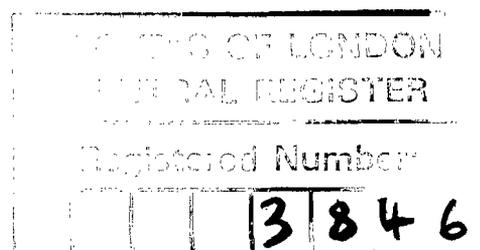


Ms D Dalmon
Manager
Lloyd's Information Centre:
86/G10

0026 BRO 614



FROM: The Secretary to Lloyd's Disciplinary Board
LOCATION: 58/NWI
EXTENSION: 5,530
DATE: 6 June 1997
REFERENCE: 054/97
SUBJECT: LLOYDS DISCIPLINARY PROCEEDINGS - CASE NO. 9401/4 (DEREK JAMES WALKER)

ACTION POINTS: **For information**
DEADLINE: **Effective Immediately**

On 10 May 1996 a Lloyd's Disciplinary Committee found Mr Derek James Walker guilty of one charge of furnishing misleading, false or deceptive information to a syndicate auditor contrary to paragraph 12H of the Syndicate Accounting Byelaw (No. 11 of 1987) and two charges of conducting insurance business in a discreditable manner. On each charge the Disciplinary Committee found that Mr Walker's conduct had been reckless rather than deliberate.

An appeal was lodged by Mr Walker on 25 October 1996 against the costs award made by the Disciplinary Committee. This appeal was subsequently withdrawn on terms and was formally dismissed by Lloyd's Appeal Tribunal on 2 June 1997.

The offences which the Disciplinary Committee found proved against Mr Walker concerned the provision of information to the auditor of Syndicate 290 and the members of Syndicate 290 in or about May 1991. Mr Walker was at the time the active underwriter of Syndicate No. 290 and a director and the deputy chairman of its managing agent, Gooda Walker Ltd (GWL).

The essence of the charges against Mr Walker was that in his capacity as the active underwriter of Syndicate 290 he signed and thereby approved three documents in May 1991 namely:

- (i) a letter of representation addressed to the auditor of Syndicate 290 concerning the audit of Syndicate 290's accounts for the year ended 31 December 1990;
- (ii) the accounts within Syndicate 290's annual report for the 1990 year end ; and
- (iii) the underwriter's report within Syndicate 290's annual report for the 1990 year end (which he had largely prepared himself).

Each of these documents wrongly omitted to refer to certain transactions which had been effected only a matter of weeks previously by GWL and which, in the case of the letter of representation and the accounts within Syndicate 290's 1990 annual report, gave a seriously misleading picture of the syndicate's time and distance policy programme at the date of these documents.

Having taken into account all the points made in mitigation in his favour, the Disciplinary Committee imposed the following composite penalties on Mr Walker in respect of the charges found proven against him:

- (i) that he be censured in the terms of the attached notice of censure; and
- (ii) that he should pay a fine of £20,000.

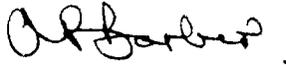
In addition the Disciplinary Committee ordered that Mr Walker should pay £96,000 to the Council in respect of its costs in the proceedings and that he should bear his own costs in the proceedings (which were stated to be in excess of £140,000 at that stage).

The disciplinary proceedings were determined under the provisions of the Misconduct, Penalties and Sanctions Byelaw (No. 5 of 1983), as amended, and the Disciplinary Committees Byelaw (No. 10 of 1993). The new Misconduct and Sanctions Byelaw and Disciplinary Committees Byelaw made by the Council of Lloyd's in August 1996 had no application to these proceedings, which involved events occurring and charges brought before that time.

Following the receipt of the reasoned decisions of the Disciplinary Committee as to verdicts, penalties and costs, Mr Walker lodged an appeal on 25 October 1996 against certain aspects of the costs order. This appeal was subsequently withdrawn on agreed terms on 30 May 1997 and in consequence the Lloyd's Appeal Tribunal formally dismissed Mr Walker's appeal on 2 June 1997.

The above summary is based on the report of the proceedings before the Disciplinary Committee and the Appeal Tribunal. Copies of this report are available on request from the Secretary to the Disciplinary Board on Lloyd's extension 6989 or 5530.

This bulletin is being sent to all underwriting agents and Lloyd's advisers, Lloyd's brokers, corporate members, market associations, the ALM and recognised auditors.

