

BEFORE THE BOARD OF DISCIPLINE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA
ICSI/DC: NI/2013

In the information received against Mr. Pramod S Shah, FCS - 334 (CP No. 3804).

Date of Decision: 9th January, 2014

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

ORDER

1. The Institute had received an e-mail dated 24th August, 2013 from Shri Suresh Gondalia (hereinafter referred to as the informant) *inter-alia* stating that he has received an email from Shri Pramod S Shah wherein he had forwarded his firm's profile (M/s. Pramod S. Shah & Associates) to him. He further raised a query as to whether a member can send such email to others.
2. An e-mail dated 24th August, 2013 was sent to Shri Suresh Gondalia, the informant asking him as to whether he would like to file the complaint in Form I. The informant *vide* e-mail dated 24th August, 2013 informed that his emails be treated as information.
3. A copy of the information received was sent to Shri Pramod S Shah, FCS-334 (CP No. 3804) (hereinafter referred to as the Respondent) *vide* letter dated 30th August, 2013 asking him to file his comments. The Respondent *vide* letter dated 11th September, 2013 requested to grant him additional time to submit his comments which was granted *vide* letter dated 13th September, 2013. The Respondent *vide* letter dated 20th September, 2013 submitted his comments wherein he has *inter-alia* stated that he has met Ms. Ketki Parikh- Manager (Legal & Secretarial) of M/s. Styrolution ABS(India) Limited and Shri Suresh Gondalia, the informant at the WIRC conference held at Ahmedabad in August, 2013 and had taken their business card. The Respondent further stated that Ms. Ketki Parikh had



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requested him to send his firm's detailed profile and range of services provided by it.

4. The Respondent has further *inter-alia* stated that he received a letter dated 14th August, 2013 from Ms. Ketki Parikh informing that she has not received his detailed profile and range of services. The Respondent further stated that the business cards of Ms. Ketki Parikh and Shri Suresh Gondalia were kept together and his office had inadvertently sent a mail to Shri Suresh Gondalia instead of to Ms. Ketki Parikh. The Respondent further stated that he had no intention of solicitation of professional work from Shri Suresh Gondalia. The Respondent further stated that had his intention would have been to solicit professional work from Shri Suresh Gondalia, he would have followed up with Shri Suresh Gondalia. The Respondent further stated that he has been attending various seminars and conferences organised by the ICSI but has never tried to solicit professional work.
5. The Director (Discipline) examined the information, comments received from the Respondent; other material on record and *prima facie* observed that though the Respondent has admitted that he had no intention to solicitation of professional work from Shri Suresh Gondalia but the fact is that the alleged email has been sent to Shri Suresh Gondalia, with whom the Respondent had no business relationship, can be calculated to indirectly secure publicity and solicitation which is in violation of Clauses (6) and (7) of Part I of the First Schedule of the Company Secretaries Act, 1980. Hence, the Respondent is *prima- facie* 'Guilty' of professional misconduct under Clauses (6) and (7) of Part I of the First Schedule of the Company Secretaries Act, 1980.
6. The *prima-facie* opinion of the Director (Discipline) dated 9th October, 2013 was placed before the Board of Discipline.
7. The Board considered the *prima-facie* opinion of the Director (Discipline) dated 9th October, 2013, the material on record and agreed with the *prima-facie* opinion and thereafter decided to proceed further in the matter in accordance with the Company Secretaries Act, 1980 and the Company Secretaries



Sunderam Suresh

[Signature]

(Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

8. Accordingly, vide letter dated 29th October, 2013 a copy of the *prima-facie* opinion of the Director (Discipline) dated 9th October, 2013 was sent to the Respondent calling upon him to submit the written statement.
9. The Respondent vide letter dated 18th November, 2013 requested time till 20th December, 2013 for submitting the written statement. The Respondent vide letter dated 2nd December, 2013 was asked to submit the written statement latest by 12th December, 2013. The Respondent vide letter dated 9th December, 2013 submitted the written statement.
10. The Respondent vide letter dated 17th December, 2013 was called upon to appear before the Board on 9th January, 2014.
11. Dr. S Kumar, Advocate appeared before the Board on behalf of the Respondent and submitted (i) authority letter;(ii) "Memorandum of Written Submission of the Oral Pleadings made on January 9, 2014" and the following citations-
 - a. Patangrao Kadam Vs. Prithviraj Sayajirao Yadav (AIR 2001 SC1121)
 - b. Ramakrishna Raja Vs.Registrar of Companies (2005 123 Company Cases 319 Madras.
12. Dr. S Kumar, Advocate also made oral submissions wherein he *inter-alia* stated that an inadvertent mistake committed by the employee of his client of sending the alleged email to the informant, that too without his knowledge cannot be presumed as professional misconduct. He further stated that his client had no intention to solicit client or professional work, either directly or indirectly. He further stated that the Respondent has assured to be more careful in future to ensure that such mistake does not recur and requested the Board to take a lenient view in the matter.



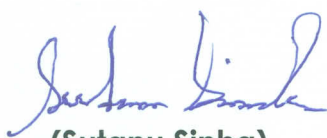
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13. The Board of Discipline considered the oral and written submissions made by the Respondent; the material on record; concluded that the Respondent is 'Guilty' of Professional Misconduct for contravening Clauses (6) and (7) of Part 1 of the First Schedule of the Company Secretaries Act, 1980 as though the Respondent has admitted that he had no intention to solicit professional work from Shri Suresh Gondalia and the alleged email has been sent without his knowledge but the fact is that the alleged email has been sent from the email ID of the Respondent to Shri Suresh Gondalia with whom the Respondent had no business relationship. The Board of Discipline decided to afford an opportunity of being heard to Shri Pramod S Shah, the Respondent before passing any order under Section 21A (3) of the Company Secretaries Act, 1980.
14. The Board conveyed its decision to Dr. S Kumar, Advocate of the Respondent. Thereafter, Dr. S Kumar, Advocate communicated the aforesaid decision of the Board to his client over the phone and informed the Board that the Respondent has accepted the decision of the Board and has requested to take a lenient view.
15. The Board took note of the request of the Respondent; material on record; and in the totality of the issues involved in the matter, passed the following order:

Reprimand

The order shall be effective after the expiry of 30 days of issue of this order.



(Sutanu Sinha)
Member



(Sudhir Babu C)
Presiding Officer

Date: 9th January, 2014

