

Mr Gurjinder Sanghera
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(By Recorded Delivery)

Your ref: CDT/39114-2004/Sanghera CAI

19 February 2005

Dear Mr Sanghera

Complaint against CKFT solicitors, in particular Mr Silverstone and Ms Ayesha Salim

I acknowledge receipt of your letter dated 8 February 2005.

Although you conclude your letter by stating: "*...I am not in a position to take any of your concerns any further*", I am nonetheless replying for the purpose of referring my complaint to Mrs Zahida Manzoor CBE, Legal Services Ombudsman, to whom you are, in my view, 'passing the buck'.

1.1.1.1 – Acting fraudulently, with deceit, taking unfair advantage

1 **Your comment:** "*... whilst an application at the Leasehold Valuation Tribunal was still to be determined action was taken in the Court to recover the service charge which you disputed*"

As stated under points 1.1.4.2 and 1.2.2.3 in the summary of my complaint, and points 75 and 178 in the main body of my complaint, CKFT was fully cognisant of the fact that its client had applied to the LVT. Mr Silverstone's letter to me, dated 21 October 2002: "*We are aware that Steel Services has applied to the Leasehold Valuation Tribunal*"

As stated in my complaint under point 139 (and point 179) "*...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 to not pay*"

As an officer of the court, CKFT had a duty to ensure "*the proper and efficient administration of justice*". (Courts and Legal Services Act 1990, Ch. 41, s. 17)

This is also contained in the Solicitors Practice Rules: "*...duty to the court to ensure in the public interest that the proper and efficient administration of justice is achieved: they must assist the court in the administration of justice and must not deceive or knowingly or recklessly mislead the court*"

2 **Your comment:** "*As you will be aware, a solicitor is required to act upon his/her client's proper instructions and in his/her client's best interests*"

Your conclusion suggests that, if for example, Mr Ladsky instructs Mr Silverstone and/or Ms Salim to shoot you because he is unhappy with the reply you have provided to my complaint against CKFT, they would be under a duty to do so. This, to me, is the logical extension of your position.

You have totally overlooked what I captured under this point – and in my complaint (points 67-70, 75,178 and 179) that I maintain that, because I was not represented, CKFT, its client (and agent Ms Joan Hathaway, MRJ) “*saw me as fair game for blackmail*”.

To threaten forfeiture prior to issues being determined by a court or a tribunal is illegal. It is a fraudulent act as the intention was to frighten me in order to extort monies not due and payable. It is also an abuse of position.

Section 40 of the Administration of Justice Act 1970 renders it illegal to make threats which are calculated to cause alarm, distress or humiliation.

Rule 12.02 of the Solicitors Code of Conduct: “*A solicitor must not act where the instructions would involve the solicitor in a breach of the law ...*”

Your assessment also amounts to an endorsement of CKFT creating a situation of double jeopardy and of consequently acting against the Solicitors Practice Rules and concurrent rules under the Courts and Legal Services Act 1990, Ch. 41, s. 17 to act appropriately “*in the interests of the proper and efficient administration of justice*”

3 **Your comment:** “*A solicitor is not required to go behind a client's instructions to check their veracity*”.

Rule 21.21(4) of the Solicitors Code of Conduct – “*In general, there is no duty upon a solicitor to enquire in every case where he or she is instructed as to whether the client is telling the truth. However, where the solicitor's instructions or other information are such as should put him or her upon enquiry, a solicitor must, where practicable, check the truth of what the client says to the extent that such statements will be relied on before the court or in pleadings (now statements of case) or affidavits*”

Rule 21.01 of the Solicitors Code of Conduct – “*Duty to not mislead the court - Solicitors who act in litigation, whilst under a duty to do their best for their client, must never deceive or mislead the court*”

Rule 12.02 of the Solicitors Code of Conduct: “*A solicitor must not act where the instructions would involve the solicitor in a breach of the law ...*”

Among others, the LVT determination, the L&T legislation, my lease, my letters in reply to CKFT's threat to forfeit my lease and contact my mortgage were all “*...information are such as should put him or her upon enquiry...*”.

