

FROM: Secretary to Lloyd's Disciplinary Board,
LOCATION: 58/NW1
EXTENSION: 5530
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REFERENCE: 003/2000
SUBJECT: **MARK BISHOP**

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

Mark Bishop, formerly a director of R Mears & Co Limited, a registered Lloyd's broker, has admitted two charges of engaging in discreditable conduct.

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

- (1) A fine of £8,000; and
- (2) A Censure in the terms of the Notice of Censure attached to this bulletin.

There was no order as to costs.

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

In assessing the penalties imposed on Mr Bishop, account was taken of the fact that Mr Bishop has admitted the charges set out above. He brought the transaction to the attention of the other directors of RMC in February 1997 and was therefore the "whistle blower" who caused the affair to become known to the Board of Directors of RMC and thereafter Lloyd's. In addition, Mr Bishop's personal circumstances, his means and testimonials and references were taken into account.

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

MARK BISHOP

Mark Bishop, formerly a director of R Mears & Co Limited ("RMC") (now Cogent Resources Limited ("Cogent")), has admitted two charges of engaging in discreditable conduct.

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 Richard Mears, the Managing Director of RMC 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 the 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 of the Company ("the former employee"), 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. In August 1996, Mr Bishop, a director of RMC was aware that Mr Mears was proposing to transfer the Fund for the benefit of the former employee. Mr Mears told Mr Bishop that it was proposed to use the Fund to "ingratiate" the former employee. Mr Bishop believed, wrongly, that the money belonged to the Company (whom he believed had closed its books).

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, the Accounts Director of RMC 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 this account would be available for the Fund. The former employee signed the letter purporting to be an officer of the Company when he was not in a position to do so. Mr Mears knew that the letter did not come from the Company, that the former employee was no longer an officer of the Company and that the former employee had no authority to act on behalf of the Company.

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 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.

Mr Bishop brought the transaction to the attention of the other directors of RMC in February 1997. 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 discreditable conduct arises because Mr Bishop was aware that Mr Mears was proposing to transfer the Fund for the benefit of the former employee. He was aware that it was proposed to use the Fund to induce the former employee to provide business or additional business for RMC. He signed the Telegraphic Transfer form dated 20 November 1996. He was aware of the significance of the Telegraphic Transfer form when he signed it. He did not inform the other directors of the transaction which was about to take place and he failed to take steps to prevent the transfer of the Fund from taking place.

Were it not for the fact that it was Mr Bishop who brought this matter to the attention of the other Directors, and for the fact that if Mr Bishop had not disclosed this matter, it would not have been brought to light, the appropriate penalty for Mr Bishop would have been a period of suspension from the Society of Lloyd's.

The following penalties have been imposed on Mr Bishop:

- (1) He is to pay a fine of £8,000; and
- (2) he is to receive a Censure in the terms of this Notice.

There was no order as to costs.

LLOYD'S DISCIPLINARY BOARD