WTM/GM/EFD-I/DRA-II/75/2020–21

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 27(5) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008.

IN RESPECT OF –

NOTICEE	**RAJKUMAR C. BASANTANI** **MEMBER, NSE - SEBI REGISTRATION NO. - INB230649415** **PAN: AESPB2834F**

BACKGROUND –

1. Rajkumar C. Basantani ("**Noticee**") is a SEBI registered stock broker, having membership of National Stock Exchange (NSE). Shri Rajkumar C. Basantani is the proprietor of the Noticee.

2. Pursuant to proceedings under the SEBI Intermediaries Regulations, 2008 ("Intermediaries Regulations"), SEBI vide order dated August 29, 2012 in the matter of Soundcraft Industries Limited, had found the Noticee guilty of violation of the provisions of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 ("PFUTP Regulations" in short) and SEBI (Stock Brokers and Sub-brokers Regulations), 1992 ("Stock Brokers Regulations" in short) and

had suspended the certificate of registration of the Noticee for a period of 1 year from the date of coming into effect of the said order.

3. Subsequent to the abovementioned order, the Noticee's regulatory record was looked into. It was observed that vide SEBI order dated February 03, 2010, the Noticee's certificate of registration had been suspended on account of non-payment of outstanding SEBI registration fees and the same was to continue till the time the outstanding registration fees were fully paid. It was further noted that the Noticee owed a total of Rs.13,98,122/- to SEBI as registration fees as on June 02, 2015.

4. It was further noted that vide order dated December 15, 2010 passed in the matter of Kolar Biotech Limited, SEBI had debarred Shri Rajkumar C. Basantani (a director of Kolar Biotech Limited) from accessing the securities market and prohibit him from buying, selling or otherwise dealing in securities, directly or indirectly, till all the pending investor grievances against the said company were resolved and the same was reported and confirmed by SEBI. The said debarment continued to be in force.

5. It was also noted that SEBI had initiated prosecution proceedings against the Noticee for non-payment of penalty of Rs.53 Lakh imposed vide Adjudication Order dated October 28, 2005.

6. Apart from the above, it was noted that various other regulatory / enforcement actions had been taken by SEBI against the Noticee in the past, which included suspension of certificate of registration as trading member, debarment as an individual, imposition of monetary penalty in the capacity of proprietor and individual, prosecution proceedings for failure to pay the monetary penalty and recovery proceedings for recovering the amount of penalty due to be paid. A summary of the said regulatory actions, as per SEBI's Action Taken Report (ATR), is as under:

SEBI ATR (as on Dec 24, 2014)				
Sr. No.	**Date**	**Nature of Action**	**Details of Action**	**Individual/Proprietor**
1	Nov 07, 2001	Enquiry	Suspension for 6 months	Proprietor
2	Aug 22, 2002	Enquiry	Suspension for 6 months	Proprietor
3	Sep 16, 2002	Section 11B of the SEBI Act, 1992	Debarment for 3 years	Individual
4	Oct 28, 2005	Adjudication	Penalty of Rs. 53 lacs	Proprietor
5	Apr 28, 2006	Adjudication	Penalty of Rs. 5 lacs	Individual
6	Nov 28, 2008	Adjudication	Penalty of Rs. 15 crores	Individual
7	Dec 12, 2008	Enquiry	Suspension for 2 years	Proprietor
8	Dec 12, 2008	Section 11B of the SEBI Act	Suspension for 5 years	Individual
9	Oct 16, 2009	Section 11B of the SEBI Act, 1992	Debarment for 1 year	Individual and Proprietor
10	Feb 03, 2010	Enquiry	Suspension till registration fees are paid	Proprietor
11	Apr 29, 2010	Adjudication	Penalty of Rs. 1.35 crores	Individual
12	Aug 29, 2012	Enquiry	Suspension for 1 year	Proprietor