4 **Your comment:** “*I note that during your dispute you were, at times, represented by solicitors and your interests were appropriately protected*”.

I was acting in person most of the time.

Ms Tutt is the person I have been communicating with in your Office in relation to my complaint against Mr Twyman and Ms McLean, Piper Smith & Basham/Watton. I was not informed that you also reviewed my complaint - as implied by your conclusion.

If you did not assess my complaint against Piper Smith & Basham/Watton: you are promoting Ms Tutt's conclusion – with which I disagree. And if you did review it, I equally disagree with your conclusion.

5 **Your comment:** “*In addition to which the information which you have provided does not demonstrate that CKFT acted as alleged above as they were at liberty to issue a claim at court for the Court to consider.*”

This reflects another blatant bias on your part.

While what has taken place conjures up the Wild West – which you quite clearly endorse - CKFT was not “*at liberty*” to issue the claim: (i) it knew that the action in the LVT was taking place (Mr Silverstone's letter to me, dated 21 October 2002); (ii) its duty as an officer of the court; (iii) the L&T legislation, as well as the legislation impacting on LVTs.

In addition, CKFT breached its obligations under the Civil Procedure Rules – for which the implications are captured under Annex 211 of the Solicitors Practice Rules : *“The courts expect litigation to be started as a last resort after attempts have been made to settle the dispute by negotiations or other means... ”*. See points 74, 75, 90, 178, 179 of my complaint which detail how CKFT acted contrary to this rule.

6 **Your comment:** *“Your contention that such a claim should not have been lodged as the Leasehold Valuation Tribunal was yet to determine matters should have been raised with the Court... ”*

As an officer of the court, in issuing the claim CKFT acted in breach of its duty to the court, as well as Civil Procedure Rules. It follows that it breached its professional code of conduct.

Civil Procedure Rules – captured in the Solicitors Practice Rules: *“...the overriding objective of the rules is to enable courts to deal with cases justly. Rule 1.1(2) states that dealing justly with a case includes (a) ensuring that the parties are on an equal footing...”*

Placing me in a situation of double jeopardy cannot be regarded as my being placed *“on an equal footing”*.

7 **Your comment:** *“...as this is a legal point which this office can not comment upon.”*

Your assessment is incorrect for the aforementioned reasons.

1.1.1.2 – Ignored evidence supplied

8 **Your comment:** *“It would be for CKFT to decide what information they were to utilise and rely upon as they owed a duty of care to their own client”*

Your statement implies endorsement of a solicitor disregarding legislation – and therefore a breach of Rule 12.02 of the Solicitors Code of Conduct: *“A solicitor must not act where the instructions would involve the solicitor in a breach of the law ...”*

Given my complaint, you are also endorsing CKFT making an unreasonable and unlawful demand given (1) the LVT determination which, among others, draws attention to non-compliance with L&T legislation; (2) the terms of my lease. In other words, you are endorsing CKFT's deceitful and illegal conduct as it knew that the sum demanded of me was not due and payable.

9 **Your comment:** *“As they did not represent you they did not owe you such duty”*.

The fact that CKFT was not acting for me does not mean that it can pursue an action against me that is fraudulent, illegal and contrary to its professional code of conduct.

10 **Your comment:** *“Further, solicitors are not required to reply to correspondence received from a third party especially if they have been so instructed by their client”*.

Annex 211 of the code of the Solicitors Code of Conduct: *“The courts expect litigation to be started as a last resort after attempts have been made to settle the dispute by negotiations or other means... The courts also expect parties...to have exchanged information (a ‘cards on the table’ approach): for claimants to provide to defendants detailed letters of claim (letters before action) to which defendants are expected to respond also in detail”*.

