

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

**GENERAL OPTICAL COUNCIL**

**F(10)11**

**AND**

**ZAHEER GHANCHI (SO-1123)**

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**DETERMINATION OF THE REVIEW: 7 OCTOBER 2011**

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On 7 October 2011, the Fitness to Practise Committee of the General Optical Council met to review the Suspension Order made regarding Zaheer Ghanchi on 4-5 October 2010.

**DETERMINATION**

**Findings regarding impairment**

The Committee heard submissions from Mr Whalley, for the Council and from Mr McGee, for the registrant. The Committee accepted the advice given to it by the legal adviser. It was agreed between the parties that the Committee would proceed with this review on a two stage basis dealing firstly with whether any further action should be taken and, if so, to invite the parties back in for further representation on what further action should be taken.

The Committee heard evidence from the registrant that since the last hearing he had worked full time as an Optical Assistant, undertaken a two day 'Returning to Work Confident and Refreshed' course, and completed 35 points of CET learning. He has additionally observed specialist services at the Royal Oldham Hospital. The registrant has demonstrated insight and accepts responsibility for his previous criminal behaviours. The Committee were also informed that he had maintained **redacted**.

At the substantive hearing in October 2010, the Committee found that the registrant's fitness to practice was impaired based on the seriousness of the three separate criminal convictions received for drink-driving, being in possession of, and supplying, a controlled drug and theft. Further, the registrant failed to report these matters in his GOC registration. The registrant was sentenced at the Crown Court in Belfast on 20 February 2009 for being in possession and supplying a controlled drug and

received a custodial sentence, namely 3 years and 3 months imprisonment, which was suspended for three years. This sentence is still in effect and comes to an end in February 2012.

The Committee is satisfied that registrant has taken action to maintain and improve his practice. The Committee has reminded itself that when considering whether impairment remains, it needs to consider not only risks to the public but also upholding proper professional standards and public confidence in the profession. Considering the suspended custodial sentence, the Committee found that the fitness to practise of Zaheer Ghanchi to undertake training as an optometrist remains impaired.

### **Further action**

The Committee heard further representations from both parties. Further, it accepted the advice of the legal adviser.

Mr McGee urged the Committee to take no action as to do so would amount to further punishment and would not be fair and proportionate. Further he indicated that an extension to the current suspension order would be tantamount to 'erasure' on the basis that the registrant might be unable to conclude his pre-registration training in the allotted timeframe. He also relied upon the fact that the GOC's registrar had accepted the retention of the registrant on the register to support no action being taken by the Committee.

The Committee rejected Mr McGee's submission that no action should be taken and the suspension order be allowed to lapse. It does not accept that a further period of suspension would amount to a separate and further punishment. When the matter was last before the substantive hearing, the Committee imposed the maximum period of suspension permissible. It is open to this Committee today to consider further suspension if that is fair and proportionate in accordance with its powers under Section 13 (F) 7 of the Opticians Act 1989 (as amended).

The Committee considered carefully the argument that any further suspension would effectively be an 'erasure' of the registrant's registration because the registrant would be unable to conclude his pre-registration training. The Committee had no specific evidence on this point, although it was made aware that the College of Optometrists has a discretion in regard to this matter. It is not the business of this Committee to speculate how the discretion of that body will be exercised.

The Committee finds no merit in the argument that the GOC's registrar has accepted the registrant's retention on the register. This is an automatic process for anybody involved in a fitness to practise process and is not an endorsement.

The Committee went on to consider what action should be taken, applying the principle of proportionality. The Committee also considered the need to uphold proper professional standards and uphold public confidence in the profession.

The Committee went on to consider conditional registration. It considers this to be inappropriate in a case involving serious criminal convictions. It noted Mr McGee's

observation that it was difficult to see what conditions would be appropriate in this type of case.

The Committee has concluded that it would be appropriate to extend the suspension order for a period of five months from the date when the current order is due to expire (2 November 2011) in accordance with section 13F(7) of the Act. This will run just beyond the end of the currency of the suspended custodial sentence which expires in February 2012. The Committee has accepted the advice of the legal adviser that this Committee's function is not to punish an individual but to maintain professional standards and public confidence in the profession. The Committee is of the view that a reasonable member of the public would not find it acceptable that a person currently the subject of a suspended custodial sentence should be part of this profession.

A review hearing will be held approximately four weeks before the expiration of this order. The Committee is pleased to note the steps the registrant has taken since the last hearing. It urges the registrant to continue on this path and would hope at the next review there is further evidence of maintenance of his professional skills and knowledge **redacted**.

**Chairman of the Committee: Francesca Jones**

**Signature** ..... **Date: 7 October 2011**

**Registrant: Zaheer Ghanchi**

**Signature** ..... **Date: 7 October 2011**

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