

FROM: Secretary, Lloyd's Disciplinary Board
LOCATION: 58/SE1
EXTENSION: 5530
DATE: 2 August 1999
REFERENCE: 070/99
SUBJECT: **MICHAEL PAUL PERRY AND DAVID EDWARD GYNGELL**
SUBJECT AREA(S): Formal Disciplinary Proceedings – Case No. LDB/9810/17
ATTACHMENTS: Notice of Censure
ACTION POINTS: **For information only**
DEADLINE: **None**

Michael Paul Perry has been found guilty of misconduct by a Lloyd's Disciplinary Tribunal. Following contested proceedings the Tribunal found Mr Perry to be guilty of two charges of conducting himself in a manner which was dishonourable or disgraceful or improper and one charge of engaging in and being associated with discreditable conduct.

David Edward Gyngell pleaded guilty to two charges of conducting himself in a manner which was detrimental to the interests of Lloyd's policy holders, the Society, members of the Society, Lloyd's brokers, underwriting agents or others doing business at Lloyd's.

The following penalties were imposed and costs awarded;

Mr Perry

- i) Permanent suspension of the right of admission to the Room and all other parts of the premises of the society both in the United Kingdom and abroad;
- ii) Permanent suspension of the right to transact, or be concerned or interested in the transaction of, any class of the business of insurance at Lloyd's;
- iii) A fine of £25,000; and
- iv) Payment of £13,776.65 by way of costs.

Mr Gyngell

- i) The penalty of the posting of a Notice of Censure in the Room in the terms of the Notice of Censure attached to this bulletin; and
- ii) Payment of £14,409.19 by way of costs.

Case Against Mr Perry

Mr Perry was at all material times a member of Lloyd's and was the Managing Director of Dobinson Gregory & Co Ltd ("Dobinson Gregory") an insurance broking company which operated in the Lloyd's market under an umbrella arrangement with the Lloyd's broker, David Gyngell & Co Ltd.

In July 1992 Dobinson Gregory's insurance broking account ("IBA") included approximately US\$460,000 derived from the placing of risks with underwriters by Dobinson Gregory on behalf of a US introducing broker. Mr Perry entered into a dishonest scheme with a co-director (now deceased) to remove those monies for the benefit of the co-director and himself.

Mr Perry recruited an acquaintance of his who was associated with a shipping company registered in Gibraltar, Victory Shipping Company Limited ("Victory Shipping"). The acquaintance agreed to allow Victory Shipping's accounts to be used to receive the US\$460,000, purportedly in respect of a "commission" sharing arrangement. As a result of this scheme the US\$460,000 was paid from the IBA to Victory Shipping by two cheques in August 1992 and November 1993. The cheques were signed by the co-director and also signed by Mr Gyngell but in circumstances such that he had no knowledge of the dishonest scheme (for details see below).

Mr Perry then met his acquaintance from Victory Shipping on a number of occasions who repaid the monies to Mr Perry in cash. Mr Perry then passed the monies on to the co-director with Mr Perry taking an amount of the money for himself.

Mr Perry failed to provide evidence to corroborate the exact amount of money he received. In respect of his role in this dishonest scheme the Disciplinary Tribunal found Mr Perry to be guilty of two charges of conducting himself in a dishonourable or disgraceful or improper manner.

Mr Perry was interviewed at an earlier stage in the Lloyd's formal inquiry. In the course of that interview Mr Perry was asked about the Victory Shipping payments. He misled the inquiry by denying that he had received any personal benefit from these payments and stating that his role had been limited to making an introduction between the co-director and Victory Shipping. As a result the Disciplinary Tribunal found Mr Perry guilty of discreditable conduct in respect of misleading the inquiry.

Following the contested hearing the Tribunal imposed the penalties as set out above.

Case Against Mr Gyngell

Mr Gyngell pleaded guilty to two charges of detrimental conduct. These charges related to the misappropriation of monies from the Dobinson Gregory IBA by persons other than Mr

Gyngell. The total sums involved were approximately US\$1.5 million. It was no part of the Council's case against Mr Gyngell that he acted dishonestly or personally profited from the misappropriation.

The first charge related to the US\$460,000 which was misappropriated through Victory Shipping. Those payments were facilitated by Mr Gyngell signing blank cheques before leaving on holiday. The cheques were then countersigned by the co-director to pay the monies to Victory Shipping. Mr Gyngell made no adequate enquiries upon his return as to what use had been made of the cheques.

The second charge related to 10 withdrawals amounting to over \$1 million which were paid from Dobinson Gregory's IBA to a Liberian company called Sumatra Shipping and Investments Limited. The payments were again part of a scheme by others to misappropriate the monies. Mr Gyngell authorised these payments with his co-director. Mr Gyngell made no proper inquiries as to the reason for those payments. This was despite the fact that Dobinson Gregory's solicitors and accountants had warned of the need to make proper inquiries before making commission payments to third parties.

In consequence the Tribunal ordered that Mr Gyngell be Censured.

Copies of the formal decision of the Disciplinary Tribunal are available from the Disciplinary Secretariat, telephone numbers 0171 327 6989/5530.

This bulletin has been sent to all underwriting agents and Lloyd's advisers, Lloyd's brokers, corporate members, market associations, the ALM and recognised accountants.

AP Barber
Secretary
Lloyd's Disciplinary Board.

IN THE MATTER OF DISCIPLINARY PROCEEDINGS UNDER
LLOYD'S ACTS 1871-1982 AND LLOYD'S BYELAWS

AGAINST

DAVID EDWARD GYNGELL

NOTICE OF CENSURE

In proceedings before a Lloyd's Disciplinary Tribunal the Defendant, **David Edward Gyngell**, admitted two charges of misconduct. The charges related to misappropriations of money (by persons other than Mr Gyngell) from an insurance broker company called Dobinson Gregory & Co Ltd ("Dobinson Gregory") which operated under an umbrella arrangement with the Lloyd's broker, David Gyngell & Co Ltd. Mr. Gyngell was a director, Chairman of the Board and the (indirect) majority shareholder in Dobinson Gregory.

The misappropriations took the form of substantial payments in favour of two offshore companies which had no legitimate interest in receiving them. The payments were entered in Dobinson Gregory's books as purportedly payments of "brokerage". In fact, they were part of a scheme to steal money from the Dobinson Gregory insurance broking account. The scheme was facilitated by Mr. Gyngell's practice of leaving company cheques which he had signed in blank with a co-director when he was away from the office

It was no part of the Council's case against Mr. Gyngell that he himself had acted dishonestly or had personally profited from the misappropriations. The essential complaint was that he had not only made the dishonest scheme possible by signing company cheques in blank but he failed to carry out any prior or subsequent checks as to the propriety of the payments. Mr. Gyngell's conduct was all the more culpable because of a disregard of internal standing instructions, issued at the instigation of Dobinson Gregory's auditors, in relation to the making of "commission" payments to offshore companies.

The Tribunal noted that so far from Mr. Gyngell having profited from the misappropriations he, as the indirect majority shareholder, personally suffered very considerable financial losses as result of what occurred. He has never before been guilty of misconduct and in this instance acknowledged his guilt by admitting the charges. He has co-operated throughout in the investigation into and the discovery of the misappropriations. In all the circumstances the Tribunal took the view that a censure was the appropriate penalty and that Mr. Gyngell should pay the sum of £14,409.19 in respect of the costs of the Council and the Tribunal.

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Robert Englehart Q.C. (Chairman)

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Mrs Fiona Bennett

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Sir David Berriman

July 1998

