



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

F(09)03

**GENERAL OPTICAL COUNCIL
AND
GURPREET KAUR CHAGGAR (SO-1112)**

Wednesday, 7 July 2010

SUBSTANTIVE HEARING

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**SUBSTANTIVE HEARING: GURPREET KAUR CHAGGAR (SO-1112)
Wednesday, 7 July 2010**

Committee:	Sir Alistair Graham (Lay) (Chair) Mr Alan Baldwin (Lay) Mrs Geraldine Huka (Lay) Ms Catherine Viner (Optometrist)
Legal Adviser:	Mr Michael Parroy QC
Hearings Manager:	Mr David Henley BEM
For the GOC:	Mr John Hepworth
For the Registrant:	Mr Jamas Hodivala

[Proceedings commenced at 9.46 a.m.]

Sir Alistair Graham: Good morning. Most of you probably know my name is Alistair Graham, I am a lay member of the Hearing Panel, and I have been elected by the Committee to chair today's hearing. The Committee is made up of one optometrist and three lay members and I am going to ask the members of the Committee to introduce themselves and the capacity in which they sit. *[Introductions made]* To my right is Mr Parroy QC, the Committee's Legal Adviser, who will provide legal advice and assistance to the Committee and ensure that the proceedings are conducted in accordance with the Rules of Procedure, so as to arrive at a result which is fair and just. The Legal Adviser may accompany the Committee should it sit in private to deliberate. In the event that any matter arises during the course of the Committee's deliberations upon which the Committee seeks advice, the parties will be invited to return to hear the matter which the Committee has raised and the advice to the Committee. Where advice on any issue is not accepted by the Committee, this will be indicated in the course of its decision on that issue.

To your right is Mr David Henley, the Hearings Manager, who will provide administrative support to the Committee. Next to Mr Henley is the transcriber, who will be keeping an official record of all that is said today during the sessions of the hearing at which the parties are present. The remaining persons sitting in the hearing room rather than in the public and press areas are members of the respective legal teams.

You should be aware that it is the Council's policy for the determination of the Committee and a transcript of proceedings to be displayed on the Council's website for public viewing.

At the adjourned hearing on 16 April 2010 the Committee considered an application to exclude evidence at the fact-finding stage. The Committee was satisfied that Section 76(2) as to whether the confessions made in the conditional caution could be relied upon had been met. The Committee then went on to consider whether a court would have excluded the admission of the confession under Section 78. Having reconsidered all the facts and matters in the light of the wider discretion afforded to a criminal court by Section 78, the Committee concluded that it was satisfied the Council had discharged the burden on it beyond reasonable doubt. It followed that the evidence would, in the Committee's judgment, be admissible in criminal proceedings.

The Committee, after completing this part of evidence, the part of evidence we left at the last hearing, will now make a decision as to what facts it finds proven based on the evidence it has heard. The parties will then be invited to make submissions in the traditional sense of whether or not those facts found amount to impairment. Then we will go to the traditional sense of impairment being a matter for the Committee's judgment.

If I have misunderstood how we previously agreed to proceed, then please do speak out now before we go any further. Are there any points anybody wishes to clarify at this stage?

Mr Hepworth: Sir, there is no point of disagreement from the Council.

Mr Hodivala: No, thank you.

Sir Alistair Graham: Are there any applications that anybody wishes to make at this stage?

Mr Hepworth: No.

Sir Alistair Graham: I think we were at the stage of having the witness, Ms Chaggar, cross-examined. Is that right?

Mr Hodivala: Exactly, yes. She had completed her evidence in-chief.

Sir Alistair Graham: Could I ask Ms Chaggar to take the witness stand.

MS GURPREET KAUR CHAGGAR, recalled

Sir Alistair Graham: Can I remind you, Ms Chaggar, that you are under oath and the oath that you made previously still stands as far as the evidence you are about to give.

Mr Hodivala?

Mr Hodivala: I had completed my questions in-chief.

Cross-examined by Mr HEPWORTH

- Q.** Can I ask you a few preliminary questions, please, to start with? Just in general, when people talk about theft and stealing, words like that, you know that that implies that the person who is the thief or who has stolen has done something dishonest. That is a normal everyday meaning of that word, is it not?
- A.** Yes.
- Q.** You knew that in 2007, did you not?
- A.** Yes.
- Q.** So when the police accused you of having committed a theft, you knew that you were being accused of something dishonest, did you not?
- A.** At the time I think so, yes.
- Q.** Could you then please turn to page 1 of your hearing bundle? This is a front page of the conditional caution form and particularly where you sign, you signed to say that you admitted to the offence which was set out above.
- A.** Yes.
- Q.** The offence which is set out above refers to you stealing £20 contrary to the Theft Act.
- A.** Yes.
- Q.** At the point you signed that form you knew that you were admitting to something dishonest, did you not?
- A.** Yes.
- Q.** Likewise over the page, if you could turn to page 2, and this is the second page of the conditional caution form, there is your signature on that page as well, isn't there?
- A.** Yes.
- Q.** That is in relation to you agreeing to complete and comply with the conditions.
- A.** Yes.
- Q.** One of the conditions you can see, which is Condition 3, you agreed to repay the £20 you stole from Specsavers.
- A.** Yes.
- Q.** Again, you were agreeing to repay money that you had stolen by your signature on that form.
- A.** Yes.
- Q.** Another general question, if I may, before I go any further. It is general because I will take you through various parts in a little while. How much money did you receive on 3 November 2007, the date of this incident?
- A.** £20 in the room, £10 when I was downstairs.

- Q.** Afterwards or before?
A. That was afterwards, so not in the room.
- Q.** From whom did you receive those sums of money?
A. Linay.
- Q.** Both from Linay.
A. Yes.
- Q.** Why do you say those sums of money were given to you?
A. £20 I assumed was for my birthday, which was a few weeks earlier, and £10 was just lunch money.
- Q.** And the £20 you assumed was a birthday gift from Linay.
A. Linay or Suzy, whichever one. I didn't ask afterwards so I can't tell you exactly.
- Q.** I am now going to ask you some questions about the incident itself. On 3 November 2007, at that point you already had suspicions that Linay was stealing from the store.
A. I had suspicions that I had seen Suzy leave money in patients' files and stuff, and that was it, that was my suspicion that maybe something was going on, but I didn't know what.
- Q.** I think I will deal with it this way and we may come back to it. On 3 November 2007 did you have suspicions that Linay was involved in the theft as well, and I am talking about the thefts generally rather than this particular incident?
A. I don't remember if I suspected him.
- Q.** But in any event you had suspicions that money was going missing from the business.
A. I didn't know it was from the till. Like I said before, all I had seen is money in patients' files. Where it went after that, I can't tell you.
- Q.** At the till, focusing on the time at the till for the moment, you opened the till by pressing "No Sale", did you not?
A. That's what it says. I can't remember exactly, but yes.
- Q.** When you processed that no sale you used Phil's code.
A. If that's what it says again, yes.
- Q.** You then took the money out of the till yourself. That is right, isn't it?
A. Yes.
- Q.** That was before Linay processed the refund, wasn't it?
A. I don't remember exactly in what order it happened but I remember taking the money out and then –
- Q.** You were present, were you not, when Linay processed the refund through the till.

- A. I was next to him, yes.
- Q. No customer was present.
- A. No.
- Q. The usual reference number was not put into the till, was it?
- A. Not that I remember.
- Q. I think in your police interview you accepted, did you not, that you knew that the usual policy was to make refunds onto customers' credit cards or debit cards.
- A. If they pay by card, yes.
- Q. So when you took the money out of the till, for all those reasons you knew that that money was being stolen, did you not?
- A. At the time, no.
- Q. You were part of it, were you not?
- A. No.
- Q. The money that you then received later in the office was your cut from that amount, wasn't it? That is what you were going to get for playing your part.
- A. No, it wasn't.
- Q. I think you have said that when Linay gave you that money in the office, the £20, he did not say to you words to the effect of "This is for your birthday."
- A. No, he said "Get yourself something nice." Something on the lines of that.
- Q. Do you say today that you do not know where that £20 came from originally, either from Linay for a birthday present or from Suzy as a birthday present? Is that what you say today?
- A. I couldn't tell you. I don't remember so I couldn't say it's from Linay, I can't say it's from Suzy. From what I assumed, it was for my birthday.
- Q. Can I move on to the first interview that you had with Ben Walls, and if we need to look at that, it can be found at page 5 of the hearing bundle before you; it runs through to page 13. I think you accept, do you not, that you lied in that interview.
- A. Yes.
- Q. If you want to look at the reference, it is at page 12. You said that Linay gave you the money to repay a debt from his cousin.
- A. Yes.
- Q. That was dishonest of you, was it not?
- A. That I agree with.
- Q. Just tell the Committee again, why did you lie?
- A. Because I had spoken to Linay earlier and obviously in hindsight I knew what they were going to question me about, and he wanted to speak to Phil and

wanted me to talk to Phil, to speak to him. I just didn't want to use their names. I just felt really bad, so I just on the spot, without thinking, just said his cousin owed it to me, without really thinking about it.

Q. You say you did not want to give Mr Walls Linay and Suzy's names.
A. Yes, I tried not to. I felt like it should come from them, because he wanted to speak to them.

Q. In your evidence a fair while ago before we had the break, you said that you did not want to get Linay and Suzy into trouble.
A. Yes.

Q. So what you said is:

"I felt I didn't want to get them into trouble so I just avoided using their names, full stop."

A. Yes.

Q. Is that the reason why you did not give their names?

A. At the start, yes. I just felt like they should obviously own up to it themselves.

Q. Could you turn to page 50 of your bundle? In your police interview you were asked why you had given that lie to Mr Walls and you said that you were scared, and then you were asked again and you said:

"I was scared. I don't know why I said it."

That is a different explanation for your lie that you gave to the police than you gave to this Committee when we were here a few weeks ago.

A. No, it's kind of the same thing. If you don't want to get two people in trouble and you don't really know what to do and you're kind of stuck in the middle, then you do get scared because you don't know what to do.

Q. But you say at page 50:

"I was scared again. I don't know why I said it."

But a few weeks ago when you gave evidence to the Committee you did know why you said it. You said it because you did not want to get Linay and Suzy into trouble. So they are different versions of events, are they not?

A. In this police interview again I was scared and I was worried, so not everything I wanted to say obviously came out the way I wanted to say it. When you're put under a lot of pressure there are things that you miss out. You kind of summarise things.

Q. Could I ask you, again within your police interview, to go to page 39, please? DC Back asked the question:

"But he didn't say, 'Here's £20 for your birthday, I haven't seen you for the last couple of weeks', did he?"

You said:

“No. I assumed it was for my birthday and then downstairs he just said it was from Suzy, so I said, ‘Okay then.’”

Could you then go, please, to page 62. The last thing you say on that page is:

“We were just talking about my birthday and he was just like, ‘Here, have £20.’ Then he just, we were just, kept talking about my birthday and then he left. I didn’t think nothing of it and he didn’t tell me it was from Suzy until I was like leaving.”

The third reference, before I ask you the question, is at page 64. You were asked:

“Why did Suzy give you £20?”

You said:

“Because it was my birthday.”

Then DC Back says:

“So it was from her and not him.”

You say:

“Yeah, that’s what he said afterwards, yeah.”

So in your police interview you were clear that Linay told you that the money had come from Suzy.

- A.** As I left the store, that’s when he said that was from Suzy.
- Q.** But when I asked you questions a few minutes ago about where you thought the money had come from, you were not sure at all if it came from Linay or Suzy.
- A.** Well, according to this, Suzy gave it to me, but if you ask me now I can’t really remember exactly who gave it to me. It was about two and a half years ago.
- Q.** It was, but I daresay you have been over and over what happened in your mind because of the serious consequences that have flowed from that.
- A.** I try not to think about it.
- Q.** But I daresay in preparation for coming today, knowing that you were going to be asked questions about it, you reflected on what happened again. Is that not right?
- A.** That’s fine, but like I said before, you’re trying to think two and a half years ago. I have to go by what is said here. When I read it, obviously that’s what I’ve said, but I can’t tell you exactly word for word what everybody said and

what happened. It was a long time and a lot of things happen in two and a half years.

