

**BEFORE THE DISCIPLINARY COMMITTEE OF THE INSTITUTE OF  
COMPANY SECRETARIES OF INDIA**

**DC: 81/2010**

**IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER  
MISCONDUCT**

**Mr. Vikram Bakshi**

**- Complainant**

**Vs**

**Mr. Rahul Saini**

**- Respondent**

**ORDER**

1. The Institute had received a complaint dated the 16<sup>th</sup> September, 2010 in Form - I filed by Mr. Vikram Bakshi (hereinafter referred to as the 'Complainant') against Mr. Rahul Saini, ACS-16716 (C.P.NO.7009) (hereinafter referred to as the 'Respondent').

2. Pursuant to sub-rule (3) of rule 8 of the (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 (the Rules), a copy of the complaint was sent to the Respondent *vide* letter dated the 22<sup>nd</sup> the September, 2010 asking him to submit his written statement. The Respondent submitted the written statement dated the 05<sup>th</sup> October, 2010. Pursuant to sub-rule (4) of rule 8 of the Rules, a copy of the written statement was forwarded *vide* letter dated the 22<sup>nd</sup> October 2010 to the Complainant asking him to submit his rejoinder. Further, a reminder was sent to the Complainant to submit his rejoinder *vide* letter dated the 18<sup>th</sup> November, 2010. The Complainant submitted his rejoinder dated the 06<sup>th</sup> December, 2010. A letter dated the 04<sup>th</sup> January, 2011 was sent to the Respondent asking him to provide copies of all the documents

Handwritten signatures and initials, including a large 'S' and a signature that appears to be 'Vikram Bakshi'.

he relied upon while certifying Form No.32. The Respondent submitted his reply dated the 07<sup>th</sup> January, 2011.

3. The Complainant, in his complaint, had alleged that the Respondent had falsely certified Form No. 32 for cessation additional directorship of Mr. Vinod Surha and Mr. Wadia Parkash in the Company... w.e.f. the 30<sup>th</sup> September, 2006.

4. The Respondent in his reply had referred to a list containing nine documents claiming that these were sought to be filed as attachment by Ms. Sonia Khosla along with the said Form No. 32. However, the Respondent failed to explain the connection of these documents with certification of the respective Form.

5. The Company Law Board order dated the 31<sup>st</sup> January, 2008, passed in petition CP No. 114 of 2007 had *inter-alia* directed to restore *status quo* of shareholding and directorship of the Company as existed on the date of filing of the said petition on the 13<sup>th</sup> August 2007. Both Shri Vinod Surha and Shri Wadia Parkash were on the Board of M/s Montreaux Resorts Pvt. Ltd., on the 13<sup>th</sup> August, 2007 i.e. the date of filing of the petition before the Company Law Board. Hence, certification of Form No. 32 on and around the 26<sup>th</sup> September, 2008, by the Respondent was in contravention of the order dated the 31<sup>st</sup> January, 2008 of the Company Law Board.

6. The Director (Discipline) pursuant to rule 9 of the Rules examined the complaint; written statement; rejoinder & additional information received and was of *the prima facie* opinion that the Respondent was 'Guilty' of Professional Misconduct under clause (7) of part I of the Second Schedule of the Company Secretaries Act, 1980, as the Respondent had certified Form No. 32 pertaining to cessation of Mr. Vinod Surha and Mr. Wadia Parkash as Additional Directors of M/s Montreaux Resorts Pvt. Ltd. w.e.f. the 30<sup>th</sup> September, 2006,

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without exercising due diligence as both Mr. Vinod Surha and Mr. Wadia Parkash were on Board of M/s Montreaux Resorts Pvt. Ltd. on the 13<sup>th</sup> August, 2007 i.e. the date of filing of the petition before the Company Law Board. Hence, the certification of Form No. 32 on and around the 26<sup>th</sup> September, 2008 by the Respondent was in contravention of the Company Law Board order dated the 31<sup>st</sup> January, 2008.

