BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. EAD-8/ORDER/KS/VB/2018-19/214]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

In respect of

Ventura Securities Ltd
SEBI REGN No – INB010760438/INB230760432

In the matter of Prakash Varma

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had conducted an inspection of the books of accounts and other records of Shri Prakash Varma with Trade Name-Prakash Varma, Sub-broker affiliated to M/s Ventura Securities Ltd (hereinafter referred to as '**VSL / Noticee'**) to examine its compliance with various regulatory norms prescribed by SEBI. The period covered under inspection was from April 1, 2013 to March 31, 2014.

2. Based on the findings of the inspection, SEBI initiated adjudication proceedings against the Noticee for the violation of the provisions of

   - SEBI circular No. SMDRP/POLICY/Cir-49/2001 dated October 22, 2001 and Clause A (2) of the code of conduct for Stock brokers as stipulated in schedule II read with Regulation 9(f) of the SEBI(Stock Brokers and Sub Brokers) Regulations, 1992 (hereinafter referred to as 'Stock Broker Regulations') and Regulation 26 (xv) (xvi) (xix), (xx) of Stock Broker Regulations.

- NSE Circular no. NSE/MEM/3445 dated June 19, 2002; NSE Circular NSE/MA/22732 dated February 13, 2013; SEBI Circulars no. MIRSD/DR-I/Cir-16/09 dated November 06, 2009; SEBI/Cir/MIRSD/AP/8/2010 dated July 23, 2010; Regulation 16C (2) of Stock Brokers Regulations.
- Clause A(1), A(2) and A(5) of the code of conduct for stock brokers as stipulated in schedule II read with Regulation 9(f) of the Stock Brokers Regulations
- Regulation 26 (xv) (xvi) (xix), (xx) of Stock Brokers Regulations

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI appointed Shri Prasad Jagdale as the Adjudicating Officer to inquire into and adjudge under Section 15HB of the SEBI Act, 1992 (hereinafter referred to as '**SEBI Act**'), the aforesaid violations alleged to have been committed by the Noticee. Pursuant to the transfer of Shri Prasad Jagdale, Shri Suresh Gupta was appointed as Adjudicating Officer and thereafter, vide appointment order dated May 18,2017, the proceedings were transferred to undersigned which was intimated vide communiqué dated July 06, 2017.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A Show Cause Notice (hereinafter referred to as '**SCN**') dated August 01, 2017 was issued to the Noticee under Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**) communicating the alleged violations. The Noticee was also called upon to show cause as to why an inquiry should not be initiated against it in terms of Rule 4 of the above said Adjudication Rules and why penalty, if any, should not be imposed on it in terms of the provisions of Section 15HB of the SEBI Act.

5. The details in respect of violation/ non-compliance by the Noticee are as given below:

a) It was observed that Prakash Varma obtained trading terminals (BSE-Cash) with the persons mentioned in table below as users who were not working with Prakash Varma and the said terminals were operated by the other employees of Prakash Varma. The details are as mentioned at table below:

S. No	**Name of the user**	**Terminal No.(Location id)**	**Status of the employee**	**Executed trades using the Trading terminal**	
				From	To
1.	Sudha Ravi Sharma	4400100051012088	Sudha Ravi Sharma was working with Prakash Varma till August, 2014	13/07/2012	Till the date of inspection i.e. 14/11/2014 and continued further
2.	Subhash V Datta	4400100051011088	Subhash V Datta is working with Noticee since 2012	10/01/2014	Till the date of inspection i.e. 14/11/2014 and continued further
3.	Bhakti Prakash Varma	4400100555006088	Ms. Bhakti Prakash Varma is the daughter of Prakash Varma and was studying in United States of America	25/07/2014	Till the date of inspection i.e. 14/11/2014 and continued further

b) In view of the above, it was alleged that the Noticee has failed to exercise due care, skill and diligence as required in the conduct of its business as a Stock Broker and has therefore not complied with the provisions of Clauses A (1) and A (2) of the Code of Conduct prescribed for Stock Brokers contained in Schedule II read with Regulation 9(f) and 26 (xv) (xvi) (xix), (xx) of the Stock Brokers Regulations.

