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

GENERAL OPTICAL COUNCIL

AND

SYED SHAH (SD-808)

DETERMINATION OF AN APPLICATION FOR AN INTERIM ORDER

Wednesday, 3 February 2010

**DETERMINATION OF AN APPLICATION FOR AN INTERIM ORDER:
SYED SHAH (SD-808)
Wednesday, 3 February 2010**

Committee: Ms F Jones (Chair)
Mr A Khan (Lay)
Mr H King (Dispensing Optician)

Legal Adviser: Mr M Lucraft QC

Hearings Manager: Mr D Henley BEM

For the GOC: Mr G Micklewright

The Registrant appeared in person and was not legally represented

[Proceedings commenced at 10.37 am]

Ms Jones: Good morning. I am Fran Jones and I have been elected by the Committee to chair today's hearing of an application for an interim order. The Committee today is made up of one dispensing optician and two lay members. I will ask the members to introduce themselves and the capacity in which they sit. *[Introductions made]* To my right is Mr Mark Lucraft 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 David Henley, the Hearings Manager, who will provide administrative support to the Committee. Next to Mr Henley is Mr Nisbet, the transcriber, who will be keeping an official record of all that is said during the sessions today 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.

Please note that, in accordance with the Council's protocols, the identity of the registrant will not be revealed until such a time that the Committee announces its decisions. Where the Committee decides that an order should be made, then the registrant's details will be revealed. Alternatively, if the Committee decides that an order should not be made, then the registrant will remain anonymous. Throughout the hearing, the registrant will be referred to as 'the registrant'. 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 web site for public viewing.

I note that you are not represented today and of course, the Rules do allow for that, but I thought it may assist you if I explain how this hearing will take its course. Firstly, the Council's presenting officer, Mr Micklewright, will present the Council's application. This will include a background explanation of the issues and why the Council find it necessary to make this application. You will then have the opportunity to respond. You may call any witnesses, including yourself, in support of you, and those witnesses can be questioned by yourself, by Mr Micklewright, the Legal Adviser and the Committee. The Legal Adviser is an objective observer of the legality of the proceedings and is not here to advise you but will answer any questions that you may have about the course of the proceedings today and to try to resolve any confusion or ambiguity that there may be in your mind about what is going to happen.

Do you have any questions at this stage?

Mr Shah: No.

Ms Jones: Can I enquire of the parties whether there are any other applications to be made, other than the interim order?

Mr Micklewright: Madam, beyond that for the interim order, no.

Ms Jones: And can I establish that there are no health matters to be discussed?

Mr Micklewright: That is correct, Madam.

Ms Jones: And is there any application that the hearing is held *in camera*?

Mr Micklewright: Not from our side, Madam.

Mr Shah: No.

Ms Jones: Thank you. Do you understand the term '*in camera*'?

Mr Lucraft: Perhaps I should just explain that before the Committee started, I did explain to the registrant that the normal course is that if there are matters concerned with the health of a registrant, the Committee would sit in private, but where there were allegations involving conduct, the normal course was that the Committee sat in public. I know the registrant understood the distinction and that I am sure is why he has indicated that there is no application on his part for the matter to be heard *in camera*.

Ms Jones: Thank you very much, Mr Lucraft. Before we commence, can I record, for the record, that the Committee has received C1, a bundle of information in a purple folder; that has been added to with a letter from Specsavers Opticians dated 26 January 2010 which we will refer to as C2. We have also received R1, the witness statement from the registrant and R2, a bundle of

references relating to the registrant. All papers have been read by or read to the Committee, thank you. Mr Micklewright?

Mr Micklewright: Madam, I am obliged. Just before I begin my submissions, may I just clarify one matter as regards C1? In your labelling of C1, is that including the statement of facts and the two authorities addended thereto? Or are you referring to those separately? I would just be grateful for an indication.

Ms Jones: I would say it includes the statement of facts which is at the front, yes. And which is the other?

Mr Lucraft: The two authorities: the authorities from the General Medical Council case from 2008 and *R (on the application of Shiekh) v General Dental Council* [2007] EWHC 2972 (Admin) from 2006.

Mr Micklewright: Yes. Are those enclosed in the bundle, Madam?

Ms Jones: They are.

Mr Micklewright: I am very grateful, thank you very much. Madam, yes, this is the Council's application for an interim order and the Council is seeking an order for suspension of this registrant's registration. Very briefly, Madam – and I know the Committee will be very familiar with the relevant test that you have to apply is set out in Section 13L, subsection (1) of the Opticians Act and the test is whether or not it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the registrant, for an order to be imposed – be that either an order for this registrant's registration to be suspended or alternatively, to be made subject to conditions.

Madam, it is perhaps worth noting at this stage that during a conversation which your learned Legal Adviser has just alluded to, prior to the opening of my submissions, the registrant has accepted and indicated that he does not intend on opposing the application as such. He has indicated that he accepts that it would be appropriate for an order to be imposed and also that the appropriate order should be one of suspension. However, Madam, notwithstanding that of course, it is not a matter for the parties as to whether an order should be imposed at all, let alone what that order should be. It is a matter of course for you and for your colleagues to decide and therefore, it is quite right and proper that you hear the application from both parties in full before you come to make your decision. Also and further to that, given that this registrant is not represented, Madam, I propose to take the course of making fairly full submissions in order that the registrant has the opportunity of hearing the Council's case in full and therefore is assisted as best perhaps he can be in this situation to deal with putting forward his case to you, such that it is, given that he is no longer represented by those who were representing him up until – and by no fault of his own, it should be noted, Madam – around midday yesterday afternoon.

Madam, there are two grounds on which the Council seek an interim order. The first is that we say that it is necessary for the protection of the public for an order to be imposed and secondly, we say that it is otherwise in the public interest for that order to be imposed. This case, Madam, as you will have seen from the statement of facts, essentially revolves around a misrepresentation made by this registrant. You may even feel at this stage that the evidence suggests that it was a dishonest and continuous misrepresentation to his employers that he was a fully qualified dispensing optician. As a result of that misrepresentation, this registrant had the opportunity to engage in activities he otherwise would not have been afforded the opportunity of, namely to be able to fit, albeit under supervision, contact lenses and secondly, of course, to be able to fit spectacles and carry out all other activities that a fully registered dispensing optician would be entitled to do, without supervision.

It was, as you will have seen, Madam, and will hear again in due course, a matter which only came to his employers' attention and indeed, the Council's attention, following a routine audit. It was not something which would have come to light but for somebody else discovering it; it was not something which was brought to anybody's attention, as we would say it should have been, by this registrant.

Madam, the first part, insofar as the Council's awareness of this situation was concerned, was a submission made by this registrant to the Council for full registration for 2009 to 2010. And his application for registration appears on page 1 of C1 and continues through to page 4. If I could just invite the Committee, please, to turn to page 4 here, Madam?

Ms Jones: Sorry, behind which tab?

Mr Lucraft: Tab 1.

Mr Micklewright: Thank you, Madam, thank you, sir. You will note there – and I just ask you to note briefly at this point that under Section 7 in the third paragraph down – this registrant has declared that “the information in this form is true and accurate” and he has signed and dated that form. In this form, he has represented, Madam, as you will have seen, that he was appropriately qualified to have full registration.

As a result of submitting that form, he was duly given full registration at the end of November. However, following a call from a Mr Carroll, who was a Director of Professional Services at Specsavers, concern was raised in the Registration Department of the Council and a review of the situation was undertaken and, Madam, if you will, please, turn to page 8 in your bundle, I am obliged. You will see here a chain of email correspondence between the Council and ABDO. At the bottom of that page – and Madam, you will appreciate that emails tend, rather annoyingly, to start at the bottom when one goes through the chain – it asks whether or not this registrant is in fact a member of ABDO. An email comes back, dated 26 November 2009, saying that he is a student member and not a qualified dispensing optician. There is

then a further email which notes, at the top of the page, that – this is the third paragraph down:

“He knows he is not qualified because he is due to sit exams this winter. He has outstanding theory and practical exams to complete”.

As you may imagine, as a result of that, the Council was concerned and decided that it would be appropriate to forward the application which this registrant had made on to a Mr Mark Chandler at ABDO, for him to look at the application and see whether or not it is correct. Madam, I said I would take you back to page 4 of C1 and perhaps I could do that now, if I may? That was under divider 1. You will note there, Madam, that there is, about halfway down the page – it says there is Section 8 – and this is a section which is to be completed by the applicant’s examining body. It certifies that he has indeed passed the examinations which he purports to have passed. It says there,

“I certify that the applicant has satisfied the requirements of this examining body and is competent to practise”.

And it purports to have been signed by Mr Chandler, who says that he is the Head of Examinations and Registration, and it is signed and dated 20 November 2009. However, Madam, it was said quite expressly by Mr Chandler when this was forwarded to him by the registration department, that this was not his signature. I will not take you to it, but there is an email at page 10 of your bundle where he confirms that it was not his handwriting and that, had he signed it, there would have been a stamp on it as well and he would have logged the matter.

What appears to have happened, Madam, on further enquiry, was this. Could I invite the Committee, please, to turn to page 15? There is, you will find, a very helpful document which sets out in some detail the background of this matter so far as Specsavers Opticians in Blackburn, who were this registrant’s employers, were concerned. I will broadly summarise this document, if I may, Madam? As you can see, it is a very long document but I will not summarise it too briefly for the sake of the registrant.

