See summaries on **CKFT's page**;
- **Doc library # 2.5 and 3.3** ;
- **Legal Services Ombudsman # 2**

Ms Noëlle Klosterkotter-Dit-Rawé
3 Jefferson House, 11 Basil Street, London SW3 1AX
Complaint against Cawdery Kaye Fireman & Taylor (CKFT), London NW3 1QA
20 December 2004

Key letters following my complaint: **08.02.05** 'Get lost'!
Mine of **19.02.05** leading to more 'Get lost!': **17.03.05**

CONTENTS

This is a complaint against Cawdery, Kaye Fireman & Taylor (CKFT), London NW3 1QA for committing criminal offences against me and causing highly detrimental consequences on my physical and emotional health, as well as financial position – in the process of supporting its client, Steel Services' unlawful claim against me of a service charge demand of £14,400

1 SUMMARY OF COMPLAINT

(**NOTES**: Throughout this document, references are made to source documents. A copy of the majority of these documents is enclosed as an appendix in chronological order. This is preceded by a list of the 132 enclosures, also in chronological order. Other documents are available on request.

In my reply I have referred to a number of residents at Jefferson House. To not only respect their privacy, but also guard against disseminating defamatory materials against them, I have referred to them by using a letter of the alphabet (not connected with their surname). For the same reason, in the supporting documents which include various letters from them, as well as materials issued by CKFT, West London County Court and Wandsworth County Court - I have crossed out their name.

Please note that the complaint I filed with your Office (and now referred to the Legal Services Ombudsman) against Piper Smith & Basham (now known as Piper Smith Watton) of 16 March 2004, your ref: CRO/45399-2004/RT4/AA1 R TUTT CRO, is related to this complaint)

My complaint against Cawdery Kaye Fireman Taylor (CKFT), London NW3 1QA, places reliance on:

1. The Rules and Principles of professional conduct comprised in The Guide to the Professional Conduct of Solicitors
2. Landlord & Tenant Act 1985
3. Theft Act 1968
4. Money Laundering Regulations / Proceeds of Crime Act 2002
5. Defamation Act 1996
6. The Criminal Justice Act & Public Order Act 1994

In pursuing instructions on behalf of its client, Mr Andrew David Ladsky (Steel Services), CKFT has acted in breach of:

1.1 Rules and principles of professional conduct comprised under 1.01 Practice Rule 1 (basic principles) of The Guide to the Professional Conduct of Solicitors

1.1.1 Principle (a) (independence and integrity)

1.1.1.1 CKFT has acted in breach of its duty as solicitors by acting in a way that was fraudulent and deceitful and used its position as solicitors to take unfair advantage for its client

1.1.1.2 CKFT repeatedly ignored legal and other evidence I supplied against its client's claim, opting instead to blindly implement its client's dictates should be: diktats

1.1.2 Principle (d) (repute of solicitors' profession)

1.1.2.1 CKFT has acted in circumstances which compromised the repute of the solicitors' profession by committing the offences detailed in this document

1.1.2.2 CKFT has sought improperly in correspondence, as well as proceedings in West London County Court, to demand from me (and indeed other residents) monies that were not due and payable – as ruled by the 17 June 2003 determination by the Leasehold Valuation Tribunal, and under the terms of my lease

1.1.3 Principle (e) (standard of work)

1.1.3.1 In spite of being told on numerous occasions that its client and its agent Ms Joan Doreen Hathaway, Martin Russell Jones, were acting in breach of their duty under Landlord & Tenant legislation, CKFT repeatedly opted to ignore the crucial requirements imposed on them by the said legislation

1.1.3.2 CKFT has repeatedly refuted my defence that the demand was in breach of the terms of my lease opting instead to align itself with its client in spite of the evidence

1.1.3.3 CKFT sent me an offer it described as a *"Part 36 Offer"*. This offer, which in fact was a 'pre-action' offer was not compliant with the CPR Rules as defined by Lord Woolf's in the Ford v GKR Construction Ltd [2000] 1 All ER802 case as I was not supplied with the information necessary for me to assess it

1.1.3.4 As acting solicitors, CKFT drew-up just one claim for £303,793.27 against 11 residents, including myself (and representing a total of 14 flats) making us, by implication, jointly and severely liable for the claim – which is wrong as each flat has a set percentage share of the service charge. The claim was filed by Ms Joan Doreen Hathaway, Martin Russell Jones, on behalf of Steel Services in West London County Court on 29 November 2002

1.1.3.5 Following filing of the West London County Court claim, CKFT obtained orders / judgements through the Court against other residents – before – the Leasehold Valuation Tribunal issued its report on 17 June 2003

1.1.3.6 Consequently, in the said actions, CKFT negotiated with me on the one hand while, at the same time, it pursued different amounts in West London County Court and Wandsworth County Court from other residents – leading to residents being charged differentially for the works. CKFT's client cannot charge differentially:

(1) as consistently provided and confirmed by its agent, Martin Russell Jones, the amount of service charge for each flat is a fixed percentage;

(2) the global sum to which these fixed percentages are applied must be the same for all the 35 flats in the block.

1.1.3.7 CKFT has failed to amend the West London County Court claim, dated 29 November 2002, to reflect the amount determined by the LVT and continued to pursue proceedings under the original claim.

1.1.3.8 CKFT has also failed to observe other proper standards of work in the context of the West London County Court proceedings by, among others:

(a) not taking action to stay the court proceedings as: I was issued with court notices before I had a copy of the LVT determination of 17 June 2003; the claim against me was not amended to reflect the LVT determination of 17 June 2003;

(b) asking for a Case Management hearing (24 June 2003) which was premature as I had leave of appeal to the Lands Tribunal;

(c) in the case of the said hearing, Mr Silverstone, CKFT, handed me, barely minutes before seeing the Judge a draft order and case summary which I had never seen before

(d) not issuing me with its skeleton argument for a hearing (28 May 2004)

1.1.4 Principle (f) (duty to the Court)

1.1.4.1 CKFT breached its duty to the Court by pursuing proceedings which amounted to an abuse of process of Court as:

(a) I (and other residents) had been told by the LVT at a pre-trial hearing on 29 October 2002 to **not pay** the service charge until the Tribunal had issued its determination – and it had

therefore been implemented. Yet, a month later, a claim against myself (and 10 other residents) produced by CKFT was filed in West London County Court;

(b) fully cognisant of the LVT action - instigated by its client - CKFT nonetheless proceeded with the court action

1.1.4.2 As I (and other residents) had been told by the LVT to **not pay** the service charge demanded until the Tribunal had issued its determination, and it had therefore been implemented, by issuing and pursuing proceedings simultaneously – and knowingly - under 2 separate jurisdictions, West London County Court and the LVT – CKFT placed me (and other residents) in a situation of double jeopardy

1.1.4.3 In the said proceedings, CKFT sought improperly to recover monies allegedly by way of service charge which were not due and payable

1.1.4.4 In the same proceedings, it knowingly made statements that were untrue and accompanied these by signing a Statement of Truth all with the objective of obtaining monies that were not due and payable. In my case, one such instance entailed the signing of a false Statement of Truth by Ms Ayesha Salim, CKFT

1.1.4.5 In committing these actions, CKFT is in breach of its duty to the Court as by the said Practice Rules imposed on solicitors

1.2 CKFT has committed criminal offences under the Theft Act 1968

1.2.1 Section 16 (1) of the Act: "… by any deception dishonestly obtaining for… another any pecuniary advantage…"

1.2.1.1 CKFT obtained from me (and other residents) monies that were not due and payable under the terms of my lease and as per the 17 June 2003 determination by the Leasehold Valuation Tribunal by denying / misrepresenting the true legal position and by supporting its client's false claims

1.2.1.2 CKFT demanded payment outside of the terms of my lease

1.2.2 Section 21 of the Act: "Blackmail [1] – (1) A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces…"

1.2.2.1 CKFT inappropriately used Forfeiture legislation, as well as threatened to contact my mortgage lender as a means of obtaining from me monies not due and payable.

1.2.2.2 CKFT continued using blackmail, extortion [2], bullying [3] and fraudulent [4] tactics to obtain monies not due and payable in spite of being provided with information demonstrating that his

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[1] Definition of **'blackmail'** sourced from 4 different English dictionaries, as well as the website of charity organisations who deal with this particular issue: *"To exact or attempt to exact (money or anything of value) from (a person) by threats or intimidation"; "The exertion of pressure or threats, esp. unfairly, in an attempt to influence someone's actions"*; *"The act of making others do what one wants through fear"; "Being made to feel afraid or timid; a communication that makes you afraid to try something"*

[2] Collins English Dictionary definition of '**extortion'**: *"To secure (money, etc.) by intimidation, violence, or the misuse of influence or authority"*

[3] Definition of **'bullying'** sourced from 4 different English dictionaries, as well as the website of charity organisations who deal with this particular issue: *"To intimidate or badger with threats"; "Bully – a person who hurts, persecutes, or intimidates weaker people, especially to make him / her do something"; "The act of intimidating a weaker person to make them do something"; "A bully is an individual who tends to torment others. Bullying is generally seen as a form of harassment"*

[4] Collins English Dictionary definition of '**fraud'**: *"Deliberate deception, trickery or cheating intended to gain an advantage; an act or instance of such deception; something false or spurious"*

client's claim was not justified. In the end this led me to pay £6,350 which I did not owe because the demand was not supported by certified accounts and, in addition, contains the sum of £1,735 which is not justified.

1.2.2.3 Fully cognisant of the fact that its client's claim against me was false, CKFT relentlessly pursued me in court to obtain monies not due and payable

1.3 CKFT has committed a criminal offence under the Criminal Justice Act & Public Order Act 1994

1.3.1 Section 4A of the Act: Makes it a "…criminal offence to cause harassment, alarm or distress with intent by using threatening words"

1.3.1.1 In numerous correspondences over a period of 20 months CKFT has caused me to suffer harassment, alarm and distress by threatening to take actions against me and by claiming for costs and disbursements in its correspondence which was intended to pressure me into accepting a claim which could not be justified. Many of these letters were sent by either Mr Silverstone or Ms Ayesha Salim.

1.3.1.2 CKFT caused me alarm and distress by threatening to *"take injunctive steps"* against me following false allegations by its client

1.4 Having committed criminal offences (punishable under UK law), CKFT also committed offences under the Money Laundering Regulations / Proceeds of Crime Act 2002

1.4.1.1 CKFT aided and abetted its client in obtaining criminal proceeds over a period that spanned from October 2002 to June 2004 – as the amount I ended-up paying as a result of its blackmail and extortion tactics was not due and payable – and still is not to this day

1.4.1.2 CKFT sought improperly to recover monies allegedly by way of service charge which were not due and payable

1.4.1.3 CKFT cashed my cheque for £6,350 which was a sum not due and payable

1.4.1.4 Failing to check the identity of its client, resulting in its claims, over a period of at least three months that it was acting on behalf of an entity when, in fact, the evidence demonstrates did not exist

1.4.1.5 *"Knowing receipt" - Dishonest assistance to a trustee by assisting, with knowledge, in a fraudulent and dishonest design on the part of the trustees"*. CKFT committed this offence on the basis that, as defined under Section 42 of the Landlord & Tenant Act 1985, a landlord is the trustee of the account(s) in which tenants' service charge contributions are paid - and on the basis of the aforementioned offences.

1.5 CKFT has committed offences under the Defamation Act 1996 by originating, as well as disseminating to other residents at Jefferson House and, hence, the public at large, County Court documents with my name on them which, it knew, contained defamatory statements about me

1.5.1.1 CKFT filed a claim against me in West London County Court on 29 November 2002 which it knew to be false. On the same claim it listed 10 other residents resulting in the dissemination of this libellous, defamatory material to the public at large

1.5.1.2 It continued issuing and releasing to other residents court related documents that contained false claims against me until August 2004

1.5.1.3 These documents deliberately set out to mislead as CKFT had absolute knowledge that these documents contained false statements

1.5.1.4 I could suffer great financial loss as a result of this in future as, seen in isolation, any reasonable and respectable people who come across these documents will think less of me as a result. Among others, this could have a catastrophic effect on my future employment prospects. (My job applications may be rejected due to the defamatory statements issued and circulated by CKFT)

1.6 Conclusions

I view CKFT's conduct and method of operating as evil and immoral.

I have consistently agreed that repair and redecoration works are required at Jefferson House. Obviously – and contrary to CKFT and its client's claim that the reason I have been challenging the service charge demand is because I did not want to pay it (which was the opening statement made by Steel Services' Counsel, Mr Warwick, during the LVT proceedings) – I fully expect to pay my share. (As indeed I have done in the past since becoming a lessee in 1986). However, when presented with a £14,400 demand, I do expect to be provided with detailed information as to what this sum is going to be used for – as per my statutory rights.

Subsequent events have demonstrated that CKFT and its client do not consider this to be a legitimate request. Indeed, instead of addressing statutory requirements, they opt for an arsenal of blackmail, extortion, bullying and intimidation tactics in order to, one way or another, obtain payment – relying heavily on lessees giving up because of, among others, the unbearable toil their actions have on them.

Because of CKFT's actions I have suffered the most awful amount of sustained stress, anguish, torment and distress from October 2002 onwards leading to serious consequences on my physical and emotional health requiring the need to seek medical treatment.

It has caused me loss of earnings as I have had to take time off work to, not only attend hearings, but also in order to write the voluminous amount of correspondence that this false claim has forced me to generate. It has also cost me the majority of my spare time since October 2002.

Fighting the claim which I knew to be unjustified and unlawful, has led me to spend c. £50,000 on professional advice, as well as several thousand pounds on document production, postage, etc.

There are many other costs such as causing me humiliation as I work in the financial services sector and therefore had to report that I was facing a court case. And there are also future potential costs: those resulting from circulating defamatory materials about me.

Had CKFT been a decent firm, it would have told its client in the weeks that followed the demand that its action was illegal. Instead, by blindly backing-up its client, CKFT has quite literally ruined my life over the last 2 years.

I therefore expect to receive the maximum compensation of £5,000 from the Law Society.

As I have made the payment of £6,350 to CKFT, I also want to be reimbursed of this amount less £250 i.e. £6,100. This is because, in the end, its client opted to totally disregard the LVT determination and appointed a new contractor, Mansells, who had not tendered against the contractor, Killby & Gayford, for which the price specification was the basis of the LVT proceedings. Therefore, the 'so called' Section 20 Notice of 2002 has been invalidated and a new one should have been issued. This has not happened.

Because of this, under the Landlord & Tenant Act 1985, in particular the statutory instrument 2003 No 1897, of the £6,350 Steel Services has had from me (part of it for over one year), it can only spend £250 on Mansells.

I also want interest at 8% per annum on: the sum of £2,255.07 since 7 September 2003 to the date the banker's draft is received by my bank, and on the sum of £3,844.93 since 23 December 2003 to the date the banker's draft is received by my bank.

1.

2 BACKGROUND INFORMATION – STEEL SERVICES AND CKFT'S CLIENT

2. CKFT are solicitors acting for Steel Services, landlord for Jefferson House where I am the lessee of flat 3.

3.

2.1 Ownership of the block – Steel Services and Jefferson House Limited

4. The Land Registry (at 26 April 2004) states that Steel Services Limited is the headlessor [5] while Jefferson House Limited is the freeholder. There are 3 different titles for Jefferson House on the Registry: # 101 949 [6], # 69437, # 6901,. All 3 include *"Note 3: Lessee's title NGL 373 333"* i.e Steel Services.

5. Until a further recent reshuffle of the 'visible' parties holding the headlease and freehold, the name of Mr Patrick May O'Connor was referred to, on the Land Registry, in a *"Note on title for Leasehold: '1 June 2001 - RESTRICTION: …pursuant to clause 6.7 of an Agreement dated 26 July 2001 made between (1) Steel Services Ltd (2) Canso Properties Ltd and (3) Patrick May O'Connor*" (Land Registry record 10 October 2001) [7] Mr Patrick May O'Connor was, among others, a director of Langhaven Holdings, previously known as Acrepost. My lease is from Acrepost.

   As suggested by this restriction, neither Mr Patrick May O'Connor, nor Canso Properties were previously mentioned under this title – as can be seen for example in the Land Registry copy dated 1 June 2001 [8].

   The name of Mr O'Connor and Canso Properties remained on the Land Registry during at least the next 2 years (e.g. they were still listed at 6 March 2003). By 26 April 2004 they had been removed [9]

   By the same date i.e. 26 April 2004, the Land Registry was still showing Jefferson House Limited as the freehold owner [10].

6. Indications are that Steel Services Limited and Jefferson House Limited are one and the same people:

   - At 23 April 2004, both were registered in the British Virgin Islands: reply to me from the BVI giving IBC No. 199 568 for Steel Services [11], and IBC No. 227 649 for Jefferson House Limited [12]
   - A letter from MRJ, dated 5 October 2004, specifically identifies Steel Services as *"the freeholder"* [13]
   - A Central London County Court claim filed by Steel Services against a resident on 26 February 2002 states: *"The Claimant is the freehold owner…"* [14]. It also states a British Virgin Islands domicile.

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[5] Land Registry, Title # NGL373 333, Leasehold owner, Steel Services Limited, dated 26 April 2004
[6] Land Registry, Title # 101 949, Freehold owner, Jefferson House Limited, dated 26 April 2004
[7] Land Registry, Title NGL 373333, Leasehold ownership, Steel Services Limited + Canso Properties + Patrick May O'Connor, dated 10 October 2001
[8] Land Registry, Title NGL 373333, Leasehold ownership, Steel Services, dated 1 June 2001
[9] Land Registry, Title NGL 373333, Leasehold ownership, dated 26 April 2004
[10] Land Registry, Title 69051, Freehold ownership, Jefferson House Limited, dated 26 April 2004

Item 2 and 3 indicate a discrepancy with the Land Registry record.

7.

2.2 Frequent changes in the domicile of Steel Services

8. **Steel Services** has been a highly elusive entity which, **at one point was non-existent as the sole place given as its domicile, the British Virgin Islands, had the company *"struck-off the register for non-payment of the licence fee"*** [15].

The elusiveness of Steel Services is highlighted by the frequent changes in address provided by Ms Joan Doreen Hathaway, Martin Russell Jones (MRJ), managing agents for the block since the late 80s, and the fact that some of the addresses turned out to be untrue:

9. ***4 changes of address in the space of one year***

10.

Up to March 2001	Service charge statements sent by Ms Hathaway stated: *"Steel Services, the landlord, PO Box 258, Malzard House, 15 Union Street, St Helier JE4 8TY"*
1 October 2001	Ms Hathaway replied to Nucleus (local Citizen Advice Bureau) that the address for Steel Services is *"25-26 Hampstead High Street, London NW3 1QA"* **i.e. CKFT's address** [16]
14 November 2001	Ms Hathaway replied to Nucleus that the address for Steel Services is at their "*care, at 5 Watford Way, Hendon Central, London NW4 3JL".* (Hence, the address had changed again in the space of 6 weeks)
17 July 2002	The service charge demand gives the address for Steel Services as being in Jersey: *"PO Box 258, Malzard House, 15 Union Street, St Helier JE4 8TY"*

11. ***Indication of a false domicile in Jersey***

I had previously determined from the Registry Office of the Jersey authorities that Steel Services was not on their register. However, as this address had reappeared, I again contacted the authorities, and yet again received the same reply on 6 August 2002: *"I can confirm that we have no company on the Jersey Register with the name Steel Services Limited. It is possible that the company may just have an administrative address here but it is not registered in Jersey"* [17]

12.

2.3 For at least 3 months (and possibly longer), CKFT claimed to be acting for Steel Services when, in fact it was a non-existent entity

13. Under Section 2 of the Landlord & Tenant Act 1985 tenants are entitled to be provided with the name and address of every director and secretary of the landlord. As our requests to Ms Hathaway were being ignored, some residents approached Nucleus, our local Citizen Advice

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[11] British Virgin Islands, Company Register, Steel Services Limited, IBC # 199 568, dated 23 April 2004
[12] British Virgin Islands, Company Register, Jefferson House Limited, IBC #227649, dated 23 April 2004
[13] Letter from Martin Russell Jones to "All Lessees", dated 5 October 2004
[14] Claim Form, Central London County Court, Claimant Steel Services Limited, dated 26 February 2002
[15] British Virgin Islands, Company Register, Steel Services Limited, IBC # 199 568, dated 8 August 2004
[16] Letter from Ms Hathaway to Nucleus, dated 15 October 2001
[17] Email dated 6 August 2002 from the Registry Officer, Jersey Authorities

Bureau, in order to help us enforce our statutory rights [18].

Like the residents, Nucleus failed to obtain this information as Ms Hathaway replied to Nucleus on 7 November 2001: *"Unfortunately, we do not have the names and addresses of the Directors and Secretary of either the headlease or the freeholder"* [19]

14. **It is important to note that, at the time, Ms Hathaway was in contact with CKFT** as, in her **15 October 2001** reply to Nucleus [20], the contact address she gave for Steel Services was in fact that of CKFT i.e. **CKFT was acting for Steel Services at the time.**

15. In January 2002 I contacted the Tenancy Relations Officer (TRO) at the Royal Borough of Kensington & Chelsea (RBK&C) to get his assistance.

In her initial reply of 14 January 2002 to the TRO, Ms Hathaway repeated the same response she had given to Nucleus: *"… we do not have details of the directors and company secretary of either company"*. [21]. (In the same letter she states that: *"Jefferson House Limited is the freeholder".* Yet, the following month, Steel Services filed a claim in Central London County Court against a resident describing itself as the *"freehold owner"* – and giving an address in the British Virgin Islands)

In her letter dated 25 January 2002 to the TRO Ms Hathaway stated: *"The Directors and secretary of Steel Services are F.M.C. Ltd"* and gave an address in the British Virgin Islands [22]. She also attached a letter from Saxon Law, solicitors for Jefferson House Limited which stated: *"..it is the lessees immediate landlord whose details are to be provided which is not, in this instance, our client, Jefferson House Limited"* [23]

16. **From where did Ms Hathaway obtain this information given that 10 days earlier she had written to the TRO that she did *"not have details of the directors and company secretary of either company"*? Clearly, based on the evidence, her source had to be CKFT.**

17. Various correspondences were exchanged over the following months. Of note are:

The 29 July 2002 letter from the TRO informing CKFT that Steel Services could not be found on the Companies House register [24]

A letter from CKFT to the TRO, dated 1 August 2002, stating: *"All we can say is **Steel Services Limited is an existing entity**, and we have provided you with all of the information we have so far been instructed to supply"* [25].

At this point, upon contacting the BVI Authorities, I discovered that Steel Services had been *"Struck-off the register for non-payment of licence fee"* [26]

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[18] Letter from Nucleus to Ms Hathaway, dated 5 November 2001
[19] Letter from Ms Hathaway to Nucleus, dated 7 November 2001
[20] Letter from Ms Hathaway to Nucleus, dated 15 October 2001
[21] Letter from Hathaway to the Tenancy Relations Officer, RBK&C, dated 14 January 2002
[22] Letter from Hathaway to the Tenancy Relations Officer, RBK&C, dated 25 January 2002
[23] Letter from Saxon Law to Ms Hathaway, dated 23 January 2002
[24] Letter from Mr McDougall to Cawdery Kaye Fireman & Taylor, dated 29 July 2002
[25] Letter from CKFT to Mr McDougall, dated 1 August 2002

18. In his letter of 8 October 2002 the TRO again asked Ms Hathaway to provide the information stating: *"…we have received confirmation from Companies House that this company does not exist"* [27].

