

MARKET BULLETIN

REF: Y4280

Title	Alistair Mark Mellis, Ksenya Mazalova and Albert Thomas Phipps
Purpose	To provide information relating to the Enforcement Proceedings relating to Mr Alistair Mark Mellis, Ms Ksenya Mazalova and Mr Albert Thomas Phipps
Type	Event
From	Georgina Rose, Secretary to the Enforcement Board georgina.rose@lloyds.com / 020 7327 5016
Date	14 May 2009
Deadline	N/A
Related links	Enforcement Byelaw ; Requirements under the Enforcement Byelaw

In proceedings before the Lloyd's Enforcement Board, Alistair Mark Mellis (known as Mark Mellis) and Ksenya Mazalova have each admitted one charge of discreditable conduct and one charge of detrimental conduct. Albert Thomas Phipps (known as Tom Phipps) has admitted one charge of detrimental conduct.

Towards the end of 2007, while employed at a Lloyd's managing agent, each of the individuals accepted separate offers of employment from Ark Syndicate Management Limited ("Ark"). The events relating to this case occurred during the period when the individuals changed employment. Details of the events giving rise to these proceedings and of the charges admitted are set out in the attached Notices of Censure.

The Enforcement Board has approved the following settlement terms -

Mr Mellis

1. Mr Mellis's permission, consent or right to transact, or be concerned or interested in the transaction of insurance business or classes of business at Lloyd's be suspended for a period of six months;
2. Mr Mellis's permission to enter the Room without the prior permission of Lloyd's be suspended for a period of six months;

3. Mr Mellis to be censured in the terms of the attached Notice of Censure;
4. Mr Mellis to pay a contribution of £10,000 towards the costs of Lloyd's in these proceedings.

Ms Mazalova

1. Ms Mazalova's permission, consent or right to transact, or be concerned or interested in the transaction of insurance business or classes of business at Lloyd's be suspended for a period of three months;
2. Ms Mazalova's permission to enter the Room without the prior permission of Lloyd's be suspended for a period of three months;
3. Ms Mazalova to be censured in the terms of the attached Notice of Censure;
4. Ms Mazalova to pay a contribution of £10,000 towards the costs of Lloyd's in these proceedings.

Mr Phipps

1. Mr Phipps to be censured in the terms of the attached Notice of Censure;
2. Mr Phipps to pay a contribution of £5,000 towards the costs of Lloyd's in these proceedings.

These proceedings were determined by the Lloyd's Enforcement Board and its decision gives effect to the settlement of these proceedings agreed between the Defendants and the Council of Lloyd's.

Georgina Rose
Secretary to the Enforcement Board

Notice of Censure

Mr Alistair Mark Mellis
Mr Albert Thomas Phipps
Ms Ksenya Mazalova

Alistair Mark Mellis (known as Mark Mellis) and Ksenya Mazalova have each admitted one charge of discreditable conduct and one charge of detrimental conduct. Albert Thomas Phipps (known as Tom Phipps) has admitted one charge of detrimental conduct.

Background

In 2007 Mr Mellis and Mr Phipps were employed as Personal Accident underwriters at a Lloyd's managing agent. Ms Mazalova was employed in the same team as an assistant underwriter. At different times in September 2007 each of the individuals accepted separate offers of employment by Ark Syndicate Management Limited ("Ark") to join a new Personal Accident team being set up at Ark.

Mr Mellis, Mr Phipps and Ms Mazalova each gave notice to their then employer at different times in September and October. Ms Mazalova's notice period was the first to expire and she began her employment at Ark in mid-November. Mr Mellis and Mr Phipps each joined Ark during December. All three individuals were required by their first employer to continue with their responsibilities during their notice periods subject to Mr Mellis and Mr Phipps each being placed on "garden leave" for short periods towards the end of their notice periods.

The appropriation and improper use of documents

While both were still at their former employer, Mr Mellis sent by email to Ms Mazalova a number of confidential documents relevant to underwriting which belonged to their employer. Shortly before her last day Ms Mazalova downloaded the documents onto a memory stick which Ms Mazalova then took home with her. On commencing employment at Ark Ms Mazalova arranged for all of the documents to be loaded onto Ark's computer system.

On two occasions while Ms Mazalova was at Ark and prior to Mr Mellis joining Ark Ms Mazalova sent to Mr Mellis documents which had been taken by her for the purpose of obtaining Mr Mellis' assistance.