Q. Isn't the reality that when you got that money you knew it was not for your birthday from either Linay or Suzy, that that was your cut for having helped to take the money a little bit earlier.

A. No.

Q. And the versions of events that you have been giving are inconsistent because they are not the truth, are they?

A. If it was my cut, I would have asked for half. I wouldn't ask for £20.

Q. I am now going to move on to the caution itself and just so we have it in front of us, could you turn to pages 1, 2 and page 3 if we need to look at it. We are back now at the caution stage.

A. Yes.

Q. I have to put my case to you so let us deal with that. I am suggesting that you signed that admission on page 1 because you had, in fact, been involved in the theft. Do you accept that?

A. I hadn't been involved in a theft but –

Q. I am suggesting that the reason why you signed it was because you had been involved in the theft.

A. Okay.

Q. Do you agree with that or not?

A. No.

Q. My further suggestion is because you had been involved in the theft, you knew this was a good way of getting it dealt with without having to go to court for it. Do you accept that?

A. No.

Mr Hodivala: That is two questions. Perhaps it can be broken down into two questions so that the answer is clear.

Mr Hepworth: I think the next few questions I am going to ask will hopefully make that clear. [*To the witness*] When you gave evidence previously I think you said that you accepted a caution because you saw it as an easy option. Do you remember saying that?

A. Yes.

Q. It was a way of dealing with the case without it having to go to court.

A. Yes.

Q. So on your account you signed for something which you knew to be untrue.

A. Yes.

Q. Even on your own account that was dishonest, was it not?

A. It wasn't the right thing.

Q. It was dishonest, was it not?

A. Okay.

Q. Do you accept it or not?

Mr Hodivala: Can I just interrupt here. Sir, this is a matter that we have been talking about this morning and it is not accepted that the GOC is able to expand its case above and beyond the simple fact of the caution in the misconduct case, and I anticipate that this line of questioning is going to effectively put before you general misconduct as opposed to relying on the fact of the caution itself. If this line of questioning is to be pursued I think I would rather deal with it now following legal submissions as to propriety of the questioning before this line of questioning is pursued any further.

Sir Alistair Graham: Do you want to say anything, Mr Hepworth?

Mr Hepworth: Only that I do seek an answer to that question and if it means that we break the evidence now to deal with the propriety of the question, then of course I am content to do it that way. Another option is to allow the question to be asked and then deal with matters at a perhaps more convenient time. I have no doubt that if in the end you and your colleagues decide that that was an improper question, you can disregard the answer, but I am in your hands as to whether or not you wish to deal with it now or at a more convenient point.

Sir Alistair Graham: Do you wish to advise us?

Mr Parroy: The Committee could approach it either way but it seems to me that, given the desirability of keeping a compartmentalised approach rather than breaking things up again, there is no difficulty with the witness being allowed to answer that question or any other question on the same lines, and then the implications of that being dealt with at a later stage if there is an appropriate later stage for it to be dealt with.

Mr Hodivala: I can see the logic to that certainly. The only point I would make is obviously the question is relevant to the issues for you and your colleagues to consider, and at the moment the relevance to your consideration is the court in itself. I know exactly where my learned friend is going with this line of questioning and it seems that on behalf of the registrant, we object to this line of questioning as being irrelevant to the issues that you currently have to consider in relation to the allegation.

Mr Parroy: The Committee can proceed taking that matter, as it were, on advisement, as our American friends would put it. There is no difficulty with the Committee, in my view, listening to the answer to that question and any others, bearing in mind that, as it were, it comes with a health warning that it may be subject to subsequent submissions if and insofar as those ever arise, which they may not.

Mr Hodivala: What I do not want to find is that we get to the situation where evidence which is presently of dubious relevance has been admitted, only to find that in due course an application to amend the allegation to reflect the evidence that is before the Committee, when that evidence may not be properly before the Committee in the first place, if that makes sense.

Sir Alistair Graham: I have to say, I think my preference would be for the question to be put and then have ample opportunity at a later stage for you to make any submissions about it and for the Legal Adviser to advise the Committee about what it should properly take into account when coming to its conclusions.

Mr Hodivala: I have laid my marker in the sand, as it were. Thank you.

Sir Alistair Graham: Thank you. We will proceed therefore.

Mr Hepworth: Perhaps in fairness to you I need to ask that question again. [*To the witness*] What I am suggesting is that when you signed on page one on your account admitting to something which you had not done, on your account you were being dishonest. Do you accept that or not?

A. Yes.

Q. Because you considered it was in your interests to do that.

A. Yes.

Q. It is right, is it not, that at no point have you ever sought to challenge the caution.

A. No.

Q. You have never gone back to the police and said "I didn't do that offence, can we please rescind this caution?"

A. No.

Q. Is it fair to say that had it not been for these proceedings before the Council, that caution would remain unchallenged?

A. Yes, I wouldn't challenge it.

Q. I have no more questions.

Re-examined by Mr HODIVALA

Q. Do you have page 1 open?

A. Yes.

Q. Can you see at the bottom of the page there is a cross next to your signature? Did you put that cross there?

A. No.

Q. Who put that cross there?

- A. The police officer that was standing there.
- Q. Did he explain what that cross meant? What did you understand that cross to mean?
- A. He just put a cross to say "Sign here" basically.
- Q. Turn over the page; the same thing just about half way down - a cross next to your signature.
- A. Yes.
- Q. Is that the same thing?
- A. Yes.
- Q. Did you have an opportunity prior to signing this conditional caution to take your time and read through what was written down here on this page?
- A. All I remember is DC Back reading out I have to repay back £20 and I have to write a letter of apology and that it has to be done by this date and I just said "Don't worry, I'll get that done like tomorrow", and then I just signed it. I don't remember reading it properly, to be honest.
- Q. You obviously gave evidence in relation to this matter and it was put to you in cross-examination when the first questions were put that this was some time ago now. Yes? You were asked by Mr Hepworth when he started questioning about what your understanding of theft was and whether you understand that theft involves an allegation of dishonesty and whether you understood that back in 2007. Do you remember being asked those questions?
- A. Yes.
- Q. When you gave evidence in April you explained to the Committee at page 46 of the transcript that when you accepted the caution on 26 March you did not understand that you had to accept acting dishonestly in November. Does that make sense? Do you want me to ask the question again?
- A. Can you ask again?
- Q. When you gave your evidence in April before this Committee you were asked the question:
- "On 26 March when you had the caution did you understand that you had to accept that you acted dishonestly on 3 November?"
- A. No.
- Q. Do you understand?
- A. No.
- Q. I was going to ask you that, because you said you did not understand you had to accept acting dishonestly. Further on, just looking down at page 46, you were asked whether anybody explained to you that you had to accept acting dishonestly and assisting Linay. You said nobody explained that to you. So bearing in mind that this is a little while ago that you gave your evidence and

you were asked questions this morning, I just want to be clear about what your evidence to this Committee is in relation to your understanding of the definition of theft and, more particularly, the involvement of dishonesty in the allegation. When you were interviewed by Mr Walls, did you understand that an allegation of theft involved an allegation of dishonesty?

A. I don't know. I don't remember.

Q. When you were interviewed by the police, by DC Back, did you understand that an allegation of theft involved an allegation of dishonesty?

A. I don't remember.

Q. When you signed the caution in March did you understand that you were accepting that you had acted dishonestly?

A. I don't know.

Q. Let me ask you this. Do you accept acting dishonestly on 3 November 2007 in taking £20 from Linay?

A. No.

Q. Did you act dishonestly?

A. No.

Q. Likewise, when you were next to the till at about half past five on 3 November 2007, and you removed £85 from the till, were you acting dishonestly then?

A. No.

Q. Those are the questions I wanted to ask.

Sir Alistair Graham: Thank you very much. It is the turn of the Committee now to ask any questions if they wish to do so.

Questioned by the Committee

Ms Viner: I have one, please. I just want to clear up the £20. There have been a variety of ideas as to what the reason for you accepting the £20 was. Your final belief, if I have this right, was that this was something for your birthday which initially you thought was from Linay and then at the very end when you were leaving he said it was from Suzy. Could you just tell me a little bit about the relationship between Linay and Suzy? I am just a bit confused as to why Linay was giving you a present on Suzy's behalf.

A. They were just managers. Everyone got on with everybody, everyone talked to everyone, so it wasn't like they didn't talk to each other or they had something against each other. It was kind of – I don't know how to describe it.

Q. A congenial work relationship.

A. Yes. Everyone just got on with everybody. Nobody really had any conflict. Everybody talked to each other.

Q. Were you at all surprised that Linay was telling you that this £20 was actually from Suzy?

A. Not really.

Q. Not at all?

A. It's like – I know this is going to sound really stupid – but if I had two of my friends sitting here and we all get on and one of them is not going to see me so she says to the other one “Okay, I had to give that £5, can you give it to her?”, just like that, to be honest.

Q. So you were happy that –

A. I just went “Okay then” and walked out.

Sir Alistair Graham: Could I just clarify one or two points? You have admitted during cross-examination that you did lie to the investigator from Specsavers and you lied, as I understand it from what you said, to protect, in a sense, because you did not want to give the names of the two managers. Is that right?

A. [Nods]

Q. Why were you so anxious to protect them in this process when they were managers? You must have realised at that stage you were potentially in trouble. Why not tell the truth at that point?

A. I was just confused at that point. Because I had spoken to Linay beforehand and he wanted to speak to Phil and the only way he could speak to Phil is by saying to me “Can you go and speak to Phil?” I just felt like “Oh, my God, I have to get them to talk.” At the same time that's in my head and I'm being questioned at the same time, so you're kind of like going to and fro, what should you do, so you're sitting there and you don't know what to do, so initially whatever just came out, came out. It's not until after the first interview, and then I just got really upset and more confused, to be honest, after I spoke to Phil, and then things came out that I did know, things came out that were just a bit jumbled, and that was it.

Q. Were you not brought up to tell the truth?

A. Yes. So why I reacted in this way I don't know.

Q. How old were you at that point?

A. I'd just turned 21.

Q. Do you think that's a mature age to be able to cope with a situation like this?

A. I think it depends on a lot of factors. I don't think it's just age. I think it's how you've been brought up, if it's your first situation. It's really easy to say you should have done this and you should have done that, but I think sometimes when you're in the position, whatever's going to happen is going to happen. I would have never thought I would have reacted the way I did, not in a million years. But when I was put in that situation I couldn't handle it.

Q. Can I just clarify one or two other points? You were given the £20 for your birthday. When was your birthday? This was your 21st birthday, was it?

A. My birthday is on 9 October but I had a birthday party which wasn't on the 9th. It was about two weeks afterwards, and I had a birthday party at home.

Q. The date of this – remind me – was 3 November. Was it not all a bit late to be getting birthday money?

A. Not in the Asian community. You can get money any time.

Q. So you did not think it the slightest bit odd that you received £20 just like that.

A. Not really. I cannot see an auntie for about four weeks and she comes over and hands me £20. I know you think it's strange, don't get me wrong, but it's just normal. You really don't think about it.

Mr Baldwin: You admitted that you accepted the caution and you admitted that you did not challenge the caution. Did anyone at any time advise you that at any time after accepting the caution you could challenge it?

A. No.

Ms Viner: Can I just ask, with this birthday party did Suzy and Linay attend your birthday party?

A. No. They were invited. There were five, six members of staff that did come. I'd invited everybody but they didn't come.

Sir Alistair Graham: Just one final point from me about the caution. Were you given advance notice about the caution? Was a letter sent to you?

A. No. Like I said, somebody rang me. It was a female. She just said basically "They're willing to give you a caution but you have to accept it." Then when I said "I'll accept it, that's fine", I was just like "What do I do now?" and she said "Just go to the police station and they'll sort things out from there."

Q. You were just relieved, were you, that Gosh, this means I do not have to tell my family about all this.

A. I felt a lot of things at the time, I think. I just wanted it over and done with. I just wanted to get on with my exams mainly, and just not have any of that interrupted because I'd already been distressed for the past three months and couldn't concentrate. I just wanted to sign it and put it into the back of my head and be like, okay, I have to pass third year.