7. The *prima facie* opinion of the Director (Discipline) was placed before the Committee in its meeting held on the 6<sup>th</sup> June, 2011. The Committee considered and agreed with the *prima facie* opinion of the Director (Discipline) and directed the Director (Discipline) to proceed further in the matter accordance with the rules.

8. A copy of the report of Director (Discipline) was forwarded to the Respondent asking him to file written statement on the report of the Director (Discipline) along with supporting documents and the list of witnesses, if any, to the Director (Discipline) with a copy to the Complainant.

9. The Complainant and the Respondent were asked *vide* letter dated the 21<sup>st</sup> June, 2011, to appear before the Disciplinary Committee on the 22<sup>nd</sup> July, 2011. The Complainant appeared but the Respondent failed to appear before the Committee on the 22<sup>nd</sup> July, 2011. The Committee took serious view of the Respondent's non appearance due to which the Complainant and the members of the Committee were put to inconvenience. However, the Committee decided to provide last and final opportunity to the Respondent to appear before the Committee in its meeting scheduled on the 5<sup>th</sup> August, 2011. Accordingly, a letter dated the 23<sup>rd</sup> July, 2011, was sent to the Respondent, asking him to appear before the Disciplinary Committee on the 5<sup>th</sup> August, 2011.

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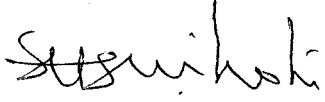
10. The Respondent, *vide* his letter dated the 26<sup>th</sup> July, 2011, made additional submissions and prayed for leave of absence stating that he apprehended security hazard.

11. The Committee in its meeting held on the 5<sup>th</sup> August, 2011 considered the letter dated the 26<sup>th</sup> July, 2011, received from the Respondent and decided to proceed *ex-parte* based on all the submissions made by the Respondent. However, the Committee decided to provide an opportunity of hearing to the Respondent before decision under section (1) of Section 21B of the Company Secretaries Act could be taken. Accordingly, a letter dated the 16<sup>th</sup> August, 2011 was sent to the Respondent asking him to appear before the Disciplinary Committee on Wednesday, the 24<sup>th</sup> August, 2011. However, the Respondent again did not put in his appearance before the Committee.

12. The Disciplinary Committee considered the report of the Director (Discipline), submissions made by the parties, other material on record and the circumstances and have come to the conclusion that the Respondent is 'Guilty' of Professional Misconduct under clause (7) of Part I of the Second Schedule of the Company Secretaries Act, 1980 as the Respondent had certified Form No. 32 pertaining to cessation of Mr. Vinod Surha and Mr. Wadia Parkash as Additional Directors of M/s Montreaux Resorts Pvt. Ltd. w.e.f. the 30<sup>th</sup> September, 2006, without exercising due diligence as both Mr. Vinod Surha and Mr. Wadia Parkash were on Board of M/s Montreaux Resorts Pvt. Ltd. on the 13<sup>th</sup> August, 2007 i.e. the date of filing of the petition before the Company Law Board. Hence, the certification of Form No. 32 on and around the 26<sup>th</sup> September, 2008 by the Respondent was in contravention of the Company Law Board order dated the 31<sup>st</sup> January, 2008. Also, the Respondent is 'Guilty' of professional misconduct under clause (2) of Part III of the First Schedule of the Company Secretaries Act, 1980, as he failed to comply with the

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requirements asked for i.e. non appearance before the Disciplinary Committee. The Committee proceeded *ex-parte* and decided to remove the name of Shri Rahul Saini, ACS - 16716, the Respondent, from the Register of Members of the Institute, for a period of 90 (Ninety) days. The said period of 90 (Ninety) days will be effective after the expiry of the 7<sup>th</sup> day of issue of this order.

  
**S. K. Agnihotri, IAS (Retd.)**  
**Member**

  
**Dr. S. P. Narang**  
**Member**

  
**Gopalakrishna Hegde**  
**Member**

  
**P K Mittal**  
**Member**

  
**Anil Murarka**  
**Presiding Officer**

Date: 03<sup>rd</sup> October, 2011