

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

**GENERAL OPTICAL COUNCIL**

**F(08)01**

**AND**

**RONALD JAMES PREEDY (D-9144)**

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**DETERMINATION OF THE INQUIRY: 12-14 APRIL 2011**

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On 12-14 April 2011, the Fitness to Practise Committee of the General Optical Council met to consider allegations against Ronald James Preedy.

**APPLICATION**

Mr. Preedy did not attend on the 12<sup>th</sup> of April 2011, for his final hearing. He was represented by Mr. Graham, his solicitor. Mr. Hepworth appeared on behalf of the General Optical Council.

Mr Graham applied for this hearing to be adjourned and made his application in pursuance of Rule 35 of the General Optical Council (Fitness to Practise) Rules 2005. This provision gives the Committee a power to adjourn. In support of the application, Mr. Graham relied upon a medical report from the Registrant's Doctor, Dr. Toozy of the Park Road Medical Centre in Wallington. This handwritten document consisted of one page, dated the 11<sup>th</sup> of April 2011. [Redacted]

In addition, Mr. Graham helpfully liaised with Dr. Toozy on 12<sup>th</sup> April 2011 in order to provide the Committee with further information about the Registrant's condition. Mr. Graham had also been in contact with the Registrant for instructions on 11<sup>th</sup> April 2011. The Committee is grateful to Mr. Graham for his assistance.

Mr. Hepworth has drawn the Committee's attention to Rule 21 of the 2005 Rules which permits the Committee to proceed in the absence of the Registrant or his Representative. The Registrant was clearly aware of the date of the hearing. Thus the Committee focussed on sub section (b) which requires the Committee to have regard to the reasons for absence and to be satisfied that it is in the public interest to proceed.

Both Mr. Graham and Mr. Hepworth helpfully drew the Committee's attention to the reported case of R v. Anthony Jones [2003] 1 AC 1 HL and are agreed that this case, although a criminal case, was the authority to be followed. In Jones, the House of Lords gave guidance as to the principles that should be applied by a tribunal when seized with an application to

proceed in the absence of an accused. The Committee acknowledge that it is always desirable that a hearing should proceed in the presence of an accused, wherever possible. The Committee has to act fairly and fairness to the Registrant is of prime importance. However the Committee also has to take into account fairness to the Council. It is a balancing exercise for us to conduct. The Committee accepts that the Registrant is depressed but the Committee had no evidence placed before it as to when it is likely that his condition will be resolved. The Committee also notes that the report does not specifically state that he is unfit to attend this hearing. Clearly an adjournment could resolve this matter but it is likely to be of some time. Mr. Graham pointed out that any application for an adjournment should be viewed in terms of the timescale in this case which goes back to the period between 2004 and 2007. Any further delay is not going to contribute much to the already lengthy time this case has taken to be resolved. Mr. Hepworth pointed out that this was now the third time that this case had been listed. The first time was in 2008. It was last listed in January of this year. He submitted that any further delay will obviously impact on the memory of the witness required to testify.

The Council's case has been submitted in a written format. The Registrant is represented and has given Mr. Graham instructions on the Council's case which allow him to put forward his answers to the allegations made. Obviously Mr. Graham argued that it would be more advantageous to him if the Registrant is present and we have some sympathy with that argument. However the Committee noted that one of the factors identified in Jones is that there is a general public interest that a trial should take place within a reasonable time. There is also a question of maintaining the confidence of the general public in that matters of professional regulation are dealt with expeditiously and are not allowed to drift. It is also in the interest of the Registrant that matters should be brought to a conclusion sooner rather than later. The Committee thus concluded that it was in the public interest for this matter to proceed and thus the Committee refused the application.

### **ALLEGATION**

The Council alleges that you, Ronald James Preedy (a registered dispensing optician):

1. Tested the sight of patients listed on Schedule A whilst not registered as an optometrist, an ophthalmic medical practitioner, a medical student or a student optometrist;
2. Forged the signature of Dr Moustafa Yaqub on GOS1 and GOS3 forms in relation to patients identified on Schedule B;
3. Made false claims for payment for sight test examinations (GOS1 claims) and for the supply of prescriptions (GOS3 claims) in relation to patients identified on Schedule B;
4. Failed to declare that you were the subject of a criminal investigation when you were at the time being investigated by Counter Fraud Services;
  - 4.1 On an application for retention form dated 19 January 2006;
  - 4.2 On an application for retention form dated 21 December 2006;
5. Appeared at Southwark Crown Court on 16 March 2007 and were convicted upon your own confession of nine counts of obtaining a money transfer by deception and were subsequently sentenced to nine months' imprisonment, suspended for two years, with a Supervision Order to include one hundred and twenty hours of unpaid work;

6. Failed to declare that you were the subject of a criminal conviction on an application for retention form dated 22 December 2007 when you had been convicted at Southwark Crown Court on 16 March 2007;
7. Your actions described at paragraphs 1, 2, 3, 4 and 6 above were:
  - a) Dishonest
  - b) Not of the standard of conduct expected of a dispensing optician

And by reason of the facts set out above your fitness to practise is impaired by reason of the conviction and misconduct.