As stated in my complaint, under points 75 and 179, in his 21 October 2002 letter to me Mr Silverstone dismissed my legitimate request to be provided with details of the costs – as per my statutory rights under S.20 of the L&T Act 1985 and under the terms of my lease, as he stated: *“We are sure MRJ will provide you with copies of such information”* and concludes his letter by stating: *“Our client will therefore take such action as it considers appropriate to recover that sum from you. .”* Not only was my request not met, the follow-up was the filing, a month later, of the claim against me in West London County Court.

11 **Your comment:** "Additionally, it would have been for you and/or your solicitors to bring your defence and supporting documents to the attention of the Court at the relevant time via the correct channels"

Annex 211 of the Solicitors Code of Conduct: "When cases do go to court the overriding objective of the rules is to enable the court to deal with cases justly. Rule 1.1(2) states that dealing justly with a case includes: (a) ensuring that the parties are on an equal footing"

Denying me access to the information I am entitled to have under my statutory rights, as well as under the terms of my lease, and to then proceed to issue proceedings against me most certainly cannot be regarded as my being placed "on an equal footing".

1.1.2.1 – Committed offences

12 **Your comment:** "If, in this instance, you are referring to the criminal offences pursuant to the legislation cited at points..."

Your "If": your bias is so blatant. But then, of course, you are dismissing all my identified breaches of the Solicitors Code of Conduct.

1.1.2.2 – Demanding money that was not due and payable

13 **Your comment:** "You claim that CKFT improperly demanded money from you that was not due. This, in itself, is a legal issue which... this office cannot consider."

Your assessment is incorrect: "Rule 17.05 of the Solicitors Code of Conduct – Letters before action – When writing a letter of claim a solicitor must not demand anything other than that recoverable under the due process of law".

I refer you again to the Administration of Justice Act 1970, Section 40.

14 **Your comment:** "...CKFT on a client's instructions were at liberty to issue proceedings"

Reply previously addressed, including the implication that if a client instructs a solicitor to kill somebody then he / she must do it.

I am really wondering which manual you referred to in compiling your reply.

15 **Your comment:** "...The Court, by virtue of its inherent jurisdiction has the relevant power to impose the necessary sanction on a party where there has been abuse of process. For this reason I am not able to take this concern any further".

Same reply as before: as solicitors, CKFT is an officer of the court – with inherent duties, including under the Solicitors Code of Conduct.

1.1.3.1 – Failure to comply with the Landlord & Tenant Act 1985

16 **Your comment:** "Failure to comply with the requirements of the Landlord and Tenant legislation is a legal point which this office can not consider..."

It is a point that your Office can deal with as the determination had already been made by the Tribunal (who found breaches with the L&T Act 1985 - Section 20(3)(c) "The notice shall describe the works to be carried out..." and 20(1)(a) "requirements on estimates to be complied with...").

All that CKFT had to do was read the LVT determination (not to mention also that it would have had a debrief from Mr Warwick, Counsel acting for Steel Services).

Rule 12.02 of the Solicitors Code of Conduct: "A solicitor must not act where the instructions would involve the solicitor in a breach of the law ..."

1.1.3.2 – Refuted my defence

17 **Your comment:** "CKFT owed a duty to their client to act in their clients best interests and put forward their arguments. Therefore, the rebuttal of your defence would be the normal course of the litigation process"

You are endorsing the position that it is proper conduct for an officer of the court to assist its client in breaching statutory requirements and contractual obligations – as well as file a claim when a Tribunal has specifically told Defendants to not pay the sum demanded until the Tribunal has reached a decision and it has therefore been implemented.

Concurrently, you are also endorsing CKFT breaching Civil Procedure Rules.

18 **Your comment:** "...in refuting your defence CKFT would have been relying upon their client's instructions..."

Same reply as previously in relation to the hypothetical situation of a client asking a solicitor to kill somebody.

19 **Your comment:** "...utilising their professional judgement... "

You are endorsing CKFT's judgement as being the proper, professional way to advise a client – and act upon it.