This was a letter from Mr Ingleby, who I referred to earlier, which was sent to Laura Hytti at the Council. He reports that on or about 19 November 2009, he was checking the GOC register as part of a governance audit and he noted, when he did that, that this registrant was only registered as a student with the Council. He made some further enquiries with the registrant and he was told that the registrant had been allowed by ABDO to commence the theory part of his contact lens course while he retook one of his outstanding practical examinations. *[Pause]* Forgive me, Madam, I have moved down a little bit too quickly. He had not been told this; he says that,

“Yaseen had been allowed by ABDO to commence the theory part of the contact lens course while he retook one of his outstanding FBDO practical examinations, but had been clearly advised in writing by

ABDO that he could not commence the practical aspects of the course until such time as he became fully registered as a dispensing optician”.

He says, in due course, that he was informed by the registrant that he had been successful in the resit and he was, as you will see from another document in due course, Madam, informed of that in August 2008. He says that he was now able to continue with the practical aspects of the course and therefore, so far as their practice was concerned, his status changed from being a trainee dispensing optician to being a fully registered dispensing optician and now a trainee contact lens optician.

He says that as soon as he became aware that there was an issue with the registration status, he was removed from contact lens activities and that, when he approached the registrant and asked him about it, he was told that it was an administrative error. He was assured that he was definitely qualified and that matters would be sorted with the General Optical Council. He reports that on Sunday 22 November, they were working together and he requested the certificate, to prove – he says for his own peace of mind – that the registrant was qualified. He says, “A certificate was provided” but he noticed that the number on the certificate was different from that on the correspondence which had been sent to the registrant from ABDO that he had presented to him. I should highlight at this point, Madam, that the Council do not have a copy of that certificate; we have attempted to obtain it but Mr Ingleby does not have a copy of it in his possession, so unfortunately that cannot be presented to you.

Mr Ingleby reports that this registrant could not explain the discrepancy, said he would resolve it. The next day he was asked what had happened and he was told that there was an error on ABDO’s behalf and that they were sending out a new certificate. A few days later, it is reported that he was then informed that the registrant’s new GOC number was D13354 and, as a result of that, he was permitted to restart fitting contact lenses. He states that he was seeking advice at that point as to the potential consequences of this GOC registration problem and that he had a conversation with professional colleagues on Friday, 4 December and he was informed that there was still an outstanding problem with the registration which had now reverted back to student status. He was also informed that the Council were clearly of the opinion that the registrant had not passed all of his examinations. He reports that he called the registrant into his HR office, addressed the matter with him again, asked if there was a problem and it was denied by the registrant that there was a problem. He says that he was shown a GOC registration card with the same registration number on it as before and he says that it was at that point that he contacted the General Optical Council and spoke to Laura Hytti. He was told by her that, as far as the Council was concerned, he was not qualified and that he still had one further examination to carry out. There was then some discussion about whether or not there was an error on ABDO’s behalf or whether or not it was something a little more sinister than that.

As a result of that conversation, Mr Ingleby then went and had another conversation with the registrant, asked him again what was happening and the registrant is reported as saying that he did not know. The registrant was asked to go home and bring back to the practice that day all the paperwork and all the original certificates which related to his dealings with both ABDO and the GOC. The registrant went home and there was then a further conversation with ABDO or at least there was an attempt to have a further conversation with ABDO. There appear, as you will see, Madam, to have been a few difficulties with swine flu, car breakdowns and the like, which have caused some difficulties in having a meaningful conversation. Nevertheless, he was eventually able to elicit from ABDO that, as far as they were concerned, this registrant had not passed all of his examinations. And, as you can see, this was something which Mr Ingleby was considerably concerned about.

It is, perhaps, worth highlighting – because it goes very much in the registrant’s favour – that it is said there by Mr Ingleby that he had always felt him, up until that time, to be an honest person and he says he trusted him not only to deal with patients but to cash up, to be a keyholder and to lock the practice up. The registrant then returned that day and there was a further discussion and he reports now, in the fifth paragraph down – and I think I will read this out in full, if I may, Madam:

“Yaseen eventually admitted that the examinations he had taken in the summer were not contact lens examinations as he had told us originally, but his third retake of his practical viva for his dispensing DO qualification. He went on to admit that he was not qualified as a DO, had not passed the practicals, knew he should not have been seeing patients as a trainee DO contact lens fitter, that the certificate he showed me on 22nd was a fake that he had made for my attention. The registrant was clearly very upset that this deception was being forensically peeled apart and he was tearing up quite a lot”.

He was sent home as a result of that and shortly thereafter, it appears, Mr Ingleby received a call from Mr Chandler. Mr Chandler told him that he had never received any form from the registrant requesting him to correct his GOC registration by confirming that he was fully qualified. He said that, had that been received, he would have logged that call and there was no such log. He apparently also said that the Council had spoken to him as the form they had received from ‘him’ was not filled in correctly and the signature looked somewhat suspicious. He then goes on to report how it was that he had an opportunity to look at it and report it to the Council but indeed, it was not his signature.

Mr Ingleby says that he was very shocked by this and he rang the GOC and once more spoke to Laura Hytti. He informed her, during that conversation, that he had suspended the registrant. He then says, in the third paragraph down on page 17:

“When I met the registrant later, I gave him the letter which contained the details of his suspension and details of the forthcoming investigation meeting. I also asked him if he had forged the signature of Mark Chandler on his application and had submitted it directly to the GOC himself rather than sending it to ABDO for them to sign. The registrant admitted that this was true”.

Two paragraphs down, he then says:

“I asked him why he had not come forward with the fact that he had not passed his examinations before the previous Friday, December 4. He just said that he had panicked”.

So clearly, Madam, so far as Mr Ingleby is concerned, this is in many respects, an uncontested and admitted situation where this registrant has clearly, and for some substantial period of time, misled Specsavers as to his registration status.

Would the Committee please perhaps turn to page 21 in C1? Perhaps I should point out I have a slightly different organisation in my own bundle for reasons best known to myself, than you do. My assumption was that you did not have all the various dividers that I had; I removed them. So unfortunately, as my papers are in a different order I am bound to have to refer to them purely by page number, so I hope you will forgive me for that

Ms Jones: That is fine, thank you.

Mr Lucraft: The only thing I was going to say about page 21 is that in fact I cannot see a page number, so it is just to make sure we are on the same page.

Mr Micklewright: It is. It is a document which bears the ABDO crest in the top right hand corner and it is the dispensing examination result for the registrant for the entire time at which he has taken exams with ABDO. You can see from there, Madam, that he has passed his Part 1 Theory for his Dispensing Opticians examinations but, if one then goes down to look at the Dispensing Final Practical –

Mr Khan: That pass was in 07?

Mr Micklewright: The pass, sir? If you will allow me a moment – yes, you are indeed right, I think –

Mr Lucraft: I think there are two dates. The session and the Part 1 Practical passed in March 2007 –

Mr Micklewright: Indeed, sir, and the Theory is passed in summer 2004. It is the Final Practical which is the outstanding examination, Madam, which was not passed. It had been taken, at that stage, on three occasions. It had been taken in the winter of 2007, the winter of 2008 and the summer of 2009. On all three occasions, the registrant had failed to pass his examination.

Concurrently, he was undertaking his Contact Lens Certificate Theory and he had been examined in that on one occasion. That was in the summer of 2008 and he had also failed that examination. I will not take you to the document, Madam, but you will have noted the letter in the bundle that, as a result of the information that was supplied to Mr Chandler, he was told that the examination which had been booked to take place in January 2010 – a further retake of that Final Practical – had been duly cancelled.

What I would like to take you to, though, is page 13, which was the registrant's response to that letter. This was an email sent to Mr Chandler from the registrant, dated 2 December 2009, which is the day after the letter informing him of the cancellation of the examination was sent. He makes reference there to the fact that he has just received that letter and he says this:

"I would like to apologise for the confusion caused by the GOC registration forms. The reason is that there has been some errors in my paperwork and as a result I have completed the forms and sent them off in a panic. It is only when I have sat down and sorted through that I realised the true nature of the situation.

I have spoken to the GOC and apologised and had my registration set back to Student status".

Madam, you may think it worth noting that at that stage it appears that the registrant was still attempting to deal with this as though it really was a paperwork, an administrative confusion, rather than something more serious than that. Clearly, however, it was.

And if you turn to page 24, you can see a document which was prepared by Mr Ingleby in advance of that investigation which you have already heard reference to. It is right to say, Madam that this was a disciplinary meeting which did not take place. The registrant, shortly after he was suspended, resigned from his position at Specsavers in Blackburn and, so far as the Council is aware, has not sought nor obtained further employment since. I do not propose to take you through the entirety of this document. Much of this document, you may feel, does not take you any further in this particular hearing. But what I would refer you to is the first paragraph in this document. Here, Mr Ingleby – again, this is an *aide memoire* – writes the background to the complaint and some of the background facts and he says, in the third sentence –

"That you knowingly began your practical contact lens training without the necessary qualification to do so".

He then says, in the following sentence –

"Also, that as a result of this deception, of having a higher qualification, you had your salary raised to account for this".

So here we have, Madam, a registrant who has not only misrepresented – not by omission but by a specific statement – to his employers that his qualification status is not what it was. It is a registrant who has accepted a salary increment as a result of that representation. That is, you may think, tantamount if not in fact the commission of a criminal offence. It was a representation which he never sought to put right and it was a representation which allowed him to carry out work on contact lens patients and on the sort of spectacle patients, the treatment of whom would ordinarily only be reserved to fully qualified dispensing opticians, without, so far as spectacle patients are concerned, supervision.

