

FROM: Secretary to Lloyd's Disciplinary Board
LOCATION: 58/NW1
EXTENSION: 5530
DATE: 16 November 2000
REFERENCE: 080/00
SUBJECT: MR MARTIN SPENCER
SUBJECT AREA(S): Formal Disciplinary Proceedings
ATTACHMENTS: Notice of Censure
ACTION POINTS: **For information**
DEADLINE: **None**

Mr Martin Spencer has admitted four charges of misconduct namely, discreditable conduct contrary to paragraph 3(f) of the Misconduct and Penalties Byelaw (No.30 of 1996).

Mr Spencer was the Finance Director of Sneath Kent Stuart Limited ('the Company'), a registered Lloyd's broker and was a signatory to the company's IBA's. Mr Spencer has admitted the following misconduct:

- (1) failing to control the management and operation of the Company's IBA's;
- (2) failing to ensure that monthly solvency returns were submitted to Lloyd's;
- (3) failing to ensure that the IBA solvency was maintained; and
- (4) failing to report to Lloyd's the fact that the Company's IBA's had become insolvent.

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

The following penalties have been imposed upon Mr Spencer:

- (i) Permanent suspension of his right of admission to the Room and other parts of the premises of the Society and of his right to transact or be concerned or interested in the transaction of any business of insurance at Lloyd's, and

- (ii) That a Notice of Censure be posted in the Room (a copy of which is attached); and
- (iii) An aggregate fine of £15,000; and
- (iv) Lloyd's costs of £5,000.

In the light of Mr Spencer's means, the fine was remitted and the costs figure reduced to £1,000.

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

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

AP Barber
Secretary
Lloyd's Disciplinary Board

NOTICE OF CENSURE

MARTIN SPENCER

Mr Spencer has admitted four charges of misconduct namely, discreditable conduct contrary to paragraph 3(f) of the Misconduct and Penalties Byelaw (No.30 of 1996).

Mr Spencer was the Finance Director of Sneath Kent and Stuart Limited ("the Company"), a registered Lloyd's broker, and was a signatory to the Company's IBA's.

In June 1996, Lloyd's made it a condition of the Company's registration as a Lloyd's broker that it submit monthly returns to Lloyd's, in accordance with paragraph 35 of the Lloyd's Brokers Byelaw (No.5 of 1988). In February 1997, the Company sold its book of business to Windsor PLC and the Company went into 'run-off'. The Company ceased to receive significant quantities of brokerage, due to the run-off in progress.

In April 1997, the Company submitted a solvency return to Lloyd's for the period to 31 March 1997 which showed the Company's IBA's to be solvent. Between April 1997 and February 1998, no solvency returns were submitted to Lloyd's on behalf of the Company.

In February 1998, the Company submitted two solvency returns for the period 1 April 1997 to 31 December 1997; and for the period 1 April 1997 to 31 January 1998. These returns showed that by December 1997 the Company's IBA's were insolvent by £107,876, and by the end of January 1998, the deficit had risen to £129,272. On 31 March 1998, the Company submitted a further solvency return that showed a greater deficit of £137,183.

Sometime between March 1997 and December 1997, the Company's IBA's became insolvent. In consequence of the failure to submit monthly solvency returns, Lloyd's was unaware that the Company's IBA's had become insolvent until March 1998.

As the Finance Director of the Company, and as a signatory to the IBA's, Mr Spencer was responsible for the control and management of the Company's IBA's.

At all material times referred to above, Mr Spencer failed to exercise proper control over the management of the Company's IBA's to prevent them from becoming insolvent. Further, he failed to ensure that monthly solvency returns were being submitted to Lloyd's as required. During the course of 1997, he knew or ought to have known that the Company's IBA's became insolvent. He failed to report the insolvency to Lloyd's.

The following penalties have therefore been imposed upon Mr Spencer:

- (i) permanent suspension of his right of admission to the Room and other parts of the premises of the Society and of his right to transact or be concerned or interested in the transaction of any business of insurance at Lloyd's (together with supplementary directions made pursuant to the Suspension: Supplementary & Consequential Matters

Byelaw (No.19 of 1983); and

- (ii) that he be censured in accordance with the terms of this notice; and
- (iii) an aggregate fine of £15,000; and
- (iv) Lloyd's costs of £5,000.

In the light of Mr Spencer's means, the fine was remitted and the costs figure reduced to £1,000.

In assessing the penalties and costs in this matter account has been taken of the following facts:

- (1) Mr Spencer has admitted the charge as set out above and has at all times co-operated fully with Lloyd's in the conduct of their investigation. He has admitted the misconduct as identified above and is prepared to face the appropriate penalty for the purpose of settling the proceedings against him and avoiding the cost and expense that would be incurred by Lloyd's in furthering the proceedings.
- (2) There was never any intention on the part of Mr Spencer to mislead Lloyd's in any way.
- (3) There have been no previous findings of misconduct against Mr Spencer.
- (4) Mr Spencer suffered losses as a Lloyd's Name and entered into a 'hardship' agreement. He currently relies on a contribution from his wife's income in order to meet his living expenses.

LLOYD'S DISCIPLINARY BOARD