Prosecution Proceedings

Prosecution Database (as on Sep 30, 2014)			
Sr. No.	**Name of Defaulter**	**Amount of Penalty**	**Date of AO Order**
1	Rajkumar Basantani (Proprietor)	Rs. 53 lacs	Oct 28, 2005
2	Soundcraft Industries Ltd. (Director Rajkumar Basantani and others)	Rs. 10 lacs	Mar 31, 2006
3	Rajkumar Basantani (Individual)	Rs. 5 lacs	Apr 28, 2006
4	Rajkumar Basantani (Individual)	Rs. 1.35 Crore	Apr 29, 2010
5	Kolar Sharex Pvt Ltd. (Director Rajkumar Basantani)	Rs. 5 lacs	May 15, 2006
6	Soundcraft Industries Ltd. (Director Shri. Rajkumar Chainrai Basantani)	Rs. 5 lacs	Mar 30, 2007
7	Rajkumar Basantani (Individual)	Rs 15 crores	Nov 28,2008
8	Rajkumar Basantani, (Director of Kalbadevi Finance Ltd.	Rs. 1 lac	Nov 29, 2008

Recovery Proceedings

Recovery Proceedings (as on Jan 08, 2014)			
Sr. **Ho.**	Name of Defaulter	Amount of Penalty	Date of Recovery Certificate
1	Rajkumar Basantani (Individual)	15 crores	Jan 13, 2014
2	Rajkumar Basantani (Director of M/s. Kalbadevi Finance Ltd.)	1 lac	Jul 16, 2014

7. Further, vide emails dated December 24, 2014 and March 11, 2015, NSE *inter alia* had informed SEBI that in spite of multiple follow-ups by the exchange, the Noticee had not submitted the net worth certificate.

8. In view of the above observations, it was alleged that the Noticee had failed to comply with the fit and proper person criteria and had violated the conditions of grant of registration by failing to pay SEBI registration fees and not complying with the provisions of Code of Conduct prescribed for the stock brokers, thereby violating the provisions of Regulations 5(e), 9(d) and 9(f) of the Stock Brokers Regulations. Considering the same, SEBI initiated proceedings under the Intermediaries Regulations against the Noticee and appointed a Designated Authority (DA) to enquire into the aforesaid violations under Section 12(3) of the SEBI Act, 1992, read with Regulation 27(iv), (xv) and (xvii) of the Stock Brokers Regulations and Regulation 24(1) of the Intermediaries Regulations. The DA issued a show cause notice to the Noticee and upon a consideration of the facts before him, found the Noticee to be in violation of the abovementioned provisions of the Stock Brokers Regulations. Accordingly, the DA, vide his report dated February 28, 2019 (DA Report), submitted under Regulation 27 of the Intermediaries Regulations, recommended that the Noticee's certificate of registration as a stock broker be cancelled.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING –

9. Thereafter, a show cause notice dated March 12, 2019 ("post-enquiry SCN") was issued to the Noticee, enclosing therewith a copy of the DA Report, calling upon the Noticee to show cause as to why action as recommended by the DA or any other penalty should not be imposed on it in terms of Regulation 28(1) and (2) of the Intermediaries Regulations, as deemed fit by the Competent Authority.

10. The SCN sent to the Noticee returned undelivered. Thereafter, a copy of the SCN was uploaded on the SEBI website under the section – "Unserved Summons / Notices that could not be served". Further, a notice regarding the SCN was also published in newspapers on August 10, 2020. The said notice in the newspapers also contained an intimation about a personal hearing in the matter which was scheduled on September 23, 2020. However, even after the publication of the notice in newspapers, no response was received from the Noticee. Considering these facts and circumstances, I am constrained to proceed in the matter ex-parte, entirely on the basis of material available on record.

CONSIDERATION AND FINDINGS –

11. I have examined the facts of the case and the charges against the Noticee. I note that that since the Noticee is alleged to have violated Regulations 5(e), 9 (d) and 9(f) of the

Stock Brokers Regulations, it is imperative to have a look at those provisions. The same are quoted below:

> *"Consideration of application for grant of registration.*
>
> *5. The Board shall take into account for considering the grant of a certificate, all matters relating to trading, settling or dealing in securities and in particular the following, namely, whether the applicant,-*
>
> *……*
>
> *(e) is a fit and proper person based on the criteria specified in Schedule II of the Securities and*
>
> *Exchange Board of India (Intermediaries) Regulations, 2008;*
>
> ***……***
>
> ***Conditions of registration.***
>
> ***9.*** *Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-*
>
> *(a) … …*
>
> *(b) … …*
>
> *(c) … …*
>
> *(d) he shall pay fees charged by the Board in the manner provided in these regulations;*
>
> *(e) … … …*
>
> *(f) he shall at all times abide by the Code of Conduct as specified in Schedule II; and*
>
> *(g) … … …."*

12. I note that Regulation 5(e) of the Stock Brokers Regulations provides that SEBI shall take into account for considering the grant of a certificate, all matters relating to trading, settling or dealing in securities and in particular whether the applicant is a fit and proper person based on the criteria specified in Schedule II of the Intermediaries Regulations. In this regard, I note that the fit and proper person

requirements have to be met on a continuous basis, since compliance with the same is mentioned as one of the conditions for grant of registration under sub-regulation (e) of Regulation 5 of the Stock Brokers Regulations.

