

FROM: Secretary to Lloyd's Disciplinary Tribunal
LOCATION: 58/NW1
EXTENSION: 5530
DATE: 1st September 1999
REFERENCE: 077/99
SUBJECT: **COLIN DAVID JOHN FAIRLIE**

SUBJECT AREA(S): Disciplinary Proceedings
ATTACHMENTS: Notice of Censure
ACTION POINTS: **For information**
DEADLINE: **None**

In proceedings before a Lloyd's Disciplinary Tribunal, Colin David John Fairlie admitted one charge of conducting insurance business in a discreditable manner or with a lack of good faith and a further charge of being associated in or associated with discreditable conduct. Mr Fairlie was a senior account technician at Fenchurch Insurance Brokers Limited, a Lloyd's Broker.

The Disciplinary Tribunal ordered that Mr Fairlie should receive the following penalties:-

- (i) That his right of admission to the Room and the other parts of the premises of the Society of Lloyd's be suspended permanently;
- (ii) That his right to transact the business of insurance at Lloyd's or any class or classes of such business be suspended permanently;
- (iii) That he cease to be involved or interested, whether directly or indirectly in the broking of any insurance business at Lloyd's;
- (iv) That he cease to be involved or interested, whether directly or indirectly, in the management or conduct of the business of a Lloyd's broker;
- (v) That he shall not become a director or a partner in a Lloyd's broker;
- (vi) That he shall not work for a Lloyd's broker; and
- (vii) The posting of a Notice of Censure in the Room in the terms of the Notice attached to this bulletin.

In fixing the penalty, the Tribunal took into account Mr Fairlie's admissions, the fact that he did not initiate the fraud and the fact that he gained no personal benefit from it.

Mr Fairlie's misconduct relates to the period from 7 August 1996 to May 1997 when he dishonestly helped Mr Pexton to act in such a way as to cause Fenchurch Insurance Brokers Limited to retain a secret profit. The secret profit was taken by concealing from a U S client the true level of package credit being offered by Underwriters.

The fraud required the preparation of false documentation which was forwarded to the producing broker. Mr Fairlie was knowingly involved in the preparation of such documentation.

Copies of the full report of the disciplinary proceedings may be ordered from the Disciplinary Secretariat, telephone nos. 0171 327 6989/5530.

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

A P Barber
Secretary to Lloyd's Disciplinary Tribunal

NOTICE OF CENSURE

COLIN DAVID JOHN FAIRLIE

Colin David John Fairlie, who was a person working for a Lloyd's broker, is guilty of misconduct.

In 1996 and 1997 he engaged in or was associated with discreditable conduct.

Mr Fairlie was employed as a senior account technician by Fenchurch Insurance Brokers Ltd.

From 1986 onwards Fenchurch Insurance Brokers Ltd placed the marine insurances of the United States Gypsum Corporation in the London market. The insurance was consolidated into one placement or "package" policy on which Underwriters allowed a package credit.

The level of package credit allowed by Underwriters was 7.5%. Fenchurch Insurance Brokers Ltd falsely represented to the producing broker for the account that the level of package credit was only 5% and retained the difference as a secret profit. Mr Fairlie knew of the fraud and actively participated in it. He assisted his employers to conceal the true level of package credit from the producing broker and the policyholder. He prepared, or concurred in the preparation of, false documentation and instructed other employees of Fenchurch Insurance Brokers Ltd to conceal the truth from their clients. The secret profit which thereby came to Fenchurch Insurance Brokers Ltd in 1996 was US \$34,867. A further secret profit of US \$39,305 would have been taken by the company in 1997 if the fraud had not been discovered.

Mr Fairlie has worked in the insurance industry for twenty-three years, the whole of his working life, and had no personal benefit from his misconduct but dishonesty is not to be tolerated in the Lloyd's market.

The Disciplinary Tribunal directed:

Censure/pm90611h

- (i) that Mr Fairlie's right of admission to the Room and the other parts of the premises of the Society of Lloyd's be suspended permanently;
- (ii) that Mr Fairlie's right to transact the business of insurance at Lloyd's or any class or classes of such business be suspended permanently;
- (iii) that Mr Fairlie cease to be involved or interested, whether directly or indirectly, in the broking of any insurance business at Lloyd's;
- (iv) that Mr Fairlie cease to be involved or interested, whether directly or indirectly, in the management or conduct of the business of a Lloyd's broker;
- (v) that Mr Fairlie shall not become a director or a partner in a Lloyd's broker;
- (vi) that Mr Fairlie shall not work for a Lloyd's broker;
- (vii) that Mr Fairlie be censured for his misconduct and that this notice be posted in the Room.

.....
MR IAN MAYES Q.C. (CHAIRMAN)

.....
MRS A T FOLLIS

.....
MRS A H GILLIBRAND

June 1999