When Ark became aware of the documents taken by Ms Mazalova on around 7 December 2007 it took immediate steps to disable all access to the documents on Ark's computer system.

Mr Mellis and Ms Mazalova have both admitted that they knew or ought to have known that the confidential documents belonged to their then employer and they were not entitled to retain, use or pass on the information except for the purposes of their employment.

Ms Mazalova has admitted further that she knew or ought to have known that she should not have acted as she did in taking the documents or she should have asked Mr Mellis or others in senior management at her then employer whether it was appropriate to retain or use the information in her employment at Ark.

Mr Mellis has admitted that he ought to have realised that Ms Mazalova might use the information he sent to her in connection with her new employment and that he was reckless in acting as he did in providing her with the information in these circumstances.

Accordingly, Mr Mellis and Ms Mazalova have each admitted a charge of discreditable conduct.

Underwriting assistance

For the period from when Ms Mazalova joined Ark on 12 November 2007 until when Mr Mellis left his then employment on 13 December 2007 Mr Mellis and Ms Mazalova owed their respective duties as employees to different managing agents. Nevertheless, on a number of occasions during this period, including during a period when Mr Mellis was on “garden leave”, Ms Mazalova sought and Mr Mellis provided assistance to Ms Mazalova including risk specific underwriting assistance. Mr Mellis did not have authority from his then employer to provide the assistance to Ms Mazalova.

Mr Mellis admits that he knew that he should not have provided the assistance he did to Ms Mazalova. Ms Mazalova admits that she knew or ought to have known that Mr Mellis did not have the authority from Ark or his then employer to provide the assistance he did.

Accordingly, Mr Mellis and Ms Mazalova have each admitted a charge of detrimental conduct.

Failure by Mr Phipps to underwrite appropriately

For the year ending November 2007 the managing agent then employing Mr Phipps wrote a 40% leading line on a large open market account.

The account was one for which Mr Mellis had had primary responsibility until he left his former employment. However, at the date that the account came to be renewed at the end of 2007 Mr Mellis had been placed on “garden leave” and the account therefore came to Mr Phipps to renew on behalf of his employer. As would have been apparent to Mr Phipps, the broker was seeking to make Ark syndicate 4020 the lead while Mr Phipps was offered a small (2.5%) following line.

Mr Phipps failed to challenge the broker as to why the line for the syndicate for which he was underwriting was so significantly reduced and why it was no longer to be the lead syndicate. He further failed to take steps to recover or preserve the position for his employer by negotiating with the broker. Mr Phipps further failed to alert senior management.

Accordingly, Mr Phipps has admitted a charge of detrimental conduct.

Settlement Terms

As a result of the proceedings involving the above individuals, the Enforcement Board has approved the following settlement terms.

Mark Mellis

1. Mr Mellis's permission, consent or right to transact, or be concerned or interested in the transaction of insurance business or classes of business at Lloyd's be suspended for a period of six months; and
2. Mr Mellis's permission to enter the Room without the prior permission of Lloyd's be suspended for a period of six months; and
3. Mr Mellis to be censured in the terms of this Notice of Censure; and
4. Mr Mellis to pay a contribution of £10,000 towards the costs of Lloyd's in these proceedings.

Ksenya Mazalova

1. Ms Mazalova's permission, consent or right to transact, or be concerned or interested in the transaction of insurance business or classes of business at Lloyd's be suspended for a period of three months; and
2. Ms Mazalova's permission to enter the Room without the prior permission of Lloyd's be suspended for a period of three months; and
3. Ms Mazalova to be censured in the terms of this Notice of Censure; and
4. Ms Mazalova to pay a contribution of £10,000 towards the costs of Lloyd's in these proceedings.

Tom Phipps

1. Mr Phipps to be censured in the terms of this Notice of Censure; and
2. Mr Phipps to pay a contribution of £5,000 towards the costs of Lloyd's in these proceedings.

Mitigation

In assessing the penalties in respect of each of the three individuals the Enforcement Board has taken account of the following factors:

1. Each of the individuals has cooperated fully with the Lloyd's investigation into these matters and has settled these proceedings at an early stage without the need for contested enforcement proceedings;
2. All three have admitted and appreciate the inappropriateness of their actions;
3. There is no suggestion that the individuals have been involved in prior acts of misconduct.

Lloyd's Enforcement Board