13. The provisions of Schedule II of the Intermediaries Regulations provide the criteria for determining a 'fit and proper person'. The same are quoted as under:

> ***"Schedule II of the Intermediaries Regulations***
>
> ***Criteria for determining a 'fit and proper person'***
>
> *For the purpose of determining as to whether an applicant or the intermediary is a 'fit and proper person' the Board may take account of any consideration as it deems fit, including but not limited to the following criteria in relation to the applicant or the intermediary, the principal officer, the director, the promoter and the key management persons by whatever name called –*
>
> *(a) integrity, reputation and character;*
>
> *(b) absence of convictions and restraint orders;*
>
> *(c) competence including financial solvency and networth;*
>
> *(d) absence of categorization as a wilful defaulter."*

14. From the above, I note that integrity, reputation and character, absence of convictions and restraint orders and competence including financial solvency and networth are some of the factors which are specifically mentioned to be taken into account while determining whether an entity qualifies to be fit and proper person or not. In this regard, I note from the DA Report that the following regulatory / enforcement actions have been taken against the Noticee by SEBI in the past:

Adjudication, Enquiry and 11B proceedings

S. NO.	Date of Action	Nature of action	Details of action
1.	November 07, 2001	Enquiry	Suspension for 6 months
2.	August 22, 2002	Enquiry	Suspension for 6 months
3.	December 12, 2008	Enquiry	Suspension for 2 years
4.	February 03, 2010	Enquiry	Suspension till payment of outstanding registration fees
5.	August 29, 2012	Enquiry	Suspension for 1 year
6.	October 28, 2005	Adjudication	Penalty of Rs. 53 Lakhs
7.	April 28, 2006	Adjudication	Penalty of Rs. 5 Lakhs
8.	November 28, 2008	Adjudication	Penalty of Rs. 15 Crores
9.	April 29, 2010	Adjudication	Penalty of Rs. 1.35 Crores
10.	September 16, 2002	Section 11B of the SEBI Act, 1992	Debarment for 3 years (period of debarment revised to 6 months by the Hon'ble SAT vide order dated 21.05.2004

11.	December 12, 2008	Section 11B of the SEBI Act, 1992	Suspension for 5 years
12.	October 16, 2009	Section 11B of the SEBI Act, 1992	Debarment for 1 year

Prosecution proceedings

Sr No	Nature of Violation	Name of the case	Action under Section	Amount of penalty	Date of AO order
1.	PFUTP, SAST	Adam Comsof Ltd & 19 others (SEBI Spl case- 259/2015)	Sec 24(1) of SEBI Act	……	NA
2.	Sec 24(1) of SEBI Act	M/s Kolar Biotech Ltd. & 34 Others (SEBI Spl Case- 61/2016)	Sec 24(1) of SEBI Act	……	NA
3.	Non Payment of Penalty_24(2) of SEBI Act	Kolar Sharex Pvt. Ltd. & Rajkumar Basantani (SEBI Spl Case- 317/2014)	24(2) of SEBI Act	Rs. 5,00,000/-	May 16, 2006
4.	PFUTP, SAST, Insider Trading	Rajkumar Basantani (SEBI Spl Case- 266/2014)	Sec 24(1) of SEBI Act	……	NA

5.	24(2) of SEBI Act	Sound Craft Industries Ltd. And 1 another (SEBI Spl case-190/2015)	24(2) of SEBI Act	Rs. 5,00,000/-	March 30, 2007
6.	24(2) of SEBI Act	Soundcraft Industries Ltd. And 4 others (SEBI Spl Case-313/2014)	24(2) of SEBI Act	Rs. 1,00,00,000/-	March 31, 2006
7.	24(2) of SEBI Act	Rajkumar Basantani and 1 another (SEBI Spl case-316/2014)	24(2) of SEBI Act	Rs. 5,00,000/-	April 28, 2006

