

BEFORE THE BOARD OF DISCIPLINE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

DC: 105/2011

In the matter of the complaint of professional or other misconduct filed by Shri Kedar Jagirdar against Ms. Rupal Patel (FCS – 6275).

Coram: Harish K Vaid, Presiding Officer, Umesh H Ved, N K Jain, Members

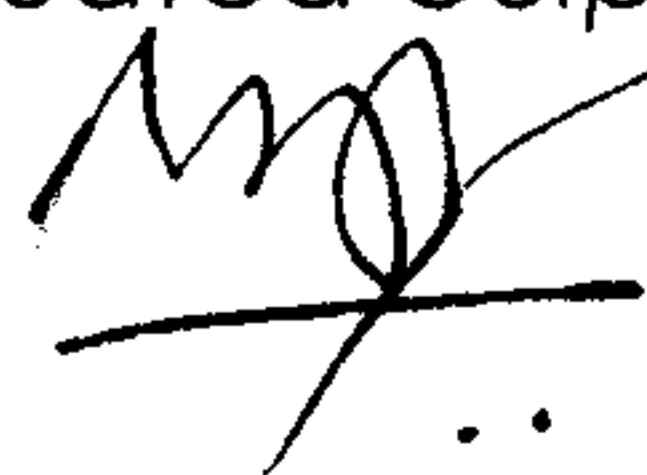
ORDER

1. A complaint in Form -I dated 8th September, 2011 was filed by Shri Kedar Jagirdar against Ms. Rupal Patel (FCS – 6275).

The allegations in the complaint are as under:

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- i. On 19.4.2011 the Respondent sent them an e-mail with details of her bank account in which she wanted her funds to transfer as initial amount. The bank details is of company having registered office at the same address, which is her professional address and her nearest relatives are directors and shareholders in that company.
- ii. On 20.4.2011, the complainant transferred an amount of Rs. 4.00,000/- by RTGS. Thereafter the complainant's representatives were following up the matter with the respondent on regular basis but suddenly she vanished and stopped responding to their phone calls and e-mails.
- iii. The Complainant's representatives also visited her office several times at Ahmedabad, but every time they were given one or other excuse for months together and instead of giving details of company she gave standard draft /incomplete agreement for takeover of company.
- iv. The complainant managed details of one Mr. Sharma Chartered Accountant by profession and were shocked to learn the whole matter and forged act of the Respondent and found that the complainants have been systematically looted by the member of the profession.
- v. In spite of knowing all these facts of fraud done by the Respondent, the Complainant sent a warning e-mail to refund the advance money taken by her, but height of arrogance and habituated culprit state of mind got reflected in her reply.



Umesh H. Ved



vi. The respondent has not done this for the first time, but in past also her name has been removed from the Register of member of the Institute in the year 2010."

2. 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, a copy of the complaint was sent to the Respondent vide letter dated 5th October, 2011 asking her to submit the written statement within 21 days of the service of the letter.
3. Meanwhile, the Complainant vide letter dated 17th October, 2011 informed that he does not wish to proceed any further with the complaint since the differences have been amicably settled and requested to dispose-off the complaint as withdrawn .
4. The Respondent vide letter dated 31st October, 2011 stated that she had discussed the matter in detail with the Complainant and that after discussion, it became clear that due to conduct of a Chartered Accountant, her name was dragged unnecessarily.
5. In this regard, the relevant provisions contained in the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 governing the withdrawal of the complaint are as under:

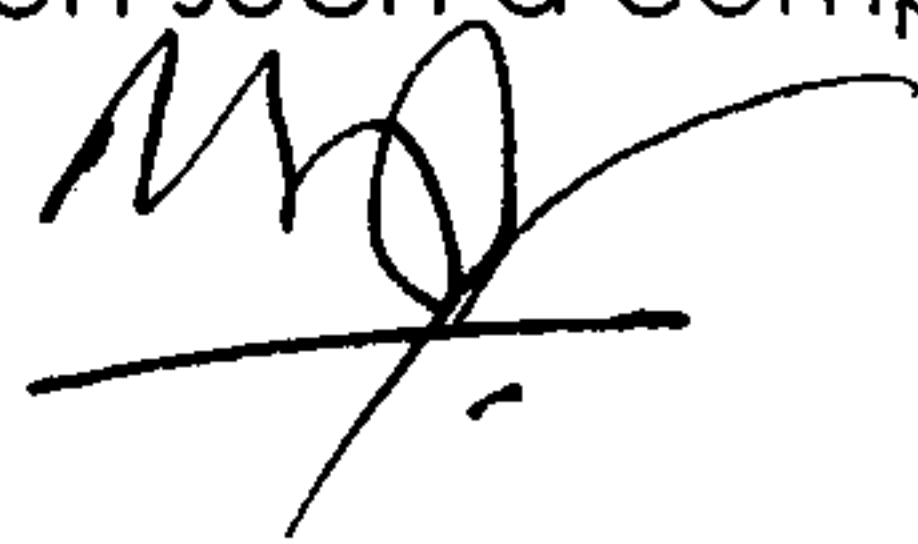
Section 21 (5) of the Company Secretaries Act, 1980:

"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."

Rule 6 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007:

"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



Anish H. Vaid

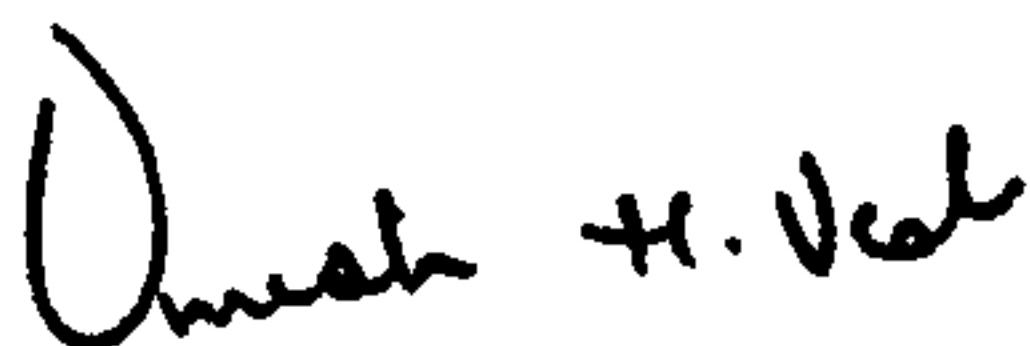


of Discipline, and the Board of Discipline may, if it is of the view that the circumstances so warrant, permit the withdrawal".

6. The Director (Discipline) had not yet formed his *prima-facie* opinion in the matter.
7. The Board of Discipline at its meeting held on 30th June, 2012 considered the matter *vis-à-vis* 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 the withdrawal of the complaint and closed the matter. Accordingly, the complaint stands disposed-off.



(N K Jain)
Member



(Umesh H Ved)
Member



(Harish K Vaid)
Presiding Officer

Date: 25th August, 2012