

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

GENERAL OPTICAL COUNCIL

IO(12)01

AND

GRAHAM BODMAN (D-9698)

PRIVATE HEARING

**DETERMINATION OF APPLICATION FOR AN INTERIM ORDER
18 JANUARY 2012**

Notification of hearing and proceeding in the registrant's absence

The Committee accepted the advice of its Clinical Adviser and also the advice of its Legal Adviser. The Committee is satisfied that all reasonable efforts have been made to notify the registrant of the hearing. The registrant had communicated with the Hearings Manager and was clearly aware of the date, time and venue of the hearing. Shortly before the hearing was due to commence, a message was received that the father of the registrant had sadly passed away yesterday, and the Committee extends its sympathy to the registrant. No request for any adjournment had been received, and the Committee considered whether or not it should proceed in his absence. It considered the case of R-v- Jones [2003] 1 AC, 1 HL, and the checklist relevant to a consideration of whether to proceed in the absence of the registrant. The Committee noted that it had various documents from the registrant setting out material relevant to its consideration of an interim order, as well as the fact that it had no power to compel attendance even if an adjournment was to be made. The Committee also considered the background leading to the application to be made. The Committee further determined that it would be in the public interest for the hearing to proceed in the registrant's absence.

Decision

The Committee considered the application of the Council that an interim order of suspension be made in the case of the registrant on the three grounds set out in Section 13L of the Opticians Act 1989.

The registrant is a registered dispensing optician. He was first registered on 22 February 1983. He was convicted at Bournemouth Magistrates' Court of a drink driving offence on 30 June 2009. That conviction was referred to the GOC and in

August 2010 it was directed that the registrant **redacted**. The Committee had those reports before it today. Those **redacted** were considered by the Investigation Committee in May 2011. The matter was also considered in July 2011 by the Investigation Committee. They decided not to refer the matter to a Fitness to Practice Committee, but issued a warning to the registrant. The warning was in these terms: "You should ensure your conduct, whether or not connected to your professional practice, does not damage public confidence in you or in your profession." Notification of that warning was made to the registrant on 10 August 2011.

When the registrant applied for retention on the register for 2011/12 on 22 March 2011, he said that he had been off work since February **redacted**. As a consequence information was sought from the registrant **redacted**. A letter from the registrant's **redacted** was received. That letter was also before this Committee. This Committee also had before it a letter from the registrant written in response to the report of his GP. There is also a letter from the registrant's **redacted** dated 17 November 2011.

At the time that the Investigation Committee was considering the position of the registrant in May 2011, he had in fact been convicted of a further drink drive offence by the Magistrates' Court in Bournemouth. This conviction was not brought to the attention of the Council by the registrant himself, but by the Dorset Police on 8 July 2011. On this second conviction he was disqualified from driving for a period of 3 years. His breath alcohol reading was twice the legal limit. When the fact of that conviction, and the fact that the registrant had not declared the conviction to the Council was brought to the attention of the registrant, he responded by letter dated 28 November 2011. That letter was also before this Committee and its contents have been considered along with a further letter of 11 December 2011 that he has submitted.

In the light of the matters set out above, and set out in the documents before it, the Committee is of the view that this is a case where an interim order of suspension is necessary. The Committee considered the material relevant to each of the three limbs under the relevant section. This is a case where in addition to the underlying conduct he has deceived his regulator by not declaring a second conviction at a time when he knew the Investigation Committee was still considering his case, and on his own documents there was disclosed underlying **redacted** that had prevented him from working as a dispensing optician for significant periods. It is particularly concerned as to the potential underlying **redacted** there may be, in the light of the all of the facts surrounding his drink drive convictions, and the **redacted** set out in the reports and letters. There is no report from a **redacted** and as and when this matter is reviewed there should be such a report along with relevant **redacted** as well as an up to date report on his **redacted**.

The Committee ordered that the registrant's registration be suspended for a period of 18 months from today. The order will be reviewed within 6 months from today unless all matters are resolved within that time, or earlier should new evidence be made available, or if the registrant, at any time after three months from today's date, requests an early review.

Chairman of the Committee: Fran Jones

Signed _____

Date 18 January 2012