Q. Can you remember what happened when you went to the police station to sign the caution? What exactly was the process you went through?

A. I went in and then I think I was waiting outside for DC Back. Then he called me in and it was just like –

Q. Was he the only person there, because normally there would be a sergeant, I think?

A. There was DC Back and there was another police officer in front of me, and DC Back was just reading the statements and then they were just like "Okay, sign", so I signed it and then they printed a copy, these copies off and gave me a copy.

Q. When you say he read it, what did he read through exactly?

A. As in to repay the £20, the condition, sorry.

Q. He did not read any other bits.

A. Not from what I remember.

Q. He did not read the declaration "I understand the following".

A. Not from what I can remember. I'm not sure.

Q. I have heard previously that there are certain procedures normally followed when a caution is given so that you do understand that you are admitting to the offence, but as you were shown it, you signed "I admit to the offence and I understand I have the right to legal advice." Nobody read that out to you.

A. I don't remember. Sorry.

Sir Alistair Graham: Thank you very much. No other questions from my colleagues?

Further examined by Mr HODIVALA

Q. Can I just ask one more question that has arisen from the line of questioning that you put? [*To the witness*]: Was Suzy present in the opticians on 3 November herself?

A. No.

Q. Between your birthday party and when you were eventually arrested – your birthday party is two weeks or so after 9 October and I think you were arrested on 17 November or thereabouts – do you remember seeing Suzy at all?

A. No.

Q. And you were working which days?

A. Saturdays.

Q. Just Saturdays?

A. Yes.

Q. When I say you did not see Suzy, in other words was she working on the same days that you were working there?

A. No.

Sir Alistair Graham: No other questions? Thank you very much.

[*The witness stood down*]

Mr Hodivala: The next witness is Philip Boyett.

**PHILIP BOYETT, called and affirmed
Examination-in-chief by Mr HODIVALA**

Q. Can you give your full name, please?

A. Philip Massey Boyett.

Q. You are here to give evidence in relation to matters at Specsavers Opticians in Uxbridge.

A. Yes.

Q. Are you still working at that Specsavers?

A. I am.

Q. What is your position now?

A. Retail director.

Q. Back in 2007 were you retail director?

A. I was.

Q. Before I move on to Ms Chaggar, can I ask you about two people in particular, one called Linay.

A. Yes.

Q. What was his role in 2007?

A. Linay was retail manager and his role was to look after the retail operation within the store.

Q. And Suzy Stravens?

A. The operations manager. She was looking after general HR facilities within the store.

Q. Ms Chaggar started work at Specsavers Opticians in Uxbridge.

A. Yes.

Q. She first came to your store I think in about September 2006, beginning of October 2006. She applied for a part time job. Is that right?

A. That's correct, yes, basically weekend work, Saturday and Sunday.

Q. Did you yourself interview Ms Chaggar?

A. Yes.

Q. I think I can lead on this. You found that she had some background of previously holding retail positions.

A. Yes. She's worked in a local retail outlet within the Uxbridge area.

Q. Were you aware of what she was studying at the time?

A. Yes, we were.

Q. It was optician-related.

A. Yes.

Q. She started work I think on about 14 October 2006.

A. That's correct.

Q. Originally she was taken on as a dispensing assistant.

A. Yes.

- Q.** Although you said that it was Saturday and Sunday, did she occasionally work on Fridays?
- A.** It was Friday and Saturday.
- Q.** How did she interact and mingle with the staff at Specsavers?
- A.** Very well. For somebody that was relatively new to the organisation, she got on very well with both her peers and her superiors.
- Q.** So her interpersonal skills?
- A.** Very good. She was very helpful. With her ophthalmic knowledge she helped and encouraged the people within the team and she quickly excelled in the work that she was doing and as such took on extra roles and responsibilities within the team.
- Q.** You talk about extra roles and responsibilities. What were those extra roles and responsibilities?
- A.** They were supervising the junior members, they were taking on a supervisor role during the day-to-day running of the store, organising the junior members of the team, and also supporting with end of day routine such as cashing up.
- Q.** You have talked about her interpersonal skills. What about character generally? Were you able to form an opinion about her character?
- A.** Yes. She was very calm, very level-headed, knew what she wanted, knew where she wanted to go, very focused on her career. She was somebody that I could see doing very well if she progressed with her career, and I saw her as an asset to our business.
- Q.** I think in March 2007 Ms Chaggar applied for a pre-reg position.
- A.** Yes.
- Q.** To begin in 2008.
- A.** Yes.
- Q.** And requested that both you and Michael Bond, who I think was your business partner –
- A.** Yes, he's the ophthalmic director.
- Q.** And you would both act as her supervisor.
- A.** Yes.
- Q.** You agreed to do that, did you?
- A.** We did. We have a high standard. We believe in a specialised standard within the optical field and supporting the name of Specsavers within the industry and that Gurpreet was seen as somebody that would add to our team.
- Q.** There came a point in 2007 when surveillance cameras were put into the Specsavers store.
- A.** Yes.

- Q.** That was because it was suspected that money was being stolen through false refund transactions.
- A.** Yes.
- Q.** I think it was suspected that your till ID had been used on occasions.
- A.** Yes, had been compromised.
- Q.** There were times when you were not at the practice in any event around this time.
- A.** Yes.
- Q.** Just explain, in order to do a refund is it right that Gurpreet would not have been able to use her own till ID to perform that refund?
- A.** Yes. Though you had to log on with your own till ID, the ID would only allow you to do certain functions, and Gurpreet did not have the manager clearance level to have the functions to be able to do the refunds.
- Q.** If somebody had asked her to do a refund, how would she have gone about it?
- A.** She would have had to have used somebody else's ID, i.e. mine or another manager's.
- Q.** There came a point obviously when investigators attended the store and interviewed Gurpreet.
- A.** Yes.
- Q.** Did you see Gurpreet on the day of those interviews?
- A.** Yes, I did.
- Q.** How did she seem to you?
- A.** Obviously concerned and nervous because of these allegations that had been made towards her.
- Q.** Do you remember having any conversation with her about the allegations?
- A.** Yes, because obviously I'd been made aware of the investigation and the evidence that they had found regarding the surveillance cameras, and that, and when I spoke to Gurpreet about this all the way along she was adamant that nothing, as far as she was concerned, untoward had taken place.
- Q.** How long were you speaking to Gurpreet for?
- A.** We're looking back over three years but I spoke to her for a long time. It would have been at least an hour.
- Q.** Did she accept to you that she had acted dishonestly?
- A.** No, not at all. She was adamant that never at any time had she done or been aware of anything dishonest taking place.

- Q.** Can you assist with regards to when it was that you spoke to Gurpreet? Were you aware whether she had been interviewed by Mr Walls when you had spoken to her for the first time that day, or you simply cannot say?
- A.** Without being 100 per cent sure, my recollection is that following the investigation with Ben Walls and while Gurpreet was sat in our staff changing room, I then had the conversation with her then. That's what I recollect. Following Ben's interview of her, myself and Michael went in to speak with Ben and he told us – though I can't remember exactly what was said – "We've spoken to Gurpreet, Gurpreet denies any involvement or any awareness of any money being taken". Then I went in and spoke with Gurpreet just to ask what she could remember.
- Q.** There came a point – sir, I think you had copies of these on the last two occasions – when Ms Chaggar was dismissed by Specsavers.
- A.** Yes.
- Q.** And furthermore she wrote a letter of apology to Specsavers. Have a quick look at R2 and R3. PB1 is dated 4 December 2007.
- A.** Yes.
- Q.** And that his a letter from yourself.
- A.** That's correct.
- Q.** You set out there:
- "During the investigation it was revealed that your come back to the cash desk and subsequent acceptance of money from Linay in the admin office caused concern regarding your integrity which, after showing you the evidence, you agreed with."
- A.** Yes.
- Q.** It does not specifically outright allege that Ms Chaggar has accepted that she was dishonest. Just explain to the Committee.
- A.** I was guided on how to term and phrase this letter by Mel Mcalindon, who is the head of our loss prevention team, so that though I signed the letter and it was in my name, it was actually his words and his phrasing. They had said to me that when they spoke to Gurpreet they had put to her that under the circumstances in which the money had been taken, had she been aware of that would she have been suspicious and she said "If something had been put to that, yes, she would have been suspicious" and that, as far as I can recall, is what Mel Mcalindon said we would be dismissing her. Not that she had taken anything or not that she had done anything dishonest, but under those circumstances it could be viewed as being suspicious.
- Q.** Can I just ask you one or two quick questions about R3? R3 is a letter from Ms Chaggar dated 28 March 2008 addressed to Phil and Michael.
- A.** Yes.
- Q.** She talks about apologising for her actions and that she should have been more responsible and aware of what was going on around her. Did that letter

from Ms Chaggar reflect your understanding of what it was that she was accepting, namely that she should have been more aware of what was going on around her as opposed to accepting her involvement in any criminal act?

A. Yes. It was more to do with that she should have been aware of what was going on and she returned the £20 that had been given to her supposedly as a birthday present. But as I had said to the investigating team, I wouldn't have found that Gurpreet would have been aware because it wouldn't have been at her level of authority or involvement at that procedure, that the money that was being taken was on a much higher level than her involvement or the functions that she was allowed to do on the till.

Q. As far as Suzy Stravens and Linay Camessi are concerned, were you made aware of the actual investigations in relation to those two individuals?

A. Yes, I was.

Q. Can you explain to the Committee what it transpired that Suzy and Linay were doing?

A. Yes. In the main, it was Suzy. Because I had been off work with septicaemia, Suzy had been given my till access to carry out management functions on the till whilst I was out of the business because of the illness. Suzy was coming into the store on Sundays, on her days off, identifying customers that had paid with cash and collected their spectacles and their accounts had been closed, but was then going into the system and doing cash refunds and taking the money out of the till, and because she was balancing, she was taking the money and voiding off that transaction, the tills were balancing. It was only being picked up by our loss prevention team in our head office when they were getting the systems, going through the computer link, that it was showing that there was a high number of cash refunds which are not normal in the business, so somebody was obviously taking money out. Because she was using my access code, they put the cameras in and I wasn't made aware of the surveillance at that time, it was only put to Michael, my partner. They then quickly determined from the surveillance that it was Suzy that was doing this and it wasn't my own involvement. Then we were called to Guernsey to our head office and it was then told to us what was going on and what the loss prevention team had discovered.

Q. That is Suzy's involvement. What about Linay?

A. Linay came through because Suzy then said Linay was involved, that he was blackmailing her and that she was taking the money out of the till because he was threatening her, and that's where his involvement came. Subsequently when it went to court the case against Linay was dropped, the prosecution offered no evidence, so though he paid a major part in it and what Suzy was saying, no further action was taken against him.

Q. As far as Gurpreet's role in all of this was concerned, we have heard from Mr Walls already that there were several hours of CCTV collated at Specsavers.

A. Yes.

Q. Were you ever made aware of the total number of hours or total period of surveillance at Specsavers?

- A. No, I wasn't.
- Q. Were you ever made aware of the involvement of Ms Chaggar in the CCTV?
- A. I was shown that footage and it occurred, if I can recall, on a Saturday when they had cashed up. The footage showed Gurpreet and Linay at the till cashing up. It then showed them going appearing upstairs in our back office, going to where the safe is to bank the money. As they entered the back office Linay was captured handing Gurpreet, saying "Here's £20 from Suzy for your birthday" and that was it, and that was the only thing that I was made aware of, that Gurpreet was handed £20 and told "This is from Suzy, it's for your birthday."
- Q. As far as people who were viewed by Specsavers as being responsible, and by you as being responsible for this, was it viewed that Gurpreet was responsible for stealing money from Specsavers?
- A. Sorry?
- Q. As far as Linay, Suzy and Gurpreet were concerned, you mentioned Linay and Suzy were questioned about all of this and there were criminal proceedings against Linay and Suzy.
- A. Yes.
- Q. Was it your view that Gurpreet had been involved in stealing money, deliberately and dishonestly stealing money from Specsavers?
- A. No, not at all. Never.

