

LLOYD'S OF LONDON
CENTRAL REGISER & ARCHIVE
Registered No. 4331

FROM: The Secretary to the Disciplinary Board
LOCATION: 58/NW1
EXTENSION: 5530
DATE: 26 August 1998
REFERENCE: 084/98
SUBJECT: Lloyd's Disciplinary Case No.LDB 9802/3
(Michael James Cowie)

ACTION POINTS: For Information
DEADLINE: None

On 13 May 1998 a Lloyd's Disciplinary Tribunal found Mr Michael James Cowie guilty of three charges of misconduct, two of which concerned conduct which is dishonourable, disgraceful or improper, and one of which concerned the charge of engaging in or being associated with discreditable conduct, whether or not connected with the business of insurance. The Disciplinary Tribunal subsequently directed that the following penalties should be imposed on Mr Cowie:

- (i) The permanent suspension of his right of admission to the Room and all other parts of the premises of the Society both in the United Kingdom and abroad.
- (ii) The permanent suspension of his right to transact, or be concerned or interested in the transaction of, any class of insurance business at Lloyd's.
- (iii) A fine of £80,000.

In addition, Mr Cowie was ordered to pay Lloyd's £17,578.38 by way of costs.

Mr Cowie did not serve a defence in the disciplinary proceedings. As a result, in accordance with the Lloyd's Disciplinary Rules, he was deemed to have admitted all allegations of misconduct which were made against him by the Council of Lloyd's in its Notice of Formal Disciplinary Proceedings and also all the facts and matters which were pleaded in the Notice in support of those allegations. The Disciplinary Tribunal issued findings of misconduct against

Mr Cowie accordingly. Mr Cowie did not seek to have these findings set aside but chose instead to exercise his right to make submissions to the Disciplinary Tribunal as to penalties and costs, both personally and through his lawyers.

The misconduct in respect of which Mr Cowie was found guilty related to the placement of certain aviation reinsurances for the account of the Groupe d'Intérêt Economique Aviafrance ("Aviafrance") by Lloyd's brokers, Bain Clarkson Ltd ("BCL") and Bain Hogg International Ltd ("BHIL") between July 1989 and November 1996. Mr Cowie was the managing director of the aviation division of BCL from about 1 January 1988 to 5 September 1994 and the managing director of the aviation division of its business successor, BHIL, from 5 September 1994 to 18 November 1996. Aviafrance is part of the AXA-UAP conglomerate.

Mr Cowie's misconduct was described by the Disciplinary Tribunal as "thoroughly dishonest behaviour, involving considerable sums of money over a lengthy period of time, and committed for reasons of personal gain". It may be summarised as follows:

- (a) In or about 1987 Mr Cowie caused a third party commission account to be set up within the accounts of BCL at the behest of Mr Jacques Paté who was at all material times prior to 4 September 1996 the managing director of Aviafrance. This account was subsequently renamed the BOSC account in July 1989. Pursuant to one or more agreements with Mr Paté, Mr Cowie caused various sums which were payable to Aviafrance to be credited to the BOSC account during the period from 1 August 1989 to November 1996. These sums totalled £195,129.62, US\$258,905.41, AF1,237,500 and FF38,828.72.
- (b) Pursuant to an agreement reached between Mr Paté and Mr Cowie the third party commission credit/debit notes of BCL and BHIL which recorded the credits and debits of commission which were made to the BOSC account were withheld from issue to Aviafrance. Instead Aviafrance received cover notes which quoted gross premiums less overriding commissions, but did not show the commissions payable to the BOSC account.
- (c) During the period from October 1989 to July 1996, unbeknown to Aviafrance and his own employers, Mr Cowie improperly authorised the transfer of sums totalling £216,461.47 and US\$224,640.88 from the BOSC account into two private bank accounts that Mr Paté held in London and Luxembourg.
- (d) During the period from February 1991 to August 1996, unbeknown to Aviafrance, Mr Paté gave Mr Cowie various sums totalling £67,000 and US\$80,000. Although Mr Cowie knew that these payments were derived from the BOSC account he did not inform Aviafrance or (prior to 14 November 1996) his own employers of any one of them.

- (e) When questioned by his employer's lawyers on 7 October 1996 Mr Cowie denied having received any gift or payment from Mr Paté save for the payment of the costs of certain holiday trips. When questioned by his employer's lawyers again on 14 November 1996 Mr Cowie did not mention that Mr Paté had paid him US\$80,000 in August that year.

Mr Cowie was summarily dismissed as the managing director of BHIL's aviation division by Bain Hogg Management Ltd ("BHML") on 18 November 1996. Since his dismissal Mr Cowie has re-paid to Aviafrance via BMHL's lawyers the sums referred to in paragraph (d) with interest.

The above summary is based on the decision of the Disciplinary Tribunal which came into effect on 13 August 1998. Copies of this decision are available on request from the Secretary to the Lloyd's Disciplinary Board on Lloyd's extension 6989 or 5530.

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

A.P. Barber
Secretary to the Lloyd's Disciplinary Board