This leads me to wonder the purpose of the code of conduct for solicitors. Very clearly, your replies suggest that you view Mr Silverstone and Ms Salim as being totally exempt from complying with it.

20 **Your comment:** "...on the evidence before them and their interpretation of the law."

Given what CKFT knew, your statement implies that you are endorsing its non-compliance with legislation, as well as the Solicitors Code of Conduct.

For your information, CKFT is alone in its interpretation of the terms of my lease. My position stems from the opinion I have obtained from several lawyers at: LEASE, the Federation of Private Resident Associations, and other lawyers I consulted.

I draw your attention to, among others:

- points 98 and 131 of my complaint - Clause (2) (j) of my lease – and the fact that in a letter dated 23 January 2003, Mr Silverstone asked me to send him a copy of my lease;
- point 92 of my complaint – to which I can now add: at the date of writing, the works are still far from being completed... but good progress is being made on the construction of the penthouse flat - although the description of the works displayed by the contractor, Mansells Construction Services Ltd, only refers to: "*replacing asphalt roofs*". Replacement of the lift in order to reach this extra floor is also in progress. (re. the lift see point 110 of my complaint).

1.1.3.3 – 'So called' Part 36 offer – Non compliance with CPR

21 **Your comment:** "The alleged failure in this respect again is not a matter for this office in these circumstances."

You are endorsing an officer of the court breaching a Civil Procedure Rule set by a highly respected and authoritative figure in the legal profession: Lord Woolf.

1.1.3.4 – Implied joint and several liability

22 **Your comment:** "...the issuing of one claim against 11 residents implied you were all jointly and severally liable and therefore failed to take account of your percentage share of the service charge. The manner in

which the claim was pleaded is a matter of professional judgement which is not something this office can comment upon."

Under the terms of our leases we are not jointly and severally liable for the service charges, as each one of us is merely liable for the percentage of the total charges as specified in our leases.

23 **Your comment:** *"This office cannot comment upon the legal advice".*

As you perfectly well know, the issue is not one of legal advice, but of one of conduct by a solicitor.

24 **Your comment:** *"...given to a client nor upon how that advice was acted upon".*

CKFT was both, advisor and implementer as it drew up the claim.

1.1.3.5 – Orders obtained before the LVT issued its report

25 **Your comment:** *"...it would be incumbent upon those individuals to raise such concerns directly with this office. Additionally, it would be for those individuals to have taken appropriate legal advice in order to protect their position...".*

Given your position that only the victim of misconduct by a solicitor can complain, you are by definition denying the right to complain to those who do not have the ability / resources to do so.

Refuse to recognise it as you will, CKFT striking different deals with individual residents does affect me. What has taken place is not what is stated in my lease. Therefore CKFT has breached the contractual terms of my lease.

The following correspondence between Mr Silverstone and the LVT demonstrates that the LVT views the calculation of the service charges payable by individual lessees as being based on a fixed global sum to which the relevant fixed percentage share is applied - as the norm/ understands the terms of the lease as such:

In his 17 July 2003 letter to the LVT, Mr Silverstone wrote: *"Our client's Council has advised us that the LVT was asked to make a determination of the specific amount of the service charge payable the tenant of flat 3, Ms Dit-Rawé..."*.

To which the LVT replied in its letter dated 21 July 2003: *"It is not the duty of the Tribunal to assess the particular contribution payable by any specific tenant but only to determine the reasonableness, or otherwise of the service charges as a whole to go on the service charge account **from which no doubt you can assess the proportion for that particular tenant**".* (NB: My highlights)

As an officer of the court, CKFT's action is also in breach of the Civil Procedure Rules *"enabling the court to deal with a case justly"*.

As an officer of the court, CKFT also had a duty to ensure that duplication of action did not arise: Courts and Legal Services Act 1990, Ch. 41, s. 17 – *"proper and efficient administration of justice"*

26 **Your comment:** *"This is not a matter for this office and should have been raised before the Court for it to determine the jurisdiction of the Leasehold Valuation Tribunal over the Court's jurisdiction in respect of CKFT's client's claim"*

It is a matter for your Office as there has been breach of the Solicitors Code of Conduct.

