

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

GENERAL OPTICAL COUNCIL

F(10)14

AND

TRISHNA JAYESH PATEL (SO-5964)

DETERMINATION OF THE INQUIRY: 22 FEBRUARY 2011

On 22 February 2011, the Fitness to Practise Committee of the General Optical Council met to consider allegations against Trishna Patel.

Service

The Committee accepted the advice of its legal adviser.

The Committee is satisfied that all reasonable efforts have been made to notify the registrant of the hearing. In addition to the main bundle of documents, the Committee was shown a letter dated 16 December 2010, a letter of 9 February 2011 from the Council or its representatives, and an e-mail dated 18 February 2011 from the student Registrant. It is clear from those documents that the papers had been served on the student Registrant. In particular the e-mail dated 18 February 2011 to the Council representative from Trishna Patel demonstrated that she is aware of the proceedings today and also the nature of the proceedings and has chosen not to attend or to be represented. She is a registered student now aged 27. The Committee regrets that she had chosen not to engage fully with this process. The Committee was of the view that it would be in the public interest for the hearing to proceed in the registrant's absence and there is a clear public interest in resolving the issues in these proceedings.

ALLEGATION

The Council alleges that in relation to you, Trishna Patel, a registered Student Optometrist –

1. On 16 September 2009 at Lewisham Police Station, you were cautioned for the offence of fraud by false representation, in that you used a colleague's bank card to withdraw money from her account totalling £1,400;

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

- (a) Caution

DETERMINATION

Findings in relation to the particulars of the allegation

The Committee accepted the advice of its legal adviser.

The Committee found that this registered Student was the subject of a caution at Lewisham Police Station in September 2009. Although the copy of the caution is not signed the Committee was satisfied that she was cautioned at the time. She declares the caution on her student application form, and refers to it in subsequent correspondence.

Findings in relation to the caution

The Committee found on the basis of the information presented that the caution relating to Trishna Patel had been proved, and that the caution relates to matters of fraud.

Findings regarding impairment

The Committee found that the fitness of Trishna Patel to undertake training as a student optometrist is impaired. The facts that led to the giving of the caution were serious. A total of £1,400 was stolen from the bank account of a work colleague of the student Registrant over the period from 30 June to 24 July 2009 on six separate occasions. The victim's bank card was taken from a purse from her handbag on each occasion whilst both she and the student Registrant were working at the same branch of Vision Express. They had been friends over a period of time. The offences came to light by the victim noticing that her bank account had money missing. Subsequent enquiry showed it was this student registrant who had taken the money by using the victim's bank card. According to the witness statement of the victim she believed that the student Registrant had seen her use her card and taken a note of her PIN. When confronted the student Registrant fully admitted the offences and offered to repay it straightaway. Repayment was made. The Committee noted that repayment was made over a relatively short period of time, and yet the Committee had not received a full explanation of the reasons for the money being taken in the first place. From the police report it would appear that she returned the bank card used to make the debits between each occasion on which she used the card. Dishonesty strikes at the heart of the Code of Conduct of the profession. Paragraph 10 of the Code requires all members to be honest and trustworthy. The Committee in exercising its collective judgment was of the view that there is no clear understanding of the student Registrant as to the serious nature of this offence. This offence involved a degree of planning as to its commission, and

was one which had an impact on the victim. The Committee has also considered the wider public concerns and has had regard to the judgement in the case of Bolton.

Sanction

The Committee has considered the appropriate sanction taking into account the public interest and that the purpose of the sanction is not to punish the student Registrant. The Committee took into account that this student Registrant has nothing else recorded against her. The Committee started by considering no order, a financial penalty order or a conditional registration. This case is one that is too serious that no order is made. A financial penalty would not be appropriate as the student Registrant refers to financial difficulties, and there are no realistic conditions that could be imposed on her registration. The Committee considered that the appropriate and proportionate sanction in the circumstances of the facts of this case, and taking into account what it knew of the position of the student Registrant was one of suspension. In terms of the period of that suspension, the Committee decided that the appropriate length was one of 6 months.

A review hearing will be held before the expiration of this order; the hearing will be held on 6 September 2011. 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 her skills and knowledge.

Chairman of the Committee: Lady Margret Wall

Signed _____

Date 22 February 2011

FURTHER INFORMATION
Transcript
A full transcript of the hearing will be made available via the GOC website in due course.
Appeal
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).
Council for Healthcare Regulatory Excellence
<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>
Effect of orders for suspension or erasure
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.
Contact
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.

