

**BEFORE THE FITNESS TO PRACTISE COMMITTEE  
OF THE GENERAL OPTICAL COUNCIL**

**GENERAL OPTICAL COUNCIL**

**F(11)06**

**AND**

**DIPAK SURYARANT CHAWDA (SO-4476)**

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**DETERMINATION OF THE INQUIRY: 13 SEPTEMBER 2011**

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On 13 September 2011, the Fitness to Practise Committee of the General Optical Council met to consider allegations against Dipak Chawda.

**ALLEGATION**

The Council alleges that in relation to you, Dipak Chawda (a registered student optometrist)

1. On 6 May 2005, at Stratford Magistrates Court you were convicted of obtaining property by deception contrary to Section 15(1) of the Theft Act 1968.

And by virtue of the matters set out above your fitness to undertake training is impaired by reason of your conviction.

**DETERMINATION**

**Findings in relation to the allegation and the conviction**

The Committee has heard submissions on behalf of the Council and the Registrant. It has accepted the advice given to it by the Legal Adviser. The Committee has seen a copy of the Certificate of Conviction and the registrant admitted the offences.

**Findings regarding impairment**

The Committee has heard submissions on behalf of the Council and the Registrant. It has accepted the advice given to it by the Legal Adviser. The Committee has had regard to all of the evidence in this case including the references insofar as they relate to the question of impairment.

On the 6 May 2005, the registrant appeared before the Stratford Magistrate's Court and was sentenced in relation to an allegation of obtaining property by deception, namely £9600 to which he had pleaded guilty. The conviction related to the theft of money from his employers, Specsavers Optical Group, between the 4 June and 1 October 2004. He was sentenced to a term of imprisonment of 6 months suspended for a period of 2 years.

In March 2006, the registrant appeared before a Registration Appeals Hearing at the GOC. Having heard evidence, including from the registrant himself, the Committee determined to refuse his appeal as they were not satisfied that he was fit to undertake training as an optometrist. The Committee noted in its determination that the registrant's offence had been serious, involving the theft of a large amount of money and was a grave breach of the trust that his employers had in him. It further observed that his offence would have had the effect of undermining the public's confidence in the profession and that his suspension period was, at that time, still running.

Before the Committee today, Ms Bromley, for the GOC submitted that by reason of his admitted and proved conviction, the registrant's fitness to undertake training is impaired. She reminded the Committee of the serious nature of the offence, the large amount of money involved and serious nature of the breach of trust.

The Committee heard from the registrant, who gave evidence on oath and from his employer, Mr Dollay.

The registrant told the Committee that he was fully aware of his responsibility for his crime and that he remains ashamed and contrite in consequence. He told the Committee that he has worked hard since and has sought to pass all his exams, which he has, in furtherance of his ambition to become an optometrist. He explained the reason behind his behaviour as stemming from stress occasioned by the loss of close family members and a wish to obtain some money to pay for an operation for his father who was suffering from a life threatening condition to which he subsequently succumbed. The Committee noted that at times he appeared to be inconsistent both in his answers to them today and in comparison with the evidence that he gave at the hearing in 2006. However, the Committee was satisfied that these inconsistencies did not amount to dishonesty.

Mr Dollay spoke highly of the registrant. He said that he was a man that he trusted and believed to be honest. He was someone that he trusted. Mr Dollay thought that the registrant had paid for his crime and he told the Committee that as a result he was willing to give him another chance. The Committee was impressed by Mr Dollay and found him to be a frank and honest witness.

The Committee had regard to many references which also spoke highly of the registrant and of his hard work and integrity.

On behalf of the registrant, Ms Sanderson submitted that the registrant was not impaired today. She referred the Committee to the fact that these matters were over 7 years ago and that there had been no evidence of any similar behaviour before or since.

The Committee considered whether there was evidence before them of insight on the part of this registrant and was satisfied, having heard from him, that there was. The Committee was satisfied that the registrant had learned his lesson and would be most unlikely to repeat this behaviour in the future.

Of greater concern, however, was the damage that the registrant's behaviour would cause to the reputation of the profession. Members of the public are entitled to trust that any professional person will maintain the highest possible professional standards, be honest and act, at all times, with the utmost integrity and propriety. Dishonest behaviour is simply unacceptable in any circumstances.

The Committee has, however, had regard to the peculiar facts of this case, which include, in particular, the unique circumstances behind the commission of this offence, the time that has elapsed since and the behaviour of the registrant in that period. It notes that in his ruling in *Jidefo V. the Law Society*, *Evans v. The Solicitors Regulation Authority* and *Begum v. The Solicitors Regulation Authority*, Sir Anthony Clarke MR expressed the view that there was always hope, that with time, an applicant who was otherwise not suitable for inclusion on the register might become so. The Committee is satisfied that in light of the exceptional facts of this case and with the belief that this registrant will never offend in the future, that time has come.

The Committee found that the fitness of Dipak Chawda to undertake training as an optometrist is not impaired.

**Warning**

The allegations in this case were serious and the Committee felt that it was appropriate to issue him with a warning as to his future conduct. In future the registrant should appreciate that any dishonesty, however minor, on his part, will not be tolerated. It is his responsibility, at all times, to be clear, honest and accurate in his dealings with everyone, especially his professional regulatory body. A time limit of 3 years is deemed appropriate in this case.

**Chairman of the Committee: Corinna Kershaw**

Signed \_\_\_\_\_ Date 13 September 2011

**Registrant: Dipak Chawda**

Signed \_\_\_\_\_ Date 13 September 2011

| <b>FURTHER INFORMATION</b>   |
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| <p><b>Transcript</b></p> <p>A full transcript of the hearing will be made available via the GOC website in due course.</p>   |
| <p><b>Appeal</b></p> <p>Any appeal against an order of the Committee must be lodged with the relevant court within 28 days of the service of this notification. If no appeal is lodged, the order will take effect at the end of that period. The relevant court is shown at section 23G(4)(a)-(c) of the Opticians Act 1989 (as amended).</p>   |
| <p><b>Council for Healthcare Regulatory Excellence</b></p> <p>This decision will be reported to the Council for Healthcare Regulatory Excellence (CHRE) under the provisions of section 29 of the NHS Reform and Healthcare Professions Act 2002. CHRE may refer this case to the High Court of Justice in England and Wales, the Court of Session in Scotland or the High Court of Justice in Northern Ireland as appropriate if they decide that a decision has been unduly lenient and/or should not have been made, and if they consider that referral is desirable for the protection of the public. CHRE is required to make its decision within 40 days of the hearing (or 40 days from the last day on which a registrant can appeal against the decision, if applicable) and will send written confirmation of a decision to refer to registrants on the first working day following a hearing. CHRE will notify you promptly of a decision to refer. A letter will be sent by recorded delivery to your registered address (unless CHRE has been notified by the GOC of a change of address).</p> <p>Further information about the CHRE can be obtained from its website at <a href="http://www.chre.org.uk">www.chre.org.uk</a> or by telephone on 020 7389 8030.</p> |
| <p><b>Effect of orders for suspension or erasure</b></p> <p>To practise or carry on business as an optometrist or dispensing optician, to take or use a description which implies registration or entitlement to undertake any activity which the law restricts to a registered person, may amount to a criminal offence once an entry in the register has been suspended or erased.</p>   |
| <p><b>Contact</b></p> <p>If you require any further information, please contact the Council's Hearings Manager at 41 Harley Street, London, W1G 8DJ or, by telephone, on 020 7580 3898.</p>  |