

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

GENERAL OPTICAL COUNCIL

F(11)11

AND

SHERAZ MALIK (D-12130)

DETERMINATION OF THE INQUIRY: 11 MAY 2011

On 11 May 2011, the Fitness to Practise Committee of the General Optical Council met to consider allegations against Sheraz Malik.

APPLICATION

Ms Gillet, on behalf of the Council, made an application to amend the allegation. The allegation referred to Mr Malik's '...fitness to undertake training..' when it should have stated '...fitness to practise..' The application was unopposed by Mr Payne, for the registrant and the Committee agreed to amend the allegation.

ALLEGATION

The Council alleges that in relation to you, Sheraz Malik (a registered dispensing optician)

1. On 8 July 2010 at Stevenage Magistrates' Court you were convicted of possession of a (a) class A controlled drug (cocaine) and (b) class B controlled drug (cannabis/cannabis resin) contrary to section 5(2) of and schedule 4 to the Misuse of Drugs Act 1971;
2. You failed to notify General Optical Council that you had been convicted of an offence as required by the code of conduct for individual registrants;
3. Your action at paragraph 2 above was dishonest.

And by virtue of the matters set out above your fitness to practise is impaired by reason of your (a) convictions and (b) misconduct

DETERMINATION

Findings in relation to the facts

Mr Malik has admitted that on 8 July 2010 at Stevenage Magistrates' Court, he was convicted of possession of cocaine and possession of cannabis, as alleged. He has also admitted that he failed to notify the GOC of these convictions. Having considered all the evidence the Committee formally finds these allegations proved.

The Council's allegation that Mr Malik's failure to notify the GOC of his convictions was dishonest was denied by him.

In this respect the Committee has accepted and acted upon the advice of the legal adviser.

The Committee has not found Mr Malik to be either an impressive or a truthful witness. The Committee does not accept his evidence in a number of respects, in particular in relation to (a) the quantity of drugs found in his possession by the Police, (b) the money that he stated that he paid for those drugs, and (c) the nature and extent of his drug usage at the time of these offences.

The Committee rejects his evidence as to why he failed to notify the GOC of his convictions. He accepted that the GOC needed to know about convictions in order to protect the public. The Committee does not accept his explanation that it would have been acceptable for the GOC to find out about a conviction many months after the registrant's court appearance.

The Committee has also noted that according to his evidence Mr Malik has failed to inform all of his employers of his convictions.

In the circumstances the Committee is satisfied that Mr Malik's failure to notify the GOC of his convictions was dishonest, and this last allegation is found proved also.

Findings in relation to convictions and misconduct

The Committee found the convictions proved. On Mr Malik's behalf it was accepted that the second and third allegations having been found proved amounted to misconduct and the Committee so found.

Findings regarding impairment

The Committee has already found that Mr Malik did not give reliable or truthful evidence about his drug use and the reasons for his failure to notify the GOC of his convictions in July 2010.

In the discharge of its responsibilities to the public, the public interest and its duty to uphold the reputation of the profession, the Committee is seriously concerned about a number of matters.

The evidence is that in April 2010, little more than a year ago, Mr Malik was found in possession of large quantities of cocaine and cannabis. Although he has subsequently attended a Drug Rehabilitation Centre in Cambridge, there is no material before the Committee that corroborates Mr Malik's evidence that he has remained drug-free since last May. The Committee has heard that Mr Malik has

failed to disclose his convictions to all his employers, and furthermore that he has not yet informed even his parents of his drug use and convictions.

The Committee is satisfied that Mr Malik lacks insight into the effects of his drug use on himself or those around him. In particular it attaches importance to the fact that in his evidence Mr Malik flatly denied even the possibility that his drug usage may have had an adverse effect on his patients and customers.

In the circumstances while it accepts that Mr Malik has taken some steps to remedy the causes of his appearance before it, the Committee is satisfied that Mr Malik's fitness to practise as a dispensing optician is and will remain impaired for so long as these causes for concern remain outstanding.

Sanction

The Committee has had regard to the Fitness to Practise Panels Hearing Guidance and Indicative Sanctions. The Committee has concluded that a financial penalty would be inappropriate in this case.

The Committee's decision is that the imposition of conditions on Mr Malik's registration is both necessary and proportionate in the circumstances. The Committee has had particular regard to the principle of the protection of the public. While it makes no finding that Mr Malik is currently using drugs, the Committee remains concerned that there may be a recurrence of the family and social stresses and pressures that, according to his own evidence, led him to resort to the use of cocaine and cannabis in the first place. The Committee is also concerned about his continuing lack of insight as to the effects of his past drug use. With a view to addressing these concerns, the Committee imposes the following conditions on Mr Malik's registration for a period of 12 months:

1. The GOC will enter these conditions against your name in the register save any conditions which relate to your health. You must allow the Registrar to share any information The GOC will enter these conditions against your name in the register save any conditions, including confidential information, with any employer, supervisor, professional colleague or any organisation for which you provide ophthalmic services for the duration of your conditional registration.
2. You must also allow the Registrar to share this information with other regulatory bodies and the Department of Health.
3. You must notify the Registrar within 14 days of commencement of any professional appointment you accept whilst you are subject to these conditions (this includes any teaching posts) and provide contact details of your employer and if providing ophthalmic services under a NHS contract, the PCT on whose ophthalmic practitioners list you will be included (this includes any equivalent employer in the EC).
4. You must inform the Registrar within 14 days of any criminal convictions, police cautions or formal disciplinary proceedings taken against you from the date of this determination.
5. You must inform the Registrar:

- a. If you cease working;
 - b. If your work takes you out of the UK for a significant period of time; or
 - c. Of any employment you apply for outside of the UK (and in which countries)
as conditions of registration only apply to practice undertaken in the UK (you must consider whether your time out of work or out of the UK will allow you to fulfil the conditions during the period of conditional registration). The Registrar may inform the relevant competent authorities in that country of your current conditions of UK registration.
6. You must continue to fulfil the CET requirements under the GOC CET scheme to secure appropriate points for continued inclusion on the GOC register.
 7. You must inform the following parties that your registration is subject to conditional registration:
 - a. Any organisation or person employing or contracting with you to undertake ophthalmic services (to include any locum agency);
 - b. Any prospective employer (whether within the UK or EC);
 - c. Chairman of the Local Optometric Committee;
 - d. The PCT in whose ophthalmic practitioners list you are included or seeking inclusion.
 8. You must ensure that your GOC registration is renewed by 15 March annually while you are subject to the GOC FTP conditional registration procedures. Should you fail to renew your registration a review hearing will be arranged immediately.
 9. Redacted.
 10. Redacted.
 11. Redacted.

A review hearing will be held approximately four weeks before the expiration of this order. The review committee will need to be satisfied that the registrant has fully appreciated the gravity of the offence, has not re-offended and has maintained his skills and knowledge and that the registrant's patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.

Chairman of the Committee: Lady Margaret Wall

Signed _____ Date 11 May 2011

Registrant: Sheraz Malik

Signed _____ Date 11 May 2011