

MARKET BULLETIN

REF: Y4750

Title	Enforcement Proceedings – Nicholas Nigel Conway
Purpose	To provide information regarding enforcement proceedings
Type	Event
From	Katie Dorling Secretary to Lloyd's Enforcement Board
Date	13 December 2013
Deadline	N/A
Related links	N/A

In proceedings brought before the Lloyd's Enforcement Board, Mr Nicholas Conway has accepted one charge of detrimental conduct. This relates to the improper provision by Mr Conway of confidential and sensitive business information belonging to his employer to a competitor managing agent during the process of his recruitment by the competitor managing agent.

As a result the following terms have been agreed by the parties and approved by the Lloyd's Enforcement Board –

1. Mr Conway to pay a fine of £35,000.

(The fine in respect of this offence would have been £50,000 but for the fact that Mr Conway settled these proceedings at the earliest opportunity and accordingly has been given a 30 per cent discount as to his fine.)

2. Mr Conway to be censured in the terms of the attached notice of censure.

In addition, Mr Conway is to pay a contribution of £9,500 to Lloyd's in respect of the costs of these proceedings.

Details of the events giving rise to these proceedings and of the charge admitted are set out in the attached notice of censure.

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

Notice of Censure
Mr Nicholas Conway

In proceedings brought before the Lloyd's Enforcement Board, Mr Nicholas Conway has accepted one charge of detrimental conduct. This relates to the improper provision by Mr Conway of confidential and sensitive business information belonging to his employer to a competitor managing agent during the process of his recruitment by the competitor managing agent.

Background

Nicholas Conway was employed as an underwriter for the Lloyd's managing agent Marketform Managing Agency Limited ("Marketform"), which manages Syndicate 2468. He was also a director of Marketform Limited, Marketform's dedicated service company and was an annual subscriber. As a person who works for a managing agent and as an annual subscriber he was, and remains, within Lloyd's enforcement jurisdiction.

Whilst at Marketform (and until 2011 at Marketform Limited) Mr Conway was responsible for underwriting Marketform's international medical malpractice ("med-mal") insurance book. This was a material part of Marketform's overall business.

At the end of September 2012, Mr Conway resigned from Marketform, along with two underwriters who reported to him, to join another managing agent, Renaissance Re Syndicate Management Limited ("Ren Re"). Shortly after, Marketform raised concerns as to whether Mr Conway had improperly used Marketform's confidential information.

The provision of information by Mr Conway to a competitor

In early 2012, Mr Conway was put in touch with an underwriter at Ren Re regarding possible employment opportunities at Ren Re.

Between April 2012 and September 2012 a number of meetings took place between Mr Conway and Ren Re to discuss a possible move for Mr Conway to Ren Re. During the course of that process, Mr Conway orally gave a broad indication of the type of business he wrote at Marketform and explained his underwriting methodology.

At one of these meetings, in May 2012, and in order to aid discussions about his recruitment, Mr Conway provided to the Ren Re underwriters who were interviewing him, a number of confidential and proprietary Marketform documents regarding his med mal account. The documents included hard copies of rating adequacy and rate change monitoring sheets. These provided information relating to rating adequacy in respect of all the sub classes of med mal business that Mr Conway underwrote but with no risk specific data included. Other documents showed information as to volume of business per class and jurisdiction, loss ratios by sub-class and a list of Marketform's coverholders showing gross written and gross estimated premiums, settlement terms and line sizes.

In June 2012, Mr Conway provided electronically a number of further confidential and proprietary documents to Ren Re. These were information relating to claims statistics, claims triangles and example copy slips and wordings.

Some of the documents provided by Mr Conway contained information of potential value to a competitor.

The underwriters interviewing Mr Conway looked at this information solely for the purposes of aiding the recruitment discussions and to evaluate whether Ren Re should be expanding into the international med mal class of business.

Misconduct accepted

Mr Conway accepts that he ought to have realised that he was not entitled to provide such documents to Ren Re even in circumstances where those documents were intended to provide an understanding of the type of business Mr Conway wrote and Mr Conway's underwriting philosophy to aid discussion in respect of his recruitment. For instance, both his employment contract and Marketform's staff handbook made clear that Marketform's confidential information could not be passed to a third party.

Accordingly Mr Conway has accepted that he should not have provided such documents to Ren Re and that he breached the duties he owed to his employer and the standards

expected by Lloyd's of an underwriter. (For example see Lloyd's enforcement proceedings in the case of *Mellis & ors*¹). He has accordingly accepted the charge brought against him.

Settlement terms

As a result of Mr Conway's acceptance, the following terms have been agreed by the parties and approved by the Lloyd's Enforcement Board –

- 1 Mr Conway shall pay a fine of £35,000.

(The fine in respect of this offence would have been £50,000 but for the fact that Mr Conway settled these proceedings at the earliest opportunity and accordingly has been given a 30 per cent discount as to his fine.)

- 2 Mr Conway shall be censured in the terms of this notice of censure.

In addition, Mr Conway is to pay a contribution of £9,500 towards the costs to Lloyd's in respect of these proceedings.

Mitigation

In assessing the penalties in respect of Mr Conway, account has been taken of the following factors:

- a. Mr Conway has cooperated fully with the Lloyd's investigation into the relevant matters and has settled these proceedings at the earliest opportunity without the need for a contested hearing.
- b. Lloyd's accepts that Mr Conway was providing the documents to Ren Re as part of and in order to assist with the process of his recruitment. There is no evidence that he intended to use those documents once he had joined Ren Re in order to "poach" Marketform's business.
- c. Whilst Mr Conway accepts that his conduct was sufficiently serious to amount to a charge of misconduct and realises that he should not have provided this information

¹ Bulletin Y4280. See also Principles of Enforcement (Principles 2 and 4) as set out in Schedule 5 to Chapter 5 of the Underwriting Requirements (www.lloyds.com under "acts and byelaws")

to Ren Re, it is no part of the case that Mr Conway acted dishonestly or was reckless as to his actions.

- d.** This is the first occasion that Mr Conway has been found guilty of any form of regulatory misconduct.

Lloyd's Enforcement Board