

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: RAJEEV KUMAR AGARWAL, WHOLE TIME MEMBER**

ORDER

UNDER SECTION 11, 11B AND 11D OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 (SEBI ACT).

IN THE MATTER OF KE CONSULTING GROUP (PROPRIETOR MR. MANISH THAKKAR).

1. Securities and Exchange Board of India (SEBI) received a complaint dated May 13, 2010 from one Mr. Deepak Shantilal Shah (the complainant) alleging that he had suffered monetary loss of Rs.27 lacs on account of negligence in the portfolio management services, relating to funds and securities, offered by Mr. Manish Thakkar, proprietor of KE Consulting Group (KE). The complaint indicated that KE (Proprietor Mr. Manish Thakkar) are undertaking portfolio management activities relating to funds and securities of its clients. As per SEBI records, KE is not registered with SEBI as portfolio manager. However, Kumar Enterprises is registered as sub-broker of Religare Securities Ltd (Reg. No. INS016267010) from October 27, 2008 till December 06, 2010 and Mr. Manish Thakkar is its proprietor.
2. SEBI observed that on the website of KE at www.kegroup.in it is mentioned that “KE Consulting Group is a professional portfolio management and advisory firm catering to the needs of Financial Institutions, corporate and HNIs. KE is serving as portfolio consultant to 3 FIIs in India, 4 Foreign Banks and Investment Banks in the overseas markets and a number of HNIs and corporate. KE is a fast growing portfolio organization with current portfolio advisory size of nearly 1,200 Cr”. It is also represented on the said website that it is providing a number of portfolio products under portfolio management advisory services and portfolio management is its core strength.
3. Being of the *prima facie* view that KE is engaged in portfolio management services relating to funds and securities without obtaining registration from SEBI in accordance with SEBI Act and SEBI (Portfolio Managers) Regulations, 1993 (the Regulations), SEBI issued a show cause notice (SCN) dated July 30, 2010 to KE asking it to show cause as to why appropriate directions should not be passed against it under section 11,

11B and 11D of SEBI Act, 1992 for violation of section 12(1) of SEBI Act and regulation 3 of the Regulations. The SCN was, however, returned undelivered due to shifting of office of KE. The SCN was then sent through Religare Securities Ltd. Religare Securities Ltd vide letter dated September 27, 2010 informed that they forwarded the said notice through speed post and subsequently they personally sent their employee to the recorded address of Mr. Manish Thakkar to deliver the SCN. They, however, could not find the addressee at the recorded address.

4. On February 23, 2011, SEBI published an advertisement in the 'Times of India' and 'Sakal' news papers in respect of the aforesaid SCN. In response to newspaper notice, Mr. Manish Thakkar, proprietor of KE, vide e-mail dated March 08, 2011 informed that he was not aware of the SCN and requested SEBI to send the copies of the complaint along with all the relevant documents to his address at B/111, Kalpataru Residency, Near Sion Circle, Sion (E) Mumbai – 400022. Thereafter, on March 31, 2011, a copy of the SCN along with the copy of the above mentioned complaint was served upon Mr. Manish Thakkar. Since no reply was received from Mr. Manish Thakkar, a reminder was sent to him vide e-mail dated May 31, 2011. However, KE (Proprietor: Mr. Manish Thakkar) did not file any reply to the SCN.
5. The date of personal hearing was fixed for January 18, 2012 and the same was communicated to Mr. Manish Thakkar. The date was, however, adjourned to February 15, 2012 on the request of Mr. Manish Thakkar. On the scheduled date Mr. Manish Thakkar appeared before me and made oral as well as written submissions. He has made the following submissions -
 - (a) He had started KE at the time when he was in Muscat and was consultant to a number of institutions and corporate clients and had put this fact on the website of KE. He admitted that website www.kegroup.in belongs to KE and he is the proprietor of KE.
 - (b) While admitting the representations made on the above website as alleged in the SCN he submitted that the last update on the site of KE was from Muscat and there are no updates on the website after 2007 when he returned to India. He also submitted that the above information/ representation on the website were not intended for Indian clients but for Foreign Financial Institutions, Corporates

and HNIs. On being specifically asked whether the Indian clients did not have access to the website, he admitted that the website could be accessed by the Indian clients too.

