

FROM: Secretary to Lloyd's Disciplinary Tribunal
LOCATION: 58/NW1
EXTENSION: 5530
DATE: 1st September 1999
REFERENCE: 076/99
SUBJECT: **PAUL DOCHERTY**

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

In proceedings before a Lloyd's Disciplinary Tribunal, Paul Docherty was found guilty of one charge of dishonestly engaging in discreditable conduct, one charge of conducting himself in a detrimental manner and one charge of failing to take reasonable steps to avoid the risk of harm to Lloyd's policyholders, the Society, its members and those doing business at Lloyd's. Mr Docherty was registered at Lloyd's as a Substitute.

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

- (i) That his right of admission to the Room and the other parts of the premises of the Society of Lloyd's be suspended permanently;
- (ii) That his right to transact the business of insurance at Lloyd's or any class or classes of such business be suspended permanently;
- (iii) That he cease to be involved or interested, whether directly or indirectly in the broking of any insurance business at Lloyd's;
- (iv) That he cease to be involved or interested, whether directly or indirectly, in the management or conduct of the business of a Lloyd's broker;
- (v) That he shall not become a director or a partner in a Lloyd's broker;
- (vi) That he shall not work for a Lloyd's broker; and
- (vii) The posting of a Notice of Censure in the Room in the terms of the Notice attached to this bulletin.

In fixing the penalty, the Tribunal took into account the fact that Mr Docherty gained no personal benefit from his actions.

In 1994 and 1997 Underwriters allowed a package credit of 7.5% in respect of a marine package policy placed by Fenchurch Insurance Brokers Limited. It was falsely represented to the policyholder and the producing broker that this package credit was 5%. As a result, Fenchurch Insurance Brokers Limited retained a secret profit.

In 1997, when the policyholder and the producing broker became aware of the false representations made by Fenchurch Insurance Brokers Limited and of the true levels of package credit, they asked for an explanation. Mr Pexton, a director of Fenchurch Insurance Brokers Limited, attempted to conceal the true level of package credit for 1997. He instructed Mr Docherty to request the leading Underwriter to amend the premium worksheet for the 1997 renewal to show the level of package credit as being 5% rather than the 7.5% which had previously been agreed. Mr Docherty did this knowing the purpose of the amendment and that he was assisting Mr Pexton in concealing the truth.

In addition, when Mr Docherty was signing the cover notes in 1994 and 1997, having the authority to do so, he failed to check that the figures for package credit on the premium worksheets matched those on the cover notes and therefore failed to notice the substantial discrepancy. He was not a party to the false representations and did not know of the attempt to take a secret profit.

Copies of the full report of the disciplinary proceedings may be ordered from the Disciplinary Secretariat, telephone nos. 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

PAUL DOCHERTY

Paul Docherty, who was registered at Lloyd's as a Substitute, is guilty of misconduct.

In 1994 he was seriously negligent and conducted insurance business in a manner detrimental to the interests of Lloyd's policyholders, the Society, members of the Society, Lloyd's brokers, underwriters, agents and others doing business at Lloyd's.

In 1997 he was seriously negligent and failed to take reasonable steps in connection with the business of insurance to avoid risk of harm to Lloyd's policyholders, the Society, its members and those doing business at Lloyd's.

Further in 1997 he engaged in discreditable conduct.

Between 1994 and 1997 Mr Docherty was employed by Fenchurch Insurance Brokers Ltd, a Lloyd's broker. His job description was a director of Fenchurch Marine and he was authorised to sign cover notes.

From 1986 onwards Fenchurch Insurance Brokers Ltd placed the marine insurances of the United States Gypsum Corporation in the London market. The insurances were consolidated into one placement or "package" policy on which Underwriters allowed a package credit.

In 1994 Underwriters allowed a package credit of 7.5% but Fenchurch Insurance Brokers Ltd falsely represented to the producing broker for the account that the level of package credit was only 5% and thereby retained for itself 2.5% of the package credit due to the policyholder and took a secret profit of US \$43,255. Mr Docherty was not a party to the false representation and did not

know of the secret profit but when signing the cover notes he failed to check that the figures for total premium and the package credit shown on the premium worksheet which accompanied and formed part of the cover note matched the figures shown on the scratched premium worksheets and did not notice the substantial discrepancy.

In 1997 Underwriters again allowed a package credit of 7.5%. Fenchurch Insurance Brokers Ltd again falsely represented to the producing broker for the account that the level of package credit was only 5% and thereby attempted to retain for itself 2.5% of the package credit due to the policyholders and attempted to take a secret profit of US \$39,305. Mr Docherty was not a party to the false representation and did not know of the attempt to take a secret profit but when signing the cover notes he failed to notice the substantial discrepancy in the figures for package credit as shown on the premium worksheet bound in with the slip and as shown on the premium worksheet which accompanied and formed part of the cover note.

When, later in 1997, the policyholder and the producing broker first became aware of the false representations made by Fenchurch Insurance Brokers Ltd and of the true levels of package credit allowed by Underwriters they asked for an explanation. Mr Pexton, a director of Fenchurch Insurance Brokers Ltd, decided to try to conceal from the policyholder and from the producing broker the true level of package credit for 1997. Mr Pexton instructed Mr Docherty to go to the leading Underwriter and ask for a new premium worksheet for the 1997 renewal to be scratched showing the level of package credit as 5% rather than the 7.5% which had previously been agreed. Mr Docherty did as he was told. He knew the purpose for which Mr Pexton wanted the scratched premium worksheet showing only 5% package credit and that he was assisting Mr Pexton in trying to conceal the truth. He acted dishonestly.

Mr Docherty has worked in the insurance industry for thirty years and obtained no personal benefit from his actions but dishonesty is not to be tolerated in the Lloyd's market.

The Disciplinary Tribunal directed:

- (i) that Mr Docherty's right of admission to the Room and the other parts of the premises of the Society of Lloyd's be suspended permanently;
- (ii) that Mr Docherty's right to transact the business of insurance at Lloyd's or any class or classes of such business be suspended permanently;
- (iii) that Mr Docherty cease to be involved or interested, whether directly or indirectly, in the broking of any insurance business at Lloyd's;
- (iv) that Mr Docherty cease to be involved or interested, whether directly or indirectly, in the management or conduct of the business of a Lloyd's broker;
- (v) that Mr Docherty shall not become a director or a partner in a Lloyd's broker;
- (vi) that Mr Docherty shall not work for a Lloyd's broker;
- (vii) that Mr Docherty be censured for his misconduct and that this notice be posted in the Room.

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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