

**THE DISCIPLINARY COMMITTEE  
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA  
IN THE MATTER OF INFORMATION OF PROFESSIONAL OR OTHER MISCONDUCT**

ICSI/DC/Ni/2016

Order reserved on: 26<sup>th</sup> June, 2019

Order issued on: 31 JUL 2019

Shri Arvind Kumar Meena

.... Informant

Vs

Shri Prateek Mittal, ACS-33807, CP No. 12560

.... Respondent

**CORAM:**

CS Ranjeet Pandey, Presiding Officer  
CS Nagendra D Rao, Member  
CS B Narasimhan, Member  
Mrs. Meenakshi Datta Ghosh, Member

**Present:**

Mrs. Meenakshi Gupta, Director (Discipline)  
Mrs. Anita Mehra, Assistant Director  
Shri Sourabh Gupta, FCS-10183, CP 13183 on behalf of the Respondent

**ORDER**

1. Information was received from Shri Arvind Kumar Meena (hereinafter referred to as 'the Informant') against Shri Prateek Mittal, ACS-33807 CP No. 12560 (hereinafter referred to as 'the Respondent') vide email dated 24<sup>th</sup> September, 2016. As per the provisions of Sub-rule (2) of Rule 7 of the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 ('the Rules'), the Informant was asked to state whether he was interested to file a complaint in Form I and, if so, to submit the same along with applicable fees. In response, the Informant stated that he did not want to file a complaint in Form I and requested that his email dated 24<sup>th</sup> September, 2016, be treated as Information. The Informant was thereafter asked to send duly signed Information by post, disclosing his correct identity for taking further action in the matter. Accordingly, the Informant sent a duly signed letter, received on 7<sup>th</sup> December, 2016.
2. The Informant has *inter-alia* alleged that some of the Company Secretaries in Practice are soliciting professional work online and quoting very low fees which is not allowed as per the established code of conduct and the same is creating imbalance in the market. In support of his allegations, the Informant has forwarded a snap shot of "Profraternity.com" through which professional work is being soliciting and quoted very low rates. The Informant has also forwarded a copy each of Form No. MGT-14 and Invoice bearing No. 0001 dated 07.09.2016 issued by Profraternity Inc. to M/s Dhanwan Leasing & Finance Company Limited raising a bill of Rs. 349/- on account of charges for



MJL  
Ranjeet Pandey

*[Handwritten signature]*

certification of Form MGT-14. A perusal of Form MGT-14 shows that it was verified and digitally signed by the Respondent.

3. The Respondent vide his Written Statement dated 4<sup>th</sup> April, 2017 denied the allegations and has stated that he has not indulged in any form of advertisement or marketing whether directly or indirectly, with respect to the secretarial work performed by him. The firm Profraternity is a sole proprietorship firm independently owned and operated by Ms. Preeti Sharma. Profraternity is one of his Clients to which services are offered by him on retainership basis which are for lump sum payment. The Respondent is not involved in the marketing and advertisement, if any, done by Profraternity. Also the pricing is controlled by Profraternity and its team.
4. In accordance with the provisions of sub-rule (5) of Rule 8 of the Rules, the Respondent vide letters dated 31<sup>st</sup> May, 2017 and 26<sup>th</sup> August, 2017 was asked to submit: - (i) A copy of any document in respect of your claim that you are associated with the firm 'Profraternity'; (ii) A copy of any agreement or any other document containing the terms and conditions of your association, in respect of your association with the firm 'Profraternity'. (iii) What due diligence was conducted/ documents and records of the company were verified by you before certifying Form MGT 14 of M/s Dhanwani Leasing & Finance Company Limited?
5. The Respondent vide letter dated 2<sup>nd</sup> September, 2017 has inter alia stated that he has signed the agreement with 'Profraternity' which is non disclosable to third party. So he can't share copy of such agreement without prior permission from his client. The Respondent has conducted proper due diligence before certifying Form MGT 14 of the Company as per the guidelines issued by the Institute for example, he has searched MCA Portal and cross checked data available on MCA Portal with the information filled in the Form MGT 14 before filing the same.
6. The Director (Discipline) in the prima-facie opinion dated 23<sup>rd</sup> September, 2017 opined that the Respondent is 'guilty' of professional misconduct under Items (1), (2), (5) and (6) of Part I of the First Schedule and Item (7) of Part I of the Second Schedule to the Company Secretaries Act, 1980 ('the Act') as the Respondent is indirectly soliciting professional work through the medium of Profraternity and also shares the income/professional fees so obtained with Profraternity in the disguise of retainership. There is also no information whether the requisite due diligence was conducted and, if so, by whom. The Respondent is, therefore, guilty of professional misconduct under Items (1), (2), (5) and (6) of Part I of the First Schedule and Item (7) of Part I of the Second Schedule to the Act. It is observed that the firm Profraternity is soliciting professional work on line and quoting fees which are very low and has advertised on its website as - "ROC Form Certification in just Rs. 349/-". The Respondent is a Company Secretary in Practice and cannot at the same time be in employment. Even in the case of retainership, he is required to do the professional work relating to his employer only i.e Profraternity. The Respondent cannot, while being on retainership verify and certify the Forms of any other



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third person as a Company Secretary in Practice. He is indirectly indulging in soliciting professional work vicariously through the website of Profraternity.

