

FROM: Secretary to Lloyd's Disciplinary Board
LOCATION: 58/2
EXTENSION: 5530
DATE: 5 October 2001
REFERENCE: 042/2001
SUBJECT: **UNITED INSURANCE BROKERS LIMITED, MR
GEORGE KABBAN AND MR ANTHONY
McCALLION**
SUBJECT AREA(S): Disciplinary Proceedings
ATTACHMENTS: Notice of Censure
ACTION POINTS: **For information**
DEADLINE: **None**

United Insurance Brokers Limited ("the Company") has admitted two charges of conducting insurance business in a discreditable manner.

Mr George Kabban has admitted one charge of conducting insurance business in a discreditable manner.

Mr Anthony McCallion has admitted one charge of conducting insurance business in a discreditable manner.

This case was concluded before the Lloyd's Disciplinary Board. The following penalties have been imposed on the Company:

- (i) A fine of £100,000; and
- (ii) A censure in the terms of the Notice of Censure attached to this bulletin.

In addition the Company has agreed to pay a contribution towards the costs of Lloyd's in the sum of £25,000.

The following penalties have been imposed on Mr George Kabban:

- (i) A fine of £10,000; and
- (ii) That he be censured in the terms of the Notice of Censure attached to this bulletin.

In addition, Mr George Kabban has given undertakings to Lloyd's including that for a period of six months he shall not be concerned or interested in the transaction of the business of insurance at Lloyd's, or any class or classes of such business and shall not have the right of admission to the Room for that purpose.

The following penalties have been imposed on Mr Anthony McCallion:

- (i) That he be censured in the terms of the Notice of Censure attached to this bulletin.

Details of the events giving rise to the charges against these defendants are set out in the attached Notice of Censure.

This bulletin has been 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

**UNITED INSURANCE BROKERS LIMITED
MR GEORGE KABBAN
MR ANTHONY McCALLION**

1. United Insurance Brokers Limited ("the Company") has admitted two charges of discreditable conduct. Mr George Kabban and Mr Anthony McCallion have each admitted one charge of discreditable conduct.
2. The Company was established in 1987. It was entered onto the Register of Lloyd's Brokers in 1989 and remains a registered Lloyd's broker.
3. Mr George Kabban was employed by the Company in October 1987. Between 1987 and 1993 he worked as a broker for the Offshore Division of the Company. In 1993 he was appointed co-divisional director of the Offshore Division of the Company and exercised managerial functions within the Division. In January 1997 he was appointed as a director of the board of the Company.
4. Mr McCallion during the relevant period was employed by the Company as a Divisional director of the Offshore Division and exercised managerial functions which included the day to day supervision of Mr George Kabban.
5. Between the 1 January 1995 and 30 September 1998 the Company acted as broker on behalf of a Middle Eastern insurance company ("the client") in respect of the reinsurance of risks relating to oil interests both onshore and offshore.
6. The Company also during this time acted as broker on behalf of a number of other Middle Eastern insurance companies.
7. The principal part of the Company's reinsurance business with the client related to a reinsurance programme ("the reinsurance programme") which provided reinsurance in respect of an offshore oil installation.
8. A general review of the Company by the Lloyd's Brokers department identified three instances where the gross premium agreed between underwriters and the Company was less than that notified to the client. As a consequence the Company conducted an internal review of reinsurance placed for the client by the Offshore Division. This indicated that gross premiums notified to the client were greater than the gross premiums agreed with underwriters and that the Company had failed to account to the client in respect of certain discounts due.

9. By agreement between Lloyd's and the Company, accountants were appointed to carry out an independent review of all placements for clients of the Company's Offshore Division from 1 January 1995. Following that review it was estimated that between 1 January 1995 and 20 September 1998 the Company had received overpayments of premium in respect of the client in the approximate sum of US\$1,180,041.89, subject to adjustment.
10. The client was subsequently fully informed by the Company of the sums of premium in excess of those agreed with underwriters and retained by the Company. The client agreed to those sums being retained by the Company.
11. In respect of reinsurance business conducted on behalf of other Middle Eastern insurance companies between 1 January 1995 and 1 June 1997 the Company caused cover notes and debit notes in respect of six policies to be issued which contained misleading particulars in respect of premium and discounts. Those companies were subsequently fully informed by the Company of the sums of premium in excess of those agreed with underwriters and retained by the Company. The client agreed to those sums being retained by the Company.

