

FROM: A P Barber
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SUBJECT: **ANDREW JOHN L'ESTRANGE WALLACE**
SUBJECT AREA(S): Formal Disciplinary Proceedings – Case No.
LDB/0105/03
ATTACHMENTS:
ACTION POINTS: **For information**
DEADLINE: **None**

In proceedings before a Lloyd's Disciplinary Tribunal, Andrew John L'Estrange Wallace has admitted four charges of misconduct. He has admitted one charge of conducting insurance business with a lack of good faith and three charges of discreditable conduct.

At the time relevant to these proceedings Mr Wallace was initially the Deputy Active Underwriter of syndicate 963 and from 1993 he was the Active Underwriter for the syndicate.

As a result of these proceedings, the Disciplinary Tribunal has made the following orders as to penalties and costs:

- 1) That Mr Wallace's right to transact, or be concerned or interested in the transaction of, the business of insurance at Lloyd's or any class or classes of such business, be permanently and totally suspended;
- 2) That Mr Wallace's right of admission to the Room and other parts of the premises of the Society be permanently suspended; and
- 3) That Mr Wallace pay Lloyd's costs of £19,504.60.

Mr Wallace has agreed to account for £312,838.32, being the amount of benefit received by him (and interest), to Names on the relevant years of account of syndicate 963. This has been

taken into account in assessing the penalties in this case. Lloyd's will arrange for payments to be made to syndicate members. It is expected that the payments will be made to members within 6 weeks. Syndicate members, on the relevant years of account (1993- 1996), will receive a share of the monies due to the years of account for which they were syndicate members in proportion to their individual participation on the Syndicate.

If the Syndicate member is still a member the payment will be made in the normal way into his PTF account. Where a member is no longer a member a cheque will be sent to the member's last known address.

The charges that Mr Wallace has admitted relate to:

- a) The fact that on a date before 7 May 1991 he made a personal investment in 15% of the shares of an Irish underwriting agency ("the Irish insurance company") in circumstances where he did not have Lloyd's consent as was required under the provisions of the Related Parties Byelaw (No. 2 of 1986). These charges are known as the "Related Parties Byelaw charges".
- b) The fact that he failed to disclose his interest in the shares of the Irish insurance company as was required under the provisions of the Syndicate Accounting Byelaws (No. 11 of 1987 and No. 18 of 1994 respectively). These charges are known as the "Syndicate Accounting Byelaw charges".

Further details of the events giving rise to the charges admitted by Mr Wallace are set out in the attached Annex to this bulletin.

This case was settled before a Lloyd's Disciplinary Tribunal in accordance with the procedure for settlement before a Disciplinary Tribunal as set out at Lloyd's Disciplinary Rules 26.9 to 26.15 (Schedule 2 to the Disciplinary Committees Byelaw (No. 31 of 1996) as amended).

This bulletin has been sent to all underwriting agents, Lloyd's brokers, corporate members, market associations, the ALM and recognised accountants.

A P Barber
Secretary to Lloyd's Disciplinary Board

ANNEX**SUMMARY OF PROCEEDINGS****ANDREW JOHN L'ESTRANGE WALLACE**

Mr Wallace was the Deputy Active Underwriter of syndicate 963 between 1981 and 1993. In 1993 he became Active Underwriter of syndicate 963 and in July 1999 he became the Chief Executive of Crowe Syndicate Management Limited. He left the Crowe Group in June 2001. Syndicate 963 was managed in turn by Crowe Underwriting Agency Limited and then Crowe Syndicate Management Limited, referred hereafter as "Crowe".

Mr Wallace has admitted one charge of conducting insurance business with a lack of good faith and three charges of discreditable conduct.

The Related Party Byelaw charges

In 1989 Crowe entered into a business relationship with a company incorporated in the Republic of Ireland ("the Irish insurance company"). That company was a coverholder approved by Lloyd's and which conducted motor insurance business for Crowe under a binding authority first granted by Crowe Syndicate 963 in 1990. That binding authority was on commercial terms and was renewed annually thereafter on materially the same terms (and no criticism was made in this case of the terms of the binding authority).

In 1989 Mr Wallace proposed to Crowe that its service company, Cygnet Insurance Services Limited ("Cygnet"), should purchase 15% of the equity of the Irish insurance company. Under the terms of the Related Parties Byelaw consent from the Council of Lloyd's was required before such an investment could be made. This was because a managing agent must not own an interest in an insurance company (which includes for these purposes a coverholder) without first obtaining Lloyd's consent.

The application for Cygnet to own the interest in the Irish insurance company was made by Mr Wallace on behalf of Crowe. Consent was given to that arrangement by Lloyd's. In its letter dated 20 February 1990, Lloyd's explained that *"you are ...reminded that any changes to the arrangements that form the basis of this application must be put to Lloyd's for approval..."*

However, Crowe/Cygnet decided not to proceed with the investment in the Irish insurance company. Instead the Board of Crowe concluded that it might be advisable for Mr Wallace to take up the shares on offer by the Irish insurance company personally on the basis that he would be entitled to keep any remuneration which the Irish insurance company might pay and that he would be liable for any losses arising out of such investment. The minutes of the meeting also record that *"he will enquire of Lloyd's whether this contravenes any regulations, and will present a final proposal to the Board when he has all the facts."*

Mr Wallace made an application to Lloyd's for him to hold the shares on terms which Lloyd's indicated it was not willing to approve.

Mr Wallace did not make a further application to hold the shares in the Irish insurance company and no such application was granted by Lloyd's. Mr Wallace on a date before 7 May 1991 obtained a beneficial interest in 15% of the shares of the Irish insurance company without Lloyd's consent. He did not become the legal owner of the shares, which remained in the name of a third party.

Mr Wallace made a substantial personal gain from his unauthorised interest in the shares of the Irish insurance company. Between 1993 and 1996, as a result of holding the beneficial interest in these shares, he was paid a total of £405,177 (which after Irish tax meant he received £295,779). By virtue of his position as active underwriter, Mr Wallace owed a fiduciary duty to the members of the syndicate. He did not account for the sums he received and in consequence made a secret profit.

Mr Wallace breached the provisions of the Related Parties Byelaw by acquiring an interest in the company's shares without the consent of Lloyd's. Mr Wallace ought to have known that such consent was required before he acquired the interest in the shares. Accordingly, Mr Wallace has admitted two charges of conducting insurance business in a discreditable manner.

The Syndicate Accounting Byelaw charges

Mr Wallace's interest in the shares of the Irish insurance company as set out above was "*a material interest*" as defined by the Syndicate Accounting Byelaws. Mr Wallace was obliged to disclose his interest in the shares of the Irish insurance company to Crowe to enable the latter to comply with its duties to disclose interests in the annual syndicate reports.

Between 1993 and 1997 Mr Wallace signed pro-forma "Disclosure of Interests" forms prepared by Crowe for the purposes of compliance with the Syndicate Accounting Byelaws. In certain of those disclosure statements he disclosed his directorship of the Irish insurance company. However, in none of those statements did he disclose his interest in the shares of the Irish insurance company, that interest having been disposed of in 1996. As a result, the members of syndicate 963 were not made aware of Mr Wallace's interest in those shares.

By virtue of his position as active underwriter Mr Wallace owed a fiduciary duty to the members of the syndicate. He did not account for the sums he received and in consequence made a secret profit.

Mr Wallace knew that he had an interest in the shares of the Irish insurance company and knew that he was obliged to disclose it. His declarations that he had no disclosable interests were untrue. Accordingly, Mr Wallace has admitted one charge of conducting insurance business with a lack of good faith and one charge of discreditable conduct