Something you may wish to explore with this registrant in due course, Madam, may be the level of supervision that he was under whilst he was carrying out the contact lens treatments on patients. If you turn to the letter which is C2, there is, very helpfully set out there, at the request of the Council for some further information, this registrant's employment history, by Mr Ingleby at Specsavers. I will not take you through his employment history, save to highlight the fact that he started in August 2002 and had worked there, gaining some work experience and then doing some general work until such time as he became a pre-registration dispensing optician in September 2006. It is made clear that it was in August 2008 that he was then considered to be, following a representation he made, a fully qualified dispensing optician and that this position changed – and this is now the penultimate paragraph – on 6 September 2008 to a trainee contact lens fitting dispensing optician.

He says he started seeing patients under the close supervision of Andrew Turton, FBDO CL, initially sitting in with Andrew and then having his own room and seeing one or two patients, building up to seeing more. His days increased up to three, sometimes four days a week over the next 13 to 14 months as the clinics got busier. The rest of the time when he was not seeing contact lens patients he worked dispensing spectacles to patients.

So, Madam that is the factual background upon which we make this application. At paragraph 14 of the statement of fact which I provided you with in bundle C1, I have set out why it is that we say it is necessary in order to protect the public for an order to be imposed. As – as the Committee will know and I am sure the professional members on the Committee will know better than I do – a student dispensing optician who had not yet passed all his examinations, the registrant would only have been entitled to fit spectacles, to see patients who were coming in, under supervision. And 'under supervision', you may feel means that firstly, somebody is aware that he needs to be supervised or that there is potential there for him to need to be supervised, is present somewhere on the premises and, importantly, is able and willing and mindful of the need that he may need to step in at some point and deal with any problem that may have arisen. It may well be that a competent and promising student will be fully aware and have insight as to when problems have arisen and seek advice in any event but even the most capable of students, you may feel, will have on occasion times when they simply have not realised that there is a problem. No doubt they will in future, after that event, but there are times when they may not have realised that there is a

problem and it is those occasions when supervision really is key, that there is somebody there with an opportunity to be able to step in and deal with any problem which has arisen.

What, however, a student optician cannot do whilst they are still a student and not possessed of a dispensing optician qualification is to be able to embark on further training to entitle them to fit contact lenses. This registrant, it appears from C2, was carrying out a substantial number of fittings of contact lenses on patients and, furthermore one can, I think, infer from what is said in the penultimate paragraph in C2, that as time went on the supervision of this registrant became less and less intent. No doubt, his supervisor felt that, as time went on, his competence was increasing and he felt more and more trust could be placed in him and, as you can see, it was some three or four times a week that this registrant was fitting contact lenses, apparently, in quite a substantial number of people. This was something he was not entitled nor properly trained at that stage to do. Not only had he not obtained his dispensing optician qualification; he had yet even to pass at that stage the Theory examination for his contact lens certificate.

It was only, as I have already said, Madam, by reason of a relatively routine audit that this understanding, this misrepresentation, this perhaps dishonest representation which had given rise to this situation for over a year, came to light. Thus, for over a year, due directly to this registrant's conduct, the public were put at some potential risk – it may not have manifested itself but at some potential risk – that somebody who was not suitable qualified to carry out the sort of work that he was carrying out was treating the public. Why is it necessary for an order to continue into the future? Madam, we would say that it is necessary because of the dishonest nature which I think one can infer of the way in which this registrant went about dealing with matters. Not only did he make a positive representation, which he must have known at that stage – you may feel, reasonably – was incorrect: that he was possessed of a qualification that he did not have, accepted a higher salary as a result and allowed his employer to labour under that misapprehension for over a year. But – and I say this and highlight it over in paragraph 15 – when it did come to his employers' attention he did not perhaps do what most of us would think he should have done and say, 'Yes, I'm sorry, I have misrepresented this to you' and stop doing what he was doing. What he did was to undertake a fairly complex and elaborate and deliberate set of steps in order to try and hide and cover up the deception which had taken place.

So, Madam, that is why we say there is a risk presented to the public by this registrant who, going forward it may well be felt, may well not be honest with any future employer about his present registration status and therefore be allowed to treat patients in a way in which he is not in fact entitled to.

Moving on from whether or not an order is necessary to the question of what sort of order should be imposed: Madam, as I have already said, this is clearly a matter for the Committee, should you get this far, and as you will be advised in due course no doubt by your Legal Adviser, you will have to consider, should you consider it necessary to impose an order, whether or not an order

for conditional registration is an appropriate order, before you could go so far as to consider whether or not it is only an order for suspension which it would be appropriate to impose. Madam, we would say that an order for conditional registration would, in this registrant's case, be unworkable and impractical and inappropriate. The reasons for that are this: firstly, the fact that this registrant has demonstrated a willingness not only to allow his employer to labour under a misrepresentation but also to try to cover it up, would, I would suggest, be something which is incompatible with the nature of the way in which conditional registration works. Part and parcel of making conditional registration work is a certain degree of responsibility being taken on by the registrant and therefore a degree of trust existing between the Council and that registrant. You may feel that an appropriate condition which you would want to give regard to in a situation such as this is a condition that the registrant is subject to supervision and regular reporting back from a suitably qualified individual at his employer. In that way, the Council could keep tabs on this registrant. However, if there is conduct which suggests that that level of trust may not exist, it must, I would submit, raise concerns as to whether or not the conditions would be abided by.

Secondly – and taking that further – this registrant is not presently in employment. Nor is there any indication – I know you have had an opportunity to look at R1, his witness statement – at the moment that this registrant is looking to seek employment as a dispensing optician anywhere else. In the absence of that, it is very hard to see how any conditions could be appropriately monitored, be they conditions for supervision or indeed any other form of conditions, simply because you would not have any individuals who are identifiable and available who could be contacted by the Council and assure the Council that this registrant was not continuing to put the public at risk.

Finally, the fact that he does not yet have employment is relevant because of this: if you were to impose conditions which were, if you like, conditional upon 'when you obtain employment you will ensure that somebody contacts the Council and somebody is willing to provide a report', one is dependent on the registrant making his future employer aware of that. The Council does not know who any future employer may be and therefore would have to be reliant on the registrant abiding by any condition which required him to inform his employer of the existence of conditions. Given this registrant's behaviour thus far, we would respectfully submit that it would be difficult for you to consider that you could be satisfied that it is likely that this registrant would indeed do that. There is a distinct possibility, we would suggest, that his character thus far has indicated that he may well be reluctant, indeed too embarrassed maybe, to make his employer aware of any conditions that you would be minded to impose.

So, Madam, those are my submissions so far as an order being necessary for the protection of the public is concerned. Now I move on to deal, if I may, with that part of the application which says that it is otherwise in the public interest for an order to be imposed. The basis upon which we make this application is that it is for the protection of the reputation of the profession. Now, Madam, in

my statement of facts at paragraph 16, I make reference to a case which I have no doubt the Panel will be very familiar with, which is the case of *Shiekh*, and it often comes up, I am sure, in applications of this nature. I have set out there four propositions of law which I say it establishes. No doubt you will be advised by your Legal Adviser if he in any way dissents from that and thinks that I have completely missed the point of the case but what I would say it establishes are these four principles.

First, that the test for imposing an interim order is necessity and that bar is a high one. Secondly, it is likely to be a relatively rare case – I am sure you are very familiar with that phrase, Madam – where an interim order for suspension will be made purely on the ground that it is in the public interest. Thirdly, that each case turns on its own particular facts; and, fourthly, that the bringing of the profession into disrepute can properly be said to fall under the heading of ‘otherwise in the public interest’.

Mr Lucraft: Can I just interrupt you there?

Mr Micklewright: Yes, sir.

Mr Lucraft: You very helpfully have included a transcript of the decision of *Shiekh* in the bundle and indeed, I suspect, knowing the Panel that people are familiar with *Shiekh* and the guidance that is given. But perhaps, Mr Micklewright, it would be appropriate for me to read at this stage paragraph 16 of that judgment?

Mr Micklewright: I am quite content with that, sir. Yes, please do.

Mr Lucraft: Because that, effectively, is the key passage in the decision, where Mr Justice Davis is dealing with the points that you have made. And I will read it – again, I know that Mr Khan is familiar with *Shiekh* but I will read it so that everyone is clear:

“At all events, in the context of imposing an interim suspension order on this particular basis, it does seem to me, adopting the words of Mr Winter, that the bar is set high. I think that in the ordinary case, at least, necessity is an appropriate yardstick. That is so because of reasons of proportionality. It is a very serious thing indeed for a dentist or a doctor to be suspended”

- and here, one can interpret that to including optician, as well.

Mr Micklewright: Indeed, sir.

Mr Lucraft:

– “a serious thing for a dentist or a doctor to be suspended. It is serious in many cases just because of the impact on that person’s right to earn a living. It is serious in all cases because of the detriment to him in reputational terms. Accordingly, it is in my view likely to be a

relatively rare case where a suspension order will be made on an interim basis on the ground that it is in the public interest. I do not use the words, 'an exceptional case' because such language is easily capable of being twisted and exploited in subsequent cases but I do think, as I say, it is likely to be a relatively rare case".