Recovery proceedings

Name of the Defaulter	In the matter of	Date of Issue	AO order No.	Penalty / Fee	Date of order
Rajkumar C Basantani	Kolar Biotech Limited	13/01/2014	DSR/AO-32/2008	150000000	November 28, 2008
Mr. Rajkumar C Basantani	Adam Comsof Ltd.	11/07/2014	IVD-ID-3/ACL/RB/AO/DRK/AS/EAD-3/139/09-42/2010	13500000	April 29, 2010
Rajkumar Basantani (Director of M/s Kalbadevi Finance Ltd.)	Kolar Biotech Limited	16/07/2014	DSR/AO-33/2008	100000	November 28, 2008
Rajkumar C Basantani	Soundcraft Industried Ltd	24/02/2015	NIL	500000	April 28, 2006
Rajkumar C Basantani	Fees payable to SEBI	26/06/2015	Not applicable	4,00,496	April 1, 2015

15. The abovementioned enforcement actions spanning over many years, taken against the Noticee in his capacity as a stock broker, as an individual and as a director of various companies, include suspension of certificate of registration, imposition of monetary penalty and initiation of prosecution and recovery proceedings for unpaid dues. I note that these adverse actions pertain to various violations committed by the Noticee which include serious violations involving fraud, manipulation and unfair trade practices. These enforcement actions indicate that the Noticee's integrity, reputation and character is severely compromised and hence the Noticee lacks credibility which a registered intermediary is expected to possess. Further, the numerous restraint / debarment orders passed against the Noticee have clearly undermined the Noticee's eligibility to be considered a fit and proper person and continue as a registered intermediary. In this regard, I also note that vide SEBI order dated February 03, 2010, the Noticee's certificate of registration was suspended for non-payment of registration fees to SEBI and the same was to continue till payment of outstanding registration fees was fully paid. Further, vide SEBI order dated December 15, 2010, the Noticee, a director of Kolar Biotech Limited, was debarred from the securities market till all the pending investor grievances against the said company were resolved and the same was reported and confirmed by SEBI. I note that the debarment directions issued against the Noticee vide the abovementioned two orders continue to remain in force. It is further noted from records that the

Noticee owed a total of Rs.13,88,081/- to SEBI as registration fees as on 01/04/2015 and recovery proceedings in respect of the same have already been initiated against the Noticee. Further, the non-payment of monetary penalties imposed by the Adjudicating Officer and non-submission of networth certificate to NSE by the Noticee clearly call into question the competence and financial insolvency of the Noticee. Considering all the above observations, I find that the Noticee grossly fails to meet the criteria for being a fit and proper person and thus is non-compliant with the provisions of Regulation 5(e) of the Stock Brokers Regulations. Further, by not paying the SEBI registration fees and the monetary penalties imposed by the Adjudicating Officer, as mentioned above, the Noticee has violated the provisions of Regulation 9(d) and 9(f) of the Stock Brokers Regulations read with Clauses A(1) and (5) of the Code of Conduct specified for the stock brokers in Schedule II of the Stock Brokers Regulations. I note that the abovementioned violations are covered under Regulations 27 (iv), (xv) & (xvii) of the Stock Brokers Regulations which make the Noticee liable for action as specified under Chapter V of the Intermediaries Regulations. Considering all these above, I find that the Noticee is not fit to continue as a registered intermediary of SEBI and its continuation as such is detrimental to the securities market and the interest of the investors at large. Having concluded as above, I am in total agreement with the recommendation of the DA that the certificate of registration of the Noticee be cancelled.

16. I note that Regulation 28 of the Intermediaries Regulations has been omitted by the SEBI (Intermediaries) (Amendment) Regulations, 2021 with effect from January 21, 2021. Simultaneously, the provisions of Regulation 27 of the Intermediaries Regulations have been amended and passing of an appropriate order by the Designated Member is now provided under the provisions of Regulation 27(5) of the Intermediaries Regulations.

ORDER –

17. In view of the above, I, in exercise of powers conferred on me under Section 12 (3) read with Section 19 of the SEBI Act, 1992 and Regulation 27 (5) of the Intermediaries Regulations, and upon consideration of the facts and circumstances as above, hereby cancel the certificate of registration of Rajkumar C. Basantani, bearing no. INB230649415, as a stock broker.

Place: MUMBAI **G. MAHALINGAM**

Date: FEBRUARY 18, 2021 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA