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 15th 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 19th 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 17th July, 2012 calling upon him to submit the written statement which came back as undelivered. An e-mail dated 17th 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 25th July, 2012 calling upon him to submit the written statement which also came back as undelivered.

4. An email dated 11th 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 4th September, 2012. An email dated 4th 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 4th September, 2012. An email dated 7th September, 2012 received from the Respondent making

additional submissions. An email dated 8th 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 13th September, 2012 asking him to submit the rejoinder which was submitted by the Complainant *vide* letter dated 18th 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 6th June, 2013 was placed before the Board at its meeting on 17th 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 18th 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 24th June, 2013. Again the Respondent *vide* e-mail dated 24th June, 2013 was called upon to file the written statement and to provide his communication address which he provided *vide* his e-mail dated 24th June, 2013. The parties *vide* letter dated 24th 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 29th June, 2013 and 1st 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 13th August, 2013 *vide* letters dated 31st July, 2013.

12. The Board of Discipline at its meeting held on 13th 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: 13th August, 2013
New Delhi