

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

GENERAL OPTICAL COUNCIL

F(11)08

AND

GRAHAM MOORE (D-11603)

DETERMINATION OF THE INQUIRY: 14 SEPTEMBER 2011

On 14 September 2011, the Fitness to Practise Committee of the General Optical Council met to consider allegations against Graham Moore.

ALLEGATION

The Council alleges that in relation to you, Graham Moore (a registered dispensing optician)

1. On 16 July 2010 at Margate Magistrates Court were convicted of stealing cash to the value of £1,413.10 belonging to Specsavers, Margate contrary to Sections 1(1) and 7 of the Theft Act 1968.

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

DETERMINATION

Findings in relation to the conviction

The Committee has heard submissions on behalf of the Council and from the Registrant. It has accepted the advice given by the Legal Adviser. The registrant admitted the conviction of which the Committee has seen a copy of the relevant certificate. Accordingly the conviction is found proved.

Findings regarding impairment

The Committee has heard submissions on behalf of the Council and from the Registrant. It has accepted the advice given to it by the Legal Adviser.

In reaching its decision the Committee is mindful of the relevant GOC Codes of Conduct 2005 and 2010 which set out the standards required of a registered

optician. In particular, both Codes lay great stress on the requirements for honesty and integrity to assure public confidence in the profession. It is a further requirement that opticians do not abuse the position of trust in which they are placed in respect of the public and within that, their employers. The registrant has freely accepted that his conduct fell far short of these standards.

The registrant was the store manager in a retail organisation providing optical services. On 17 proven occasions over many months he manipulated administrative systems to deceive and defraud his employer. When challenged by his employer he admitted his offences, was dismissed and following conviction has carried out 200 hours of unpaid community work. He argued that his subsequent employment and conduct in employment outside the optical profession, together with the resolution of his personal financial difficulties, were sufficient evidence that his fitness to practise was currently unimpaired.

The Committee was unable to agree. The Committee considered that the registrant's conduct represented a fundamental breach of several of the standards required of opticians. To view his behaviour otherwise would undermine the confidence of the public in the profession.

Accordingly, the Committee found that the fitness of Graham Moore to practise as a dispensing optician is impaired.

Sanction

Before commencing its deliberations the Committee reminded itself of the Indicative Sanctions Guidance issued by the GOC. The Committee considered the sanctions available in ascending order. It considered both the possibility of no further action or conditions, but decided that neither was appropriate.

The Committee then considered whether suspension would reflect the seriousness of this dishonest behaviour. The registrant had been employed for five years and was in a position of trust and responsibility as the store manager. The Committee considered that his behaviour was not an isolated incident, but was a course of dishonest conduct over many months involving a series of planned deceptions which were carried out against his employer. The financial circumstances that led to his acts of fraud were the result of his own, admitted, reckless behaviour which he attempted to redress by unlawful activity. The result was significant breaches of the relevant GOC Code of Conduct over an extended period.

The Committee has taken into account the registrant's full and immediate admissions after being confronted by his employer and that he cooperated fully with the investigation throughout. Further, he has repaid all the monies fraudulently obtained. Nevertheless, the Committee considered that this dishonest behaviour was fundamentally incompatible with continued registration. Suspension was therefore not a reasonable and proportionate sanction to maintain public confidence and uphold the standards of the profession.

The Committee therefore orders that the registrant's name be erased from the register of dispensing opticians.

Immediate order

The Committee further considered whether an immediate suspension would be appropriate in this case and after representations from both parties it has decided that an immediate suspension order is necessary in the public interest.

Chairman of the Committee: Peter North

Signed _____ Date 14 September 2011

Registrant: Graham Moore

Signed _____ Date 14 September 2011

FURTHER INFORMATION
<p>Transcript</p> <p>A full transcript of the hearing will be made available via the GOC website in due course.</p>
<p>Appeal</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>Council for Healthcare Regulatory Excellence</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 www.chre.org.uk or by telephone on 020 7389 8030.</p>
<p>Effect of orders for suspension or erasure</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>Contact</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>