

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

GENERAL OPTICAL COUNCIL

F(10)21

AND

SYED MOHAMMED YASEEN SHAH (SD-808)

DETERMINATION OF THE INQUIRY: 15 JULY 2011

On 15 July 2011, the Fitness to Practise Committee of the General Optical Council met to consider allegations against Syed Shah.

ALLEGATION

The Council alleges that in relation to you, Syed Mohammed Yaseen Shah, a student dispensing optician:

1. Between about 6 September 2008 and about 4 December 2009 you undertook work as a fully qualified dispensing optician when you:
 - (a) Had not obtained the appropriate qualifications.
 - (b) Were not appropriately registered with the GOC.
2. Between about 6 September 2008 and about 4 December 2009 you undertook work as a trainee contact lens optician when you:
 - (a) Had not obtained the appropriate qualifications.
 - (b) Were not appropriately registered with the GOC.
3. From about 6 September 2008 you accepted a pay rise from your employer on the basis that you were a qualified dispensing optician when you were not.
4. Between an unknown date in August 2008 and about 4 December 2009 you made statements and representations to Mr Stuart Ingleby which you knew to be false including:

- (a) You had successfully completed a re-sit of your outstanding ABDO exam.
 - (b) You had passed 5 out of 6 ABDO contacts lens examinations.
 - (c) The fact that you were on an incorrect register at the GOC was due to an error of the GOC.
 - (d) You produced to Stuart Ingleby an ABDO certificate which you had forged.
 - (e) The discrepancy between the registration number on the ABDO certificate and the registration number in correspondence from the ABDO was due to an error on the part of ABDO.
 - (f) There was no problem with your registration status.
5. On an unknown date prior to 22 November 2009 you forged an ABDO certificate
6. You forged the signature of Mark Chandler on an application dated 19 November 2009 to the GOC for registration as a fully qualified dispensing optician.
7. Your conduct in relation to allegations 1 to 6 above was dishonest.

By virtue of the matters set out above your fitness to undertake training is impaired by reason of misconduct.

DETERMINATION

Findings in relation to the allegation and misconduct

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

The Registrant admitted the following facts of the allegation: 1(a), 1(b), 2(a), 2(b), 3, 4(a)-(f), 5, 6 and 7. The Committee having considered the evidence provided to it at C1 finds each of these facts proved.

The facts reveal a catalogue of deceit culminating in the forgery of an Association of British Dispensing Opticians (ABDO) certificate and the separate forgery of the signature of the Head of Examination and Registration at the ABDO, Mr Chandler.

The facts as found disclose that the Registrant practised as a fully qualified dispensing optician and as a trainee contact lens optician when he was not entitled to do so. The risk to the public is clear and obvious.

Honesty lies at the heart of what it is to be a member of a profession. These were repeated and serious acts of dishonesty which resulted in the Registrant practising when he was not entitled, because not qualified, to do so. This was conduct falling so far below that to be expected of a student dispensing optician as to amount to misconduct.

The Committee found Syed Shah guilty of misconduct.

Findings regarding impairment

The Committee has heard submissions as to the issue of impairment from both the Council and the Registrant. It has accepted the advice given to it by the Legal Adviser.

The facts found by the Committee are serious and disclose dishonesty and the unqualified treatment of patients over a period of some 16 months. The Registrant had on some five occasions an opportunity to admit the truth of his personal situation but chose not to do so before resorting to forgery on two occasions.

The Committee attaches little weight to the submission made by Miss Patel on behalf of the Registrant as to the effect of cultural and peer pressures on him. These may have provided the Registrant with a strong desire to succeed in his chosen profession but they do not justify or provide any explanation as to why he should repeatedly lie and resort to forgery in support of those lies.

As the Committee has said, honesty lies at the heart of what it is to be a professional. The cases to which it has been referred make it clear that personal mitigation, whilst always relevant, cannot override the need for the Committee to ensure the maintenance of public confidence in the profession and in the upholding of patient safety and of standards within the profession.

Having considered the testimonials, and in particular that of Mr Inglesby, and the statements of the Registrant at C1 and R1 the Committee is not satisfied that the Registrant has demonstrated that degree of insight into the seriousness of his conduct that it would have expected.

In all the circumstances, the Committee is satisfied viewing the matter now and prospectively that the Registrant's fitness to undertake training impaired by reason of the facts and misconduct found by it.

Sanction

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

As the Committee has found this was a serious course of conduct involving repeated dishonesty and the treating of patients while unqualified. The Committee does not regard it as appropriate to dispose of this case by way of financial penalty. Miss Patel urged the imposition of conditions but in effect only suggested that the Registrant should be supervised. As a student he would in any event have to be supervised so that this suggested condition is, in truth, no condition at all. The Committee, having considered the offences and the need to uphold public confidence in the profession, does not regard the imposition of conditions as an appropriate way to dispose of this case.

The Committee has given great weight to the statements and reference from Mr Inglesby and that from the Registrant's present employer. There is no doubt about the seriousness of these offences but having regard to the most unusual reference from the employer who was deceived by the Registrant the Committee has

concluded that it would be appropriate to dispose of this case by way of an order for suspension.

In all the circumstances, the Committee has concluded that it is appropriate to impose an order of suspension for the maximum permitted period of 12 months. This order for suspension will be reviewed approximately four weeks before the expiration of this order by a committee which will no doubt wish to see evidence from the Registrant and others of developing insight into the seriousness of the matters before the Committee today.

The order will therefore be one of suspension for a period of 12 months.

On the assumption that this Registrant is presently the subject of an interim order for suspension the Committee is minded to make an immediate order for suspension but will now hear representations from the parties.

Revocation of interim order

The Committee hereby revokes the interim order for suspension of registration that was made on 3 February 2010 and extended by the High Court to 1 February 2012.

Immediate order

The Committee has been told that the Registrant has been subject to an interim suspension order which would otherwise have expired on 1 February 2012. The Council submitted such an order should be made and the Registrant's representative made no opposing submissions. The Committee has determined that it is in the public interest that an immediate order for suspension is imposed.

Chairman of the Committee: Mercy Jeyasingham MBE

Signed _____ Date 15 July 2011

Registrant: Syed Shah

Signed _____ Date 15 July 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>