

**BEFORE THE REGISTRATION APPEALS COMMITTEE  
OF THE GENERAL OPTICAL COUNCIL**

**FIAZ BI (SD-3036)**

**A(11)03**

**AND**

**GENERAL OPTICAL COUNCIL**

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**DECISION: 16 MAY 2011**

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On 16 May 2011, the Registration Appeals Committee met to consider an appeal against the decision of the Council not to retain Fiaz Bi in the register of student dispensing opticians.

The Committee determined that the Registrar's decision be upheld.

The Committee heard that on 3 March 2010 the appellant pleaded guilty to a benefit fraud that had taken place several years earlier. She was sentenced on 1 April 2010 to 12 weeks imprisonment, suspended for two years. She was also ordered to perform unpaid work. She did not disclose this conviction to the GOC immediately, but she did so on the retention form she submitted on 6 August 2010. The registrar decided not to grant her application for retention because fraud against the public purse was a serious offence that damaged public confidence in the profession.

The Committee has considered a bundle of documents, including the transcripts of the Crown Court hearings. It has heard oral evidence from the appellant and heard two written references that she produced. It has carefully considered her submissions and those of Mr Whalley for the GOC.

The circumstances of the offence were that the appellant had separated from her husband. She had a child. There was no room for her to live with her parents but as a member of a close Pakistani community she did not feel able to move away. Her brother owned a house nearby. She moved into that house and claimed benefit to pay the rent. The application form asked if she was related to the landlord. She deliberately answered no to this question. She said that she did this because she did not want to take the risk that she would not be able to live in this house near her family. This dishonest application was renewed on two further occasions. The total amount paid as a result of these fraudulent claims was just under £20,000.

What the appellant did was fraudulent, as she readily admitted. However, the Committee considers that there are substantial mitigating factors in her case. Although the sum involved was quite large, it has not been suggested that the rent paid was excessive or wrong in principle. The judge approached the fraud on the basis that it deprived the authorities of the opportunity of investigating the facts, and in particular investigating whether this was a genuinely commercial transaction. The appellant pleaded guilty and has not sought to minimise her responsibility. She has repaid the benefit that was wrongly claimed. The sentence imposed appears to the Committee (two of whom are magistrates) to be a very light one for an offence of this type. The judge seems to have treated it as being at the lower end of the scale. The offence took place several years ago. There are no other convictions or findings against her.

The appellant's circumstances have changed significantly since this offence. She is working in optics, undergoing training and apparently doing well. She has produced a reference from her employer who is fully aware of all the facts and has seen the Court documents. He says that she is an honest and trustworthy person and that she holds the keys to the practice premises. The Committee does not consider that she presents a risk to the public or that there is a risk of her re-offending.

On the other hand, the Committee is concerned that the appellant is still subject to a suspended sentence of imprisonment. She is only half way through the term and has not yet 'paid her debt to society', although she has completed the order for unpaid work. The Committee considers that it would be damaging to public confidence in the profession to permit a student to be retained on the register while she is still under a suspended sentence for a relatively serious fraud.

The Committee is aware of the guidance provided for Fitness to Practice hearings which refers to the case of *Fleischamnn*. It indicates that a person who is convicted of a serious criminal offence should not normally be permitted to resume practice until he has satisfactorily completed his sentence. The Committee recognises that this is not a fitness to practise hearing and that the offence in *Fleischamnn* was more serious. Nevertheless, it considers this guidance reinforces its conclusion that a person who is currently under a suspended sentence of this kind is not currently fit to undertake training.

The Committee therefore upholds the Registrar's decision.

The Committee does not wish to discourage the appellant from renewing her application for registration when she has satisfactorily completed her sentence.

**Chairman of the Committee: Ms Mercy Jeyasingham MBE**

Signed \_\_\_\_\_ Date 16 May 2011

**Appellant: Fiaz Bi**

Signed \_\_\_\_\_ Date 16 May 2011

<b>FURTHER INFORMATION</b>
<b>Transcript</b>
A full transcript of this hearing will be made available via the GOC website in due course.
<b>Appeal</b>
Where the decision by the Registrar been upheld by the Registration Appeals Committee, the appellant may appeal against that decision through the Courts. The relevant court is shown at section 23G(4)(b)-(c) of the Opticians Act 1989 (as amended).
<b>Council for Healthcare Regulatory Excellence</b>
This decision will be reported to the Council for Healthcare Regulatory Excellence.
<b>Contact</b>
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.