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

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AND

**HARBHAJAN SINGH (SO-2510)
(A REGISTERED STUDENT OPTOMETRIST)**

Monday, 16 April 2007

REVIEW OF AN INTERIM SUSPENSION ORDER

**REVIEW OF AN INTERIM SUSPENSION ORDER: HARBHAJAN SINGH (SO-2510)
(A REGISTERED STUDENT OPTOMETRIST)
Monday, 16 April 2007**

Fitness to Practise Committee: Mr P North (Lay Chair)
Mr S Reily (Optometrist)
Lady M Wall (Lay)

Legal Adviser: Mr T Lamb QC

Hearings Manager: Mr D Henley BEM

For the GOC: Mr B Albuery
For the Registrant: Ms E Power (AOP)

[Hearing commenced at 10.43 am]

Mr North: Good morning. I am Mr Peter North, a Lay Member of the Hearings Panel and I have been elected by the Committee to chair today's hearing. The Committee today is made up of one optometrist 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 Lamb 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.

At the desk in front of the Committee, to my left, is the transcriber who will be keeping an official record of all that is said today during the sessions of the hearing at which the parties are present. Next to the transcriber is Mr Henley, the Hearings Manager, who will provide administrative assistance to the Committee. The remaining persons sitting in the hearing room, rather than the public and press areas, are members of the respective legal teams. Both parties are reminded that where details of a patient are to be discussed, the patient has been allocated a letter in the allegation, that patient should only be referred to by that letter.

Mr Albuery, would you move ahead with an opening statement?

Mr Albuery: Sir, thank you. Good morning. Sir, this is a hearing to review the terms of an interim order imposed by a fitness to practise committee on 16 November 2006. Do you have a copy of that order in front of you?

Mr North: I believe we do.

Mr Albuery: Thank you. Could I ask you, Sir, if you have, before I proceed, to read to yourselves that order and the reasons why your colleagues made it?

[Document read]

Mr Albuery: Sir, perhaps you would indicate when you would like me to proceed.

[Pause]

Mr North: Do proceed.

Mr Albuery: Thank you. Sir, as you may be aware, it is a requirement of the Opticians Act that any interim order imposed by a fitness to practise committee is reviewed within a period of six months, beginning on the date on which the order was made, that is why we are here today. Your powers today, in reviewing this order, are three-fold: firstly, you can revoke the order; secondly you can allow the order to continue unchanged – and that is my application, which is not opposed by the AOP, who represent Mr Singh; and thirdly, you can replace the interim suspension order with an interim conditional registration order.

In all that you do, section 13 (L) makes clear that the criteria you must use are these: you must be satisfied that it is necessary for the protection of members of the public, or as otherwise in the public interest, or is in the interest of a registrant, for some sort of interim order to continue. So, in view of the fact that this is only a review hearing, I do not propose to put before you the evidence which was available to the committee on the last occasion, but I hope this short summary will assist you, in coming to the view that it is right that it continue. Mr Singh is student optometrist. He commenced employment with Boots in 2005. He worked as an optical customer services advisor before becoming a pre-registration student in July 2006.

On 3 October 2006, he saw alone in his consulting room a 14 year-old female patient. She made a complaint about his conduct towards her during that eye examination, and that complaint – which was about the inappropriate touching of her by him – was investigated by Boots. Boots, having investigated the matter, referred it to the police, who arrested Mr Singh at their premises on 11 October 2006. As I say, the substance of the allegation was that there was touching by him of a sexual nature, with a sexual motive, which was inappropriate and not justified for any clinical reason.

At the time when your colleagues considered the original application, in November, the police had arrested and interviewed Mr Singh, but had not brought any criminal proceedings against him. Since then, He has been charged with two criminal offences, both under the Sexual Offences Act, I am told by the AOP, for whose assistance I am very grateful. The first offence with which he is charged, I am told, is a sexual assault under Section 3 of that Act, and he has also been charged with an offence relating to sexual activity with a child, under section 9. For those details, I am reliant wholly, at this stage, on the AOP, and if you want any more details about them, I am afraid you may have to look to them rather than to me for them. I can tell you, though, that Mr Singh is on unconditional bail, that the matter – bearing in mind its seriousness – is to be heard by the Crown Court, and that a trial has been set down beginning on 13 August of this year. He intends to deny the allegations which are made against him.

Sir, in view of the fact that Mr Singh has now been charged - which he was not when your colleagues originally considered the matter - with a very serious criminal offence, and one which ordinarily would attract upon conviction a custodial sentence, you may take the view that the public protection issues, which caused your

colleagues to impose the order in the first place, are at least as relevant now, if not more so, bearing in mind the institution of criminal proceedings, as when the order was first made, and for those reasons, without going into more details unless you want me to, I would ask you to allow the order to continue until either the substantive hearing of the matter, or until it is required to be reviewed again under the terms of the Opticians Act. As I indicated, the application, as I understand, is not opposed.

Mr North: Thank you. Does the registrant's representative have any comment to make?

Ms Power: Merely just to say that Mr Albuery has given an accurate account of the position that Mr Singh is currently in, and I can confirm the details of the charges which he has put for you. We do not have any further evidence to adduce at this stage. Mr Singh is aware of today's review hearing, and I am under instructions, by way of clarification, not to oppose the suspension order continuing unchanged.

Mr North: Thank you, that is very helpful.

[Panel confer]

Mr North: There will, of course, be another hearing at the anniversary, as it were, at the twelve-month point - is that the case?

Mr Albuery: If the substantive hearing is not heard in the next six months, then the requirement of the Act, section 13, is that, if you allow the order to continue today, it would be reviewed again within six months from today.

Mr North: We just wanted to clarify that point. Legal Adviser, any points you care to make?

Mr Lamb: No, thank you very much.

Mr North: Fine. I think that we are in accord, and we would, wish to continue the order, as requested by the presenting officer, Mr Albuery. We have had no advice from the legal adviser, as you have seen, and we can now prepare a copy, I think, Mr Henley, of the appropriate order, for distribution to both parties.

Mr Albuery: Sir, thank you. Sir, although it may be clear from the transcript, you may think it important to record your reasons for coming to the decision you have, because although it is a review, and you may just want to adopt the reasons already given, clearly you have made a decision which affects Mr Singh's livelihood, and it is important therefore – and I hope I am not impertinent by saying so – that you record your reasons for doing so, lest it be challenged by some other place.

Mr North: Thank you for that wise and helpful suggestion, Mr Albuery. If we could just take a short break, I think we can do that.

Mr Albuery: Thank you very much.

[Hearing adjourned at 10.52]

[Hearing reconvened at 11.03]

Mr North: Thank you, ladies and gentlemen. This is a determination of a review order, or review of an interim order, in respect of the registrant Harbhajan Singh. The fitness

to practise committee reviewed an interim order for the suspension of Harbhajan Singh made by the Council on 16 November 2006, and decided as follows:

The Committee heard an outline statement of the reasons for the decision of the Fitness to Practise committee held on 16 November in respect of incidents alleged against the registrant. Through information supplied by the AOP the Committee heard that following police investigation of the allegations against the registrant, he has been committed on bail to appear before the Crown Court, charged on two counts of a sexual nature - one involving a child under the age of 16 years. On the basis of the information, the reasons which led to the imposition of the original interim order have been reinforced. The registrant did not oppose the continuation of the order. Accordingly, the Committee has decided that the order imposed on 16 November 2006 should remain in place.

Mr Albuery: Thank you very much.

Mr North: Thank you, Mr Albuery, and thank you Ms Power. I shall sign copies of the order, and that concludes the matter.

[Hearing concluded at 11.05am]