27 **Your comment:** *"CKFT were at liberty to enter into negotiations with the parties to the litigation in spite of the pending action in the County Court"*

No it was not. It resulted in the breach of contractual obligations defined under the terms of the lease.

Considering this reply and others in your letter, it is no wonder that solicitors such as CKFT act in this manner.

28 **Your comment:** *"No doubt such negotiations would have been taken into account in respect of your liability under the claim".*

Your comment further emphasises the fact that you are refusing to acknowledge my complaint.

1.1.3.7 – Failure to amend the claim

29 **Your comment:** *"This is a legal point and a matter of professional judgement for CKFT as to whether their claim was amended or not..."*.

As an officer of the court, a solicitor is committing an act of misconduct by making a demand which, on the basis of the findings of a Tribunal and of the legal requirements of a contract, i.e. my lease, it knows is not payable. This is a deceitful demand for monies as they are not due and payable.

1.1.3.8 - Observe proper standards of work

30 **Your comment:** *"The issue which you have raised under (a) to (d) are all procedural/legal matters which were for the Court to address."*

I disagree for the reasons stated above.

1.1.4.1 - Breach of duty to the Court

31 **Your comment:** *"As cited above CKFT were entitled to issue a claim as they did and you had an opportunity in your defence to raise any objection as cited at point (a), namely that you were told not to pay... "*

I disagree. In addition to the above: Courts and Legal Services Act 1990:

"2.1 Advocates must not (a) engage in conduct whether in pursuit of their profession or otherwise which is: (ii) prejudicial to the administration of justice; or (iii) likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute"

"2.2 Advocates have an overriding duty to the court to ensure in the public interest that the proper and efficient administration of justice is achieved: they must assist the court in the administration of justice and must not deceive or knowingly or recklessly mislead the court"

1.1.4.3 Improperly recovering money

32 **Your comment:** *"Your submission that the service charges were not due is a matter this office can not determine. Such issues can only be resolved between the parties subject to the terms of the lease and/or any service charge agreement"*

You are overlooking, among others, the determination of the Tribunal.

1.1.4.4 - False statement of truth

33 **Your comment:** *"This is a serious allegation about the probity of a solicitor. The document dated 6 August 2003 and signed by Ms A Salim was an application notice. Such application was for summary judgment under Part 24.2 of the Civil Procedure Rules. The language used in that application was in accordance with Part 24.2 (a) (i) and 24.2 (3). Therefore the statement of truth as signed does not demonstrate that Ms Salim has acted in breach of the rules/principles of professional conduct governing solicitors"*.

Yes, and what Mr Silverstone and Ms Salim have done to me **is also very serious.**

The appropriateness of the wording used in making a false statement is irrelevant: it is still a false statement.

Practice Direction 22: A false statement of truth with dishonest intent amounts to contempt of court.

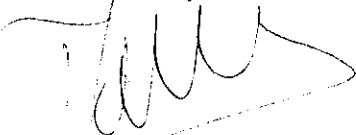
34 **Your comment:** *"...this office can take up complaints from people who are not clients of the firm concerned only where there is evidence of professional misconduct..."*

This is how you started your letter. For the aforementioned reasons you have not performed your role.

As I wrote to your colleague, Ms Tutt in relation to my complaint against Piper Smith Basham/Watton, because your Office has the dual role of trade union and regulatory body I had a concern that *"to use a colloquial expression, this might potentially lead to the possibility of your 'not wanting to bite the hand that feeds you' "*.

Your Office has yet again demonstrated this, leading me to conclude that it is not fit to be a regulatory body.

Yours sincerely



N Klosterkotter-Dit-Rawé

cc. Mrs Zahida Manzoor CBE, Legal Services Ombudsman

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