



FROM: The Secretary to Lloyd's Disciplinary Board
LOCATION: 58/NWI
EXTENSION: 5530
DATE: 1 October 1998
REFERENCE: 091/98
SUBJECT: SUMMARY DISCIPLINARY PROCEEDINGS

ACTION POINTS: For information
DEADLINE: None

Miles Smith Plc ("Miles Smith"), a Lloyd's broker, has admitted a charge of discreditable misconduct and has been ordered to pay a fine of £5,000 and had costs of £1,500 awarded against it in Lloyd's disciplinary proceedings.

The misconduct arose through Miles Smith submitting to Lloyd's two misleading application forms for substitute passes. The application forms represented that the passes were intended for use by representatives of Miles Smith. In fact the passes were for use by, and were used by, two representatives of a non-Lloyd's entity.

In or around May 1997 Miles Smith sought substitute passes for representatives of a sister company, which was neither a Lloyd's broker nor a broker operating under a registered umbrella arrangement. Miles Smith telephoned Lloyd's Room Services Department to clarify how passes could be obtained. Lloyd's advised that only employees of Miles Smith were entitled to receive passes. In giving this advice Lloyd's did not appreciate that the passes were to be used to conduct the business of the sister company.

On 11 June 1997, the then compliance officer of Miles Smith offered the position of "employed consultant" to the two representatives of the sister company. The relevant engagement letters made it clear that their employment to Miles Smith was for the sole purpose of gaining access to the Lloyd's Underwriting Room in order to broke the business of the unregistered sister company.

In July 1997, the then compliance officer submitted completed application forms for substitute passes for the relevant individuals. These forms contained a declaration that the

individuals would only enter the Room for the purpose of conducting the insurance business of Miles Smith. No attempt was made by Miles Smith to disclose on the application forms that the individuals were, in fact, to enter the Room to conduct the business of the sister company. As a result of these applications, Lloyd's passes were issued to the relevant individuals, and were then used by them, for the purpose of discussing the operation of binding authorities.

In the circumstances, Miles Smith has admitted that its actions constituted discreditable misconduct and that they knew, or ought to have known, that the application forms which it submitted to Lloyd's were misleading.

In assessing the appropriate penalty regard was taken of the fact that, prior to completion and submission of the misleading application forms, Miles Smith had attempted to obtain advice from Lloyd's, although Miles Smith accept that it should not have submitted the misleading application forms. Account was also taken of the fact that this was the first instance of misconduct in respect of Miles Smith and that Miles Smith fully co-operated with Lloyd's in the course of the disciplinary proceedings.

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

Note

Lloyd's regards the arrangements relating to access to the Room as an important regulatory safeguard. A regulatory bulletin will be issued shortly which will remind the market of the requirements for those conducting insurance broking business in the Room.

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.

A P Barber
Secretary to Lloyd's Disciplinary Board