And then these words:

"Ultimately, of course, all these things have to be decided on the facts of each particular case".

Mr Micklewright: Madam, we would say that the conduct in this case does bring this case within the category of the 'relatively rare case'. One must look at the individual facts in this case, of course, but what I hope to do is illustrate that you may find instructive when considering that question both the case of *Shiekh*, the facts in that case, and also a subsequent case before the General Medical Council where *Shiekh* was considered, which was *GMC v Sathanathan* [2008] EWHC 872 (Admin), which was a case before the High Court.

What is noticeable about the instant case with this registrant is that firstly, we say there were clinical concerns and there was the creation of clinical risk but – and this is the most important aspect of it, Madam, so far as this application is concerned – it was misconduct, making a misrepresentation that led to that and his further conduct in doing his very best to cover it up.

Very briefly, the facts in *Shiekh* arose out of an order imposed on 21 November 2006, made by the Interim Orders Committee from the General Dental Council, which was based on an application made by the Council arising from a conviction case. Mr Shiekh had been a self-employed dentist for some time and he was convicted of conspiracy to defraud and the period of that conspiracy was said to be between 1994 and 2000. The details of that, Madam, should you wish to look at it in due course, can be found at paragraph 3 to paragraph 5 of the judgment. What is particularly notable is the fact that the period of conspiracy took place between 1994 and 2000, the fact that a lot of the money had been repaid and at the trial, His Honour Judge Alexander QC, said, "I consider it highly unlikely" – and this is at paragraph 5 – "that you would indulge in making dishonest claims in the future". An appropriate sentence was then imposed.

Now, Madam could I then take you, if I may, to paragraph 24 in the *Shiekh* judgment? Mr Justice Davis says this – and this is two sentences in –

"It is not at all clear to me, all the same, from the reasons of the Panel and it is not at all clear to me, exercising my own mind on the matter, why interim suspension, on public interest grounds, was called for in this [particular] case. True it is that this was a very serious matter in respect of which Mr Shiekh was convicted. But there were a number of other matters which told potentially against interim suspension, not

least the delay, the reparation and the fact that he has conducted himself well in the interim”.

So, Madam, you have there three factors – amongst others, but three factors in particular highlighted by Mr Justice Davis – as to why, on the facts of this particular case, *Shiekh*, he felt that it would be inappropriate, indeed it was wrong as a matter of law, to have imposed an interim suspension. I would submit that none of those things apply to this case. There has been no delay between the actions of this registrant and the hearing before you. These actions were carrying on right until the very end of 2009. Barely a month has passed since the actions of this registrant. There has been no reparation, but in fairness, of course, to this registrant that is really an irrelevant consideration. Forgive me, I will retract from that. There has been no reparation and of course this registrant has benefited financially considerably from his actions. Finally, the fact that he has conducted himself well in the interim; well, whilst there would not have been an opportunity for us to know whether or not, because of the passage of time, he has conducted himself well in the interim, nevertheless, we would submit that there is no reason on the material you have before you to believe that matters are unlikely to change.

So that is *Shiekh*. Moving on now, if I may, to deal with *Sathananthan* –

Mr Khan: What was the date of that judgment?

Mr Micklewright: Of *Sathananthan*, sir? The date of the judgment was 23 April 2008 – that is when it was handed down.

Mr Khan: Thank you.

Mr Micklewright: *Sathananthan* was a rather more complex case and I will do my very best to try to deal with the facts briefly. I am sure, Madam, if you have had an opportunity to look at it, you will see how extensive they were. Dr Sathananthan was a doctor who ran, amongst other things, a private clinic. He had come before the Professional Conduct Committee before he was given this interim suspension back in 1985 for inappropriate prescribing. The Committee found that he had committed serious professional misconduct and dealt with it appropriately. Matters arose again in February 2006 and a letter was received at the General Medical Council from a Dr Keating who had prescribing concerns. It related to Dr Sathananthan’s private addiction clinic and it made reference to a particular patient, Mr TA. The concerns, in brief, which Dr Keating had were that Dr Sathananthan had been providing to serious drug addicted patients methadone elixir, diazepam and various other medications to which one could easily become addicted, without carrying out what, in his view, were appropriate investigations. A statement was obtained from Mr TA and at paragraph 6 – one has to go over the page but at paragraph 6 and then there is in italics a further paragraph 6 – there is a reported line there from Mr TA where he says:

“Subsequent visits, according to TA, were on ‘weekly basis and always in the lunch time and never more than 3 minutes [long]’. He then added ‘it was just £70 and thank you very much’.”

Further down that page, Dr Keating says that,

“If the patient’s account is accurate, the level of assessment and scrutiny of the addictive and clinical issues prior to any prescribing was, by any standard, dangerously inadequate”.

A similar allegation is then made in March 2006 from another source and again it is a similar sort of allegation of, in this case, somebody with borderline personality disorder and multiple substance dependence not being properly assessed, her history not being looked at, the fact that she was being treated by a number of other practitioners not being taken into account and nevertheless a substantial amount of the medication being prescribed by this practitioner. What happened in due course is he was subject to an order for conditional interim registration and then a further piece of information was received from the local primary care trust. And, Madam, if you turn to paragraph 15 in the judgment, you can see that the result of that was for the GMC to apply, at a review hearing in December 2007, for the order to be changed to one of suspension. There are two bases upon which they made that application and that is detailed at the bottom of the page where it says:

“(i) that Dr Sathanathan was refusing to co-operate with a local investigation by Dr Essex into his practice; and (ii) that by writing post-dated prescriptions prior to the hearing in August 2006, Dr Sathanathan had effectively breached the conditions that were imposed on 18th August 2006”.

The reason I direct you to the facts, Madam, is that I wish to invite the Committee to note the very nature of that case in comparison to this case. In that case, clearly, the clinical allegations and the clinical risk created by Dr Sathanathan completely eclipses any risk which could be created by this dispensing optician; I must accept that. And that really was in many ways the focus of this case, I will submit. An interim order was imposed and it was elevated to suspension because of his non-cooperation and the fact that he appears to have, by somewhat nefarious means, sought to carry on the activities he wished to carry on immediately prior to the order in August 2006 being imposed. Where this falls short, however, I would suggest is dishonesty. And certainly, even if you felt that it does come close to that, it is not of the same substantial level of dishonest conduct which, it appears on the information you have before you, this registrant has carried out. I have quoted in my statement of facts that part of the judgment which appears at paragraph 32 – I will take you to paragraph 32 – in this judgment, where having already in his judgment agreed that there clearly is a risk to the public from the conduct of this doctor, the judge says this:

“I also agree with Ms Plaschkes’ further submission that, in any event, it was necessary to suspend Dr Sathanathan’s registration in the

public interest. Irresponsible prescribing of controlled drugs is a serious abuse of a doctor's professional position and one that can lead to the misuse of such drugs, not only [by] the patient but by others via the illicit market. The misuse and/or abuse of controlled drugs are understandably a matter of significant public concern. The irresponsibility of prescribing such drugs, particularly in large amounts ... is plainly liable to bring the profession into disrepute. I accept that if the allegations are proved, there is a realistic prospect of the Fitness to Practise Panel directing the erasure of Dr Sathanathan's name from the medical register. In my view, in view of the prescribing history in this case, this is one of the 'relatively rare' cases envisaged by [Mr Justice Davis] in *Shiekh* where an interim suspension order is appropriate".

So, Madam, my submission is this. In *Shiekh*, we had a case of substantial dishonesty and of dishonest offending. But it was a case where the immediacy of the conduct was very far removed indeed from the interim order application hearing that took place. Interim orders of their very nature are designed to resolve an interim and immediate problem, be it a need to protect the public or a need, as in this case I submit also to protect the reputation of the profession. Where in *Shiekh* the dishonest conduct itself had stopped six years prior to the application and there had been a period of time when there had been a clear and demonstrable ceasing in dishonest activity so far as that registrant was concerned, the immediacy had been quite clearly removed and that was recognised, I would submit, by the judge in his judgment. Here, the case is quite different. The conduct is very immediate indeed and it was only a month ago that that conduct was identified and, notwithstanding the best attempts of this registrant to hide his conduct, matters were eventually brought to a close. So far as *Sathanathan* is concerned, it was focusing far more on clinical issues and the judge, perhaps you may feel tellingly, did not make any reference to there being a need for something such as dishonesty or something more serious than merely causing substantial risk to the public in the way in which one is carrying out one's clinical practice.

Clearly, you are not bound by either of those cases. Clearly, you must be of the view, as is the position I would submit in *Shiekh*, that each case must depend on its individual facts and you must look at the individual facts of this case. But nevertheless, notwithstanding that, I would submit that you can treat these cases as instructive and can conclude, as I would submit you should, that this case is in fact a set of facts far more serious than either of these cases or, in any event, at least as serious as the facts in *Sathanathan* and therefore, it does fall within that relatively rare category of cases as referred to by Mr Justice Davis and that it would be appropriate for you to impose an order for suspension on the grounds of it being otherwise in the public interest so to do.

So therefore, Madam, in conclusion we would submit that it is necessary for you to impose an order for an interim order on the grounds of the protection of the public for the reasons that I have identified. We would say that given the unworkability of conditions in the specific circumstances of this practitioner,

that the only reasonable and proportionate order should be one of suspension and that in addition or alternatively we would also submit that it is appropriate to protect the reputation of the profession in this case by the imposition of an interim order for suspension because it is one of those relatively rare cases as identified by Mr Justice Davis in *Shiekh*.