### **DETERMINATION**

#### **Findings in relation to the particulars of the allegation**

1. The Committee heard from Mr Hepworth for the General Optical Council (GOC) and Mr Graham for the Registrant Mr Preedy. Mr. Horsley gave evidence on behalf of the GOC. Mr. Preedy was not present but the Committee had the advantage of reading a 32 page statement made by him very recently and dated the 11<sup>th</sup> of April 2011. In addition the Committee received into evidence the contents of 3 bundles and various supplementary documents. The Committee accepted the advice of the Legal Adviser.
2. In terms of the history of this case, the matters which gave rise to the allegations took place during the period 2004-2007. The Registrant is a Dispensing Optician. During this time the Registrant undertook to provide a domiciliary service to a number of care homes and day care centres in the South East of England. The majority of the patients involved were elderly and potentially vulnerable. The Registrant's service – Preedy Family Opticians - involved provision of a full eye care service which he promoted actively to expand his business.
3. At some stage during 2006-7, the NHS Counter Fraud Service received allegations of irregularities in the Registrant's practice and conducted an investigation. Mr Preedy was arrested and interviewed. Pursuant to legal advice, he, in the main, exercised his right to silence. He was charged and subsequently, Mr Preedy appeared at Southwark Crown Court to face a 27 count indictment alleging, in essence, that he dishonestly obtained money transfers from the NHS by deception. On 16<sup>th</sup> March 2007, after receiving a Goodyear direction from HHJ Rivlin, QC to the effect that he would not be sentenced to an immediate term of imprisonment, Mr Preedy pleaded guilty to 9 counts on the indictment on the basis that he accepted that acted dishonestly in that he forged the signature of Mr. Yakub. The other counts were left on the file. The case was adjourned for the preparation of a Pre Sentence Report. On the 13<sup>th</sup> April 2007 Mr Preedy was given, on each count concurrently, a sentence of 9 months imprisonment which was ordered to be suspended for a period two years. In addition for those offences which post dated the 5<sup>th</sup> of April 2005, he was made subject to a supervision order together with a requirement that he carried out 120 hours of unpaid work. He was also ordered to pay £20,000 in costs.
4. The Committee makes the following general comments.

5. Investigations and criminal proceedings bear directly on the registration requirements of the GOC. Registrants are required, as part of the annual renewal of registration process, to declare investigations or convictions to the Council.
6. Further, the tasks properly conducted by Dispensing Opticians are made clear in Section 24 of the Opticians Act (1989) as amended, GOC guidance, and reinforced by professional custom and practice. Similarly, the Rules and guidance for the granting of delegated functions to Dispensing Opticians are equally clear. Dispensing Opticians are not qualified nor permitted to undertake a full eye examination and any delegated functions they do perform must be clearly defined and supervised by a registered optometrist or registered medical practitioner.
7. Similarly, the standards and behaviour required of registered optical practitioners are set out in the GOC Code of Conduct. Notably, the Code requires inter alia optical professionals to:
  1. Make the care of the patient his/her continuing concern
  2. Be honest and trustworthy
  3. Recognise the limits of his/her professional competence
  4. Avoid abusing his/her position
  5. Register with and maintain registration with the GOC.
8. The allegation made by the GOC fall under 7 different particulars. The Committee makes the following findings of fact in respect of those particulars. Some of these findings obviously overlap and are cumulative. However the Committee has looked at each particular separately.
9. Particular 1 alleges that the Registrant tested the sight of the patients as listed on Schedule A whilst not registered as an optometrist, an ophthalmic medical practitioner, a medical student or a student optometrist.
10. It is not disputed, and the Registrant admits, that he conducted those sight tests. It is also not disputed that the Registrant did not fall into any of the 4 categories of practitioner set out above. There is evidence in the bundles from a number of witnesses who attest to the fact that their eyes were tested by the Registrant. The Committee has also read the statements of the receptionist Mrs Berry and Dr Sujatha. Both state that the Registrant carried out eye tests and indeed this evidence has not been challenged. At paragraph 28 [page 10] of the Registrant's statement of evidence, he accepts that he carried out domiciliary eye tests.
11. The Registrant's case is that he carried out those tests under the delegated authority of Mr. Yaqub. We have read the statements and the affidavit of Mr. Yaqub which are contained in the Registrant's bundle. We have also heard from Mr. Horsley who agreed with the suggestion put to him by Mr. Graham that based on the information in Mr. Yaqub's curriculum vitae it was clear that he was an eminent practitioner in his field and qualified to carry out eye tests.
12. The Committee later learnt by way of evidence in rebuttal, that on the 25<sup>th</sup> of August 2006, a Mr Yaqub was suspended by the GMC. From the 9<sup>th</sup> of March 2007, Mr Yaqub was no longer registered to practise medicine in the UK.