- (c) He admitted that the complainant Mr. Deepak Shantilal Shah was his client and contended that the complaint was filed with *mala-fide* intention against KE. He also questioned the authenticity of the documents submitted by the complainant.
 - (d) He also submitted that he had not indulged in unauthorized portfolio management practices and had not signed or managed any person's portfolio. He had played the role of a trade executor as a dealing person and advised clients on specific trades upon them asking for the same as a dealer executing the trades and monitoring the markets.
 - (e) He denied that he or M/s Kumar Enterprises was acting as sub-broker.
6. During hearing, to verify the veracity of his submissions Mr. Manish Thakkar was asked to furnish following information and documents and he agreed to do so by February 17, 2012:-
- (a) Copy of the PAN card,
 - (b) Copy of Passport along with Visa and entry and exit stamp,
 - (c) Income tax returns since 2007 till date,
 - (d) Copies of all the bank transactions of KE, Kumar Enterprise and Manish Thakkar from 2007 till date,
 - (e) Declaration that there are no other bank account other than those mentioned above,
 - (f) Office address and residence address of Manish Thakkar along with address proof,
 - (g) Office address of KE and Kumar Enterprises along with address proof,
 - (h) Broker Name, trading client ID and demat account numbers of Manish Thakkar.

7. I have considered the SCN, oral as well as written submissions of the noticee and other material available on record. Though the noticee has denied that Kumar Enterprises of which Mr. Manish Thakkar is the proprietor is not a sub broker, I note that Religare Securities Ltd. vide letter dated September 27, 2010 has confirmed that Kumar Enterprises (Prop: Manish Thakkar) is a sub-broker of Religare as per sub-broker

agreement dated May 28, 2008. Further, Mr. Manish Thakkar has not furnished the information and documents which he had agreed to do during the hearing.

8. I note that as mentioned in the SCN (quoted in para 2 of this order), the website of KE at www.kegroup.in makes very explicit representations to attract the clients to join its portfolio management activities. Some of the representations are reproduced as under:

a. *“KE Consulting Group is a professional portfolio management and advisory firm catering to the needs of Financial Institutions, corporate and HNIs. KE is serving as portfolio consultant to 3 FIIs in India, 4 Foreign Banks and Investment Banks in the overseas markets and a number of HNIs and corporate. KE is a fast growing portfolio organization with current portfolio advisory size of nearly 1,200 Cr”.*

b. Products

- *“Hedge portfolio”*
- *“Growth portfolio”*
- *“Balanced portfolio”*

c. Services

- *“Portfolio Management and Advisory”*

d. Performance Highlights-

“A portfolio return of 233.92% in span of 11 months as compared to a return of 48.78%, 71.52% and 55.08% in Nifty, Midcap and CNX 500 indices respectively.

Returns achieved with ‘No churning’ of portfolio

Average return of 19% p.a. in arbitrage and average return of 112% p.a. in Hedge portfolio”

e. *“This discretionary portfolio management aims at creating wealth from medium to long term investment.”*

f. *“A non discretionary portfolio that aims at advising passive investors on their funds allocation and financial planning.”*

g. *“KE Consulting Group today, is one of the most trusted name in portfolio advisory services.”*

9. Mr. Manish Thakkar has admitted that website www.kegroup.in belongs to KE and he is the proprietor of KE. He has also admitted the representations made on the said

website. The website has been operating and accessible by public at large at least till the date of the SCN. I find that the contents of website and representations made to public at large in that website represent that Mr. Manish Thakkar, proprietor of KE has been undertaking portfolio management activities relating to funds and securities of clients.

10. I also note that the website address of KE clearly indicates that the website is meant for use in India. It is accessible to public at large. Further, the contact details of KE such as its address, telephone numbers, e-mail, etc. are of Mumbai, India. I, therefore, do not agree with the submissions of the noticee that the said website was intended only for its clients in Muscat. I find that the noticee has offered its services as represented on its website to public at large including the Indian clients.