Madam, those are the submissions I wish to make. Can I assist the Committee any further at this stage?

Ms Jones: Thank you very much. Can I invite the registrant to address us?

Mr Shah: As you are aware, I was due to be represented by the AOP but I was told at short notice that they would not be able to do so. So I have not had much time to prepare but I have some points that I would put across.

I deeply regret my actions and I choose to represent myself as I have always enjoyed what I do and my career means everything to me. I have a witness statement which I can read out for you, if you wish?

Mr Lucraft: Is this the statement that we have in our bundle?

Mr Shah: That you have a copy of.

Mr Lucraft: Just forgive me one moment, I will double check. I am fairly sure that the Panel have read the statement and it was read to Mr Khan, so he is aware of the content. Can I just suggest this to you? That if there are particular paragraphs that you would wish the Committee to be reminded of, by all means please refer the Committee to the paragraphs.

Mr Micklewright: Sir, forgive me. I don't know if this might be an appropriate moment to flag this up? But perhaps you may feel it appropriate to draw to the registrant's attention that he has of course the opportunity of either just simply addressing the Committee by way of submission but alternatively, he also has the opportunity of perhaps going through his witness statement, should he wish to do so, on oath, which obviously has benefits and opens him up to other matters but it may be that he wishes to take advantage of that.

Mr Lucraft: Before we get there, there is one question that it seems to me we ought to answer now – great minds think alike. You have indicated that you were represented until yesterday. You have not asked for any adjournment to be represented. Obviously that is a matter you could ask for if you so wish. I cannot say whether the Committee would allow you an adjournment but it seems to me you ought to be given the opportunity at least to address the Committee if that is what you wish.

Mr Shah: I have decided to go ahead and submit what I have.

Mr Lucraft: Thank you. Obviously it is a matter entirely for you whether you wish to be represented or not. Obviously, one of the factors you must understand is

the potentially very serious consequences that an order of this Committee suspending you could have. You are aware of that, are you?

Mr Shah: I am. I would just like to admit that what I did was wrong and just want to move forward from that. I feel that with or without representation, the outcome would most probably be the same. I would just like to put across to you why I did what I did and take it from there.

Mr Lucraft: Yes. The final question I was going to ask you just in the sequence is that Mr Micklewright has addressed the Committee to say that clearly you can give your evidence that is in your statement on oath. Now, there are two consequences there. One is that it may be felt that if you are taking an oath and swearing that it is true, it may have more weight than if you simply address us the way you are at the moment. The second feature is that it may be that either the Panel or Mr Micklewright may have questions for you arising out of the content of that statement and if you were asked questions, again if you are under oath in answering those questions it may be again that it is felt those answers carry more weight because you are taking an oath that they are true. Again, as you were told at the beginning I am not here to advise you, but I am here to ensure that the Committee deal with matters according to the law and to the principles that they must apply. But it may well be that it would be better for you at least to give an account having taken an oath, because at least that way, the Committee know that you are standing by the contents of the statement and you are saying that they are true and you are, as it were, open to be cross-examined about them should there be any issues about it.

Mr Shah: I am happy to do that.

Ms Jones: I just wanted to clarify that there is understanding that today, this Committee is looking at the decision as to whether you can continue in your work and at conditions or whether you should be suspended. It will be a different Committee that looks at the issues that have been raised and will find those – that is a Substantive Committee. I don't know if that would affect your decision as to how you would proceed. I don't know if you could put that any clearer? We are not finding right and wrong today.

Mr Lucraft: Yes, absolutely. This Committee today, just so you are clear, is making an interim order. There will in due course have to be a final determination as to what should happen to you. This Committee has to consider whether, pending that final determination, you should be suspended. That is the order that is sought. So today is not a final determination and a final announcement as to what is or is not to happen to you. Today is simply an interim stage at which this conduct having taken place, it is said – and we understand you accept that the conduct has taken place – in the light of that conduct, is the test satisfied effectively – I will read the words so it is clear – “that it is necessary for the protection of members of the public or is otherwise in the public interest” that you be suspended. Again, you have indicated quite clearly that you understand you could have asked for an adjournment but you

are not seeking one. You could have asked for an adjournment to be represented but you are content to represent yourself. That is your position?

Mr Shah: Yes.

Mr Lucraft: I hope I have made it clear but let's say this is interim rather than final. The final order will obviously have an impact upon your ability fundamentally as to what you can do. At this stage, the Committee will be making an interim decision on what is to happen to you. You do understand that?

Mr Shah: Yes, I understand that.

Mr Lucraft: You do understand that?

Ms Jones: Then my final question to you around this is whether, at this point, you would want to take a short break before we continue, just to prepare yourself. Because we have just raised a number of questions and I am sure this is a strange procedure. Would that help you – to take a short break?

Mr Shah: Yes, please.

Ms Jones: Mr Micklewright, would you be okay if we were to take the lunch period now and reconvene in an hour?

Mr Micklewright: Yes, indeed, Madam. That seems very sensible, if I may say so.

Ms Jones: Can I suggest that we reconvene at one o'clock then? Thank you very much.

[Proceedings adjourned at 11.53 am]

[Proceedings resumed at 12.58 pm]

Mr Lucraft: Just before we continue, I ought to make it clear to the registrant that we have noted that he is not represented. We asked Mr Henley to make a couple of enquiries – or I have asked Mr Henley to make a couple of enquiries on behalf of the Committee, that have been noted – and the first was that we understand that, until yesterday, you were represented by AOP.

Mr Shah: That is correct.

Mr Lucraft: And they realised at some stage yesterday that they were only able to represent student optometrists and not student dispensing opticians. For that reason, they made contact with the registrant, as we understand, at some stage about midday to one o'clock yesterday.

Mr Shah: That is correct.

Mr Lucraft: And that position was explained to you and again, you have indicated that you are content to continue and the next stage we were about to embark

upon was for you to give evidence on oath, take us through your statement and anything else you wanted to say on oath. I just want to make it clear that you quite understand what could happen to you today. I think perhaps using an analogy which I think I may have used before the Committee sat, which is that suspension from a register is rather like having your driving licence taken away from you. You are not able to drive, but equally you are not able to drive under supervision. It simply means you cannot drive whatsoever, in any way, shape or form. If the order which the Council seek today, which is your suspension, if the Committee having heard everything were to make that decision, the impact upon you would be the equivalent: you would lose any ability either to continue your studies or to practise in any way, shape or form. The Committee would like to know that you understand that is a potential outcome of today's hearing.

Mr Shah: If I decided not to, what would be the other option?

Mr Lucraft: The only other option is that the Committee, if you wanted to – it may well be that the other professional body, ABDO, may be able to represent you but it may be that you are not covered by any form of insurance and your representation may not be representation that they would pay for – but if you wanted to consider the other option, which would be to invite this Committee to adjourn, postpone these proceedings for you to have the ability at least to see whether you wanted to get legal representation, then that is the other option: either to continue as you are or to invite the Committee to adjourn to allow you the opportunity to seek representation.

Mr Shah: Having thought about it, I would like to adjourn then and get some form of representation. I don't feel I am fully prepared to go ahead.

Mr Lucraft: Yes. All I am seeking at this stage – and as I say, I am not here to advise you but I am here to ensure that these proceedings are conducted according to the principle and simply to outline the propositions to you. So you are effectively now inviting this Committee to consider adjourning these proceedings at this stage to allow you the opportunity to seek representation?

Mr Khan: I wonder whether you would be kind enough also to explain the interim and substantive reference again.

Mr Lucraft: Yes, certainly I will. I think I have made clear that this Committee is not making a final, final decision on it. It is simply at this stage being asked to determine, before the final hearing stage, whether you should be suspended pending the final determination of these issues. So this is an interim stage, not the final stage. But as I have indicated to you, even at this interim stage, it can have consequences for you.

Mr Shah: Yes.

Mr Lucraft: Madam Chairman, I hope that is helpful.

Ms Jones: Thank you very much. Thank you for that. Can I ask the registrant? If at this stage you wish to ask us to adjourn or postpone these proceedings, we will come back to them in a moment and you may do so and in that time you can take advice, but you are entitled to come before us and to represent yourself. I am not saying you have to get advice or be represented by somebody so the options are with you. Before I come back to you for your views on that, can I ask Mr Micklewright if he would wish to say anything about process at this stage? Because I think this is a surprising term for us all.

Mr Micklewright: Yes, Madam, it is. I suppose it is a shame really that at this stage of the day we get to the application for an adjournment, rather than at the beginning. But there we have it. It is quite fair that the registrant should be allowed an opportunity to make that application and, as you well know, it is a matter for you to exercise the discretion that you are given by Rule 35 judiciously. There are two things that I think I should like, if you would indulge me – three things in fact perhaps – maybe before I make submissions on behalf of the Council. The first is an opportunity to take instructions because we arrived at a position this morning where we were assured in no uncertain terms from the registrant that he did not intend on making any application for an adjournment, so we proceeded on that basis and moved on to deal with other matters. Linked into that it would perhaps be useful to know, I think, because I anticipated last night that this may be an application that was made and suggested to the GOC that enquiries be made as to when another hearing might be held, because clearly how far in advance of today it is going to be – or should I say how far subsequent to today it is going to be – before another hearing can be held is clearly pertinent to an interim hearing where the mere nature of it is that it has to be heard with a degree of urgency.

