

FROM: Secretary to Lloyd's Disciplinary Board
LOCATION: 58/NW1
EXTENSION: 5530
DATE: 16 December 1999
REFERENCE: 095/99
SUBJECT: **IAN MCCALL INTERNATIONAL LIMITED**

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

Attached to this bulletin is a Notice of Censure against Ian McCall International Limited ("McCall") in relation to a binding authority arrangement with New England International Surety Inc.

McCall has been fined £35,000 for discreditable conduct as set out in the annexed notice and ordered to pay Lloyd's costs of £8,500.

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

A P Barber
Secretary to Lloyd's Disciplinary Board

NOTICE OF CENSURE

IAN McCALL INTERNATIONAL LIMITED

Ian McCall International Limited ("McCall") has admitted to misconduct in relation to a binding authority agreement which it entered into with New England International Surety Inc. ("New England").

The charges are as follows:

Charge 1: Misconduct, namely conducting itself in a discreditable manner or with a lack of good faith, within the meaning of Paragraph 1(e) of the Misconduct, Penalties and Sanctions Byelaw (No. 9 of 1993).

Charge 2: Misconduct, namely engaging in or being associated with discreditable conduct, whether or not connected with the business of insurance, within the meaning of Paragraph 3(f) of the Misconduct and Penalties Byelaw (No. 30 of 1996).

Both charges relate to the same facts and matters, which spanned a time during which the two Byelaws named above were in effect (the latter superseding the former).

The binding authority agreement was entered into and signed by Mr Robert Messinger, a director of McCall and head of its Aviation Department, and was expressed to be for and on behalf of McCall. The agreement commenced on 6 June 1995 and was renewed for 12 months on 6 June 1996 and a further 12 months on 6 June 1997.

New England appointed "Robert Messinger (and/or person(s) authorised by him) for and on behalf of Ian McCall International Limited" as coverholder. McCall was granted authority to accept aviation business, to issue certificates as evidence of cover and to pay claims within certain limits.

Over the time when McCall entered into and operated the binding authority, New England was not authorised to carry on insurance business in the United Kingdom under the provisions of sections 2, 3 and 4 of the Insurance Companies Act 1982. Through the binding authority, New England was conducting insurance business without authorisation, which conduct amounted to a criminal offence under Section 14 of the same Act.

McCall admits that (i) through the actions of Mr Messinger in entering into the binding authority agreement and by conducting a substantial quantity of insurance business on behalf of New England through Mr Messinger and those authorised by him under the agreement, it was engaged in or associated with discreditable conduct; and (ii) compliance procedures and internal controls ought to have been in place which would have ensured that the existence of the binding authority and New England's unauthorised status were revealed.

The Department of Trade and Industry initially raised this matter with McCall. McCall then took prompt action to investigate it. As a result, the binding authority agreement was terminated on 21 October 1997 and Mr Messinger, as the director responsible for its operation, was summarily dismissed. McCall has subsequently co-operated fully with Lloyd's in its enquiries and in the settlement of these disciplinary proceedings.

The following penalties have been imposed on McCall:

- (i) A fine of £35,000; and
- (ii) Notice of Censure in the terms of this Notice.

McCall has agreed to pay Lloyd's costs amounting to £8,500.

LLOYD'S DISCIPLINARY BOARD