

THE DISCIPLINARY COMMITTEE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

DC: 143/2012

IN THE COMPLAINT OF PROFESSIONAL AND OTHER MISCONDUCT

Shri Vasant Kumar

...Complainant

Vs

Ms. Monica Shriyansh

....Respondent

ORDER

1. A complaint in Form I dated 11th June, 2012 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 Vasant Kumar, ACS -24405 (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 forged his signature in about 30 documents i.e. MOA and AOA relating to 11 Companies(presently known to him) which were all registered with the ROC, Karnataka. He further stated that during his visit to the ROC, Karnataka, on 13th April, 2012, he was surprised to see that the MOA and AOA of the Company under incorporation had his signature with his details in his hand writing as he had not uploaded any incorporation document on the MCA 21 in the recent past. The Complainant further stated that he had requested to show him the name of the company and the details of the promoters. The company under incorporation was 'Kautilya Business Services Private Limited' filed vide SRN 1336557502 from the login of the Respondent. On enquiring from her about the said issue, she responded very casually.
3. The Complainant had also stated that he informed the matter to the ROC, Karnataka, and requested to provide the copies of the incorporation documents filed from the Respondent's login. The Complainant has further stated that since he did not have any evidence



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in the form of documents, therefore he was not able to lodge the complaint with the ICSI earlier. Now he has got the copies of the MOA and AOA of about 11 Companies having his signatures and his details as witness.

4. The Complainant had further stated that he came to know recently that the Respondent is a Company Secretary of M/s. Kronos Systems India Private Limited. The Complainant has further alleged that the Respondent being a Company Secretary of a Company is also practising simultaneously.
5. Pursuant to sub-rule (3) of Rule 8 of the Rules, a copy of the complaint was sent to the Respondent *vide* letter dated 19th June, 2012 calling upon her to submit the written statement followed by a reminder dated 27th June, 2012. The Respondent *vide* her letter dated Nil requested for additional time to submit the written statement; the same was granted *vide* letter dated 24th July, 2012. The Respondent submitted the written statement dated 1st August, 2012.
6. 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 7th August, 2012 asking him to submit the rejoinder. The Complainant requested additional time to file the rejoinder *vide* letter dated 21st August, 2012 which was granted *vide* letter dated 30th August, 2012. The Complainant submitted the rejoinder dated 7th September, 2012.
7. Pursuant to Rule (9) of the Rules, the Director (Discipline) 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. 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.
8. The Committee at its meeting held on 30th October, 2012 had considered the *prima-facie* opinion dated 26th October, 2012 of the Director (Discipline) and the material on record. The Committee agreed with the *prima-facie* opinion of the Director (Discipline) that the Respondent is 'Guilty' of Professional Misconduct under Clause (1) of Part II of the



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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.

9. Accordingly, a copy of the *prima-facie* opinion of Director (Discipline) dated 18th October, 2012 was sent to the Respondent *vide* letter dated 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 .
10. A letter dated 10th November, 2012 was received from the Complainant informing that the matter has been amicably settled and seeking unconditional withdrawal of the complaint.
11. A letter dated 13th November, 2012 was received from the Respondent requesting for time till 30th November, 2012 to file the written statement. Another letter dated 29th November, 2012 was received from the Respondent along with a copy of the withdrawal letter dated 10th November, 2012 of the Complainant and requested to close the matter.

Section 21 (5) of the Company Secretaries Act, 1980 provided 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



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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.

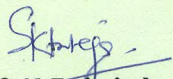
Provided that in case the Director has not yet formed his *prima facie* opinion on such a complaint, he shall place the same before the Board of Discipline, and the Board of Discipline may, if it is of the view that the circumstances so warrant, permit the withdrawal".

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

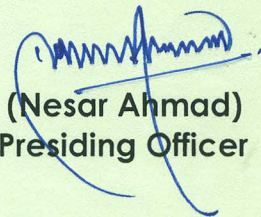
Accordingly, the complaint stands disposed-off.



(B Narasimhan)
Member



(S K Tuteja)
Member



(Nesar Ahmad)
Presiding Officer

New Delhi

Date: 1st January, 2013