The final thing, I think, is that maybe it might be useful, you may feel, whilst that is being done, for the registrant to have an opportunity to collect his thoughts as well. It appears that his application as it were has been very much ‘off the hoof’ and very much a turnaround in the position which he has held for the preceding four hours and really arisen only as a matter of, I think, probably about the third occasion at which it has been suggested to him that he may wish to think very carefully about where he is by your Legal Adviser – quite properly I should say, of course.

Ms Jones: Thank you.

Mr Khan: Can I just ask one little thing, if I may? It will also be really important for the registrant to consider that if he were to apply for an adjournment and if it were to be allowed, is he sure that he will be able to arrange representation if that is the ground for adjournment? I think he needs to think about that too, whether he can contact ABDO, I don't know, but he needs to think about that. We don't want to be in the same position again when the re-hearing takes place, if it were to be adjourned, that is.

Mr Micklewright: I wonder, sir, if it might be prudent then in that respect – I am anxious not to wait too much time, of course, so it could only be the briefest of

enquiries and it would have to come from the registrant – we have the telephone number, obviously, for ABDO. It might be worth his while giving them a telephone call and getting a very simple answer as to whether or not, ‘No, there’s no hope of us providing you with representation’. My suspicion – and it is only a suspicion - is that if the registrant is to avail himself of legal representation that will have to be funded from his own pocket.

Mr Khan: That was only an example, ABDO.

Mr Micklewright: I appreciate that. Of course, it is the obvious example, isn’t it, I suppose.

Ms Jones: Can I suggest? First, let me ask the registrant: are you asking us to consider an adjournment?

Mr Shah: I would be happy to carry on. It is just because I have not had a lot of time to prepare I would only be able to go on what I have today with me. But I was happy to carry on this morning and I would be happy to carry on and complete it.

Ms Jones: Okay. We can only consider postponing our deliberations today and hearing anything further if you, or Mr Micklewright, were to ask us to do that and to give us the basis on which we need to do that. I think ten minutes ago you indicated you would like an adjournment. Coming back to you now and you are indicating you may not wish to apply for an adjournment, you would be happy to carry on. The Committee members and I need to understand from you which position you are taking.

Mr Shah: I am happy to carry on.

Ms Jones: You are happy to carry on. You do not wish to adjourn today or to take other advice?

Mr Shah: No. I wish to carry on.

Ms Jones: [*Checks that Committee are content to proceed*] Can I just check with you whether you have any advice for us as a committee because I think this is unusual?

Mr Lucraft: It is. I think the position of the Committee is fairly straightforward. The Committee has, I think very properly, perhaps through advice I have given the registrant of his options, indicated that the registrant understands the potential ramifications of any order that the Committee makes today, and given him ample opportunity to make an application for an adjournment should he wish to do so. He indicated first this morning and then very recently that he is content to continue, and he no doubt in making his submissions will be fairly clear that he has had limited time to prepare on the basis that on the information that I have relayed to the Committee understood that as recently as yesterday he was to be represented today, but is no longer represented. It may well be the case that the statement that the registrant was going to take

us to is a statement that was prepared with the assistance that he had from AOP so that at least the Committee will have.

The advice I can simply give to the Committee is this: the Committee has to be satisfied that it has given the registrant the opportunity, should he wish to do so, to ask for an adjournment, to make that application, which the Committee has done and as a consequence of making that invitation the Committee is satisfied that it is proper to continue and may continue.

Ms Jones: Thank you very much. Then I suggest we continue and I believe we were at the point this morning where you were given the option to swear an oath and act as a witness or to read in your response. Can I ask you which it is you wish to do?

Mr Shah: I would like to read in my response at this stage.

Ms Jones: Okay.

Mr King: Can I just clarify? Do you want to read your response on oath?

Mr Shah: Yes. I am happy with what I have got together.

Mr King: On oath.

MR SYED SHAH, called and affirmed

Ms Jones: Mr Micklewright, rather than inviting the registrant to move to the stand, we thought in terms of the set up of the microphones it is acceptable for him to stay where he is. Is that acceptable?

Mr Micklewright: I am more than happy with that, Madam, of course.

Mr Lucraft: It may be, Madam, if I can helpfully suggest to the registrant? Everyone has this and has read it, so unless the Committee want you physically to go through and read every single line, as I indicated before lunch that is probably not necessary. But if there were particular paragraphs that you would wish to draw particular attention to, you indicate which paragraphs those are. And as I indicated it may be that the Panel, myself or Mr Micklewright have questions of you based upon what is in here, that will follow once you have told us what it is that you want to tell us from here drawing, as I say, any particular reference or particular attention to particular paragraphs.

Mr Shah: I would like to start at paragraph 9, which just explains where everything started. I will read it out:

“Following the summer of 2008 I attended the usual training/staff meeting on Friday morning. These meetings occurred weekly. At this particular meeting the results of the dispensing exams had just come out. I was sitting with a group of ten people, some of whom had taken

similar exams to myself. The Practice manager asked who had been successful and went round the group ascertaining the results. The people present were my peer group and contemporaries and all advised that they had passed. I appeared to be the only one who had failed and in the heat of the moment I advised that I had passed also”.

That just explains the reason why I initially lied and then –

“Having stated that I had passed my exams, the practice took me at my word and without asking to see any evidence at the time, my status was updated to qualified/registered dispensing optician from student. I also accepted a pay rise on this basis. At the time I was not asked by the practice to provide any certificate or confirmation that I had passed my examinations”.

We move on to paragraph 17:

“In attempting to complete the forms” – given to me by Stuart Ingleby following his interim order – “it became apparent that I could not [fill out the forms] because it required a signature from the examining officer of ABDO. On the spur of the moment [I] decided to forge Mark Chandler’s signature ... I felt I was locked into a situation I did not know how to get out of. I ... believed [that] I would soon pass my examinations” – in January – “and be able to resolve the situation”.

I sent the forms off to the General Optical Council and then was advised by Mr Ingleby to show him the registration information and my certificate.

“I did not have a certificate so I sought a copy of the [relevant] document from a colleague. [I admit] I scanned [a copy with] my name over the top [of his] and showed that to Mr Ingleby”.

I knew what I did was wrong and I did destroy the certificate afterwards.

“At this stage I was extremely stressed and [was] rapidly becoming aware of the mess I was in”.

But I don’t know why I continued to act the way that I did and it was completely out of character for me.

If we just go over to paragraph 32, and just to say that,

“At no time did I work unsupervised even as [a] dispensing optician. I always made sure that there were qualified members of staff present when I was working and would always seek advice appropriately. I was aware of my position and I did not [want] to put any patients at risk.

I would [also] like to say that this deception was not motivated by greed. I had re-applied for my examinations and all my registration

was correct up until November 2008. I was trying very hard to re-sit and pass all my practical examinations. It was never about financial gain and even after the initial lie I told in 2008 I did not ask for a rise in my salary. Although I do admit I wrongly accepted this when it was offered to me.

The pressure I faced [immediately] after Mr [Stuart] Ingleby confronted me in November 2009 brought about the falsification of documentation. I did not realise the consequences of my actions at the time but as events unfolded I became aware of what I had done and the trouble I was in.

I [feel] deeply disappointed in myself and regret the fact that I did not tell the truth to begin with. [Although] I do understand that there is no [reason or] excuse for my actions. I would like to add that I have always been an honest, trustworthy individual. In all my time at the practice I have never been in trouble for anything and I have always worked honestly alongside the leadership team. I am not the type of individual who would purposely commit anything like this. I feel it was the peer pressure and the situation I found myself in which caused me to panic and make [rash] decisions which were [clearly] wrong.

I admit I was wrong and if I could go back” – and correct everything. “I made a false statement, and I continued to maintain the falsehood, which [has] cost me my job [and my career]”.

I can only apologise for my wrongdoing. I just would like the chance to correct the mistake that I made.

Ms Jones: Are there any other statements you would like to make or anything you would like to tell us about before questioning begins?

Mr Shah: No.

Ms Jones: Mr Micklewright?

Mr Micklewright: Thank you, Madam.

Cross examined by MR MICKLEWRIGHT

Q. Mr Shah, as you have heard, I now have an opportunity to ask you some questions, which I would like to do, if I may?

A. Okay, yes.

Q. The first thing I would like to explore a bit more, if I may, is paragraph 32 of your witness statement. It might be helpful if you would turn to that now. You just read that out to the Committee and you discuss there the way you worked as a new dispensing optician and you say that there was no time that you worked unsupervised even as a dispensing optician. Is that right?

