

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

GENERAL OPTICAL COUNCIL

F(09)19

AND

STEVEN MITCHELL (SD-2735)

DETERMINATION OF THE INQUIRY: 21 APRIL 2010

On 21 April 2010, the Fitness to Practise Committee of the General Optical Council met to consider an allegation against Steven Mitchell.

Notification of hearing

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.

ALLEGATION

The Council alleges that you, Steven Mitchell, a registered student dispensing optician

1. On 9 July 2008 at Parkside Police Station were formally cautioned for the offence of Assault Occasioning Actual Bodily Harm contrary to section 47 of the Offences Against the Person Act 1861;

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

DETERMINATION

Findings in relation to the particulars of the allegation

The Committee found particular 1 of the allegation proved.

Reasons for the finding in relation to the caution

The Committee has considered the evidence placed before it on behalf of the Council by Mr Hepworth and the submissions he has made. It has also taken

account of the advice of the Legal Adviser. It has, in particular, considered the Record of Caution. It noted that although it shows the signature of the registrant, it does not show who cautioned him and there is no signature of the Cautioning Officer. The Committee reminded itself of the standard of proof that it should apply to the evidence and the further advice of the Legal Adviser that it could draw inferences from the evidence if it was appropriate to do so. It is satisfied on the balance of probabilities that the registrant was cautioned by the Cambridgeshire Police.

Findings regarding impairment

The Committee found that the fitness of Mr Mitchell to undertake training as a dispensing optician is impaired.

The Committee has considered the submissions made by Mr Hepworth, on behalf of the Council. It has accepted the advice of the Legal Adviser. It has taken account of all the evidence placed before it. In reaching its decision, it took particular account of the serious nature of the assault which involved the registrant head butting the victim causing him to suffer a broken nose. This was a reckless and impulsive act, which the registrant accepted to the Police involved an excessive use of force. The committee accepts that there was some background to this incident, but it was concerned that a student in training, planning a professional career, should have demonstrated such a lack of judgment and self control in allowing himself to become involved in an incident such as this. It noted that he did offer an apology to the victim and that he admitted the offence for the purposes of accepting the caution, but he has not attended this hearing and the Committee has no evidence of his current level of insight into this matter and has no up to date evidence as to any steps he has taken to remedy the lack of self control that he demonstrated in committing this assault. The Committee, in particular, bore in mind its responsibility to uphold and declare proper standards of behaviour within the profession and it concluded that on all the evidence before it, in its judgment, the registrant's fitness to undertake training is impaired today and looking into the future.

Sanction

The Committee orders that the name of the registrant be erased from the student register.

The Committee has taken account of the submissions made by Mr Hepworth on behalf of the Council and it has accepted the advice of the Legal Adviser. It has reminded itself that any direction it makes must be proportionate.

It first considered whether it should impose an order that the registrant's registration should be conditional but it concluded that there were no appropriate conditions that could be devised and that the matter was too serious to warrant the imposition of such a sanction. It then considered whether it should impose an order for the suspension of his registration. The Committee was concerned that the violent conduct involved in this case is incompatible with any registrant in the profession. It concluded that the conduct involved in this case was incompatible with the registrant remaining on the register. It considered that its duty in maintaining public confidence in the profession required it to impose a direction of erasure. In reaching its

decision, it considered that if the registrant had engaged with the process and had presented mitigation to the Committee, this may have permitted it to consider an alternative sanction, But faced with the matters before it, it considered that the sanction of erasure was the proportionate and appropriate direction to make in this case. It did not consider that a financial penalty was appropriate in the circumstances of this case.

The Committee went on to consider whether to make an order of immediate suspension of the registrant's registration. It is satisfied that it is necessary in order to protect the public and in the public interest that his registration be suspended immediately.

Chairman of the Committee: Sir Alistair Graham

Signed

Date

21 April 2010