13. The Committee has no doubt that this is the same person as Mr. Yaqub. He has 3 first names which match and the details of his MB BCh from Ain Shama University in Cairo are featured on both the document from the GMC and Mr Yaqub's curriculum vitae.
14. Mr Hepworth made the point that none of this was disclosed in any of Mr. Yaqub's documents. The Committee has concluded that this is a significant omission and that it does undermine in the Committee's opinion the credibility of Mr Yaqub as a witness of truth. The Committee have thus approached his evidence accordingly. Due to ill health, Mr Yaqub has not appeared before the Committee and it thus has not had the advantage of hearing from him directly.
15. But even if the Committee accepted what Mr Yaqub has said about his supervision of the Registrant, it is clear that Mr Yaqub was in the Middle East for much of the period that the Committee is concerned with. The information on Mr Yaqub's curriculum vitae places him in Assiut in Egypt from November 2004 and in Dubai from April 2004. The Committee is of the view that the geographical separation between the Registrant and Mr Yaqub would have made it impossible for Mr Yaqub to carry out effective and proper supervision of any eye test carried out by this Registrant during the period in question. Thus it is clear to the Committee that the Registrant could not be said to have been acting under a delegated authority at the material time.
16. There is also the question of the forgery of Mr Yaqub's signature by the Registrant. The Registrant has by his pleas of guilty acknowledged that he forged Mr Yaqub's signature. If he was acting properly, as he claimed that he was, why would there be a need to forge that signature? The Registrant could have signed the documents in his own name or put "pp Mr Yaqub". He did neither but signed the document as Mr Yaqub thus purporting to anyone who later read the same that it was Mr Yaqub who had carried out the eye tests. Mr Yaqub was entitled to test in his own right, until his GMC registration was suspended; the Registrant was not at any time. It is likely, that if the Registrant had signed the documents in his own name, later scrutiny of the various forms would have revealed the Registrant's lack of official capacity. Had that happened payment would not have been forthcoming to the Registrant.
17. The Committee considered the evidence of Stephen Cosslett. He is a forensic handwriting examiner and is undoubtedly an expert in his field. The Committee takes on board the comments made by Mr Graham that Mr Cosslett was only required to test but a proportion of the various forms and thus the Committee should be careful about jumping to conclusions about the untested documents. However it seems to the Committee that a distinct pattern has emerged and it has not heard any expert evidence which undermines the conclusions reached by Mr Cosslett.
18. Thus the Committee finds that particular 1 is proved.
19. Particular 2 alleges that the Registrant "forged the signature of Dr Moustafa Yaqub on GOS1 and GOS3 forms in relation to patients identified on Schedule B." These are in fact those patients who did not feature in the indictment counts.
20. The Committee has already identified various factors that are relevant to particular 1. There are obvious overlaps in the Committee's findings. It is clear that the Registrant carried out the tests. The tests were signed in the name of Mr Yaqub. The

Registrant kept close control of the various forms. These forms were essential for the authorisation and release of payment. The payments were made to the Registrant. Mr Yaqub was not in the UK for most of this period. The Registrant has accepted by his pleas of guilty that he forged Mr Yaqub's signatures on various forms. If he was prepared to do this in respect of the forms on Schedule A [indictment counts], why would he stop at those forms on schedule B? It makes no sense and the irresistible inference which the Committee has drawn is that the Registrant forged the Schedule B Yaqub signatures as well. Thus particular 2 is found proved.