Mr Hodivala: Thank you very much; that is all I wanted to ask you.

Cross-examined by Mr HEPWORTH

- Q. The first question I want to ask is in relation to what you say was on the footage. You said that there was evidence from the footage that Linay said to Ms Chaggar "Here's £20 from Suzy for your birthday."
- A. As I said, it's three years ago but as I recollect, that's what it was shown on the footage as being said, that the £20 was for her birthday and it was from Suzy.
- Q. The footage did not allow anyone to hear what was being said, did it?
- A. No, but you could see him giving Gurpreet £20, so then having discussions with Ben Walls and that, this is what the money was being given for.
- Q. So actually what you are doing is adding to what you saw on the CCTV.
- A. No, I'm relaying what I was told.
- Q. When you say that the CCTV shows Linay saying "Here's £20 from Suzy" –
- A. He's seen giving.
- Q. That is all you see.
- A. Yes.

- Q.** Would you accept that when she was working for you Ms Chaggar would see you as her employer?
- A.** Yes.
- Q.** You will excuse the way that the questions are jumping around a little bit for the moment, I am sure. Suzy claimed that Linay was blackmailing her?
- A.** Sir, this is what the police told me afterwards, yes.
- Q.** So presumably they had a rather frosty relationship then.
- A.** No. As far as I was aware, they had a very cordial relationship.
- Q.** You were not present during the incident on 3 November 2007. Is that right? This is the incident we are talking about when the CCTV, the incident that that covered that you have just relayed – you were not present during that incident, were you?
- A.** I think I was. I think I was in the store.
- Q.** But you were not present in either the till area or the office.
- A.** No.
- Q.** So you did not see what happened with your own eyes.
- A.** Only what was shown to me on the CCTV footage.
- Q.** Had you ever given your till ID to Ms Chaggar?
- A.** No.
- Q.** Did you allow other people to use your till ID?
- A.** It was used to allow people to use it while I was not in the business, so other people had my till ID, yes, but Ms Chaggar did not have it.
- Q.** As far as you are aware, she did not have it.
- A.** She didn't have it.
- Q.** Would you accept that if a member of staff uses the till ID belonging to another person, that is a way of concealing who actually is using the till at any one time?
- A.** Exactly, and that would be a breach of our rules.
- Q.** One presumes that the reason why there is security as far as till IDs are concerned is so that if someone's till ID is on a particular transaction you know who carried out that transaction.
- A.** Exactly.
- Q.** Ms Chaggar's ID and the permissions that she had at the time – I think you have said she could not carry out a refund.
- A.** She couldn't.
- Q.** But she could carry out a no-sale. Is not that right?
- A.** Yes, she could. It could allow her to open the till.

- Q.** And she could do the cashing up procedure under her own till ID.
- A.** No, Linay did that. The cashing up procedure was that Linay would print off the reports but as a security measure she would be there to count the money, so we would always have two people counting the money but she wouldn't be able to print off the reports and close the till for the end of the day. That would have had to have been done on Linay's functions of his ID.
- Q.** Am I right in thinking that Ms Chaggar would be able to change the trading date on the till to the following day under her own till ID?
- A.** Yes, she could do that.
- Q.** So she could do that and she could perform a no-sale under her own ID.
- A.** Yes.
- Q.** And there would be no reason for her to use yours to do that.
- A.** No.
- Q.** Did you know that she used your till ID to do both of those functions on 3 November 2007 during this incident?
- A.** No, I wasn't aware of that.
- Q.** Now that you know that information, does that change any of the evidence that you have just given?
- A.** No, it doesn't, and the reason is that I think would also have known my till ID, so if Linay and Gurpreet were cashing up together, whether it was Gurpreet or Linay who emptied it to close the till for the end of the day, that wouldn't have changed how I view what I have said for Gurpreet.

Mr Hepworth: I have no more questions.

Re-examined by Mr HODIVALA

- Q.** Just one question in re-examination. If Gurpreet was not given clearance to do refunds, did she receive any training in how to do refunds in that case?
- A.** No.
- Q.** Would Linay and Suzy have received training in how to do refunds?
- A.** Yes.
- Q.** So if either of those had asked Ms Chaggar to do a refund, would Ms Chaggar have known the correct procedure?

Mr Hepworth: This witness cannot answer that question.

Mr Hodivala: [*To the witness*]: I think you have answered it in any case. Ms Chaggar had not received any training in how to do refunds.

Questioned by the Committee

Sir Alistair Graham: It is now for the members of the Committee to ask you questions, and perhaps I can kick off. You have been very positive about Ms Chaggar and her role in Specsavers. You say you were off sick with septicaemia.

A. Yes.

Q. How long were you off sick prior to this incident occurring?

A. I had various periods of sickness. I'd been in hospital for about three months and then I'd come out and then I had a PICC line fitted and so I was coming to and from work for about another two to three months, but I was taking a couple of days off to attend the hospital for the various antibiotics I was receiving.

Q. The reason I asked that is that Ms Chaggar has told us that there was clearly some knowledge in the Specsavers shop that some money was going astray. Were you aware of this?

A. No, I wasn't.

Q. Was there some gossip around or what?

A. No, I wasn't aware of that.

Q. She says, for example, that money had been seen in patient files, for example, which had raised questions in her mind that something of this might be going on.

A. As I understood, not that I'm aware of that, but if there was a customer that was due to come in that was due a refund or something, money would be put into their file for them to come into the store.

Q. But as far as Linay and Suzy were concerned, as far as you were concerned they were totally trustworthy members of staff.

A. Exactly, yes.

Q. Therefore if a member of staff like Ms Chaggar is asked to do something by one of those managers, then it would be their duty as a compliant employee to follow those instructions, would it not?

A. Yes, it would.

Q. So do you believe, and I think from the evidence you have already given you do not, but just confirm it in my own mind, that you do not think Ms Chaggar was in conspiracy with Linay and Suzy.

A. Not at all. I've never thought that, even with all the conversations that I've had with the investigation team and the CCTV footage that I was shown. I never thought –

Q. Was she an innocent bystander in all of this?

A. This is my opinion. I believe she was handed the £20 for her birthday. It was her birthday. She was told that Suzy –

- Q.** The reality was her birthday was a month previously, 9 October or something was her birthday and we are talking about November. So it was not her birthday, was it?
- A.** I've taken it on the face value that it was told that this was given to her for her birthday. I couldn't see why she'd lie, that that story would be made up. Linay said that it was given to her for her birthday, she said this is what Linay said, and that's how I understood it.
- Q.** So you believe that she is an innocent bystander in an unfortunate sequence of events.
- A.** Yes, I do.
- Q.** Why do you think then she lied, as she admitted she did, to the Specsavers investigators?
- A.** I don't know about that and I wasn't aware that she'd lied.
- Q.** Were you surprised that she had accepted a conditional caution?
- A.** No, because I encouraged her to as well.
- Q.** You encouraged her.
- A.** I encouraged her to, yes. Speaking to the police and that, it was put that it would be expedient for her and she wouldn't need to go to court or anything, and thinking that going to court would be a worse scenario for her and just saying "This is probably the best thing, get it over and done with and you can get on with your life."
- Q.** Were you aware that accepting a caution is accepting that you committed a criminal offence?
- A.** No.
- Q.** You were not aware of that.
- A.** No.
- Q.** You just thought it was a bit of a ticking-off, did you?
- A.** Exactly, yes, because what they were saying –
- Q.** So you now accept you gave her very bad advice.
- A.** I do. At the time Mel Mcalindon said that the only thing that they could see was when they put the question to her "Under the circumstances, would you think it was suspicious?" she said "Yes." They felt that that was enough to give her the caution and that's why we were told that we were dismissing her.
- Q.** So you were misled in all of this.
- A.** Yes, yes, I didn't have the best of advice.
- Q.** Do you now regret the advice that you gave to Ms Chaggar?
- A.** Yes, exactly, I do, after seeing the outcome, when Linay went to court that no prosecution evidence was offered against him. Yes, I think that in trying to do the right thing for Gurpreet, I did the wrong thing.

Sir Alistair Graham: Thank you very much. Any more questions?

Mrs Huka: Mr Boyett, aside from you and Michael, did anybody else have the clearance levels to give refunds in the shop?

A. Yes. Only when my ID was given to Suzy was she able to do it. Otherwise, at any other time it would have been through myself and Michael at that time. The business has now moved on. We now have a general manager and she has clearance now, so the way that we do things now compared to three years ago has changed, but at that time in the business it would have been through myself and Michael, our own till IDs.

Q. At the time you gave Suzy the ID, did you anticipate that there would probably be times when she would need to give it to other members of staff?

A. No.

Q. Did you discuss this with her about not actually handing this till ID to any other person?

A. Yes, because it was given to her, and the reason that it was given to her was that I was out of the business and it couldn't be guaranteed when I would be in or when I would not be in, so she knew that it was like a privilege that she was having my till ID to enable her to cover my absence.

Ms Viner: I have a couple of questions. At the very beginning Mr Hodivala gave us some background information about Gurpreet's role within the business.

A. Yes.

Q. I think he indicated that in March 2007 she applied for a pre-registration position and I think it was mentioned that Michael Wong and yourself agreed to supervise her.

A. Michael would be her supervisor.

Q. You are not an optometrist yourself.

A. No, I'm not, no.

Q. So you have a retail background.

A. Yes.

Q. Can I just clarify so I have it clear in my own mind, the reasons that you were told that you would have to dismiss Gurpreet or need to dismiss Gurpreet were because of the admissions that had been made.

A. Yes. Mel Mcalindon said he was heading up the loss prevention team. He had said the advice that he was giving us that we should terminate her contract and that the letter should be worded this way and I should write it immediately, and that's what I did.

Q. Would be re-employ Ms Chaggar?

A. Yes, I would.

Q. Despite having dismissed her from the business?

- A.** I took guidance and now other things have become clear. At that time when we dismissed Gurpreet I wasn't aware of the facts as they have now come out and I was being guided, as I saw it, by our loss prevention team and was told that Gurpreet's employment should be terminated immediately.
- Q.** Are you able to question any of those decisions made by head office in Guernsey? If your belief as you have explained today is that Ms Chaggar is of good character and that you feel that she has been an innocent bystander in this, are you then able to question her decision that seems to have been made by somebody heading up a loss prevention team saying that you need to dismiss an employee, but you are thinking "This does not really sound right, had I not questioned this decision, she seems to have been caught in this as an innocent bystander, can we keep her within the business?"
- A.** Yes, from the outcome of this and everything, I will be going back and will be raising it with our head office and just saying that I'm unhappy with the way the events had happened and at the time believed that I was wrongly advised.
- Q.** Would you have had the opportunity to have raised that query closer to the time when you were actually asked to send the letter to Ms Chaggar?
- A.** No, because I wasn't aware of all the facts. I was just taking guidance. The investigation had been carried out, the police were there, they were taking Gurpreet away, and being called up and the way things were going I was told that "You should terminate immediately."
- Q.** It is at that point you did not believe she was an innocent bystander.
- A.** I didn't know. I hadn't been told all the things the way it has come out now.
- Q.** So your opinion of her being an innocent bystander is one that you formed later on when you have been able to reflect.
- A.** Yes, yes, exactly.

Mr Baldwin: I have no questions of this witness.

Sir Alistair Graham: I think that completes the questions. I think we have finished with this witness. Thank you very much.

[The witness stood down]

Mr Hodivala: The final live witness is Ms Satvinder Sihra.

Sir Alistair Graham: I just wondered if we needed a five minute break. We have been going for nearly two hours.

[Hearing adjourned at 11.08 a.m.]

[Hearing resumed at 11.20 a.m.]

