

FROM: Secretary to Lloyd's Disciplinary Board
LOCATION: 58/NW1
EXTENSION: 5530
DATE: 17 November 1999
REFERENCE: 089/99
SUBJECT: **PAUL TOWEY**

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

Paul Towey has admitted a single charge of discreditable conduct within the meaning of Paragraph 3(f) of the Misconduct and Penalties Byelaw (No. 30 of 1996).

As a result of these disciplinary proceedings Mr Towey has:

- (i) Been permanently suspended from his right to transact, or be concerned or interested in the transaction of, the business of insurance at Lloyd's or any class or classes of such business.
- (ii) Been suspended, permanently, from the right of admission to the Room and other parts of the premises of the Society; and
- (iii) Been censured in the terms of the attached Notice of Censure.
- (iv) Been ordered 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.

At the relevant time, Mr Towey was the Chairman and Director of Paul Group International Limited ("PGI"), a Lloyd's broker.

Mr Towey in support of his obligations in relation to his personal business dealings, gave an undertaking on behalf of PGI, for no benefit to PGI, to pay US\$100,000 to others. As a result of the failure to make such payments, legal proceedings were brought against PGI. Thereafter, Mr Towey entered into a Consent Order under which he caused PGI to become

liable to pay US\$600,000 in default of which “all real and personal property” of PGI would be transferred to the plaintiff. That sum was not paid and as a consequence on the 22 February 1999 the High Court ordered PGI inter alia to transfer all real and personal property to the plaintiffs, including all IBA assets held by PGI. This caused PGI to go into liquidation on 24 February 1999.

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

This case was determined by Lloyd’s Disciplinary Board and its decision gives effect to settlement of these formal disciplinary proceedings on terms agreed between the defendant 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 accountants.

A P Barber
Secretary to Lloyd’s Disciplinary Board

NOTICE OF CENSURE

PAUL TOWEY

Paul Towey ("Mr Towey") was at all material times the Chairman and a Director of Paul Group International Limited ("PGI"), a Lloyd's broker. Mr Towey has admitted a single charge of discreditable conduct within the meaning of the Misconduct, Penalties and Sanctions Byelaw (No. 30 of 1996).

Mr Towey in support of his obligations in relation to his personal business dealings gave an undertaking on behalf of PGI, for no benefit to PGI, to pay US\$100,000 to others. As a result of the failure to make such payments, legal proceedings were brought against PGI. Mr Towey entered into a Consent Order under which he caused PGI to be liable to pay US\$600,000 in default of which "all real and personal property" of PGI would be transferred to the plaintiff. That sum was not paid.

As a consequence, on 22 February 1999 the Court ordered PGI inter alia to transfer all real and personal property to the plaintiffs, including all IBA assets held by PGI. This caused PGI to go into liquidation on 24 February 1999.

PGI was a wholly owned subsidiary of Paul Group Limited, in respect of which Mr Towey owned 50% of the ordinary shares and 500,000 preference shares. In or around April 1998 Mr Towey entered into negotiations a Jordanian businessman and associated entities to sell the vessel M.V. Baroon. The Baroon was owned by a Bahamian company called Redcap Limited ("Redcap") of which Mr Towey was at all material times the 50% beneficial owner. Redcap entered into an agreement dated 23 April 1998 to sell the Baroon to the Jordanian businessman and his associated entities. The Baroon at the time was the subject of an arrest warrant issued in the United Arab Emirates at the request of the Iraqi government and its sale was dependent upon Mr Towey securing the release of the vessel.

By a further agreement dated 16 June 1998 between Redcap and the Jordanian businessman and his associated entities, Redcap being unable to procure the release of the Baroon, it was agreed that Redcap pay the prospective purchasers the sum of US\$47,000. In the event that the said sum was not transferred on or before 24 June 1998 Redcap would become liable to pay the sum of US\$150,000. The agreement dated 23 April 1998 was terminated by the agreement of 16 June 1998.

In addition, Mr Towey signed an undertaking on behalf of PGI dated 26 June 1998 stating that in the event that PGI failed to procure the release of the Baroon from arrest within 30 days, PGI would be liable to pay the sum of US\$100,000 to the Jordanian businessman and his associated entities. No consideration passed to PGI which constituted valid consideration for PGI being a party to these agreements.

Mr Towey was unable to effect the release of the Baroon and as a consequence the sum of US\$100,000 was claimed from PGI pursuant to the undertaking. On 25 November 1998 a Mareva injunction was obtained against Mr Towey, PGI and the Paul Group Limited by the Jordanian businessman and his associated entities which was continued by order of the High Court on 1 December 1998.

On or before the 7 December 1998 the Finance Director and Company Secretary of PGI became aware of the High Court proceedings and tendered his resignation to Mr Towey. Mr Towey thereafter failed to ensure notification to Lloyd's by PGI of the resignation of the Finance Director and Company Secretary in accordance with obligations under the Lloyd's Brokers Byelaw (No. 5 of 1998) and Individual Registration Byelaw (No. 3 of 1998).

On 9 December 1998 Mr Towey agreed on behalf of all three defendants (including PGI) to a Consent Order under which inter alia they were required to pay US\$600,000 by 15 February 1999, failing which they would become jointly and severally liable to pay US\$1 million. The Consent Order further provided that if the sum of US\$1 million was not paid in "all real and personal property of the defendants," including PGI, would vest in the plaintiff.

Mr Towey agreed to this Consent Order despite believing on his own account that at most PGI were liable for only US\$100,000 pursuant to the Undertaking dated 26 June 1998. This Consent Order was entered into by Mr Towey without the knowledge or consent of any other Director of PGI.

The Consent Order was not complied with in any respect, following which, on 22 February 1999 before Mr Justice Klevan, judgement was entered for the plaintiffs against the defendants in the sum of US\$1,565,000 and the learned Judge ordered the defendants inter alia to transfer all real and personal property to the plaintiffs, which included all the IBA assets held by PGI. As a consequence of this PGI went into liquidation on the 24 February 1999.

In the circumstances Mr Towey conducted insurance business in a discreditable manner.

PENALTIES AND COSTS

The Disciplinary Tribunal ordered that Mr Towey shall receive the following penalties:

- (i) Permanent suspension from his right to transact, or be concerned or interested in the transaction of, the business of insurance at Lloyd's or any class or classes of such business.
- (ii) The suspension, permanently, of the right of admission to the Room and other parts of the premises of the Society; and
- (iii) Mr Towey shall be censured by the posting in the Room of this Notice of Censure.

In addition, the Disciplinary Board made a supplementary order relating to Mr Towey's permanent suspension as follows:

- (a) That he is to cease to be involved or interested, whether directly or indirectly, in the management or conduct of the business of a Lloyd's broker.

In assessing the relevant penalties account has been taken of the following:

- (a) That Mr Towey made frank admissions in interview,
- (b) That Mr Towey has admitted the charge of misconduct and concluded a settlement with Lloyd's at the earliest opportunity, and

- (c) The evidence of his means set out in an Affidavit sworn by Mr Towey on 31 August 1999.

Having regard to Mr Towey's means the Council of Lloyd's did not seek an award of costs, and accordingly no such order is made. But for Mr Towey's means the Disciplinary Board would have concluded that the appropriate order would have, in addition to the penalties imposed, included a substantial financial penalty and an award of costs against Mr Towey.

LLOYD'S DISCIPLINARY BOARD