7. The Institute has issued a Legal Notice dated 16<sup>th</sup> November, 2016, to the firm Profraternity for soliciting professional work and advertising the rates of fees/professional charges to be charged by it for rendering various services as Company Secretary in Practice work for and on behalf of Practising Members of the Institute. It was also requested to disclose names of Practising Members on whose behalf it is advertising and soliciting professional work and also to state the terms and conditions of such an arrangement.
8. In reply dated 08<sup>th</sup> December, 2016 it has been stated by Ms. Preeti Sharma (Proprietor) Profraternity that the website is just a platform paved for convenience of Clients considering contribution to Digital India promoted by the Government; she is not providing certification services in her professional capacity rather they are being outsourced to various professional of different domain; her website shows no advertisements, solicitations, names of professionals or any other activity which may violate any law, rule or act of the country including the Company Secretaries Act, 1980 she has no names of Practising Members to be shared and she is working as a support service e-platform and is not an advertising agency and since she is not a member of ICSI, she is not obligated under the Company Secretaries Act, 1980 and Rules and Regulations framed thereunder and expressed her complete denial of any such contravention being made against her.
9. On 17<sup>th</sup> October, 2017, the Disciplinary Committee agreed with the *prima-facie* opinion dated 23<sup>rd</sup> September, 2017 of the Director (Discipline) and decided to adjudicate the matter in accordance with Rule 18 of the Rules to finally conclude as to whether the Respondent is guilty or not in the matter.
10. As per records, no written statement to the *prima-facie* opinion of the Director (Discipline) is received from the Respondent.
11. On 25<sup>th</sup> April, 2018, the Disciplinary Committee considered an email dated 8<sup>th</sup> January, 2018 received from the Informant stating that he does not wish to further pursue the said complaint and thus seeks to withdraw the same. The Disciplinary Committee observed that duly signed withdrawal request was called from the Informant vide two emails dated 8<sup>th</sup> January, 2018 and 5<sup>th</sup> March, 2018; and no response has been received from the Informant. The Disciplinary Committee also referred the relevant provisions contained in the Act and the Rules governing the withdrawal of the Complaint and observed that these are specific provisions which govern withdrawal of Complaint. On the contrary, there is no such specific provision which governs or allows withdrawal of Information cases. Therefore, the Disciplinary Committee decided not to consider withdrawal of this Information case. The Disciplinary Committee further decided to call the Respondent to appear before it.
12. On 3<sup>rd</sup> June, 2019, the Disciplinary Committee observed that the Respondent vide letter dated 16<sup>th</sup> May, 2019 was called to appear before it on 3<sup>rd</sup> June, 2019. However, the Respondent vide email dated 25<sup>th</sup> May, 2019 requested to



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*[Handwritten signature: Vijay Pandey]*

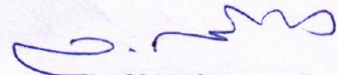
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reschedule the hearing. The Disciplinary Committee considered the request of the Respondent and adjourned the matter.

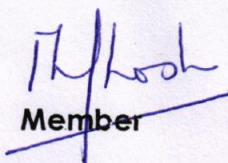
13. The Respondent was again called to appear before the Disciplinary Committee on 26<sup>th</sup> June, 2019 vide letter dated 12<sup>th</sup> June, 2019. Shri Sourabh Gupta, PCS appeared on behalf of the Respondent before the Disciplinary Committee and made oral submissions that the Respondent is not involved in soliciting or advertising of professional work through profraternity, and also apologized before the Disciplinary Committee for any wrong doings.
14. After hearing the submissions made on behalf of the Respondent and considering material on record and all the facts and circumstances of the case, the Disciplinary Committee holds the Respondent "Guilty" of professional misconduct under Items (1), (2), (5) and (6) of Part I of the First Schedule and Item (7) of Part I of the Second Schedule to the Company Secretaries Act, 1980 as the Respondent is indirectly soliciting professional work through the medium of Profraternity and also the shares the income/professional fees received with Profraternity in the disguise of retainership. The Respondent has failed to substantiate that he has exercised due diligence in certifying the alleged Form MGT 14 of M/s Dhanwani Leasing & Finance Company Limited. The Respondent is a Company Secretary in Practice and; even in the case of retainership he is required to do the professional work relating to his client only i.e. Profraternity. The Respondent cannot, while being on retainership verify and certify the Forms of third person referred to by Profraternity as a Company Secretary in Practice. The Respondent is indirectly indulging in soliciting professional work vicariously through the website of Profraternity.
15. The Disciplinary Committee decided to provide an opportunity of being heard to the Respondent pursuant to sub- rule (1) of Rule 19 of the Rules. The Disciplinary Committee further decided to call upon the Respondent to appear before it at the next date of hearing in this case, as may be decided by the Presiding Officer of the Disciplinary Committee. In case the Respondent for sudden or personal reasons is unable to attend the hearing; the Respondent may appear through an authorized representative along with a duly signed and attested letter of authority addressed to the Disciplinary Committee seeking exemption from personal appearance failing which, the matter will be heard ex-parte.



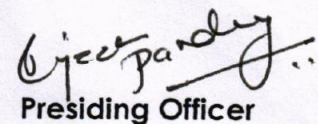
Member



Member



Member



Presiding Officer