**Ms SATVINDER SIHRA, called and affirmed
Examination-in-chief by Mr HODIVALA**

- Q.** Could you give your full name, please?
A. Satvinder Sihra.
- Q.** I think you are a qualified optometrist. Is that right?
A. Yes.
- Q.** You have been registered with the GOC since autumn 2009.
A. Yes.
- Q.** How do you know Gurpreet Chaggar?
A. She's a university friend of mine. We met on the first day and she's been practically my best mate since.
- Q.** Were you aware of circumstances leading up to Ms Chaggar accepting a caution just prior to the Christmas exams in 2007?
A. Yes.
- Q.** Your belief was that the caution was accepted at the end of 2007 rather than 2008.
A. Yes, as far as I'm aware.
- Q.** Can you remember what work you were trying to do at that time?
A. Dissertation. How can I forget?
- Q.** How was Ms Chaggar at that time?
A. Very, very stressed. Obviously stressed because final year was coming up, it was getting towards the end of exams as well, dissertation was a big deal, and obviously with everything going on, extremely stressed.
- Q.** Did you have any discussions with Ms Chaggar in relation to the investigations at Specsavers, where she was working?
A. Yes, I did.
- Q.** Did Ms Chaggar explain to you what it was that had surrounded the investigation?
A. Yes. She did mention what the investigation was about, i.e. basically a theft had occurred in the practice and that she was accused of being involved in that theft in the practice.
- Q.** Did she mention any suspicions that she had about others in the practice?
A. She did. Quite a while before – I don't know how long before, but a while before the actual investigation took place she did make me aware on one occasion that she suspected that something was going on, she suspected that the one or two of the managers were stealing or something was going on, stealing money from work, but she wasn't sure about what exactly was going

on because she was only there on Saturdays. Being there once a week it wasn't very clear whether taking money out of the till was for, you know, return or whether it was taking it of her own accord, it was just not enough for her to be completely sure.

Q. You cannot remember roughly when it was that you had this conversation with her.

A. No. I know it was earlier than the investigation but nothing more.

Q. Just to be clear about it, did Ms Chaggar say that she was or was not sure what these people were doing?

A. She wasn't sure.

Q. When was the next time after you had had this discussion in December 2007 or Christmas time? When was the next time that you spoke to Ms Chaggar?

A. We didn't actually speak about it until the day of the investigation by Specsavers, and the only reason I found that out on that day was she called me in order to let the clinic know that she wasn't going to be in university that day.

Q. In fact, this would have been the day of the investigation by Specsavers when she was being interviewed that she spoke to you.

A. Yes.

Q. And you remember her speaking to you about her clinic at university.

A. Yes.

Q. Did you discuss with Gurpreet about the clinic at the university and what you could do to help?

A. I just said "Is there anything that I can do?" But it was very difficult for her to talk on the phone. She sounded like she was going to burst into tears if I carried on talking so she very quickly went off the phone.

Q. Did she tell you what she was being interviewed in relation to?

A. She did let me know that there'd been a theft at work and that she was accused of – well, she was under investigation for suspected involvement in it, and that was it.

Q. Did she explain about particular quantities of money?

A. Nothing that I can remember in terms of quantities from what was stolen from the practice itself, nothing I can remember offhand. The only thing that she did mention was CCTV tape of £20 which was part of the reason why she was under question.

Q. Let me just ask you a bit more about that. She mentioned when she spoke to you on the phone about the fact that there was CCTV and you have mentioned £20. Did she say anything else in relation to that £20 that you can remember?

A. She said she was just given it as a birthday present and that was it.

- Q.** Did she say whether she suspected anything about that money?
A. Nothing at all.
- Q.** Is that no, she did not say anything at all, or no, she did not suspect anything?
A. No, she didn't say anything at all.
- Q.** As far as your involvement in all of this is concerned, you were obviously in the same year as Ms Chaggar.
A. Yes.
- Q.** Were you aware of a time when Ms Chaggar actually accepted a police caution?
A. Yes. I didn't know until she'd actually done it. She rang me up and said she'd accepted it, at which point I was quite annoyed with her because obviously she said she hadn't done it so I did ask her why she'd accepted the caution, to which she said "I'm just really stressed." I do recall her mentioning that she'd had advice from someone but I don't know who, with regards to a caution being the easier way to get it all done and dusted otherwise it would be kind of dragged through the courts and quite a lengthy process as well.
- Q.** Generally in terms of her character and personality, how would you describe her character?
A. She's intelligent but very gullible, easy to get along with, down to earth, she stays focused in her work, she's dedicated to whatever she does. She's always focused. She's just a really down to earth, simple sort of girl.
- Q.** What about her honesty?
A. Very honest. I have never had a situation with her where she's ever lied about a situation and we've been in situations with friends and things, but she's never ever turned round and been dishonest, as far as I'm aware.

Cross-examined by Mr HEPWORTH

- Q.** Did you say she was your best friend? Is that what I heard?
A. One of my best friends, yes.
- Q.** So of course you have come along today to support her. The investigation that you I think you have been talking about, the Specsavers investigation, took place on 21 November 2007, so if we can fix that moment. Are you able to say roughly how much time before then was it that she said to you that she thought that one or two managers were stealing money from work?
A. I can't recall. It was a one-off conversation and it was back in 2007.
- Q.** Did she say who she thought was stealing money?
A. She said it was someone in management, one or two of managers, but that's all she mentioned.
- Q.** She did not give you any names.
A. No names, as far as I can recall.

- Q.** But she had her suspicions.
A. She did have suspicions but she wasn't sure.

Mr Hepworth: No more questions.

Questioned by the Committee

Sir Alistair Graham: Did she tell you that she had lied to the Specsavers investigators?

A. She said that in a panic first she'd said 'No' to the questions and then in a panic she'd turned around and said 'Yes' and that she didn't know what she was saying 'Yes' to by the end of it, which I can understand in her position with her being stressed and also her first run-in with the law as well. She just went in a panic, but that's all.

Q. Did you give her any advice about what she should do?

A. To tell the truth, that's about it.

Q. You told her that, did you?

A. I advised her to tell the truth, yes, but that's all I would do. I would advise any of my friends to tell the truth.

Q. She has admitted to you that she lied – okay, under pressure, under stress, for whatever reason. Did you tell her that she should put the record straight?

A. In terms of putting the record straight, if she was in a panic over whatever had happened and she was unsure, she would have done that herself, so at that point the only advice that I've given her is at the end of the day I'm here as her friend. The only thing that she'd mentioned to me beforehand was the fact that she suspected or thought that people were stealing and when I made that comment in regard to telling the truth, it was basically to remind her that she'd seen something before that she had thought of and therefore to mention that, but I didn't advise her anything else, no.

Ms Viner: You said that you were annoyed with Ms Chaggar for accepting the caution.

A. Yes.

Q. I think your words were that you were annoyed because she was then admitting to something which –

A. Which she had not done.

Q. Was there any other reason why you were annoyed she'd accepted a caution other than that one?

A. It's the whole situation. I know that she hasn't done it. She's not the type of person that just sort of, you know, follow through and go "Okay, fine, I did it." I know she was under pressure or under stress, which obviously final year can do to you, but I was just frustrated that she'd accepted something that I know that she didn't do and she knows she didn't do, just for the basis of not carrying it out through the courts.

Q. Did you voice your disapproval at that stage?

A. Yes.

Q. Can I just take you back to your university days? Would you have attended a lot of lectures, clinics, etc., together, you and Ms Chaggar, as being friends?

A. Yes.

Q. Can you recall from the information that you received from lectures at university whether you were given any advice about the legal aspects, cautions, convictions, GOC registration? I am thinking about perhaps some legal aspects.

A. We had something on GOC registration and what the GOC does, that sort of thing, but I don't remember anything like legal stuff.

Q. About how a caution or a conviction could affect your GOC registration.

A. Not as far as I can recall. I know there was something on the GOC in terms of what they do, but other than that, no.

Mr Baldwin: You said that you were one of Ms Chaggar's best friends.

A. Yes.

Q. And you are here to support her. Would you lie for her?

A. Definitely not.

Mrs Huka: Ms Sihra, can you tell us how you knew what the import of the caution was, because you seem to know what the caution meant. How did you know about that?

A. How do you mean?

Q. You were angry, you say, that she –

A. I was frustrated.

Q. That she had accepted the caution for something that she did not do.

A. In my view, obviously I've not actually been in any trouble with the law but when you think of something like a caution, a conviction, anything like that, to me that's an admission by law that you've done something either way. Now, I was –

Q. If you pause there, that is what I am trying to find out. How did you know the import of the caution? How did you know that that was what a caution meant, that you were accepting that you had done something? How did you know that?

A. To me, I have friends that are in law who talk about it round me all the time, so cautions, convictions, I know about, even though I've not been on the wrong side of the law. So I had a general idea of what a caution is, which is why I went under the understanding that I have, which is it stays on your record and that's about it really. That's why I was annoyed.

Q. Were these friends that you talk about also Ms Chaggar's friends?

A. No.

Re-examined by Mr Hodivala

Q. When you spoke to Ms Chaggar on the phone and you advised her to tell the truth, it may be going back a long time but can you remember whether she made it clear that she had already been interviewed and questioned in relation to –

A. No, she didn't. I didn't know whether that was before or after, because literally the reason she rang was to say "I'm not going to make it to my clinic today. I've been called in for an investigation." I know she was there.

Q. Can you help me roughly what sort of time that call would have been; breakfast time, lunch time or tea time?

A. Oh God! I can't say for sure. It would have been morning or early afternoon.

Mr Hodivala: Thank you, that is all I wanted to ask.

[The witness stood down]

Sir Alistair Graham: Are there any more witnesses?

Mr Hodivala: No. That is the registrant's case. Forgive me; there are some documents to be read and I suppose this is an appropriate time to do that.
[Pause]

Sir Alistair Graham: I think we should mark this as R4.

Mr Hodivala: R4, yes. I am going to read the first reference from Barinder Laly. This is dated 1 July this year.

"I am aware that this will be used for the hearing of Gurpreet Chaggar.

I have read and I am aware of the allegation that Gurpreet faces.

I am the store manager and dispensing optician at Vision Express in Aldershot.

I have known Gurpreet Chaggar for seven months. We're a small team and Gurpreet gets on well with all the staff and patients. She's reliable and professional in her work. Gurpreet does a lot of dispensing and collections of specs so at time she deals with large amounts of cash and always has access to our till.

When I was on holiday, I've left Gurpreet and a new member of staff on their own. I had to ask Gurpreet if she could make sure with my new staff member that the cashing up was correct and put away safely. I felt confident in leaving Gurpreet to do all the jobs I'd asked her to do. During a period when we were short staffed I made Gurpreet a key holder, so she had the safe code, the pdq code and the shop key.

At Christmas Gurpreet took on the responsibility of finding a restaurant and organising our staff Christmas dinner.

Gurpreet and I have discussed the possibility of her being my resident optom pending her hearing. She has a good relationship with staff and patients at Vision Express, Aldershot.

I have no issues in regards to Gurpreet's honesty or integrity."

The next statement is dated 10 July 2009 from Mr Gulamali:

"I have known Gurpreet since July 2008 as a pre-reg optometrist at Guildford store. Over the past 12 months she has been conscientious in developing her optometry skills. As a pre-reg supervisor I can see her becoming a complete and competent optometrist making her an asset to this profession. She has showed great interest in patient care and giving impeccable customer service.

I am aware of Gurpreet's conviction and Fitness to Practise Hearing, yet I feel that her honesty and integrity during her pre-reg year played an active role to achieve her qualification. She had a good relationship with the staff and played an active role within the team. Gurpreet was reliable and flexible and showed good timekeeping skills.

Please do not hesitate to contact me..."

A letter from Bruce Fitzgerald, vice-chairman of Hampshire and Isle of Wight Local Optical Committee, dated 27 July 2009.

"Dear Sirs,

I first met Gurpreet Chaggar on 22 August 2008 when I visited her practice, Vision Express in Guildford, to perform her College pre-registration introductory visit. I subsequently visited her on a further five occasions to carry out her College assessments. Each assessment typically lasted for three to four hours.

I recently found out about Gurpreet's Fitness to Practise Hearing from reading about it in the Optometry Today magazine. I was extremely surprised as Gurpreet was one of my best students and the complaint against her seems completely out of her character. I therefore phoned Gurpreet to offer my support and offer to write her a letter of reference.