- A.** Yes.
- Q.** Now, you informed Specsavers that you had passed your qualifications in August 2008?
- A.** Correct.
- Q.** And indeed it was not until 2009 – it was 19 November 2009 – when the issue of your registration first came to light, wasn't it?
- A.** Yes.
- Q.** So a year and two months, during which time presumably you were working in Specsavers, so far as everyone else was concerned, as a fully qualified dispensing optician?
- A.** Yes.
- Q.** You said you never worked unsupervised. Presumably by that, what you mean is there was always somebody else around that you could have gone to for advice, if you deemed it necessary to do so?
- A.** Yes. There was always another dispensing optician available and I always had my dispenses checked before they were sent up to be broken down and ordered up.
- Q.** You always had them checked by another dispensing optician?
- A.** It was the practice policy to have your dispenses checked by another member of staff.
- Q.** What sort of activities would have carried out which would ordinarily be the subject of supervision – and you will have to tell me because I don't know, because I am not an optician – would you ordinarily have had supervised whilst you were a trainee, which were no longer directly supervised, closely checked, by another dispensing optician once you became, so far as they were concerned, a fully qualified dispensing optician?
- A.** The taking of children's measurements, pupil measurements; varifocal measurements, bifocal measurements; basically all measurements and prescriptions before they were ordered up.
- Q.** So those were the sort of things, therefore, where you would have to, if you wanted to get advice from another optician there, identify that there was a problem, there was a gap in your knowledge, there was something you needed to consult upon, before you made the decision that you needed to go away and seek advice. Would that be correct?
- A.** Yes.
- Q.** So what would not have happened is there would not have been anybody during that time – post-August 2008 – in place who would be keeping an eye on you who could have intervened if you had made some sort of error, you were doing something wrong, which you yourself had not identified as being a problem or an area of concern?
- A.** Not knowingly, nobody was aware.

Q. Because presumably, would you accept as a general proposition that is part and parcel of what supervision is about? It is not just being available to be a contact, go-to, if there is a problem but also to ensure that the problem does not arise in the first place?

A. Yes, that is correct.

Q. Thank you very much.

Ms Jones: Mr Khan, do you have any questions?

Mr Micklewright: Madam, I have not finished!

Ms Jones: My apologies! Sorry, I thought that was brief.

Mr Micklewright: I would like now to explore with you, if I may, please, Mr Shah, a little bit about what you were doing as a trainee contact lens optician. Would you please turn to the document which has been labelled C2?

[Document passed to Mr Shah]

As of 6 September 2008, we are told that you started under the “close supervision”, to use in this letter Mr Ingleby’s words, as a trainee contact lens fitting dispensing optician with Mr Turton. Is that right?

A. Yes. That is correct.

Q. You will remember me having read this out in full, this penultimate paragraph in this letter, to the Committee. And he says this,

“Initially sitting in with Andrew and then having his own room and seeing one or two patients building up to seeing more. His days increased up to three, sometimes four days a week over the next 13-14 months as the clinics got busier”.

Do you think you could perhaps just expand a little bit, because you do not really deal with it in the witness statement, exactly what you were doing when you were fitting contact lenses? How often were you seeing patients and I think particularly the Committee may be assisted to know what that level of supervision was and, if it changed, in what way it changed during September 2008 to November 2009?

A. When I began the contact lens training it was all theoretical training to start off with so what I was doing for the first three or four months was just sitting in one day a week with Mr Turton and he would carry out contact lens fits, contact lens checks and I would make notes as part of my theory assignments that I had to complete. Following that, he would allow me to use the slit lamp and examine the fit of contact lenses with him being in the room. He would explain it to me, watch me do it and then explain what I was doing wrong and what I was doing correctly. After four or five months, after I had sat the initial contact lens exams, I was allowed one day a week where again I was sat in the room with Mr Turton. He would see patients in the morning and then he

would allow me to see one or two patients in the afternoon while he sat and observed.

Q. Perhaps if I could just pause you there. When you say 'see patients' and he sat and observed, what were you doing to them exactly?

A. I was not fitting at the time. It was just checking over the fit of the lenses and the prescriptions and filling out the forms as part of my assignments that I had to complete.

Q. Sorry, I interrupted you –

A. No problem. I was given the room next door to Mr Turton so I could continue the rest of my assignments. I would have my own patients booked - one in the morning and one in the afternoon where I was sometimes left to start the contact lens check and then Mr Turton would come in and check everything over before the patient left. When the practice got busier, I had a few extra patients. It was two or three in the morning and another two or three in the afternoon. I would always get Mr Turton or Mr Ingleby or another member of the team to check everything over before the patient left. I would fill out the test record and then the supervisor would come in and check everything over again.

Q. So – again mainly for my benefit, I am afraid – what exactly would they be checking to confirm you had done right?

A. The fit of the lenses, that the prescription was written correctly and that all the observations had been written down correctly.

Q. Thank you very much, that is very kind of you. Was it right that at that time, during the time that you were fitting contact lenses, under supervision, that you had yet to pass your contact lens theory examinations?

A. Yes, I had sat them once and failed them, and I had to re-apply to sit them again. I still have them to sit.

Q. You still have yet to sit again?

A. Yes.

Q. I would like to ask you now a little bit, if I may, about your employment situation. We know that you resigned your position at Specsavers in Blackburn in - I think it was - 7 December last year.

A. That is correct.

Q. Are you currently employed?

A. I am not.

Q. Are you seeking employment?

A. I will be. I was focusing on this hearing first.

Q. What sort of employment are you looking to seek?

A. I would like to go back into the same field as it is something that I enjoy doing.

Q. Do you have a timescale in mind?

- A. No, I have not really thought about it as yet.
- Q. In short, I suppose what I am asking is this: if you leave this hearing with either no order at all imposed on you or if it was an order for conditional practice, which would allow you to practise in some restricted way, would you be looking to go and obtain employment in another dispensing optician retailer?
- A. Yes, it is an option.
- Q. Thank you very much, Madam. I have no further questions, thank you.

Ms Jones: Do you have any questions?

Mr King: If we actually go down to paragraph 11, you were clearly aware that you had not actually finished your dispensing training.

- A. Yes.
- Q. Even though you had actually told other people clearly you had. Why did you therefore carry on to do the Honours qualification as far as contact lenses are concerned, when you knew inside that you had not actually passed?
- A. I enquired with the ABDO and informed them that I still had final exams to sit for my dispensing and they informed me that I could start on the contact lens theory while I completed the practical exams. I received a letter to say that I could start on the theory work before completing the practical dispensing exams.
- Q. So at no stage did you think, 'I'm not going to start this extra level of training because I haven't actually finished my previous training'?
- A. No. It was something I wanted to do so I felt that I could make a start on it whilst –
- Q. And was that to give the impression to the rest of the team that you were fully qualified?
- A. No, not initially.
- Q. Okay.
- A. It was not something that prompted me to do it.
- Q. Okay. You responded to Mr Micklewright that all your dispensings were actually checked by another person, presumably another qualified optician on site.
- A. Yes.
- Q. Is that regular practice, first of all, in the Specsavers' work?
- A. Yes. To minimise on mistakes, they do that.
- Q. So all qualified dispensing opticians have their work checked, do they?
- A. By another colleague, yes.
- Q. How do you feel about that?

- A.** I think it minimises on mistakes, so I feel it is good practice.
- Q.** You think that is a good idea?
- A.** Yes.
- Q.** The other thing, if we can move on to your role as a contact lens fitter – you were saying obviously that you worked next door to Mr Turton when you actually had your own patients. Presumably then you were making the lens choices of what to actually fit that particular person? You are verifying that fitting yourself?
- A.** Yes.
- Q.** And you are filling out the necessary paperwork?
- A.** Yes.
- Q.** And you are putting that on to Specsavers' information screen – because everything goes into the computer system at that stage?
- A.** Yes.
- Q.** And there is no policy on that screen – and you can correct me if I am wrong – to actually have a supervisor double sign it or check it?
- A.** The records were double checked, but not on the screen.
- Q.** Yes, but you are putting it in to the screen – that is the point I actually asked. And that is correct? You put it in to the screen.
- A.** Yes. They were not set up on the screen in the test room, so everything was written on paper and another admin member of staff inputted it on to the screen.
- Q.** Yes, they are all scanned in. But at that stage, it is your work that is being scanned in?
- A.** That is right, yes.
- Q.** Okay. And at what stage, because you were saying everything was actually supervised, is the work supervised? Because you have made the decision, you have checked the fitting, you have checked the refraction you have checked the VAs and then you are saying it is all checked.
- A.** Yes.
- Q.** And you are in a busy practice and yet you are the person putting that on to the screen?
- A.** The days that I was working were the quieter days on a Thursday or a Tuesday when the practice was quiet. I had two or three patients booked in per day, so Mr Turton was always available. I would wait for him to check it. I would always get him to sign things off before I finished off. But any lens choices that I made were checked with him first before I went ahead, yes.
- Q.** So he would slit lamp every patient?
- A.** He would come in and check, yes.

- Q.** So why isn't he filling in the forms?
- A.** Because he felt that that was part of my training, that I should be filling them in.
- Q.** Did you think it was part of your training? [*No reply*] No. Did you ever raise that with Mr Turton?
- A.** No.
- Q.** Okay. One other question, that is not relevant obviously to the practice and what you were actually doing in the practice, but did you at any stage offer to repay back any of the additional salary that you would have got from being a qualified person to a non-qualified person? Did it ever occur to you that that might be a nice thing to do?
- A.** No.
- Q.** No. Okay, that is fine. Thanks.
- Ms Jones:** Can I check what the difference in salary was? I don't work in the optical profession.
- A.** I was on £13,000 when I started and then it went up to £17,000.
- Q.** And you have talked a bit about how it works within the practice. So as now your colleagues believed you were qualified, so were trainees coming to you to have their work signed off and be supervised by you?
- A.** I was not directly responsible to supervise but work was always checked.
- Q.** So you were checking unqualified people's work when you were unqualified yourself?
- A.** Yes.
- Q.** Thank you. Mr Micklewright, do you have any additional questions?
- Mr Micklewright:** Madam, I do. If you will forgive me they do not actually arise out of the questions you have set so I hope you will forgive me and I can ask your indulgence to ask some questions in relation to the testimonials which have been submitted?
- Ms Jones:** Okay. We have not had attention drawn to the testimonials other than we have recorded them. We have all read them and Mr Khan has had them read to him so we have all seen them.

