

FROM: Secretary, Lloyd's Disciplinary Board
LOCATION: 58/SE1
EXTENSION: 5530
DATE: 4 January 2000
REFERENCE: 003/2001
SUBJECT: **JAMES KIMBER**
SUBJECT AREA(S): Formal Disciplinary Proceedings – Case No.
LDB/0011/19C
ATTACHMENTS: Notice of Censure
ACTION POINTS:
DEADLINE:

James Kimber has admitted one charge of conducting himself in a discreditable manner and one charge of detrimental conduct.

At the relevant time Mr Kimber was a director of the insurance broker Gyngell Dobinson Gregory & Company Limited which operated in the Lloyd's market under an umbrella arrangement with the Lloyd's broker David Gyngell and Company Limited

As a result of these proceedings the following penalties have been imposed on Mr Kimber.

- i) That his 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 suspended for a period of three years;
- ii) That his right of admission to the Room and the other parts of the premises of the Society be suspended for a period of three years; and
- iii) That he be Censured in the terms of the Notice attached to this bulletin.

Mr Kimber has also provided undertakings required by Lloyd's which prohibit him from transacting or being concerned or interested in the transaction of the business of insurance in the Lloyd's market. These undertakings will continue after the cessation of the suspension orders. Mr Kimber has liberty to apply to the Council of Lloyd's to have these undertakings set aside or amended in the future.

Finally, Mr Kimber is also to contribute £2,000 towards the costs of Lloyd's arising from these proceedings.

Details of the events giving rise to the charges against Mr Kimber are set out in the Notice of Censure.

This case was determined by the Lloyd's Disciplinary Board and its decision gives effect to a settlement of these proceedings agreed between the Defendant and the Council pursuant to paragraph 3 of the Lloyd's Disciplinary Rules (Schedule 2 to the Disciplinary Committees Byelaw (No. 31 of 1996)).

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

AP Barber
Secretary
Lloyd's Disciplinary Board.

NOTICE OF CENSURE

JAMES KIMBER

James Kimber, a former director of the insurance broker Gygell Dobinson Gregory & Company Limited ("GDG") has admitted one charge of engaging in discreditable conduct and one charge of conducting himself in a manner which is detrimental to the interests of Lloyd's policyholders, the Society, members of the Society, Lloyd's brokers, underwriting agents, or others doing business at Lloyd's.

GDG operated in the Lloyd's market under an umbrella arrangement with the Lloyd's broker David Gygell and Company Limited ("DG"). Between 1988 and 1993 GDG placed shipowners liability reinsurance ("the SOL reinsurance") on behalf of six P&I Clubs. Mr Kimber was the account handler for the SOL reinsurance.

The premium paid by the P&I Clubs substantially exceeded that required by underwriters. Very substantial amounts of the excess premium paid was forwarded to six offshore companies registered in Liberia. These Liberian companies were managed through a company based in Jersey ("the Jersey management company").

In June 1992 the auditors to DG/GDG queried the payments to the Liberian companies and as a result a memorandum was sent to GDG's and DG's directors regarding the auditors' concern over commission payments to third parties.

On 18 January 1994 Mr Kimber, and his fellow directors, signed a letter of representation addressed to the company's auditors in which he denied having any financial interest in the agents (i.e. the Liberian companies) or in any of the payments made to them.

In 1997 Lloyd's commenced a formal inquiry into matters relating to the placement of the SOL reinsurance. This included querying the payments made to the Liberian companies.

In the course of that inquiry Mr Kimber was interviewed. In that interview Mr Kimber stated that he had not received any of the monies transferred to the Liberian companies and that he did not know the identity of any of the ultimate beneficiaries of the payments to the Liberian Companies.

However, during 1999 Lloyd's obtained evidence that between 1990 and 1993 Mr Kimber had in fact benefited from £91,044 from one of the Liberian companies. In addition Mr Kimber had received £10,000 from the Jersey management company.

Accordingly, the letter of representation signed by Mr Kimber was misleading in a material particular, namely that, he did not disclose as required the payment received from the Liberian company. Mr Kimber ought to have known that the payment had been made by one of the agents referred to in the letter of representation. Mr Kimber has therefore admitted the charge of detrimental conduct.

In addition, the statements made to the Lloyd's formal inquiry in 1997 were false or misleading in a material particular in that he did not disclose the payments received. In respect of this Mr Kimber has admitted the charge of discreditable conduct.

As a result the following penalties have been imposed on Mr Kimber;

- i) That his 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 suspended for a period of three years;
- ii) That his right of admission to the Room and the other parts of the premises of the Society be suspended for a period of three years; and
- iii) That he be Censured in the terms of this Notice.

Mr Kimber has also provided undertakings required by Lloyd's which prohibit him from transacting or being concerned or interested in the transaction of the business of insurance in the Lloyd's market. These undertakings will continue after the cessation of the suspension orders. Mr Kimber has liberty to apply to the Council of Lloyd's to have this undertaking set aside or amended in the future.

Finally, Mr Kimber is also to contribute £2,000 towards the costs of Lloyd's arising from these proceedings.

In assessing the penalties in this case account was taken of the fact that Mr Kimber has never before been found guilty of misconduct and in this instance acknowledged his guilt by admitting the charges.

In addition Mr Kimber has also said that he was not instrumental in the establishment the offshore companies and that the matters which are the subject of these proceedings led directly to the inability of GDG's successor company Dobinson Gregory Limited to continue to trade. As a result he suffered considerable financial loss.

LLOYD'S DISCIPLINARY BOARD