I qualified in June 2000 and have now practised for just over nine years. I am currently the Optometrist-Director at Specsavers in Ringwood, Hampshire. Also, I am a College Assessor and vice-chairman of Hampshire and Isle of Wight Local Optical Committee.

Gurpreet is very friendly and has a great bedside manner with patients. She keeps an excellent standard of patient records, carries out very detailed and thorough sight tests, contact lens aftercares and fittings. She is very hard working and enthusiastic and was always extremely well prepared for each assessment. She studied extremely hard throughout her pre-registration period and has a broad and in-depth optometric knowledge. She is well respected by her store team and is highly regarded by her patients. Gurpreet is definitely a very competent optometrist and this was proved by her recent ability to pass all four of her Professional Qualifying Examinations first time.

I have always found Gurpreet to be completely honest in all of her assessments. Gurpreet would be truthful about any of her weaker areas and would volunteer any experience which she was lacking. Thorough checks were carried out on her trainee logbook, the practice diary and on random patient records and Gurpreet was consistently found to be completely honest, accurate and aboveboard.

I would be grateful if you could take this reference into account..."

A letter from Mr Sahota dated 9 June 2009.

"I am writing in response to the reference requested for Miss Gurpreet Chaggar. I would like to confirm that I am aware this reference is being sought for use at Gurpreet Chaggar's disciplinary hearing.

I am currently studying and training to be a plumber with the Building Trade Skills Centre. I have completed 18 months of the course to date and have so far reached level three."

He goes on to outline some more of his roles there.

"I have known Gurpreet Chaggar during secondary school. Gurpreet and I have been in a relationship for over four years, during which I have got to know her very well as a person. During secondary school, Gurpreet has been a very competent and hardworking student. This is evident in the grades she has achieved throughout her education. Gurpreet is a very honest and trustworthy individual, kind-hearted, considerate and caring as this has been shown through her previous work experience as working for a teddy bear factory working where she was involved with looking after children. Gurpreet is a very calm and polite person who will listen to anyone who has a problem, for example providing me with advice on my future career as before I used to work full-time at Wickes. As an individual she is a very hardworking individual who is focused on her future career, as she tends to spend less time with her friends and more time with her studying. If she tends to occur with problems she does not keep it to herself but will come to me or otherwise tends to go to the temple for advice. I do not know a single person that could say a bad word about her."

He goes on to make some observations about her character.

Finally, Paninder Bains. I think you heard from Miss Bains in the course of her evidence but I will read this for the sake of completeness.

“I am aware this reference is being sought for use at Ms Chaggar’s disciplinary hearing.

I have just completed my LLB law degree...

I have known Miss Chaggar for over ten years. We have been very good friends since secondary school and our families are also very close.

With regard to Miss Chaggar’s character, I can confidently say that she is an honest, reliable, friendly individual. She is definitely someone that I have a lot of respect for as well as trust and faith. She is extremely hardworking and very passionate and determined about everything she does. She has a very welcoming nature and I am able to comment that she always been sincere throughout all the years that I have known her.

I have never had any reason to doubt Miss Chaggar’s honesty and integrity.”

Sir, that is the case for the registrant at this point in time.

Sir Alistair Graham: Does that mean we go to closing submissions then?

Mr Hodivala: It does.

Sir Alistair Graham: Mr Hepworth?

Mr Hepworth: Sir, thank you.

You remember that when Ms Chaggar was giving her evidence there was a matter that was raised and was put aside to be dealt with at a later point. Perhaps I should see what Mr Hodivala’s view is about whether or not now is the point or whether that point comes later.

Mr Hodivala: In relation to the timetabling, as I understood it we were dividing this point in the proceedings in a separate subset, as it were, of impairment, inasmuch as you were going to hear submissions about the underlying facts in relation to the thefts and make a decision on which facts you found proven and which facts you found not proven, as it were.

The questioning that Ms Chaggar was asked previously does not directly relate to this topic and so it seems to me that submissions can properly be defined and confined to the question of whether or not the underlying allegation of theft is proven or not proven. The submissions I think that Mr

Hepworth is referring to can be debated in due course; it seems that they are not appropriate at this point in time.

Mr Hepworth: Can I say I think they may well be relevant just because you have obviously heard evidence about Ms Chaggar's honesty and, of course, that is a matter that you can consider when deciding whether or not she committed the theft in this case, but on the other side of that balance, which equally is admissible, is the two lies which she told, first of all to Mr Walls and, secondly she says to the police when signing the caution form, so I think both are relevant at this stage.

With that marker down, perhaps I should say a little bit in closing. I should say there will not be much because, of course, I opened, and if you need to be referred to my opening it is at page 106 of the transcript which I have before me. I do not intend to go through it and no doubt you will be able to look at it at your leisure, and I do not want to repeat that which I have already said.

Of course, at this stage we are dealing with a discrete issue within the global impairment stage, this particular fact, and the Council accepts that the Council wishes to rely on the fact, and so the burden falls on the Council to prove it; the standard is on the balance of probabilities. If you find it more likely than not that this fact occurred then you can safely and must safely find it proved.

I know that I have had discussions with your Legal Adviser and Mr Hodivala before and I do not need to say much more because I think the position is agreed now between the parties. But can I say that in relation to the registrant's evidence, as I have said, you have evidence from her own mouth that on two occasions she was dishonest, in the interview with Mr Walls and she says at the police station. Of course, you have to take that into account when assessing the reliability and credibility of her evidence and whether or not she was party to the offence which took place on 3 November.

Two specific matters that I would like to raise if I could, and they arise from the evidence that was given. You will remember, sir, that you yourself asked Ms Chaggar questions about what explanation she was given prior to the caution and I think her final evidence as far as that was concerned was that she did not remember, but if I refer you to page 25 of the transcript, the evidence of DC Back who was present during that caution, had he sets out there what would have been explained to Ms Chaggar at the cautioning procedure, and his cross-examination thereon you can find at pages 29 and 30. In the Council's submission it is clear that the caution was explained to her and, of course, that was a matter that you took into account no doubt when deciding that the admission on the caution form was admissible.

Sir, the last submission that I make is in relation to the evidence of Mr Boyett that you have heard, and I invite you to treat his evidence with great caution. In the Council's submission he was a naïve witness and, of course, his opinion that he had formed was based on an incomplete knowledge of the facts. Particularly, he was not aware until he gave evidence that Ms Chaggar

had used his till ID to carry out the no-sale and then the changing of the till date at the point that the theft took place. In any event, his interpretation of the evidence is not a matter that should detain you for long because, of course, you are well able to interpret the evidence and assess the evidence for yourself.

Sir, I intended to be brief, and hopefully I have been. I have no further submissions to make on this particular aspect of the case unless you have any questions for me.

Sir Alistair Graham: Thank you.

Mr Hodivala: On this particular aspect of the case, in my submission everything that is relied upon by the GOC can be sensibly explained by an appreciation of two facts. Firstly, Ms Chaggar was a part-time Saturday member of staff and when she was asked to do something by her manager and her superior, namely Linay, it is completely understandable why something that a manager was requesting of a part-time Saturday staff member was performed by that part-time staff member, namely Ms Chaggar. That is the correct context in which I would ask you and your colleagues to look at the evidence that you have before you.

The second point to bear in mind when you are reviewing the evidence is that obviously hindsight has clearly played a very large feature in the responses that Ms Chaggar gave to both Mr Walls and also to the police, and I will take you in due course to one or two passages which I hope demonstrate that particular flavour.

When you are examining whether or not the GOC has proved this allegation on the balance of probabilities, whilst we obviously accept that it is the balance of probabilities that the GOC has to satisfy you upon, we say that it is inherently improbable that Ms Chaggar would have committed an offence such as this, bearing in mind the sort of person that she is. You have heard that she was very early in her career; you are entitled to look at that as a matter of common sense as to whether or not somebody who was clearly focused on her studies, early in her career, passionate about her career, would have committed an offence such as this. You are entitled to look at the part-time nature of her employment and the reality, as I have said, that she was conducting tasks that she was instructed to do by her superiors. You are entitled to look at the fact that she was trusted with the cashing up procedures at Specsavers for approximately a year before this particular incident. You have heard from a number of witnesses, both in live evidence and also by way of character evidence, who speak glowingly of her particular character. You have heard from her Herpreet Kaur Rayet, who gave evidence live, as it were. Ms Rayet described Ms Chaggar as:

“She can be very naïve, very trusting, and that is because she is quite protected within the family, being the youngest.”

It may well be that, although there are certain aspects of Ms Chaggar's character that are impeccable, namely her honesty, integrity, and so on, there are other features of her personality, through no fault of her own, that lead her to be more inclined to accept instructions from superiors if she is asked to do that, than perhaps other people would be.

These are the realities and this is the real world in which you and your colleagues find that you have to judge the allegation against Ms Chaggar.

You have heard from Ms Bains that Ms Chaggar is trustworthy, loyal, honest, one of the most honest people she knows, she said in her evidence. Again, you have heard from Ms Sihra to say that Ms Chaggar is intelligent but gullible, matters entirely for you and your colleagues bearing in mind obviously the evidence that you have heard again from Dr Blandford in relation to Ms Chaggar's personality.

The interviews themselves are relied on by the General Optical Council. As I say, I would invite you to look at those interviews in the correct context, as Ms Chaggar has described, namely that she answered questions with the benefit of hindsight being applied to all her answers. There are one or two examples of that. Can I ask you, please, to turn first to page 42 of the bundle? You will see just about half way down DC Back asks:

"Don't you think you have a duty to tell staff that someone's stealing?"

She says:

"Well, I didn't want to get myself in trouble."

That is a big accusation to make and you may have some degree of sympathy for Ms Chaggar, there as a part-time member of staff being asked why it was that she did not accuse her managers of theft when, in reality, she was not sure.

"Why are you in trouble if you're just basically informing on somebody else?"

But if I was proved wrong."

And then this point:

"You can't just sit there and say nothing if you witness someone stealing money because you are as bad. If you witness it and see it then you're as bad; you're as guilty of it if you don't do anything about it. Can you not appreciate that?"

As a point, that is bad in law, because mere knowledge is not sufficient for any kind of criminal offence to be committed, or dishonesty, in fact. But Ms Chaggar says:

"I agree."

Two points to note there. First of all, you have Ms Chaggar agreeing with what is patently a bad point. Secondly, you do not have Mr Milson as the solicitor interrupting to correct the officer.

However, you then see Mr Milson going on to say:

"I think the problem is, DC Back, the people that she saw were managers. That's the difficulty here. She's not on an even course with these two people. That's the difficulty she may have been in."

Then there is another question put. Down towards the bottom you see DC Back say:

"You agreed it was theft then but not now. What's the difference?"

Ms Chaggar says:

"Nothing."

Over the page she talks about it being a refund as far as she was aware. That is just one example of the benefit of hindsight coming across in how Ms Chaggar answers her questions both to Mr Walls and to the police. The example that was put to Ms Chaggar and indeed to DC Back is at page 55 of the interview where, down towards the bottom of the page, you have the officer saying:

"It's theft."

Mr Milson tries to interrupt. Ms Chaggar goes on to say:

"I didn't know that it was from that £85, which I keep saying."

Then Mr Milson clarifies:

"Well, the thing is - the thing is, you've got to be clear on this ... You weren't sure a) where it came from and you also gave an explanation as to what that £30 was for, all right? So you can't sort of now say that it was theft if you don't really believe that."

Then Ms Chaggar says:

"Yeah, but now that I know everything."

So it is clear, in my submission, that what Ms Chaggar is doing in her police interview and indeed, in my respectful submission, in Mr Walls' interview, is answering with the benefit of all of this investigation coming to light, in light of conversations she has had with Linay after 3 November, conversations she

has had with investigators after 3 November. That really does become clear when Mr Milson says:

“Are you saying that you’re answering questions on hindsight that you know now because of the disclosure given?”

Ms Chaggar says:

“Yes.”

