

FROM: The Secretary to Lloyd's Disciplinary Board
LOCATION: 58/NW1
EXTENSION: 5530
DATE: 24 May 2001
REFERENCE: 031/2001
SUBJECT: **LLOYD'S DISCIPLINARY PROCEEDINGS -
CASE NO. LDB0007/15 (MR P S O'CONNELL)**

ATTACHMENTS: One Notice of Censure
ACTION POINTS: For information
DEADLINE: None

On 11 April 2001 a Lloyd's Disciplinary Tribunal found Patrick Shane O'Connell, the former non-marine director of Lloyd's broker Leumi Insurance Services (UK) Ltd, guilty of one charge of conducting insurance business in a discreditable manner or with a lack of good faith and directed that the following penalty and order of cost should be imposed on him:

Penalty: a Notice of Censure
Costs: the payment of £5,319 towards Lloyd's costs

Mr O'Connell did not serve a Defence to the Notice of Formal Proceedings ("the Notice") that was served on him. As a result he was deemed to have admitted each of the allegations made against him in the Notice and the Disciplinary Tribunal issued findings accordingly. Mr O'Connell subsequently applied to have these findings of misconduct set aside but then abandoned this application.

The events that gave rise to the preferment of disciplinary charges against Mr O'Connell are summarised in the attached Notice of Censure.

The above summary is based on the report of the decision of the Disciplinary Tribunal, copies of which are available on request from the Secretariat to Lloyd's Disciplinary Committees on extension 6989 or 5530.

This bulletin is being sent to all underwriting agents, Lloyd's brokers, corporate members, market associations, the ALM, recognised accountants and the General Insurance Standards Council.

A. P. Barber
Secretary to Lloyd's Disciplinary Board

NOTICE OF CENSURE

PATRICK SHANE O'CONNELL

In December 2000 Mr O'Connell, having failed to serve a Defence, was deemed to have admitted the Charge made against him and the facts and matters set out in the Notice of Formal Proceedings and was accordingly found guilty by a Disciplinary Tribunal of Misconduct within the meaning of the Misconduct, Penalties and Sanctions Byelaw (No. 5 of 1983), namely the conduct of insurance business in a discreditable manner and with a lack of good faith.

At the material time Mr O'Connell was a member of the Society and an executive director of Leumi Insurance Services (UK) Limited ("Leumi") with specific responsibility for that company's non-marine department.

The misconduct of which Mr O'Connell was found guilty consisted of his signing and permitting the issue, in October 1992, of three cover notes which misrepresented the terms of the policies that they purported to evidence. As a result the reassured, AXA Marine & Aviation Insurance (UK) Limited, was unknowingly induced to pay inflated premiums to Leumi which were then used to fund 'commission' payments to a third party, 'I Persiguero'. I Persiguero was supposedly a producing broker to Aviation Underwriting Agents Limited ("AUAL", part of the AXA group) but was in reality Mr Martin Garvey, the then principal underwriter in the United Kingdom for AUAL, which was the agent responsible for placing the reinsurances in question with Leumi. A substantial portion of these payments also found its way back to Mr Ronald MacRo, at that time director of Leumi's aviation department, as secret commission (although Mr MacRo was not aware of the true identity of I Persiguero).

There is no suggestion that Mr O'Connell derived any personal benefit from his wrongdoing or that he knew the ultimate destination of the payments made to I Persiguero. He was, however, in a position to prevent the false cover notes being issued by checking them for conformity with the related underwriting slips and, in the absence of such conformity, refusing to sign them. In signing the cover notes as he did he either knew or ought to have known that they did not accurately reflect the terms on which the reinsurances had been placed with underwriters and was guilty of the conduct of insurance business in a discreditable manner and with a lack of good faith. Failure on the part of those who have the responsibility of signing cover notes to ensure that they properly reflect the true terms of the contract with underwriters brings the market into disrepute and facilitates fraud.

The Tribunal ruled that Mr O'Connell

1. be censured in the terms of this Notice; and
2. pay £5,319 towards the costs of the Council of Lloyd's and of the Disciplinary Tribunal.