Further cross-examined by MR MICKLEWRIGHT

- Q.** Mr Shah, do you know, presumably were these individuals who provided these references for you – were they contacted by you or were they contacted by your representatives when these letters were produced?
- A.** I was asked by my representative to put together some references and then have them faxed to him.
- Q.** So you contacted all of these referees?

- A. Yes.
- Q. What did you tell these referees was the reason why you were before this Committee?
- A. Most of the ones that I contacted were aware of the situation.
- Q. What do you mean by 'aware of the situation'? What was the situation as you told it to them?
- A. That I was going to be at the Fitness to Practise Committee for lying about my registration information.
- Q. I am sorry to press you on this but the Committee may find it of use to know exactly what was in the minds of these referees when they wrote these references, because it allows them to assess the weight and relevance of them – what exactly did you tell them? You said about 'lying about my status'. Did you say anything more to them than that, or was it kept really as brief as that?
- A. I cannot remember exactly what I said to each one but my colleagues from Specsavers were aware of the situation.
- Q. And the other referees?
- A. The other referees were – I discussed with them but I don't remember exactly what –
- Q. Who was aware that you had lied about your situation and left that lie lying, as it were, for over a year?
- A. A few of my colleagues knew –
- Q. – of these referees, that you have presented. Perhaps you could just go to them and look through and tell us, please, who was aware of the fact that you had been practising as a dispensing optician whilst unqualified for over a year, at the time that they wrote these references?
- A. Okay. Which order –
- Q. It doesn't matter which order. If you just refer to them by name -
- A. Okay. Mrs Dinsi; Miss Ayub; Mrs Jolleys; Mr Crock; Mrs Otley; Mr Yakub and Mr Majid.
- Q. Thank you. Who was aware that you had benefited to the tune of just over £5,000 by virtue of the fact that you had misrepresented your qualifications?
- A. Nobody.
- Q. No-one was aware of that. Did you relay anything at all to any of these individuals about how it was that you came to make that misrepresentation that you made to your employer? Perhaps to assist you, you have said in your witness statement, you have described how you were sitting round with colleagues and there was some discussion about who had passed their exams and who had not and you said that 'I appeared to be the only one who had failed and in the heat of the moment I advised that I had passed also'. Did you discuss that at all with any of these referees?

- A. Yes.
- Q. What did you say to them, exactly?
- A. I explained the situation and that was the reason why I initially lied.
- Q. I am sorry, you are saying, 'I explained the situation' -
- A. Yes, I explained -
- Q. What I am trying to get from you is really exactly what you said to them.
- A. I don't remember exactly what it was, no.
- Q. I would like to refer you, please, if I may, to Mrs Bushra Dinsi's testimonial for you. She says this, in her second paragraph:

"From what I understand, when [you] were offered to work under the supervision of Mr Andrew Turton he was never actually sat down formally or requested to show any certificates of his qualification, therefore [he] presumed he was abiding by the correct legislation to work under the supervision of Andrew, while studying and sitting the exams to qualify as a Dispensing Optician and furthermore a Contact Lens Fitter".

Then, further down, in the next paragraph, she says,

"It is not until November 2009, when [he] was made aware that he needed to be qualified to be working in the role he had [been] since early 2009, and he was told to show proof of his qualifications. At this point I feel [he] felt pressurised and thought that if he couldn't prove he had the correct qualifications he would be jeopardising the Specsavers business and putting Mr Ingleby and Andrew Turton in a very bad situation".

Now, does that adequately represent what you told Mrs Dinsi by way of explanation of the situation that you found?

- A. I think I told her that nobody had asked to see any proof of any qualifications at the time.
- Q. Did you tell her that it was not until November 2009 that you were made aware that you needed to be qualified to work in the role that you were in?
- A. No. I said it was not until November 2009 that I was asked to show any proof of anything.
- Q. Right. So you did not suggest to her in any way that you were unaware that that was the situation?
- A. No.
- Q. So she has misunderstood that?
- A. Yes.
- Q. Thank you very much.

Ms Jones: Can I just enquire of the registrant if you have any final things you wish to bring to our attention?

A. No.

Q. I have got my papers in a muddle. Can I therefore ask the Legal Adviser to advise us, or do you have –

Mr Micklewright: Madam, I do not have any further submissions. You have heard all the evidence; I have nothing to add.

Ms Jones: Thank you.

Mr Lucraft: Certainly. I think by the nature of Mr Micklewright's opening address we have looked at what is the leading authority, in *Shiekh*, as to the approach that this Panel has to take, but perhaps I can just take the Panel back to the wording of Section 13L very briefly? Section 13L(1):

“Where the Fitness to Practise Committee are satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest ... the Committee may make an order specified in subsection (2) below”.

And the matter here is that it will cause his registration to be suspended or to be made the subject of conditions, and here the Council indicate that their submissions are suspension and they have pointed in their presentation to the fact that conditions would not satisfy the requirements of this case. Equally, the case that is placed before this Committee is both limbs – actually the protection of members of the public and being in the public interest. The key features, as I have already read into the record but perhaps I can go back to, is really encapsulated in that one paragraph of the judgment of Mr Justice Davis in *Shiekh*. I know that these are principles with which this Committee is familiar but I make no apology for repeating them. In the context of imposing an interim suspension order the bar is set high and, as Mr Justice Davis said,

“In that ordinary case at least, necessity is an appropriate yardstick. That is so because of reasons of proportionality. It is a very serious thing indeed for a dentist or a doctor to be suspended. It is serious in [many] cases just because of the impact on that person's right to earn a living. It is serious in all cases because of the detriment to him in reputational terms. Accordingly, it is, in my view, likely to be a relatively rare case where a suspension order will be made on an interim basis on the ground that it is in the public interest. I do not use the words ‘an exceptional case’ because such language is easily capable of being twisted and exploited in subsequent cases; but I do think, as I say, it is likely to be a relatively rare case”.

And then, Madam Chairman, perhaps these important words:

“Ultimately, of course, all these things have to be decided on the facts of each particular case”.

The Committee have also been taken to the facts of the subsequent case, *Sathanathan*, where again rather different facts lead to a high court judge giving some adjudication upon the test ‘necessary for the protection of members of the public or otherwise in the public interest’. So the legal guidance I can give you is to point you in the direction of the test that is put there and what is said in the authorities, but make it very clear that the ultimate decision as to whether it is so or not is a matter on the facts of this particular case, for this Committee to decide upon. The cases clearly are only examples of the types of conduct that can constitute sufficient conduct for such orders to be made or equally, as was said in *Shiekh*, for it not to be made.

One of the points that is apparent in both those cases is one of timing. Of course, here the Council pointed to the very close timing between these events being discovered and today’s hearing. I think the final thing as has been indicated on a number of occasions this is obviously an application for an interim order, no final hearing yet being set.

I hope that is of some assistance to you.

Ms Jones: Thank you. Do you have any final comments?

Mr Micklewright: No comments, thank you, Madam.

Ms Jones: Mr Henley, would you please clear the room then?

[Proceedings adjourned at 1.47 pm]

[Proceedings resumed at 2.54 pm]

Ms Jones:

Determination

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

Decision

The Committee has considered the interim order sought in this case namely an application that this registrant’s registration be suspended.

The Committee has to consider whether it is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest for his registration to be suspended.

The Committee has considered with great care the judgement of Mr Justice Davis in the case of *Shiekh v GDC* and in particular his ruling that orders of the type sought in this situation are likely to be relatively rare. The Committee is of the view that this is sadly, one of those relatively rare cases.

Among the features of this case are the following facts – all of which establish that suspension is appropriate and why attaching conditions to his registration would not meet the needs of the public or preserve the public confidence in the profession:

1. In September 2008 the registrant informed his employer that he had passed the relevant examinations to hold full registration with the GOC as a dispensing optician. This was a lie.
2. A consequence of this lie was an increase in salary to reflect his employer's understanding of his qualified status and change in role. No reparation has been made or offered.
3. The registrant completed an application for full registration which he sent to the Council. He certified that the information in the form was correct. It was not.
4. Section 8 of that form purports to be signed by Mark Chandler of the ABDO. Mark Chandler did not see that form or sign it. His signature was forged by the registrant.
5. The circumstances were investigated and one of the consequences was that the ABDO wrote to the registrant to inform him that an examination he was to take on 8 January 2010 had been suspended. On 2 December 2009 the registrant sent an email to Mark Chandler where he sought to explain away the false material he had supplied as confusion. A further lie.
6. Underlying his actions between September 2008 and December 2009 are a number of false and forged documents prepared by the registrant coupled with misrepresentations made to his employer and the GOC.

For a period from September 2008 to his resignation in December 2009 the registrant wilfully put the public at risk by undertaking unsupervised dispensing of restricted categories and the fitting and verification of contact lenses in circumstances where he knew he should not.

The Committee ordered that the registrant's registration be suspended for a period of 12 months from today. The order will be reviewed within 6 months from today unless all matters are resolved within that time, or earlier should new evidence be made available, or if the registrant, at

any time after three months from today's date, requests an early review.

The Committee is of the view that the substantive hearing in this matter should be held as soon as possible.

Thank you very much.

Mr Micklewright: Thank you, Madam.

[Proceedings concluded at 2.58 pm]