The GOC does not point to any admission made by Ms Chaggar in the course of her police interview that would ordinarily allow a police caution to follow from the police interview. I am not going to trawl over those arguments again. It is a relevant factor that in the course of her police interview she does not make clear and unambiguous admissions to the offence of theft.

It is also evident in this case that the definition of theft was not provided by Mr Walls or the police, and I pointed to page 42 of the interview where Mr Milson does not intervene when the police officer appears to be putting a wrong suggestion in law. In light of Ms Chaggar’s evidence today that she understands that theft involves an allegation of dishonesty, I just ask you to pause for a moment in regards to whether you accept that evidence as her position in 2007 because obviously I have referred you to the transcript of her evidence in April which was obviously closer to the time in terms of what her understanding was of theft and dishonesty in 2007, and I would ask you to accept that evidence. That certainly seems to be consistent with all of the other evidence in terms of interviews in this case, that at the time in November 2007 she did not accept that what she was doing was dishonest. So at the very least, there is ambiguity in relation to what Ms Chaggar’s understanding was in relation to what she accepted and what she did not accept doing in 2007.

Dealing with the caution in March 2008 as an admission, the GOC understandably relies on that caution, that signature that we have at pages 1 and 2 of the bundle, as evidence in support of the conclusion that she admitted that she was guilty of theft and dishonesty. Quite aside from the powerful incentive upon anybody to accept a caution when they have not made any admissions in police interview, and quite aside from the desire that Ms Chaggar has given evidence about to keep this matter quiet, particularly because it was seen as family disrespect. Her parents, you will remember, are involved in the temple; her father is a respected businessman. Bear in mind, of course, that the evidence from Dr Blandford was that Ms Chaggar is unusually complaint and impressionable and suggestible, and against all of that you are asked to consider whether or not this confession in the caution is reliable.

You will go through the evidence, but in my submission the crosses next to the signature on pages 1 and 2 support the conclusion that really what she was asked to do was to sign where the cross was, having had in her evidence

the conditions to the caution read out to her. You may feel that the crosses next to the signature are strong support for her evidence in that respect.

You obviously have the letters, R2 and R3, which set out both Specsavers' position with regards to their understanding of what she was accepting and you heard Mr Boyett's evidence in respect of that, and you have Ms Chaggar's response to Specsavers' dismissal and also the conditional caution. Neither of those involve any kind of acceptance on Ms Chaggar's part or indeed an allegation on Specsavers' part that she had admitted dishonestly stealing money.

You may feel in the circumstances that there is an element of human nature with regards to the conditional caution and the signatures on the caution. Obviously that is a matter for you and your colleagues, bearing in mind all of the evidence that you have heard.

Turning to the question of the caution and the £20, of course the caution relates to the £20 but you have heard evidence of £85 being taken from the till. I think I can deal relatively briefly with the till incident inasmuch as all of the evidence in my submission points to the fact that Ms Chaggar was being asked to do something by her supervisor, she had not had any particular training in refunds and so if her supervisor, in other words Linay, had asked her to do something there is no reason for her not to do that, in my submission.

You have not heard evidence from Linay, you have not heard evidence from anybody else, nor, importantly, have you had the opportunity yourselves of seeing the CCTV in order to gauge what conclusions you can draw, and so in my submission the evidence that Ms Chaggar had been involved in theft of £85 from the till is not sufficiently reliable for you to be able to conclude on the balance of probabilities even that she was involved in a theft rather than being in an innocent dupe, to use a phrase, on behalf of Linay. Certainly, in my submission, you cannot say that she treated the £85 as her own or Linay's at that particular point, but once the money has been taken out of the till no doubt Linay decided to do what he wanted with that particular money.

As far as the £20 in the office is concerned, no evidence that that particular money came from Specsavers as opposed to from Linay's pocket, and in that regard wholly insufficient evidence for you to be satisfied even on the balance of probabilities that that money was theft of £20 from Specsavers.

In any event, sir, you have the point that generally it is denied that Ms Chaggar was acting at that point in time dishonestly.

Ultimately you have an acceptance with the benefit of hindsight that Ms Chaggar realised that matters were suspicious when they were objectively put to her, not an appreciation that she had at the time, but ultimately all of these matters can be readily explained by the fact that it was her manager asking her to do something, and bearing in mind her impressionability that you have

heard evidence of, and I would ask you obviously to consider in due course, at this stage, in my submission the GOC has not satisfied the burden upon it.

In the circumstances, it is not more probable that Ms Chaggar stole money from Specsavers and that she was rather caught up innocently in the dishonest actions of Linay and Suzy at Specsavers.

Those are my submissions.

Sir Alistair Graham: Thank you very much. I will now ask the Legal Adviser to advise the Committee.

Mr Parroy: The question which the Committee has to focus on at this stage is whether it is satisfied that the GOC has proved on the balance of probabilities that the registrant did, in fact, steal £20 which was the property of Specsavers on 3 November 2007. That arises from the fact that the allegation in this case is an allegation under Section 13D(2)(c), namely that it is impairment based upon a caution for a criminal offence.

The issue having been raised on behalf of the registrant that although there is a caution nonetheless she did not admit the underlying facts, it has been accepted by the Council that the burden of establishing that she did, in fact, carry out the alleged theft is upon the Council.

You are entitled to look at the totality of the evidence on both sides in coming to your conclusions. You are entitled to look at the whole history from the suspicions, through the £85 and the till to the caution. In other words, events preceding and events following the alleged act of taking the £20 note.

You are entitled to make any logical inferences or to draw any logical inferences that you think right to draw in the light of the facts which you are satisfied have been proved to the appropriate degree.

The allegation being made by the Council is effectively one of joint enterprise. It has been put that she took the £85, the £85 came out of the till, and the £20 was her cut. Joint enterprise as a matter of law is an agreement between a number of people to carry out a criminal offence. Each one of them does not have to commit the totality of the offence to be guilty. For instance, if three people go out to do a burglary, one stands on the street to keep watch in case the police come, one holds the ladder and the third one goes up the ladder into the house and steals the jewellery, all three of them are equally guilty of burglary despite the fact that one of them has not been even into the garden, one of them has been in the garden but no more, and only one man has actually gone into the house and taken the jewellery, even though the definition of burglary is entering unlawfully as a trespasser. The reason is because all of them are playing their respective parts in bringing the agreed criminal enterprise to a satisfactory conclusion. That is the allegation which is being made effectively by the Council in this case and the Committee is entitled to have regard to that approach if it finds the necessary facts proved which would justify it.

There is no evidence before the Committee as to why the Crown Prosecution Service took the approach it did with regard to the caution and the fact that it relates to £20. There being no evidence about that, the Committee is not entitled to and should not speculate about why that approach was adopted.

In coming to its conclusions, the Committee may find facts proved upon the balance of probabilities. That does not equate to 51 per cent to 49 per cent, but rather that it is likelier than not that particular fact in question has occurred.

This is an allegation of dishonesty leading to the acceptance of a caution by the registrant, and in those circumstances the Committee would no doubt want to set the bar higher to reflect the seriousness of that allegation.

There is a strong but a displaceable presumption that a person accepting a caution in these circumstances is accepting that she has committed the offence to which the caution relates. This would be especially the case if she understood that the acceptance of a caution might potentially jeopardise her professional status.

In all of these matters the registrant is entitled to rely upon her hitherto good character in two respects. Firstly, because it entitles her to normally be believed in what she says and, secondly, because she has shown hitherto a propensity to honesty as opposed to dishonesty.

There is evidence here, and acceptance by the registrant, that in certain respects she has told untruths. The Committee should not conclude that because a person has told lies it follows that they are therefore guilty of an offence or guilty of relevant dishonesty. People tell lies for any number of reasons: because they are confused, because they are upset, because they seek to bolster an otherwise honest account with further detail, etc., etc. It is only if the Committee could put to one side all of those considerations and come to the conclusion that the lying was in order to conceal dishonest involvement that it would be determinative or relevant to its deliberations.

An issue was raised in the course of cross-examination as to whether the acceptance of a caution when the registrant was saying at the same time that she had not actually committed the underlying offence was actually dishonest, which the registrant herself accepted. That goes effectively to a sub-issue in this multi-layered case, the sub-issue being whether or not such acceptance could itself amount to a different head of impairment. In that respect, it is irrelevant to the considerations of the Committee at this stage. The general honesty, however, of the registrant is an issue which the Committee is entitled to look at at this point.

In coming to its conclusions, I repeat that the Committee will look at the totality of the evidence on both sides, including the statements of character witnesses that have been read out and the other material which has been

provided in both written and in oral form, and when it has come to its conclusions the Committee will deliver its ruling in writing.

Sir Alistair Graham: Thank you very much. Do either party wish to comment in any way on the legal advice that has been given to the Committee?

Mr Hepworth: Not from the Council, sir.

Mr Hodivala: Just one point in relation to the advice about the displaceable presumption from a caution. Just to be clear about the advice that has been given first, and then I will formulate any response. It is the advice that the acceptance of a caution effectively places the burden on the registrant in this case to prove that she did not commit theft.

Mr Parroy: I began by saying that the GOC accepted in the particular circumstances of this case that the burden is upon it to prove the fact of the underlying conviction.

Mr Hodivala: Absolutely, yes. So the effect of the caution is that it becomes evidence that the GOC relies upon.

Mr Parroy: Absolutely, yes, I agree with that.

Mr Hodivala: But no more than that. Thank you.

Sir Alistair Graham: I suggest the Committee needs to obviously consider all the evidence and come to a conclusion on this final fact stage. Can I suggest we probably should plan to build lunch into the break, so would it be sensible – these things always take a bit longer than one anticipates – that we should reconvene at two o'clock? Be available from two o'clock and that will encompass lunch.

[Hearing adjourned at 12.12 p.m.]

[Hearing reconvened at 2.02 p.m.]

Sir Alistair Graham:

“The Committee, by agreement, went on to consider the factual issue as to whether the GOC had proved on the balance of probabilities that the registrant had stolen £20 from Specsavers on 3 November 2007. This was the basis upon which the registrant subsequently accepted a conditional caution dated 26 March 2008.

The Committee has considered the totality of the evidence on this issue and has accepted the advice of the Legal Adviser as to the relevant law.

Whilst the Committee accepts that the registrant may have had some suspicions that there was possible wrong-doing involving managers at

her branch, the Committee is not satisfied on the balance of probabilities that the registrant was a dishonest or knowing participant in a joint enterprise to steal money from Specsavers. The Committee is not satisfied that the GOC has proved to the requisite standard that the registrant stole £20 from Specsavers on 3 November 2007.

The Committee has formed the view, based upon its own assessment of the registrant together with lay and expert evidence that the registrant is unusually suggestible. The Committee has concluded that the registrant agreed to accept the conditional caution as a result of being given wrong advice by a person in authority together with her own desire to conceal matters from her family.

The Committee has noted that the registrant made no unequivocal admissions of theft during the course of her police interview.”

Mr Hodivala: I think that now raises the issue that we had touched upon previously with regard to the next stage, because obviously regardless of the finding of facts in this case there is still the fact of a caution recorded against Ms Chaggar which has to be considered by you and your colleagues.

It may well be that I would favour perhaps ten minutes with your Legal Adviser and Mr Hepworth so we can just discuss and see if there is any scope for agreement with regard to the proposed way forward, and that may prove productive.

Sir Alistair Graham: Mr Hepworth, are you comfortable with that?

Mr Hepworth: Of course, sir.

Sir Alistair Graham: We will adjourn for ten minutes while the two parties consult with the Legal Adviser.

[Hearing adjourned at 2.05 p.m.]

[Hearing resumed at 2.23 p.m.]

Sir Alistair Graham: Who is going to kick off?

Mr Hepworth: I think it should be me, sir.

Clearly now that you have made that decision on the facts, the issue now revolves around impairment, and of course you will be exercising your judgment. I am going to seek to persuade you that the matter is not yet dead.

Can I refer you to page 25 of your handbook, Section 13D(2) of the Act. That sets out the following provisions:

“The only grounds upon which the fitness to ... undertake training of a student registrant is ‘impaired’ for the purposes of this Act are...”

And it goes on to list them. In this case,

“(c) a conviction or caution in the British Islands for a criminal offence...”

