

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

GENERAL OPTICAL COUNCIL

IO(10)03

AND

LYNDON CLARKE (SD-3865)

PRIVATE HEARING

DETERMINATION OF APPLICATION FOR AN INTERIM ORDER

- 18 MARCH 2010 -

The Fitness to Practise Committee considered an application for an Interim Order made by the Council.

Service

The Committee is satisfied that all reasonable efforts have been made to notify the registrant of the hearing. The Committee further determined that it would be in the public interest for the hearing to proceed in the registrant's absence.

Private hearing

The Committee was asked by Mr Alder, for the Council, to consider whether the hearing should be held in private. The Committee determined that it should on the basis that it was possible that issues as to the registrant's physical or mental health may be considered by the Committee.

Decision

The Committee considered the test set out in section 13L of the Opticians Act 1989 and whether it was satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interest of the registrant for his registration to be suspended. The Council did not seek a conditional registration and this Committee did not feel that it was either practical or appropriate in this case.

On the facts placed before this Committee the Committee was satisfied that it would be appropriate to make an interim order of suspension. The Committee was satisfied that it was both necessary for the protection of members of the public and is otherwise in the public interest that such an order be made. The registrant had been convicted of driving with excess alcohol in March 2007. He was found in the early hours of the morning two and a half times over the legal limit. On the 9 March 2007

he was disqualified from driving for 24 months and also sentenced to a community order. He volunteered for and successfully completed a drink drive rehabilitation course, and as a result his disqualification was reduced to 18 months.

In December 2009 it came to the Council's attention that the registrant had also received a fixed penalty notice for disorder in October 2005 and that he was then (December 2009) on bail in relation to an allegation of causing actual bodily harm. He was subsequently found guilty of this charge and was given a community order and a fine. The Committee has seen a summary of the facts relating to this case which is one of domestic violence following alcohol consumption.

All of these circumstances lead to the Committee being satisfied that there are substantial concerns over the safety of him having contact with the public in carrying out his duties.

The Committee considered the other issue of public interest and confidence in the profession and found that these proven behaviours are not compatible with the standards expected by both the profession and the public.

The Council also advanced the argument that his registration be suspended in his own interests on possible medical grounds. The Committee was not satisfied on the basis firstly, of what was said in a letter from the registrant's general practitioner and secondly, on the basis of the advice received by the Committee's Clinical Adviser. It would appear on the evidence and advice given that this is a behavioural rather than a health issue. However, this matter may be the subject of further consideration in due course.

The Committee ordered that the registrant's registration be suspended for a period of 18 months from today. The order will be reviewed within 6 months from today unless all matters are resolved within that time, or earlier should new evidence be made available, or if the registrant, at any time after three months from today's date, requests an early review.

Chairman of the Committee: Francesca Jones

Signed _____

Date 18 March 2010