21. Further, Mr Hepworth has drawn the Committee's attention to the fact that Mr Cosslett examined the GOS1 form relating to the patient MN, which is dated the 30<sup>th</sup> of November 2004. This is exhibit DWH/64. This form features in Schedule B. Mr Cosslett, at page 222 of the GOC bundle, states that in his view there is conclusive evidence that the Registrant wrote out the details on the form and that Mr Yaqub did not. This evidence reinforces the Committee's conclusion that the Registrant was the author of the forged Yaqub signatures on the forms in Schedule B.
22. The Third particular alleges that the Registrant made false claims for payment for sight test examinations (GOS1 claims) and the supply of prescriptions (GOS3 claims) in relation to patients identified in Schedule B.
23. There is no dispute that the Registrant submitted the forms GOS1 and GOS3. The only area of dispute is whether or not they were false in the sense that they purported to be something that they were not, i.e. forms signed by Mr Yaqub. For the reasons the Committee has already set out, it is the view of the Committee that they were false in that they claimed to be bona fide forms signed by Mr Yaqub, when obviously they were not. Therefore particular 3 is found proved.
24. Particular 4 alleges that the Registrant failed to declare that he was the subject of a criminal investigation on 2 documents [a] an application to the GOC for retention on the register document dated the 19<sup>th</sup> of January 2006 and [b] a similar application dated the 22<sup>nd</sup> of December 2006.
25. At paragraph 20 of Mr Horsley's statement, he states that the Registrant was arrested on the 1<sup>st</sup> of November 2005. He was also interviewed as was his wife. He was charged. He instructed solicitors on his behalf and was committed by the Magistrates Court to the Crown Court for trial. The Registrant must have known that he was the subject matter of a criminal investigation. On neither form did he bring it to the attention of the GOC and indeed represented in the way he filled out the form that no such investigation was taking place. Indeed the Registrant accepts these omissions in his statement of the 11<sup>th</sup> of April 2011. The Committee find that this particular is proved.
26. The Registrant appeared at Southwark Crown Court on the 16<sup>th</sup> of March 2007. On that day he pleaded guilty to 9 counts. This is not disputed and the Committee has read the various transcripts of the Crown Court proceedings.
27. The Committee has heard that Registrant alleges that he was threatened by the learned judge into pleading guilty. The Committee find that there is no evidence of that from the transcripts and comment that it is clear that HHJ Rivlin QC approached

the matter with the utmost care and attention and dealt with the matter in an entirely appropriate manner as befits an accomplished judge of his standing. Such allegations of threats by the judge are totally without foundation.

28. Particular 5 deals with the facts of the hearings at Southwark Crown Court. These facts are accepted by the Registrant. The Committee finds particular 5 proved.
29. Particular 6 concerns the failure of the Registrant to declare to the GOC that he was the subject of that criminal conviction when he submitted an application form dated the 21<sup>st</sup> of December 2007. The Committee has examined the form itself. The conviction is not disclosed and it is represented in that document that the Registrant is without conviction. The Committee find that this particular is proved.
30. Particular 7 alleges that the Registrant's actions in particulars 1, 2, 3, 4, and 6 were [a] dishonest and [b] not to the standard of conduct expected of a dispensing optician.
31. The Committee concludes that the Registrant was dishonest. The mere fact that he pleaded guilty to 9 counts of dishonesty proves this fact. The public have a right to expect that those in practise will carry out their tasks competently. The Committee has found that the Registrant was not entitled to carry out sight tests in the manner in which he did. The fact that none of the persons tested have been adversely affected is not the point. A member of the public is entitled to expect that the person who puts himself forward to conduct sight tests is properly qualified and supervised where appropriate. The persons concerned in this case were mainly the elderly residents of care homes. They and those responsible for their care placed their trust in the Registrant and acted on the basis that the Registrant was properly qualified to carry out the tests. This was not correct. The Registrant did nothing to correct the false impression that he gave to the residents. A person falsely purporting to be authorised by his professional body to conduct sight tests clearly undermines the good standing of the profession in the eyes of the public. Forging the signature of a person who would be qualified in order to cover up this deficiency in qualification further undermines the public trust. The Committee considers that the conduct of this registrant fell far below the standard expected of a dispensing optician.

### **Findings in relation to misconduct and conviction**

The Committee has considered whether the actions of the Registrant were dishonest and fell far below the standards expected of a dispensing optician. The Committee refer to the previous findings of fact. It is clear from the convictions alone that he has been seriously dishonest and has defrauded the NHS. The Committee found that his conduct was patent, premeditated and persistent.

In these circumstances and given the seriousness of his convictions, the Committee found Ronald Preedy guilty of misconduct.

### **Findings regarding impairment**

The Committee has considered the question of current impairment in the light of its earlier findings of fact and misconduct. The Committee has heard submissions on this point from Mr Hepworth and Mr Graham.