On that basis, the gateway to impairment, the trigger for impairment, is the caution, not the offence which led to the caution but the caution itself. Ordinarily, of course, the two go hand in hand because someone who is cautioned accepted they committed the offence. But reading the wording of that section of the Act, it is the caution which is the gateway to impairment. That is important, in my submission, because as part of the question of impairment you are entitled to look at the circumstances of that caution.

You have heard evidence, and I do not think anybody disagrees, that before a caution can be given by the police, first of all there needs to be sufficient evidence to prove the case if needed and, secondly – and this is in itself two parts – the person to be cautioned has to (1) admit the offence, and (2) agree to be cautioned. In this case we have seen it several times, the admission and the agreement to be cautioned are found on pages 1 and 2 of your bundle.

It is right that in this case the only reason why there was a caution was because Ms Chaggar admitted the offence on page 1 and agreed to be cautioned with those conditions on page 2. So her conduct in that cautioning procedure is intrinsically and inextricably linked to the caution itself. So when you are considering whether or not the caution leads to her fitness to practise to be impaired, you can in my submission take account of the fact that it is her conduct that led to the caution being given and without it the caution could not have been given. One presumes she would have been charged and would have gone to court.

That is important because the registrant herself accepted that her signatures were lies, and she also accepted that what she did was dishonest. That was in the evidence which she gave.

The effect of what she did was to undermine the criminal justice system, and I say that for this reason. The criminal justice system depends on the integrity and the robustness of the cautioning system. If everyone who was suspected of committing a criminal offence was sent to court, the courts would explode. So cautions are needed in order to reduce the amount of people going to court to allow the criminal justice system to work effectively. The cautioning procedure depends on people who accept cautions standing by those acceptances, standing by those admissions which they make. So by the registrant not doing that in this case, the effect of what she has done is to undermine the criminal justice system.

Of course, it is a matter for you whether or not that was done deliberately or inadvertently, but it was on the basis of her admitted dishonest lie to the police, and that was a lie in expectation of that result, because she said that

she put the lie on the caution form, she signed the form, because she knew that would get her to a caution and she did not want to have the stigma of going to court. So in the Council's submission that was a deliberate decision that she made which had the effect of undermining, as I said, the justice system.

Given that, of course, within the Code there is a requirement for optometrists or student optometrists to have integrity, to be professional and to be honest, in my submission her dishonest behaviour is a matter that you can take into account when considering whether or not her fitness to practise is impaired, especially because I think there will be no doubt that it is important for a registrant to be scrupulously proper in all dealings they have with authority, particularly with the police.

The first issue is whether or not you can take into account the registrant's conduct at the point of cautioning when you are considering whether or not her fitness to practise is impaired, and in my submission, for the reasons that I have given, you can.

Sir, I think it might be helpful to deal with that as a discrete issue because, of course, whichever way you find, it will affect the way that the case goes from here on.

So, sir, those are my submissions, that you can take into account the registrant's conduct at the point of caution but you would not need to have before you a separate head of misconduct because her conduct is so intertwined with the caution that it properly can be considered under that head.

I hope that has been clear. If it has not, I would be delighted to try and explain any point, but those are my submissions for this again distinct phase of this particular case.

Sir Alistair Graham: Mr Hodivala?

Mr Hepworth: In our submission, Section 13D(2)(c) covers the kind of case that you and your colleagues will be familiar with almost as a matter of routine in these proceedings, namely that an individual either has a conviction for an offence in the British Islands or has a caution for an offence in the British Islands, and that is the gateway through which particular proceedings in relation to impairment of fitness to practise are brought. It is effectively a short-circuit by which the GOC brings a case before you and your colleagues. Rather than having to prove in the ordinary run of case underlying facts, it can simply refer to the fact of the conviction or the fact of the caution as evidence of those underlying facts. Hence, in our submission, Section 13D(2)(c) does not confine itself simply to a conviction or caution in the British Islands; rather it says:

“...a conviction or caution in the British Islands for a criminal offence.”

What the GOC seeks to do is to persuade you that in light of your finding that there was no underlying criminal offence committed by Ms Chaggar, that nevertheless you can consider under Section 13D(2)(c) events that led up to and culminated in the signing of the conditional caution by Ms Chaggar. In our submission, that is not a Section 13D(2)(c) scenario. That is a misconduct allegation. Whereas Mr Hepworth refers to the fact that it is her conduct that led to the caution, rather it can perhaps more appropriately be said it is her misconduct, is what the GOC would seek to say, that culminated in that caution. So Section 13D(2)(a) covers cases of misconduct. Section 13D(2)(c) covers cases of conviction or cautions for a criminal offence.

If the GOC wishes to put before you the argument that it adumbrates now, namely that Ms Chaggar has been guilty of misconduct by accepting a caution when, in fact, she had not committed the offence, then in our submission the GOC needs to seek to amend the allegation to reflect that properly, rather than putting effectively a square peg into a round hole. That is not what Section 13D(2)(c) was designed to achieve.

In any event, the GOC suggests that Ms Chaggar has lied to the police by accepting responsibility for an offence that you have found as a fact that she did not commit. The expert evidence in this case you have heard relates to her suggestibility. That has all been taken on board by you and your colleagues with regards to her impressionability as well. I refer to Exhibit R1 which deals with the Home Office guidance in relation to cautions, and simply remind you and your colleagues that the Home Office guidance itself envisages that the offering of a caution in the absence of clear and reliable admissions can be treated as an inducement, and that is something reflected by the Home Office guidance. It is the real world again that we are looking at here.

So when Ms Chaggar, with the expert evidence that you have, has been offered a caution in order to prevent her going to court, and that caution appears to have been offered in contravention of the Home Office guidance, in our submission in any event that does not cross the high threshold of misconduct.

It is said that the lie to the police by signing the caution and by representing that she was guilty of the offence undermines the criminal justice system. In our submission, if one just looks at things sensibly, one says inevitably that it cannot be undermining the criminal justice system because effectively she would have been prosecuted for an offence she did not commit in the first place, as a result of the finding of the evidence that you have heard in this particular case. Certainly if you and your colleagues could not be satisfied on the balance of probabilities, it seems difficult to see how any tribunal could be satisfied beyond reasonable doubt.

Again, just stepping back and looking at the reality of what happened on 26 March 2008, here was a young lady under a lot of pressure by her exams, by her own personality, and when she was offered the caution in contravention of the Home Office guidelines, in our submission that was taken not because of

a deliberate desire to manipulate the criminal justice system or undermine the criminal justice system, but because of all the reasons that you have heard about that I am not going to trawl through again.

In our submission, Section 13D(2)(c) does not enable the GOC to now say that by signing the caution she was effectively guilty of misconduct. If that is the allegation it should properly be brought under Section 13D(2)(a).

Those are my submissions.

Sir Alistair Graham: Perhaps I can ask the Legal Adviser to advise the Committee on the approach it should take to this issue.

Mr Parroy: There is no doubt but that the circumstances with which the Committee is faced are unusual, in that 13D(2)(c) is, as has been said, effectively a short-circuiting provision which normally obviates the need for the General Optical Council to prove the facts underlying a conviction or caution, namely a criminal offence, as is apparent from the terms of the first line of that provision.

That takes, therefore, for granted that somebody convicted of an offence or cautioned for an offence has actually committed the criminal offence, i.e. the misconduct which leads to the conviction or caution.

The unusual circumstances here are that whilst the caution was accepted, the Committee has found to the requisite standard that the criminal offence which is supposed to subtend it was not actually committed.

The GOC's application is that the circumstances under which the caution came to be signed can itself constitute part of the (2)(c) provision in that effectively the signing of the caution, which is the misconduct relied upon, is so inextricably intertwined with the caution as to be part of it. I would respectfully advise the Committee that when Mr Hepworth set out his argument, he found it necessary inevitably to refer to her conduct in signing, etc., etc., and what he is actually seeking to rely on, I would suggest, is actually misconduct by the registrant, a separate misconduct to the fact of the caution for a criminal offence which it is now established in this tribunal she did not commit.

I would advise the Committee that the proposed approach does not fall within the present allegation and that if the GOC seek to pursue the circumstances which led to the caution being signed and the fact of the caution being signed as an act of misconduct, that would fall within (2)(a) and not (2)(c) and the GOC would need to apply to amend the allegation by adding a further and fresh allegation in order to suggest that that could properly form a basis for a later argument of impairment on that ground.

Sir Alistair Graham: Do either party wish to comment on the advice the Committee has been given?

Mr Hepworth: No, thank you.

Mr Hodivala: No, thank you.

Sir Alistair Graham: I suggest now that we adjourn while the Committee comes to a conclusion about whether it accepts the advice of its Legal Adviser.

[Hearing adjourned at 2.38 p.m.]

[Hearing resumed at 2.50 p.m.]

Sir Alistair Graham:

“The Committee then heard a submission on behalf of the General Optical Council. It was submitted that the very fact of the registrant having accepted and signed the conditional caution of itself amounted to misconduct and that this fell within the existing allegation. It was submitted that this could be a basis for a finding of impairment.

The Committee heard counsel for the registrant in reply and received advice from the Legal Adviser.

The Committee accepts the advice given and finds that for the GOC to pursue such an allegation would require an amendment of the existing allegation and would not fall within the terms of Section 13D(2)(c).”

Mr Hepworth: Sir, can I say that I have taken instructions from the Council and as far as today’s proceedings are concerned, as far as these proceedings are concerned, there is no application to amend the allegation. I think it is right to say, of course, the Council will be considering matters globally but for the purposes of these proceedings there is no application to amend.

I think on that basis, given your earlier findings, the caution then becomes an empty shell, and I think the Council would have to accept, in the light of your findings, that there is nothing upon which you could find impairment of the registrant’s fitness to practise.

On that basis, I think without having to hear any further submissions, both parties would agree that the only course of action left open now to the Committee is to find that there is no impairment and that the matter then can be closed as far as these proceedings are concerned.

Sir Alistair Graham: Thank you very much. Do you agree?

Mr Hodivala: I do agree with that. The only thing that I would bring to the Committee’s attention is on page 101, Rule 51. Although effectively we have not got to the stage of considering impairment of fitness to practise, I would invite the Committee to consider making a declaration that effectively this registrant is fit to practise.

Mr Hepworth: Sir, I apologise for following on from what my learned friend has said but I think I need to refer you to Section 13F(5) of the Act at page 28, because I think formally you will need to consider in the event that you find the registrant's fitness to practise to not be impaired, whether or not you wish to issue a warning. I think formally you will need to consider that although, of course, it is a matter for you whether or not a warning is issued and I do not make any submissions as far as that is concerned, but I think it is a matter that needs to be addressed.

Sir Alistair Graham: You are not pressing us to do so.

Mr Hepworth: It is a matter entirely for you, sir.

Mr Hodivala: I think I can make my submissions relatively briefly. Effectively what you are being asked to consider is making a warning or giving a warning to Ms Chaggar for signing a caution in light of all of the surrounding circumstances that are both peculiar to the offence itself or the allegation itself, as well as Ms Chaggar's personal circumstances. In my submission that would not be appropriate, given the pressures that were impacting upon Ms Chaggar at the time.

That leaves us simply with the Rule 51 situation. As I say, I would invite you and your colleagues to consider making the declaration sought in Rule 51.

Sir Alistair Graham: Have you any comments you want to make about the request for this declaration?

Mr Hodivala: None at all; it is a matter entirely for you.

Sir Alistair Graham: I think we probably need to have a short adjournment to finalise this matter.

[Hearing adjourned at 2.55 p.m.]

[Hearing reconvened at 3.09 p.m.]

Sir Alistair Graham:

“Findings in relation to impairment

In the light of the acceptance by the GOC that the effect of the findings of fact by the Committee was to render the caution an ‘empty shell’, the Committee finds that the fitness of Ms Chaggar to undertake training as an optometrist is not impaired and declares that she is fit to undertake training as an optometrist.

The Committee does not consider it appropriate to issue a warning to the registrant.”

[Hearing concluded at 3.10 p.m.]