These activities fall within the definition of investment advice

and SWA and SWCL, who were carrying out these activities, were certainly holding themselves out to the public as investment advisers.

Violations of provisions of law

5.33. It has already been established that SWA/SWCL were holding themselves out as Investment Advisers. In this regard, reference is made to Section 12 (1) of the SEBI Act. The said provision reads, " *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…*".

5.34. Further, Regulation 3(1) of the IA Regulations mandates that "*On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations*".

5.35. So, from a reading of Section 12(1) of SEBI Act and Regulation 3(1) of IA Regulations, it is clear that any entity interested in acting as an Investment Adviser is necessarily required to obtain registration as an Investment Adviser from SEBI. As, neither SWA nor SWCL or their partners were registered with SEBI as

Investment Advisers, I find that the said Noticees have violated Section 12(1) of SEBI Act read with Regulation 3(1) of the IA Regulations.

Issue III- Whether SWA and SWCL offered assured/ guaranteed returns to the investors?

5.36. In the previous part of this Order, the features/specifics of the DGP scheme floated by SWA and SWCL have been elaborated. It is seen that as part of DGP scheme there are four plans out of which two, namely, Locked Unit Plan System and Secure Locked Unit Plan System provide guaranteed maturity benefits. It has been stated that the Locked Unit Plan System, which has a lock-in period of 12 months**,** provides 24% yearly extra maturity benefits to the investors**.** Similarly, the Secure Locked Unit Plan System, which has a lock-in period of 12 months, provides 12% extra maturity benefits and "4% Monthly Fix Returns". Further, in the above table as appearing at paragraph no. 5.29, the packages offered by SWA guaranteed profit to the investors.

5.37. From the above, it is apparent that the SWA and SWCL offered assured/ guaranteed returns to the investors.

Violations of provisions of law

5.38. It has already been established that SWA/SWCL were offering assured/ guaranteed returns to the investors by investing their money in the securities

market. Reference is made to emails dated October 06, 2020 and October 08, 2020 received from NSE whereby it has been informed that SWCL had traded in Index Futures, Stock Futures and Index Options. Similarly, it has been informed by MCX that SWCL had traded October 31, 2019 onwards. Noticee Nos. 3 and 4 namely, Pradip Shukla and Dhananjay Barad had also traded on MCX.

5.39. In this regard, reference is drawn to Section 12A (a), (b) and (c) SEBI Act, which reads as, "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…"

5.40. Further, reference is made to Regulations 3 and 4 of the PFUTP Regulations. The relevant provisions are reproduced hereunder:

" ***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 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".

5.41. Investments in securities markets are subject to risks and hence the returns are unpredictable. Therefore guarantee of assured profits by the Noticees in any manner through its various schemes is fraudulent and might have induced the investors to invest in the packages/plans floated by SWA/SWCL. Therefore, any form of assurance of fixed return or guaranteed profits to the investors are

downright false and are calculated to mislead the investors. Accordingly, I find that the said Noticees have violated the provisions of Section 12A (a), (b), (c) of the SEBI Act and Regulations 3 (a), (b), (c), (d) and Regulations 4(1) and 4(2)(k) of PFUTP Regulations.

Issue IV- If the answer to any of the Issue Nos. 1, 2, 3 or to all the said issues are in the affirmative, then who all were responsible for the same?

Liability of Pradip Shukla, Noticee No. 3

5.42. It has been submitted by the Noticee that he was taking all the decisions, business or otherwise of SWA, where his contribution to the partnership was 90 per cent. Similarly, he was the controlling mind of SWCL, where his contribution to the partnership was 90 per cent.

