

FROM: Secretary to Lloyd's Disciplinary Tribunal
LOCATION: 58/NW1
EXTENSION: 5530
DATE: 1st September 1999
REFERENCE: 074/99
SUBJECT: **FENCHURCH INSURANCE BROKERS LIMITED**

SUBJECT AREA(S): Disciplinary Proceedings
ATTACHMENTS: Notice of Censure
ACTION POINTS: **For information**
DEADLINE: **None**

In proceedings before a Lloyd's Disciplinary Tribunal, Fenchurch Insurance Brokers Limited ("FIBL") admitted 12 charges of conducting insurance business in a discreditable manner or with a lack of good faith, through the dishonest actions of its director, Mr John Pexton.

The Disciplinary Tribunal ordered that FIBL should receive the following penalties:-

- (i) a fine in the sum of £150,000; and
- (ii) the posting of a Notice of Censure in the Room in the terms of the Notice attached to this bulletin.

The Tribunal ordered that FIBL should pay the costs of the Council of Lloyd's and the Tribunal in the sum of £68,500.

Lambert Fenchurch Group plc which acquired FIBL in April 1997 reported the matter promptly to Lloyd's.

In fixing the penalty, the Tribunal took into account the fact that Lambert Fenchurch Group plc promptly paid nearly \$1 million compensation, including interest, to the affected policyholder and co-operated with Lloyd's throughout its formal inquiry.

Between 1988 and 1997 Fenchurch Insurance Brokers Limited, through the actions of Mr Pexton, made secret profits of more than \$500,000. The secret profit was taken by concealing from a U S client the true level of package credit being offered by underwriters and certain increases in brokerage offered by underwriters. A further consequence of Mr Pexton's dishonesty was that the client overpaid its producing broker.

In addition, in 1989, Mr Pexton received a quotation from an insurer which was lower than the quotation being offered by the London Market. This quotation was not disclosed to the client.

The fraud required the preparation of false documentation which was forwarded to the producing broker. Mr Pexton involved a number of other employees at FIBL to help him prepare and submit the necessary false documentation.

When the producing broker became aware of the false representations made as to the levels of discount and package credit, Mr Pexton tried to conceal the fraud by arranging for a slip for the 1997 renewals to be altered so that the level of package credit offered by Underwriters was reduced to match the figure which had already been falsely represented in the Cover Notes.

Copies of the full report of the disciplinary proceedings may be ordered 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.

A P Barber
Secretary to Lloyd's Disciplinary Tribunal

NOTICE OF CENSURE

FENCHURCH INSURANCE BROKERS LTD

Fenchurch Insurance Brokers Ltd, a registered Lloyd's broker, is guilty of misconduct.

From 1988 to 1997, through its director John Pexton, Fenchurch Insurance Brokers Ltd conducted the business of insurance in a discreditable manner or with a lack of good faith and was engaged in or associated with discreditable conduct.

The United States Gypsum Corporation, a Lloyd's policyholder and a client of Fenchurch Insurance Brokers Ltd, was systematically cheated over nine years of US \$587,813 which Fenchurch Insurance Brokers Ltd retained as a secret profit. The fraud was effected by falsely representing to the producing broker the levels of discount and package credit allowed by Underwriters. The fraud was not operated by Mr Pexton alone. He was actively assisted by others in the company.

A note on the front of the client file for the United States Gypsum Corporation stated, in one inch high block capitals:

"BE AWARE THAT 'WE' MAKE ADDL. 2.5% ON PACKAGE CREDIT.
THE PRODUCER IS NOT TO KNOW THIS!!
D. FAIRLIE/J. PEXTON 1-4-96 ...
CLIENT PACKAGE CREDIT
5% OFF GROSS
U/WRS GIVE FEN 7.5%
SEE ABOVE".

The extent of the fraud, unchecked for nine years, amounted to misconduct on the part of the
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company as well as that of its director and employees.

The Disciplinary Tribunal took into account the fact that compensation, including interest, of nearly US \$1 million had been paid to the policyholder and costs of more than £300,000 incurred in the defence of the company.

The Disciplinary Tribunal directed:

- (i) that Fenchurch Insurance Brokers Ltd pay a fine of £150,000
- (ii) that Fenchurch Insurance Brokers Ltd be censured for its misconduct and that this notice be posted in the Room.

The Disciplinary Tribunal further ordered Fenchurch Insurance Brokers Ltd to pay £68,500 towards the costs of the Council of Lloyd's in these proceedings.

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MR IAN MAYES Q.C. (CHAIRMAN)

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MRS A T FOLLIS

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MRS A H GILLIBRAND

June 1999