

FROM: Secretary to Lloyd's Disciplinary Board,
LOCATION: 58/NW1
EXTENSION: 5530
DATE: 6 January 2000
REFERENCE: 002/2000
SUBJECT: **RICHARD MEARS**

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

Richard Mears has admitted two charges of engaging in discreditable conduct and four charges of using an Insurance Broking Account for an unauthorised purpose. At the relevant times, Mr Mears was the Managing Director of R Mears & Co Limited, a registered Lloyd's broker.

This case was concluded before Lloyd's Disciplinary Board. The following penalties have been imposed on Mr Mears:

- (1) the suspension of the right to transact, or be concerned or interested in the transaction of, the business of insurance at Lloyd's or any class or classes of such business for a period of one year;
- (2) the suspension of the right of admission to the Room and all other parts of the premises of the Society for a period of one year;
Without prejudice to the generality of the foregoing the following supplementary orders shall take effect immediately upon the suspension and for the duration of the suspension:
 - (a) that he shall cease to be involved or interested, whether directly or indirectly, in the broking of any insurance business or any class thereof at Lloyd's;
 - (b) that he shall cease to be involved or interested, whether directly or indirectly, in the management or conduct of the business of a Lloyd's broker; and
 - (c) that he shall not become a director or a partner in a Lloyd's broker.
- (3) a fine of £15,000; and

(4) a Censure in the terms of the Notice attached to this bulletin.

Mr Mears has undertaken not to be a director of, or be a controlling shareholder, of any Lloyd's broker. Mr Mears has further undertaken not to be in a position in future where he will be able to control Insurance Broking Accounts. These undertakings are to continue indefinitely. However, Mr Mears has liberty to apply to the Council of Lloyd's to have the undertakings lifted or amended in the future. These undertakings do not extend to his existing shareholding of R Mears and Co. Holdings Limited.

There was no order as to costs.

Details of the events giving rise to the charges against Mr Mears are set out in the Notice of Censure.

In assessing the penalties imposed on Mr Mears, account was taken of the fact that he has admitted the charges against him and that he acted dishonestly, that he had no motive for personal financial gain, that he has co-operated fully with Lloyd's and that he apologises unreservedly for his conduct.

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.

Secretary to Lloyd's Disciplinary Board

NOTICE OF CENSURE

RICHARD MEARS

Richard Mears, who was, at the relevant times, the Managing Director of R Mears & Co Limited ("RMC") (now Cogent Resources Limited), a Lloyd's broker, has admitted two charges of engaging in discreditable conduct and four charges of using an Insurance Broking Account ("IBA") for an unauthorised purpose.

The misconduct arose in respect of a sum of FRF996,824.60 (approximately £100,000) ("the Fund"). This sum was made up of overpayments in respect of three losses on reinsurance policies arranged by RMC on behalf of a captive insurance company ("the Company") in 1989 and 1990. In October or November 1990, the Fund was credited to the company's IBA and was classified as unallocated cash on that account. It remained there until August 1996.

The head of the Non-Marine Claims Department of RMC, queried the continued retention of the Fund with Mr Mears and asked him for instructions. He was told to "sit on" the money. Mr Mears was always aware of the Fund's continued existence and that the Fund did not belong to RMC.

Mr Mears used his knowledge of and control over that Fund and his position as Managing Director to arrange for the Fund to be removed from the IBA. In May or June 1996, Mr Mears instigated a plan under which it was agreed with a former employee ("the former employee") of the Company, that he and the former employee should arrange to remove the Fund from the IBA and that it should be paid, in whole or in part, to the former employee. That plan was dishonest. Mr Mears has stated that the purpose of this payment to the former employee was to provide him with an incentive to place future business with RMC.

On 10 September 1996, at Mr Mears' request, the former employee wrote a letter to RMC, which purported to be on the Company's headed paper. The letter requested payment of FRF996,824.60 to an account at a bank in Luxembourg ("BCEEL"). Acting upon that letter, on 23 September 1996, a Telegraphic Transfer Authority for that amount of money for the benefit of the Company was drawn up and signed by Mairi Mayhew and another director of RMC. The sum of FRF996,824.60 was transferred to BCEEL. However, the money was returned by BCEEL because the transfer was expressed to be for the benefit of the Company whereas the account number referred to was not the Company's. Mr Mears authorised and signed a letter (together with Mairi Mayhew) dated 4 November 1996 which was sent to BCEEL and which stated that due to an error the beneficiary was incorrectly shown.

On 18 November 1996, upon Mr Mears' request, the former employee again wrote a letter to RMC which purported to be on the Company's headed paper. The letter requested that payment be made to an account with the Allied Irish Bank in Jersey in the name of an investment company in Jersey ("the investment company"), unconnected with RMC. Mr Mears had earlier arranged with the investment company that it would make this account available for the Fund.

Acting upon the request contained in the second letter, on 20 November 1996, Mairi Mayhew drew up a further Telegraphic Transfer Authority in favour of the investment company's account which was signed by Mr Bishop and by RMC's company secretary. Mr Bishop was aware of the significance of the Telegraphic Transfer. The money was then transferred to the investment company's account.

Mr Mears subsequently instructed the investment company to transfer half of the money to the BCEEL account in Luxembourg for the benefit of the former employee. The money was transferred on 2 December 1996. The balance of the Fund (the equivalent of approximately £50,000) remained in the investment company's account. Mr Mears did not inform the other directors of RMC that these monies had been retained.

The facts set out above constitute breaches of the Lloyd's Brokers Byelaw (No. 5 of 1988) in that the uses to which the Fund was put were not uses permitted by that byelaw. These included the payment of the Fund, or part of it to the former employee who was not a person to whom it could be legitimately paid; and the payment of the Fund in order to induce a potential client of RMC to provide business or additional business for RMC which otherwise might go elsewhere. It was never part of Lloyd's case against Mr Mears that he had motive for personal financial gain.

At an emergency board meeting which was held on 17 February 1997 in order to discuss the matter, Mr Mears maintained that the Fund was being held on behalf of RMC although he had not previously informed the directors of this. However, he confirmed that he, in practice, was the only person who could authorise its removal from the account. At that board meeting, Mr Mears was suspended as Managing Director and as employee of RMC with immediate effect.

Having recovered the Fund from the investment company and the former employee, RMC returned the full sum to the relevant underwriters.

The following penalties have been imposed on Mr Mears:-

- (1) the suspension of the right to transact, or be concerned or interested in the transaction of, the business of insurance at Lloyd's or any class or classes of such business for a period of one year;
- (2) the suspension of the right of admission to the Room and all other parts of the premises of the Society for a period of one year;

Without prejudice to the generality of the foregoing the following supplementary orders shall take effect immediately upon the suspension and for the duration of the suspension:

- (a) that he shall cease to be involved or interested, whether directly or indirectly, in the broking of any insurance business or any class thereof at Lloyd's;
 - (b) that he shall cease to be involved or interested, whether directly or indirectly, in the management or conduct of the business of a Lloyd's broker; and
 - (c) that he shall not become a director or a partner in a Lloyd's broker.
- (3) a fine of £15,000; and
- (4) a Censure in the terms of this Notice.

Mr Mears has undertaken not to be a director of, or be a controlling shareholder, of any Lloyd's broker. Mr Mears has further undertaken not to be in a position in future where he will be able to control Insurance Broking Accounts. These undertakings are to continue indefinitely. However, Mr Mears has liberty to apply to the Council of Lloyd's to have the undertakings lifted or amended in the future. These undertakings do not extend to his existing shareholding of R Mears and Co. Holdings Limited.

There was no order as to costs.

LLOYD'S DISCIPLINARY BOARD