

## BEFORE THE BOARD OF DISCIPLINE

### THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC: 142/2012

In the matter of complaint of professional or other misconduct filed by M/s. Bellwether Talent Solutions Pvt. Ltd., against Shri Dinesh Kumar Mishra, ACS-28939.

**Coram:** Sudhir Babu C, Presiding Officer  
Sutanu Sinha, Member

#### ORDER

1. A complaint dated 15<sup>th</sup> June, 2012 in Form I was filed by M/s. Bellwether Talent Solutions Pvt. Ltd., (hereinafter referred to as the 'Complainant') against Shri Dinesh Kumar Mishra, ACS-28939 (hereinafter referred to as the 'Respondent').
2. The Complainant has *inter-alia* alleged that while verifying the background of the Respondent, they found that the Respondent had submitted forged and fabricated documents related to his experience i.e. employment letter from two of his previous employments.
3. Pursuant to sub-rule (3) of Rule 8 of the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 (the Rules), a copy of complaint was sent to the Respondent vide letter dated 19<sup>th</sup> June, 2012 calling upon him to submit the written statement which came back as undelivered. A copy of complaint was again sent to the Respondent vide letter dated 17<sup>th</sup> July, 2012 calling upon him to submit the written statement which came back as undelivered. An e-mail dated 17<sup>th</sup> July, 2012 was received from the Respondent regarding his new postal address. A copy of complaint was again sent to the Respondent vide letter dated 25<sup>th</sup> July, 2012 calling upon him to submit the written statement which also came back as undelivered.
4. An email dated 11<sup>th</sup> August, 2012 was sent to the Respondent along with the copy of the complaint calling upon him to submit the written statement followed by a reminder dated 4<sup>th</sup> September, 2012. An email dated 4<sup>th</sup> September, 2012 received from the Respondent which *inter-alia* stated that the complaint attached is not opening and requested to send the copy of the complaint in PDF format. However, the Respondent also submitted his written statement dated 4<sup>th</sup> September, 2012. An email dated 7<sup>th</sup> September, 2012 received from the Respondent making

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additional submissions. An email dated 8<sup>th</sup> September, 2012 received from the Respondent informing about the change in his email id. The Respondent admitted the allegations with clarifications and stated the circumstances.

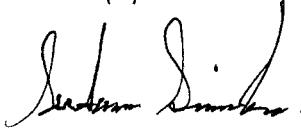
5. Pursuant to sub-rule (4) of Rule 8 of the Rules, a copy of the written statement was sent to the Complainant *vide* letter dated 13<sup>th</sup> September, 2012 asking him to submit the rejoinder which was submitted by the Complainant *vide* letter dated 18<sup>th</sup> September, 2012.
6. Pursuant to Rule 9 of the Rules, the Director (Discipline) examined the complaint, written statement, rejoinder and other material on record and *prima-facie* opined that the Respondent has committed an act unbecoming of a member of the Institute as he has submitted false document for acquiring the employment and therefore, *prima-facie* "Guilty" of misconduct.
7. The *prima-facie* opinion of the Director (Discipline) dated 6<sup>th</sup> June, 2013 was placed before the Board at its meeting on 17<sup>th</sup> June, 2013.
8. The Board of Discipline considered the *prima-facie* opinion of the Director (Discipline); the material on record and agreed with the *prima-facie* opinion and decided to proceed further in the matter in accordance with the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007.
9. Accordingly, the *prima-facie* opinion of the Director (Discipline) was sent to the parties *vide* letters dated 18<sup>th</sup> June, 2013 asking them to submit the written statement and rejoinder, respectively. The envelope containing the *prima-facie* opinion of the Director (Discipline) sent to the Respondent was received back undelivered on 24<sup>th</sup> June, 2013. Again the Respondent *vide* e-mail dated 24<sup>th</sup> June, 2013 was called upon to file the written statement and to provide his communication address which he provided *vide* his e-mail dated 24<sup>th</sup> June, 2013. The parties *vide* letter dated 24<sup>th</sup> June, 2013 were once again asked to submit the written statement and rejoinder respectively to the *prima-facie* opinion of the Director (Discipline).
10. The Respondent *vide* e-mails dated 29<sup>th</sup> June, 2013 and 1<sup>st</sup> July, 2013 *inter-alia* apologized to the Complainant and the Institute and requested to take a lenient view in the matter. However, no rejoinder has been submitted by the Complainant.
11. Thereafter, the parties were called upon to appear before the Board of Discipline on 13<sup>th</sup> August, 2013 *vide* letters dated 31<sup>st</sup> July, 2013.



*[Handwritten signature]*

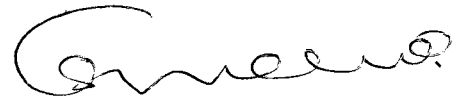
*[Handwritten signature]*

12. The Board of Discipline at its meeting held on 13<sup>th</sup> August, 2013 noted that neither the Complainant nor the Respondent appeared before the Board. The Board decided to proceed further in the matter *ex-parte* and the Board of Discipline after considering the *prima-facie* opinion of the Director (Discipline); the material on record; admission of the Respondent and his request to take a lenient view in the matter; concluded that the Respondent is Guilty of misconduct and decided to afford an opportunity of being heard to the Respondent before passing any order under Section 21A (3) of the Company Secretaries Act, 1980.



**(Sutanu Sinha)**

Member



**(Sudhir Babu C)**

Presiding Officer

Date: 13<sup>th</sup> August, 2013  
New Delhi