5.43. Further, the Deed of Partnership executed on June 04, 2019, whereby SWA was constituted as a partnership firm shows Pradip Shukla and Dhananjay Barad as the partners of SWA. It is seen from the said deed that Pradip Shukla was the Managing Partner and Dhananjay Barad was an executive partner. It is seen from the deed that the Managing Partner was empowered to a) appoint staff, fix their remuneration and dismiss them ; b) acknowledge receipt of cash/cheques and goods, and give effectual receipts; c) incur expenses during the course of the business; d) do all other acts and things that are usual, necessary, and expedient in

carrying on the partnership business; e)execute and sign all agreements relating to contracts, guarantees and indemnity bonds in favour of Government/other authorities and also to deal with all types of disputes with departments; and f) execute all the necessary documents pertaining to registration of land, construction agreements etc. in favour of customers and buy the lands on behalf of the firm.

5.44. Similarly, the Limited Liability Partnership Agreement dated June 15, 2018 establishing SWCL shows Pradip Shukla, Noticee No. 3 and Devesh Surendra Tiwari, Noticee No. 5 as the Designated Partners of SWCL. As a designated partner, the Noticee is responsible for the business management of the firm.

5.45. So, considering the above, I conclude that Pradip Shukla held majority stake in both the firms and was actively involved in their functioning. Accordingly, the Noticee is liable for the acts, as elaborated in the previous part of the Order, carried out by SWCL and SWA.

Liability of Dhananjay Barad, Noticee No. 4; Devesh Surendra Tiwari, Noticee No. 5; Sandeepkumar Manubhai Patel, Noticee No. 6

5.46. The principal ground of defence taken by the above-mentioned Noticees is that they were partners for "name's sake" and were not involved in the business being carried out by SWA and SWCL.

5.47. It is reiterated that by way of Deed of Partnership executed on June 04, 2019, SWA was constituted as a partnership firm, where Pradip Shukla and Dhananjay

Barad were partners. Pradip Shukla was the Managing Partner and the powers individually granted to him by way of the said deed have been elaborated in the earlier paragraphs. Further, it is seen from the deed of partnership that both the partners were empowered to operate the bank accounts including the current accounts of the partnership firm and had equal rights in decision making.

5.48. From the contents of the deed of partnership, it seems that the powers vis-a-vis the operation of SWA were predominantly with Pradip Shukla. However, in view of the settled position in law that each partner in a firm is liable for the acts of the firm, jointly and severally, I conclude that Dhananjay Barad is also liable for the acts carried out by SWA.

5.49. It would be relevant to examine the Limited Liability Partnership Agreement dated June 15, 2018 establishing SWCL. The said agreement shows Pradip Shukla, Noticee No. 3 and Devesh Surendra Tiwari, Noticee No. 5 as the partners of SWCL. Clause 15 of the said agreement which deals with 'Designated Partners' reads as " *Mr. Pradip Vidhyadhar Shukla and Mr. Devesh Surendra Tiwari, shall be the first Designated Partners of the limited liability partnership."*

5.50. Thus, as Devesh Tiwari was a designated partner in SWCL, during the period when mobilisation of funds was carried out by SWCL, he shall also be liable for the activities of SWCL.

5.51. In respect of Sandeepkumar Manubhai Patel (Noticee No. 6), it is seen, from the details available on the MCA website, that the Noticee joined SWCL as a

designated partner on January 19, 2021. In his reply to SEBI, he has also mentioned the abovementioned date as his joining-date in SWCL. In this regard, it is relevant to consider the finding given by Ms. Dimple Shah, Chartered Accountant in her report dated June 25, 2021 concerning the mobilisation and refunds made by the Noticees. In the said report, it has been stated that SWCL stopped taking any fresh amount after April, 2020. Further, it has been stated that since the initiation of the scheme in 2019 by SWCL, the total deposits accepted from the investors was INR 25,23,56,100. Out of the total amount mobilised, an amount of INR 13,53,96,100 was refunded at the relevant time, and deposits worth INR 11,69,60,000 on the request of the payers, was transferred to SWA, so no amount is due and payable by SWCL. So, considering the finding in the CA Report that the activities of fund mobilisation only continued till April, 2020 and no amount is due and payable by SWCL currently, I conclude that Sandeepkumar Manubhai Patel, who joined as a designated partner only in January, 2021, cannot be held liable for the acts carried out by SWCL prior to his joining as a designated partner. However, since Noticee No. 6, continues to be a partner of SWCL, I find it appropriate to pass directions against him to ensure compliance.

