

FROM: Secretary to Lloyd's Disciplinary Board
LOCATION: 58/NW1
EXTENSION: 5530
DATE: 16 October 2000
REFERENCE: 074/2000
SUBJECT: **BYAS MOSLEY & COMPANY LIMITED**
SUBJECT AREA(S): Disciplinary Proceedings
ATTACHMENTS: Notice of Censure
ACTION POINTS: **For information**
DEADLINE: **None**

In proceedings before a Lloyd's Disciplinary Tribunal, Byas Mosley & Company Limited ("Byas Mosley") admitted one charge of conducting insurance business in a discreditable manner, and one charge of conducting itself in a manner 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. During the course of the hearing the Council withdrew certain other charges against Byas Mosley. Byas Mosley's liability for misconduct arose through the actions of its former director, Edward Georges Rossdale.

The Disciplinary Tribunal directed that a Notice of Censure, in the terms of the Notice attached to this bulletin, should be posted in the Room.

In view of the fact that Byas Mosley is in run-off a financial penalty was not appropriate. There was no order as to costs.

Details of the events giving rise to the charges are contained in the attached Notice of Censure.

The Tribunal wished to make it clear that the U.K. business formerly carried on by Byas Mosley & Company Limited was, on April 1999, sold to Towergate Underwriting Group Limited ("Towergate"). Towergate has subsequently carried on that business trading under the name of "Byas Mosley". Towergate is not responsible for any of the matters referred to above.

Copies of the full report of the disciplinary proceedings may be ordered from the Disciplinary Secretariat, telephone no. 020 7327 5530.

This bulletin has been sent to all underwriting agents and members agents (corporate advisors), corporate members, market associations, the ALM and recognised accountants.

A P Barber
Secretary to Lloyd's Disciplinary Board

**NOTICE OF CENSURE
BYAS MOSLEY & COMPANY LIMITED**

Byas Mosley & Company Limited (“Byas Mosley”), formerly a Lloyd’s registered broker, has admitted two charges of misconduct. One charge is of conducting insurance business in a discreditable manner and the other charge is of conducting itself in a manner 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. Byas Mosley’s liability for misconduct arises through the acts and omissions of Edward Georges Rossdale (“Mr Rossdale”), formerly a director of Byas Mosley.

In 1995 and 1996 Byas Mosley through Mr Rossdale acted as the Lloyd’s broker in respect of the reinsurance of certain extended warranty insurance business in North America (“the Honorguard programme”). Virginia Surety Company (“VSC”) fronted the risk to 100% and was the reassured. Aon Reinsurance Inc (“Aon Re”) acted as broker to VSC. Chapman & Associates, a licensed broker in the USA, acted as the insurance/risk management consultants to underwriters.

By 23 November 1995 underwriters had agreed to give Byas Mosley brokerage of 5.66% of the Net Retained Premium (“NRP”) for the 1995/ 1996 year of account. This represented a reduction in the amount of brokerage given for the previous year of account, which had been 7.5% of the NRP. It was agreed between Byas Mosley and Chapman & Associates that they would split the brokerage equally between them.

On 12 December 1995 Mr Rossdale falsely stated in a letter to Chapman & Associates that underwriters had reduced the brokerage allocation to 3.5% for the

1995/ 1996 year of account. On 21 December 1995 Mr Rossdale again falsely stated to Chapman & Associates that the brokerage had been reduced to 3.5%.

It is Mr Rossdale's account, which is not challenged by the Council, that from the inception of the 1995 underwriting year Chapman & Associates had been overpaid sums in respect of their proportion of brokerage due for that year. Such payments had been calculated on the basis of an entitlement to 50% of the brokerage of 7.5% of the NRP. Accordingly, Chapman & Associates had by November 1995, received in excess of the sum to which they were properly entitled on the basis of brokerage of 5.66%.

It is not alleged by the Council that Mr Rossdale failed to account to Chapman & Associates for all sums properly due in respect of their share of the brokerage or that Mr Rossdale acted with a lack of good faith. Byas Mosley has accepted however that the amount of brokerage stated by Mr Rossdale was wrong and that as a result he conducted insurance business in a discreditable manner.

On 13 June 1996 Mr Rossdale sent Aon Re a copy of what was described by him as the "final slip" for the 1996/1997 year of account. It differed from the slip presented to and scratched by underwriters in that it contained under the heading of "Information" a paragraph (D) not contained in the slip scratched by underwriters. This paragraph (D) related to an amount of money to be remitted to Byas Mosley for disbursements.

Paragraph (D) represented the position as understood and agreed by the leading underwriter albeit not actually recorded on the slip scratched by underwriters. The failure to record that paragraph in the slip was not material to VSC or the leading underwriter. Nevertheless, Byas Mosley accepts that the slip sent to Aon Re ought not to have been described as the "final slip" and that this was inaccurate.

In respect of these two charges, Byas Mosley's conduct fell below the standard of behaviour expected from a Lloyd's broker. The Tribunal directed that this Notice of Censure should be posted in the Room. In view of the fact that Byas Mosley is in run-off a financial penalty was not appropriate. There was no order as to costs.

The Tribunal wishes to make it clear that the U.K. business formerly carried on by Byas Mosley & Company Limited was, on April 1999, sold to Towergate Underwriting Group Limited ("Towergate"). Towergate has subsequently carried on that business trading under the name of "Byas Mosley". Towergate is not responsible for any of the matters referred to above.

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Mr Robert Englehart Q.C.
Chairman

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Mr Paul Barnes

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Mr Rodney Huggins