THE DISCIPLINARY COMMITTEE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

DC: 135/2012

IN THE COMPLAINT OF THE PROFESSIONAL OR OTHER MISCONDUCT

Shri Vivek Hegde ....Complainant

Vs

Ms. Monica Shriyansh ....Respondent

ORDER

1. A complaint dated 27th April, 2012 in Form I was filed under Section 21 of the Company Secretaries Act, 1980 read with sub-rule (1) of Rule 3 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 (the Rules) by Shri Vivek Hegde ACS - 23271 (CP No. 8340)(hereinafter referred to as the 'Complainant') against Ms. Monica Shriyansh, ACS–19970 (hereinafter referred to as the 'Respondent').

2. The Complainant had *inter-alia* alleged that the Respondent has fraudulently used his digital signature without his knowledge on several e-forms and filed the same with the MCA. The Complainant had further alleged that the Respondent while being Company Secretary in employment with M/s. Kronos Systems (I) Pvt. Ltd. is also engaged in providing part time consultancy services in relation to corporate secretarial work.

3. The Complainant had *inter-alia* stated that Mr. Shreyans Jain is purported to be the Managing Partner of M/s. Legalpro, an authorized agent for safe script, certifying authority issuing the Digital Signatures for the MCA filings. The Complainant had bought a digital signature from Mr. Shreyans Jain for certifying e-forms as a PCS on 27th January, 2011. The Complainant also stated that the Respondent is the wife of Mr. Shreyans Jain and he has no professional relationship with her or the purported clients of the Respondent.

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4. Pursuant to sub-rule (3) of Rule 8 of the Rules, a copy of the complaint was sent to the Respondent *vide* letter dated 10th May, 2012 calling upon her to submit the written statement. The Respondent *vide* e-mail dated 5th June, 2012 sought 21 days time to file the written statement. The Respondent *vide* letter dated 6th June, 2012 was granted 14 days time to file the written statement. The Respondent submitted the written statement dated 20th June, 2012.

5. Pursuant to sub-rule (4) of Rule 8 of the Rules, a copy of the written statement was sent to the Complainant *vide* letter dated 26th June, 2012 asking him to submit the Rejoinder. The Complainant filed the Rejoinder dated 19th July, 2012.

6. The Director (Discipline) pursuant to Rule (9) of the Rules examined the complaint, written statement, rejoinder and other material on record and was of the opinion that in the instant case, the Respondent while being in employment with M/s. Kronos Systems (I) Pvt. Ltd. is also ostensibly engaged in practice since, she in her submissions has admitted that the forms were uploaded from her login id without any manipulations. Since, in this case, the DSC was issued by the husband of the Respondent; it is likely that the Respondent has used the same as alleged. More particularly when the Complainant has denied the usage of his digital signature by him. In view of the forgoing, the Respondent is *prima-facie* 'Guilty' under clause (1) of Part II of the Second Schedule of the Company Secretaries Act, 1980, as the Respondent while in employment with M/s. Kronos Systems (I) Pvt. Ltd., has also ostensibly rendered professional services or assistance with respect to matters of principle or detail relating to the practice of the profession of Company Secretaries.

7. The Disciplinary Committee at its meeting held on 30th October, 2012 had considered the *prima-facie* opinion dated 18th October, 2012 of the Director (Discipline) and the material on record and agreed with the *prima-facie* opinion of the Director (Discipline) that the Respondent is 'Guilty' of Professional Misconduct under Clause (1) Part II of the Second Schedule of the Company Secretaries Act, 1980 as she while in employment with M/s. Kronos Systems (I) Pvt. Ltd., had also ostensibly rendered professional services or assistance with respect to matters of principle or detail relating to the practice of the profession of Company Secretaries; and decided to proceed further in the matter in accordance with Chapter V of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007.

8. Accordingly, a copy of the *prima-facie* opinion of Director (Discipline) dated 18th October, 2012 was sent to the Respondent *vide* letter dated

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31st October, 2012 asking her to file the written statement along with supporting documents and list of witnesses, if any, to the Director (Discipline) with a copy to the Complainant latest by 14th November, 2012. The *prima-facie* opinion of the Director (Discipline) was also forwarded to the Complainant *vide* letter dated 31st October, 2012 asking him to submit the Rejoinder to the written statement along with the supporting documents and list of witnesses, if any, latest by 28th November, 2012.

9. A letter dated 10th November, 2012 was received from the Complainant informing that the matter was amicably settled and he is seeking unconditional withdrawal of the complaint. A letter dated 13th November, 2012 was received from the Respondent requesting time till 30th November, 2012 to file the written statement.

10. Section 21 (5) of the Company Secretaries Act, 1980 provides as under –

> "Where a complainant withdraws the complaint, the Director (Discipline) shall place such withdrawal before the Board of Discipline or as the case may be, the Disciplinary Committee, and the said Board or Committee may, if it is of the view that the circumstances so warrant, permit the withdrawal at any stage."

Further, Rule 6 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 provided as under –

> "The Director, on receipt of a letter of withdrawal of a complaint by the complainant shall place the same before the Board of Discipline or the Committee, as the case may be, and the Board of Discipline or the Committee, as the case may be, may, if it is of the view that the circumstances so warrant, permit the withdrawal, at any stage, including before or after registration of the Complaint.
>
> Provided that in case the Director has not yet formed his *prima-facie* opinion on such a complaint, he shall place the same before the Board of Discipline, and the Board of Discipline may, if it is of the view that the circumstances so warrant, permit the withdrawal".

11. In this matter the Director (Discipline) had formed his prima-facie opinion which was already considered by the Disciplinary Committee.

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12. The Disciplinary Committee at its 36th meeting held on 10th December, 2012 noted the letter dated 10th November, 2012 received from the Complainant and the letter dated 13th November, 2012 received from the Respondent. The Committee also noted that the Respondent *vide* her letter dated 29th November, 2012 forwarded a copy of the letter dated 10th November, 2012 of the Complainant for withdrawal of the complaint. She also inter-alia requested to close the matter as the matter was amicably settled by her and the Complainant had withdrawn the complaint vide letter dated 10th November.

13. The Disciplinary Committee at its meeting held on 10th December, 2012 considered the letter dated 10th November, 2012 of the Complainant for withdrawal of the complaint and also the letter dated 29th November, 2012 of the Respondent confirming the withdrawal of the complaint. The Committee considered the above referred letters; material on record; and the provisions of the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 governing withdrawal of a complaint; permitted withdrawal of the complaint and closed the matter.

Accordingly, the complaint stands disposed-off.

(B Narasimhan)
Member

(S K Tuteja)
Member

(Nesar Ahmad)
Presiding Officer

New Delhi
Date: 1st January, 2013

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