Mr George Kabban

- 12.1 Mr George Kabban became involved with the reinsurance programme at the beginning of his employment with the Company in 1987, and remained involved with it throughout the period of the charge. He was responsible for creating the placement documentation and specifically for the preparation of insurance documentation in relation to the reinsurance programme. In respect of six policies within the reinsurance programme, Mr George Kabban was responsible for the issuing of cover notes/debit notes which contained misleading particulars in respect of premium and discounts. He has also admitted he knew that the client's fully informed prior consent had not been obtained where the gross premiums notified to the client were greater than the gross premiums agreed with underwriters.
- 12.2 In respect of six policies relating to other insurance companies ("other policies") Mr George Kabban has admitted responsibility for the issuing of cover notes/debit notes which contained misleading particulars in respect of premium and discounts.
- 12.3 The misleading particulars included:
 - (a) misrepresenting the premium and premium rate agreed with underwriters and
 - (b) withholding discounts or allowances agreed with underwriters.

Mr McCallion

- 12.4 Mr McCallion was an employee of the Company whose task it was to exercise direct managerial supervision of Mr George Kabban. He has admitted that he failed to exercise any adequate control over the Offshore Division of the Company with regard to the misconduct of Mr George Kabban as alleged. In particular, Mr McCallion has admitted that he was party to two instances in respect of the reinsurance programme of creating misleading documentation in respect of cover notes and debit notes which contained misleading particulars and has admitted he knew that the client's fully informed prior consent had not been obtained where the gross premiums notified to the client were greater than the gross premiums agreed with underwriters.

12.5 In addition, Mr McCallion has also admitted that he signed a debit note in respect of one of the other policies knowing that it contained a misleading statement about the premium set by underwriters.

The Company

12.6 The Company has accepted that it is liable for the acts and omissions of its employees, Mr George Kabban and Mr McCallion, in the course of their employment. Accordingly, the Company has admitted a charge of discreditable conduct in relation to issuing credit notes and debit notes which contained misleading particulars in respect of premium and discounts.

12.7 The Company has accepted that it had a duty to ensure that adequate systems of supervision and control were in place and operative in order to detect such misconduct. The Company has admitted that it failed to exercise control over the Offshore Division.

In arriving at the following penalties Lloyd's Disciplinary Board has had regard to the following:

In respect of George Kabban:

- (i) That he co-operated fully with the Inquiry carried out by Lloyd's in relation to these transactions, and derived no direct personal benefit from the premiums retained.
- (ii) That slips in relation to the reinsurance programme and other policies had net equivalent clauses and that a number were issued prior to the publication of a Lloyd's Market Bulletin in September 1996 in which Lloyd's emphasised that such clauses operate only to allow the broker flexibility to "reduce its brokerage downwards".

In respect of the Company:

- (i) That the Company co-operated fully with the Inquiry carried out by Lloyd's in relation to these transactions.
- (ii) That the Company incurred substantial expense in respect of accountants' fees for the purposes of carrying out an independent review of the Offshore Division files from 1 January 1995.

In respect of Mr Anthony McCallion:

- (i) That he co-operated fully with the Inquiry carried out by Lloyd's in relation to these transactions, and derived no direct personal benefit from the premiums retained.
- (ii) That slips in relation to the reinsurance programme and other policies had net equivalent clauses and that a number were issued prior to the publication of a Lloyd's Market Bulletin in September 1996 in which Lloyd's emphasised that such clauses operate only to allow the broker flexibility to "reduce its brokerage downwards".

Penalties and Costs

As a result the following orders have been imposed in respect of these defendants:

- (i) the Company
 - (a) a fine of £100,000
 - (b) that it be censured in the terms of this Notice
 - (c) that it pay a contribution towards Lloyd's costs in the sum of £25,000.

- (ii) Mr George Kabban
 - (a) a fine of £10,000
 - (b) that he be censured in the terms of this Notice

In addition, Mr George Kabban has given undertakings to Lloyd's including that for a period of six months he shall not be concerned or interested in the transaction of the business of insurance at Lloyd's, or any class or classes of such business and shall not have right of admission to the Room for that purpose.

- (iii) Mr Anthony McCallion
 - (a) that he be censured in the terms of this Notice

Lloyd's Disciplinary Board