The Committee has taken into consideration various references that have already been put before it. The Registrant is now 68 years of age. Hitherto he has enjoyed an unblemished career and has devoted many years to serving the community as a dispensing optician. The Committee also notes the charitable work he has carried out. This case is clearly a personal tragedy for him and may well have had a negative effect on his health and general well-being. All these matters the Committee has taken into consideration.

However, the fact remains that the Registrant has been convicted on his own admission of defrauding the NHS. It is axiomatic that health authorities must be able to place complete reliance on the integrity of practitioners. If that principle is not upheld then it is inevitable that public confidence in the profession will be undermined and the reputation of the profession as a whole will suffer. This was not a minor fraud. The Committee is reminded that it was accepted on the Registrant's behalf at the sentencing hearing in April 2007 that the extent of the fraud amounted to between £50,000 to £65,000. These nine offences were treated by HHJ Rivlin QC as specimen offences. Prosecution Counsel told the court that the number of forms thought to be involved was in excess of 2,000.

The Committee is also concerned at the complete lack of recognition on the part of the Registrant as to the seriousness of his conduct. In paragraph 4 of his witness statement, which was signed on Monday of this week, the Registrant demonstrates his complete lack of insight as to the seriousness of his conduct. He is clearly in denial. The Committee has little confidence that he has learnt from his lesson and will not repeat this behaviour.

The Registrant puts faith in the fact that he did not receive any complaints about the treatment he administered; treatment that he was not qualified to provide. In the Committee's view this misses the point completely and is yet another illustration of the Registrant's complete lack of insight.

The Committee has an obligation to ensure the high standards of this profession are upheld. That is what the public are entitled to expect. Membership of a profession carries many benefits but it also carries responsibilities. The Registrant's conduct is so serious that it cannot simply be brushed under the carpet. The Committee accepts that the allegations have taken some time to resolve but the Registrant must accept some of the responsibility for that state of affairs.

The Committee has decided that the Registrant has departed in a serious way from the appropriate professional standard. The Committee has seen no evidence of any action to remedy this situation. With Mr Preedy's continued lack of insight into the potential consequences and seriousness of his actions, the Committee can only conclude that his fitness to practise as a dispensing optician is impaired.

### **Sanction**

The Committee has considered the question of what is the appropriate sanction to be imposed. It has heard from Mr Hepworth and Mr Graham. It has accepted the advice of the legal adviser.

The Committee acknowledges that Mr Preedy has already been subject to a sanction from the Crown Court for his conduct and thus has already been punished. However, the Committee has a responsibility to ensure that Mr Preedy does not have the opportunity to repeat his misconduct. Further, the Committee does have the obligation to ensure that the reputation of the profession is maintained. The Committee has reminded itself that the reputation of the profession is more important than the fortunes of the individual.

The Committee has decided that neither a conditional registration order nor a suspension order would allay its fears that Mr Preedy would repeat his mischief, nor is a financial

sanction appropriate considering his declared means. Mr Preedy has been dishonest on a repeated basis. He has defrauded the NHS. He has chosen to ignore the legal requirements and standards of the profession. He has exposed patients to a risk of harm. He has repeatedly failed to disclose to the Council the fact of his criminal investigation and his subsequent criminal conviction. He shows no recognition of the seriousness of his conduct and remains in denial. He presents a continuing risk to the public and to the good reputation of the profession. In these circumstances the Committee is driven to the conclusion that the only sanction that is appropriate and proportionate in this case is to direct that the name of the Registrant be erased from the register and accordingly the Committee directs that Ronald James Preedy is erased from the register of dispensing opticians.

**Immediate order**

The Committee was asked to consider the making of an immediate order of suspension. The Committee has concluded that unless Mr Preedy is made the subject of an immediate suspension order he will continue to practise. The Committee has heard in evidence that Mr Preedy was practising as recently as March of this year. The Committee felt that this measure is necessary for the protection of members of the public, otherwise in the public interest and in the best interests of Mr Preedy. The Committee so orders that an immediate suspension takes place in pursuant of Section 13I of the Opticians Act 1989 as amended.

**Chairman of the Committee: Peter North**

Signed \_\_\_\_\_ Date 14 April 2011

**Registrant: Mr William Graham, legal representative, for Ronald James Preedy**

Signed \_\_\_\_\_ Date 14 April 2011

<b>FURTHER INFORMATION</b>
<b>Transcript</b>
A full transcript of the hearing will be made available via the GOC website in due course.

<b>Appeal</b>
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).
<b>Council for Healthcare Regulatory Excellence</b>
<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 <a href="http://www.chre.org.uk">www.chre.org.uk</a> or by telephone on 020 7389 8030.</p>
<b>Effect of orders for suspension or erasure</b>
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.
<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.