6. Conclusion

6.1. It is seen from the record that SWCL was established as a Limited Liability Partnership by way of an Agreement dated June 15, 2018. Similarly, SWA was

established as a Partnership firm by way of a Deed of Partnership dated June 04, 2019. Pradip Shukla, Noticee No. 3 is a partner in both the firms and holds 90% stake in both the firms. SWA/SWCL through their DGP scheme were mobilizing funds from the public, for which the investors were granted units. This money mobilised was invested in the securities market. This activity was being carried out without any registration from SEBI. Thus, SWA/SWCL were sponsoring and/ or carrying out the activities of a mutual fund through the DGP scheme without necessary registration, and have thereby violated Section 12 (1B) of the SEBI Act. Similarly, SWA/SWCL were offering packages to investors, which involved giving advice on the trading on the stock exchanges and investing in the securities market. SWA/SWCL were offering these investment advisory services without being registered as an Investment Adviser with SEBI. Accordingly, SWA/SWCL have also violated Section 12(1) of SEBI Act read with Regulation 3(1) of the IA Regulations. Further, SWA and SWCL also fraudulently offered assured/ guaranteed returns to the investors on the basis of their published activities pertaining to the securities market. Accordingly, the Noticees have violated the provisions of Section 12A (a), (b), (c) of the SEBI Act and Regulations 3 (a), (b), (c), (d) and Regulations 4(1) and 4(2)(k) of PFUTP Regulations for making such misleading and deceptive representations. During the relevant period, when the above-mentioned activities were being undertaken, Pradip Shukla, Noticee No. 3 and Dhananjay Barad, Noticee No. 4 were partners in SWA, and as such are liable

for SWA's activities. Similarly, during the relevant period, when the above-mentioned activities were being undertaken, Pradip Shukla and Devesh Surendra Tiwari, Noticee No. 5 were partners in SWCL, and as such are liable for SWCL's activities.

6.2. With respect to the proposal of repayment submitted by SWA, it is seen that Shukul Showbiz Private Limited, which is a group entity of the Shukul Group, would take up the responsibility for making the bulk of the payment. It has further been submitted that Shukul Showbiz Private Limited would do the re-payment by monetising the movies that it has produced and which are yet to be released. Reference in this regard, is made to Table – 5 of this Order where the revenues anticipated from the release of these movies is cited as the basis for repayments. Since, the Noticees have collected large amounts from investors by fraudulently holding out as Investment Advisers as well as investment firms offering assured returns, they are legally liable to refund monies to the investors in a short time horizon. These liabilities cannot be predicated upon the fortunes of another business. I, therefore, do not find the proposal of repayment being linked to another business acceptable.

7. Directions –

7.1. I, in exercise of powers conferred upon me under sections 11(1), 11 (4), 11B and 11 D of the Securities and Exchange Board of India Act, 1992 and in the interest of investors do hereby pass the following directions: –

i. Shukul Wealth Advisory, Noticee No. 1; Shukul Wealth Creator LLP, Noticee No. 2 ; Pradip Shukla, Noticee No. 3; Dhananjay Barad, Noticee No. 4; and Devesh Tiwari, Noticee No. 5 are directed to cease and desist from sponsoring and/ or carrying out activities of a mutual fund, including the activity of representing through any media (physical or digital) schemes for collection of funds, directly or indirectly, and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any manner whatsoever.

ii. Noticee Nos. 1 to 5 are directed to cease and desist from holding themselves out as investment advisers, including the activity of acting and representing through any media (physical or digital) as an investment adviser, directly or indirectly, and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any matter whatsoever.