A handwritten signature in black ink, appearing to read 'A P Barber'.

A P Barber
Secretary to Lloyd's Disciplinary Board

DEREK JAMES WALKER

Notice of Censure

In verdicts delivered on 10th May this year we found Derek James Walker guilty of three separate but related offences of misconduct in relation to the provision of information in May 1991 to the auditors and members of Syndicate 290.

The material conduct involved the signature by Mr Walker in his capacity as active underwriter of that Syndicate of a letter of representation addressed to the syndicate auditors in connection with the annual audit of the year ended 31st December 1990, the Syndicate's annual accounts for that year, and his underwriter's report to members of Syndicate 290 for that year (that report being also largely prepared by Mr Walker),

each of which wrongly omitted any reference to certain post year end transactions that had been effected only a matter of weeks previously by Gooda Walker Limited ("GWL") as managing agent and which, in the case of the letter of representation and the annual accounts, gave a seriously misleading picture of the state of the Syndicate's Time and Distance programme at the date of that letter and the finalisation of the accounts.

The transactions involved the cancellation and rewriting, at considerable cost but with deferred payment of premiums, of the bulk of Syndicate 290's then Time and Distance policies and the use of some US\$ 27 million and £6.4 million, released from cancelled Security Fund Agreements, to reduce the indebtedness of GWL syndicates (not confined to Syndicate 290 and including in particular Syndicate 298) on their Lloyd's American Trust Fund account until such time as that indebtedness could (it was hoped) be resolved

by cash calls and reinsurance recoveries. They were transactions of which Mr Walker himself was well aware, he having been involved in their negotiation, and which should have been reflected in the three documents in question.

A majority of us was not persuaded on the evidence that the offending statements and omissions were deliberate on the part of Mr Walker. But the circumstances in which they occurred did involve, in our judgement, a degree of neglect that went well beyond what might ordinarily pass as mere negligence or inadvertence and amounted, on the part of Mr Walker, to recklessness and a disregard of his obligations as active underwriter of Syndicate 290 of a serious order.

The documents in question were ones which by their form and nature, and in two cases also by express provision of the bye-laws, deserved and required Mr Walker's personal attention. The reason for the separate signature of the active underwriter on the letter of representation and the annual accounts, as for the making of an annual report by the underwriter himself, is that he stands in a distinctive, fiduciary relationship with his Names, that it is desirable that documents of such significance should bear his personal imprimatur and that they should do so, not as a matter of passing formality but as substantive confirmation that the contents of the document have received his individual scrutiny and approval so far as it is reasonably within his competence to give it. For any underwriter, let alone one of Mr Walker's experience, to put his name to documents of this kind without properly applying his mind to their content and with an undue degree of reliance on others (as we find) is wholly unacceptable. So also is the omission to give active consideration to the importance of making due disclosure to Names of matters of which they might properly expect to be told in the annual

report of their underwriter. Such conduct is, among other things, wholly incompatible with the trust that is fundamental to the relationship between the members of a Lloyd's syndicate and their underwriter.

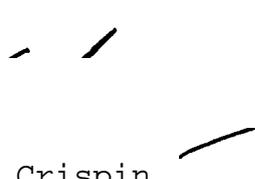
We accordingly found Mr Walker guilty of a charge of making a misleading, false or deceptive statement to a syndicate auditor in breach of the Syndicate Accounting Byelaw (No. 11 of 1987) and of two charges of conducting insurance business in a discreditable manner.

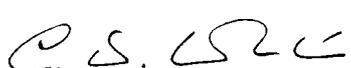
By way of composite penalty for these offences we have directed (1) that Mr Walker be censured by publication in the Room of a notice in the terms of this statement, and (2) that he pay a fine of £20,000. In addition Mr Walker will, by our direction, have to pay £96,000 towards the Council's costs of these proceedings and will also have to bear his own costs in excess of some £140,000. In setting the fine at the level that we have done, one of the matters to which we have had due regard is the total amount of costs that Mr Walker now has to bear.

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It is to be emphasised that the charges faced by Mr Walker in these proceedings were concerned solely with issues of disclosure and reporting and did not involve allegations of misconduct on his part in relation to the transactions themselves or in relation to the underwriting of insurance or reinsurance on behalf of Names.


Howard Page Q.C.


Julian Crispin


Colin White

 - August 1996