11. From the complaint of Mr. Deepak Shantilal Shah I note that after the complainant had incurred loss of Rs.27 lacs in respect of its portfolio, the noticee has entered into a scheme of arrangement dated January 15, 2010 with the complainant wherein he has acknowledged the loss of Rs.27 lacs and has agreed to provide funds equivalent to amount of loss to the complainant in three tranches. As a part of this arrangement, the noticee has also provided four post dated cheques to the complainant. I note that the following correspondences between KE and the complainant further confirm that the KE (Proprietor Mr. Manish Thakkar) has been undertaking portfolio management activities with respect to funds and securities of clients :

- (a) Letter dated April 07, 2009 from noticee addressed to the complainant, stating *"We are in receipt of your mandate for managing your portfolio as your portfolio consultant in this trading account"*.
- (b) Confirmation letter dated April 08, 2009 signed by complainant on the letter head of KE stating that the complainant has appointed M/S KE Consulting Group as his portfolio consultant and executor for his account no. DS4396 with Religare Securities Ltd.
- (c) Confirmation letter dated April 09, 2009 from noticee to the complainant stating that *"We are appointed by you as portfolio advisor, consultant and executor for the above mentioned account."*

12. Mr. Manish Thakkar has though questioned the authenticity of the claim of the complainant and of the documents submitted by him, he has admitted the activities which KE (Proprietor Mr. Manish Thakkar) is undertaking and representing to public at large; and those activities are that of a portfolio manager as defined in the Regulations.
13. In view of the aforesaid, I *prima facie* find that KE, proprietor Mr. Manish Thakkar is soliciting the general public to entrust their funds and securities to them and offering portfolio management and advisory services without obtaining certificate of registration from SEBI to act as a portfolio manager and the activities of KE, proprietor Mr. Manish Thakkar are in violation of Section 12(1) of the SEBI Act read with regulation 3 of the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993.
14. From the analysis of the complaint, the aforesaid letters, the information placed on website of KE and other facts, I am of the view that the matter needs to be further examined and investigated in detail in order to ascertain the extent and nature of portfolio management activities being carried out and the role and involvement of KE, its proprietor Mr. Manish Thakkar and any other person in such activities. SEBI shall, therefore, conduct detailed investigation into the matter.
15. Meanwhile, it is incumbent upon SEBI to take preventive and remedial steps to safeguard the interests of the investors and the orderly development of the securities market by preventing KE and its proprietor MR. Manish Thakkar from soliciting money from the public and acting as portfolio manager without obtaining registration from SEBI under the SEBI Act and the Regulations.
16. In view of the foregoing, I, in exercise of powers conferred upon me under section 19 of the SEBI Act, in order to prevent the affairs of KE and its proprietor Mr. Manish Thakkar being conducted in the manner detrimental to the interests of investors and securities market, in any manner whatsoever, pending investigation and passing of further orders in the matter, hereby issue following directions/order under sections 11, 11B and 11D of the SEBI Act against KE Consultancy Group and its proprietor Mr. Manish Thakkar (PAN: ACTPT8377N):

- (a) KE Consultancy Group and its proprietor, Mr. Manish Thakkar are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner;
- (b) KE Consultancy Group and its proprietor, Mr. Manish Thakkar shall cease and desist from undertaking the portfolio management activities, directly or indirectly, in any manner whatsoever;
- (c) KE Consultancy Group and its proprietor, Mr. Manish Thakkar shall immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, websites, etc. in relation to the portfolio management activities;
- (d) KE Consultancy Group and its proprietor, Mr. Manish Thakkar are prohibited from mobilizing funds from the public or offering any portfolio management activities, in whatever form;
- (e) KE Consultancy Group and its proprietor, Mr. Manish Thakkar are further directed to resolve all pending complaints against them.

17. A copy of this order shall be forwarded to all the Stock Exchanges and the Depositories to ensure that the directions given in Para 16 above are strictly complied with.

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

DATE: February 28 , 2012
PLACE: MUMBAI

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