c) It was alleged that Prakash Varma who was affiliated to Noticee, had extended its trading terminals to places other than the Sub-Broker's Office. The details of the terminal extended to places other than the Sub-Broker's Office are given below

S. No.	Name of the user	Terminal No. (Location id)	Executed trades using the Trading terminal	
			From	To
1.	Neelima Kulkarni, Jabalpur, Madhya Pradesh	4820010769001088	29/05/2012	26/8/2013
2.	Kailas Nanhai, Buldhana,	4430010309001088	12/2/2008	3/10/2011
3.	Sameena Ibrahim Shaik, Kamptee	4410020640001088	11/11/2010	22/7/2011
4.	Niraj Kobraghade, Rajura	4429050631002088	4/7/2011	3/10/2011

S. No.	Name of the user	Terminal No. (Location id)	Executed trades using the Trading terminal	
			From	To
5.	Santosh Biranwar, Tumsar	4419120121121099	1/8/2008	1/8/2008
6.	Ganesh Shrirang, Rajura	4429050631001088	1/11/2010	18/12/2013
7.	Nitin Nilkant Raut, Wardha	4420010630001088	1/11/2010	3/10/2011
8.	Mohammad Kunhi, Butibori	4411080550001088	6/11/2009	14/8/2014
9.	Dilip Dhake, Buldhana	4434040833001088	31/3/2014	18/11/2014

d) It was observed from records that Prakash Varma has submitted that the aforementioned locations are his branch offices.Thereafter, vide email dated January 20, 2015 Prakash Varma was advised to furnish the documentary evidence like

1) rental agreement(s) entered with the owner of the premises while opening his branch offices,

2) agreement with the user of the trading terminal,

3) list of clients mapped with the branch offices,

4) modus operandi of operating branch offices,

5) turnover of the users,

6) details of the payments made to his employees at the branch offices.

It was noted that Prakash Varma vide email dated January 27, 2015 submitted that he was having some difficulty in tracing records and sought four days time to submit the documentary proof(s), however, the same were not furnished. Thus, it was alleged that Prakash Varma obtained the aforementioned trading terminals from Noticee and extended to places other than the Sub-Broker's Office.

e) In view of the above, it was alleged that Noticee has violated SEBI Circular No. SMDRP/POLICY/CIR-49/2001 dated October 22, 2001 and Clauses A(2) of the Code of conduct for sub brokers as stipulated in schedule II read with Regulation 9(f) of the Stock Brokers Regulations.

f) It was alleged that Prakash Varma who was affiliated to the Noticee had obtained F&O trading terminal from NSE in the name of Ms. Sudha Ravi Sharma The details of the terminal are :

Name of the user	Terminal No.	Date of resignation of the user
Sudha Ravi Sharma	440010227006	31/08/2014

During the course of inspection, it was observed that Ms.Sudha Ravi Sharma was in employment only till August, 2014. However, the said F&O trading terminal is being used by employees of Prakash Varma without certification as mandated to execute trades in derivatives segment from September 01, 2014 to December 21, 2014

g) In view of the above, it was alleged that the Noticee has violated the provisions of NSE Circular no. NSE/MEM/3445 dated June 19, 2002, NSE/MA/22732 circular dated February 13, 2013, SEBI Circular no. MIRSD/DR-1/Cir-16/09 dated November 06,2009, SEBI/Cir/MIRSD/AP/8/2010 dated July 23, 2010, Regulation 16C (2) of Stock Broker Regulations and Clauses A(1), A (2) and A(5) of the Code of conduct for Stock Brokers as stipulated in schedule II read with Regulation 9(f) of the Stock Brokers Regulations by granting F&O trading terminal in the name of Sudha Ravi Sharma and allowed other employees / staff to execute trades in F&O segment without mandated certification.

h) It was alleged that Prakash Varma, who was affiliated to Noticee has obtained registration as a Sub-Broker with the address 23 Middle Ring Road, Vardman Nagar, Nagpur - 400008. During the course of the inspection, it was observed that Noticee has shifted to 302, Gomti Apartment, Law College Square, WHC Road, Dharmpet, Nagpur and also to the present address i.e Plot-17,Dandige Layout, Shankar Nagar, Nagpur – 440010. However, the change of address has not been intimated to SEBI till the date of Inspection. Therefore, It is alleged that Noticee has not complied with Clause A(1), A(2), of the code of conduct for sub-Brokers as stipulated in schedule II read with Regulation 15(1)(b)and Regulation 26 (xv) (xvi),(xix), (xx) of the Stock Brokers Regulations.

6. The SCN issued to the Noticee was sent via Registered Post Acknowledgement Due ('RPAD') and digitally signed email. The Noticee vide letter dated August 21, 2017 sought three weeks' time to submit reply. In the interest of natural justice, Vide letter dated August 23, 2017, the Noticee was advised to submit reply before September 11, 2017 and was granted an opportunity of personal hearing on September 18, 2017. It is noted that Noticee vide letter dated September 04, 2017 sought an extension till

first week of October for attending the personal hearing. Accordingly, vide letter dated September 06, 2017 Noticee was granted an opportunity of personal hearing on October 05, 2017. The Authorised Representative of noticee vide email dated October 03,2017 sought an extension till October 11,2017.accordingly, vide Email dated October 03,2017 the Noticee was granted an opportunity of personal hearing on October 11,2017 The Noticee vide its letter dated October 09, 2017 has submitted its reply in the matter. The Noticee in its reply *inter alia* submitted the following:

With regard to the allegation that Prakash Varma obtained trading terminals (BSE- Cash) from us on behalf of Sudha Ravi Sharma, Subhash V Datta and Bhakti Prakash Varma who were not working with Prakash Varma and the said terminals were operated by other employees of Prakash Varma, following be noted:

(a) At the outset, it is submitted that Subahash V Datta was never an employee of Prakash Varma. The observation that Prakash Varma obtained trading terminal from us in the name of Subahash V Datta is incorrect and contrary to the factual position. It is submitted that Subahash V Datta is working with us since 2012 and was never an employee of Prakash Varma.

(b) It is submitted that at all points of time, the said terminal was operated by us. It was installed at our office premise and the said office premise was shared by us and Prakash Varma. During the relevant time some of the trades were executed by Subahash V Datta on behalf of Prakash Varma through the said terminal. In view of the aforesaid, no adverse inference can be drawn.

(c) In so far as terminal used by Sudha Ravi Sharma & Bhakti Prakash Varma is concerned, it is submitted that at the relevant point of time i.e. when the

application was made to obtain trading terminal, it was informed to us by the sub-broker that Sudha Ravi Sharma & Bhakti Prakash Varma were his employees and were holding requisite NISM certificate. However, we were not aware that the said employees had resigned from their job thereafter.

(d) It is submitted that we were not aware that the said terminals were operated by other employees of Prakash Varma till receipt of the SEBI letter dated February 20, 2015 along with the copy of the findings of the Inspection.

(e) Here it may be appreciated that as a Broker, it is not practically possible for us to ensure that the said terminals are operated by the same persons in whose name the trading terminal is allotted. It is submitted that even post resignation of Sudha Ravi Sharma & Bhakti Prakash Varma, the said terminals were used by the employees of Prakash Varma and not by any unauthorised person. Further, immediately post inspection both the terminals were deactivated by Prakash Varma.

(f) It is submitted that at all points of time the said terminals were used by Prakash Varma for trading on behalf of his clients and it is nobody's case that the terminals were used wrongfully or for a fraudulent purpose in the securities market . Admittedly ,there are no allegations pertaining to violation of fraudulent and manipulative practices .

(g) That post receipt of the SEBI letter dated February 20, 2015 we have ensured that all the terminals are operated by Sub Brokers employees only. Therefore, in view of the aforesaid it is denied that we have failed to exercise due care, skill and diligence as required in the conduct of our business as a Stock Broker and violated with the provisions of Clause A (1) & A(2) of Code of Conduct for Stock Brokers contained in Schedule II read with Regulation 9(f) and 26 (xv) (xvi) (xix), (xx) of the Stock Brokers Regulations.

With regard to the allegation that Prakash Varma, who was affiliated to us, had extended his trading terminals to places other than Sub-Brokers office following be noted:

(a) It is submitted that when Prakash Varma made application to obtain trading terminals we were informed that the places where Prakash Varma extended his terminals were his branch offices.

(b) Here it may be appreciated that Prakash Varma has been associated with us, as a SEBI registered sub-broker for more than seventeen years and till date we have not received any complaint against him from any client. In any event there was nothing to suspect that the said office premises were not his branch offices.

(c) Further, there is no allegation that the said terminals were mis-uti!ised for unregistered sub-broking activities. It may be noted that there is not even a single complaint from any of the clients who were trading through the said terminals.

(d) Significantly, it may be noted that as on date said branches are already been discontinued by the said Sub- broker.

(e) Therefore, in view of the aforesaid it is denied that we have violated SEBI Circular No. SMDRP/POLICY/CIR-49/2001 dated October 22, 2001 and Clause A (2) of the Code of Conduct for stock brokers read with Regulation 9 (f) of the Stock Brokers Regulation.

With regard to the allegation that the F & 0 trading terminal obtained by Prakash Varma from NSE in the name of Ms. Sudha Ravi Sharma was operated and trades executed by employees of the sub broker without certification as mandated from September 01, 2014 to December 21, 2014, following be noted:

(a) As stated herein before, we were not aware that Sudha sharma had resigned on August 31, 2014. Further, as a Broker, it is not practically possible for us to ensure that the said terminals are operated by the same persons in whose name the trading terminal is allotted.

(b) On August 14, 2012, Prakash Varma obtained F & 0 trading terminal from NSE, in the name of Sudha sharma. During the relevant time she was holding NISM certificate (SEBI approved certificate) which was valid till July 05, 2015 and the same was scrutinised by us. Therefore, as a trading member we were fully in compliant with the NSE and SEBI Circulars.

(c) Here it may be appreciated that the said terminal was operated by Prakash Varma himself to assist his clients who were holding position in F & 0 and to avoid the risk on their existing open positions. Further, he had carried out operation in the said trading terminal oniy for a shoit period i.e. from September 01, 2014 to December 21, 2014. Also during the said Prakash Varma did CPE training and obtained NISM certificate on December 21, 2014.

(d) Further, there is no allegation that the said terminals were mis-utilised for unregistered sub-broking activities. There is not even a single complaint from any of the clients who were trading through the said terminal.

(e) In view of the aforesaid it is denied that we have violated the provisions of NSE Circular no. NSE/MEM/3445 dated June 19, 2002; NSE Circular NSE/MA/22732 dated February 13, 2013; SEBI circular No. MIRD/DR- I/Cir-16/09 DATED November 06, 2.009; SEBI circular No. SEBI/Cir/MIRSD/AP/8/2010 dated July 23, 2010; Regulation 16C (2) of Stock Brokers Regulations and Clause A(l), A(2) & A(5) of the code of conduct for stock brokers as stipulated in schedule II read with

Regulation 9(f) of the Stock Brokers Regulations by granting F&O trading terminal in the name of Sudha Ravi Sharma and allowed his employees/staff to execute trades in F&O segment without mandated certification.

With regard to the allegation that the change of address has not been intimated to SEBI till the date of Inspection, it is submitted that we were not aware of the change of address of Prakash Varma till receipt of the SEBI letter dated February 20, 2015 along with the copy of the findings of the Inspection. However, after being pointed out by the inspecting officials, we immediately took the corrective measure and rectified the same by intimating the Board about change of address of the said sub-broker. Further, to ensure that such instances do not occur in future and to streamline terminal allotment and monitoring process, we have adopted process of seeking confirmation about terminals from our sub- broker/authorized persons on quarterly basis and notify changes to Exchanges/ SEBI accordingly. Therefore, it is denied that we have not complied with code of conduct for Stock Brokers as stipulated in schedule II read with Regulation 9 (f) of the Stock Brokers Regulation as alleged.

It is submitted that, even in the past for the similar procedural/technical violations, regulators and exchanges had merely issued warning to the brokers. In this context I invite your attention to the following Orders passed by SEBI, wherein similar procedural/technical violations were condoned by SEBI and it had issued simple warning to the brokers, as stated in Order passed by Hon'ble Securities Appellate Tribunal in the matter of Chona Financial Services Pvt Ltd vs SEBI (Appeal No 95 of 2003).

(a) *M/s. Bakliwala Investment Irregularities*

- *Provision for Tax for the interim period from April 1 to September 30, 2000 not made.Confirmations have not been obtained from Banks, Creditors and debtors by the broker.*
- *Broker had not time stamped the order slip/records.*
- *Contract notes not serially numbered except for computer generated numbers on day-to-day basis which have no control*
- *Contract notes not issued within the specified time.*
- *Consolidated stamp duty not paid.*
- *Client Registration forms were not completed.*

- *Order book was not maintained.*
- *Delay in payment of funds*
- *Delay in delivery of securities*
- *One client account being adjusted against another client without any authorization*
- *Transactions with associate firms/companies separate set of ledger accounts as clients and others not maintained.*
- *Compliant register not maintained.*
- *Client accounts were used for other purposes.*
- *Margin money not collected.*
- *In 10 cases, deals were done outside the NEAT System.*

Order

- *Irregularities are basically technical lapses and do not deserve substantive punishment.*
- *Minor Penalty - Warning*

b) *M/s. J.M. Morgan Stanley Retail Services Pvt. Ltd. Irregularities*

- *Failure to obtain client registration forms and agreement*
- *Failed to maintain separate client account.*

Order

Warning

c) *M/s. Bama Securities Irregularities*

- *Contract notes were missing*
- *Acknowledgement from the clients not obtained*
- *Not maintaining client registration forms*

Order

Warning

d} *M/s. Ratanbali Capital Markets Ltd. Irregularities*

- *Non-maintenance of books of accounts*
- *Contract notes*

- *Non-collection of margins from clients*
- *Misuse of client's funds*
- *Share lending/borrowing*
- *Non-segregation of clients accounts with own account and for not reporting off-the-floor transactions to Stock Exchange*

Order

Warning

e) *M/s. Twenty First Century Shares & Securities Ltd. Irregularities*

- *Non-maintenance of books of accounts.*
- *Delay in payment to clients.*
- *Misuse of client's funds*
- *Non-segregation of clients accounts with own account and for not reporting off-the floor transactions to Stock Exchange.*
- *Booking payment in different clients account.*
- *Loan against shares of holding company and loan transaction clients account.*

Order

Warning

f) *M/s. Sanjay* ***C.*** *Bakshi Irregularities*

- *Not maintaining margin registers*
- *Dealing with unregistered sub-brokers*
- *Not entering into agreement with few clients*
- *Non-segregation of clients funds with own funds*
- *Dealing with broker of other Stock exchange without getting registered as a sub-broker*
- *Irregularities in respect of contract notes*
- *Delay in payment/delivery of funds/shares to clients*

Order

Warning

g) *M/s. Mahesh Kothari Share & Stock Brokers Pvt. Ltd. Irregularities*

- *Non-maintenance of books of accounts*
- *Dealing with unregistered sub-brokers*
- *Irregularities in issuance of contract notes Non-segregation of clients account with own account, misuse of client's fund*
- *Delay on delivery of securities and not reporting off the floor transactions*

Order

Warning

h) M/s. Mukesh Sawhany Irregularities

- *Non-maintenance of document registers.*
- *Irregularities in issuance of contract notes.*
- *Non-maintenance of separate client account.*
- *Non-segregation of separate client account with own account.*
- *Not reporting off the floor transactions.*
- *Non redressal of investor complaints*

Order

Warning.

11. In this context I also invite your attention to the following observations of Hon'ble Securities Appellate Tribunal in its Order dated 16.6.2011 in the matter of Religare Securities Ltd vs SEBI :

> *"It must be remembered that the purpose of carrying out inspection is .not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy/ irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant ....."*

Order dated July 25, 2011 in the matter of UPSE Securities Ltd. v/s SEBI

"the object of carrying out inspection of the books of accounts and records of any intermediary including a stock exchange or its subsidiaries is to ensure compliance with the provisions of the Act, Rules, Regulations, By-laws and circulars issued from time to time which are meant to regulate the securities market. Every little irregularity/deficiency noticed during the course of the inspection is not culpable and does not call for initiation of penalty proceedings. The purpose of inspection in quite a few cases could be better achieved if the inspecting team at the time of the inspection were to advise the erring entity..."

12. In this context I also invite your attention to the following observations of SEBI Order dated 16.06.2017 in the matter of Inspection of Indiabulls Mutual Fund passed by the Adjudicating Officer, SEBI:

"Though there has been a procedural lapse on part of Indiabulls of not taking approval of trustee and not publishing addendum for declaring the dividend on 4 instances, I do not find from the inspection report that it is a repetitive irregularity on part of the noticees. Further the observations made in inspection report are procedural in nature and corrective measures are taken by Noticees on- being pointed out by the inspection team. No observations are made in inspection report as to whether investors' interests have adversely affected on account of procedural lapse on the part of Noticees."

7. Shri Vinay Chauhan, Advocate, Corporate Law Chambers along with Shri Dwarika Prasad Singh, Compliance officer of Noticee appeared as the Authorized Representative ('AR') on behalf of the Noticee in the hearing on October 11, 2017. During the course of hearing, ARs reiterated the submissions made in the reply dated October 09, 2017.In the meanwhile, it is noted from the records that Noticee had vide letter dated October 12, 2017 filed a settlement application with SEBI. However the concerned department of SEBI duly informed that the said settlement application has been rejected vide letter dated November 05, 2018.

CONSIDERATION OF ISSUES AND FINDINGS

8. I have carefully perused the documents available on record. The issues that arise for consideration in the present case are :

   (a) Whether the Noticee has violated the provisions of SEBI circular No. SMDRP/POLICY/Cir-49/2001 dated October 22, 2001 NSE Circular no.

NSE/MEM/3445 dated June 19, 2002; NSE Circular NSE/MA/22732 dated February 13, 2013; SEBI Circulars no. MIRSD/DR-I/Cir-16/09 dated November 06, 2009; SEBI/Cir/MIRSD/AP/8/2010 dated July 23, 2010; Regulation 16C (2) of Stock Brokers Regulations, Clause A(1), A(2) and A(5) of the code of conduct for Stock brokers as stipulated in schedule II read with Regulation 9(f) of the 'Stock Broker Regulations and Regulation 26 (xv) (xvi) (xix), (xx) of Stock Broker Regulations.

(b) Do the violations, if any, attract monetary penalty under Section 15HB of the SEBI Act?

(c) If yes, what should be the quantum of penalty?

9. Before proceeding further, I would like to refer to the relevant provisions of the Brokers Regulations:

Stock Brokers Regulations

Conditions of registration.

9. Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-

…

(f) he shall at all times abide by the Code of Conduct as specified in Schedule II;

Code of conduct for Stock Brokers

A. General.

(1) Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all investment business.

(2) Exercise of due skill and care: A stock-broker, shall act with due skill, care and diligence in the conduct of all investment business.

(5) Compliance with statutory requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him.

Consideration of Application*.*

……

16C(2) An applicant who desires to act as a trading member, in addition to complying with the requirements of sub-regulation (1), shall have a net-worth as may be specified by the derivative exchange or segment from time to time and the approved user and sales personnel of the trading member have passed a certification programme approved by the Board;

Liability for monetary penalty

26. *A stock broker or a sub-broker shall be liable for monetary penalty in respect of the following violations, namely—*

…

(xv)Failure to comply with directions issued by the Board under the Act or the regulations framed thereunder.

(xvi) Failure to exercise due skill, care and diligence.

(xix) Extending use of trading terminal to any unauthorized person or place

(xx) Violations for which no separate penalty has been provided under these regulations

SEBI Circular dated October 22, 2001

Grant of trading terminals

"……..Exchanges are advised to grant trading terminals only at the members' registered office, branch offices and their registered sub-brokers' offices. Trading terminals granted earlier in places other than mentioned above should be withdrawn immediately….."

10. I find from the records that the Noticee is a stock broker registered with the BSE and NSE. During the course of inspection of Prakash Varma, Sub-broker affiliated to Noticee, the SEBI inspection team had observed Prakash Varma had trading terminals (BSE-Cash) with the persons who were not working with Prakash Varma as users and

the said terminals were operated by the other employees of Prakash Varma. The Noticee in its reply dated October 09, 2017 has submitted that Subash V Datta has been working with Noticee since 2012 and was never an employee of Prakash Varma. The said terminal was installed at their office premise and the said office premise was shared with Prakash Varma. Thus, the benefit of doubt is granted to the Noticee to that extent. With respect to trading terminal pertaining to Ms. Sudha Ravi Sharma and Bhakti Prakash Varma, the Noticee has submitted that Sudha Ravi Sharma & Bhakti Prakash Varma were employees of Prakash Varma and were holding requisite NISM certificate at the time of application to obtain trading terminal but they were not aware that the said employees had resigned from their job. I find that such response from Noticee only prove that the Noticee lacked control and failed to take due care on activities of its sub-broker. Further, I note that Prakash Varma in its reply dated October 09, 2018 in a separate proceedings before me has admitted that IDs for trading terminal pertaining to Ms. Sudha Ravi Sharma and Bhakti Prakash Varma were not deactivated due to oversight and it has taken corrective measure to de-activate the said IDs. In this regard, I find on perusal of Model Stock Broker and Sub-Broker Agreement that stock broker is authorized to establish additional internal controls including power to scrutinize sub broker related documents etc., at any time during the period of the agreement in force and since the Noticee failed to prevent operation of trading terminal by the other employees of Prakash Varma who are not authorise users, I find that the Noticee has admittedly failed to exercise due care, skill and diligence as required in the conduct of business as a Stock Broker and not complied with the provisions of Clauses A (1) and A (2) of the Code of Conduct prescribed for Stock Brokers contained in Schedule II read with Regulation 9(f) of the Stock Brokers Regulations.

11. The next allegation in the SCN was that Prakash Varma, who was affiliated to Noticee had extended its trading terminals to places other than the Sub-Broker's Office. The

Noticee in its reply submitted that pursuant to application made by Prakash Varma to obtain trading terminals, it was informed that the places where Prakash Varma extended his terminals were his branch offices. It is observed from the records that the concerned department of SEBI had advised Prakash Varma to furnish the documentary evidence like rental agreement(s) entered with the owner of the premises while opening his branch offices, agreement with the user of the trading terminal, list of clients mapped with the branch offices, modus operandi of operating branch offices, turnover of the users, details of the payments made to his employees at the branch offices. however, the same were not furnished.

12. Further, Prakash Varma in its reply dated October 09, 2018 in a separate proceedings before me has submitted that none of the alleged terminals were ever extended to any third party and all these branches have operated under his control. Prakash Varma also submitted that he had personally visited these branch offices to ensure that the branch offices are operating in compliance of rules governing it. Further regarding the availability of documents, Prakash Varma submitted that he was unable to produce the said documents as they were lost during shifting of his office and the same could not be traced. In the absence of any documents produced by Prakash Varma and as a consequence, I find it difficult to accept the argument of the Noticee that they were branches of Prakash varma. Thus, I find that Noticee has violated SEBI Circular No. SMDRP/POLICY/CIR-49/2001 dated October 22, 2001 and Clause A(2) of the Code of conduct for Stock brokers as stipulated in schedule II read with Regulation 9(f) of the Stock Brokers Regulations.

13. The next allegation is that the Noticee granted F&O trading terminal from NSE in the name of Ms. Sudha Ravi Sharma who was in employment of Prakash Varma only till August, 2014. The said F&O trading terminal was operated and trades were executed by employees of Prakash Varma without certification as mandated to execute trades

in derivatives segment from September 01, 2014 to December 21, 2014. The Noticee in its reply had submitted that on August 14, 2012, Prakash Varma obtained F & O trading terminal from NSE in the name of Sudha sharma and she was holding NISM certificate (SEBI approved certificate) which was valid till July 05, 2015 which was scrutinised by them. The Noticee also submitted that they were not aware that Sudha sharma had resigned on August 31, 2014 and it was not practically possible for them to ensure that the said terminals are operated by the same persons in whose name the trading terminal is allotted. The argument of the Noticee in this regard is not tenable. I am of the view that the allegation of violation of provisions of NSE Circular no. NSE/MEM/3445 dated June 19, 2002, NSE/MA/22732 circular dated February 13, 2013, SEBI Circular no. MIRSD/DR-1/Cir-16/09 dated November 06,2009, SEBI/Cir/MIRSD/AP/8/2010 dated July 23, 2010, Regulation 16C (2) of Stock Broker Regulations and Clauses A(1), A (2) and A(5) of the Code of conduct for Stock Brokers as stipulated in schedule II read with Regulation 9(f) of the Stock Brokers Regulations is established against the Noticee.

14. The final allegation against the Noticee in the SCN is that the change of address by Prakash Varma to the present address i.e Plot-17, Dandige Layout, Shankar Nagar, Nagpur – 440010 has not been intimated to SEBI till the date of Inspection. The Noticee in its reply submitted that they were not aware of the change of address of Prakash Varma till receipt of the SEBI letter dated February 20, 2015 along with the copy of the findings of the Inspection. However, they immediately took the corrective measure and rectified the same by intimating the Board about change of address of the said sub-broker. Thus I find that the Noticee was having no control on the sub broker and was not aware of the change in address of its sub broker. The corrective actions claimed to have been taken by the Noticee were all done after the inspection by SEBI. Thus, I find that the Noticee has failed to exercise care and due diligence in terms of Clause A(1), A(2), of the code of conduct for Stock Brokers as stipulated in

schedule II read with Regulation 9(f) of the Stock Brokers Regulations and owing to which the allegations are established against the Noticee.

15. In view of the foregoing findings, I hold that the Noticee has also violated Regulation 26 (xv) (xvi),(xix), (xx) of the Stock Brokers Regulations.

16. I note that Noticee has referred to, in its reply, various Orders passed by Hon'ble Securities Appellate Tribunal (SAT) and SEBI dealing with observations made during inspection. Further, I note that Hon'ble Supreme Court of India in the matter of *SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC)* held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant…".*

17. In view of the foregoing, I am convinced that it is a fit case to impose monetary penalty under Section 15HB of the SEBI Act. The text of the said provisions read as under:

SEBI Act
Penalty for contravention where no separate penalty has been provided.
15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be [1](liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.)*

18. While determining the quantum of penalty under Section 15HB of the SEBI Act, it is important to consider the factors relevantly as stipulated in Section 15J of the SEBI Act, which read as under:

SEBI Act
Factors to be taken into account by the adjudicating officer.

[1]*Substituted for the words —"liable to a penalty which may extend to one crore rupees" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.*

15J. *While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-*
(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.
Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E,clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.

19. No quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticee. Further, from the material available on record, it may not be possible to ascertain the exact monetary loss, if any, on account of default by the Noticee. It is also noted that no investor complaints is on record with respect to the established violations.

ORDER

20. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by the Noticee and also the factors mentioned in Section 15J of the SEBI Act and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs.3,00,000/- (Rupees three lac only) on the Noticee viz. Ventura Securities Ltd under the provisions of Section 15HB of the SEBI Act. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

21. The amount of penalty shall be paid either by way of demand draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or by e-payment in the account of “SEBI - Penalties Remittable to Government of India”, A/c No. 31465271959, State Bank of India, Bandra Kurla Complex Branch, RTGS Code SBIN0004380 within 45 days of receipt of this order.

22. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to "The Division Chief, Enforcement Department (EFD1-DRAII), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051":

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for : (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

23. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee viz Ventura Securities Ltd and also to the Securities and Exchange Board of India.

Date: November 29, 2018

Place: Mumbai

K SARAVANAN

GENERAL MANAGER &

ADJUDICATING OFFICER