    This led to a reply from Ms Hathaway on 21 October 2002 that *"Steel Services is not registered in this country"* [28].

    On 23 October 2002 the TRO sent a letter to Ms Hathaway in which he captured a telephone conversation he had with her subsequent to her letter of 21 October and in which he asked her to confirm the main points of the conversation. Namely, that: (1) Steel Services was registered in the BVI; (2) F.M.C. Ltd were the directors; (3) CKFT's address was the address for Steel Services in the UK [29]

19. In my 17 October 2002 letter to CKFT I wrote: "*Despite numerous requests since 8 January 2002 from the Tenancy Relations Officer at the Royal Borough of Kensington & Chelsea to MRJ, yourself and other parties for proof of the existence of Steel Services – evidence is still lacking"* [30]

    CKFT replied the following in its 21 October 2002 letter: *"We are satisfied that Steel Services Limited exists"* [31]

20. **Thus, the outcome of the various searches undertaken by myself and the TRO was that Steel Services was not an existing entity – and therefore contradicted what CKFT had claimed in its 1 August 2002 reply to the TRO – as well as in its correspondence to me.**

21. At the end of October 2002 CKFT was alerted to the fact that I knew that Steel Services had been struck-off the BVI register as I communicated this information to the LVT (in the context of the application that Steel Services - MRJ had filed with the Tribunal on 7 August 2002 *"to determine the reasonableness of the global sum demanded for the major works"* as I could not see how a non-existent company could pursue an action in the LVT).

    Evidently, this led to the c. US$300 fee being paid as, in his email dated 5 November 2002, the TRO told me he had *"received from CKFT a 'Certificate of Good Standing' for Steel Services issued by the BVI, dated 28 October 2002* [32] (All that is required to set-up a company in the British Virgin Islands in the space of 24 hours is a telephone and a credit card. It may have thus been the approach used to reinstate Steel Services on the BVI register).

22. **Hence, the evidence demonstrates that for a period of at least 3 months CKFT (and MRJ) claimed to be taking actions on behalf of a company which, in fact, did not exist - <u>leading to a breach of the Money Laundering Regulations: failure to check the identity of a client</u>**

23. **2.4 CKFT's client – Mr Andrew David Ladsky**

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[26] British Virgin Islands, Company Register, Steel Services Limited, IBC # 199 568, dated 8 August 2004
[27] Letter from Mr McDougall to Ms Hathaway, dated 8 October 2002
[28] Letter from Ms Hathaway to Mr McDougall, dated 21 October 2002
[29] Letter from Mr McDougall to Ms Hathaway, dated 23 October 2002
[30] My letter to CKFT, dated 17 October 2002
[31] Letter from CKFT to me, dated 21 October 2002
[32] Email from Mr McDougall to me, dated 5 November 2002

24. **It is clear that CKFT's main contact for Steel Services is Mr Andrew David Ladsky for whom CKFT has acted at least since the mid 90's:**

25. CKFT instructed Counsel in the TSB Bank plc v. Arthur Ladsky, 1996 Court of Appeal case. Messrs Andrew Ladsky and Arthur Ladsky were both directors of Combined Mercantile Securities, (the company against which TSB successfully claimed repayment of advances made under a facility letter, together with expenses and interest – a total of £3 million). (Companies House database indicates that Mr Andrew Ladsky was appointed director on 20 November 1991)

26. A search in December 2001 on Companies House database on Mr Andrew David Ladsky's directorships gave his *"latest address"* as London NW3 1QA i.e. CKFT's postcode. It listed numerous companies that had been dissolved, including Combined Mercantile Securities Limited. As in the case of this company, several of the others had both Messrs Andrew Ladsky and Arthur Ladsky as directors.

27. In an identical letter dated 11 October 2001 to two residents (following their reporting to Kensington & Chelsea Police that Mr Ladsky had unlawfully entered their flat), CKFT clearly identifies Mr Ladsky as its client as it states: *"We are solicitors instructed by Mr Andrew Ladsky…"* [33]

    CKFT's letter to me dated 7 October 2002 states: *"Service charge demand – We have been instructed to act on behalf of Steel Services Limited…"*. The reference for the letter reads: *"RLS/sp/LAD008/4"* [34]

    The reference on the Consent Order I have exchanged with CKFT reads: *"AS/17/LAD8/4"* [35]

28. **It is also quite clear that Mr Ladsky does not wish to be 'formally' identified with Steel Services.**

29. In its letter to me of 4 February 2003, CKFT states: *"It has come to our attention from Mr Ladsky, the tenant of flat 35…"* [36]

    (NB: This letter was sent following Mr Ladsky reporting the most ridiculous of complaints to Kensington & Chelsea Police that I had *"verbally abused him in public"* and leading PC Neil Watson (PC206BS) of Kensington & Chelsea Police to state in his letter to me dated 23 January 2003: "*Of perhaps greater importance is the fact that any further such outburst may result in charges of harassment being made against you, as this initial complaint has been fully recorded by the police"* [37]

    PC Neil Watson chased me for not calling him after his letter of 27 January, by sending me a second letter dated 6 February 2003. There was no follow-up whatsoever by Chelsea Police to my reply to PC Neil Watson dated 11 February 2003, in which I asked for precise details of the allegation - in writing [38]*)*

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[33] Letter from CKFT to Resident A and B, dated 11 October 2001
[34] Letter from CKFT to me, dated 7 October 2002
[35] Consent Order I exchanged with CKFT, dated 24 May 2004
[36] Letter from CKFT, dated 4 February 2003
[37] Letter from Chelsea Police to me, dated 27 January 2003
[38] My letter to Neil Watson PC206BS, Chelsea Police Station, dated 11 February 2003

30. At the 29 October 2002 pre-trial LVT hearing when asked by the Chair, Mr Sharma, what his interest was in attending the proceedings, Mr Ladsky replied: *"I am just a tenant".* At which point all the residents present turned round to him and, in chorus, called him a *"liar"* as he was *"going round the block saying he owned it"*.

    The charade continued during the LVT hearing as, while Mr Ladsky was a member of Steel Services party throughout the 4 day hearing, holding frequent conversations with Steel Services' Counsel, Mr Warwick, as well as Ms Hathaway and Mr Brian Gale, Steel Services surveyor, the LVT evidently opted to stick with the reply initially given by Mr Ladsky to Mr Sharma: in its 17 June 2003 report, the LVT states under Hearings – Point 12: *"Mr Ladsky, the lessee of flats 34 and 35 also attended"* [39]

31. **The desire to secure ownership of the block and do exactly as he pleases has led Mr Ladsky to show his card a bit more openly**:

32. A first refusal offer to buy the headlease was made to residents in late December 2000. As frequently used in these situations when the offer is made simply for the purpose of meeting legal requirements, it contained the threat of liability in order to dissuade residents from acting upon the offer. Being a member of Jefferson House Resident Association Committee, Resident H who headed the Resident Association had communicated this to me in her letter of 18 December 2000: *"Mr Ladsky has at present prevented the current landlord from building an additional floor on the block but, should he buy the headlease himself, he clearly intends to proceed with the development, in spite of the fact that there is a restrictive covenant on the building preventing it exceeding its current height"* [40]

33. The fact that the Resident Association was encouraging residents to consider the offer evidently contravened Mr Ladsky's plans leading him to send an identical letter dated 25 January 2001 to all the residents, including myself. Among others, Mr Ladsky stated: *"If you choose to vote to acquire the head lease… you… take on a series of complex and costly obligations without obtaining any financial advantage… In the offer letter from Laytons dated December 13, 2000, the tenants must purchase the property with the burden of ongoing litigation which has serious implications both in terms of the costs and damages that could flow… This litigation could impose upon those participating and in addition to the acquisition costs, a serious financial burden which is yet to be determined"* [41]

    In this same letter, Mr Ladsky also stated: *"…the costs of any additional floor on the property will NOT be borne by the residents… All tenants are of course protected by the Landlord and Tenant Acts to ensure those carrying out any works do so reasonably…"*

34. This led the person running the Residents Association to write to residents on 31 January 2001: *"Some residents have received a letter from Mr Ladsky… 3. The minimum sum of £350,000 for repairs to the block came from Mr Ladsky himself. He quoted this figure twice – on 27 November and 30 December 2000. The amount is based on Mr Ladsky's surveyor's report. Naturally, residents cannot be charged for the building of a new floor on the roof…"* [42]

35. **As Resident H was pushing ahead with the possibility of acquiring the headlease, Mr Ladsky resorted to intimidation and harassment tactics ultimately aimed at getting**

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[39] Determination by the Leasehold Valuation Tribunal, Ref dated 17 June 2003

[40] Letter from Resident H to me, dated 18 December 2000

[41] Letter from Mr Andrew Ladsky to me, dated 25 January 2001

[42] Letter from Resident H to Residents, dated 31 January 2001

Resident H to leave and thereby remove all opposition by dissolving the Resident Association – which he succeeded in doing:

36. Resident H copied me on her letter of 14 January 2001 to Mr Ladsky in which she stated: *"On 30 December 2000 you rang me at home to tell me that you were buying the headlease of Jefferson House …You made it clear that the residents could not take up first refusal to buy the headlease… I have informed the committee of your demand (made on 27 November 2000) that I hand over to you immediately … the office of Chairman of the Association together will all its books and records… your conversations with me and calls to me list a catalogue of statements that can only be described as threats. These include threats to sue residents of Jefferson House if they do not allow you to act as you wish, suing them for punitive damages of £500,000 and/or bankruptcy if they take up the option to buy the headlease, taking me to court for contradicting your opinions… I also know that you have made a very large number of telephone calls to my home… There is no reason for you to persist in ringing, including after midnight… People visiting me have witnessed this"* [43]

37. In another letter to me, dated 16 January 2001, she stated: *"I have sent out the enclosed because I have heard from several residents that they have been spoken to by Mr Ladsky and either threatened or harassed, or told that they need not consider casting a vote to buy the lease… Situation is pretty awful – phone calls to me all the time – and some residents terribly upset…"* [44]

38. Eventually, the opportunity to buy the headlease was removed from residents, as evidenced by the letter from Resident H to me, dated 23 May 2001: *"I have been told that the ownership of the landlord's company Steel Services Ltd has been transferred to 'an unknown buyer'. The headlease has been 'sold' along with the company"* [45]. This was the final straw for Resident H: she left.
(**NB:** As explained earlier on in this document, between June 2001 and 10 October 2001 a change in the composition of the ownership of the building was registered on the Land Registry)

39. Resident H had told me that she had reported Mr Ladsky to Chelsea Police. This was further confirmed in an email to me from Resident E, dated 18 April 2002: *"Chelsea Police advised her off the record to fold her tent and go – which she did; cant blame any one for that. Her experience was horrendous. I was there on two occasions on Jan & Feb last year with this harassment going on"* [46]

40. **Resident H was not the only one who suffered harassment and intimidation by Mr Ladsky.**

41. For example, Resident F (who was a client of Piper Smith & Basham, solicitors, before I also became a client) told me in her letter dated 1 November 2002 (enclosed):

"Both I and my tenant, who is an extremely courteous and polite young woman experienced unprovoked direct verbal and other abuse by Mr Ladsky late last year, to the point where I had contacted my solicitor with request to take legal action for threatening behaviour against Mr

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[43] Letter from Resident H to Mr Ladsky, dated 14 January 2001
[44] Letter from Resident H to me, dated 16 January 2001
[45] Letter from Resident H to me, dated 23 May 2001
[46] Email to me from Resident E, dated 18 April 2002

Ladsky, which I did not pursue. My tenant was terrified and intimidated by his behaviour, and I, on confronting him directly on the phone, would have been terrified too, if I had not been so enraged by his actions. He acted like a petty tyrant, and I am not afraid to put on record that I believe that he is capable of any unscrupulous actions in order to achieve his aims" [47]

42. In my case, following numerous anonymous phone calls to my home, I filed an Application for Telephone Trace (Crime Ref: 560 4102/02C) on 20 February 2002. In addition to this, as well as false accusations, I suffered numerous other acts of harassment, intimidation, as well as assault e.g. being forced into the building by Mr Ladsky; being pushed aside in the corridor by him; being harassed by him at my usual bus stop on my return from work; my door being pressed in the early hours of the morning, hard object thrown at my windows late at night, etc.

43. An example of evidence is the RBK&C TOR's email to me of 5 November 2002: *"I have also received a telephone call from Mr Ladsky. He has asked for copies of all correspondence that you have sent me".* The TOR refused to supply the information to Mr Ladsky. [48]

44.

2.5 True to form, CKFT immediately landed support to Mr Ladsky in his activities – including continuing to deny the evidence against its client's claim – as indicated by the following:

45. After Mr Ladsky had reported me to Kensington & Chelsea for 'swearing at him', this was followed by a letter from CKFT to me dated 4 February 2003, stating:

"It has come to our attention from Mr Ladsky, the tenant of flat 35… that you shouted abusive and foul-mouthed remarks at him… We understand that this is not the first time… These incidents have now been reported to the police and formal complaint made against you…This behaviour constitutes a clear and unequivocal breach of covenant under the terms of your underlease… ***our client company wishes to make it clear that they will take injunctive steps prior to other proceedings being formalised to restrain you from causing a nuisance at the property…*** *The due process of law is under way* ***to claim the perfectly proper service charges that are due from you…"*** [49]

(**NB:** My highlights. See later on in this document section 'Determination by the LVT – 17 June 2003' for a definition of what CKFT considers as *"the perfectly proper service charges that are due from you".* As well as, among others, the section 'Filing of claim in West London County Court on 29 November 2002 and the preceding section which relates to the LVT pre-trial hearing on 29 October 2002)

These events took place just before the 1st day of the LVT hearing on 5 February 2003. I believe that the connection is that Mr Ladsky considered that I would be a 'push over' at the LVT hearing because, until then, his aides had never received a communication on my behalf from a legal adviser.

Preceding events include:

- On 3 January 2003 at 11h30 when, sensing that somebody was by the door to my flat, I

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[47] Letter from Resident F to me, dated 1 November 2002

[48] Email to me from Tenancy Relations Officer, RBK&C, dated 5 November 2002

[49] Letter from CKFT, dated 4 February 2003

opened it suddenly. It was Mr Ladsky. He told me, with a lot of venom in his voice: *"I am going to get you this year"*. One thing he had against me was that I had established from the British Virgin Islands Authorities that Steel Services had been *"struck-off the register for non-payment of the licence fee"*

- Clearly very confident that he was *"going to get me",* on 20 January 2003, as I was leaving the building, on seeing me, he said: *"Better luck next time!"* followed by a sarcastic laugh

46. **Other evidence demonstrating CKFT's active support to Mr Ladsky in his activities:**

When residents A and B reported Mr Ladsky to Kensington & Chelsea Police for entering their flat, CKFT sent them an identical letter in which it stated, among others: *"We are solicitors instructed by Mr Andrew Ladsky… Our client was visited by Mr D Malam from the Chelsea Police Station… The allegation was slanderous… our client's credit and reputation have been damaged. He has suffered embarrassment and distress… Our client requires you to compensate him in respect of the loss and damage that he has suffered… He requires your formal written apology"* [50]

47.

3 SERVICE CHARGE DEMAND

48. My first direct exposure to CKFT came in the context of a service charge demand sent by Ms Hathaway, MRJ, dated 17 July 2002, for *"Major works contribution:* ***£14,400.19****"*. This demand states: *"Landlord: Steel Services Ltd, POB Box 258 Malzard House, 15 Union Street, St Helier JE4 8TY"* [51]. (**NB:** Please note that, in light of the information provided under the Background section above, indications are that, at the time, this was a false address).

49. In the same correspondence was a letter from Ms Hathaway, dated 15 July 2002, which she alleged to be a Section 20 Notice. She stated that: "*Subject to any observations which we may receive, it is the intention of Steel Services to instruct Killby and Gayford to carry out the work*" [52] (**NB:** Please note the claim to be acting for Steel Services at a time when, in all likelihood, Steel Services had already been struck-off the BVI register). (The reply I received from the BVI is dated 8 August 2002).

50. Application to the Leasehold Valuation Tribunal – 7 August 2002 [53]

Within less than 2 weeks of sending the demand for payment to residents (many of whom reside overseas and would not therefore have received it until well into w/c 22 July), on 7 August 2002, Ms Hathaway filed an application in the LVT *"to determine the reasonableness of the sum demanded for the major works"*

Why was this done – if the demand was 'fair and reasonable' (which is how Steel Services positioned its application to the LVT)?

In filing the application, Steel Services was, in my opinion, evidently relying on being able to 'steamroll' the application through the LVT with little opposition (in part because many residents live overseas) - and thereby get the 'official' seal of approval. Subsequent events support my view.

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[50] Letter from CKFT to Resident A and B, dated 11 October 2001
[51] Service charge demand from MRJ, dated 17 July 2002
[52] Letter from Ms Hathaway to residents, dated 15 July 2002
[53] Steel Services application to the Leasehold Valuation Tribunal, dated 7 August 2002

51.

Contrary to Ms Hathaway's claim, this was not a Section 20 Notice as, among others, duly priced specifications had not been made available to residents

52. **3.1 The procedure adopted by CKFT's client is in breach of Section 20 of the Landlord and Tenant Act 1985**

53. **Landlord and Tenant Act 1985 - Section 20** – **(4) (b) –** ***"A notice accompanied by a copy of the estimates shall be given to each of those tenants or shall be displayed in one or more places where it is likely to come to the notice of all those tenants"***

54. Initially 6 contractors were sent a tender. Of these, only 3 provided a costed submission: Killby & Gayford, Gleesons and CLC.

The **only** costings that I (and quite evidently other residents) saw were those attached to Ms Joan Hathaway's letter dated 15 July 2002 (and enclosed with this document):

(a) a letter from Killby & Gayford, dated 2 July 2002, stating only a global sum of £564,467.00 exc. VAT

(b) A page, numbered 3, from M.J. Gleeson Group plc, dated 26 April 2002, stating only the global sum of £680,346.79 exc. VAT

(c) Page 2 and 3 from a document signed by CLC Contractors, dated 19 April 2002 stating a total sum of £719,894.60 and giving a brief summary breakdown (on which, for the 'services' section, the sum of £160,307.00 had been crossed out and replaced with £406,537.00)

To this 15 July 2002 letter, Ms Hathaway had attached the demand from me of £14,400.19, dated 17 July 2002

55. As stated by my surveyor, Mr Brock, LSM Partners, in his Expert Witness report, dated February 2003 [54], under points 6.14 and 6.15:

"In my opinion, the reason that only 3No contractors out of a possible 8No were able to provide prices for this document is that this specification is not clear on the extent of the work required and therefore submitting a tender would be considered a risk
I do not consider any judgment can be made on the priced submission by Gleesons (the second lowest tender) as a single total sum was provided with no breakdown provided. This should have been requested by Brian Gale Associates. A basic arithmetical error in their calculation (more easily identifiable with a tender breakdown) it is possible that their tender would be more competitive than Killby & Gayford's. As an example a single error on CLC's tender (services section) amounted to a difference of over £250,000.00"

56. While under Points 6.30 and 6.31, my surveyor wrote:

"Brian Gale Associates tender report does not comment on any of the cost comparisons received by the tenderers, which is typical practice when reporting tender results. It is not possible without a more comprehensive cost breakdown to compare the costs of the lowest two tenders. BGA did not ask for further breakdown prices to be submitted. Without being able to compare similar work elements on a cost basis, it is not possible to confirm the contractor has understood the scope of

[54] Expert Witness report by Mr Brock, LSM Partners, dated February 2003

works involved

None of the discussions with the contractors during the tender analysis stage have been recorded, particularly the clear reasons why Killby & Gayford increased their original submission by £112,501.33".

57. In addition to which, as pointed out by my surveyor under point 6.2 of his Expert Report, the contract form used for the invitation to tender was inappropriate for works of this size and nature (This was admitted by Mr Brian Gale during the LVT hearing - as captured under Point 32 of the LVT report: *"I accept a JCT works contract was not acceptable here. It was an oversight on our behalf"*).

58. Aside from other residents also stating that they had not been supplied with a copy of the priced specifications (see, for example, letter to MRJ from Resident G dated 3 August 2002 [55] and from Resident D dated 24 September 2002 [56]), the LVT captured the following in its 17 June 2003 report (Ref: LV/SC/007/120/02) [57], under Point 14 –

> *"Ms Hathaway (of Martin Russell Jones), on behalf of the Applicant, resisted the application for an adjournment… She maintained that Ms Dit-Rawé had seen the specification in the porter's room, but was unsure as to whether this had been a priced version".*

Point 16 of the LVT report states – *"In the interest of justice, the Tribunal agreed to an adjournment…"*

59. **Hence, the residents were asked to part with sums of money as high as £64,500** (in the case of one resident) **with no evidence whatsoever as to the composition of the costs.**

60. **Thus, contrary to Ms Joan Hathaway's claim in her 15 July 2002 letter that the selection of Killby & Gayford was: *"In accordance with the requirements of the Landlord & Tenant Act 1985…"* in actual fact, it was not.**

Importantly, CKFT opted to disregard Steel Services – MRJ's non-compliance with this statutory requirement.

61.

Steel Services and Ms Hathaway's interpretation of Section 20 – (4) (e) of the Landlord and Tenant Act 1985 *"The landlord shall have regard to any observations received in pursuance of the notice"* was to respond with the threat of prosecution – as well as forfeiture of my lease

62. I replied to Ms Hathaway's 15 and 17 July 2002 demand on 11 August 2002 requesting information as *"the copy left with the porter has not been duly priced"*, as well as highlighting that *"if subsequent changes are going to be made, I expect a Section 20 notice to be issued*" [58]

63. In her 20 August 2002 letter to 'All Lessees' Ms Hathaway stated *"have not received significant comments from tenants within the prescribed limit, consequently Steel Services are instructing Killby & Gayford; request*

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[55] Letter from Resident G to Martin Russell Jones, dated 3 August 2002
[56] Letter from Resident D to Martin Russell Jones, dated 24 September 2002
[57] Determination by the Leasehold Valuation Tribunal, Ref LVT/SC/007/120/02, dated 17 June 2003
[58] My letter to Ms Hathaway, dated 11 August 2002

payment of the full amount by 16 September" [59]

64. In my 16 September 2002 reply to Ms Hathaway I pointed out, among others:

"Therefore, other than a lump sum, you have not provided me with any cost information justifying your demand for £14,400.19. Please inform your client of the following legal requirements under Section 20 of the Landlord and Tenant Act 1985:

(4)(b) A notice accompanied by a copy of the estimates shall be given to each of these tenants or shall be displayed in one or more places where it is likely to come to the notice of all those tenants

When your client has complied with this legal requirement, thereby giving me the opportunity to have a look at the detailed specification of the works - duly priced - I will let you know whether I require my own copy." [60]

65. In her letter to me, dated 20 September 2002, Ms Hathaway wrote: *"…we have to require payment by return. We must inform you that if payment is not made now our client, Steel Services will have no alternative other than to instruct solicitors to commence legal proceedings to obtain payment"* [61]

In addition, Ms Hathaway also lied as she stated:

"As other lessees have paid their contribution…".

This was not true as, on 29 November 2002, she filed a claim in West London Court s against 11 residents representing 14 flats.

66. (Other residents received this letter. See e.g. letter from Resident D to Ms Hathaway, dated 24 September 2002: *"We acknowledge your letter dated 20 September in which you threaten legal proceedings in the event of not receiving payment from us as a lessee towards your major building works"* [62])

67. **3.2 CKFT started to commit criminal offences against me with its letter dated 7 October 2002 in which it threatened to forfeit my lease and contact my mortgage lender**

68.

On 10 October 2002, I received a letter from CKFT, dated 7 October 2002 and posted on 8 October 2002. In:

(a) sending this letter,

(b) as well as subsequently maintaining its position as - in spite of evidence - it went on to pursue the actions it threatened to take in this letter by pursuing court proceedings from November 2002 to June 2004 for a false claim against me, CKFT committed breaches / criminal offences under:

(1) The Rules and Principles of professional conduct comprised in The Guide to the Professional Conduct of Solicitors:

- Independence and integrity

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[59] Letter from Hathaway to 'All Lessees', dated 20 August 2002

[60] My letter to Ms Hathaway, dated 16 September 2002

[61] Letter from Ms Hathaway, Martin Russell Jones, to me, dated 20 September 2002

[62] Letter from Lessee D to Ms Hathaway, dated 24 September 2002

- Repute of solicitors' profession

(2) The Theft Act 1968
- Section 21`- Blackmail

(3) Money Laundering Regulations / Proceeds of Crime Act 2002
- Aiding and abetting the acquisition of criminal property
- Knowing receipt

(4) Criminal Justice Act & Public Order Act 1994
- Section 4a – Causing harassment, alarm and distress with intent by using threatening words

69. CKFT committed the offences firstly in its letter of 7 October 2002, in which it stated:

"… our client requires payment of the… sum within seven days of the date of this letter. In the event that payment is not received by Martin Russell Jones by 10 am on Monday 14 October, we have instructions immediately to commence proceedings for recovery of the debt.

To give added weight to its blackmail tactics (thereby committing a criminal offence under Section 21 of the Theft Act 1968), CKFT also wrote in this letter: *"Our client reserves the right to take action to forfeit your lease for breach of covenant and to communicate with your mortgagee (if any), if such action becomes necessary"* [63]

70. Some of the other residents received both these letters (e.g. Resident D's letter of 24 September 2002 to Ms Hathaway) – **but not all.**

Those who, unlike me had legal representation, were treated very differently as evidenced by CKFT's 21 October 2002 letter to a firm of solicitors acting for a Resident "*We note that you have made no proposal on behalf of your client to pay all or part of the interim service charge. We should be grateful if you would clarify whether your client does in fact have any objection to the cost of the major works in respect of which we are instructed that appropriate notices were served some time ago"* [64]

3.3 Very clearly, CKFT, Steel Services and Ms Hathaway saw me as 'fair game' for blackmail to extort monies from me that were not due and payable.

71. **As per its desired intent, the letter had a devastating impact on me. Here was a letter – from a solicitor – saying that, unless I paid this amount of money within 3 days, I would lose my home. I was in a state of complete and utter panic and was actually physically sick at work.**

72. After taking advice from various sources, I did not comply with CKFT's request. Instead, I sent CKFT a letter on 17 October 2002, in which I stated:

"Your threat to start legal proceedings immediately unless I pay £16,657.05 (which includes the sum of £14,400.19) - by 10 am on Monday 14 October

As stated in my (recorded delivery) letters of 11 August 2002 and 16 September 2002 to Martin Russell Jones (attached) I require additional

[63] Letter from CKFT to me, dated 7 October 2002
[64] Letter from CKFT to solicitors acting for a resident, dated 21 October 2002

information before I can agree to the demand. I have not received a reply to my letter of 16 September.

Since sending the letter I have, on three occasions over the last two weeks, asked the porter to let me have a look at the report. He said to not have it, including, yet again, this morning. He also confirmed that the copy of the report was the same as the one I had looked at previously ie. not costed. As I assume you are aware, Section 20 of the Landlord and Tenant Act (4)(c) states:

> *"The notice shall describe the works to be carried out and invite observations on them and on the estimates…"*

As I pointed out in my letter of 16 September to Martin Russell Jones (MRJ) - contrary to their statement in their 15 July 2002 letter - no copy of the estimates from Killby and Gayford was attached to their letter. The only copy attached was from C.I.C Contractors. In other words, as I explained, other than a lump sum, I have not been provided with any details whatsoever on the composition of the costs.

The interim demand does not comply with the lease, in terms of:
timing
requirement to be certified by a chartered accountant

MRJ state their client is Steel Services Ltd and are thus, currently, requesting Jefferson House residents to pay a total of £750,000+ on their behalf. [They are not using the contingency fund – (for which they have not released details since 1998) – against the cost of the works. A point I made in my letter to them of 16 September]" [65]

73. **In spite of my letter of 17 October 2002 and its supporting documents, CKFT continued to commit the same offences in its 21 October 2002 reply as it had committed in its 7 October 2002 letter.**

To which another factor must now be added: CKFT demanding payment while it had knowledge of Steel Services 7 August 2002 application to the LVT

74. In its 21 October 2002 letter to me, CKFT states:

"We have provided Martin Russell Jones with a copy of your letter. We are sure that Martin Russell Jones will provide you with copies of such information as you are entitled to receive pursuant to Section 20 of the Landlord and Tenant Act….

We note that you have made no proposals in respect of the major works contribution. Our client will therefore take such action as it considers appropriate to recover that sum from you. If it becomes necessary for it to do so, our client will also refer to your substantial delays in making payments of service charges and other sums during the past several years. Your consistent failure to pay such sums is a matter that could be taken into account by the Court in considering the weight to be given to your complaint now" [66]

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[65] My letter to CKFT, dated 17 October 2002
[66] CKFT letter to me, dated 21 October 2002

75. (1) By the time CKFT sent me this letter I (and other residents) had been informed a week earlier by the LVT of Steel Services application to determine the reasonableness of the service charge demanded and invited to attend a pre-trial hearing on 29 October 2002 [67]

CKFT knew of the LVT action - instigated by its client. Proof it knew of it:

(a) In my letter to CKFT of 17 October I asked the following: "*Are you aware that Steel Services has applied to the Leasehold Valuation Tribunal for determination of the reasonableness of the charge for major works?*"[68]

(b) In its reply dated 21 October 2002 CKFT wrote: *"We are aware that Steel Services has applied to the Leasehold Valuation Tribunal"* [69]

Yet, in its 21 October 2002 letter to me it stated: "*We note that you have made no proposals in respect of the major works contribution. Our client will therefore take such action as it considers appropriate to recover that sum from you"*

(2) While CKFT states in its 21 October 2002 letter: *"We are sure that Martin Russell Jones will provide you with copies of such information as you are entitled to receive pursuant to Section 20 of the Landlord and Tenant Act…"*, **it dismisses my legitimate request to be provided with details of the costs - as per my statutory rights under Section 20 of the Landlord & Tenant Act 1985 - as it repeats its 7 October 2002 threat of litigation:** *"Our client will therefore take such action as it considers appropriate to recover that sum from you. ."*

(3) By stating that my previous delays in paying service charges will be held against me in Court, it is abusing its position as solicitors to frighten me into paying. In using these blackmail tactics, it has evidently not bothered to look at the evidence, opting instead to just regurgitate what its client is saying.

The *'Mr Ladsky's style letter'* (*) sent to me under the name of Ms Hathaway, dated 16 December 2002 continued with this blackmail tactic*: "We should like to observe and point out to the LVT that during the entire period of our management of the building, which has been over many years, you have frequently not fulfilled your service charge obligations under the terms of your lease. We do feel this a matter of some relevance to the LVT and we and our clients cannot help but draw the inevitable conclusion that the correspondence in which you are consistently latterly engaging is for the purposes of avoiding the perfectly reasonable demand for payment of the sum due to refurbish the building"* [70] (See below section 'Determination by the LVT – 17 June 2003' for a definition of what Ms Hathaway i.e. Mr Ladsky consider as a *"perfectly reasonable demand"*)

(*) A *'Mr Ladsky's style'* letter - Comparing this letter with: **(1)** the 25 January 2001 letter sent to me (and other residents) by Mr Andrew David Ladsky [71] **(2)** the threatening letter sent by 'Steel Services' to Nucleus, the local Citizen Advice Bureau (some residents had approached for assistance in relation to service charges) [72] **(3)** the 2 January 2002 letter sent by 'Steel Services' to Resident A [73] (who had filed an application to appoint an arbitrator in relation to the service charges - as per the clause in the lease) - they all display the most amazing similarity in style, layout and format suggesting that they are all from the same originator: Mr Andrew

[67] Letter from LVT informing of 29 October 2002 pre-trial hearing, dated 10 October 2002

David Ladsky).

76. The above supports the opinion I stated earlier on that Steel Services was relying on being able to 'steamroll' its application through the LVT with no opposition (in part because many residents live overseas) and thereby get the seal of approval.

As evidenced by subsequent events, the hurry to collect the monies by resorting to blackmail, threat of litigation and forfeiture was also because the amount demanded was not due and payable – See the following sections.

77.

3.4 CKFT breached its duty to the Court by pursuing proceedings which amounted to an abuse of process of Court, resulting in placing me (and other residents) in a situation of double jeopardy

78. ***This came about out as:***

(1) At the 29 October 2002 pre-trial LVT hearing we (i.e. I and other residents) were asked by the Chair, Mr J.C. Sharma JP FRICS, whether we had already paid the service charge demanded in July. We all replied that we had not for the reason that we had not been supplied with details of costings – at the time of the demand, nor since. At this point, Mr Sharma specifically told us that if we paid, the Tribunal would not be able to help us.

We were handed a **leaflet 'Applying to a Leasehold Valuation Tribunal** – service charges, insurance, management' which, **on page 5** states the following:

*"… a recent Court of Appeal case ruling (Daejan Properties Limited v London Leasehold Valuation Tribunal) determined that LVTs only have the jurisdiction to decide the reasonableness of disputed service charges **that are still unpaid** except under certain circumstances"* (NB: bold type face as per the leaflet) (See attached copy of the first 5 pages of the booklet, including front cover) [74]

(Mr Andrew David Ladsky, Ms Joan Doreen Hathaway and Mr Barry Martin of MRJ, as well as Messrs Brian Gale and Patrick Moyle of Brian Gale Associates were in attendance at the 29 October 2002 LVT pre-trial hearing)

(2) **Precisely one month after we were told this by the Tribunal i.e. on 29 November 2002**, Ms Joan Doreen Hathaway, MRJ, filed the claim in West London County Court on behalf of Steel Services – stating CKFT as solicitors acting for Steel Services.

(NB: This reinforces my view that Steel Services anticipated being able to 'steamroll' its application through the LVT with no opposition)

79.

4 FILING OF CLAIM IN WEST LONDON COUNTY ON 29 NOVEMBER 2002

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[68] My letter to CKFT, dated 17 October 2002
[69] Letter from CKFT to me, dated 21 October 2002
[70] Letter sent to me under Ms Hathaway's name, dated 16 December 2002
[71] Letter from Mr Andrew David Ladsky to me, dated 25 January 2001
[72] Letter from Steel Services to Nucleus, Citizen Advice Bureau, dated 14 November 2001
[73] Letter from Steel Services to Resident A, dated 2 January 2002
[74] First 5 pages of LVT booklet, 'Applying to a Leasehold Valuation Tribunal – service charges, insurance, management

80. On 29 November 2002 just **one claim** was filed in West London County Court by Ms Hathaway, on behalf of Steel Services, against 11 residents representing 14 flats (equivalent to a large proportion of the flats not owned / connected with the ownership of the block) [75]

As this was just ***one claim*** made against the 11 residents, it seems that this **makes us, jointly and severely liable for the £304,293.27 claim** - **which is wrong**. Hence, **as acting solicitors, CKFT is responsible for this action.**

81. **The first LVT hearing – at which the first day of the substantive hearing was postponed until 13 March 2003 – took place more than two months after Steel Services filed its claim in court i.e. on 5 February 2003. Hence:**

4.1 CKFT issued a claim in West London County Court against 11 residents – in the knowledge that residents had been specifically told by the LVT to not pay the sum demanded until it had reached a determination and it had therefore been implemented

82. The Particulars of Claim state that:

[I] *have failed to pay the service charges… that they are now due and owing from* [me] *to the Claimant"*

Under point 5 that: *"The Claimant attaches to these Particulars of Claim (i) a copy of the lease of flat 23 which contains covenants in the same terms as all of the leases…"*.

Under point 6 that: *"The Claimant is seeking interest on the said arrears of service charges pursuant to Section 69 of the County Courts Act 1984 at the rate of 8% per annum for such period as the Court shall deem fit*"

They are followed by the following summary:

"AND THE CLAIMANT CLAIMS: 1. Payment of the arrears set out in Schedule 1 in respect of each of the leases; 2. interest pursuant to statute aforesaid; 3. Costs"

And after this, include a 'Statement of Truth' which states:

> *"The Claimant believes that the facts stated in this Claim Form are true*
> *I am duly authorised by the Claimant to sign this statement*
> *Full name: Joan Doreen Hathaway*
> *Position or office held: Managing agent*
> *Name of Claimant's solicitor's firm: CKFT 25/26 Hampstead High Street London NW3 1QA DX: 57567 Hampstead Tel: 020 7317 8716 Fax: 020 7317 8750*
> *Ref: RI.S/steel"* [76]

83. **4.2 This claim, written by CKFT, is false on several counts:**

1. As previously explained, payment is not due as the LVT told residents to not pay until it had issued its determination and therefore until it had been implemented

2. It states that the lease attached to the claim is the same for all the residents. This is not the

[75] Steel Services West London County Court claim, dated 29 November 2002
[76] Particulars of claim filed in West London County Court, dated 29 November 2002 – Ref: WL 203 537

case (see section below 'My lease vs. that supplied to the court')

3. It positions the demand as an interim payment. It cannot be described as such (see section below 'The demand cannot be described as an interim demand')

4. By positioning the demand as an 'interim payment' CKFT argued that it did not have to justify the demand from me of £14,400 by issuing me with the certified year-end accounts for Jefferson House. This is not the case. (see section 'Need for certified year-end accounts in support of the demand')

5. It states that the amount is due to Steel Services. This is not the case – given the above

6. The claim was filed in the full knowledge that it was in breach my (and other residents) statutory rights as a Section 20 Notice under the Landlord & Tenant Act 1985 had not been properly served – and details of costings were not provided. (See section 'Requests for priced specification')

84.

4.3 Contrary to CKFT's Particulars of Claim, the lease supplied with the claim was different from mine

85. In my 17 December 2002 defence to Steel Services claim in West London County Court (Ref: WL 203 537) [77], I stated that *"part of my lease is different from that provided to the County Court"*. The lease supplied with the claim is, apparently, for flat 23 and the main difference is under Clause (2) (c) (i) :

Lease for (apparently) flat 23 [78]**:**
"The amount of Service Charge payable by the Lessee for each financial year of the Lessor shall be a fair proportion (to be determined by and at the sole discretion of the Lessor) of the aggregate amount of the costs expenses and outgoings incurred by the Lessor during such financial year in respect of the heads of expenditure particulars whereof are set out in the Fourth Schedule"

My lease:
"The amount of the Service Charge payable by the Lessee for each financial year of the Lessor shall be calculated by dividing the aggregate amount of the costs expenses and outgoings incurred by the Lessor during such financial year in respect of the heads of expenditure particulars whereof are set out in the Fourth Schedule hereto by the aggregate of the rateable value (in force at the end of such year) of all the flats in the Building (excluding the Porter's flat) the repair maintenance renewal insurance or servicing whereof is charged in such calculation as aforesaid and then multiplying the resultant amount by the rateable value (in force at the same date) of the Flat"

Whereas the Clause in the lease for (apparently) flat 23 is equivalent to saying: *"Give your cheque book to the lessor who will write himself a cheque for an amount of his choice"*, mine is very different - (even though both leases state Acrepost as issuer) [79] .

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[77] My 17 December 2002 defence to Steel Services West London County Court claim, Ref: WL 203 537
[78] Extract from lease for (apparently) flat 23
[79] Acrepost became Langhaven Holdings. A director of Langhaven Holdings was Mr Patrick May O'Connor who, until some further recent reshuffle in the 'visible' parties holding the headlease and freehold was referred to, on the Land Registry, in a *"Note on title for Leasehold: '1 June 2001 -*

However, the Particulars of Claim state: *"The Claimant attaches to these Particulars of Claim (i) a copy of the Lease of flat 23 which contains covenants in the same terms as all of the leases.."* [80]

Subsequent to writing my defence to the County Court claim, I discovered that the lease provided to the LVT by Ms Hathaway – which is apparently for flat 22 - also contains, under Clause (2)(c)(i) the same terms as detailed above for flat 23 [81]

The LVT application form requires *"… a specimen lease together with a statement specifying any relevant differences between respective flats, or confirming that they are all the same"*. No statement was entered on the form (see Steel Services' 7 August 2002 application to the LVT)

Hence, contrary to Steel Services-CKFT- Ms Hathaway's claim, it is <u>not true</u> that the lease supplied to West London County and to the LVT "*contain covenants in the same terms as all of the leases..*"

86. Although the abuses that are allowed to take place under the appalling and globally unique residential leasehold system in this country no longer surprise me, I find it difficult to believe that anybody would agree to such terms. But, maybe they do… because they leave it up to solicitors to advise them.

However, whether or not the residents concerned signed these terms, in practice, the allocation of service charge is based on a fixed percentage for each flat – and these percentages were provided by Steel Services-CKFT-MRJ: (1) indirectly to the Court at the 24 June and 26 August 2003 hearings [82] ; (2) as an attachment to the 7 August 2002 application to the LVT [83].

Furthermore, Ms Hathaway confirmed these percentages to me in her 30 August 2002 in which she stated: *"The amount demanded is as the terms of the lease. This is calculated by the accounts package on the computer and added to the other sums due.* ***There is no separate list. Details of the percentages are included in the schedules to previous accounts. The sum demanded is based on the percentage of your lease, which is 1.956%"*** [84] (NB: My highlights)

87. A particularly important point given subsequent events:

As to the global sum for the works, it **<u>has to be the same for all lessees</u>**. Hence, **Steel Services cannot charge differentially, other than on the basis of individual lessees' fixed percentage share of the service charge.**

88. CKFT obtained a copy of my defence as, in a letter dated 23 January 2003, it stated: *"… we are solicitors for the Claimant. We have received from the Court a copy of your Defence…you state that part of your lease differs from that*

RESTRICTION: …pursuant to clause 6.7 of an Agreement dated 26 July 2001 made between (1) Steel Services Ltd (2) Canso Properties Ltd and (3) Patrick May O'Connor"

80 Steel Services claim filed in West London County against 11 residents on 29 November 2002

81 Extract from lease (apparently) for flat 22 supplied by Ms Hathaway with the application to the LVT

82 Martin Russell Jones' 'Major works apportionment 24th June 2002 – 2 versions: one listing 6 flats, the second, 35 flats

83 List of service charge percentage share for all 35 flats at Jefferson House, included with Steel Services 7 August 2002 application to the LVT

84 Letter from Ms Hathaway to me, dated 30 August 2002

annexed to the claim… please provide a copy" [85] (I did)

89.

4.4 Contrary to CKFT's Particulars of Claim, the demand cannot be described as an interim demand

90. In its letter to me dated 21 October 2002 CKFT states: *"We do not agree with your interpretation of the lease. There is no requirement that the half year interim service charge demand should be certified by the lessor's accountant"*

While this is correct, the point is that **the sum demanded was <u>not</u>, contrary to the way it was presented, an interim demand.**

91. In the 29 November 2002 Particulars of Claim CKFT refers to the claim as an *"interim payment"*. The sum demanded <u>cannot be described as such because</u>:

(1) it was a demand for full payment, not an interim payment (which, for one resident amounted to £64,500)

(2) the works would have been taking place well beyond December 2002 – which is the year-end for Jefferson House.

(3) Under the terms of my lease and of Section 21 (4) of the Landlord & Tenant Act 1985, Steel Services had to issue the certified year-end accounts for Jefferson House at the very latest by June 2003. These accounts had to reflect the demand.

92. ***(1) The sum demanded was for the full amount of the works:***

(a) The sum quoted by Killby and Gayford referred to **<u>all</u>** the works. This contractor responded to the specification produced by Mr Brian Gale.

(b) The works / nature of the works detailed in Mr Brian Gale's specification are so comprehensive that they amount to a total overhaul of the block: new roof; new lift; new boiler plant; new carpet throughout; new doors; new entrance; new lighting; new area for the porter; total repainting internal and external; installation of mechanical ventilation; replacement of some windows; re-pointing, etc. (Some of the works required stem from lack of proper maintenance and upkeep of the block over a period of 12 years)

(c) Steel Services 7 August 2002 application to the LVT is for **<u>all</u>** the works. Point 2 of the 17 June 2003 LVT determination states: *"The application concerns major works set out in a specification prepared by Brian Gale Associates and priced by Killby & Gayford"*

(d) In her 20 August 2002 letter Ms Hathaway asks that: "[I] *make payment… by 16 September so that the funds are in hand to cover the cost of the work."* [86]. **This *"payment"* is the sum of £14,400.19 – which is 1.956% of £736,206.00**

(In her 30 August 2002 letter to me Ms Hathaway stated: **"***The amount demanded is as the terms of the lease. This is calculated by the accounts package on the computer and added to the other sums due. There is no separate list. Details of the percentages are included in the schedules to previous accounts.* ***The sum demanded is based on the***

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[85] Letter from CKFT to me, dated 23 January 2003

[86] Letter from Ms Hathaway, Martin Russell Jones, dated 20 August 2002

percentage of your lease, which is 1.956%..." [87])

(2) At the earliest, works would have only been completed well into the following year

(a) In her 15 July 2002 letter Ms Hathaway wrote: *"the work will commence at the beginning October, but we will confirm this nearer the time"*

(b) She again repeated a start date of October in her 20 August 2002 letter to *"All Lessees"*: *"Instructions need to be passed to the contractors as soon as possible so that works can start in early October"* [88]

(c) And Ms Hathaway did again in her letter to me dated 30 August 2002 [89]

(d) In her 7 June 2001 letter to *"All Lessees"* Ms Hathaway had written: *"It is planned to commence the internal refurbishment in the Autumn* (i.e of 2001) *with the external refurbishment to follow on next Spring"*. (Due to winter weather, leading to external works starting late March / beginning of April) [90]

(e) Both, Gleeson and CLC quoted a time of 22 weeks to complete the works (see MRJ's letter of 15 July 2002).

(Killby and Gayford had quoted a time that was less than that estimated by Gleeson, CLC, as well as MRJ – about which my surveyor made the following comment under Point 33 of his February 2003 report: *"Killby & Gayford have not been queried over their contract period, which in my opinion is not sufficient for the works to be completed. There is a risk that Killby & Gayford apply for an extension if this timescale is not achievable which is likely to add further additional costs")*

(f) Hence, even if the application to the LVT is not factored in, by June 2003 – the works would still be taking place.

And I now have undeniable evidence in support of this: the works were started in the 3rd week of August 2004. At the date of writing – which is 10 days to the year-end for the certified accounts for Jefferson House – it is abundantly clear from the state of the building that many more weeks will be required to complete the works.

(g) However, Steel Services-MRJ **did** file an application to the LVT on 7 August 2002. In fact, this application was filed on 7 August 2002 i.e. **within 2 weeks** of sending the service charge demand.

(h) It also means that, when Ms Hathaway sent her 20 August letter to the residents stating a start date of *"early October"* – the application had by then been filed 7 working days previously.

(i) I understand that, in spite of having filed an application to the LVT, Steel Services could nonetheless have started the works. It did not. I have expressed the opinion that the motive for Steel Services' application was to get an 'official seal' of approval. As can be seen from the attached directions set by the LVT [91], the earliest date at which Steel Services could have obtained its 'official' seal of approval would have been January 2003 (maybe even later). (Of course, as it happened, the LVT issued its determination on 17

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[87] Letter from Ms Hathaway to me, dated 30 August 2002
[88] Letter from Ms Hathaway, Martin Russell Jones to All Lessees, dated 20 August 2002
[89] Letter from Ms Hathaway, Martin Russell Jones, dated 30 August 2002
[90] Letter from Hathaway, Martin Russell Jones, dated 7 June 2001
[91] Directions set by the LVT at the pre-trial hearing, dated 29 October 2002

June 2003).

(j) Even if Steel Services had been able to 'steamroll' its application - taking into account 'getting the seal of approval', implementation, availability of contractors, etc, it would at least be April - if not later - before the works could be started.

And, a very important point – as I detailed previously: residents were told by the LVT to **not pay the service charge until the LVT had issued its report** – **and therefore until it had been implemented**.

93. **Contrary to what CKFT has repeatedly denied, year-end accounts had to be supplied in support of the demand**

94. ***My lease*** (see enclosed pages 1 to 7 [92])

Under Clause 2, my lease states

(d) *"As soon as practicable after the end of each financial year… the lessor shall cause the amount of the service charge payable by the lessee for such financial year to be determined by an accountant…"*
(e) *"… the costs expenses and outgoings incurred by the lessor during the relevant financial year of the lessor shall be deemed to include not only the costs expenses and outgoings which have been actually disbursed incurred or made by the lessor during the relevant year… but also the sum or sums (hereinafter called the 'contingency payment) on account of any other costs expenses and outgoings (not being of an annually recurring nature) which the lessor shall have incurred at any time prior to the commencement of the relevant financial year or shall expect to incur at any time after the end of the relevant financial year… as the accountant may in his reasonable discretion consider it reasonable to include (whether by way of amortization of costs expenses and outgoings already incurred or by way of provision for expected future costs expenses and outgoings) in the amount of the service charge for the relevant financial year"*
(f) *"As soon as the accountant shall have determined the amount of the service charge payable by the lessee for the relevant financial year… the accountant shall prepare a written statement containing a summary of the costs expenses and outgoings incurred by the lessor during the relevant financial year together with any future sums indicated by the accountant pursuant to Clause 2 (2) (e).. and specifying the amount of the service charge payable by the lessee…and in the accountant's certificate, shall certify:*
"that in his opinion the said summary represents a fair summary of the said costs and outgoings set out in a way which shows how they are or will be reflected in the service charge"
"that in his opinion the said summary is sufficiently supported by accounts receipts and other documents which have been produced to him"
"that the sum specified as aforesaid represents the amount of the service charge payable by the lessee.."

95. **My lease makes it abundantly clear that I should have been provided with the 2002 year-end certified accounts for Jefferson House.**

The demand of £14,400.19 was dated 17 July 2002. As can be seen from the 2001 year-end accounts for Jefferson House [93], they **do not include** costs the lessor *"shall expect to incur at any time after the end of the relevant financial year… by way of provision for expected future costs expenses and outgoings…"*

96. Steel Services / CKFT and MRJ have repeatedly ignored my requests for a copy of the 2002 year-end accounts.

In the past 12 months I have asked MRJ/ CKFT a total of 4 times for the accounts:

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[92] Pages 1 to 7 of my lease, dated 10 March 1986

[93] Copy of the year-end 2001 accounts for Jefferson House (sent to me by Martin Russell Jones)

- 9 October 2003 – request to MRJ [94]
- 19 December 2003 – in my Notice of Acceptance to CKFT [95]
- 19 May 2004 – request to MRJ – on which I copied CKFT [96]
- 18 July 2004 – request to MRJ

As my requests were being ignored, in June I contacted the Tenancy Relations Officer at the Kensington & Chelsea Town Hall to obtain a copy (including the 2003 accounts, also overdue). This led him to send a letter dated 25 June 2004 to both MRJ and CKFT [97].

Not only are Steel Services-MRJ in breach of the terms of my lease, they are also in breach of Section 21 (1) of the L&T Act 1985 – and are thus committing a criminal offence (Section 25 of the Act).

To date I have not received the year-end accounts for 2002 – which are now **18 months overdue** - nor for 2003 – which are now **6 months overdue**. **Why not? What do Steel Services and MRJ have to hide?** I can only conclude that the reason is because it will provide evidence in support of my position: **the 2002 certified accounts do not reflect the demand.**

4.5 Steel Services and MRJ committed a breach of the terms of my lease – in addition to having committed, and continuing to commit a criminal offence. And CKFT knows this, endorsed it and defended it.

97. **Thus, as I have consistently maintained:**

(1) The demand I received, dated 15 July 2002, cannot be considered as an interim payment

(2) (As now proven) these works would have been taking well beyond the December year-end for the certified accounts

(3) I should therefore have been issued with the 2002 year-end accounts - certified by an accountant - in evidence of this demand

(4) The fact that Steel Services had made the application to the LVT to determine the reasonableness of the service demanded and that the LVT told residents to <u>NOT pay</u> this demand until the Tribunal had issued its determination, means that Steel Services could not ask for payment

98. 'Even if' lawyers want to argue that the sum demanded is an *"interim payment"* (although I simply cannot see how this could be demonstrated in view of the facts), I would like to draw the attention to Clause (2) (j) of my lease (attached):

"… nothing shall disable the Lessor from maintaining an action against the Lessee in respect of non-payment of any such interim payment as aforesaid notwithstanding that the Accountant's Certificate had not been furnished to the Tenant at the time such action was commenced subject nevertheless to ***the Lessor establishing in such action that the interim payment demanded and unpaid was of a fair and reasonable amount having regard to the amount of the Service Charge ultimately payable by the Lessee***

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[94] My letter to MRJ, dated 9 October 2003
[95] My Notice of Acceptance, dated 19 December 2003
[96] My letter to Ms Hathaway, dated 19 May 2004
[97] Letter from John Hutchings, Tenancy Relations Officer, RBK&C, to MRJ dated 25 June 2004

99.

4.6 CKFT opted to repeatedly ignore the fact that its client had not issued priced specification in support of the demand and, therefore, in breach of statutory requirements under the Landlord & Tenant Act 1985

100. As I pointed out – among others - in my defence to the claim dated 17 December 2002 [98]: *"I deny the claim because no justification has been provided for the sum demanded".*

101. As I also detailed comprehensively under points 8 to 14 of my Witness Statement, dated 19 October 2003 [99] it was not until **36 hours before the LVT hearing on 5 February 2003** – and therefore **7 months after** I received the original demand for payment of £14,400.19 (dated 17 July 2002) – that I was provided with a priced specification.

102. Indeed, I requested from MRJ – in writing - a copy of the priced specification **six times** between 11 August 2002 and 12 January 2003 [100]. This included the **three occasions** when I requested the LVT's assistance in obtaining the priced specification from MRJ as I copied MRJ on these letters. My last request to the LVT was on 12 January 2003 when I asked for a postponement of the 5 February 2003 hearing as I had not received the priced specification [101] The LVT had, in its directions, stated that the Applicant had to meet residents' requests by 17 December 2002 so that residents could have their own advisers review the specifications.

The *'Mr Ladsky's style'* letter dated 16 December 2002 sent to me under the name of Ms Hathaway in reply to my 25 November 2002 letter stated, among others:

"You have indicated that it is impossible for you to answer the question of whether or not you dispute any item. We have, on a number of occasions, provided you with the information that you have required… we cannot, therefore, understand why you should be asserting that you cannot ascertain what the works consist of… we have been informed by the porter that you have, in fact, inspected the same likewise we have been told you have also seen the appropriate tender documentation… we have become somewhat frustrated and are at a loss to understand what comments you are actually making in relation to the proposed works. Aside from value judgments which are wholly incorrect, we cannot ascertain what you are complaining of if, in fact, you are complaining at all… "

The same statement was made in the 20 January 2003 letter sent by Ms Hathaway to the LVT: that the documents I *"requested have been available in the porter's room since the original notice was served and she has in fact inspected them"* [102]

Compare that with point 14 captured in the 17 June 2003 LVT report:

> *"Ms Hathaway (of Martin Russell Jones), on behalf of the Applicant, resisted the application for an adjournment… She maintained that Ms Dit-Rawé had seen the specification in the porter's room, but was unsure as to whether this had been a priced version".*

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[98] My defence to the West London County Court claim, dated 17 December 2002
[99] My Witness Statement, dated 19 October 2003
[100] My letter to Ms Hathaway, dated 12 January 2003
[101] My letter to the LVT Panel, dated 12 January 2003
[102] Letter from Ms Hathaway to the LVT, dated 20 January 2003

Point 16 of the LVT report states – *"In the interest of justice, the Tribunal agreed to an adjournment…"*

In her 20 January 2003 letter to the LVT, Ms Hathaway (CKFT's client?) also had the gall to say: *"Our clients feel that Miss Dit-Rawé has had ample time to instruct experts and we would obviously have assisted them in order to bring this matter to a close"*

103.

5 DETERMINATION BY THE LVT – 17 JUNE 2003

I attach a full copy of the determination, dated 17 June 2003, Ref: LVT/SC/007/120/02 [103]

104. **I will now demonstrate that the £14,400.19 demand I received was very far from being *"fair and reasonable"* as the impact of the LVT determination meant that it should be reduced by nearly 70% to £4,615.**

It will also demonstrate that Steel Services is in breach of Clause (2) (b) of my lease which states: *"The lessor will use its best endeavours to maintain the annual service charge at the lowest reasonable figure consistent with due performance and observations herein"*. I will demonstrate in the following that this has most definitely not been the case.

105. This is how the LVT defined its role under Point 45 of its 17 June 2003 determination:

"The question for the Tribunal is not solely whether costs are reasonable, but whether they would be reasonably incurred, that is to say whether the action to be taken in incurring the costs and the amount of those costs would both be reasonable".

106. As

- the LVT has not included a summary of its determination and, in particular, of its impact on the global sum demanded by Steel Services (which is rather convenient for Steel Services)
- I attach the assessment of the LVT report by my surveyor, Mr Brock, LSM Partners, dated 31 July 2003 [104]
- I include below a summary I have developed combining the main findings from my surveyor report Expert Witness report, dated February 2003 [105], his 31 July 2003 assessment of the LVT determination [106] and the LVT report of 17 June 2003

107. **5.1 The global sum demanded was full of estimates.**

These were due to the very badly drawn-up / vague specifications by Mr Brian Gale. (His surveying skills have been put into question in the past, as evidenced by the High Court case David Ross Campbell Wallace, Carole Louise Wallace vs. Brian Gale & Associates, 1994 – 1997 in which Mr & Mrs Wallace claimed damages from Brian Gale Associates for negligence in surveying)

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[103] Full copy of the LVT determination, dated 17 June 2003 (Ref LVT/SC/007/120/02)
[104] Assessment of the 17 June 2003 LVT determination by Mr Brock, LSM Partners
[105] My surveyor, Mr Brock, LSM Partners, Expert Witness Report dated February 2003
[106] My surveyor, Mr Brock, LSM Partners, assessment of the 17 June 2003 LVT determination, dated 31 July 2003

I will demonstrate this by quoting from my surveyor, Mr Brock's Expert Witness report, dated February 2003 and the LVT determination, dated 17 June 2003

My surveyor's overall assessment :

6.3 - *"The total value of provisional sums inserted by the contractor represents some **74%** of the cost of those items where the contractor has inserted firm prices. This suggests there is a lack of clarity with the specification leaving the contractor to form his own opinion of the likely cost and subsequently leaving the final cost to be decided at a later date under a non-competitive situation"*

*"Typical cost variation between tenders (providing the contractors are competent) should not exceed 30% if they understand the nature of the works and have sufficient time to price the document. Martin Hall Construction Ltd's submission, albeit verbal, was **over 100%** greater than Killby & Gayford's original tender submission. This discrepancy is further exacerbated when one bears in mind the high level of "fixed" contingency and provisional sum figures which is similar for all contractors"*.

6.4 – *"The term "**replace where necessary"** has been used extensively in the document and is **virtually unpriceable as the term is arbitrary**"*

6.28 – ***"There is nothing in the specification to control the expenditure of provisional sums,** both those inserted in the main document (£110,000.00) and also additional items included by the contractor. In my experience, without suitable control procedures in place, these figures are in most cases fully expended by the contractor"*.

108. ***LVT's overall assessment:***

44 – *"The reports prepared on behalf of the Applicant and provided to the Tribunal were, in the words of Mr Jones, **"a wish list" for refurbishment** of the subject property to a high standard. **They do not seem to have been prepared on behalf of the Applicant having regard to its rights and responsibilities under the lease…The Tribunal would normally expect alternative proposals to be costed and produced, in order to make a proper and considered judgement of the best way forward to meet the obligations of both the landlord and the tenants"***

46 – ***"In this case the Tribunal was frustrated by the lack of detail in the specification and in Mr Gale's evidence. Works were not clearly identified, were not measured where they clearly could have been, and there was some element of duplication. Some items were not specified at all, e.g. the types and capacity of the boilers"***

109. There are numerous instances where the lack of proper specification led to an estimate of costs, one of the most notable is the **'services' section** – for which, with the addition of VAT and management fee the total sum demanded was over **£200,000.**

My surveyor

6.13 – *"The services section of the works under the specification (Section 16.0) does not represent a "quantitative" breakdown of items of works that contractors are able to cost on a like for like basis"*.

6.16 - *"Budget prices for the specified works (Mechanical/electrical and lift works) were submitted to all contractors in the form of engineer's reports. This is not normal procedure and should not have included costs. Each contractor should have sufficient information and detail in the specification and schedule of works to price the works – i.e. a full specification for repairs and replacement should have been prepared"*.

6.17- *"It must be noted that all the service works which have been based on the service*

engineer's report have been done so on a purely "visual" basis. It is not possible to determine disrepair unless all these elements are tested and subsequent replacement fully scheduled".

110. ***LVT***

16.07 – *"It would appear to the Tribunal from the above, and the evidence given by Mr Jones, that* ***his instructions were obviously client led rather than an independent opinion****… There was no evidence, save for the complaints from the owner of the top floor flats, flat 34 and 35, that the boilers were failing regularly. Indeed, in evidence, Mr Jones confirmed that they were working, were being maintained and were not defective at present…* ***The specification is considered inadequate in that it is vague and lacked specific detail*** *e.g. the provision to "remove and replace with new the boiler plant and all associated pipework". It is noted that initially,* ***there was no breakdown of the specification until 7 March 2003 when Mr Gale responded to Mr Brock's report of 24 February 2003.*** *Mr Gale accepted during the hearing that there had been no boiler specification in the tender document"*

(The sum demanded for the boiler was £89,824.00. Therefore, with the addition of VAT and management fees the intention was to charge residents the sum of **£117,153**)

38 – "***Mr Gale also accepted that there were no boiler specification in the tender document*** *which merely stated "to remove and replace with new the boiler plant and all associated pipework"*

16.07 - *"In the circumstances, the* ***Tribunal does not consider that it has sufficient information to make a proper judgement and therefore makes no determination*** *in respect of the* ***boilers****… This is an area which, in the Tribunal's view, alternatives and costings should have been explored"*

19 & 20 – "*Mr Jones, C Eng MCI Bsc of Michael Jones & Associates, Engineering consultants…. said that his instructions had been to prepare a report on the work which needed to be carried out. He said that a lift survey had been carried by a specialist, John Bashford. He said that* ***the report on the condition at the time had been 'a wish list"***

16.07 – "***The Tribunal does not consider that Mr Jones' report is sufficient****, having regard to the reason why it was commissioned. In evidence, Mr Gale said "Michael Jones will be asked to provide specifics on design where unclear now and ensure that they are fit for the purpose", which indicates that Mr Gale accepts that there is some lack of clarity on this issue"*

16.07 – *"The recommendation of J Bashford and Associates… to prepare a specification and drawings appeared to have been ignored by Mr Gale in his own specification since it refers in 16.26 to "the contractor is to (with full regard to J Bashford & Associates recommendation in the service engineer's report) allow to carry out a major refurbishment and replacement of the lift shaft and associated equipment****,*** *supplies and decorations". The* ***specification prepared by Mr Gale is therefore insufficiently detailed*** *to allow for a quotation for this work, and he conceded during the hearing that there may have been an element of duplication.* ***Further, no proper explanation has been given for the increase from £27,300 to £60,000 over a matter of months****…… the Tribunal is unable to make a determination on the specification, since it is considered inadequate****.*** (My Counsel agreed on the sum of £27,300 for the lift)

36 – *"The original tender dated 2002 showed a fixed sum of £27,300 in respect of the lift installation.* ***Mr Gale conceded that there may have been an element of duplication in the specifications for the lift***"

111. Other examples from my surveyor's report and LVT determination of lack of specifications / excessive estimates / duplication of costs:

My surveyor

6.6 – "*Item 12.01 refers to the refurbishing of **windows** which has a lump sum price of £17,634.30 inserted. Later in the same item a provisional sum of £10,000.00 is allowed for repairs. The first should be broken down to show there is no duplication within the figure for this provisional sum and **both figures seem excessive"***

6.11 – *"The tender documents refer to a **drainage** report, although a copy of this document has not been seen. Notwithstanding this a provisional sum figure of **£15,000.00** has been included in the document., which is **considered excessive**"*

112. ***LVT***

42 – *"**Mr Gale** was questioned on the **provision of £20,000** in the specification in respect of the **porter's desk**… He also accepted that there could have been a fixed, rather than a provisional sum for this within the specification and said "it was a time factor really". **He acknowledged "there is no specification yet"***

37 – *"In respect of the provision for **downlighters Mr Gale said:** I agree that there is **latitude** for contractors **to fit 25 or 50 units**. We may have to tighten it up"*

41 – *"**Mr Gale accepted** that he had been **"upping the specification" for the fire doors***".

113.

In addition to the lack specification, numerous items were also viewed by the LVT as 'improvements'. It therefore determined that they could <u>not</u> be charged to the residents

114. In total items considered by the LVT as improvements amounted to **£169,498** (£129,958 exc. VAT and fees). These included for example the porter's area.

As the LVT stated in its report, under point 64: ***"…the Respondent and other tenants could not be forced to contribute in the case of improvements and / or works not determined as reasonable by the Tribunal"***

115. Thus, the LVT endorsed my surveyor's recommendation – stated in his conclusions: *"I would recommend that the document is amended and re-tendered to an agreed schedule of works"*

Thereby rejecting Mr Gale's assertion in his *"Expert Report / Evidence of Proof"* report, dated 24 February 2003**:**

5.03 – *"Even is there were any justification (which is robustly denied) in the Expert Report of Mr Brock on behalf of this Respondent, to the amendment, or re-tendering, to revise agreed Schedule of Works, it should be noted that this will have significant and unacceptable consequences, not only on the other tenants, but to all parties concerned"*

116.

5.2 The contingency fund

117. During the LVT hearing, my Counsel raised the contingency fund as an issue as Steel Services / MRJ had not used it as contribution towards the costs – and were refusing to do so. This is captured under point 34 of the LVT determination: *"The contingency fund was also a point in issue. The Tribunal was advised that it contained **£140,977**, and the Respondent submitted that this should be utilised, certainly in part, for the proposed works…"*

In the process of formulating an opinion, the LVT considered Clause 2 (2) (e) of the lease (captured under point 59 of the LVT report)

Under point 62 the LVT states: ***"The Tribunal draws the parties' attention to the RICS Code to which property managers should subscribe and abide by, as a matter of good practice.*** *Section 10 of the Code covers reserve funds. A reserve fund is referred to as "a pool of money*

created to build-up sums which can be used to pay for large items of infrequent expenditure (such as the replacement of a lift or the recovering of a roof) and for major items which arise regularly (such as redecoration)".

While under point 63 it states – **"*The wording of the clause relating to the contingency fund or reserve fund in the lease is unambiguous.* *It refers to costs expenses and outgoings "not being of an annually recurring nature", and* ***as such surely envisages the type of works proposed at the subject property.*** *Although the Tribunal has no power to order the Applicant to make payments from the contingency fund,* ***the Tribunal considers it inequitable that this fund should not be used in part to fund the works,*** *and cannot accept Mr Warwick's (Steel Services) contention that to divest or reduce the contingency fund would be "wrong".*

118. For 3 months after the publication of the LVT determination, I battled with CKFT to get the contingency fund to be used as contribution towards the cost. It refused. In its letter of 7 August 2003 (to Healys, a firm of solicitors temporarily registered as acting for me), it states:

"We recognise that there is a dispute with your client as to the extent to which, if at all, our client is obliged to utilise the reserve fund for the proposed works. The LVT of course made it quite clear that it could not order Steel Services to utilise those funds" [107]

119. I then remembered that Ms Hathaway had, in her 7 June 2001 letter to *"All Lessees"* stated the following:

"At present, there is approximately £125,000.00 in the Reserve Fund, but in view of the scope of works required to be carried out it is anticipated that the sum will be inadequate to meet the costs. This means that once the Specifications have been prepared and estimates obtained, a Landlord & Tenant Act 1985 Notice will be served on you giving details of the ***additional payment required from you****…"* [108]

120. As can be seen from Ms Hathaway's letter dated 15 July 2002, she had changed her position as she stated: *"It is intended to maintain the existing reserve fund, in part, to cover any additional costs"*

Because of this statement, in my letter of 16 September 2002 to Ms Hathaway I asked: *"Why is the fund not used as contribution towards the proposed building works?"*.

The same position was maintained in the *'Mr Ladsky's style'* letter of 16 December 2002 sent to me under the name of Ms Hathaway: *"The existing fund is to be kept in reserve for potential expenditure which can arise"*

121. Evidently, the fact that I had found Ms Hathaway's letter of 7June 2001 was communicated by my then solicitors, Piper Smith & Basham to CKFT as Steel Services' 'offer' of 21 October 2003 states the full amount quoted at the LVT as contribution. (Given events, in all likelihood, residents who did not have this letter will not have been able to argue the use of the fund as contribution towards the costs).

122. **It is quite clear that Steel Services has something to hide about the contingency fund as my <u>7 specific requests</u> over the last 18 months for a copy of the accounts – including <u>4 of these requests being copied to CKFT</u> – have been ignored**

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107 CKFT letter to Healys, dated 7 August 2003

108 Letter from Hathaway to "All Lessees", dated 7 June 2001

123. Section 42 of the Landlord & Tenant Act 1987 states: *"Service charge contributions to be held in trust"*

As a contributor and beneficiary to the trust fund which should include my £6,350, plus other monies I have paid as contribution to the contingency fund, I have asked Ms Hathaway on 5 occasions for a copy of the accounts. I also highlighted, on 2 occasions, the fact I had not been supplied with a copy – and copied CKFT on these:

- 15 May 2003 – to MRJ
- 1 June 2003 – to MRJ
- 23 June 2003 – stated in my letter to *West London County Court* – on which I copied **CKFT**
- 6 July 2003 – to MRJ – on which I copied **CKFT** [109]
- 9 August 2003 to *West London County Court* – on which I copied **CKFT**
- 19 May 2004 – request to MRJ – on which I copied **CKFT** [110]
- 18 July 2004 – request to MRJ

In the majority of these letters I stated:

"As per my rights under the Landlord and Tenant Act, and as a contributor and beneficiary to the trust fund in which contributions to service charges - including for major works - are held, can you please send me copy of the statements issued by the bank(s)/building society(ies) in which the trust fund is held for the period starting December 2002".

After several requests, on one occasion, I received the reply from Ms Hathaway that: *"This is in the form of a Bradford and Bingley savings account and as such we do not receive statements except tax ones in due course".*

I requested a copy of the pages of the passbook for this account offering to pay reasonable photocopying costs. Several months on and I still have not received this. The questions I ask myself are: **Why not? What do Steel Services and MRJ have to hide?**

124.

6 SUMMARY OF THE IMPACT OF THE LVT DETERMINATION

125. In summary, the impact of the LVT determination on the global sum demanded is as follows:

The total sum demanded by Steel Services was £736,206.08 (£564,467.00 exc. VAT and fees)

(1) Amount disallowed by the LVT because improvements = £169,497.72 (£129,958.00 exc. VAT and fees) - or **23% of the global sum demanded**

(2) Amount for which the LVT could not make a determination due to lack of specification = £188,783.67 (£144,745.00 exc. VAT and fees) - or **25.6% of the global sum demanded**

(3) A view supported by the LVT, considering the terms of the lease, as well as RICS best practice, that the reserve fund should be used as contribution = £141,977.00 – or 19.3% of the global sum demanded

Leaving an amount that can be charged of £235,946.56 – or 32% of the original sum demanded. In other words, £500,000.00 of the sum demanded was not considered as 'reasonable' by the LVT

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[109] My letter to Ms Hathaway, copied CKFT, dated 6 July 2003

[110] My letter to Ms Hathaway, dated 19 May 2004

My share: 1.956% of £235,946.56 = £4,615.11 (see attached my calculations of the impact of the LVT determination on my share of the costs [111]**)**

vs. the £14,400.19 that Steel Services was demanding of me –

and for which – through CKFT - it filed a claim against me in West London County Court on 29 November 2002 stating that:

> **[I]** ***have failed to pay the service charges… that they are now due and owing from*** **[me]** ***to the Claimant"***

And includes a 'Statement of Truth' signed by Joan Doreen Hathaway of Martin Russell Jones stating:

> ***"The Claimant believes that the facts stated in this Claim Form are true"***

126. (NB: It is **important to note** that the way in which the determination is presented must not detract from the fact that **it is for the global sum.** Hence, the consequences are that **individual leaseholders are entitled to the same percentage reduction** in the service charge following this determination)

127. I also captured part of the above summary in my 11 August 2004 letter to Mr Barry Martin, MRJ which was in reply to his defamatory and ludicrous statement contained in his letter to me of 4 August 2004, namely that: *"*[I] *refused to pay* [my] *contribution and this resulted in the proceedings before the LVT which of course resulted in the considerable delay in the commencement of the work"* [112]

128. **6.1 What had Mr Brian Gale of Brian Gale & Associates and Ms Hathaway said about the specification (drawn-up by Mr Brian Gale)?**

Mr Brian Gale
In his 13 December 2002 *"Proof of Evidence of Landlord's Expert Witness (Surveyor) Brian Gale"* report addressed to the LVT [113] under:

"3.01 – I confirm that the Specification and Tender Document prepared by BGA… did not contain any known enhancement or improvement works…"

3.04 – I confirm that, in my opinion, the extent of the works required is reasonable…"

In his *"Expert report/Proof of evidence"* report, dated 24 February 2003.[114] Under:

5.03 – *"Even if there were any justification (which is robustly denied) in the Expert Report of Mr Brock on behalf of this Respondent, to the amendment, or re-tendering, to revise agreed Schedule of Works, it should be noted that this will have significant and unacceptable consequences, not only on the other tenants, but to all parties concerned"*

5.05 – *"The proposed process by Mr Brock of the amending and re-tendering*

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[111] My calculations of the impact of the LVT determination on my share of the costs, June 2003
[112] Letter from Mr Barry Martin to me, dated 4 August 2004
[113] *"Proof of Evidence of Landlord's Expert Witness (Surveyor) Brian Gale"*, dated 13 December 2002
[114] *"Expert report/Proof of evidence"* report by Mr Brian Gale, Brian Gale Associates, dated 24 February 2003.

procedure would be time consuming, expensive and entirely prejudicial to the majority of tenants who, as stated above, have paid or substantially paid, and in any event are in agreement with the scope and extent of the works"

5.06 – *"In this respect,(and aside from professional fees incurred in the contentious Tribunal proceedings) any cost savings from the original tendering procedure will, undoubtedly, be more than absorbed by the continuing delays and efflux of time"*

5.07 – *"The effects of inflation and increased costs from the contractors will outweigh any advantages of trying to trim back the extent of proposed works to gain advantage of the present situation…… It should also be noted that any alterations (revision of tender and re-tendering etc) could well cost the tenants significantly more for no reason and for a less satisfactory finished product"*

5.12 – "*It is my honest opinion that any attempt to save a modest sum of money in the short term by curtailing the extent of the works or specification will, in the long term, be regretted. (The expression "penny wise – pound foolish" is entirely applicable in these circumstances, I believe)"*

5.14 – *"…Again, I confirm that it is my professional and honest opinion, that the works should proceed as tendered and priced…"*

Ms Joan Hathaway
In the 7 August 2002 LVT application she filed on behalf of Steel Services, Ms Hathaway positioned the sum demanded for the works as *"reasonable"*

In her letter to me of 30 August 2002 Ms Hathaway stated: *"There are no works which are not strictly maintenance"* [115]

In the 29 November 2002 claim she filed on behalf of Steel Services in West London County Court she stated, under a 'Statement of Truth' *"The Claimant believes that the facts stated in this Claim Form are true"*

In the *'Mr Ladsky's style'* letter dated 16 December 2002 sent to me under the name of Ms Hathaway, there are the following statements: *"The price obtained from Killby & Gayford, we believe to be extremely competitive and advantageous to the tenants in the block… There is no intent to charge residents twice, nor have any documents been tampered with"* [116]

129. As pointed out by the LVT in its determination – under point 54:

"Assuming that, ***on a proper construction of the lease, the services in issue are covered by the charging clause, this does not mean that the landlord enjoys carte blanche to incur costs.*** *In the Court of Appeal case of Finchbourne Ltd v Rodrigues (1976) 3 All ER 581, it was held that a term should be implied that the recoverable costs were to be "fair and reasonable". In rejecting the submission, Cairns LJ stated "it cannot be supposed that the (landlords) were entitled to be as extravagant as they chose in the standards of repair… in my opinion, the parties cannot have intended that the landlord should have an unfettered discretion to adopt the highest conceivable standard and to charge the tenant with it"*

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[115] Letter from Ms Hathaway to me, dated 30 August 2002
[116] Letter sent to me under Ms Hathaway's name, dated 16 December 2002

130. To this I will add another case I have come across – In the Court of Appeal case of Holding & Management Ltd v. Property Holding & Investment Trust, the court was prepared to imply requirement of reasonableness in interpreting a covenant to do such work as the maintenance trustee 'shall consider necessary to maintain the building as a block of first class residential flats' and held that it did not give the landlord the right to effect unlimited improvements at the tenant's expense [117]

131. Aside from the fact that Residents were told by the LVT to **NOT pay** until it had reached its determination, I will again draw the attention to Clause (2) (j) of my lease:

"… nothing shall disable the Lessor from maintaining an action against the Lessee in respect of non-payment of any such interim payment as aforesaid notwithstanding that the Accountant's Certificate had not been furnished to the Tenant at the time such action was commenced subject nevertheless to ***the Lessor establishing in such action that the interim payment demanded and unpaid was of a fair and reasonable amount having regard to the amount of the Service Charge ultimately payable by the Lessee***

Consider this in the context of the fact that the original demand I received was £14,400.19 while the impact of the LVT determination meant that it should be reduced by nearly 70% to £4,615.

132.

6.2 There was a concerted effort in particular between Mr Ladsky and Mr Brian Gale to try to influence the LVT by claiming that I was the only resident challenging the costs - because I was the only resident who went through the process.

6.3 CKFT used this false statement against me in its subsequent court proceedings correspondence, as well as in the 'offer' document.

133. In the case of Mr Brian Gale (as referred to in my Witness Statement under point 9) in Section 2.09 of his *"Expert Report / Proof of Evidence"* report, dated 24 February 2003, to the LVT, he had described the outcome of the 14 November 2002 meeting (set-up by Ms Hathaway for the residents - with a 3 day notice – and contrary to the LVT directions) as: *"…4 of the 5 objecting Respondents who attended the Pre-Trial Review on the 29th of October 2002 were now not objecting any further and had agreed to pay, or had paid…".* [118]

Under point 5.11 Mr Gale also states that at the 14 November 2002 meeting, residents had the opportunity to get a copy of the priced specification. By then, **4 months had elapsed** since the original demand for payment had been sent – as it was dated 17 July 2002.

In this same report, Mr Gale states:

2.03 – *"At this stage* [at the 29 October 2002 pre-trial LVT hearing]*, of the 35 flats within the block, 11 Lessees had already paid the relevant service charge, a further 10 had partly paid and had promised to pay the balance and were not in disagreement. Of the remaining tenants, only the 5 attending as Respondents had indicated any objection to payment of the service charge, reasonableness of the works or their cost"*

5.01 – "*I would like to draw to the attention of the Tribunal that I am advised by the managing agents that now some 31 of 35 tenants have paid, either in full or substantial contributions toward the cost of the proposed works"*

5.02 – *"It would therefore appear… that only one lone tenant continues to make any representation or objection of the 35 tenants"*

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117 Landlord and Tenant Law, Margaret Wilkie & Godfrey Cole, 4th edition, Palgrave Law Masters

118 'Expert Report/Proof of Evidence' report, by Brian Gale, 24 February 2003

5.04 – *"The vast majority of the tenants in this block have been fully and completely consulted throughout all stages of the procedure, are in full and complete agreement and have paid substantially, or entirely, for the works and improvements* **(NB: !!!)** *to take place*".

(I wrote a reply to Mr Gale which was handed to the LVT Panel by my Counsel [119])

134. In the case of Mr Ladsky, this is captured under point 50 of the LVT report:

"It is noted that, apparently, the majority of the tenants wish all the works to be carried out. A ***letter from Mr Ladsky****, the lessee of flats 34 and 35 dated 28 April 2003 stated:*

"31 or 32 of the 35 tenants have paid their contribution towards the major works. They are, therefore, in agreement with both the scope and cost of the proposed refurbishment. Whilst I accept that the Tribunal is to rule on the reasonableness of the proposed works, it must surely follow that if the overwhelming majority of lessees in the building are ad idem, some considerable weight must be given to their collective view. It seems to me that it would be wholly inequitable for one lone tenant acting entirely unilaterally to be able to frustrate and delay the building works desired by the many"

135. **These were lies - as evidenced by the glaringly obvious:**

(1) in the case of Mr Gale's claim on the position after the 14 November 2002 meeting: barely 2 weeks later, Steel Services filed the claim in Court against 11 Residents representing 14 flats. (Some of the residents who had attended the meeting were listed on the 29 November 2002 county court claim).

(2) events which took place **after** Mr Gale's *"Expert Report / Proof of Evidence"* dated 24 February 2003 - and Mr Ladsky's letter:

(a) CKFT's 23 May 2003 application to the Court for a Case Management Conference – highlights ongoing action against 4 Residents [120] (see below section 'West London and Wandsworth County Court proceedings')

(b) Indications are that another Resident is not mentioned: Defendant number 9 as, when I went to West London County Court on 31 March 2004, initially I was told that a judgement had been entered against me on 18 March 2004. Eventually I was told by Ms Debbie Wotten (?) who appeared to be the manager, that, *"No, the judgement is not against you, it is against Defendant number 9"*

136. In addition, as stated in the last part of point 50 of the LVT report:

"On the last day of the hearing a legal representative for another lessee in the subject property attended to say that her client was also unhappy about the service charges demanded of the proposed works"

The *"legal representative"* was Ms McLean, PSB solicitors, who had written in a letter dated 9 April 2003 to my then solicitors, Oliver Fisher:

"…the landlord has intimated to the LVT that no other lessee is disputing the service charges demanded. That is clearly not the case…" [121]

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[119] My 13 March 2003 reply to Brian Gale's Section 2 of his 'Expert Report / Proof of Evidence' report, dated 24 February 2003

[120] CKFT letter to West London County Court, dated 23 May 2003

137. In the earlier part of the letter, Ms McLean stated that PSB was acting for a resident – and that it had also acted for another resident *"…[who] for personal reasons opted to pay the charge against her which was in the region of £18,000 odd"*

The resident referred to by Ms McLean as having paid *"for personal reasons"* had written to me on 1st November 2002 saying:

> *"I have received numerous written demands for payment and had also been told, on the phone, that all the other leaseholders had paid their service charge demands which was obviously not the case… I am now sending all correspondence relating to this matter to my solicitor with a view to adding my own opposition to Steel Services' demands"* [122]

138. When Mr Ladsky (who was a member of Steel Services party throughout the 4 day LVT hearing) said to the Panel: *"Will Ms Rawé pay the £250,000 of additional costs that will be incurred as a result of the delay in the start of the works due to hearing?"*, the Chair, Mrs Goulden, replied that I was perfectly within my rights to challenge the application made by Steel Services.

This was captured in the LVT report under point 64: *"Although she is in the minority, the Respondent's legal right to challenge the Applicant's proposal, as she had done, cannot be fettered"*

139. Subsequent events with West London County Court demonstrate that, while CKFT would have had a 'blow by blow' account of the LVT proceedings from, among others, Mr Warwick, Counsel acting for Steel Services in the LVT proceedings, **it nonetheless continued with the court action – in spite of residents having been told by the LVT <u>to not pay.</u>**

140.

7 WEST LONDON AND WANDSWORTH COUNTY COURT PROCEEDINGS

141.

7.1 From the time the claim was filed in West London County Court on 29 November 2002 until August 2004 CKFT committed <u>OFFENCES UNDER THE DEFAMATION ACT 1996</u> by originating, as well as disseminating to other residents at Jefferson House and, hence, the public at large, County Court documents and other documents with my name on them which contain defamatory statements.

142. In my 17 December 2002 defence to the claim, I stated, among others, "*Claimant already pursuing claim through the London LVT (LVT/SC/007/120/02) and process already fairly advanced"*

I also included a covering letter of the same date: "*Action to be stayed - The purpose of my attached letter of 10 December 2002 was to report that the same action is being pursued by the same party in two jurisdictions: (1) yours; (2) the Leasehold Valuation Tribunal (case LVT/SC/007/120/02). Consequently, I would like to suggest that* ***this action through your County Court be stayed****…"* [123]

143. **Therefore, West London County Court was fully aware that the same action was being pursued by the LVT.** In fact, I personally brought this to the attention of the Court a total of 7

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[121] Letter from Ms McLean to Oliver Fisher, dated 9 April 2003

[122] Letter to me from Resident F, dated 1 November 2002

[123] My letter to West London County Court, dated 17 December 2002

times between my letter of 10 December 2002 and my letter of 9 August 2003 (all were recorded / special delivery letters).

In addition to my letters of 10 and 17 December 2002, I did this:

- In my 25 March 2003 letter addressed to the District Judge, in which I wrote:

> *"29 Oct 2002 - During the hearing, Mr J.C. Sharma JP FRICS, Chair, tells us that if we pay the service charge demanded before the hearing, then the Tribunal will not be able to do anything. In other words, Mr Sharma tells us to not pay the service charge until the Tribunal has reached a decision"* [124]

I also copied the District Judge, West London County Court, on my 30 March 2003 letter to the members of the LVT Panel – in which I wrote, among others:

> *"In my reply to the District Judge dated 25 March 2003 (see attached) I requested (once again) that the action be stayed explaining, among others, that:*
> - *at the LVT pre-trial hearing on 29 October 2002 Mr J.C. Sharma JP FRICS had in effect told the residents to not pay the service charge demanded for the major works until the LVT had reached a decision*
> - *you had not as yet reached a decision as the case was currently part heard and the last day for the hearing was set for 28 April.*
>
> *In its reply of 27 March 2003, the County Court tells me that "… your request (for a stay) will be considered at the hearing on 4th April 2003"* [125]

I also did this in 3 others letters to the West London County Court, dated 17 June 2003, 22 June 2003 and 9 August 2003. (See below for details)

Yet, as evidenced below, West London County Court opted to ignore this critical fact, including my highlighting to the Court that residents had specifically been told by the LVT to not pay until the Tribunal had issued its determination.

144. **7.2 Although in my case CKFT held off the court proceedings against me during the LVT hearings – its actions nonetheless caused me an enormous amount of anguish, torment and distress, as well as financial loss**

This was due to a combination of the following factors:

(1) the claim it had drawn-up covered 11 residents
(2) it nonetheless continued with the action against the other residents
(3) both West London and Wandsworth County Court proved to be totally incapable of managing the claim, resulting in telling me that 3 actions concerned me when, in fact, they did not

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[124] My letter to District Judge, West London County Court, dated 25 March 2003

[125] My letter to the LVT Panel, dated 30 March 2003, copied to District Judge, West London County Court

145. The first instance occurred in March 2003.

In a notice dated 21 March 2003 the Court informed me that there would be a 'Charging Order' against me on 4 April 2003 [126]

Until this false claim filed against me, I had never had any dealings with courts in my life. I did not know what a 'Charging Order' was. This frightened me. I was in the most appalling state on reading this.

I phoned the Court but, as I was not getting anywhere, I opted to write a letter on 25 March 2003 in which I yet again reiterated – among others – my request for the action to be stayed as the proceedings were still taking place with the LVT (as extracted above)

In its letter dated 27 March 2003 West London County acknowledges receipt of my 21 March 2003 letter, but still persists with the need for me to attend a hearing on 4 April 2003, as it states: *"Please note that your request will be considered at the hearing on 4th April 2003"*. [127].

Not knowing who to turn to and what to do, on 30 March 2003, I also wrote to the members of the LVT panel who were handling the case to relate the fact that the Court had issued me with a 'Notice of a Charging Order' and explained that I had communicated to the Court the fact that the LVT proceedings were still in progress (as extracted above).

In this letter, I also asked the following question: *"How can it be that two government departments – who have been made aware of a conflict as a result of actions they are concurrently undertaking – have no line of communication?"*.

I turned to my then solicitors to determine the meaning of a 'charging order'. The solicitors wanted a £2,000 down payment (on the ground that I was now asking for advice in relation to the court proceedings). As I was minutes away from doing this, through my network of contacts, I determined that a 'Charging Order' could only be made against me if a judgment had been entered against me.

Armed with this information – and appropriate wording - on 1st April, I again phoned the Court (by then for the 3rd time) – stating: *"There cannot be a Charging Order against me because there has not been a judgment against me"*.

At this point, I got transferred to somebody else, I believe, the Court Manager, to whom I repeated exactly the same thing. The reply I received to that was: *"No, the Charging Order is not against you, it is against other residents"*

See enclosed my letter of 1 April 2003 to the Court in which I capture these events [128].

Having said that to me, the Court Manager had added that it may nonetheless be of benefit for me to attend the 4 April 2003 hearing. Not knowing what to expect, I asked my surveyor to accompany me.

When we arrived at the Court, we were told that the hearing had been cancelled. (A consent order had been faxed to the Court by CKFT relating to the seventh Defendant). This wasted trip to the court cost me £500 in surveyor fees, as well as half a day of my annual leave.

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[126] Notice of Adjourned Hearing from West London County Court, dated 21 March 2003

[127] Letter from West London County Court, dated 27 March 2003

[128] My letter to West London County Court, dated 1 April 2003

146. The second instance took place on 31 March 2004.

On that day I visited West London County Court to determine whether there had been movement on my file. I was told that a judgment had been entered against me on 18 March 2004.

I challenged this on the ground that I had not received any communication about this. After 45 minutes of arguing and waiting, I was eventually told: *"Oh, no, it's not against you, it's against Defendant # 9".*

147. The third instance relates to being told by Wandsworth County Court that I was the defendant in a trial due to take place on 17 August 2004. Hence, this took place after I had exchanged a consent order.

This proved to be another very traumatic experience.

Also, as in the other instances, it took many hours of my time phoning, writing and photocopying documents to both courts – as can be seen from the following.

Writing a letter to Wandsworth County Court on 8 July 2004 asking why my file had been transferred from West London County Court to Wandsworth County Court given that I had exchanged a consent order that had been endorsed by Wandsworth County Court on 1st July [129]. I also point out: *"There is no explanation whatsoever as to what the statement "listing and trial before Circuit Judge" refers to. What hearing? Why? For what? When?"* [130]

After 10 days of anguish and distress, a Mr Zaidi, Wandsworth County Court, phoned me. Initially, he confirmed that I was the defendant in the trial that was scheduled to take place on 17 August. I captured this conversation in a fax to Mr Zaidi, dated 19 August 2004. In this fax, I also captured that he had told me that the court did not have in my file a copy of the consent order that had been endorsed by West London County Court on 1st July 2004 and that he had asked me to fax him a copy.

I also asked him to confirm, in writing, whether or not the 17 August trial concerned me, stating: "*If so, please provide directions as none were supplied in the 9 June 2004 'Notice of Transfer of Proceedings' – and those listed in West London County Court 'General Form of Judgment or Order' dated 28 May 2004 – under points 1, 2, 3 and 5 appear to only relate to Defendant #5"*

Still in the dark, and in continuing distress and anguish as to whether or not I was the defendant in a trial due to take place in 3 weeks time, on 22 July 2004 I wrote to District Judge Ashworth. As can be seen in the attached [131], in this letter I stated: *"I explained* [to Mr Zaidi] *that I was in a state of terrible anguish and distress as I did not understand what was going on. He promised to send me a letter confirming whether or not the 17 August trial concerned me. At the date of writing - i.e. 4 days later - I have not received communication of any kind from your Court.* ***If the trial does concern me, then I have not been provided with any instructions whatsoever.*** *As you can see from the attached 'General form of judgment or order' from West London County Court dated 28 May 2004 the instructions under points 1, 2, 3 and 5 refer to Defendant # 5".*

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[129] Consent Order, endorsed by Wandsworth County Court, dated 1 July 2004

[130] My letter to Wandsworth County Court, dated 8 July 2004

[131] My letter to District Judge Ashworth, Wandsworth County Court, dated 22 July 2004

Later on in this letter, I also stated: *"Having fallen victim to an unscrupulous landlord, I have then been subjected to the most appalling treatment by the Courts which I can only describe as amounting to cruelty and persecution:*

- *if this communication that the 17 August trial does not concern me (and it seems to me that it does not) it will be the third time that I am told to respond to a Court action that does not concern me*
- *nobody even bothers to reply to my letters making me endure the most awful anguish, distress and torment.*

This finally led to brief reply from Wandsworth County Court: *"You are not required to attend the hearing on the 17th August 2004 as your case has now settled (*sic). *Part 5 of the order of 28 May 2004 states that it is the claim against the 5th defendant that was to be listed"* **[132]**

148. On 23 May 2003 CKFT filed an application in West London County Court for a Case Management Conference **[133]**. It therefore filed this application **before** the LVT had issued its determination.

As can be seen, this application states that the hearing concerns me, as well as 3 other residents **[134]**

The following must also be noted on this application: *"The Claimant has obtained judgment or settled proceedings against all Defendants, except the following: 1st…, 2nd…, 5th… and 7th… Defendants"*

149. **While I do not know the details of the judgments and settlements that CKFT had obtained by 23 May 2003, it must be noted that CKFT had obtained – with the assistance of West London County Court – sums of money from 7 residents before the LVT had issued its determination (on 17 June 2003).**

150. As highlighted in the earlier part of this document:

(1) I and other residents were specifically told by Mr Sharma, LVT Chair, at the 29 October 2002 pre-trial to **not pay the service charge until the Tribunal had issued its determination and it had therefore been implemented**

(2) In spite of clause 2 (c) (i) of the lease – apparently for flat 23 - which was supplied to the Court with the claim, the percentage share of the service charge for each of the 35 flats is a fixed amount. These percentages were supplied indirectly by CKFT-Steel Services-MRJ to the Court at the 24 June and 26 August 2003 hearings **[135]**, and the full list of percentages was attached to Steel Services-MRJ's 7 August 2002 application to the LVT.

7.3 As to the global sum for the works, it has to be the same for all lessees. Hence, Steel Services cannot charge differentially, other than on the basis of individual lessee's fixed percentage share of the service charge.

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132 Letter to me from Wandsworth County Court, dated 23 July 2004

133 Claim Form, West London County Court, Claimant Steel Services, dated 29 November 2002

134 CKFT application to West London County Court for a Case Management Conference, dated 23 May 2002 (should read '2003')

135 Martin Russell Jones's Major works apportionment 24th June 2002'. One handed by CKFT at 24 June 2003 hearing listing 6 flats, and the other handed at 26 August hearing, listing 35 flats

151. In a Notice dated 12 June 2003 I am informed by West London County Court that a hearing will take place on 24 June 2003.

As the LVT had not released its determination, in my 17 June 2003 letter to the District Judge, I repeat the occasions when I informed the Court that an action for exactly the same claim was taking place through the LVT. I ask:

"Why are you therefore asking me to attend a hearing?
Why aren't you instead asking me whether the LVT has reached a decision?
Why is it that your Court is not waiting for this decision? Until there is a decision from the LVT, what can you enforce?" [136]

152. Having just received the LVT determination, on 22 June 2003 I send another letter to the District Judge, in which I wrote: "*The judgement remains open to appeal to the Lands Tribunal - Both myself and the Applicant have until 8 July to consider making an application for leave to appeal to a Lands Tribunal.*

Your Court is subjecting me to double jeopardy – I am astonished that your Court has persisted in allowing duplicated action to continue in spite of my telling your Court on numerous occasions since 10 December 2002 that Steel Services was pursuing exactly the same action in the LVT – at the same time as it was pursuing the action in your Court.

The Claimant has mischievously pursued this action in two separate jurisdictions in order to intimidate and bully me into paying. This is an abuse of the legal process… As I am not contractually liable under the terms of my lease to pay these amounts, CKFT are in breach of their professional conduct by demanding substantial sums of money that are not properly due and payable" [137]

I gave a copy of this letter to Mr Silverstone, CKFT, at the 24 June 2003 hearing.

153. In its 23 June 2003 reply to my 17 June letter West London County Court states that it encloses *"…a letter from the claimant's solicitors which confirms that the case is proceeding against the 1st, 2nd, 5th and 7th Defendants"* and confirming that the hearing will take place [138]

154. At the 24 June 2003 hearing Mr Silverstone handed me – just minutes before seeing the judge, the following documents **I had not previously seen**:

(1) A *"Major works apportionment 24th June 2002 Revised"* produced by MRJ for which in my case (and that of the other 5 residents listed) the original sum demanded has been reduced by only 24.19% [139]. **There was no supporting evidence as to how this reduction was achieved.**

(2) A "Case Summary" [140] produced by his firm, which a reasonable person – cognisant of the facts - would describe as: **'a pack of lies'**

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[136] My letter to District Judge, West London County Court, dated 17 June 2003
[137] My letter to District Judge, West London County Court, 22 June 2003
[138] Letter to me from West London County Court, dated 23 June 2003
[139] *"Major works apportionment 24th June 2002 Revised"*, covering 6 flats, issued by MRJ
[140] Case Management Summary, handed to me by Mr Silverstone, CKFT, at the 24 June 2003 West London County Court hearing

The case summary states: *"Proceedings for recovery of service charges due from tenants…"* (NB: **Not true**)

"Proceedings issued on 29 November 2002… Proceedings settled with all but 4 D's on the basis of payment of the service charges. D1 – Defence filed 20.12.02 – Agreed terms of a Tomlin Order and expected formal settlement shortly when Tomlin order approved by Court."

D2 (i.e. myself): *"Defence filed 17.12.02* "
"(a) Disputed electricity charges totalling £337"
"(b) Balancing service charge of £283.14 disputed. No reason given" **(NB: <u>Not true</u> – as can be seen in my defence to the claim**).
"(c) Interim service charge of £14,400. D relies on referral to LVT application by C. D challenged reasonableness in the LVT. LVT proceedings determined by decision on 17 June 2003"
"(d) alleged demand does not comply with lease – no particulars provided" **(NB: <u>Not true</u> – as evidenced by my letters to CKFT and Ms Hathaway)**

*"D5: (c) Alleged C company struck-off – **not now relevant** (d) No s.20 notice served.*
D7: (a) Denied s.20 notice served".

(NB: Note other residents filing in their defence to the claim that a section 20 Notice had not been served. And these are just the residents who were fighting on!)

"Majority of s/c expenditure approved. **(NB: <u>Most definitely not true)</u>** *Where not approved, LVT said that because lack of sufficient detail in specification rather than because outside scope or not reasonable"* **(NB: <u>Most definitely not true)</u>**

"C wishes to apply for summary judgment to the extent that the D's contest the s/c on the basis of the awaited LVT decision. LVT has not made any specific determination of the actual sums payable by D2 as D2 requested.
(NB: **<u>More lies.</u>** I **<u>did not</u>** ask the LVT for this. I know perfectly well that the LVT determination is only in relation to the global sum. **<u>In fact, it is CKFT who wrote to the LVT on 17 July 2003</u>** – as can be seen below).

***"**Will seek to rectify, but C's managing agents have prepared calculation of the sums approved by the LVT at this stage"*. (**What MRJ prepared = only 24.19% reduction)**

(3) A <u>Draft order</u> [141] which is geared to frighten those who have not yet paid into paying now by conveying the message that this case is going to drag on for a lot longer – and will therefore cost them a lot more in professional fees as it states:

"Upon the proceedings between the Claimant and the 3rd, 4th, 6th, 8th, 9th, 10th and 11th Defendants having been resolved, it is ordered that:

1. Claimant shall make such applications for summary judgment against the 2nd 5th and 7th Defendants at it shall deem appropriate supported by witness statement evidence, to be filed and served

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[141] Draft order handed to me by Mr Silverstone, CKFT, at the 24 June 2003 West London County Court hearing

by 4pm on 1st July 2003.

2. *Defendants to file and serve witness statements in reply by 4 pm on 15th July exhibiting fully particularised of defences.*
1. *Claimant to file and serve evidence in reply by 4 pm on 22 July*
2. *Inspection by 4pm on 19 August, witness statement to be exchanged by 4pm on 16 September, experts reports by 7 November and meetings by 21 November; joint report by 29 November; fix for trial first open date after 1st January 2004".*
3. *Matter to be fixed for hearing before District Judge on 1st open date after 29th July…*
4. *Fix for trial first open date after 1st January 2004 – multi track"*

This suggests to me a repeat of the last 10 months.

155.

As the above documents supplied by CKFT for the hearing contained false and highly damaging information about me, and were issued to other residents at Jefferson house, and hence, the public at large, <u>CKFT continued committing offences against me under the DEFAMATION ACT 1996</u>

156. The 24 June 2003 Case Management hearing should not have been allowed to take place given that I (and indeed Steel Services) had Leave of Appeal to the Lands Tribunal until 8 July (and I had informed the court of this).

While the hearing nonetheless took place, Judge Wright agreed with me. She reprimanded Mr Silverstone, CKFT, for *"wasting my time and the court's time. The LVT report has just been issued. You need to give the Defendants time to review it"*.

Judge Wright ordered that Steel Services pays my costs for the day (and that of other Residents present) [142] – and, obviously, refused Mr Silverstone's demand that I (and the other Residents) pay its client's costs for the day.

The order also states that the hearing has been adjourned to 26 August 2003.

While I was compensated for my financial loss, I incurred a much greater cost: the anguish and distress of having to represent myself in Court which was a harrowing experience. (This came about due to the insufficient notice of the hearing. A consistent occurrence with West London County that has typically responded with amasing speed to CKFT's applications for hearings).

157. In a *"Without prejudice"* letter, dated 25 June 2004 [143] , CKFT requests that I meet with them: *"It is our view and that of our client that to continue with enormously expensive legal proceedings make no sense whatsoever, particularly now that the LVT have given their decision. Save for the improvements, the LVT allowed virtually all of our client's proposals…* **(NB: <u>A blatantly false statement</u>)**

It seems pointless to us to continue to waste further money… The net result of the proceedings is that substantial sums have been expended by all parties on legal costs… **(NB: Its client should have thought of *'the costs'* <u>before attempting to defraud me of £10,000 – with a clear intention (now proven) of</u>**

[142] West London County Court order, dated 24 June 2003
[143] Letter from CKFT to me, dated 25 June 2003

asking for even more for these 'major works').

Any amount which was not expended would have, and still will be returned to you once a final account post-completion is prepared. Our client has informed us that they invited you to attend a meeting last year (**NB:** This is the 14 November 2002 – discussed previously – which was set-up by Ms Hathaway contrary to the LVT directions - in terms of timing) *where a very full, frank and meaningful discussion took place with a large number of residents who subsequently paid their service charge in full.* (**NB**: 2 weeks later Steel Services filed its claim against 11 residents representing 14 flats in West London County Court. Some of these residents had attended the meeting)

Apparently, you chose not to attend this meeting which could have resolved any concerns you had without going through the costly LVT process (**NB: It is Steel Services – not I – who made the application**. Very clearly, it counted on being able to steamroll it without any opposition and thereby get the official seal of approval)

…which has now resulted in a percentage uplift in the contract figure and a significant delay to the project". (**NB: Note the harassment and blackmail tactics**)

Not only is CKFT ignoring the following:

(1) that <u>its client made the application to the LVT</u> to determine the reasonableness of the sum demanded
(2) the LVT specifically told us to <u>not pay</u> the service charge until it had issued its determination – and it had therefore been implemented

It is also making use of what I have come to define as the sine qua non of the 'Business Model of the Unscrupulous Landlord in 21st Century GB': ***'the costs'***. (See section later on in this document 'The Business Model of the Unscrupulous Landlord in 21st Century GB')

CKFT is blaming me for causing the situation and therefore the resultant costs and is consequently putting the onus on me for ending it: by paying… an amount that is <u>not due and payable</u>.

Clearly – in spite of all the evidence it has been provided with – CKFT is still regurgitating what its client has said. This is evident by both the style and contents of the letter which includes identical wording to a letter sent to me <u>6 months previously</u>, dated 16 December 2002, under the name of Ms Hathaway: "… *where a very full, frank and meaningful discussion took place with a large number of residents who subsequently paid their service charge in full…"*

158. In a letter dated 15 July 2003 to West London County Court [144] I wrote: *"Steel Services – Martin Russell Jones are not complying with the decision of the Leasehold Valuation Tribunal"* in which I detailed the main points of my surveyor's assessment of the LVT's determination.

*"At the case management hearing on 24 June 2003, Mr Silverstone of Cawdery Kaye Fireman & Taylor (CKFT) handed me and your Court a revised amount for the major works, from £14,400.19 to £10,917.27, representing a **24.18%** reduction. They are clearly expecting me to pay this amount now.*

I disagree with this amount on the basis that my surveyor assesses the

[144] My letter to West London County Court, dated 15 July 2003

17 June 2003 LVT decision as follows:… Hence, by reducing the amount by a mere 24.18%, Steel Services - Martin Russell Jones fall very short of implementing the LVT decision.

As this revised amount was given to me without any supporting evidence of the basis by which it was arrived at - and none has been provided since - on 6 July I wrote to Martin Russell Jones explaining that I disagreed with the amount for the reasons listed above, and asked for the basis of their calculations. I gave them until yesterday to reply. They have not.

I find it extraordinary that with all that has been exposed during the action through the LVT, Steel Services and Martin Russell Jones are, to this day, still attempting to demand money that is not due and payable

Using intimidation tactics they appear to have succeeded in getting some residents to pay the full amount originally demanded for the major works. Resisting these tactics has, for me, been a harrowing, very traumatic and very costly experience over the last two years but, I will maintain my position: I will only pay my share of the major works that is fair and reasonable and in compliance with the terms of the lease. In this context, I accept the decision of the LVT

I would therefore be most grateful for your assistance in compelling Steel Services and Martin Russell Jones to comply with the LVT's decision

I have an impeccable track-record and these people are dragging my name through the courts by making false claims against me. This is defamation of my name and of my character"

I copied Mr Silverstone, CKFT on this letter

159. In a correspondence dated 17 July 2003 [145] CKFT sends me a 22 page document *"Part III"* of the specifications for the works with *"Revised price"* written as heading.

In the same correspondence it also encloses a copy of a letter to Judge Wright stating, in relation to my letter of 17 July: *"For current purposes we wish to record the fact that figures quoted in Ms Rawé's letter are wrong"* [146] **(NB: As evidenced by the LVT determination, this is a blatant lie. It also means that CKFT continued making defamatory statements about me in court)**.

It continues: *"In the circumstances we propose to invite the LVT to make a determination of the specific amount reasonable for Ms Rawé to pay in respect of the service charges"* (**NB:** Evidence in support of my previous comment in relation to the Case Summary produced by CKFT at the 24 June 2003 hearing)

To CKFT's letter, the LVT replied on 21 July 2003: *"it is not up to the Tribunal to assess particular contributions payable by any specific tenant.."* [147] (**NB:** Thereby confirming again that the determination of the LVT is for the global sum demanded and **<u>therefore: the decision applies to every resident in the block</u>**)

It was clear to me that the Killby & Gayfords' *"Revised price - Part III"* document which CKFT had enclosed in its letter to me dated 17 July 2003 had not been adjusted to take full account of the LVT's determination. However, I needed to get 'official proof' of this – given that the LVT had not included a summary in its report of the impact of its determination on the global sum

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[145] Letter from CKFT to me, dated 17 July 2003

[146] Letter from CKFT to Judge Wright, West London County Court, dated 17 July 2003

[147] Letter from the LVT to CKFT, dated 21 July 2003

demanded. (Which was particularly convenient for Steel Services).

Consequently, I spent another £1,800 (on top of the £30,000+ the LVT had cost me in terms of solicitors, barrister and surveyor) to get my surveyor to review Steel Services *"revised priced"* document in light of the LVT determination.

Because, yet again, I had been placed in a situation of having to incur costs through no fault of my own – other than wanting to pay only what I am truly liable for - I felt that I was justified in claiming the costs against Steel Services as, yet again I was proven to be right.

(At the 26 August 2003 hearing a discussion took place in the court's waiting area between Ms Ayesha Salim, CKFT, and my Counsel (Mr Pliener – selected by my then solicitors, Piper Smith & Basham) which resulted in my being informed that I *"would only be able to claim the £1,800 at trial"*. With the benefit of considerably more knowledge since, I do not believe this advice to be correct).

160. In its letter dated 21 July 2003, addressed to the LVT, CKFT states, in the penultimate paragraph: *"… the costs of any further hearing or submissions are likely to be disproportionate and unnecessary".*

(See section below 'The Business Model of the Unscrupulous Landlord in 21st Century GB' for my comments)

161. As a follow-up to the LVT reply, in its 24 July 2003 letter to me, CKFT states: *"…on 26 August 2003…hearing, we shall be seeking judgement for the amount you admitted in your 15 July 2003 letter to the court unless we receive a cheque for that sum prior to the hearing. Clearly further substantial costs will be incurred if the court has to deal with the determination of this issue. As we suggested on numerous occasions, this is a matter which could be dealt with between the parties at a round-table meeting. We note your complete failure to respond to our repeated invitations in this regard. In the circumstances, we reserve the right to refer to this and previous correspondence in relation to subsequent issue as to costs"* [148]

7.4 In other words – <u>in spite of being fully aware of the position</u> i.e. that its client has not implemented the LVT recommendations - CKFT continues with its blackmail, intimidation and harassment tactics for the purpose of obtaining monies not due and payable.

Of note as well is the use of its typical – untrue - locations *"numerous"* and *"repeated".*

(See section below 'The Business Model of the Unscrupulous Landlord in 21st Century GB' for additional comments)

162. The fact that Steel Services did not appeal to the Lands Tribunal (which was the proper channel to follow) means that it accepted the LVT determination – following **<u>its</u>** own application to the LVT.

Yet, **with the assistance of CKFT, Steel Services kept challenging the LVT determination as it changed the amount demanded on several occasions – and did so without explanation, as well as non-compliance with the consultation proceedings detailed in the 1985 Act.** Among others, it did not address the determination by the LVT that proper specifications were required for the services section in order to arrive at correct costings. (I stress that, unlike Steel Services, I fully accepted the LVT determination).

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[148] Letter from CKFT to me, dated 24 July 2003

163. In its 7 August 2003 letter [149] , CKFT wrote to Healys (temporarily registered as acting for me):

"Your client has made no payment in respect of the proposed works which were the subject of the LVT application. At the very minimum we would expect your client to pay those sums that she admits are due in light of the LVT determination"

(NB: The reason for my not making a payment was: as I had been told by the LVT, I waited for Steel Services to fully implement the LVT determination, issue a Section 20 Notice, send me a revised priced specification and an invoice – in compliance with the terms of my lease. Steel Services DID NOT DO THIS. AND CKFT KNEW THIS.

CKFT was therefore continuing with its blackmail and harassment tactics, in the process aiding and abetting the acquisition of criminal property. 'Criminal property' as this money was not due and payable given that there was non-compliance with statutory obligations)

The following point must also be noted: **following the LVT determination, CKFT did not amend its original court claim. And never did it**.

CKFT continues in its 7 August 2003 letter: *"We recognise that there is a dispute with your client to the extent to which, if at all, our client is obliged to utilise the reserve fund for the proposed works. The LVT, of course, made it clear that it could not order Steel Services to utilise those funds. Your client's suggestion that the company is required to do so also ignores the fact that there are other contingent liabilities which may result in alternative calls on the reserve funds. We recognise that this matter will have to go to trial if it is not resolved by agreement… You will see that we have made numerous offers to meet with your client in order to try and resolve this matter by negotiation. She has declined to accept those offers. We shall contend that this is a relevant matter in relation to the question of costs "*

(**NB:** Equal: More bullying, intimidation and blackmail by CKFT).

(**NB:** See section below 'The Business Model of the Unscrupulous Landlord in 21st Century GB' for additional comments)

164. I headed my 9 August 2003 letter addressed to Judge Wright, West London County Court – **on which I copied CKFT** with: ***"The Claimant is not in a position to issue Summary Judgment against me (as detailed in the Courts' 'General Form of Judgment or Order', dated 25 June 2003)"*** [150]

In this letter I challenge CKFT's letter of 17 July 2003, detailing - now for the 3rd time to the court - the LVT determination (of which I attached a copy) and its impact on the sum demanded by Steel Services and hence, its claim against me (by attaching a copy of my surveyor's assessment, dated 31 July 2003).

Among others, I state:

"In their revised specification, the Claimant:
(a) has not adjusted the 24 June 2003 demand to take full account of the LVT's decision;
(i) has not complied with the consultation proceedings as detailed under the Landlord & Tenant Act 1985;

[149] Letter from CKFT to Healys, solicitors, dated 7 August 2003
[150] My letter to Judge Wright, West London County Court, dated 9 August 2003

(ii) has not used the contingency fund as contribution towards the works

(b) is attempting to charge residents a 6.45% increase on the overall cost of the contract when it is clear, from the comments made by the Tribunal, that the specifications and method of organising these works are below standard and hence, responsibility for the delay rests with the Claimant – not the lessees

In light of the above, I maintain the statement I made in my 15 July 2003 letter to the Court that: "By reducing the amount by a mere 24.28%, Steel Services-Martin Russell Jones fall very short of implementing the LVT's decision"

Given the above, I also repeat the statement I made in my 22 June letter to the Court: "As I am not contractually liable under the terms of my lease to pay these amounts, CKFT, Steel Services/Mr Andrew Ladsky's solicitors, are in breach of their professional conduct by demanding substantial sums of money that are not properly due and payable"

In this same letter, I also state:

"There are no side deals to be made with the Claimant: the nature of the works and their associated costs must be totally clear and transparent - to ALL lessees - *In their letter of 24 July 2003, CKFT again offer "a round-table meeting" to resolve matters. This time, they are threatening to use my non-acceptance of their offer against me: "We note your complete failure to respond to our repeated invitations in this regard". And, to continue with their typical scare and bullying tactics add: "In the circumstances, we reserve the right to refer to this and previous correspondence in relation to any subsequent issue as to costs".*

There is nothing to discuss. There are no side deals to be made with the Claimant. Works that are truly required – and can be charged to the lessees under the terms of the lease must be: totally clear and transparent to all, and the costs equally clear and transparent – also to all.

What each lessee is required to pay is clearly defined by means of a fixed percentage (see the attached list of percentage for each of the 35 flats supplied by SSL-MRJ in their 7 August 2002 application to the LVT"

165. The Application Notice to West London County Court for the 26 August 2003 hearing was filed by Ms Ayesha Salim, CKFT. It is dated 6 August 2003 [151]

Part A states: *"We CKFT intend to apply for an Order that (1) There be Judgement for the Claimant against the Second Defendant and Fifth Defendant under CPR Part 24.2 (2) The Defendants do pay the Claimant's costs of those proceedings – Because*

"The Claimant believes that the Second (and Fifth) Defendants have no real prospects of successfully defending the Claim and the Claimant knows of no other compelling reason why the case should be disposed of at Trial **(NB: Note the blatant lie)**

[151] Application Notice to West London County Court, filed by Ms Ayesha Salim, CKFT, dated 6 August 2003

PART C states: "*We wish to rely on the following evidence in support of this application*

On 17 June 2003, the Residential Property Tribunal Service gave its decision on the Application under section 19 (2B) of the Landlord and Tenant Act 1985 (as amended). A copy of that decision is attached to this Application Notice at Appendix A

… Following the decision, on 24 June 2003, Martin Russell Jones issued a revised Major Work Apportionment setting out the revised estimate for the works and calculation of the percentages due from each of the Tenants in the property. A copy of the revised estimate and apportionment is attached to this Application..

Despite the decision of the LVT and despite being served with the revised apportionments, the Second and Fifth Defendants have failed to pay the sums determined to be reasonable by the LVT **(NB: Note the blatant lie)**

Following the LVT decision, the Claimant considers that the Second and Fifth Defendants have no real prospects of successfully defending the Claim and the Claimant knows of no other reasons why the case should be disposed of at Trial

Accordingly, the Claimant asks the Court to enter summary judgment against the Second and Fifth Defendants with an Order for payment of the Claimants costs of these proceedings".

The Application Notice filed by Ms Ayesha Salim, CKFT, had attached to it a *"Major works apportionment 24th June 2002 Revised"* produced by MRJ for which in my case (and that of other Residents) the original sum demanded had been reduced by only 24.19%.

Hence, a month later, having not only made no changes to the July 2003 *"Revised price"* but, in fact, having reverted back to the 24 June 2003 sum of £10,917.27, Ms Ayesha Salim signed the application for a CMC under a 'Statement of Truth'

"The Applicant believes that the facts stated in Part C are true"

thereby saying that it has implemented the LVT determination and I therefore owe this money.

Clearly, not much regard is paid by Ms Ayesha Salim, CKFT (nor Ms Joan Doreen Hathaway, MRJ) **to the meaning of a 'Statement of Truth'**.

Hence - **in spite of having full knowledge of the situation – CKFT continues making false claims against me in court.**

166. In a letter to me dated 21 August 2003, CKFT wrote: *"You will by now have received notice of the hearing of our client's application for Summary Judgement… In readiness for the hearing, we enclose, by way of service, our client's statement of costs"* . As can be seen from the enclosed, the sum demanded was £707.68 [152]

[152] Letter to me from CKFT, dated 21`August 2003, containing an intended demand of £707.68

167.

As the documents supplied by CKFT for the hearing contained false and highly damaging information about me, and were issued to at least, one other resident at Jefferson house, and hence, the public at large, CKFT was therefore continuing to commit offences against me under the DEFAMATION ACT 1996

168. At the 26 August 2003 hearing, Judge Wright did not challenge CKFT on the claims contained in its application. This is in spite of my 22 June 2004, 17 July 2004 and 9 August 2004 letters in which I related the main points of the LVT determination – and to the latter, I attached a copy of my 31 July 2003 surveyor's assessment of the LVT determination.

The outcome of this was that I agreed to pay the sum of £2,255.07.

I did this in spite of the fact that there was breach of statutory requirements both, in terms of S20 and S21 of the L&T 1985 Act, as well as the terms of my lease.

What prompted me to do this was the realisation that proper and fair treatment of the case was evidently not on West London County Court's agenda – and that the dice were heavily loaded in favour of Steel Services.

169. The order resulting from the 26 August 2003 hearing included among others: *"Disclosure by 19 September 2003; Witness Statements to be served/exchanged on 21 October 2003"* [153]

170.

8 STEEL SERVICES "WITHOUT PREJUDICE PART 36 OFFER"

171. On 19 October 2003 I had my **Witness Statement** hand-delivered to my then solicitors, Piper Smith & Basham. As can be seen in the attached directions set by West London County Court to which I and CKFT had agreed in Court (on 26 August 2003) they state that the exchange of Witness Statements had to take place **on 21 October 2003** and were due to be delivered to West London County Court **by 16h00 on that date.**

This never happened due to some arrangement between Ms McLean (assistant solicitor), Piper Smith & Basham and CKFT to which I was not party. Indeed, Ms McLean copied me on a letter dated 27 October 2003 addressed to CKFT in which she suggested that the Witness Statements be exchanged by 12 December 2003. In her 3 November 2003 letter to me she wrote that she had received written agreement from CKFT to this.

172. On 21October 2003 at **17h43** CKFT faxed Ms McLean, Piper Smith & Basham what it described as a ***"Without prejudice Part 36 offer"*** [154]. Hence, CKFT faxed it **nearly 2 hours after the time set by the court for submitting the Witness Statements in court**.

The first thing to say about this so called *"Part 36 Offer"* is that it is actually a '**pre-action offer' as it contains the sum of £1,735.74 which is not justified** - as the LVT could not make a determination due to lack of specification, and the specification was **not** subsequently re-tendered**.**

Indeed, a substantial part of this sum is made up by the boiler for which the LVT recorded the following under Page 9 – 16.07

> *"There was no evidence, save for the complaints from the owner of the top floor flats, flats 34 and 35 that the boilers were failing regularly. Indeed, in evidence, Mr Jones confirmed that*

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[153] West London County Court order and directions, dated 26 August 2003

[154] *"Without prejudice Part 36 offer"* from Steel Services, dated 21 October 2003

they were working, were being maintained, and were not defective at present"

Based on the CPR Guidelines, namely **Lord Woolf's** recommendations on the requirements for the working of **Part 36 Offers in the Ford v GKR Construction Ltd [2000] 1 All ER 802** case – the offer was actually a 'pre-action' offer as it was not supported with the information necessary for me to assess it. As Lord Woolf stated in the case:

"…the parties must be provided with the information which they require in order to assess whether….to accept that offer…If a party has not enabled another party to properly assess whether or not… to accept an offer which is made because of non-disclosure to the other party of material matters , or if a party comes to a decision which is different from that which would have been reached if there had been proper disclosure, this is a material matter for a court to take into account in considering what orders it should make"

(Both Mr Twyman, PSB Partner, and my then Counsel, Mr Stan Gallagher, totally ignored my identifying this very important case). (I have made a complaint against both of them to their respective professional body).

My position was that, without proper specification and re-tendering, I did not know what, if any of this amount of £1,735.74 I was actually liable for.

Of course, in addition to this, in terms of being 'provided with the necessary information to consider the offer', **I had not been supplied with a copy of the 2002 year-end accounts for Jefferson House** (which, by then, under statutory requirements, were 4 months overdue). This is in spite of my asking Ms Hathaway in a letter dated 9 October 2003 for a copy to be sent to me within the next 14 days [155]

173. CKFT's opening statement in the 'offer' reads: *"Our client maintains that as a result of the LVT decision dated 17 June 2003, it is entitled to payment from your client of the sum of £10,917.27"*

(**NB: CKFT continues making blatantly false statements about me**)

It continues: *"..Your client's decision to challenge both the LVT decision"*

(**NB**: **Another lie**. It is Steel Services that challenged the LVT determination as evidenced by the statement in the following paragraph *"has once again reviewed the revised apportionment".* CKFT is blaming me for the situation when, in fact, **the remaining uncertainties resulted only from Steel Services failure to supply the LVT with enough information to take a final decision on all the issues.**)

It continues: *"…and to continue to defend these proceedings is her own. Her decision to do so has caused inconvenience and expense to all the lessees of the building...* (**NB: Note CKFT's false accusation**) *without any admission whatsoever, our client has once again reviewed the revised apportionment…"*

"Our client can bear the expense and inconvenience but insists that the major works must begin without any further delay so as to avoid any prejudice to other lessees and residents of the building who have, quite rightly, paid their apportioned liability" (**NB: Unbelievable!**).

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155 My letter to Ms Hathaway, dated 9 October 2003

"With that in mind, and without any admission whatsoever, our client has, once again **(NB:!!!)** *reviewed the revised apportionment dated 24 June 2003…we set out below details of the concessions our client is prepared to make… our client is also prepared notionally to utilise the reserve fund to reduce the total figure and, accordingly, your client's apportioned liability. Accordingly, the without prejudice reduced figures are…leaving your client with a liability of £6,350.85".*

(**NB: Relative to the impact of the LVT determination, the offer of £6,350.85 represents an overcharge of £1,735.74)**

To this CKFT added interest of £143.49. *"Accordingly, this proposal is that our client shall accept the sum of £6,494.34… If the offer is rejected and your client is held liable at the trial of this matter for a greater sum, it would be our client's intention to rely on the provisions of CPR Rule 36.21"*

174. **8.1 WHY DID STEEL SERVICES MAKE ME AN 'OFFER'? Why did not it instead: (1) revise the specification in light of the LVT determination; (2) issue a Section 20 Notice: (3) provide me with the priced specification; and then (4) demand payment in a manner compliant with the terms of my lease?**

I did not want an 'offer'. This is not the basis on which the service charges operate, doing a deal with one resident, another deal with another resident, and so on, and so on.

As I wrote in my 9 August 2003 letter to Judge Wright, West London County Court (which I copied to CKFT): *"There are no side deals to be made with the Claimant: the nature of the works and their associated costs must be totally clear and transparent – to ALL lessees… Nowhere does the lease state that the share of the service charges payable by individual lessees is dependent on their amount of 'backbone' and courage to challenge a demand for money they do not owe… Their resistance to prolonged harassment and intimidation… Their determination to persist in the face of adversity and their ability to handle the resulting torment, anguish and distress"*

As stated in my Witness Statement (under point # 6): *"I have consistently agreed that repair and redecoration works are required at Jefferson House".*

175. **8.2 The approach used by CKFT and its client is absolutely beyond belief:**

1. Tries its luck at getting £14,400.19 from me - declaring, under a 'Statement of Truth', that the sum is due and payable. It fails because I knew it to not be true. I knew it to be untrue because, by July 2002, when I received the demand:

    a. I had suffered extensive harassment, intimidation, as well as assault from Mr Ladsky from the time that I challenged Ms Hathaway on the true nature of the major works at Jefferson House. I first did this on 2 February 2002 when I stated that the proposed condition survey had more to do with works that would be required in the context of building an extra floor, than with redecoration and repair to the block.

    b. I was referring to a planning application, (Ref TP/98/1773), for the *'Erection of an additional storey at roof level to provide one, three bedroom flat*" made on 27 September 1998 and subsequently amended on 13 November 2001 (under a new Ref PP/01/2523) and 6 February 2002.

2. This became even clearer in the months following the 17 July 2002 demand.

    a. In reply to my letter of 11 August 2002 to Ms Hathaway requesting *"an explanation*

as to why works are being carried out to the roof given that a planning application to build an extra floor for a penthouse flat was granted on 6 February 2002", Ms Hathaway replied, on 30 August 2002: *"We are informed that there is no intention to build the penthouse at the current time"*

b. In his Expert Witness report, dated 13 December 2002 Mr Brian Gale, wrote under Section 4 -1.4 - *"I am able to categorically state that the Specification makes NO provisions for any construction of an additional floor nor any future requirement in the building to create a penthouse flat"* [156]

c. At the time that Mr Gale was writing his 13 December 2002 Expert Report, a second Planning Application, (Ref PP/02/2692), had just been made days earlier (on 25 November 2002) for *"Infill of ligthwell on 4 No floors to create additional bedroom and bathroom space to each flat".* Applications for amendments to this second Planning Application (for which the reference changed to PP/03/00429, and the description to: *"Amendments to existing planning consent for proposed infill of third, fourth and fifth floor lightwell"*) have likewise, also been made: (i) Notification dated 7 January 2004; (ii) Notification dated 19 April 2004.

d. There was a major contradiction in Mr Gale's opinion as, in a letter dated 26 March 2002 i.e. written **after** Mr Gale had completed his 'Condition survey' (in February 2002), Ms Hathaway wrote: *"The surveyors have indicated that the cost of works is likely to be in excess of £1 million + VAT and fees…"* [157] whereas, in his Expert Witness report of 13 December 2002, Mr Gale states that he considers *"the cost of works…detailed by Killby & Gayford on 8 July 2002 and totalling £564,467.00 represents a reasonable assessment of the cost of carrying out all necessary works"*

e. At the time of sending me the original demand, dated 17 July 2002, Ms Hathaway had written in the covering letter dated 15 July 2002: *"We have to state that the sum quoted may be exceeded due either to subsequent changes in the specification…"*

f. On 20 August 2002 Ms Hathaway wrote *"To All Lessees"* stating: *"… we have not received any significant comments from tenants in relation thereto within the prescribed time limit"*. [158]

g. This was definitely not the case as I knew that other residents had, like me, asked for more information e.g. Resident G's letter of 3 August 2002 to Ms Hathaway stating: *"Before I can agree to the demand that you have made I need… (1) a detailed breakdown of the figure of £564,467 against the specification"* [159]

Not surprisingly, given the above evidence, I was right: a penthouse flat is currently under construction at Jefferson House. As to who is paying for it, see Section at the end of this document 'Back to square one'

3. Tries again by lowering the sum to £10,917.27 (24 June 2003 hearing). It fails, because by

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[156] 'Proof of Evidence of Landlord's Expert Witness (Surveyor) Brian Gale', dated 13 December 2002
[157] Letter from Joan Hathaway, Martin Russell Jones, to 'All Lessees', dated 26 March 2002
[158] Letter from Ms Hathaway, *"To All Lessees"*, dated 20 August 2002
[159] Letter from Resident G to Ms Hathaway, dated 3 August 2002

then I had the benefit of the LVT proceedings.

4. Tries again by lowering the sum (in July 2003) to £10,235.63 (1.956% of £34,849.00) – (and thus, continues to challenge the LVT's determination). It fails – for the same reasons.

5. A month later, having not only made no changes to the July 2003 *"Revised price"* but, in fact, having reverted back to the 24 June 2003 sum of £10,917.27, Ms Ayesha Salim signs an application for a CMC under a 'Statement of Truth' saying that it has implemented the LVT determination and I therefore owe this money

6. Eventually it makes me an offer of £6,350 – which **still** does not reflect the LVT determination as it contains the sum of £1,735.74 for which no justification is provided (as the specification has not been re-tendered) and, in addition, says: *"and you owe me interest!"*

And the method it used during the course of these actions is outrageous and immoral.

176.

9 THE BUSINESS MODEL OF THE UNSCRUPULOUS LANDLORD IN 21ST CENTURY GB

177. Based on the horrendous, nightmare experience that CKFT and its client, Mr Ladsky et. al. (as well as Ms Hathaway) have made me go through in the last 3 years (and which has totally ruined my life), I have gained very comprehensive knowledge, understanding and insights of the landlord-tenant sector.

Among others, this has led me to develop what I view as the business model in operation in landlord-tenant disputes in this country. Including this explanation is relevant not only in the context of CKFT's letter of 25 June 2003 discussed above, but also in the context of previous, as well as subsequent correspondence and actions by CKFT.

I have called this model the ***'Business Model of the Unscrupulous Landlord in 21st century GB'*.** The sena qua non of this model is the *'the costs'*. Invocation of *'the costs'* is the arm 'par excellence' wielded about at every opportunity to make lessees pay an amount of money not due and payable. And everybody jumps on the bandwagon, repeatedly brandishing '*the costs'* in the lessees' face, in the process, putting the blame on the lessees for creating the situation and therefore the onus on them for ending it… by paying!

Indeed, once everybody has become quite fat one way or another at the expense of the lessee, and/or the situation is becoming uncomfortable for the landlord/ there is a realisation that the scam is not working out as anticipated/ etc. this is the time at which the strategic arm, the invocation of *'the costs,'* kicks in. There are variations on how this is brought in:

One approach, goes along the following lines: *"It doesn't make any sense. Look at all the money you've spent so far fighting this. Compare that to the size of the claim. Make a commercial decision. Settle the claim / accept the landlord's offer"*. (And, in the process, 'fill-up the coffers of the landlord. That way he can run along and do exactly the same thing with another lessee, and another, and another, and another….. The more times he does it, the more money he gets to beat other lessees into submission – and that way he can achieve his greed-ridden objectives).

Examples in support of my model:

- The Draft Order handed to me by Mr Silverstone at the 24 June 2003 hearing which is geared to frighten those who have not yet paid into paying by stating what amounted to, in effect, a repeat of the previous 10 months – and will therefore be very costly

- CKFT's *"Without prejudice"* letter, dated 25 June 2003: *"It is our view and that of our client that to continue with enormously expensive legal*

proceedings make no sense whatsoever… It seems pointless to us to continue to waste further money… The net result of the proceedings is that substantial sums have been expended by all parties on legal costs"

- CKFT also states in its 25 June 2003 letter: *"…without going through the costly LVT process"* (**NB: It is Steel Services – not I – who made the application**. As the LVT captured in its report under point 64: *"Although she is in the minority, the Respondent's legal right to challenge the Applicant's proposal, as she had done, cannot be fettered"*

- CKFT's 21 July 2003 letter addressed to the LVT: *"… the costs of any further hearing or submissions are likely to be disproportionate and unnecessary"*

- CKFT's 24 July 2003 letter to me: *"…Clearly further substantial costs will be incurred if the court has to deal with the determination of this issue. As we suggested on numerous occasions, this is a matter which could be dealt with between the parties at a round-table meeting…"*

- CKFT's letter of 7 August 2003 to my then solicitors, Healys: *"You will see that we have made numerous offers to meet with your client in order to try and resolve this matter by negotiation. She has declined to accept those offers. We shall contend that this is a relevant matter in relation to the question of costs"*

- CKFT's letter to me dated 21 August 2003, in which it stated: *"You will by now have received notice of the hearing of our client's application for Summary Judgement… In readiness for the hearing, we enclose, by way of service, our client's statement of costs".* This *"statement of costs"* was for the sum of £707.68

- CKFT's letter to me, dated 28 May 2004: *"…we will be seeking an order for our client's costs…"*

Further example to substantiate my model:

- When, at the 24 June 2003 court hearing I told Mr Silverstone of CKFT that I found it absolutely outrageous that the Court had been instrumental in making some residents pay an amount of money not due and payable, his reply was: *"They made a commercial decision"*

And proof of this:

- Resident C who wrote to the LVT on 20 October 2002: *"I paid a portion, approximately 17,000 pounds, not of my own free will, but because I felt intimidated and threatened. It may appear that the persons who paid all or portion of the assessment are accepting of the assessment and proposal from Steel Services and MRJ as fair. Not so in my case, it is out of fear. Steel Services and MRJ will take legal action if I do not comply. Living outside the UK makes it virtually impossible to allow oneself to become involved in lawsuit…. Further, the legal fees may exceed the amount of the assessment"* [160] (**NB:** This Resident nonetheless ended-up being listed on the 29 November 2002 West London County Court claim).

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[160] Email from Resident C to the LVT, dated 20 October 2002

178. **9.1 In the case of CKFT which, very clearly, is a firm that will stop at nothing to assist its client in obtaining monies not due and payable, this approach is preceded by the 'heavy blackmail and scare tactics' approach intended to cause alarm and distress by misrepresenting the correct legal position with the aim of frightening people into paying:**

- Its letter to me dated 7 October 2002: *"Our client reserves the right to take action to forfeit your lease for breach of covenant and to communicate with your mortgagee (if any), if such action becomes necessary"*

And at times, abusing its position as solicitors by sending letters to frighten people at the whim of its client:

- Its letter to me dated 4 February 2003: "*… our client company wishes to make it clear that they will take injunctive steps prior to other proceedings being formalised to restrain you from causing a nuisance at the property… The due process of law is under way to claim the perfectly proper service charges that are due from you…"*

9.2 In the case of CKFT, the 'blackmail and scare tactics' approach is also used in tandem with the invocation of *'the costs'* approach:

- CKFT's letter to me dated 21 October 2002: *"We further note that you have made no proposals in respect of the major works contribution"* (**NB:** Please note that **in the same letter**, CKFT states: *"We are aware that Steel Services has applied to the Leasehold Valuation Tribunal"*). It then states: *"Your consistent failure to pay such sums is a matter that could be taken into account by the court in considering the weight to be given to your complaints now"*

- CKFT's 25 June 2003 letter to me: " …*which has now resulted in a percentage uplift in the contract figure and a significant delay to the project"*

- CKFT's 24 July 2003 letter to me: "*Clearly substantial costs will be incurred if the court has to deal with the determination of this issue. We note your complete failure to respond to our repeated invitations in this regard. In the circumstances, we reserve the right to refer to this and previous correspondence in relation to subsequent issue as to costs"*

- CKFT's 7 August 2003 letter to Healys, my then solicitors: *"She has declined to accept those offers. We shall contend that this is a relevant matter in relation to the question of costs"*

- The 21`October 2003 offer it wrote: *"…and to continue to defend these proceedings is her own. Her decision to do so has caused inconvenience and expense to all the lessees of the building.."*

In my opinion, in spite of the conduct of West London County Court, CKFT's client was desperate to prevent the case going to trial.

179. **9.3 Another approach used by CKFT, also in tandem with the above, is to persistently deny from Day 1 the evidence – including breaches of statutory requirements by its client - and thereby keep the action going in order to achieve its objective: to get**

payment of the sum demanded by its client

There are numerous instances of this covered in this document which include, for example:

- Its letter to me of 21 October 2002: *"We are sure that Martin Russell Jones will provide you with copies of such information as you are entitled to receive pursuant to Section 20 of the Landlord and Tenant Act…"* **(NB:**, **it dismisses my legitimate request to be provided with details of the costs - as per my statutory rights under Section 20 of the Landlord & Tenant Act 1985 - as it repeats its 7 October 2002 threat of litigation:** *"Our client will therefore take such action as it considers appropriate to recover that sum from you. ."* (**NB:** And at the time, knew that the LVT pre-trial hearing was about to take place)

- Filing of the claim in West London County Court on 29 November 2002 when, in fact: (1) it had been informed of its client's non-compliance with statutory requirements; (2) residents had been told by the LVT on 29 October 2002 to not pay the sum demanded

- Insisting on 24 June 2003 that a 24.19% reduction in the sum demanded fully reflected the LVT determination when, in fact, it would have had a blow by blow account of the LVT proceedings, as well as, of course, a copy of the LVT determination – clearly demonstrating that this was not the case

- In spite of this knowledge, stating in its application for the 26 August 2003 hearing – **under a 'Statement of Truth'**: *"The Claimant believes that the Second (and Fifth) Defendants have no real prospects of successfully defending the Claim and the Claimant knows of no other compelling reason why the case should be disposed of at Trial. Despite the decision of the LVT and despite being served with the revised apportionments, the Second and Fifth Defendants have failed to pay the sums determined to be reasonable by the LVT"*

- Writing in its **21`October 2003** offer: *"**Our client** maintains that as a result of the LVT decision dated 17 June 2003, it **is entitled to payment from your client of the sum of £10,917.27**… and to continue to defend these proceedings is her own. Her decision to do so has caused inconvenience and expense to all the lessees of the building…".*

  Also in the offer, it stated, among others: "*If the offer is rejected and your client is held liable at the trial…"*

180. **There is another important element to the 'Business Model of the Unscrupulous Landlord in 21st Century GB': *'working the system'* once the case is in the courts**

181. Based on my own first-hand experience - once the false claim has been filed against them in court, lessees soon realise that the odds are against them: neither their defence, nor other document proving that the claim against them is false – as well as the fact that the claim cannot be pursued – are taken any notice of by the court.

As detailed earlier on in this document, West London County Court proceeded with the action in spite of being made aware that the same action was being pursued through the LVT – and that the LVT had told residents at the 29 October 2002 pre-trial hearing to not pay until the Tribunal had issued its determination. I personally have evidence of informing West London County of this a total of seven times between 10 December 2002 and 22 June 2003.

I also referred to it again in my 9 August 2003 letter to Judge Wright (also copied to CKFT): *"The pursuit of this action simultaneously in two separate*

jurisdictions (despite knowledge, from the very beginning, by both, the Court and the LVT – and my requests to the Court for the action to be stayed) which has caused me added torment, anguish and distress…"

I understand that other residents / their advisors did the same.

To the very end, the courts continued to disregard the LVT determination, as evidenced by the fact that the last resident to 'capitulate' (Defendant # 5) appears to have ended-up paying more than the original sum demanded (see below, order dated 2 August 2004 from Wandsworth County Court).

Therefore, lessees very quickly realise that they are left totally on their own to fight it out with the landlord. Applications by the landlord for hearings are automatically granted (at great speed) regardless of their merit. And of course, the more hearings take place, the greater the amount of money spent by the lessees on professional fees and therefore the greater the likelihood that the lessees will 'give up and pay'. I view this *'working the system'* as another key step in the 'The Business Model of the Unscrupulous Landlord in 21st GB'.

182.

10 REPLY TO THE 'OFFER' AND CONSENT ORDER

183. 13 November 2003 was the deadline for responding to the offer.

Without going into details about events that surrounded the reply to the offer, the main thing to say is that the reply sent by my then solicitors to CKFT did not contain what I had agreed with them. Consequently, I refused to endorse it.

This is the draft Consent Order that was sent by Mr Twyman, Partner, Piper Smith Basham to CKFT:

> *"the Defendant pay the Claimant the sum of £6,513.24, inclusive of interest, to be paid in 28 days in full and final settlement of the Defendant=s liabilities under this claim and in respect of the major works at Jefferson House to which this claim relates"*

What had been agreed at a meeting with PSB and my then Counsel, Mr Stan Gallagher, was that the reply would state: *"..that this payment was in full and final settlement of the current major works…"*

What was captured in the Consent Order is very different from what was agreed, in particular the fact that it states: *"under this claim"* and *"to which this claim relates"*
In the Particulars of Claim, the sum for the works is described as *"Major works contribution"*

As drafted, the Consent Order left the door wide open to Steel Services to come back and ask me for another 'Major works contribution', and so on. (Given the evidence since, my assessment was vindicated. See section below 'Back to square one')

As to the Notice Of Acceptance sent by PSB to CKFT, it does not challenge a single statement in the 'offer'.

Obviously, CKFT was very keen to have this Consent Order endorsed by the court. In its 19 November 2003 letter to PSB it wrote: *"Would you please endorse the draft Consent Order and re-submit the same to us with your cheque in the sum of £15 representing half the court fee. We shall then submit it to the Court…"*

As to its client, Mr Ladsky, he was certainly delighted with it: bearing in mind the on-going history of harassment, intimidation and assault I have suffered from him, one Saturday morning

towards the end of November, he greeted me (in front of the porter) in the corridor. (This served to confirm my view that I was right: the reply as drafted by Mr Gallagher was to the benefit of Steel Services, not mine).

184. From that time until mid December I battled with Ms McLean, PSB, to get a substitute reply sent to CKFT. As I was getting nowhere, at this point I took back control of my case.

In my correspondence to CKFT dated 19 December 2003 [161] I stated:

"I am enclosing payment of £4,095.78 (£6,350.85, minus £2,255.07 already paid to your client) - in full and final payment of my share of the costs for carrying out all the major works at Jefferson House"

"I accept your client's offer of £6,350.85 and of each party paying its own costs, but cannot agree to the interest charge demand of £143.49"

The offer cannot be regarded as a 'Part 36 Offer'…" following which I detailed Lord Woolf's recommendations in the Ford v GKR case and added: *"The lack/insufficient specification in relation to these items has not been addressed in the document sent in support of the offer. Without proper specification and tendering process, I cannot establish what - if any of this amount - I am actually liable for under the terms of my lease*

Although there is no evidence to support this sum of £1,735.74 out of the £6,350.85 demanded – I nonetheless agree to pay it for the sake of bringing this dispute to an end"

I also stated:

- *"On 9 October 2003 I sent a (recorded delivery) letter to Martin Russell Jones requesting a copy of the year-end 2002 accounts within fourteen days. I am still awaiting a copy at the date of writing*

- *Non-provision of the 2002 year-end accounts adds to the difficulty of my being able to "…properly assess whether or not to accept the offer…(CPR)*

- *This amounts to a second difficulty in my being able to – under the CPR – "…properly assess whether or not to accept the offer..." Nonetheless, for the sake of bringing the dispute to an end, I am agreeing to payment in spite of the absence of due compliance with the terms of my lease.*

- *At the time of the original claim, I pointed out in my defence that the demand did not comply with the terms of my lease…* (**NB:** At this point I reproduced Clause 2 (d) of my lease)*. Nonetheless, for the sake of bringing the dispute to an end, I am agreeing to payment in spite of the absence of due compliance with the terms of my lease"*

- *"I am agreeing to pay the sum of £6,350.85 on the condition that it is considered to be in <u>full and final payment of my share of the costs for carrying out all the major works at Jefferson House"</u>*

- *This 'Notice of acceptance' replaces the one which, I understand, was sent to you by Piper Smith & Basham, my then solicitor, on 13 November 2003"*

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161 My Notice of Acceptance to CKFT, dated 19 December 2003

185. **Quite clearly, my action did not fit into the game plan as, nearly a month later, CKFT had not acknowledged my letter – nor cashed my cheques.**

The events of the following months continue to clearly demonstrate CKFT's overriding commitment to get monies not due and payable for his client

10.1 The cost to me was another 8 months of continued torment, anguish and distress which entailed a massive amount of my time writing endless correspondence, financial loss from taking time off work to seek legal advice, etc.

186. As by **14 January 2004** CKFT had not acknowledged my correspondence of 19 December (for which I had evidence of delivery to its office on 22 December), nor had it cashed my cheques, I asked that it replied to my correspondence.

187. As I was concerned that CKFT could potentially say in court that it had received an envelop from me on 22 December, but that it was empty, I asked Sheratte, Caleb & Co, solicitors, to send a copy of the documents I had sent CKFT on 19 December 2003. It did this on **16 January 2004** [162].

188. In its letter to me dated **27 January 2004**, CKFT states: *"We have now located* (**NB**: **!!!!)** *two of your letters dated 19 December 2003 attaching two cheques, one in the sum of £264.04 and the other in the sum of £4,095.78. The cheques have not been presented for payment as a result of those matters raised in your correspondence.*

We are considering our position in relation to our agreement (and your apparent disagreement) with your solicitors and are also taking instructions in relation to the issue of interest.

Furthermore, we are considering whether the time for acceptance of the offer has lapsed. Until such time as the matter is resolved, the cheques will not be presented unless we have your confirmation that they may be presented as a payment on account pending resolution of the matter"

CKFT's client did not like the fact I stated that my cheque was "*in full and final payment of my share of the costs for carrying out all the major works at Jefferson House"* [163]

189. I replied to CKFT on **16 February 2004**: *"I am most concerned that correspondence sent to you by 'special delivery' seems to be going astray in your office… It is now nearly 3 weeks since your letter and I am anxious to resolve this matter as soon as possible. I would be grateful if you would revert with your client's instructions within 7 days. I reserve the right to produce this correspondence to the court in the event of protracted delay"* [164]

190. In its **17 February 2004** reply CKFT wrote that its *"client has now considered its position. Notwithstanding the fact that proper agreement as to settlement terms was reached with your previous solicitors, Piper Smith & Basham, our client is prepared to accept the sums provided by you in full and final settlement of the sums outstanding to it* (**NB: This is intentionally very unclear**). *"Accordingly, we are presenting your two cheques*

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[162] Letter from Sheratte, Caleb & Co to CKFT, dated 16 January 2004

[163] Letter from CKFT to me, dated 27 January 2004

[164] My letter to CKFT, dated 16 February 2004

for payment (total value £4,359.82)" [165]

191. In a letter dated **27 February 2004** I asked CKFT to send me the Consent Order [166]

192. As, 3 weeks later it has not replied to my letter, I sent another letter dated **22 March 2004** asking for a reply [167]

193. Lack of progress in obtaining a Consent Order led me to seek advice from the Royal Courts of Justice Citizen Advice Bureau. On **2 April 2004** the Citizen Advice Bureau wrote to West London County Court: *"Ms Rawé has reached settlement on this matter with the Claimant and we attach .. copies of the correspondence evidencing the settlement reached… On 31 March 2004 she was advised by the Court that the Claimant had taken no steps to progress matters and she was further advised that she should complete a Listing Questionnaire…We…ask that the judge orders the Claimant to provide to the Second Defendant the signed Consent Order within 14 days so that the matter can be concluded formally"*

194. In an Order dated **21 April 2004,** District Judge Wright requested CKFT to *"file and serve pre-trial checklist"*, otherwise the claim will *"be struck out"* [168]

195. This led to CKFT sending me a letter dated **27 April 2004** to which was attached the *"final draft of the Consent Order which incorporates your suggested amendments"* asking me to endorse it. The order stated:

"The Claimant having received the sum of £6,350,85 from the Second Defendant in full and final settlement of the Second Defendant's liabilities under this claim and in respect of the major works at Jefferson House to which the claim relates, all further proceedings as against the Second Defendant herein be stayed"

I totally disagreed with this because it referred to *"this claim".* The claim was defined as *"Major works contribution".* Hence, this left the door wide open to Steel Services to come back and ask me for another *"major works contribution"* and so on, and so on.

This was further evidenced by the fact that the draft order stated that the proceedings against me be *"stayed"*.

196. I therefore wrote back with another draft order which was rejected by CKFT because I had stated: *"in full and final settlement of all claims against the Second Defendant in respect of all the major works at Jefferson House"*. CKFT said to interpret this as though I was meaning that I would never pay for any works in future – which is ludicrous.

197. As ever, responding immediately to requests from CKFT, West London County Court issued a Notice of Directions hearing dated **18 May 2004**, set for 28 May [169].

Contrary to instructions, it sent it to the RCJ Citizen Advice Bureau who received it on the 21st (thereby giving just one week notice). By the time the Bureau acted on it (on 25/26 May) i.e. contacted me, I was out of the country and therefore unaware that a hearing had been set.

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[165] Letter from CKFT to me, dated 17 February 2004
[166] My letter to CKFT, dated 27 February 2004
[167] My letter to CKFT, dated 22 March 2004
[168] Order from Judge Wright to CKFT, dated 21 April 2004

This hearing also concerned the 5th Defendant.

198. In my **19 May 2004** letter to West London County Court, I asked for confirmation that Steel Services has filed a listing questionnaire following the 21 April 2004 order – and in which I highlighted the previous misinformation I have received from the court [170]

199. In my 26 May 2004 letter to CKFT I stated that, as it had not come back with an alternative draft, I was attaching another one. In this draft I wrote:

"The Claimant having received the sum of £6,350.85 from the Second Defendant, this action has been settled following the determination by the Leasehold Valuation Tribunal of an identical claim, in a report dated 17 June 2003"

This became the final consent order, endorsed by the court on 1 July 2004

200. In its **26 May 2004** letter to, CKFT blames me for *"the continuation of the proceedings": "The 28 May 2004 was listed … as a result of your refusal to endorse the Consent Order which would have concluded these proceedings… Your advisor informed you of the consequences of refusing to agree the Order. Accordingly, the proceedings continue. We will be asking the District Judge at the hearing on Friday to approve a form of Consent Order and we will be seeking an order for our client's costs in this respect. Alternatively, we will be asking for fresh directions to allow this matter to proceed to trial"* [171]

Of course, what CKFT wanted me to do was to agree to a Consent Order that left the door wide open to its client to come back and ask me for more and more money for 'these works' i.e. as the one sent by PSB on 13 November 2003.

10.2 Typically, CKFT also continues with its blackmail tactics – including in its subsequent correspondence.

201. In its 28 May 2004 letter to me, CKFT notes that I did not attend the 28 May hearing and also states: *"We cannot see why it has been necessary for you to repeatedly amend the wording of the draft order. We cannot see why you object to our proposed wording. However, we have no difficulty with the wording you have currently suggested…"*

As will shortly become apparent, the reason for this sudden turnaround is that CKFT's client opted to totally ignore the LVT determination

202. As, due to the court's incompetence (captured in my letter of 20 June 2004 to West London County Court [172]), I did not attend the 28 May 2004 hearing, I obtained a transcript of it [173]

As can be seen, the 5th Defendant did not attend either. Hence, the hearing took place between Ms Ayesha Salim, CKFT and Judge Madge.

10.3 During the discussion, Ms Salim referred to a skeleton argument. CKFT did not send it to me and I have never seen it. Hence, CKFT committed another breach

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169 Notice of hearing from West London County Court, dated 18 May 2004
170 My letter to West London County Court, dated 19 May 2004
171 Letter from CKFT to me, dated 26 May 2004
172 My letter to West London County Court, dated 20 June 2004
173 Transcript of the 28 May 2004 West London County Court hearing

relative to the Rules and principles of professional for solicitors.

In particular, from the transcript: Ms Salim: *"If I can show you – there are a few letters attached to the skeleton argument that I have handed to you".*

Ms Salim goes on talking about me saying: *"she refused to pay the interest that had been agreed with her solicitors. Just for the sake of settling the matter we agreed to that, submitted another draft consent order, but since then* ***the two draft orders that she has submitted to us have included monies that may be outside the scope of these proceedings****".*

This last part of the comment is a complete mystery – unless it is considered in the context of subsequent events: as will be explained shortly, Steel Services opted to totally ignore the LVT determination. **By then it was nearly a year since the LVT determination and Steel Services had not implemented it**.

Judge Madge: *"Is it sensible for me simply to stay the claim against her?"*

Ms Salim: "*Yes, if I can show the last order that she sent us yesterday that she would be prepared to accept, I think that is fine"*

In relation to the 5th Defendant: Judge Madge: *"The Claimant's claim against the fifth Defendant be listed for hearing before the Circuit Judge between 1st and 31st August"*

A General form of judgment or order was then issued [174]

203. A **9 June 2004** Notice of Transfer of Proceedings [175] – gives my name as the 'Defendant' and in the box headed *"To the Defendant"* states my name and my home address. The Notice reads: *"As a result of an order made on 28 May 2004, the claim has been transferred to Wandsworth County Court for trial before Circuit Judge"*

I am in a state of shock and panic as I simply do not understand what is going on. There is no explanation whatsoever. Why am I going to end-up in a trial? How could I possibly end-up in a trial? Yet again, and now for the third time, I find myself the victim of a complete and utter shamble by the courts.

Initially it is confirmed to me that, yes, my case is going to trial. When I challenge this by phone calls and letters, I then get the admission that my file is *"in transfer"* between the 2 courts so, *"we can't tell you why"*. Another few days of more phone calls and letters – and continuing anguish and torment – and finally I am told that *"No, this hearing is for the 5th Defendant"*

204. In my letter to Judge Ashworth, Wandsworth County Court, dated **22 July 2004**, I stated that I had been informed by Mr Zaidi (Wandsworth County Court) that I was the Defendant in the 17 August 2004 hearing. Also, that he had asked me for a copy of the Consent Order as he did not have it on file. I also wrote:

"I explained that I was in a state of terrible anguish and distress as I did not understand what was going on. He promised to send me a letter confirming whether or not the 17 August trial concerned me. At the date of writing - i.e. 4 days later - I have not received communication of any kind from your Court. ***If the trial does concern me, then I have not been provided with any instructions whatsoever****. As you can see from the attached 'General form of judgment or order' from West London County Court dated 28 May 2004 the instructions under points 1, 2, 3 and 5 refer to Defendant # 5… that* ***I totally disagree***

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[174] Order from Judge Madge, West London County Court, dated 28 May 2004

[175] Notice of Transfer of proceedings from West London County Court, dated 9 June 2004

*with the order captured under point #4 that the claim against me be **"stayed"***

The issues relating to the claim have been dealt with by the Leasehold Valuation Tribunal in an identical claim which Steel Services pursued concurrently with its claim in the Court. The LVT issued its determination on 17 June 2003. I provided a copy of the report to the Court, as well as a copy of my surveyor's 31 July 2003 assessment of the LVT determination. My letters to West London County Court of 22 June 2003, 15 July 2003 and 9 August 2003 provide comprehensive details...". [176]

205. In its **23 July 2004** letter to me Wandsworth County Court wrote: *"You are not required to attend the hearing on 17 August 2004 as your case has now been settled…"* [177].

206. I received from Wandsworth County Court a General form of Judgement or Order dated **2 August 2004**: (*1) It is ordered that the 5th Defendant do pay the Claimant the sum of £4,538.29 being the balance of the sums claimed, by 16 August 2004 (2) The 5th Defendant do pay the Claimant's costs of these proceedings to be detailed assessed if not agreed (3) The 5th Defendant do pay the sum of £548.04 to the Claimant being the interest due on the sums claimed"* [178]

So, the 5th Defendant 'caved in' but, as suggested by the evidence, on entirely different terms from those determined by the LVT as: (i) following the hearing on 26 August 2003, the 5th Defendant agreed to pay the sum of £8,839.36; (ii) the original sum demanded of the 5th Defendant for *"Major Works Contribution"* was £15,637.02.

So much for the LVT determination and Steel Services not being entitled to charge Residents differentially AND my bringing the LVT determination to the attention of Judge Ashworth, Wandsworth County Court, in my letter dated 22 July 2004 – in which I stated:

"The issues relating to the claim have been dealt with by the Leasehold Valuation Tribunal in an identical claim which Steel Services pursued concurrently with its claim in the Court. The LVT issued its determination on 17 June 2003. I provided a copy of the report to the Court, as well as a copy of my surveyor's 31 July 2003 assessment of the LVT determination. My letters to West London County Court of 22 June 2003, 15 July 2003 and 9 August 2003 provide comprehensive details"

207.

11 BACK TO SQUARE ONE

208. In spite of the conduct of West London County Court and Wandsworth County Court CKFT's client evidently wanted to make sure it had closure with all the residents listed on the claim before announcing the start of the works:

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[176] My letter to Judge Ashworth, Wandsworth County Court, dated 22 July 2004

[177] Letter from Wandsworth County Court, dated 23 July 2004

[178] General form of judgement or order, Wandsworth County Court, against 5th Defendant, dated 2 August 2004

- **<u>On the same day</u>** that the last resident capitulated i.e. 2 August 2004, Mr Barry Martin, MRJ, sent a letter addressed to *"All the Lessees"* [179] stating that (1) the contract had been awarded to Mansells;

  (2) *"At this stage we will not require further monies from you as the contract sum of £513,656.70 plus VAT will not at the present time exceed the original lowest estimate".* The addition of VAT and management fees brings the total to **£669,936.75** – making this just £66,269.33, or 9% cheaper than the Killby & Gayford quote. Compare this with the LVT determination.

  (3) that the works would start on 16 August 2004.

- It has been very clear from the beginning that Steel Services is absolutely intent on making residents pay for works for which they are not liable. It is also clear from Barry Martin's letter of 2 August 2004 that Steel Services intends to come back and ask for more money for 'these works' at a later stage. In fact, this is what has happened in my case. (see below)

- Mansells was not one of the contractors who tendered against Killby & Gayford. Therefore the 'so called' Section 20 Notice of 2002 has been invalidated and a new one should have been issued. **This has not happened.** The letter from Ms Hathaway dated 26 March 2004 states that: *"Due to excessive delays in collecting the contributions…it has been necessary to commence renegotiations with the original contractor and other contractors"* [180]. I have not received any communication between this letter and that of 2 August 2004. In other words, there has been total breach of residents' statutory rights – again!.

209. On 23 October 2004 I received an invoice from Martin Russell Jones for £15,447.86 [181] which includes a *'Brought forward balance'* of **£14,452.17.**

<u>There is no explanation whatsoever as to what this amount refers to</u>. What is attached is what I received. Yet, it is now nearly a year since I paid £6,350 for the 'major works' following an 'offer' by Steel Services and have a Consent Order endorsed by the court on 1 July 2004 to this effect. (It cannot be the regular service charge as, on average they have been c. £1,200 p.a. The last time I paid them was for June 2003. I have requested that the December 2003 and June 2004 service charge be sent to me, but my requests have not been complied with)

210. My view is that I do not need to pay this as Steel Services currently holds a large amount of credit from me:

- (By means of the Consent Order) I paid Steel Services £6,350 for the 'major works'.

- Steel Services opted to appoint Mansells to undertake the works but did not issue a new Section 20 Notice – which it should have done.

- Because of this, under the Landlord & Tenant Act 1985, in particular the statutory instrument 2003 No 1897 which came into force on 31 October 2003, of the £6,350 Steel Services has had from me (for nearly a year), it can only spend £250 on Mansells.

211. I had hoped that by now common sense would prevail over greed and arrogance and that I would be left in peace. Not so. Steel Services wants to continue the fight. This leaves me no other option but to continue fighting back, in the process, adopting a strategy which fully reflects the very comprehensive knowledge and understanding I have gained on the environment in which I am operating.

- END -

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[179] Letter from Mr Barry Martin, MRJ, to "All Lessees", dated 2 August 2004

[180] Letter from Ms Joan Hathaway, dated 26 March 2004

[181] Invoice from Martin Russell Jones, dated 21 October 2004