iii. Noticee Nos. 1 to 5 shall be restrained from accessing the Securities market, and further prohibited from buying, selling or otherwise dealing in securities,

directly or indirectly, and associating with the securities market in any manner, whatsoever, for a period of 4 years.

iv. Noticee Nos. 3 to 5 shall also be restrained for a period of 4 years from holding any position of Director or key managerial personnel in any listed company or any intermediary registered with SEBI, and during the said period shall be restrained from associating themselves with any listed public company or a public company which intends to raise money from the public or any intermediary registered with SEBI.

v. SWA (Noticee No.1), SWCL (Noticee No.2) and their Partners, namely Pradip Shukla (Noticee No. 3), Dhananjay Barad (Noticee No. 4), and Devesh Surendra Tiwari (Noticee No. 5) shall refund the money collected under various schemes to the investors, jointly and severally, to the tune of **INR 87,33,17,200** (outstanding dues as per the CA Report) along with an interest of 12 % from the date of receipt of funds from the investors, within a period of six months from the date of this Order.

vi. The Banks shall not allow debits from the bank accounts (joint or otherwise) of Noticee Nos. 1 to 5 except for the purposes of compliance with the direction at sub-paragraph (v) above. Credits however, if any, into the accounts of the aforementioned Noticees may be allowed.

vii. The Depositories shall not allow debits from the demat accounts (joint or otherwise) of Noticee Nos. 1 to 5 except for the purposes of compliance with the direction at sub-paragraph (v) above.

viii. Noticee Nos. 1, 2, 3, 4 and 5 are prevented from disposing of/alienating any of their properties or assets, except for the purposes of compliance with the direction at sub-paragraph (v) above, till the completion of refund to investors.

ix. Noticee No. 6 being the current designated partner in SWCL shall ensure that the direction at sub-paragraph (v) above is complied with.

x. SWA, SWCL and their Partners shall cause to effect a newspaper publication in one widely circulated newspaper, in English, Hindi and Gujarati each, inviting complaints/claims from any investor in respect of the schemes (carried on in the current name of the Noticee firm or in any other name it was previously known) that are still outstanding within a period of one month from the date of this Order. The newspaper publication shall also contain an advisory, informing the investor to forward a copy of such complaints/claims, with the superscription "*Complaints/Claims in the Matter of Shukul Wealth Advisory, Shukul Wealth Creator LLP and Money Founder Advisory*", to SEBI at the following address:

The Regional Director,

SEBI Western Regional Office, Panchvati, 1st Lane,

Gulbai Tekra Road,

Ahmedabad - 380006, Gujarat

email: sebiwro@sebi.gov.in

A period of one month from the date of the advertisement shall be provided to complainants for submitting any complaint as stated above. The Noticee firms and the aforesaid partners shall submit to SEBI a Compliance Report, supported by a certificate from a CA, along with information on pending/unresolved complaints and monies refunded, within a period of six months from the date of this Order.

xi. I hereby vacate the direction contained in the Interim Order cum SCN in respect of Sandeepkumar Manubhai Patel, Noticee No. 6 with immediate effect.

7.2. In case, Noticee Nos. 1 to 5 fail to repay as directed above, the direction of restraint/prohibition contained in paragraph nos. 7.1. (iii) and 7.1. (iv) shall stand extended up to the date of completion of refund to the investors.

7.3. This Order is without prejudice to any other action that SEBI may initiate.

7.4. The above directions shall come into force with immediate effect.

7.5. A copy of this Order shall be forwarded to :

i. all the recognised Stock Exchanges, registered Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions; and

ii. the Ministry of Corporate Affairs; Department of Finance, Government of Gujarat; and Registrar of Firms, Government of Gujarat for information.

Place: Mumbai **G. MAHALINGAM**

Date: August 13, 2021 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA