For subsequent events, see **Overview # 10, # 11 & # 12 ;** Martyn Gerrard- **Background**

- Events discussed under **RICS ;** - Snapshot: **Doc library # 6.2**

Ms Noëlle Klosterkotter-Dit-Rawé
3 Jefferson House, 11 Basil Street, London SW3 1AX
Complaint against Ms Joan Doreen Hathaway, M.R.I.C.S. and Mr Barrie Martin, F.R.I.C.S., Martin Russell Jones, London NW4 3JL
2 February 2005

Typically, for this rotten to the core, contemptuous and arrogant so-called 'regulatory body', my complaint led to a series of 'Get lost' - until the final one: **04.11.05** - followed, 3 years later, by an attempt to gag me

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My **02.02.05** covering letter to the RICS

This is a complaint against Ms Joan Doreen Hathaway, M.R.I.C.S. and Mr Barrie Martin, F.R.I.C.S. Martin Russell Jones, Chartered Surveyors, London NW4 3JL 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 aiding an abetting its client, Steel Services' in unlawful service charge demands totalling £28,450.

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 220 enclosures, also in chronological order. Other documents are available on request.

In my complaint 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 West London County Court and Wandsworth County Court materials, I have crossed out their name.

Other key parties referred to in this document are:

1. Cawdery Kaye Fireman & Taylor (CKFT), London NW3 1QA: Solicitors for Steel Services ie. Mr Ladsky et al
2. Mr Brian Gale, MRICS, Brian Gale & Associates, surveyors, Reigate, Surrey RH2 9BS, Mr Ladsky's surveyors
3. Ms Lisa McLean, Assistant solicitor and Mr Richard Twyman, Partner, Piper Smith & Basham (now known as Piper Smith Watton), London SW1V 2AF – my solicitors
4. Mr Stan Gallagher, Arden Chambers, London WC1N 2ES – my barrister
5. Mr Tim Brock, ARICS, LSM Partners, London W1U 1JA, my surveyor (for whom I have the highest praise)

(In case this is relevant: I have filed a complaint against CKFT and Piper Smith & Basham/Piper Smith Watton with the Law Society and against Mr Stan Gallagher with the Bar Council).

My complaint against Ms Joan Doreen Hathaway, M.R.I.C.S. and Mr Barrie Martin, F.R.I.C.S., Martin Russell Jones (MRJ), Hendon Central, London NW4 3JL, places reliance on:

1. The RICS Rules of Conduct, Conduct Regulations 2004
2. The RICS Service Charge Residential Management Code (issued in 1997 and reprinted in 2003) – being comprised under Rule of the RICS Rules of Conduct
3. Landlord & Tenant Act 1985
4. Theft Act 1968
5. Money Laundering Regulations / Proceeds of Crime Act 2002
6. Defamation Act 1996
7. The Criminal Justice Act & Public Order Act 1994

My complaint is directed particularly at Ms Joan Doreen Hathaway (JH) who has been the main point of contact for residents at Jefferson House since 1989. However, as Mr Barrie Martin (BM) has 'operated' in the background, 'surfacing' from time to time, in particular at the LVT pre-trial hearing on 29 October 2002 and, since Summer 2004, appears to have become the main point contact for Jefferson House, the acronym 'MRJ' refers to both.

In pursuing instructions on behalf of its client, Steel Services i.e. Mr Andrew David Ladsky et. al / its solicitors, CKFT, MRJ has acted in breach of:

1.1 Conduct Regulations 27.1 - Rule 3 (2) - "Compliance with any code, standard or Practice Statement of the Institution or any statute in force at the time". **In the context of the RICS**

'Service Charge Residential Management Code'*, MRJ has made substantive breaches of many of the rules set by the RICS, as well as in relation to various statutory requirements highlighted in the RICS code*

Rule 10 – Reserve Funds

1.1.1.1 **Rule 10.1** – *"**Using the fund as contribution towards large items of infrequent expenditure" -*** Having first told residents in a letter dated 7 June 2001 that the reserve fund would be used as contribution towards the cost of the major works, MRJ did not utilise it when sending out the 17 July 2002 demand. (By then the fund 'apparently' amounted to £140,977). My 16 September 2002 query to JH as to why the fund was not used was ignored while, in her 16 December 2002 letter to me JH wrote: *"The existing fund is to be kept in reserve for potential expenditure which can arise"*.

Breach by MRJ of Section 10 of the RICS Code was noted by the LVT in its 17 June 2003 determination (enclosed) under point 62, while under point 63 it noted: *"The wording of the clause relating to the contingency fund or reserve fund in the lease is unambiguous…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"*

Because the LVT does not have the power to order landlords to use the fund, MRJ-CKFT refused to do it. Eventually, it did use it in my case. I believe the reason to be because I had a copy of JH's 7 June 2001 letter. (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).

1.1.1.2 **Rule 10.2 – *"Amount of money to go into a fund"*** – The amount of contributions to the fund has very clearly been mismanaged by MRJ, leading current residents to be severely penalised. (As I captured in my letter to JH of 16 September 2002)

1.1.1.3 **Rule 10.4 – S.42 of the L&T Act 1987: *"Service charge contributions to be held in trust"*** - It is abundantly clear that MRJ-its client has something to hide about the contingency fund as my 7 specific requests over the last 18 months for a copy of the accounts – including 5 requests to JH – have been ignored.

1.1.1.4 **Rule 10.5 – *"The investment of reserve funds is governed by the Trustee Investments Act 1961 and S.42(5) of the L&T Act 1987"*** – MRJ's non-compliance with my requests leads me to presume a breach under either, or both of these Acts.

1.1.1.5 **Rule 10.8 – "Differentiating contributors" –** Having stated in her 5 August 2003 letter that there is *"one account"* for the reserve fund, JH claimed that this account *"is earning interest to the benefit of those lessees who have contributed"*.

This requires investigation: **(i)** Is JH saying that some residents have made no contribution whatsoever to the fund? If so, it implies gross-mismanagement on her part **(ii)** Or, is JH referring to those residents who were still fighting the claim at the time and had thus not paid the sum demanded. If so, how is JH managing this *"one account"* in order to achieve this? How is this reported?

Rule 11 – Accounting for Service Charges

1.1.1.6 Rule 11.1 – *"Managing agents should comply with the provisions of the lease for recovery of service charges"*

1.1.1.7 MRJ attempted in its demand dated 17 July 2002 to get from residents the global sum of £736,206.08 for 'major works'. The 17 June 2003 determination by the LVT had the effect of **reducing this amount by £500,000**:

- Amount disallowed by the LVT because improvements: £169,497.72 (or 23% of the global sum demanded)
- Amount for which the LVT could not make a determination due to lack of specification: £188,783.67 (or 25.6% of the global sum demanded)
- A view supported by the LVT, considering the terms of the lease, as well as RICS best practice that the fund should be used as contribution: £140,977.00 (or 19.3% of the global sum demanded)
- Leaving an amount that can be charged of £235,946.56
- Thereby reducing **my share** of this (at 1.956%) **from £14,400 to £4,615**

1.1.1.8 MRJ described the sum demanded as an *"interim demand"*. It was not.

1.1.1.8.1 The demand should have been supported by the year-end accounts. MRJ did not supply them. It therefore breached the terms of the lease.

1.1.1.8.2 'Even if' lawyers want to argue that the sum demanded was an *"interim payment"* (although I simply cannot see how this could be demonstrated in view of the facts), JH filed a claim against me in West London County Court for £14,400. The impact of the LVT determination reduced the sum to £4,615. Hence, (aside from the fact that in filing the claim JH placed me in a situation of double jeopardy), JH breached 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…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"*

1.1.1.9 **Rule 11.3 – *"Clear presentation of accounts"*** – To which I will add another requirement: **'accuracy'**. The electricity charges in the 29 November 2002 claim filed by JH in West London County Court – under a 'Statement of Truth' which she signed - were full of errors and included amounts for which JH had not, despite repeated requests, sent me an invoice – and still has not to this date.

1.1.1.10 Analysis of the service charges over the years highlight a number of inconsistencies and questionable entries (e.g. in relation to the insurance on the block)

1.1.1.11 **Rule 11.4 – *"Provision of audited accounts"*** - 3 times over the period from 9 October 2003 to 18 July 2004 I have requested JH to supply me with a copy of the certified 2002 year-end accounts for Jefferson House. To these must be added the request sent by the Tenancy Relations Officer at the Kensington & Chelsea Town Hall, dated 25 June 2004, as well as my requests to CKFT.

1.1.1.12 As in the case of the trust fund accounts, to this day, I am still waiting for my request to be complied with. Therefore, the year-end accounts for 2002 are now 20 months overdue and the 2003 accounts are 8 months overdue.

1.1.1.12.1 It means that MRJ has committed – and continues to commit a criminal offence under Section25 of the L&T Act 1985 - but, evidently, does not care.

1.1.1.12.2 Non-compliance with my requests – and consequent criminal offences - leads me to the obvious conclusion that MRJ and its client have something to hide about the year-end accounts (as well as the trust fund).

1.1.1.13 **Rule 11.5 – *"Provision of service charges accounts"*** – JH has been ignoring my requests for service charges since December 2003 leading me to suspect an intention to use Forfeiture law against me at the first available opportunity. I have attempted to guard against this threat by nonetheless paying my ground rent. The last cheque I sent (by recorded delivery) 6 months ago still has not been cashed.

1.1.1.14 **Rule 11.5 – *"Reasonableness of charges"***

1.1.1.15 JH sent me a 17 July 2002 service charge demand for £14,400. The impact of the LVT determination had the effect of reducing this sum by £9,785 to £4,615. (More details under Rule 11.1 above)

1.1.1.16 Although I have paid CKFT £6,350 for the 'major works' and exchanged a Consent Order which was endorsed by West London County Court on 1 July 2004, MRJ sent me a demand, dated 21 October 2004, for £15,500 which includes a *"Brought forward balance"* of **£14,450.** There is no explanation whatsoever as to what this amount refers to. It cannot be the regular service charges as in e.g. 2002 they were c. £1,200 p.a. (As previously explained, the last time I paid them was for June 2003 as my requests for the December 2003 and June 2004 service charges have been ignored).

1.1.1.17 **Rule 11.5 – *"Right to challenge charges"*** – On 7 August 2002 **JH filed** an **application to the LVT** to determine the reasonableness of the global sum demanded (i.e. the sum of £736,206.08). While several residents 'managed' to attend the pre-trial hearing on 29 October 2002 (it took more than 2 months for the LVT to inform residents of the application) I was left on my own to challenge Steel Services during the 4 day hearing.

1.1.1.17.1 JH (as well as her client Mr Ladsky and Mr Brian Gale) made false, and therefore libellous and defamatory claims against me in an attempt to stop the LVT from proceeding with the case. In relation to JH, she (like Mr Gale), claimed that I had been provided with a copy of the priced specification – and therefore implied that I was a liar.

1.1.1.17.2 This was not true: between 11 August 2002 and 12 January 2003 I made a total of seven requests to JH for a copy of the priced specification. (All 'recorded delivery' which is the only way of communicating with MRJ, otherwise it will claim that it has not received correspondence). She ignored them. (In the same way that she ignored the requests from other residents). Eventually the priced specification was hand-delivered to me just 36 hours before the LVT hearing – and therefore 7 months after the original demand for payment of £14,400.

1.1.1.17.3 In its report, under point 14, the LVT captured: *"Ms Hathaway…maintained that Ms Dit-Rawé had seen the specification… but was unsure as to whether this had been a priced version"* (The same damning evidence is found in Mr Gale's 4 February 2003 report, under point 2.04: *"…the un-priced or priced Specification…has been… freely available for all lessees to view"*)

1.1.1.17.4 In filing the application, JH-her client were, in my opinion, evidently relying on being able to 'steamroll' the application through the LVT with little/no opposition (in part because many residents live overseas) - and thereby get the 'official seal of approval'. Evidence in support of this:

(i) At the 29 October 2002 pre-trial hearing (attended by JH, BM, Messrs Ladsky and Gale), the Chair, Mr J.C. Sharma JP FRICS, in effect told us (i.e. residents) to **not** pay the service charge demand as the Tribunal would not be able to help us (we were handed a leaflet referring to the 'Daejan Properties Limited v London Leasehold Valuation Tribunal' case).

(ii) Precisely one month later, JH filed the claim in West London County Court. The first day of the substantive hearing took place 4 months later on 13 March 2003.

1.1.1.18 **Rule 11.5 – *"Right to challenge charges"*** - 10 times over a 3 year period I asked JH for an explanation of, and then evidence for the sudden 59% increase in the **standing electricity charge**.

1.1.1.18.1 Analysis of the standing electricity charge over a 7 year period conclusively disproves JH explanation that the *"… the standing charge varies according to the period that the account covers"*

1.1.1.18.2 When MRJ finally sent me a copy of invoices from London Electricity, I discovered that the electricity meter for each of the 35 flats is under the control of Steel Services. (No doubt the reason why JH did not want to send me copy of the invoices). While I have therefore no means of verifying the accuracy of the charges, comparison with other people's invoices from London Electricity suggests that I have been consistently overcharged. Clearly, given the 'set-up' I (and other residents) are a captive source of revenue.

1.1.1.19 **Rule 11.5 – *"Withholding payment of service charges in protest"*** – Over the years I have withheld payment of management fee and other service charges in the hope of putting pressure on JH-MRJ, as the lessor's agent, to fulfil the contractual obligations under the terms of my lease – and to receive the service I am entitled to as a contributor to the £10,000+ management fee MRJ is charging residents for *'managing'* the block.

1.1.1.19.1 In her 16 December 2002 letter JH threatened to use this against me in the LVT proceedings, while CKFT threatened to do this in relation to the court proceedings. Obviously, JH was the originator of the information to CKFT.

1.1.1.19.2 In making these threats, JH (and CKFT) conveniently ignored the reasons why I had been withholding payment over the years. I have several files full of evidence against JH-MRJ. They demonstrate years of on-going 'battles' with JH, entailing an unbelievable amount of letter writing (thereby using up a lot of my time) fighting-off her excuses, delaying tactics, as well as gross mismanagement. Examples include:

(i) a 4 year 'battle' to get remedial work done to the external wall in front of my window;
(ii) a c. 3 year delay and then badly carried out work to a window leading to a 2nd battle of c. 2 years to get the works redone;
(iii) waiting 26 days to deal with a leak in my bathroom ceiling, leading to significant damage and leaving me without electricity in my windowless bathroom over the Christmas break. It took 6 months for the damage to be addressed.

1.1.1.19.3 The above examples which took place during the 1990's also led to the need to employ professional advisers (surveyor and solicitor), as well as involve other parties. These have included, among others, the British Petroleum Pension Fund who (mercifully!) was the freeholder at the time of some of my disputes with JH-MRJ, as well as their surveyors Debenham Tewson & Chinnocks (over a period of one year); Citizen Advice Bureau. (These examples are relevant as, although the takeover of the headlease by Steel Services was announced in 1996, ownership details for the block in 2001 identify, for example, Mr Patrick May O'Connor who was a director of Langhaven Holdings, previous headlessor to Steel Services).

1.1.1.20 Given the evidence supplied in this document (detailed in the last section of the body of the document) I consider JH (and CKFT) threats as blackmail [1] and coercion tactics in order to extort monies [2] from me not due and payable.

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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"*

1.1.1.21 **Rules :**

1.1.1.21.1 **Rule 11.7** – *"**Imposition of a trust over the contributions paid which is binding on the payee: S.42 fo the L&T Act 1987"***

1.1.1.21.2 **Rule 11.8 – *"Service charge fund should be identifiable**"***

1.1.1.21.3 **Rule 11.10 – *"Contributions held on trust to (a) meet relevant costs; (b) for the contributing leaseholders/Tenants**"***

1.1.1.21.4 **Rule 11.15** – *"**A trustee is under a duty to invest the trust funds. Investment must be in accordance with the terms of the trust, the Trustee Investments Act 1961"***

1.1.1.21.5 As detailed previously, MRJ's non-compliance with my numerous requests for a copy of the trust account leads me to presume a breach of the 4 above rules and of statutory requirements, including S.42 L&T Act 1987

1.1.1.22 **Rule 11.16** – *"**Obligation to comply with the request for a copy of the accounts" -*** As previously detailed, MRJ has breached and continues to breach this RICS' rule and statutory requirement S.21 L&T Act 1985

1.1.1.23 **Rule 11.17 – *"The summary must cover all costs incurred by the landlord for works and services, etc"*** – Events, combined with non-compliance with my numerous requests for a copy of the 2002 and 2003 accounts lead me to conclude a very high likelihood that MRJ is in breach of this rule, as well as statutory requirement S.19 and of course, S.21 L&T Act 1985

1.1.1.24 **Rule 11.18 – *"Summary must distinguish between items for which no payment has been demanded…for which payment has been demanded…"*** – Likewise, as detailed previously, MRJ's non-compliance with my numerous requests for a copy of the 2002 and 2003 accounts leads me to presume that MRJ is in breach of this rule, as well as S.21 L&T Act 1985

1.1.1.25 **Rule 11.19 – *"The summary must also include the total of any money received by the landlord for service charges and still standing to the credit of the leaseholders/tenants"*** - Likewise, as detailed previously, MRJ non-compliance with my numerous requests for a copy of the 2002 and 2003 accounts leads me to presume that MRJ is in breach of this rule, as well as S.21 L&T Act 1985

1.1.1.26 **Rule 11.27 – *"Obligation to comply with statutory requirements under S.21 of the L&T Act 1985"*** – As previously detailed, MRJ has breached and continues to breach this statutory requirement: accounts giving details of (1) reserve fund; (2) monies committed to but not yet spent - Section 21 (5) (a) – as my numerous requests have been ignored

1.1.1.27 **Rule 11.28 – *"When a leaseholder/tenant has paid in advance for more than the actual cost, you must repay the difference…"*** – MRJ has breached this rule twice, as well as S.19(2) L&T Act 1985:

1.1.1.27.1 As a result of blackmail and intimidation tactics the 'colluding tripartite' comprising of MRJ, Mr Brian Gale and CKFT has obtained for its client payment from me - over a year ago - of the sum of £6,350 in payment for the 'major works' (for which the Consent Order was endorsed by West London County Court on 1 July 2004). This amount includes the sum of £1,735.74 which is not justified, based on the 17June 2003 LVT determination – which MRJ has **not** implemented. As to the reminder of the sum, payment could not be asked as the demand was not supported by certified year-end accounts.

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

1.1.1.27.2 I communicated to JH in a letter dated 31 December 2003: "*"I have submitted to CKFT full and final payment of my share of the costs for carrying out all the major works at Jefferson House (£6,350.85)"*

1.1.1.27.3 In a letter dated 2 August 2004 BM informed residents that Mansells had been appointed as the contractors. This firm did **not** tender against Killby & Gayford (for which the priced specification was the basis of the LVT proceedings) and a S.20 Notice was **not** issued. Consequently, under the L&T 1985 Act, 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 over a year), it can only spend £250 on Mansells. MRJ-its client must therefore refund me the sum of £6,100.

1.1.1.28 **Rule 11.28 – *"…or deduct it from subsequent charges as the lease directs"*** – Not only has MRJ totally ignored my £6,350 payment (which should have been placed on the trust account), in its 21 October 2002 invoice, it demands from me payment of a *"Brought forward balance"* of **£14,450 -** with no explanation whatsoever as to what this amount refers to. Given its fraudulent method of operating, it 'may be' that it dreamt-up that I should pay £20,800 (£6,350 + £14,450).

1.1.1.29 **Rule 11.28 – *"Advance payments and actual expenditure should be presented clearly*"** – As detailed in the previous paragraph, as well as in other parts of this summary, MRJ is in breach of this rule – as well as of S19 of the L&T Act 1985

1.1.1.29.1 Additional example: In his 2 August 2004 letter BM stated *"the contract sum £513,656.70 + VAT will not at the present time exceed the original lowest estimate".* Presenting the cost of the works in this fashion must surely be contrary to RICS rule as, aside from expecting residents to calculate the impact of the VAT, BM has also omitted to state the addition of the management fee. I view this as deception, as the impact of both brings the total to £669,936 (thereby making this just **£66,269** or 9% cheaper than the Killby & Gayford quote).

Rule 13 – Contractors

1.1.1.30 **Rule 13.1 – *"Dealing with contractors with attention to questions of economy, efficiency and quality of service"*** – MRJ has breached this rule by allowing the very sub-standard specification produced by Mr Brian Gale to be used for the tendering process. This had the effect of severely limiting the number of tenders and of leading to disadvantageous pricing.

1.1.1.31 Examples of some of the comments from Mr Brock, LSM Partners – under points 6.14 and 6.15 of his report:

"*In my opinion, the reason that only 3No contractors out of a possible 8No were able to provide prices…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…as a single total sum was provided with no breakdown…This should have been requested by Brian Gale Associates…a single error on CLC's tender (services section) amounted to a difference of over £250,000.00"

"Brian Gale Associates tender report does not comment on any of the cost comparisons received by the tenderers… It is not possible…to compare the costs of the lowest two tenders. BGA did not ask for further breakdown prices to be submitted…"

"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".

Point 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.*

Point 6.3 - *"The term "replace where necessary" has been used extensively in the document and is virtually unpriceable as the term is arbitrary*"

In addition to which, as pointed out by Mr Brock 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. To which Mr Brian Gale replied: *"I accept a JCT works contract was not acceptable here. It was an oversight on our behalf"* (captured under point 32 of the LVT report)

1.1.1.32 Examples of some of the comments captured by the LVT panel in its 17 June 2003 determination:

Point 44 – *"The reports prepared on behalf of the Applicant…were, in the words of Mr Jones, "a wish list" for refurbishment of the subject property… 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"*

Point 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"*

Point 16.07 – (in relation to the boilers) "*… there was no breakdown of the specification until 7 March 2003 when Mr Gale responded to Mr Brock's report of 24 February 2003…"*

1.1.1.33 Mr Brock also identified that, among others, the cost of some items had been significantly increased with no justification and that there was duplication in the costs. These are captured in the LVT report e.g.

Point 16.07 – (In relation to the lift) "*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."*

1.1.1.34 In its February 2002 condition survey of the lift, J Bashford & Associates highlighted issues of mismanagement: non-performance of 3 consecutive routine visits; unavailability of service records, health & safety tests, insurance.

1.1.1.35 ***Rule 13.2 – "At least 2 estimates must be obtained"*** – MRJ is in breach of this RICS Rule, as well as of statutory requirement under S.20 L&T Act 1985: as previously detailed under **Rule 13.1** only one – poor estimate – was obtained (from Killby & Gayford).

1.1.1.35.1 JH totally ignored my bringing this to her attention. Her reply of 20 September 2002 stated: *"…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"*

1.1.1.35.2 Ditto with CKFT which, in its letter to me dated 7 October 2002 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… 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"

1.1.1.35.3 Both the RICS Rule and the statutory requirement were again breached by MRJ in 2004 – as it appointed Mansells, a contractor that had not 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 26 March 2004 letter from JH to 'All Lessees' stated *"…are commencing renegotiations with the original contractor and other contractors…"*. I have not received any communication between this letter and that of BM dated 2 August 2004 to 'All Lessees' informing of the appointment of Mansells. (I therefore do not even know what works Mansells has tendered for).

1.1.1.36 **Rule 13.5 – *"Should define the duties of contractors"*** – As detailed in the aforementioned, this rule was breached in relation to the specification given to Killby & Gayford. As I have not seen any document in relation to Mansells, I am unable to state whether or not a breach of the Rule has also taken place in relation to this contractor.

1.1.1.37 **Rule 13.7 – *"Requirement that contractor has public liability insurance"*** – In my 23 August 2004 letter to Mr Patrick Moyle, Brian Gale & Associates– on which I copied BM – I requested a copy of the contractor's insurance policy. This request has not been complied with.

Rule 14 – Repairs

1.1.1.38 **Rule 14.1 – *"Responsibilities for repairs"*** – MRJ is in very significant breach of the repair covenant (resulting in greater deterioration of the block, and therefore greater repair costs).

1.1.1.38.1 Evidence is found in JH letter to 'All Lessees' dated 7 June 2001: *"Pursuant to the terms of the head lease and underleases…there is an obligation to carry out works to the property at the relevant time. These works are now overdue and it is planned to carry out a programme of refurbishment in accordance with the terms of the leases on the building in the near future… It is planned to commence the internal refurbishment in the Autumn".* While in her 26 March 2002 letter she stated: *"It is in every lessee's interest for the roof and other problems to be dealt with as quickly as possible".* In actual fact, the works were started more than 3 years later. (The scaffolding started to be put up in the 3rd week of August 2004)

1.1.1.38.2 The state of disrepair of the building is also highlighted by JH in her 26 March 2002 letter to me: *"Some considerable work needs to be undertaken to put the property into a substantial state of repair".*

1.1.1.39 **Rule 14.7 – *"Should deal promptly with reports of disrepair"*** – As detailed under Rule 11.5, my experience of JH-MRJ in getting repairs carried out has frequently entailed several years of on-going 'battles' and the need to get other parties involved.

1.1.1.40 **Rule 14.13 – *"Works should be carried out to a reasonable standard"*** – On a number of occasions works were not carried out properly. These included works needing to be: **(i)** redone (wet rot in a window; damp in wall outside of my window; damp in kitchen ceiling); **(ii)** completed (window left with only a coat of primer – no paint). Some of these instances have required that I employ a surveyor – consequently leading to me to incur costs to get MRJ to

perform duties I am paying it to do through my contribution to its £10,000+ annual management fee.

1.1.1.41 **Rule 14.14 – *"A budget for the cost of maintenance should be included in each year's service charge to ensure an adequate fund…"*** – MRJ has also breached this rule: during the 2003 LVT hearing, JH stated that the reserve fund contained £140,977. The global sum demanded was £736,206. It meant that in my case the demand amounted to £14,400 (for a studio flat) (while in the case of the resident with the highest share, it amounted to £64,500).

1.1.1.41.1 In my 16 September 2002 letter to JH I remarked on the mismanagement of the fund: *"Had the fund been properly managed, a much larger amount would have accumulated over the last 10 years to meet the expenditure now proposed…mismanagement of the fund means that tenants who sold their flats in recent years have not been made to pay their fair share to address the 'wear and tear' of the building, leaving current tenants to face a much larger bill"*

1.1.1.41.2 As to the global sum now demanded, in his 2 August 2004 letter BM stated *"£513,656.70 + VAT"* the management fee and VAT brings the total to **£669,936**, thereby making this just **£66,269** or 9% cheaper than the Killby & Gayford quote. Compare this with the LVT determination.

1.1.1.41.3 BM's statement "*will not at the present time exceed the original lowest estimate"* suggests an intention to come back and ask residents for more money for 'these works' at a later stage. (Thereby 'preparing the ground' as had been done in relation to the original demand: after Mr Gale had completed his survey JH had written to residents on 26 March 2002: *"The surveyors have indicated that the cost of works is likely to be in excess of £1 million + VAT and fees…"*, while in her 17 July 2002 letter she wrote: *"We have to state that the sum quoted may be exceeded due either to subsequent changes in the specification…"*)

1.1.1.42 **Rule 14.15 – *"Use of experienced or qualified building consultants/specialists"*** – As previously detailed, the specification produced by Mr Brian Gale was sub-standard.

1.1.1.43 **Rule 14.18 – *"Need for consultation of leaseholders/tenants for major works"*** – As previously detailed, MRJ has breached this rule and S.20 L&T 1985 Act requirement opting instead to respond with prosecution.

1.1.1.44 **Rule 14.19 – *"Provision of a notice describing the works and accompanied by a copy of at least 2 estimates"*** – As previously detailed, MRJ has breached this rule and S.20 L&T 1985 Act requirement.

1.1.1.45 **Rule 14.23 – *"Must have regard to the comments received before placing a contract for the works"*** – As previously detailed, not only did MRJ ignore comments, it ended-up totally discarding the LVT 17 June 2003 determination by appointing a new contractor.

1.1.1.46 Always using the ploy commonly used by managing agents and landlords of issuing notices 2-3 days before Christmas, or during the summer holidays to minimise the likelihood of opposition, if this has not achieved the objective, evidence demonstrates that JH will claim that:

(i) The feedback has not been received during the timescale e.g. for the condition survey, JH had given a 28 January 2002 deadline. I replied by email on 26 January. In her response of 30 January she stated that she read my email on 28 January. However, in her letter to me dated 26 March 2002 she wrote: *"Your representations were made after the expiry of the landlord and tenant notice period…"* but, she also stated: *"You were, incidentally, the only objector…"*

She then 'feeds' this false information to other residents: her letter to 'All Lessees', also dated 26 March 2002: *"…we would inform you that there were no comments from any tenants within the prescribed time limit"*

(ii) JH's 'other trick' is to deny receiving significant comments, as she did in her 20 August 2002 letter to 'All Lessees': *"…have not received significant comments from tenants within the prescribed limit".* Which was most definitely not the case.

(This feeding of deliberately false information by JH has been made a lot easier by the fact that, as a result of his prolonged harassment and intimidation of the person heading the Residents Association, her client succeeded in making the person leave the block. Of course, this was a key step in the intended scam).

(iii) As to her replies to residents who raise significant issues / objections, JH's solution is to also lie e.g. to my letter of 11 August 2002 "*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"*, JH replied on 30 August 2002: *"We are informed that there is no intention to build the penthouse at the current time"* (However, when the works started, so did the construction of the penthouse flat)

1.1.1.47 Mr Gale also captured false information in his 24 February 2003 report to the LVT for which he identified MRJ as the source. Among others, he stated: *"At this stage* [at the 29 October 2002 pre-trial LVT hearing]*, of the 35 flats within the block… 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*". One month later JH filed the claim in West London County Court against 11 residents.

In the same report, Mr Gale also stated: "…*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…it would therefore appear…that only one lone tenant continues to make any representation or objection of the 35 tenants".* Events which took place after Mr Gale's report: CKFT's 23 May 2003 application to the Court for a Case Management Conference – highlights ongoing action against 4 residents. Indications are that there was also another resident.

1.1.1.48 **Rule 14.25 – *"If S.20 requirements have not been complied with, any amounts…stated in paragraph 14.18 cannot be taken into account in determining the amount of service charges"*** – As detailed previously, although I have paid the sum of £6,350 for the 'major works', MRJ sent me an invoice, dated 21 October 2004 which includes a *"Brought forward balance"* of **£14,450** – with no explanation whatsoever as to what this refers to.

1.1.1.49 Given that a S.20 Notice has not been issued in relation to the appointment of Mansells, the statutory instrument 2003 No 1897 means that of the £6,350 Steel Services-MRJ has had from me (part of it for over one year), it can only spend £250 on Mansells – and must therefore refund me the sum of £6,100.

1.1.1.50 Rule 15 – Development Works

1.1.1.51 **Rule 15.2 – *"Consultation of leaseholders/tenants on the details of and programme for carrying out works"*** – MRJ has also breached this rule as I have not received any communication whatsoever since BM's letter of 2 August 2004 announcing the appointment of Mansells. Hence, I do not even know what works Mansells has tendered for.

Rule 16 – Insurance

1.1.1.52 **Rule 16.9 – *"Provision of written summary of insurance / copy of relevant policy"* –** Another example of dishonesty is found in relation to the **insurance for the block** – as well as evidence of mismanagement which raises very serious concerns as to whether or not the block is properly insured **(Rule 16.1)**:

(i) Following a request in 2001 for evidence of cost, JH supplied a document which, contrary to her claim, was not an insurance policy. (What was supplied was a *"Pressure systems safety regulations, written scheme of examination"*)

(ii) In the case of the insurance document supplied by JH as evidence of insurance cover for the 12 months to 31 December 2000 ('Norwich Union Insurance Policy Wording'), it is not a proper insurance document – not only as suggested by its title, but also by the fact that it is not on Norwich Union headed paper. Although Rule 16.9 allows supplying *"a summary"*, this document is nonetheless wrong as it states the wrong post code. Also the insurance premium stated on the document is £1,893.12, but the accounts for year-end 2000 state £3,050.31.

(iii) Analysis of the declared value of the block over the years highlights a very erratic pattern of very significant year-on-year increases (e.g. +40%) and decreases (e.g. -52%). The outcome of this is that the declared value of the block in 2000 was 'apparently' the same as 12 years previously: £3.5 millions. Given the property market over the period and the fact that the block is situated in Knightsbridge, this simply cannot be the case. Hence, the evidence suggests that MRJ is **in breach of the RICS Rule 16.12 – *"periodic review of the extent of cover"***

(iv) Concurrently, the cost of the insurance captured in the year-end accounts (up to 2001!) leads to also question what is actually going on. (And these are not the only items leading to raise questions).

While the insurance cover for the block is a very serious concern (am I covered in case of damage to the parts of my flat not covered under my home-contents insurance?), it is abundantly clear that the modus operandi of MRJ and its client is that residents must not ask questions – only pay whatever they are asked.

Rule 17 – Information – Landlord's Name and address

1.1.1.53 MRJ repeatedly failed to address my requests (and that of other residents) for the name and address of every director and secretary of the landlord – as per my statutory rights under Section 2 of the Landlord & Tenant Act 1985 – leading me to require the assistance of Nucleus, Citizen Advice Bureau and of the Royal Borough of Kensington & Chelsea Tenancy Relations Officer in order to seek this information. This was not achieved as the information provided by JH in her letter dated 25 January 2002 stated: *"The Directors and secretary of Steel Services are F.M.C. Ltd"* and gave an address in the British Virgin Islands.

1.1.1.54 MRJ has intermittently stated a Jersey address for Steel Services on service charges demands. On 2 separate occasions the Jersey Authorities assured me that Steel Services was not on the Jersey Register of companies.

In conclusion for this section: in committing these actions MRJ is in breach of many of the rules imposed on RICS members under the RICS 'Service Charge Residential Management Code'

1.2 The majority of the RICS *"core values"* comprised under Rule 3 (1) - Conduct Regulations 27.1, thereby resulting in conduct unbefitting of members of the RICS

1.2.1 Core value # 1 – "Acting with integrity [3]"

1.2.1.1 MRJ has acted in breach of its duty as member of the RICS by acting in a way that was fraudulent and deceitful and used its position as managing agents to take unfair advantage for its client

1.2.1.2 MRJ has repeatedly ignored/dismissed the fact that it acted in breach of statutory requirements

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

1.2.1.4 MRJ has acted as a 'puppet' of its client, colluding with its client's 'other puppets' (CKFT and Mr Brian Gale), blindly implementing its client's dictates in total disregard of statutory requirements and of its obligations, as agent for the landlord, under the terms of the lease

1.2.1.4.1 Among others, evidence of this against JH is the fact that she filed the claim against me (and 10 other residents) in West London County Court when in fact residents had been told at the 29 October 2002 pre-trial hearing - which she attended - to **not pay** the service charge until the Tribunal had issued its determination – and it had therefore been implemented.

1.2.2 Core value # 2 – "To always be honest"

1.2.2.1 MRJ has sought improperly in correspondence, as well as documents supplied to West London County Court, to demand from me (and indeed other residents) monies that were not due and payable – as ruled by the LVT 17 June 2003 determination, as well as defined under statutory requirements and the terms of my lease.

1.2.2.2 In filing this claim in court against me, JH knowingly made statements that were untrue - as she claimed that I owed the sum of £14,400 - and accompanied these by signing a 'Statement of Truth' all with the objective of obtaining monies that were not due and payable.

1.2.2.3 Under the same 'Statement of Truth' on the claim she filed in West London County Court, JH also claimed that the copy of the lease attached to the claim "…*contains covenants in the same terms as all of the leases…"* . This was not the case. The lease supplied was significantly different from mine. Likewise, JH supplied a significantly different lease from mine with the application she filed in the LVT.

1.2.2.4 Also under the same 'Statement of Truth' JH claimed that I owed various electricity charges. The sum allegedly owed was false as (i) the claim was full of errors (ii) despite numerous requests, JH had not provided me with details of some of the components of the claim.

1.2.2.5 As consistently provided and confirmed by JH, the amount of service charge for each flat is a fixed percentage. As to the global sum to which these fixed percentages are applied, it must be the same for all the 35 flats in the block i.e. MRJ-its client cannot charge residents differentially other than on the basis of their fixed percentage share. Yet, the information supplied by MRJ to both, West London and Wandsworth County Court have resulted in CKFT negotiating with me on the one hand while, at the same time, it pursued different amounts in the courts from other residents – leading to residents being charged differentially for 'these major works'.

1.2.2.6 My overall assessment of JH, but also of BM under this core value is that they can, justifiably in my opinion, be described as mythomaniacs, in a state of permanent denial. Indeed, not only will they deny 'black on white evidence' from experts – including their peers – in their deceit, they cannot even see their own contradictions. Examples:

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[3] Collins English dictionary –definition of **integrity**: adherence to moral principles; honesty; the quality of being unimpaired

(a) For the 24 June 2003 and 26 August 2003 hearings against me, JH supplied CKFT with a *"Major works apportionment 24th June 2002 Revised"* which CKFT described in its application as reflecting the LVT determination. This was certainly not the case as the sum had been reduced by only 24.19% (from £14,400 to £10,917 – with no evidence supplied for the 24 June 2003 hearing as to how this reduction was arrived at). Please note that JH had attended the 4 day LVT hearing.

(b) JH persistently claimed over a 6 month period that I (and other residents) had been provided with a priced specification vs. what she said during the LVT hearing: *"Ms Hathaway…maintained that Ms Dit-Rawé had seen the specification… but was unsure as to whether this had been a priced version"*

(c) Having filed just one claim in West London County Court against 11 residents representing 14 flats (hence the majority of those not linked with the ownership of the block), 2 weeks later, in 'her' 16 December 2002 letter to me JH wrote: *"…the tenants in the block, the vast majority of whom have paid…"*

(d) In its February 2002 condition survey of the lift J Bashford & Associates reported serious issues in relation to the maintenance of the lift, including missed routine visits. Following my raising this with JH she replied in her 30 August 2002 letter: *"the lift is maintained on a regular basis"*

1.2.3 Core value # 3 – "To be open and transparent in all dealings"

1.2.3.1 MRJ totally fails to perform according to this core value.

1.2.3.2 MRJ's method of operating is one of constant 'double-dealing', telling different stories to individual resident – such as saying to one resident in October 2002 that everybody had paid the service charge demanded when, in fact, JH filed the court claim a month later.

1.2.4 Core value # 4 – "To be accountable for all actions"

1.2.4.1 A value unknown to MRJ. It acts in a manner which communicates one key message: we are above the law.

1.2.5 Core value # 5 – "To know and act within their limitations"

1.2.5.1 This value does not feature in MRJ's repertoire.

1.2.6 Core value # 6 – "To be objective at all times"

1.2.6.1 Ditto

1.2.7 Core value # 7 – "To treat others with respect"

1.2.7.1 MRJ has proven beyond the shadow of a doubt that it does not respect residents' statutory and common law rights. The key message is: residents you are there to feed our greed and that of our client. And, if any of you dare to challenge us, you will dearly pay for it. We guarantee that we and our 'associates' will make you go through utter, sheer hell. Nobody is going to stand in our way.

1.2.7.2 With the aim of obtaining monies from me that were not due and payable, MRJ has, in collusion with its client, CKFT and Mr Brian Gale, portrayed me to the LVT and to West London County Court as a dishonest and deceitful person – as well as doing this in correspondence:

1.2.7.2.1 I repeatedly informed the LVT that I had not been provided with the priced specification. JH denied this e.g. (in addition to what she stated at the hearing) in her 20 January 2003 letter to the LVT JH wrote 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"* . (This position was endorsed by Mr Brian Gale in both of his reports to the LVT).

1.2.7.2.2 Likewise, having stated in my defence that the claim against me was unjustified and in breach of the terms of my lease, MRJ supplied information to the court falsely stating that it reflected the LVT determination. (CKFT communicated to the court that my claim that a 24.19% reduction in the sum demanded did not reflect the LVT determination was *"wrong"*)

1.2.7.2.3 JH has also done this in correspondence addressed to me e.g. her 16 December 2002 letter: *"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 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"*

1.2.8 Core value # 8 – "To set a good example"

1.2.8.1 No further evidence required against this core value

1.2.9 Core value # 9 – "To have the courage to make a stand"

1.2.9.1 The only stand taken by MRJ is to use any means possible to obtain monies not due and payable.

1.3 Other rules of conduct comprised under Rule 3 of the RICS Rules of Conduct which require to *"not act in a manner which compromises or impairs, or is likely to compromise or impair":*

1.3.1 The integrity of the Member

1.3.1.1 No further evidence required.

1.3.2 The reputation of the Institution, the surveying profession

1.3.2.1 MRJ has acted in circumstances which compromise the repute of the surveyors' profession by committing the offences detailed in this document.

1.3.3 The high standards of professional conduct expected of a Member

1.3.3.1 MRJ has not only made numerous substantive breaches of the RICS Code of Conduct, it has also repeatedly ignored the crucial requirements imposed on its activities by various statutes – as detailed previously.

1.4 MRJ has committed criminal offences under the Theft Act 1968

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

1.4.1.1 MRJ-its client has 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 LVT determination by denying the true legal position and by supporting its client's false claims as the LVT determination was not implemented.

1.4.1.2 The unbearable stress, anguish and distress under which I was placed as a result of fighting this false claim against me in court eventually led me to pay the sum of £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.

1.4.1.3 MRJ demanded payment outside of the terms of my lease.

1.4.2 Section 21 of the Act: "Blackmail – (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…"

1.4.2.1 JH inappropriately used the threat of prosecution with the aim of obtaining from me monies not due and payable.

1.4.2.2 JH subsequently filed a claim against me (and 10 other residents) in West London County Court while being fully cognisant of the fact that the LVT had told me (and other residents) to **not** pay the service charge demanded until the LVT had issued its determination and it had therefore been implemented.

1.4.2.3 JH repeatedly ignored my requests for clarification of electricity charges and proceeded to include these as part of the claim. Not only are the details of these charges full of errors, they also include charges for which I had not received an invoice – despite my requests

1.5 MRJ has committed a criminal offence under the Criminal Justice Act & Public Order Act 1994

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

1.5.1.1 In reply to my requests for a priced specification, JH wrote in her 20 September 2002: *"…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"* leading me to suffer harassment, alarm and distress. (This can be described as JH's 'trade mark' as she first used the threat of prosecution against residents back in October 1989 – having just taken over as managing agent for the block).

1.5.1.2 While I informed JH in December 2003 that I had paid the sum of £6,350 for the major works, I received an invoice dated 21 October 2004 which states a *"Brought forward balance"* of £14,450 – with no explanation whatsoever as to what this refers to. This is causing me an enormous of amount of distress and anguish as, given past events, I cannot exclude the possibility that JH will again file a claim against me on behalf of her client.

1.5.1.3 BM has likewise caused me – and is still causing me - distress and anguish by stating in his letter to me dated 4 August 2004 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*". While this claim is quite clearly defamatory and libellous, I suspect that this 'story' is being fed to other residents.

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

1.6.1.1 MRJ aided and abetted its client in obtaining criminal proceeds as the Consent Order for £6,350 which was endorsed by West London County Court on 1 July 2004 represents an

amount I ended-up paying as a result of its extortion and fraudulent [4] tactics was not due and payable – and still is not to this day.

1.6.1.2 MRJ sought improperly to recover monies allegedly by way of service charges which were not due and payable.

1.6.1.3 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 Steel Services when, in fact, the evidence suggests that the company did not exist.

1.6.1.4 *"Knowing receipt" - Dishonest assistance to a trustee by assisting, with knowledge, in a fraudulent and dishonest design on the part of the trustees"*. MRJ 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.

1.7 MRJ has committed offences under the Defamation Act 1996 by originating and filing documents in court with my name on them that were disseminated to other residents at Jefferson House and, hence, the public at large which, it knew, contained defamatory statements about me

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

1.7.1.2 MRJ continued issuing documents to West London County Court which were released to other residents until August 2004 that contained false claims against me.

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

1.7.1.4 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 by MRJ and subsequently circulated by CKFT and the courts to other residents)

1.8 Conclusions

I am now going into the 4th year of an absolute sheer hell that has totally and utterly ruined my life over this period. As agents acting for Steel Services, the originators and implementers, and therefore key perpetuators of this are Joan Doreen Hathaway M.R.I.C.S and Barrie Martin F.R.I.C.S.

I have consistently agreed that repair and redecoration works are required at Jefferson House. Obviously – and contrary to JH and her 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 – and the terms of my lease.

Subsequent events have demonstrated that MRJ and its client do not consider this to be a legitimate request. Indeed, instead of complying with statutory and contractual requirements – as well as their obligations as member / fellow of the RICS - they opt for an arsenal of blackmail, extortion, deceit and

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[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"*

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 JH and BM's actions I have suffered - and continue to suffer - the most horrendous amount of sustained stress, anguish, torment and distress leading to serious consequences on my physical and emotional health requiring the need to seek medical treatment.

This suffering, now going into its 4th year, started within days of my email to JH of 2 February 2002 when I highlighted that the focus of the proposed condition survey had more to do with the planning application to build an extra floor for a penthouse flat than with repair and redecoration to the block. (And indeed, among others, a penthouse flat is currently under construction). It comprised of harassment, intimidation and assault.

It continued as I then challenged the 17 July 2002 demand for £14,400, increasing in ferocity and viciousness in an attempt to make me 'cave in': threat of forfeiture; malicious (and ludicrous) reports to Kensington & Chelsea police. It went on during the LVT hearing.

Pre the LVT determination, it entailed JH filing a false claim against me in court (under a 'Statement of Truth'). Post the LVT determination, (knowingly) using false information supplied by MRJ, CKFT went into 'overdrive' with its blackmail and extortion tactics in the process, continuing to misrepresent the true legal position, as well as defame my name and my character. Post the LVT determination, the court procedure went on for a year, as CKFT was absolutely intent on obtaining from me an agreement that would have had the effect of allowing its client, Mr Ladsky, and agent, MRJ, to come back and ask me for more monies for 'these major works'.

To the sheer hell of 1.5 year of court hearings and procedure, was added the suffering of what I can only describe as harassment, bordering on persecution by the courts as, on 3 occasions, I was wrongly informed that an action against 3 other residents (i.e. on the same claim) concerned me.

One year after the LVT determination, MRJ-its client – who had not implemented the determination - opted to just discard it. Why? Because the overall conclusion is that £.5 million was determined by the LVT as being unjustified, including in part, contrary to RICS best practice.

For more than a year now, I have paid the sum of £6,350 for 'these works' (a sum I did not owe - and still do not owe) – and exchanged a Consent Order to this effect (endorsed by the court on 1 July 2004). Yet, in an invoice dated 21 October 2004, MRJ demands that I pay the sum of £14,450 – without any explanation whatsoever. This, added to the £6,350 I have paid brings the total to **£20,800.**

I had hoped that by now common sense would prevail over greed and arrogance which have been the driving force since Day 1. Not so. In sending the 21 October 2004 invoice, and by not supplying me with the year-end accounts since 2001, MRJ and its client are very clearly communicating that they are intent on continuing the fight. This leaves me no other option but to continue fighting back.

Fighting the demand which I knew to be unjustified and therefore unlawful has, to date, cost me:

- Close to £50,000 on a surveyor, solicitors and barristers (and I am on a salary)
- Some 4,000 hours of my life (based on a working year, this is equivalent to 2.5 years)
- It has caused me significant 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 unlawful demand has forced me to generate, etc. It has also cost me the majority of my spare time since 2002.
- Probably in excess of £7,000 on postage, etc.
- It has caused me and continues to cause me an enormous amount of stress, anguish and distress leading to serious consequences on my physical and emotional health. What is going to happen

next? Will JH file another claim against me on behalf of Steel Services in relation to the £14,450 invoice, dated 21 October 2004 (for which there is absolutely no explanation)? (It only cost Steel Services £500 to file one claim against 11 residents first time round).

What is going to be the long term cost to my health of going through this sheer hell? I do not know.

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 JH and BM had integrity (the 1st RICS core value) none of this would have happened.

Like their client's, JH and BM's greed and arrogance know no bounds. I view JH in particular, but also BM as evil, corrupt [5] and morally depraved individuals who will stop at absolutely nothing to achieve their dishonest objectives. (And they have *"Office of the Hendon Christian Housing Association"* plastered on their shop frontage!)

Their method of operating is criminal as they breach statutory requirements, as well as common law – and quite clearly, do not care. In doing this – and in JH having the designatory initials M.R.I.C.S, while BM has F.R.I.C.S - they sully the reputation of praise-worthy members of the RICS, as well as greatly devalue the standing of the RICS.

Finally, as I have made the payment of £6,350 (which should have been placed on the trust fund by MRJ) I also want to be reimbursed of this amount less £250 i.e. £6,100. This is because, MRJ and 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-MRJ 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.

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[5] Oxford and Collins English dictionaries definition of **'corrupt**': *"Lacking in integrity; open to or involving bribery or other dishonest practices"; "Morally depraved"*

1.

2 BACKGROUND INFORMATION

2. **2.1 My case**

3. My case (which you may have heard of through the press [6]) relates to a service charge dispute for major works at Jefferson House where I have been the lessee and sole, permanent resident of flat 3 (a basement studio flat) since 1986.

   How my case started was that I asked Ms Hathaway, main contact at Martin Russell Jones (MRJ), managing agents for the block: *"You want £14,400.19 from me for major works to the block, what are you going to spend it on?"* I do not consider this an unreasonable question. My experience, now going into its 4th year, conclusively demonstrates otherwise. This is detailed in the reminder of this document.

4. **2.2 MRJ and its client, Steel Services i.e. Mr Andrew David Ladsky et. al**

5. **2.3 Within weeks of being appointed as managing agents for the block in summer 1989 Ms Hathaway had revealed her true colours: liberal use of the threat of prosecution for non-payment of service charge; dishonesty; highly incompetent management**

6. MRJ has been managing agents for Jefferson House since 1989.

   The firm is located at 5 Watford Way, Hendon Central, London NW4 3JN – where the shop frontage also states: *"Office of the Hendon Christian Housing Association".* The irony of this will soon become apparent.

7. The very first communication I received from Ms Hathaway is dated 22 August 1989 (in which she announced the cost for carpeting). The name of the firm at the time was **Spyer Johnston Evans.**

8. Two months later, in her letter to 'All Lessees' dated 30 October 1989, Ms Hathaway used the threat of prosecution for non-payment:

   "We would inform you that unless the outstanding sums now due from you are settled, we will have no alternative than to inform our client who will no doubt take legal action against you" [7]

9. Having used the threat of prosecution, two days later, in a letter dated 1 November 1989, Ms Hathaway communicated that an *"error"* had been made:

   "Unfortunately there was a typing error in our letter. The amount of £8,000 should have read £9,500 as VAT etc. was omitted" [8]

   In the space of 2 sentences Ms Hathaway highlighted her dishonesty as she stated: *"a typing error"* then said: *"VAT etc was omitted"*

10. In November 1996 residents were informed by Ms Hathaway that *"Steel Services are the new owner…"* [9]

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[6] Recent press coverage includes: (i) *"My property nightmare – Extortionate service charges"*, Sunday Telegraph, 19 October 2003; (ii) *"Left homeless for £25"*, Evening Standard, 12 December 2003

[7] Letter from Ms Hathaway, Spyer Johnston Evans, dated 30 October 1989

[8] Letter from Ms Hathaway, Spyer Johnston Evans, dated 1 November 1989

11. The Land Registry (at 26 April 2004) states that Steel Services Limited is the headlessor [10] while Jefferson House Limited is the freeholder. Until 1997 the British Petroleum Pension Fund had been the freehold owner.

There are 3 different titles for Jefferson House on the Registry: # 101 949 [11], # 69437, # 6901. All 3 include *"Note 3: Lessee's title NGL 373 333"* i.e Steel Services.

12. 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) [12] Mr Patrick May O'Connor was, among others, a director of Langhaven Holdings, previously known as Acrepost. My lease is from Acrepost. According to Companies House database, Acrepost Ltd was *"liquidated"* in 1992.

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 [13] In other words, Mr Patrick May O'Connor had 'resurfaced' from Langhaven Holdings in the ownership of the building.

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 [14]

By the same date i.e. 26 April 2004, the Land Registry was still showing Jefferson House Limited as the freehold owner [15]

13. 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 [16], and IBC No. 227 649 for Jefferson House Limited [17]
- A letter from MRJ, dated 5 October 2004, specifically identifies Steel Services as *"the freeholder"* [18]
- A Central London County Court claim filed by Steel Services against a resident on 26 February 2002 states: *"The Claimant is the freehold owner…"* [19]. It also states a British Virgin Islands domicile.

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

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[9] Letter from Ms Hathaway to 'All Lessees' dated 29 November 1996
[10] Land Registry, Title # NGL373 333, Leasehold owner, Steel Services Limited, dated 26 April 2004
[11] Land Registry, Title # 101 949, Freehold owner, Jefferson House Limited, dated 26 April 2004
[12] Land Registry, Title NGL 373333, Leasehold ownership, Steel Services Limited + Canso Properties + Patrick May O'Connor, dated 10 October 2001
[13] Land Registry, Title NGL 373333, Leasehold ownership, Steel Services, dated 1 June 2001
[14] Land Registry, Title NGL 373333, Leasehold ownership, dated 26 April 2004
[15] Land Registry, Title 69051, Freehold ownership, Jefferson House Limited, dated 26 April 2004
[16] British Virgin Islands, Company Register, Steel Services Limited, IBC # 199 568, dated 23 April 2004

14.

2.4 Frequent changes in the domicile of Steel Services

15. **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"*** [20].

The elusiveness of Steel Services is highlighted by the frequent changes in address provided by Ms Hathaway and the fact that some of the addresses turned out to be untrue:

16. ***4 changes of address in the space of one year***

17.

Up to August 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"* [21]
15 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** [22]
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 sent by Ms Hathaway gives the address for Steel Services as being in Jersey: *"PO Box 258, Malzard House, 15 Union Street, St Helier JE4 8TY"*

18. ***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"* [23]

19.

2.5 For at least 3 months (and possibly longer) Ms Hathaway claimed to be acting for Steel Services when, in fact, the evidence suggests it was a non-existent entity

20. 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 residents requests to Ms Hathaway were being ignored, some residents approached Nucleus, our local Citizen Advice Bureau, in order to help us enforce our statutory rights [24].

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[17] British Virgin Islands, Company Register, Jefferson House Limited, IBC #227649, dated 23 April 2004
[18] Letter from Martin Russell Jones to "All Lessees", dated 5 October 2004
[19] Claim Form, Central London County Court, Claimant Steel Services Limited, dated 26 February 2002
[20] British Virgin Islands, Company Register, Steel Services Limited, IBC # 199 568, dated 8 August 2004
[21] Service charge demand, dated 2 August 2001
[22] Letter from Ms Hathaway to Nucleus, dated 15 October 2001
[23] Email dated 6 August 2002 from the Registry Officer, Jersey Authorities
[24] Letter from Nucleus to Ms Hathaway, dated 5 November 2001

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"* [25]

21. **Clearly, Ms Hathaway was in contact with CKFT** as, in her **15 October 2001** reply to Nucleus [26], 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.

22. 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"*. [27]. (In the same letter she states that: *"Jefferson House Limited is the freeholder".* Yet, the following month, on 26 February 2002, 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 [28]. 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"* [29]

23. **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.**

24. 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 [30]

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"* [31]

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"* [32]

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[25] Letter from Ms Hathaway to Nucleus, dated 7 November 2001
[26] Letter from Ms Hathaway to Nucleus, dated 15 October 2001
[27] Letter from Hathaway to the Tenancy Relations Officer, RBK&C, dated 14 January 2002
[28] Letter from Hathaway to the Tenancy Relations Officer, RBK&C, dated 25 January 2002
[29] Letter from Saxon Law to Ms Hathaway, dated 23 January 2002
[30] Letter from Mr McDougall to CKFT, dated 29 July 2002
[31] Letter from CKFT to Mr McDougall, dated 1 August 2002
[32] British Virgin Islands, Company Register, Steel Services Limited, IBC # 199 568, dated 8 August 2004

25. 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"* [33].

    This led to a reply from Ms Hathaway on 21 October 2002 that *"Steel Services is not registered in this country"* [34].

    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 [35]

26. 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"* [36]

    CKFT replied the following in its 21 October 2002 letter: *"We are satisfied that Steel Services Limited exists"* [37]

27. **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 Ms Hathaway (and CKFT had claimed)**

28. At the end of October 2002 Ms Hathaway, CKFT and client were 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 Ms Hathaway 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* [38] (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).

29. **Hence, the evidence indicates that for a period of at least 3 months Ms Hathaway (and CKFT) 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>**

30.

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[33] Letter from Mr McDougall to Ms Hathaway, dated 8 October 2002
[34] Letter from Ms Hathaway to Mr McDougall, dated 21 October 2002
[35] Letter from Mr McDougall to Ms Hathaway, dated 23 October 2002
[36] My letter to CKFT, dated 17 October 2002
[37] Letter from CKFT to me, dated 21 October 2002
[38] Email from Mr McDougall to me, dated 5 November 2002

2.6 MRJ's client – Mr Andrew David Ladsky

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

32. 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)

33. 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.

34. 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…"* [39]

    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"* [40]

    The reference on the Consent Order I have exchanged with CKFT reads: *"AS/17/LAD8/4"* [41]

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

36. 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…"* [42]

    (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"* [43]

    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 [44]*)*

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[39] Letter from CKFT to Resident A and B, dated 11 October 2001
[40] Letter from CKFT to me, dated 7 October 2002
[41] Consent Order I exchanged with CKFT, dated 24 May 2004
[42] Letter from CKFT, dated 4 February 2003

37. 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, 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"* [45]

38. **Ms Hathaway continued to protect the identity of Mr Ladsky** as, at the LVT pre-trial hearing on 29 October 2002, when challenged by residents after the incident with Mr Ladsky, she first said that she could *"…never remember the name of the directors…"* for Steel Services. Then said "*It's some company in the British Virgin Islands, F.M.C. something"*. When asked by the residents how she could be taking directions for the management of the block, including major works, given that she did not know the name of the directors, her reply was that she took directions from somebody at CKFT.

    The lies were so obvious – leading one resident to ask her: *"Is what you are gaining worth putting yourself and your firm on the line for?"* (Not exact quote but this was the gist of it)

39. **The desire to do exactly as he pleases has led Mr Ladsky to show his card a bit more openly**:

40. 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.*

    Since arriving in the block, Mr Ladsky has persisted in demanding that the block is refurbished inside and out…but he wishes this to be done at a cost that is extremely high – possibly as much as £1 million. He feels that the reserve fund should be emptied and residents should be forced to pay him for the extra costs… he has approached me demanding that I handover the Chairmanship and all the files of the Residents Association to him. He became rude and threatening when I refused" [46]

41. 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*

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[43] Letter from Chelsea Police to me, dated 27 January 2003

[44] My letter to Neil Watson PC206BS, Chelsea Police Station, dated 11 February 2003

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

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

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" [47]

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…"* **(NB:** See later in this document section 'Determination by the LVT – 17 June 2003' for a comparison of these comments with what happened. 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)

42. 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…"* [48]

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

44. 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"* [49]

45. 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…"* [50]

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[47] Letter from Mr Andrew Ladsky to me, dated 25 January 2001
[48] Letter from Resident H to Residents, dated 31 January 2001
[49] Letter from Resident H to Mr Ladsky, dated 14 January 2001
[50] Letter from Resident H to me, dated 16 January 2001

46. Her letter to me dated 31 January 2001: *"I have no need to an alarm - I am getting 30 nuisance calls a day again only now he keeps the line open if I reply"* [51]

47. 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"* [52]. 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)

48. 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"* [53]

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

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

"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 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" [54]

51. 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 bell being pressed in the early hours of the morning, hard object thrown at my windows late at night, etc.

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. [55]

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[51] Letter from Resident H to me, dated 31 January 2001
[52] Letter from Resident H to me, dated 23 May 2001
[53] Email to me from Resident E, dated 18 April 2002
[54] Letter from Resident F to me, dated 1 November 2002
[55] Email to me from Tenancy Relations Officer, RBK&C, dated 5 November 2002

52. I previously stated that Mr Ladsky had reported me to Kensington & Chelsea for 'swearing at him'. This had been followed by a letter from CKFT to me dated 4 February 2003, stating among others:

"…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…"*** [56]

(**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)

As can be seen, 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 – and indeed Ms Hathaway and CKFT - considered that I would be a 'push over' at the LVT hearing because, until then they 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 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

2.7 There is a saying: *'Birds of a feather flock together'*. The rest of this document provides the perfect example

53.

3 THE CONDITION SURVEY FOR MAJOR WORKS AT JEFFERSON HOUSE

54. In a letter dated 21 December 2001, Ms Hathaway informed residents that Brian Gale & Associates has been selected to undertake a condition survey of Jefferson House – and to this she attached another tender letter from another surveyor, Knight Frank [57]

55. As can be seen, both Mr Gale and Knight Frank Frank addressed their letter to *"Steel Services Ltd, The Office, Jefferson House…"*. There is not an office at Jefferson House and the lease does not allow the use of the building for commercial purposes. Why did not they send their letter to MRJ which is positioned as the firm managing the building? Also, by

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[56] Letter from CKFT, dated 4 February 2003

[57] First page of 21 December 2001 letter from Ms Hathaway to residents and of Mr Brian Gale, dated 20 December 2001, as well Knight Frank letter dated 30 November 2001

what means was Mr Gale's letter sent? His letter - to the Jefferson House address – is dated 20 December 2002; that from Ms Hathaway to residents is dated 21 December 2002.

It was clear that the letters were sent to Mr Ladsky.

56. **In typical style, Ms Hathaway sent the notice over the Christmas break to minimise the likelihood of opposition**

57. The timing for sending the notice immediately rang alarm bells: this is a well known ploy used by landlords and managing agents to minimise as much as possible the likelihood of opposition by giving people little time to reply. Given the 2 week Christmas break, the deadline for reply set as 28 January proved insufficient as many residents live overseas.

58. I replied by email to Ms Hathaway on 26 January 2002 [58] that, while the appointment stated that it was for *"the preparation of a schedule of works for the redecoration of the exterior of the block"* in actual fact *"based on the proposals from the potential contractors actually refer to: 'condition survey of the roof, the lift and the boiler'"*.

I signed my email as being from "*Jefferson House Residents Association*". As Mr Ladsky had succeeded in making the head of our Residents Association leave the block as a result of the absolutely appalling on-going harassment and intimidation she suffered from him, a small group of residents decided to 're-group' into 'an association of sort' with me leading it. It immediately became clear that we did not stand a chance.

59. **3.1 Given Mr Ladsky's on-going harassment and intimidation of the person heading our Residents Association (leading to her departure), not only was there no point reforming a 'proper' association, it would not be recognised. Very clearly, Mr Ladsky had the full support of Ms Hathaway in this.**

60. Ms Hathaway replied to me on 30 January 2002 stating:

"We are in receipt of your email of 26th January 2002 which was not read until Monday 28th January 2002. We are surprised that you should have waited so long to contact us (**NB: !!!**) *as we are not aware of the existence of a Residents Association since Mrs* [Resident H] *left. We do understand that our clients, Steel Services Ltd do not recognise any Association and have no details of any officers. They also do not regard any Association as properly constituted as a number of tenants have never been consulted.*

In respect of your comments on the Landlord and Tenant Act Notice we would inform you that our clients have given adequate notice of the proposed works and have received no other comments whatsoever on them during the statutory time". (**NB: Note what Hathaway had written in her 21 December 2001 letter:** *"…observations…must reach us by Monday 28 January"* and how she started this email: *"your email…read…on 28 January"*). *"Although we appreciate that there were the Christmas and New Year holidays we did in fact allow an extra 7 days over that required under the Landlord and Tenant Act to take this into account. In the circumstances we are informed by Steel Services Ltd that the report will be completed pursuant to the notice given,* ***particularly bearing in mind the urgency of some of the required works"*** [59] **(NB:** My highlight as, the works were only started

[58] My email to Ms Hathaway, dated 26 January 2002

[59] Email from Ms Hathaway to me, dated 30 January 2002

in September 2004. To this one, must be added several other similar claims spanning back to June 2001. A summary is provided under the section 'Back to square one')

61. I replied to this email on 2 February 2002 [60] stating that: *"…we were still in the process of seeking advice…the objective of this correspondence is to communicate to you the reasons for our opposition to the appointment…Whereas your opening paragraph indicates that the appointment of these companies is in connection with the "redecoration of the exterior of the block", judging by their proposal, this is clearly not the brief that has been given to these companies. Indeed: Brian Gale Associates understand that their focus is primarily connected with the roof; Michael Jones Associates understand their remit as focusing on the lift; Knight Frank, among others, emphasise the boiler…* ***We believe that the proposed appointment of these companies is connected with*** *the* ***planning applicatio****n (PPO12523) made by KSR Architects on behalf of Steel Services on 13 November for t****he "erection of a new residential penthouse apartment at main roof level"… And that, consequently, any costs associated with building of the penthouse flat is not to be borne by the residents…"***.

I then covered each item in detail. While some of the information I captured was from previous planning applications and therefore not relevant, as I will demonstrate in the rest of this document, **I was right about the plan to build the penthouse flat and to charge residents for it.**

62. **3.2 In fact, it became immediately evident that I had exposed an intended scam as, within days of sending this email to Ms Hathaway, I started to suffer on-going harassment and intimidation, as well as assault.**

63. Mr Brian Gale completed his condition survey in February 2002.

One month later, in a letter dated 26 March 2002, Ms Hathaway wrote to residents: ***"The surveyors have indicated that the cost of works is likely to be in excess of £1 million + VAT and fees****… We would stress that this is a very rough indicative estimate and should in no way be relied upon as an exact figure.* ***The tendering contractors may produce a price which is significantly more or less than the price indicated above*** *depending on numerous factors which contractors take into account when tendering"* [61] (**NB:** My highlights and underline)

Bearing in mind that the works that ought to be taking place were repairs and maintenance works, these comments added to my alarm bells: either Mr Gale was exceptionally inexperienced, or Ms Hathaway was preparing the ground in order to refer back to this letter at a later stage, along the lines of: *"But we did warn you in March 2002…".*

Given that in his 20 December 2001 tender letter Mr Gale had positioned his firm as having extensive experience (his comment of "*a long professional relationship"* with Michael Jones & Associates) and Ms Hathaway also emphasised this in her 26 March letter this, (and taking into consideration past events) suggested the 2nd possibility as being the most likely.

64. There was also another factor that added to my suspicions: in the same letter, Ms Hathaway stated that *"…pursuant to the Landlord and Tenant notice forwarded to you in December of last year …would inform you that* ***there were no comments***

[60] My email to Ms Hathaway, dated 2 February 2002
[61] Letter from Joan Hathaway, Martin Russell Jones, to 'All Lessees', dated 26 March 2002

from any tenants in relation thereto within the prescribed time limit".

As I explained earlier on, this was not the case. And indeed, in a letter to me of the same date i.e. 26 March 2002, Ms Hathaway wrote: *"…**you were incidentally the only objector** out of 35 lessees to the appointments"*. [62]
(NB: In both instances: my highlights)

3.3 One of many lies from Ms Hathaway as will be demonstrated in the rest of this document.

65. Given subsequent events, the following comment in Ms Hathaway's letter to me of 26 March 2002 must also be noted: *"Your suggestion that the appointment of appointment of professional advisors is in any way connected with any planning application is incorrect"*

66.

4 SERVICE CHARGE DEMAND

67. In a letter dated 15 July 2002 Ms Hathaway stated "*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"* [63] (**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). (As detailed under the 'Background' section above, the reply I received from the BVI is dated 8 August 2002).

Ms Hathaway states that estimates are attached. In fact, as can be seen in the enclosed, only the total amount is given for Killby & Gayford – and very little else for the others.

Hence, contrary to Ms Hathaway's claim, this letter cannot be considered a Section 20 Notice.

68. Ms Hathaway wrote: *"In addition to the cost of the works, there are professional fees for administering the contract at the agreed rate of 11% of the net cost of the work…".*

As can be seen on the 2nd page of her letter, **the 11% professional fees amount to £62,091.37** and, with VAT, the total sum demanded is **£736,206.09**

4.1 From where does the 11% management fee come from? In his 20 December 2001 letter Mr Gale stated 10%. Who stood to benefit from the additional £5,500?

69. Ms Hathaway also states that the **sum quoted *"may be exceeded due either to subsequent changes in the specifications…"***

This amounted to the second warning since 26 March 2002 that the costs may be exceeded.

4.2 This, combined with the fact that the only costings we had been provided with were contained in Ms Hathaway's letter of 15 July 2002, reinforced my view that the ultimate intention was to charge residents for works we should not be paying for

As a result of my stating to Ms Hathaway in my letter of 11 August 2002 that, if changes were made to the specifications I expected a new Section 20 Notice to be issued, she replied on 30

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[62] Letter from Ms Hathaway to me, dated 26 March 2002
[63] Letter from Ms Hathaway to residents, dated 15 July 2002

August 2002: *"obviously any major changes would be advised to lessees"*

Given her conduct and that of her client by then, her 'assurance' did not put my mind at rest.

70. In the same correspondence Ms Hathaway had enclosed an invoice, 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"* [64]. (**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).

71. **4.3 The filing of an application to the Leasehold Valuation Tribunal by Ms Hathaway on 7 August 2002 provided further evidence of an intended scam**

72. **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 – if not later given the holiday period (yet again, Ms Hathaway using her trick)), on 7 August 2002, Ms Hathaway filed an application in the LVT *"to determine the reasonableness of the sum demanded for the major works"* [65]

Why did Ms Hathaway do this if the demand was 'fair and reasonable' (which is how the application to the LVT was positioned)?

In filing the application, Ms Hathaway and her client were, 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.

73.

4.4 Contrary to Ms Hathaway's claim, her letter of 15 July 2002 was not a Section 20 Notice as, among others, a duly priced specification had not been made available to residents

74. **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"***

75. Initially 6 contractors were sent a tender. (This was subsequently determined by my surveyor). 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 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 and management fees

(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 and management fees

(c) Page 2 and 3 from a document signed by CLC Contractors, dated 19 April 2002 stating a total sum of £719,894.60 exc. VAT and management fees and giving a brief summary

[64] Service charge demand from MRJ, dated 17 July 2002

[65] Steel Services application to the Leasehold Valuation Tribunal, dated 7 August 2002

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

76. As stated by my surveyor, Mr Brock, LSM Partners, in his Expert Witness report, dated February 2003 [66], 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"

77. While under Points 6.30 and 6.31, Mr Brock 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 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".

78. In addition to which, as pointed out by Mr Brock 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:

Point 6.2 of Mr Brock's Expert Report, dated February 2003: *"Under the RICS guidance notes for the selection of building contracts a project of this complexity, quantity and cost the JCT MW 1998 contract is considered (in most normal circumstances) to be unsuitable. Based on 1998 figures the JCT 98 contract for Minor Works should only be used for projects up to £90,000.00 and where works are of a simple nature. With the specialist works to the lift together with extensive electrical and mechanical works a IFC 84 contract is recommended to enable specialist nominated sub-contractor involvement*"

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"*.

79. Aside from other residents also stating that they had not been supplied with a copy of the priced specifications (see, for example, letter to Ms Hathaway from Resident G dated 3 August 2002 [67]

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

and from Resident D dated 24 September 2002 [68]), the LVT captured the following in its 17 June 2003 report (Ref: LV/SC/007/120/02) [69], 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…"*

80. **4.5 Hence, Ms Hathaway was asking residents 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**

81. **Thus, contrary to Ms 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.**

82. **4.6 Ms Hathaway and her client'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**

83. 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*" [70]

84. 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 payment of the full amount by 16 September"* [71]

85. 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*

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[67] Letter from Resident G to Martin Russell Jones, dated 3 August 2002
[68] Letter from Resident D to Martin Russell Jones, dated 24 September 2002
[69] Determination by the Leasehold Valuation Tribunal, Ref LVT/SC/007/120/02, dated 17 June 2003
[70] My letter to Ms Hathaway, dated 11 August 2002
[71] Letter from Hathaway to 'All Lessees', dated 20 August 2002

of the works - duly priced - I will let you know whether I require my own copy." [72]

86. In her follow-up communication to me, dated 20 September 2002, Ms Hathaway totally ignores the contents of my 16 September 2002 letter. She 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"* [73]

87. (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"* [74])

88. **By her letter of 20 September 2002 – as well as subsequently maintaining her position that I owed the sum of £14,400 - Ms Hathaway committed breaches / criminal offences under:**

(1) The Rules of Conduct of the RICS:
- In relation to its Bye-Laws and core values: (a) integrity, (b) honesty, (c) transparency in all dealings, (d) objectivity (e) independence (f) respect of others
- Repute of surveyors' 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

89.

4.7 Two weeks later 'reinforcement' came in the form of a letter from CKFT in which it threatened to forfeit my lease and contact my mortgage lender unless I paid the sum demanded by 14 November 2002

90. On 10 October 2002, I received a letter from CKFT, dated 7 October 2002 and posted on 8 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, like Ms Hathaway, 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*

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[72] My letter to Ms Hathaway, dated 16 September 2002
[73] Letter from Ms Hathaway, Martin Russell Jones, to me, dated 20 September 2002
[74] Letter from Lessee D to Ms Hathaway, dated 24 September 2002
[75] Letter from CKFT to me, dated 7 October 2002

covenant and to communicate with your mortgagee (if any), if such action becomes necessary" [75]

91. 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"* [76]

4.8 Very clearly, Steel Services and its 'colluding puppets', Ms Hathaway and CKFT, saw me as 'fair game' for blackmail to extort monies from me not due and payable.

92. **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.**

93. After taking advice from various sources, I did not comply with CKFT's request. Instead, I sent CKFT a letter on 17 October 2002 [77] 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 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"*

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[76] Letter from CKFT to solicitors acting for a resident, dated 21 October 2002

[77] My letter to CKFT, dated 17 October 2002

94. **In spite of my letter of 17 October 2002 and its supporting documents, CKFT continued with its blackmail and extortion tactics while, in fact, it had knowledge of Steel Services – Ms Hathaway's 7 August 2002 application to the LVT**

95. 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" [78]

96. (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 [79]

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?"* [80]

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

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"*

97. (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 L&T 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..."*

98. **4.9 The collusion between Ms Hathaway and CKFT in the use of blackmail and intimidation tactics for the purpose of aiding and abetting a client in the acquisition of criminal property is also evident from parts of this letter**

In particular:

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[78] CKFT letter to me, dated 21 October 2002

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

[80] My letter to CKFT, dated 17 October 2002

"…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"

Who else but Ms Hathaway fed this information to CKFT?

In communicating this information, Ms Hathaway has failed to explain why I delayed payment of service charges in the past (or is this further evidence of collusion?) (See last section in this document 'Ms Hathaway: A long-standing history of dishonesty and incompetence')

By stating that my previous delays in paying service charges will be held against me in Court, not only is CKFT abusing its position as solicitors to frighten me into paying – **Ms Hathaway is likewise guilty of the same blackmail and extortion tactics.**

99. **The *'Mr Ladsky's style letter'* (*) sent to me under the name of Ms Hathaway, dated 16 December 2002 continued with the blackmail and extortion tactics:**

"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"*** **(NB: !!!)** [81] (See below section 'Determination by the LVT – 17 June 2003' for a definition of what Ms Hathaway (i.e. Mr Ladsky) considers as a *"perfectly reasonable demand"*)

(*) A *'Mr Ladsky's style'* letter – See section later on in this document 'The Business Model of the Unscrupulous Landlord in 21st Century GB' for an explanation which compares this letter with others received by residents, as well as by Nucleus, the local Citizen Advice Bureau (some residents had approached for assistance in relation to service charges – and which led to an application to the RICS for arbitration)

100. 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 and intimidation, threat of litigation and forfeiture was also because the amount demanded was not due and payable – See the following sections.

101.

4.10 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. Ms Hathaway played a critical part in this

102. 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

[81] Letter sent to me under Ms Hathaway's name, dated 16 December 2002

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) [82]

Mr Andrew David Ladsky, Ms Joan Doreen Hathaway and Mr Barrie 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 Hathaway, filed the claim in West London County Court on behalf of Steel Services**

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

103.

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

104. On 29 November 2002 just **one claim** (Ref: WL203 537) 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) [83] It states CKFT as solicitors acting for Steel Services.

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**.

As can be seen from the enclosed, in my case the claim covered the sum of £14,400.19 for *"Major works contribution",* as well as several other items principally referring to electricity charges [84]

As can also be seen from my defence to the claim [85] practically every other entry on the claim is wrong. They also include electricity charges for which I have never received an invoice – in spite of requests to Ms Hathaway.

5.1 Hence, Ms Hathaway filed a totally false claim against me in court

These errors in the claim are dealt with in the last section in this document 'Ms Hathaway: A long-standing history of dishonesty and incompetence'

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[82] First 5 pages of LVT booklet, 'Applying to a Leasehold Valuation Tribunal – service charges, insurance, management

[83] Steel Services West London County Court claim, dated 29 November 2002

[84] Details of claim filed against me by Ms Hathaway in West London County Court, dated 25 November 2002

[85] My 17 December 2002 defence to Steel Services West London County Court claim, Ref: WL 203 537

105. **5.2 From the time she filed the claim in West London County Court on 29 November 2002 until August 2004, Ms Hathaway committed offences under the Defamation Act 1996 as she supplied false information that was captured in court documents with my name on them and these were circulated to other residents at Jefferson House and, hence, the public at large**

5.3 Concurrently, Ms Hathaway also continued to commit criminal offences under the Money Laundering Regulations / Proceeds of Crime Act 2002 and the Criminal Justice Act & Public Order Act 1994

106. **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 Ms Hathaway filed the claim in court i.e. on 5 February 2003. Hence:**

5.4 Ms Hathaway filed a claim in West London County Court against 11 residents – in the full knowledge that residents had been specifically told by the LVT to <u>NOT PAY</u> the sum demanded until it had reached a determination and it had therefore been implemented

107. The Particulars of Claim filed by Ms Hathaway 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"* [86]

108. **5.5 The claim filed – <u>and signed under a 'Statement of Truth'</u> - by Ms Hathaway in West London County Court is false on several counts:**

1. As previously explained, <u>payment is not due</u> as the LVT told residents to <u>not pay</u> until it had

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

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 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'* Ms Hathaway and its client (as well as 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 by Ms Hathaway in the full knowledge that it was in breach of 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')

109.

5.6 Contrary to the Particulars of Claim filed by Ms Hathaway, 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..*"

110. In my 17 December 2002 defence to the claim, 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 [87]**:**
"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) [88] .

[87] Extract from lease for (apparently) flat 23

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.."* [89]

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 [90]

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 Ms Hathaway's 7 August 2002 application to the LVT)

111. 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 Ms Hathaway (1) indirectly to the Court at the 24 June and 26 August 2003 hearings [91] ; (2) as an attachment to the 7 August 2002 application to the LVT [92].

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%"*** [93] **(NB:** My highlights)

112. A particularly important point given subsequent events:

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 lessees' fixed percentage share of the service charge.**

113. 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*

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88 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 - 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*"

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

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

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

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

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

annexed to the claim… please provide a copy" [94] (I did)

114.

5.7 Contrary to the Particulars of Claim, the demand cannot be described as an 'interim demand'

115. 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.**

116. In the 29 November 2002 Particulars of Claim Ms Hathaway - CKFT refer 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.

117. ***(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 during which MRJ has been managing agents for the block)**

(c) The 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."* [95]. **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*

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

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

schedules to previous accounts. ***The sum demanded is based on the percentage of your lease, which is 1.956%..."*** [96])

(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"* [97]

(c) And Ms Hathaway did again in her letter to me dated 30 August 2002 [98]

(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) [99]

(e) Both, Gleeson and CLC quoted a time of 22 weeks to complete the works (see Ms Hathaway'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**.

5.8 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 one month past the year-end for the certified accounts for Jefferson House – it is abundantly clear from the state of the building – including that of the extra floor for the penthouse flat – that many more weeks will be required to complete the works.

(g) However, Ms Hathaway **did** file an application to the LVT 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 – under the assumption that residents would not challenge the application to the LVT. As can be seen

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[96] Letter from Ms Hathaway to me, dated 30 August 2002
[97] Letter from Ms Hathaway, Martin Russell Jones to All Lessees, dated 20 August 2002
[98] Letter from Ms Hathaway, MRJ, dated 30 August 2002
[99] Letter from Ms Hathaway, MRJ, dated 7 June 2001
[100] Directions set by the LVT at the pre-trial hearing, dated 29 October 2002

from the attached directions set by the LVT [100], 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 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**.

118. **5.9 Contrary to what Ms Hathaway and CKFT have repeatedly denied / opted to disregard, year-end accounts had to be supplied in support of the demand**

119. ***My lease*** (see enclosed pages 1 to 7 [101])

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.."

120. **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 [102], 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…"*

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

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

121. Ms Hathaway (and CKFT) has repeatedly ignored my requests for a copy of the 2002 year-end accounts.

5.10 Over a 9 month period I asked Ms Hathaway / CKFT a total of 4 times for the year-end accounts for Jefferson House – and still have not got them

- 9 October 2003 – request to Ms Hathaway [103] In which I stated: *"In accordance with the terms of my lease, please send me a copy of the year-end accounts for Jefferson House. As these are long overdue, please provide me with a copy within the next fourteen days"*
- 19 December 2003 – in my Notice of Acceptance to CKFT [104]
- 19 May 2004 – request to Ms Hathaway – on which I copied CKFT [105]
- 18 July 2004 – request to Ms Hathaway [106]

As my requests were being ignored, in June 2004 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 [107].

5.11 Not only are Ms Hathaway and her client 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)

5.12 Ms Hathaway and Mr Barrie Martin also in breach of Section 11.4 of the RICS 'Service Charge Residential Management Code'

5.13 To date I have not received the year-end accounts for 2002 – which are now 20 months overdue - nor for 2003 – which are now 8 months overdue. Why not? What do Ms Hathaway, Mr Barrie Martin and their client 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.**

122. **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 place 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 Ms Hathaway filed the application to the LVT to determine the reasonableness of the service demanded and that the LVT told residents to NOT pay this demand until the Tribunal had issued its determination, means that Ms Hathaway could not ask for payment

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[103] My letter to Ms Hathaway, dated 9 October 2003
[104] My Notice of Acceptance, dated 19 December 2003
[105] My letter to Ms Hathaway, dated 19 May 2004
[106] My letter to Ms Hathaway, dated 18 July 2004
[107] Letter from John Hutchings, Tenancy Relations Officer, RBK&C, to MRJ dated 25 June 2004

123. '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***

124.

5.14 Between 11 August 2002 and 12 January 2003 I made a total of <u>seven requests</u> to Ms Hathaway for a copy of the priced specification. She ignored them. Eventually it was hand-delivered to me <u>just 36 hours before the LVT hearing</u> – and therefore <u>7 months</u> after the original demand for payment of £14,400

125. As I pointed out – among others - in my defence to the claim dated 17 December 2002 [108]: *"I deny the claim because no justification has been provided for the sum demanded".*

126. As I also detailed comprehensively under points 8 to 14 of my Witness Statement, dated 19 October 2003 [109] it was not until **<u>36 hours before the LVT hearing on 5 February 2003</u>** – 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 (which was seriously deficient – see section 'Determination by the LVT – 17 June 2003).

The LVT had, in its directions, stated: *"The Applicants [to] send a Response to the Respondents and a copy to the Tribunal by 17 December 2002… the Respondents to send the Report or Proof of Evidence of any Expert Witness… by 7 January 2003"*.

5.15 Ms Hathaway was in blatant breach of the directions set by the LVT by not supplying me with information by the deadline.

127. Indeed, I requested from Ms Hathaway – in writing - a copy of the priced specification **<u>seven times over a six-month period</u>** spanning 11 August 2002 to 12 January 2003. These include:

- **four letters addressed to Ms Hathaway**: 11 August 2002 (enclosed), 16 September 2002 (enclosed), 12 January 2003 [110]
- **three letters** addressed to the LVT: 22 October 2002 [111], 25 November 2002 [112], 12 January 2003 [113] - on which Ms Hathaway was copied. For example, in my 25 November 2002 letter, I wrote: *"it is impossible for me to form a view as to the reasonableness of the costs as, other than a lump sum, I have not been provided with any information on the composition of the costs"*

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[108] My defence to the West London County Court claim, dated 17 December 2002
[109] My Witness Statement, dated 19 October 2003
[110] My letter to Ms Hathaway, dated 12 January 2003
[111] My letter to the LVT, dated 22 October 2002 – copied Ms Hathaway
[112] My letter to the LVT, dated 25 November 2002 – copied Ms Hathaway
[113] My letter to the LVT Panel, dated 12 January 2003

- one letter to CKFT: 17 October 2002 (detailing my requests to Ms Hathaway) – which, in effect, CKFT dismissed

I wrote a fourth letter to the LVT, on 18 December 2002, highlighting the fact that the deadline it had set for MRJ to provide me with the requested information had passed and that, as I had not received anything, I would therefore be unable to meet the 7 January 2003 deadline [114]

In my 12 January letter to the LVT I requested that the 5 February 2003 hearing be postponed as MRJ had not provided me with a copy of the detailed estimates and hence I had been unable to instruct an expert to determine the reasonableness of the cost of specific remedies and thus determine specific items of dispute for the trial. I also requested that the LVT compels MRJ to provide me with the information.

The LVT did not act on my requests to obtain the information from MRJ – and it refused my request for a postponement.

128. **5.16 Other actions by Ms Hathaway in the context of the LVT procedure provides further evidence of her colluding with her client – and Mr Brian Gale - to obtain, through deception, monies not due and payable**

Further emphasising the evidence of Ms Hathaway's collusion with her client – and Mr Brian Gale - is the fact that in relation to Mr Gale's expert report dated 13 December 2002, **Ms Hathaway had sent a fax to the LVT on 1 December 2002 stating: *"I understand that you have already received our expert report direct"* [115]. Yet, the report was delivered to me post 18 December 2002 (and hence, past the 17 December deadline –** by which time I was out of the country for the Christmas break). (The stamp was not franked indicating that it had been hand-delivered)

Under point 2.10 of his *"Expert Report /Proof of Evidence"* report to the LVT, dated 24 February 2003, Mr Gale wrote: *"…A copy of my Expert Report to the LVT dated 13 December 2002, in accordance with Mr Sharma's Directions, was sent, by first class post direct to Ms Dit-Rawé (in addition of course, to the Tribunal). No response was received, nor at any time has any request been received from Ms Dit-Rawé for the documentation which, she alleges, she has not had an opportunity to see or study…"*

While under point 2.11 of the same report, Mr Gale wrote: *"I must say that I find the statements made by Ms Dit-Rawé's Counsel on 5th February 2003 astonishing, but fully respect the Tribunal's position in being faced with a request for an adjournment under the circumstances. However, I felt that it is my duty to the Tribunal to explain very clearly, the procedure and the opportunities afforded to Ms Dit-Rawé throughout the entire procedure (from the receipt of Tenders back in April to 2002 onwards) to receive all, and any, documentation that she required to satisfy herself as to the position"*

(NB: Note the outrageous lies made by Mr Gale)

To this must also be added 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 which stated, among others:

"You have indicated that it is impossible for you to answer the

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114 My letter to the LVT, dated 18 December 2002

115 Fax from Ms Hathaway to the LVT, dated 1 December 2002

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… 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"

Ms Hathaway made the same statement again in the 20 January 2003 letter she sent to the LVT by writing 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"* [116].

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"****.* **(NB:** My highlights)

Consider this in light of all the letters Ms Hathaway had written over the previous 6 months in which she categorically affirmed that I (and other residents) had been provided with the priced specification – and that she had therefore acted in line with the statutory requirements imposed under the L&T 1985 legislation

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

In fact, **the same damning evidence is found against Mr Gale** as, in his 24 February 2003 report, he stated under point 2.04: *"…**the un-priced or priced** Specification and Schedule of Works by Killby and Gayford, even though these documents has, through the middle to latter part of 2002, been deposited at the porters desk in the entrance, freely available for all lessees to view"*.

Yet, later on in the same report (under point 2.11) Mr Brian Gale is absolutely adamant that the priced specification was made available to the residents. **That's the downside with lying: you've got to make sure that the story stacks-up!**

129. **5.17 This was a continuation of Ms Hathaway' lies to the LVT**

Indeed, another example of Ms Hathaway's lie is captured in a 'Log of telephone conversation' by the LVT, dated 8 October 2002. It states: *"To: Joan Hathaway, From: "David Stewart (LVT): Ms Hathaway confirmed that the Leaseholders have already been served with copies of the estimate and specification…"* [117]

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[116] Letter from Ms Hathaway to the LVT, dated 20 January 2003

[117] LVT 'Log of telephone conversation', dated 8 October 2002

In her 20 January 2003 letter to the LVT, **Ms Hathaway also had the gall to say:** *"Miss Dit-Rawé was informed of the Tribunal's directions back in October 2003 which set out the timetable… She was also at the hearing and did not object to the timetable then. The deadline for the residents to submit their experts' reports was 7 January 2003 but this letter* [i.e. my letter] *was not sent until 12 January 2003. 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"* **(NB:** Another *'Mr Ladsky's style'* comment)

In the same letter she stated: *"We also arranged a meeting of the lessees in November to discuss the disputed items and Miss Rawé declined to attend. At that meeting various points were discussed and those lessees who wanted a copy of the detailed breakdown of the estimate from Killby and Gayford bought one at that meeting…"*

5.18 The 14 November 2002 meeting: another element in the scam

In relation to the invitation to attend a meeting on 14 November 2002:

(i) In her 7 November 2002 letter Ms Hathaway states that a meeting has been organised as per *"...the Directions Hearing at the LVT… to try to resolve any queries that Lessees may have in respect of the major works.."* [118]

As can be seen from the enclosed, this meeting was contrary to the LVT directions.

I captured this in my reply to her dated 12 November 2002: *"Given that the LVT has given the Lessees until 26 November to formally communicate to the Tribunal "each item of the proposed work that is in dispute, stating fully the reasons for each disputed item" as well as our "information requirements", I consequently view this meeting as premature – and will not therefore attend. Once everybody has had the chance to respond – as per the above – I will then be happy to meet to discuss i.e. after 26 November. This is in line with Point 2 of the directions sent by the Tribunal: "The applicants will send a response identifying those issues now agreed and those still in dispute to the respondents and a copy to the Tribunal by 17 December". I trust that a meeting between 27 November and 15/16 December can be set with more than just a three-day notice* [119]

(ii) Ms Hathaway gave residents a **3 day notice** of this meeting (consider that many live overseas). Ms Hathaway's letter is dated 7 November 2002. I received it on the 11th.

In her 20 January 2003 letter to the LVT Ms Hathaway claims that *"a detailed breakdown of the estimate from Killby and Gayford"* was available for purchase. **(NB:** Please note that, by then, **4 months had elapsed** since the original demand for payment had been sent – as it was dated 17 July 2002)

In fact, as already evidenced above, this is not true and therefore residents who attended this meeting were not satisfied with the information provided. Indeed, of those who attended, a number ended-up being listed on the 29 November 2002 West London County Court claim filed by Ms Hathaway.

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[118] Letter from Ms Hathaway to 'All Lessees', dated 7 November 2002

[119] My letter to Ms Hathaway, dated 12 November 2002

130.

6 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 [120]

131. **6.1 I will now demonstrate that the £14,400.19 demand I received from Ms Hathaway 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.

132. 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".

133. 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 – and amounts to the LVT making a U turn at the 11th hour) **(*)**
- I attach the assessment of the LVT report by my surveyor, Mr Brock, LSM Partners, dated 31 July 2003 [121]
- I include below a summary I have developed combining the main findings from my surveyor report Expert Witness report, dated February 2003 [122], his 31 July 2003 assessment of the LVT determination [123] and the LVT report of 17 June 2003

(*) A 'U turn' as the body of the report is a fair representation of what happened. The Panel did not spare Steel Services, MRJ and Mr Gale in its criticisms. It accurately captured evidence. It also drew on its experience and knowledge to add weight to its determination. However, without a summary, the precise impact of the determination on the global sum demanded can only be calculated by having access to documents supplied during the course of the hearings. (Which means that the LVT failed in its remit of having to determine the 'reasonableness of the global sum demanded').

The LVT is well known for its bias towards landlords (e.g. the 2001 report by Sheffield University) and my first-hand experience supports this. Indeed, there are several other key actions / significant lack of action by the LVT that favoured Steel Services. In particular:

(i) not sending to residents **the enclosures to the application** of 7 August 2002 (which included the priced specification) – a fact admitted by the Clerk, Mr David Stewart, at the 5th

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[120] Full copy of the LVT determination, dated 17 June 2003 (Ref LVT/SC/007/120/02)

[121] Assessment of the 17 June 2003 LVT determination by Mr Brock, LSM Partners

[122] My surveyor, Mr Brock, LSM Partners, Expert Witness Report dated February 2003

[123] My surveyor, Mr Brock, LSM Partners, assessment of the 17 June 2003 LVT determination, dated 31 July 2003

February 2003 hearing. (While he should be praised for his honesty) it begs the question as to why he did not copy me (and other residents) on this critical component of the application.

(ii) At the 29 October 2002 LVT pre-trial hearing, residents were clamouring for a copy of the priced specifications. The **LVT had a copy on file since 7 August 2002. Yet, it did not say or do anything**

(iii) Waiting **two months** to inform residents that Steel Services had made an application and **waiting another 2 days** to inform residents of the 29 October 2002 pre-trial hearing. (This was communicated to residents in a letter dated 10 October 2002). As many residents live overseas (a fact known to the LVT as the residents' address had been provided to the LVT with the application), this gave residents barely a few days notice of the pre-trial hearing – thereby greatly limiting the number who could attend

(iv) not taking action when it was – repeatedly - made aware that Ms Hathaway was in **breach of the directions** set by the Tribunal

(v) refusing to postpone the 5th February 2003 hearing in spite of being informed that the necessary information had not been provided – thereby putting me at a massive disadvantage

It is my absolute belief that the LVT, Ms Hathaway and Mr Ladsky thought that I would be a 'push over' at the 5 February hearing because they had never received communication on my behalf from a professional advisor. (I view the treatment I received from the LVT in the weeks preceding the hearing (as detailed above) as further evidence in support of this perception). I could see / sense total disbelief, as well as great annoyance at the fact that I had turned up for the hearing with a surveyor, a barrister and a solicitor. The beginning of the hearing was decidedly 'frosty'.

It is because of this professional representation that the LVT *'had to'* write an accurate report of the hearings. Having done this so that it could not be faulted, it then made the U turn at the 11th hour by not including a summary of the impact of its determination on the global sum demanded.

As I was battling with CKFT over the LVT determination, I wrote to Ms Siobhan McGrath, Head LVT, asking her to include a summary to the report. She refused on the ground that it would be *"re-opening a decision"*. I argued that it was not, rather it was about *"finishing an incomplete report"*. She still refused to take action, stating in her 26 November 2003 letter: *"this may well be regarded as providing additional reasons"* (which is an interesting comment)

134. **6.2 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)

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"*.

135. ***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"***

136. 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"*.

137. ***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***"

138. 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**"*

139. ***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**".*

140.

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

141. 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"***

142. 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"*

143. **6.3 The contingency fund**

144.

6.4 The LVT determined that Ms Hathaway was in breach of Section 10 of the RICS code by refusing to use the CONTINGENCY FUND as contribution towards the major works

145. During the LVT hearing, my Counsel raised the contingency fund as an issue as Ms Hathaway - Steel Services had not used it as contribution towards the costs – and were refusing to do so.

Indeed in her 15 July 2002 letter, Ms Hathaway had stated: *"It is intended to maintain the existing reserve fund, in part, to cover any additional costs"*

I challenged Ms Hathaway on this point in my letter of 16 September 2002 by stating: *"Why is the contingency fund not used as contribution towards the proposed building works?"*. **She did not even bother to reply to this** as, her subsequent communication to me, dated 20 September 2002, contained just one message: **'Pay or we'll issue proceedings against you!'**

I also raised the issue of the contingency fund in my 17 October 2002 letter to CKFT, stating:

"In my letter of 16 September to MRJ I requested information on the current size of the contingency fund (details were last provided in 1998). To date, I have not received a reply". As in the case of Ms Hathaway, CKFT ignored my request as it only stated that it had passed my letter to Ms Hathaway.

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"*

(NB: The above correspondence provides further evidence of collusion between Ms Hathaway and CKFT)

146. In my letter of 16 September 2002 to Ms Hathaway, I also remarked on the mismanagement of the fund: *"Had the fund been properly managed, a much larger amount would have accumulated over the last 10 years to meet the expenditure now proposed. In addition, mismanagement of the fund means that tenants who sold their flats in recent years have not been made to pay their fair share to address the 'wear and tear' of the building, leaving current tenants to face a much larger bill"*

147. The part of the LVT hearing dealing with the contingency fund 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".*

148. 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" [124]

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

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[124] CKFT letter to Healys, dated 7 August 2003

"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****…"* [125]

150. Evidently, the fact that I had found Ms Hathaway's letter of 7June 2001 was communicated by my then solicitors, Piper Smith & Basham/Piper Smith Watton 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)**.

151. **6.5 It is abundantly clear that Ms Hathaway and her client have something to hide about the contingency fund as my 7 specific requests over the last 18 months for a copy of the accounts – including 5 requests to Ms Hathaway – have been ignored**

152. 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. On 2 other occasions I also highlighted to West London County Court the fact that I had not been supplied with a copy – and copied CKFT on these letters:

- 15 May 2003 – to Ms Hathaway [126]
- 1 June 2003 – to Ms Hathaway [127]
- 23 June 2003 – stated in my letter to *West London County Court* – on which I copied **CKFT**
- 6 July 2003 – to Ms Hathaway – on which I copied **CKFT** [128]
- 9 August 2003 to *West London County Court* – on which I copied **CKFT**
- 19 May 2004 – request to Ms Hathaway – on which I copied **CKFT** [129]
- 18 July 2004 – request to Ms Hathaway [130]

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, MRJ's account department stated in a letter to me dated 19 August 2003: *"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".* [131]

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[125] Letter from Hathaway to "All Lessees", dated 7 June 2001
[126] My letter to Ms Hathaway, dated 15 May 2003
[127] My letter to Ms Hathaway, dated 1 June 2003
[128] My letter to Ms Hathaway, copied CKFT, dated 6 July 2003
[129] My letter to Ms Hathaway, dated 19 May 2004
[130] My letter to Ms Hathaway, dated 18 July 2004
[131] Letter from MRJ Accounts Dept to me, dated 19 August 2003

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 Ms Hathaway and Steel Services have to hide?**

6.6 By not providing me with a copy of the trust fund accounts Ms Hathaway is committing a very serious breach of the RICS Code of Conduct: Bye –Law 19(7)(2). It may be that she is also in breach of the Trustee Investments Act 1961

In her letter dated 5 August 2003 to 'All Lessees' (enclosed) she wrote: *"The money that has been collected is currently held in a separate account which is earning interest to the benefit of those lessees who have contributed"*

6.7 This is a fascinating statement I would like the RICS to pursue with Ms Hathaway – in the context of Section 10, Reserve Funds, RICS 'Service Charge Residential Management Code'

Is Ms Hathaway saying that some residents have made no contribution whatsoever to the fund? If so, it implies gross-mismanagement on her part.

If, on the other hand, Ms Hathaway is referring to those residents who were still fighting the claim and had thus not paid the sum demanded, how is she managing this *"one account"* in order to achieve this? How is this reported?

153.

7 SUMMARY OF THE IMPACT OF THE LVT DETERMINATION: A REDUCTION OF £500,000

154. 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 of the sum demanded was not considered as 'reasonable' by the LVT

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 [132]**)**

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

and for which Ms Hathaway 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***

[132] My calculations of the impact of the LVT determination on my share of the costs, June 2003

[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"

155. **(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)

156. **7.1 Ms Hathaway has therefore committed a very serious breach under Section 11.5 of the RICS 'Service Charge Residential Management Code' by attempting to charge me highly unreasonable service charges. Both her and Mr Barrie Martin are currently continuing to commit this very serious breach**

157. **7.2 What had Ms Hathaway and Mr Brian Gale said about the specification (drawn-up by Mr Brian Gale)?**

Ms Joan Hathaway
In her 26 March 2002 letter to me: *"We and the head lessees are simply complying with our duty of care and safety to all occupants of the property and the obligations under the leasehold interest"* (**NB:** Ms Hathaway loves making use of this 'safety' element. So commendable!)

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"* [133]

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… 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."* [134]

Mr Brian Gale
In his 13 December 2002 *"Proof of Evidence of Landlord's Expert Witness (Surveyor) Brian Gale"* report addressed to the LVT [135] under:

"3.01 – I confirm that the Specification and Tender Document prepared

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[133] Letter from Ms Hathaway to me, dated 30 August 2002

[134] Letter sent to me under Ms Hathaway's name, dated 16 December 2002

[135] *"Proof of Evidence of Landlord's Expert Witness (Surveyor) Brian Gale"*, dated 13 December 2002

by BGA… did not contain any known enhancement or improvement works…"

3.04 – I can confirm that there were no inclusions within the specification or tender documentation intended to improve or enhance any future potential development of the site by either the freeholder or head lessee

3.05 – I confirm that, in my opinion, the extent of the works required is reasonable… and that the cost of works as detailed in the revised and final tender document provided by Killby & Gayford on 8 July 2002 and totally £564,467.00 represents a reasonable assessment of the cost of carrying out all necessary works"

In his *"Expert report/Proof of evidence"* report, dated 24 February 2003.[136] 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 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…"*

Mr Andrew Ladsky
At this point, it is also worth recalling what Mr Ladsky had said in his letter to me (and other residents) dated 25 January 2001: *"…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*

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136 *"Expert report/Proof of evidence"* report by Mr Brian Gale, Brian Gale Associates, dated 24 February 2003.

any works do so reasonably…"

158. 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"*

159. 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 [137]

160. 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.

161. **7.3 Ms Hathaway and Mr Barrie Martin are therefore in breach of Section 11.5 of the RICS 'Service Charge Residential Management Code'**

162. **7.4 Mr Barrie Martin also colluded with Steel Services and CKFT, in the process displaying conduct unbefitting of a member of the RICS, as well as committing a criminal offence under the Defamation Act 1996**

163. In the summer of 2004 Mr Barrie Martin appeared to become the main point of contact instead of Ms Hathaway.

He sent me a letter dated 4 August 2004 which was highly defamatory and libellous as it stated 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"* [138]

164. In my 11 August 2004 reply, I captured part of the above summary in response to his defamatory and ludicrous statement and ended my letter with: *"I trust that you will not repeat this false accusation"* [139]

Quite clearly, Mr Barrie Martin and Ms Hathaway share the same 'unique philosophy' on how to

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[137] Landlord and Tenant Law, Margaret Wilkie & Godfrey Cole, 4th edition, Palgrave Law Masters

[138] Letter from Mr Barrie Martin to me, dated 4 August 2004

conduct themselves as RICS surveyors

165. **7.5 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. Ms Hathaway played a key part in this preposterous and libellous claim**

166. In the case of Mr Brian Gale 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…".* [140]

Clearly, Ms Hathaway was the source of this false information. Indeed, in the *'Mr Ladsky's style'* letter of 16 December 2002 sent under her name, 'she' had stated: *"…the tenants in the block, the vast majority of whom have paid…".* Consider this statement in light of the fact that 2 weeks previously she had filed a claim in West London County Court against 11 residents representing 14 flats – and therefore a large part of the flats in the block not connected with the leasehold / freehold ownership.

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"*

Here Mr Gale clearly identifies MRJ as the source for his information which, of course, it had to be.

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

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: Note the reference to *"improvements")*** *to take place*".

(I wrote a reply to Mr Gale which was handed to the LVT Panel by my Counsel [141])

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[139] My letter to Mr Barrie Martin, dated 11 August 2004

[140] 'Expert Report/Proof of Evidence' report, by Brian Gale, 24 February 2003

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

167. 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"

168. **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, Ms Hathaway 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 [142] (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"*

169. 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 Lisa McLean, Piper Smith & Basham/Piper Smith Watton 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…" [143]

170. 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

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

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

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"* [144]

171. When Mr Ladsky (who was a member of Steel Services party throughout the 4 day LVT hearing) said to the Panel at the 13 March 2003 hearing: *"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 has done, cannot be fettered"*

172. 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> – and this, with the help of Ms Hathaway.**

173.

8 WEST LONDON AND WANDSWORTH COUNTY COURT PROCEEDINGS

174. 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****…"* [145]

175. **Therefore, West London County Court <u>was fully aware</u> 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 **<u>7 times</u>** 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*

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

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

until the Tribunal has reached a decision" [146]

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" [147]

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.

176. **8.1 As a result of supplying/collaborating in the supply of false information and repeatedly endorsing the false claim against me, as well as colluding with CKFT, Ms Hathaway continued to cause me an enormous amount of anguish, torment and distress, as well as financial loss**

177. Although in my case CKFT held off the court proceedings against me while the LVT hearing was taking place, the fact that it proceeded with the court action against other residents 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 covered 11 residents
(2) CKFT continued with the action against the other residents (thereby amounting to an abuse of process of court)
(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

178. The <u>first instance</u> 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 [148]

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

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[146] My letter to District Judge, West London County Court, dated 25 March 2003
[147] My letter to the LVT Panel, dated 30 March 2003, copied to District Judge, West London County Court
[148] Notice of Adjourned Hearing from West London County Court, dated 21 March 2003

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"*. [149].

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 captured these events [150].

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.

179. 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".*

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

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

180. 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 [151]. 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?"* [152]

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 [153], 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".*

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*

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

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

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

- *nobody even bothers to reply to my letters making me endure the most awful anguish, distress and torment.*

This finally led to a 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"* [154]

Considering the conduct of both courts, maybe another force other than incompetence was at play in making me go through this hell.

181. **8.2 And the on-going sheer hell I was going through was started – and perpetuated – by Ms Hathaway who had decided that I was going to pay monies not due and payable**

182. On 23 May 2003 CKFT filed an application in West London County Court for a Case Management Conference [155]. 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 [156]

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"*

183. **8.3 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).**

184. 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 Ms Hathaway - CKFT to the Court at the 24 June and 26 August 2003 hearings [157], and the full list of percentages was attached to the 7 August 2002 application Ms Hathaway filed with the LVT.

8.4 As to the global sum for the works, it has to be the same for all lessees. Hence, Ms Hathaway-her client, 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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[154] Letter to me from Wandsworth County Court, dated 23 July 2004

[155] Claim Form, West London County Court, Claimant Steel Services, dated 29 November 2002

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

[157] 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

185. 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?" [158]

186. 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" [159]

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

187. 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 [160]

188. 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"* on **MRJ headed paper** for which in my case (and that of the other 5 residents listed) the original sum demanded has been reduced by only 24.19% [161]. **There was no supporting evidence as to how this reduction was achieved.**

(2) A "Case Summary" [162] produced by his firm, which a reasonable person – cognisant of the facts - would describe as: **'a pack of lies'**

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[158] My letter to District Judge, West London County Court, dated 17 June 2003

[159] My letter to District Judge, West London County Court, 22 June 2003

[160] Letter to me from West London County Court, dated 23 June 2003

[161] *"Major works apportionment 24th June 2002 Revised"*, covering 6 flats, issued by MRJ

[162] 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: Not true – 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: Not true – as evidenced by my letters to Ms Hathaway and CKFT)**

*"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 still fighting the claim)

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

"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: **More lies.** I **did not** ask the LVT for this. I know perfectly well that the LVT determination is only in relation to the global sum. **In fact, it is CKFT who wrote to the LVT on 17 July 2003** – 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 Draft order [163] 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

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

against the 2nd 5th and 7th Defendants at it shall deem appropriate supported by witness statement evidence, to be filed and served 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 suggested to me a repeat of the last 10 months.

189. **As the above documents supplied by Ms Hathaway and 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, Ms Hathaway (and CKFT) continued committing offences against me under the Defamation Act 1996**

190. 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) – 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 [164]

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 Court that has typically responded with amasing speed to CKFT's applications for hearings).

191. In a *"Without prejudice"* letter, dated 25 June 2004 [165] , 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

[164] General form of judgement or order, West London County Court, dated 24 June 2003
[165] Letter from CKFT to me, dated 25 June 2003

by all parties on legal costs… **(NB: Its client – and Ms Hathaway - should have thought of *'the costs'* before attempting to defraud me of £10,000 – with a clear intention (now proven) of 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 Ms Hathaway filed the claim on behalf of Steel Services 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 Ms Hathaway as agent for Steel Services – not I – who made the application**. Very clearly (and confirming, yet again my opinion), it counted on being able to steamroll the application 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 blackmail, harassment and intimidation tactics**)

Not only is CKFT ignoring the following:

(1) that its client – through Ms Hathaway - made the application to the LVT to determine the reasonableness of the sum demanded
(2) the LVT specifically told us to not pay 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 not due and payable.

Clearly – in spite of all the overwhelming evidence it has been provided with – CKFT is still opting to continue with the 'colluding party line'. This is evident by both the style and contents of the letter which includes identical wording to a letter sent to me 6 months previously, 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…"*

Equal: more evidence of collusion between Ms Hathaway and CKFT

192. In a letter dated 15 July 2003 to West London County Court [166] 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

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

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 17 June 2003 LVT decision as follows:… Hence, by reducing the amount by a mere 24.18%, Steel Services - ***Martin Russell Jone****s 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

193. In a correspondence dated 17 July 2003 [167] 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"* [168] **(NB: As evidenced by the LVT determination, this is a blatant lie – and CKFT knew this)**.

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.."* [169] (**NB:** Thereby confirming again that the determination of the LVT is for the global sum

[167] Letter from CKFT to me, dated 17 July 2003
[168] Letter from CKFT to Judge Wright, West London County Court, dated 17 July 2003
[169] Letter from the LVT to CKFT, dated 21 July 2003

demanded and **therefore: the decision applies to every resident in the block**)

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

8.5 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-Ms Hathaway's *"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 David Pliener – selected by my then solicitors, Piper Smith & Basham/Piper Smith Watton) 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).

So, yet again, more costs incurred – all going back to Ms Hathaway's 17 July 2002 demand for £14,400

194. 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)

195. 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"* [170]

8.6 In other words – in spite of being fully aware of the position i.e. that its client and agent, Ms Hathaway, have not implemented the LVT recommendations - CKFT continues with its blackmail, intimidation and coercion tactics for the purpose of obtaining from me 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)

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

196. The fact that Steel Services / its agent, Ms Hathaway, did not appeal to the Lands Tribunal (which was the proper channel to follow) means that it accepted the LVT determination – following **its** own application to the LVT.

8.7 Yet, with the assistance of CKFT, Steel Services / its agent Ms Hathaway 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 L&T 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).

197. In its 7 August 2003 letter [171] , 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"

8.8 (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 / its agent Ms Hathaway DID NOT DO THIS. AND CKFT KNEW THIS.

8.9 CKFT – and by implication Ms Hathaway - were therefore continuing with their blackmail and coercion tactics, in the process aiding and abetting their client in 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 the 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)

198. 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***

[171] Letter from CKFT to Healys, solicitors, dated 7 August 2003

Summary Judgment against me (as detailed in the Courts' 'General Form of Judgment or Order', dated 25 June 2003)" [172]

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 / its agent Ms Hathaway 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;*
> *(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

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[172] My letter to Judge Wright, West London County Court, dated 9 August 2003

35 flats supplied by SSL-MRJ in their 7 August 2002 application to the LVT"

199. 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 [173]

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)**

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 on MRJ headed paper** for which in my case (and that of other Residents) the original sum demanded had been reduced by only 24.19%. This was therefore the same document that had been handed to me by Mr Silverstone, CKFT, at the 24 June 2003 hearing.

Please note that, on 6 July 2003, I had written to Ms Hathaway: *"At the West London County Court case management hearing on 24 June 2003 Mr Silverstone, CKFT, gave me the attached document on your firm's headed paper*

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

"Outstanding at 24 June 2003, flat 3, Original £14,400.19, Revised £10,917.27 – with no supporting document as to how this revised amount was arrived at. I disagree with this amount on the basis that my surveyor assesses the 17 June 2003 LVT decision as follows…" [174]

Six weeks 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 Joan Doreen Hathaway (nor Ms Ayesha Salim, CKFT) **to the meaning of a 'Statement of Truth'**.

200. **8.10 Both, Ms Hathaway and CKFT continued committing criminal offences against me**

In spite of having full knowledge of the situation – CKFT continues making false claims against me in court – with the active collaboration of Ms Hathaway – thereby leading to both continuing to commit criminal offences against me under the Theft Act 1968, the Criminal Justice Act & Public Order Act 1994, the Money Laundering Regulations / Proceeds of Crime Act 2002

Furthermore, as the documents supplied by Ms Hathaway and CKFT for the 26 August 2003 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 - Ms Hathaway (and CKFT) was therefore also continuing to commit offences against me under the Defamation Act 1996

201. 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 [175]

202. 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 fair and just 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.

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[174] My letter to Ms Hathaway, dated 6 July 2003

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

203. 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"* [176]

204.

9 STEEL SERVICES "WITHOUT PREJUDICE PART 36 OFFER"

205. On 19 October 2003 I had my **Witness Statement** hand-delivered to my then solicitors, Piper Smith & Basham/Piper Smith Watton. 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/Piper Smith Watton 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.

206. On 21October 2003 at **17h43** CKFT faxed Ms McLean, Piper Smith & Basham/Piper Smith Watton what it described as a ***"Without prejudice Part 36 offer"*** [177]**.** (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 redrawn and re-tendered**.**

Indeed, under point 16.07 the LVT wrote: "***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*"

While under point 16.07, it captured: *"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"*

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

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

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

in considering what orders it should make"

(Both Mr Twyman, Partner, Piper Smith & Basham/Piper Smith Watton, and my then Counsel, Mr Stan Gallagher, totally ignored my identifying this very important case). (I have made a complaint against both of them, as well as Ms Lisa McLean, Piper Smith & Basham/ Piper Smith Watton 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.

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* [i.e. Mr Ladsky] *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"*

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 [178]

207. 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 / its agent Ms Hathaway that challenged the LVT determination as evidenced by CKFT's 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 / its agent Ms Hathaway's 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…"* **(NB: !!!)**

"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!**).

"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*

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[178] My letter to Ms Hathaway, dated 9 October 2003

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"*

208. **9.1 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".*

209. **9.2 The approach used by CKFT, its client and agent Ms Hathaway is absolutely beyond belief:**

1. Try their luck at getting £14,400.19 from me - declaring, under a 'Statement of Truth', that the sum is due and payable. They fail 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 by 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 on 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"* [179]

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 filed 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…"* [180] whereas, in his Expert Witness report of 13 December 2002, Mr Gale states under point 3.05 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"*. [181]

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"* [182]

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'

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[179] 'Proof of Evidence of Landlord's Expert Witness (Surveyor) Brian Gale', dated 13 December 2002

[180] Letter from Joan Hathaway, Martin Russell Jones, to 'All Lessees', dated 26 March 2002

[181] Letter from Ms Hathaway, *"To All Lessees"*, dated 20 August 2002

[182] Letter from Resident G to Ms Hathaway, dated 3 August 2002

3. Try again by lowering the sum to £10,917.27 (24 June 2003 hearing). They fail because by then I had the benefit of the LVT proceedings.

4. Try again by lowering the sum (in July 2003) to £10,235.63 (1.956% of £34,849.00) – (and thus, continue to challenge the LVT's determination). They fail – 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 its client has implemented the LVT determination and I therefore owe this money

6. Eventually they make me an offer of £6,350 – which (i) **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) (ii) is **still** not supported by the year-end accounts – **and have the gall to say: *"and you owe interest!"***

210.

10 REPLY TO THE 'OFFER' AND CONSENT ORDER

211. 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 Richard Twyman, Partner, Piper Smith Basham/Piper Smith Watton 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 Piper Smith Basham/Piper Smith Watton 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 has been vindicated. See section below 'Back to square one')

As to the Notice Of Acceptance sent by Piper Smith Basham/Piper Smith Watton 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 Piper Smith Basham/Piper Smith Watton 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 2003, 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 Stan Gallagher was to the benefit of Steel Services - not mine).

212. From that time until mid December I battled with Ms McLean, Piper Smith Basham/Piper Smith Watton, 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 [183] 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 full and final payment of my share of the costs for carrying out all the major works at Jefferson House"*

- *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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183 My Notice of Acceptance to CKFT, dated 19 December 2003

213. **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, Ms Hathaway's and Mr Barrie Martin's overriding objective to get monies not due and payable

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.

214. As by **14 January 2004** CKFT had not acknowledged my correspondence of 19 December 2003 (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.

215. 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** [184].

216. 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"* [185]

217. 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"* [186]

218. 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*

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[184] Letter from Sheratte, Caleb & Co to CKFT, dated 16 January 2004

[185] Letter from CKFT to me, dated 27 January 2004

[186] My letter to CKFT, dated 16 February 2004

full and final settlement of the sums outstanding to it (**NB: This is intentionally very unclear**). *"Accordingly, we are presenting your two cheques for payment (total value £4,359.82)"* [187]

219. In a letter dated **27 February 2004** I asked CKFT to send me the Consent Order [188]

220. As, 3 weeks later it had not replied to my letter, I sent another letter dated **22 March 2004** asking for a reply [189]

221. 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"*

222. 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"* [190]

223. 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"*.

224. 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.

225. 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 [191].

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[187] Letter from CKFT to me, dated 17 February 2004
[188] My letter to CKFT, dated 27 February 2004
[189] My letter to CKFT, dated 22 March 2004
[190] Order from Judge Wright to CKFT, dated 21 April 2004
[191] Notice of hearing from West London County Court, dated 18 May 2004

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.

This hearing also concerned the 5th Defendant.

226. 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 [192]

227. 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

228. In its **26 May 2004** letter to me, 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"* [193]

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 Consent Order sent by Piper Smith Basham/Piper Smith Watton on 13 November 2003.

10.2 Typically, CKFT also continues with its blackmail tactics – including in its subsequent correspondence.

229. 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 Ms Hathaway and her client opted to totally ignore the LVT determination

230. As, due to the court's incompetence (captured in my letter of 20 June 2004 to West London County Court [194]), I did not attend the 28 May 2004 hearing, I obtained a transcript of it [195]

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[192] My letter to West London County Court, dated 19 May 2004
[193] Letter from CKFT to me, dated 26 May 2004
[194] My letter to West London County Court, dated 20 June 2004
[195] Transcript of the 28 May 2004 West London County Court hearing

As can be seen, the 5th Defendant did not attend either. Hence, the hearing took place between Ms Ayesha Salim, CKFT and Judge Madge.

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".* **(NB:** CKFT did not send me a copy of the skeleton argument. Hence, I have never seen it).

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 and its agent Ms Hathaway opted to totally ignore the LVT determination.**

10.3 By then it was nearly a year since the LVT had issued determination and Ms Hathaway 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 [196]

231. A **9 June 2004** Notice of Transfer of Proceedings [197] – 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"*

232. 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

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[196] Order from Judge Madge, West London County Court, dated 28 May 2004

[197] Notice of Transfer of proceedings from West London County Court, dated 9 June 2004

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*** *with the order captured under point #4 that the claim against me be* ***"stayed"*** [198]

233. 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…"* [199].

234. 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"* [200]

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 and its agent Ms Hathaway 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"

235.

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

236. 11.1 The method used by the 'colluding tripartite' comprising of Ms Hathaway, CKFT and Mr Brian Gale, as well as its client is evil and immoral

237. Based on the horrendous, nightmare experience that the 'colluding tripartite' comprising of Ms Hathaway, CKFT, and in to some extent Mr Brian Gale have made me go through in what is now the 4th year (and which has totally ruined my life over this period), 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

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

[199] Letter from Wandsworth County Court, dated 23 July 2004

[200] General form of judgement or order, Wandsworth County Court, against 5th Defendant, dated 2 August 2004

landlord-tenant disputes in this country. Including this explanation is highly relevant in the context of Ms Hathaway's actions and correspondence over the period – which must also include those of CKFT and Brian Gale - given the blatantly obvious collusion between them.

I have called this model the ***'Business Model of the Unscrupulous Landlord in 21st century GB'*.**

There are a number of critical elements in this model. One of this, which is of paramount importance, is the selection of so called 'professionals' (surveyors, lawyers, etc.) who will stop at absolutely nothing to ensure the implementation of the model.

Another key element is the invocation of *'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 (which also demonstrates that CKFT went into 'overdrive' as I was not caving in):

- 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' agent Ms Hathaway – 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 has 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"*

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201 Email from Resident C to the LVT, dated 20 October 2002

- 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"*

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"* [201] (**NB:** This resident nonetheless ended-up being listed on the 29 November 2002 West London County Court claim filed by Ms Hathaway).

238. **11.2 In the case of MRJ, CKFT and Brian Gale & Associates which, very clearly, are firms that will stop at nothing to assist their client in obtaining monies not due and payable, this approach is preceded by <u>'heavy blackmail, coercion and scare tactics' intended to cause alarm and distress by misrepresenting the correct legal position with the aim of frightening people into paying</u>:**

- Ms Hathaway's letter of 20 September 2002 to me: *"…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"*

- Ms Hathaway's letter of 5 August 2003 to 'All Lessees' **demonstrating total endorsement of, and support to CKFT's actions**: *"The vast majority of leaseholders have paid their contribution in respect of the works but there is a small minority who have no paid and this is delaying the implementation of the works. Solicitors acting on behalf of Steel Services Limited are actively taking action against the lessees in default in order that their payments are forthcoming…"* [202]

- CKFT's 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*

[202] Letter from Ms Hathaway to 'All Lessees', dated 5 August 2003

necessary"

- 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: *"…Your advisor informed you of the consequences of refusing to agree the Order…we will be seeking an order for our client's costs…"*

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

- **Mr Brian Gale** in his *"Expert report/Proof of evidence"* report, dated 24 February 2003:
  - "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"*
  - 5.06 – *"…aside from professional fees incurred in the contentious Tribunal proceedings…"*
  - 5.05 – *"The proposed process by Mr Brock of the amending and re-tendering procedure would be time consuming, expensive and entirely prejudicial to the majority of tenants…"*
  - 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"*

- 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"* (**NB:** Note how CKFT is picking-up on Mr Gale's point 5.07 in his 24 February 2003 report)

- 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, the 'colluding tripartite' client was desperate to prevent the case going to trial.

239. **11.4 Another approach used by the 'colluding tripartite', also in tandem with the above, is to <u>persistently ignore / deny from Day 1 statutory requirements</u> - 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:

- CKFT's 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 which did not comply with statutory requirements and, in addition, in spite of the fact that residents had been told by the LVT on 29 October 2002 to not pay the sum demanded until it had issued its determination

- Insisting at the 24 June 2003 hearing that a 24.19% reduction in the sum demanded fully reflected the LVT determination when, in fact, Ms Hathaway (as well as Mr Ladsky and Mr Gale) had attended the LVT hearings, as well as, of course, having a copy of the LVT determination – clearly demonstrating that this was not the case

- In spite of this knowledge, Ms Salim stated in the 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"*

- CKFT writing in the **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…"*

240. **11.5 Lying is a tactic heavily used concurrently with these various approaches**

241. There are countless instances of lies by the 'colluding tripartite' captured in this document. For example:

Ms Hathaway filing the 29 November 2002 **false claim in court** against me (and other residents) – under a 'Statement of Truth'

Ms Hathaway's letter to me dated **20 September 2002**: *"As other lessees have paid their contribution…"*

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

Even though she had done this, 2 weeks later, in 'her' 16 December 2002 letter to me she wrote: *"…the tenants in the block, the vast majority of whom have paid…"*

Ms Hathaway was making the same lie to other residents to also pressure them into paying e.g. letter to me from **resident F**, dated 1 November 2002: *"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… "*

This was the benefit of getting rid of the Residents Association: ability to 'spin' a different story to each lessee – made easier in this instance by the fact that most lessees live overseas. This had been the plan all along – and as such, **represents another key step in the successful implementation of the '*Business Model of the Unscrupulous Landlord in 21st Century GB*'.**

The **16 December 2002** letter sent to me under **Ms Hathaway**'s name: *"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 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".*

CKFT's so called "Part 36 offer" dated 21 October 2003: *"…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..."*

Not to mention **Mr Silverstone** and **Ms Ayesha Salim**'s actions in the courts.

Mr Gale under point 2.10 of his *"Expert report / proof of evidence"* report to the LVT dated 24 February 2003: *"…A copy of my Expert Report to the LVT…was sent, by first class post direct to Ms Dit-Rawé…. No response was received, nor at any time has any request been received from Ms Dit-Rawé for the documentation which, she alleges, she has not had an opportunity to see or study…"*

While under point 2.11 of the same report, Mr Gale wrote: *"I must say that I find the statements made by Ms Dit-Rawé's Counsel on 5th February 2003 astonishing…I felt that it is my duty to the Tribunal to explain very clearly, the procedure and the opportunities afforded to Ms Dit-Rawé throughout the entire procedure (from the receipt of Tenders back in April to 2002 onwards) to receive all, and any, documentation that she*

required to satisfy herself as to the position"

And many other lies made about me by **Mr Gale** e.g. also in his 24 February 2003 report under point 5.02: *"It would therefore appear… that only one lone tenant continues to make any representation or objection of the 35 tenants"*

11.6 Hence, all 3: Ms Hathaway, Mr Gale and CKFT have labelled me - to many parties - as a liar and as an individual who breaches contractual agreements

Of course, this is in addition to their client, Mr Ladsky e.g. captured under point 50 of the LVT report: "*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"*

242. **11.7 To these tactics are added harassment, physical threats and attacks on lessees, as well as attack on their property**

243. Under the Background section I have related some instances of harassment and intimidation that I and other residents have suffered from Mr Ladsky.

One example I have in terms of attack on lessees' property occurred on 11 March 2002. On my return from work at c. 23h00 I found water coming through the ventilator in my bathroom ceiling. On inspection, I determined that the water was coming from the radiator situated next to the lift on the floor above (i.e in the main entrance).

The decorative grill in front of the radiator had been dislodged leading me to suspect that this might be a malicious act. Luckily, practically all the water was coming down the other side of my bathroom wall – and therefore in the corridor. I called a plumber who managed to stop the leak. (The so call 'emergency number' on the door to the porter's cubicle defaulted to an answer phone in the porter's cubicle).

I did not leave a message on the answer phone and never reported this to Ms Hathaway. There was no damage to speak of.

Last summer I had an exchange of correspondence with Mr Moyle, Brian Gale & Associates, who wanted to get access to my flat. In his letter to me dated 19 August 2004, he stated: *"We understand that significant damage has occurred to your flat in the past where water has penetrated from leaking pipes…"* [203] **(*)**

The only time I reported damage to my bathroom from leaking pipes was 14 years ago i.e. in 1991. Although this cannot be excluded, I very much doubt that this is what Mr Moyle was referring to i.e. had been supplied with by MRJ - given its management record.

To this I replied on 23 August 2004: *"There has never been any communication from me to this effect. What is the source of your information? Is this perhaps something that I should be anticipating? Let me make it very clear that, if any damage occurs to my flat, I will, as appropriate, use all relevant correspondence and materials in support of my action"* [204]

There was no follow-up by Mr Moyle to my letter.

My comment: *"Is this perhaps something that I should be anticipating?"*

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[203] Letter from Mr Patrick Moyle, Brian Gale & Associates, dated 19 August 2004

[204] My letter to Mr Patrick Moyle, Brian Gale & Associates, dated 23 August 2004

stems from the fact that at the beginning of 2003, a non-resident lessee with, evidently inside knowledge, phoned me at work and asked me whether I had: received anonymous phone calls; had my door bell pressed in the middle of the night; suffered flooding in my flat; had my mail intercepted leading me to have a PO Box; been followed; had my apartment bugged / phone tapped. (The answer to all of these is: 'yes'). She then went on to say: *"Don't worry, they won't kill you"*.

(*) As can be seen in the correspondence, Mr Moyle claimed that he wanted to do a condition survey of my flat for insurance purposes in case damage was caused by the major works. This was a spurious claim. In my 23 August letter I asked him to: *"…provide me with a copy of the contractor's insurance as I need to ascertain that it will cover my contents and its internal parts"*. To this day, I am still waiting for it.

244. **11.8 And the business model entails adopting the same blackmail tactics with absolutely anybody who threatens the success of the scam**

245. To intimidation and harassment of residents, must also be added Nucleus, our local Citizen Advice Bureau we had approached for assistance in relation to the ownership of the block, as well as service charges. As per the arbitration clause in the lease, Nucleus suggested that we make an application to the RICS for an arbitrator.

Having a situation where residents get free advice is totally contrary to the ***'Business Model of the Unscrupulous Landlord in 21st Century GB'*** (the more they spend on advisors, the greater the likelihood that they will 'cave in' and pay the sum demanded). Consequently, 'Steel Services' took step to ensure that an end was put to this source of free advice. It did this by sending a letter to Nucleus, dated 14 November 2001, stating:

"We write in relation to an application made to RICS by you on behalf of [Resident A] and other tenants… We will of course be holding the tenants liable for any costs to which we are put as a result of their failure to properly consult with us on any matters that they wish to raise… We are seeking legal advice as to whether you may be liable, personally or as an organisation for this conduct and we will of course be writing to RICS appropriately… if you could give us an explanation as to why you are in fact dealing with this matter at all. It is our understanding that [Resident] and [Resident] are persons with substantial means…We cannot believe that your organisation was established for the purpose of assisting wealthy individuals … Should we not receive an explanation within seven days it is our intention to take this matter to the leader of the Kensington and Chelsea borough council, RICS and Mr Michael Portillo…" [205]

As can be seen under points 31 and 32 of the attached extracts from the draft document Nucleus, Citizen Advice Bureau, helped residents to compile for the intended referral to arbitration, it also suffered further harassment and intimidation [206]

*31. **13/11/01**: A Mr … phones to talk to manager of Nucleus / HASKC. Says that he is a freelance reporter. Refuses to state who has instructed him. Quotes Jefferson House 11 Basil Street. States HASKC is representing people with money. He is interested in running a story on this. Manager points out that HASKC represents people in Kensington and Chelsea who are vulnerable. Irrespective of race, sexuality, gender,*

[205] Letter from Steel Services to Nucleus, dated 14 November 2001

[206] Extract from draft document for intended referral to arbitration, prepared with the assistance of Nucleus, Citizen Advice Bureau; date: December 2001

religion, financial means, age. We provide impartial advice and are interested in rights not privileges

32. ***28/11/01****: a Mr Davies called Nucleus. He said he worked for Steel Services but refused to say in what capacity. Was very abusive to Ms Barlay, manager. He wanted to know why she was dealing with the case and said he would be referring her to the Law society. He was equally abusive to Ms Barlay's manager"*

Resident A (who is an elderly gentleman) paid the application fees and ended-up with his name on the application document.

Following on from this, Resident A received a letter from 'Steel Services', dated 2 January 2002 which, among others stated:

"The arbitration you have undertaken and which you have now suspended, or cancelled, has caused this company financial loss. Your appointment of an arbitrator where no dispute existed was inappropriate, frivolous and vexatious… This company has incurred legal fees amounting to £705… and surveyor fees of £881.. We require payment of the above amounts within fourteen days, failing which we shall take such appropriate steps as may be available to us, including issuing proceedings against you without further notice" [207]

As Resident A was not paying the sum demanded, in a letter dated 28 January 2002, Portner and Jaskel, solicitors, demanded payment of £1,337.50, stating: *"We are instructed to inform you that unless we are in receipt of the aforementioned sum by 4.00 p.m. on 31 January next proceedings shall be issued against you to recover further notice"* [208]

Within less than a month, Resident A received a claim from Central London County Court for £1,532.50, dated 26 February 2002 [209]

This claim was not justified, but his solicitor told him that it would cost as much as the sum demanded, if not more, to defend it so, he might as well pay.

The sena qua non of the 'Business Model of the Unscrupulous Landlord in 21st century GB', *'the costs'*, had worked! Landlord: £1,532.50 better off!

Comparing this letter with: (1) the 25 January 2001 letter sent to me (and other residents) by Mr Ladsky (enclosed); (2) the threatening letter sent by 'Steel Services' to Nucleus, the local Citizen Advice Bureau - they all display the most amazing similarity in style, layout and format suggesting that they are all from the same originator: Mr Andrew David Ladsky.

246. **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**

247. 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 courts.

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[207] Letter from Steel Services to Resident A, dated 2 January 2002

[208] Letter from Portner and Jaskel to Resident A, dated 28 January 2002

[209] Central London County Court claim from Steel Services, Freeholder, to Resident A, dated 26 February 2002

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. 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'*.

248.

12 BACK TO SQUARE ONE

249. As an introduction to the latest events, it is worth noting the following claims made by Ms Hathaway and Mr Brian Gale over the course of the last 3.5 years:

- **7 June 2001** letter from Ms Hathaway to 'All Lessees': ***"…works are now overdue*** *and it is planned to carry out a programme of refurbishment in accordance with the terms of the leases on the building in the near future… It is planned to commence the external refurbishment in the Autumn..."* (enclosed)
- **30 January 2002** email from Ms Hathaway to me: "*particularly bearing in mind the urgency of some of the required works"* (enclosed)
- **26 March 2002** letter from Ms Hathaway to me: *"… the roof has reached the end of its useful life and is leaking…* ***The roof must be attended to as soon as possible****… Considerable work needs to be undertaken to put the property into a substantial state of repair"* (She also stated in this letter: *"We and the head lessees are simply complying with our …obligations under the leasehold interest"*)
- **15 January 2003** letter from Ms Hathaway **to the LVT**: ***"The work is becoming more urgent*** *as there are continuing problems with the roof, lift and boiler. Due to the delay in implementing them the problem with the roof is now deteriorating and causing substantial damage to the top flats"* [210]

[210] Letter from Ms Joan Hathaway to the LVT, dated 15 January 2003

- Point 5.09 of Mr Brian Gale's **24 February 2003** *"Expert Report / Evidence of Proof": "Jefferson House…It is clear, upon its face, that* ***the building is in dire need of significant works*** *to bring it up to a more modern standard and a proper, fit and substantial state of repair"* (enclosed)
- **5 August 2003** letter from Ms Hathaway to 'All Lessees': *"The vast majority of leaseholders have paid their contribution in respect of the works but there is a small minority who have no paid and this is delaying the implementation of the works…****we will be able to advise you of a starting date in the near future****"* (enclosed)
- **26 March 2004** letter from Ms Hathaway to 'All Lessees': *"…the intention being that the proposed works* ***can be started as soon as possible****"* (enclosed)

Well, in spite of all these claims of *"urgency"*, *"leaking roof"* etc. and the admission 3.5 years previously that the works were *"overdue"* no action was taken until w/c 23 August 2004 when the scaffolding started to be put up.

The following must also be noted in Ms Hathaway's letter of 7 June 2001: *"Pursuant to the terms of the head lease and underleases…there is an obligation to carry out works to the property at the relevant time. These works are now overdue…"*. Hence, there has been prolonged breach of the repair covenant by MRJ. In fact, the last major repairs took place more than 12 years – obviously leading to considerable deterioration of the block and therefore greater cost of repair.

250. The reason for this is that, in spite of the conduct of West London County Court and Wandsworth County Court, Ms Hathaway'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:

- **On the same day** that the last resident capitulated i.e. 2 August 2004, Mr Barrie Martin sent a letter addressed to *"All the Lessees"* [211] 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".* Aside from expecting residents to calculate the impact of the VAT, Mr Barrie Martin has also omitted to state the addition of the management fee. I view this as deception, as the impact of both 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 Ms Hathaway and her client are absolutely intent on making residents pay for works for which they are not liable.

12.1 It is also clear from Barrie Martin's letter of 2 August 2004 that his firm 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

[211] Letter from Mr Barrie Martin, MRJ, to "All Lessees", dated 2 August 2004

been issued.

- **This has not happened because, not surprisingly, Ms Hathaway and Mr Barrie Martin did not see it that way.** Indeed, Ms Hathaway starts off her letter to 'All Lessees' dated 26 March 2004 with: *"We write further to the Landlord and Tenant notice sent to you on 15th July 2002."* She then continues with: *"Due to excessive delays in collecting the contributions…it has been necessary to commence renegotiations with the original contractor and other contractors"* [212].

12.2 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 – yet again!

I therefore do not even know what Mansells has tendered for – as I have not seen any document in relation to this contractor.

Even my 23 August 2004 request to Mr Patrick Moyle, Brian Gale & Associates – on which I copied Mr Barrie Martin – for a copy of the contractor's insurance policy has been ignored [213]

251. On 23 October 2004 I received an invoice from MRJ for £15,447.86 [214] which includes a *'Brought forward balance'* of **£14,452.17.**

12.3 There is no explanation whatsoever as to what the sum of £14,452.17 refers to.

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 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)

I had previously received an invoice from MRJ dated 24 May 2004 that stated *"Brought forward balance, £13,430.50"* [215] which, likewise, provided no explanation whatsoever.

Please note that, by then:

- CKFT had taken payment from me of the sum of £6,350 several months previously

- **I had informed Ms Hathaway of this in my letter to her dated 31 December 2003,** stating:

  "I have submitted to CKFT full and final payment of my share of the costs for carrying out all the major works at Jefferson House (£6,350.85). For your information, on 19 December I replied to CKFT that I accepted Steel Services offer of my share of the total costs for carrying out all the major works at £6,350.85. I enclosed payment of £4,095.78 (£6,350.85, minus £2,255.07 I had already paid). This was a NatWest cheque #1413. Also for your information, in the same correspondence sent to CKFT on 19 December, I also enclosed cheque NatWest #1414 for £264.04 in full payment of

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[212] Letter from Ms Joan Hathaway, dated 26 March 2004
[213] My letter to Mr Patrick Moyle, Brian Gale & Associates, dated 23 August 2004
[214] Invoice from Martin Russell Jones, dated 21 October 2004
[215] Invoice from Martin Russell Jones, dated 24 May 2004

electricity charges" [216]

252. **My view is that I do not need to pay this as Steel Services – Ms Hathaway currently hold a large amount of credit from me:**

- (By means of the Consent Order) I paid CKFT - Steel Services £6,350 for the 'major works'.
- Steel Services – Ms Hathaway opted to appoint Mansells to undertake the works but did not issue a new Section 20 Notice – which should have been 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 – Ms Hathaway have had from me (for nearly a year), they can only spend £250 on Mansells.

253. I had hoped that by now common sense would prevail over greed and arrogance which have been the driving force from Day 1 and that I would be left in peace. Not so. **Steel Services and its agents Ms Hathaway and Mr Barrie Martin want 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.

254.

13 MS HATHAWAY: A LONG-STANDING HISTORY OF DISHONESTY AND INCOMPETENCE

255. **I have highlighted in this document that Ms Hathaway and CKFT have threatened to bring to the attention of the court and of the LVT my withholding payment of service charges in the past. In particular:**

Ms Hathaway's 16 December 2002 letter to me: *"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 is a matter of some relevance to the LVT…"*

CKFT's letter to me dated 21 October 2002: *"If it becomes necessary for it to do so our client will also refer to your substantial delays in making payment 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 complaints now"*

It is indeed true that I have withheld payment of service charges over the years (initially, increasingly larger parts of my contribution to the management fees and eventually escalating this to the half yearly service charges). However, as I stated when previously highlighting the above letters, they conveniently ignored the reasons for my doing this.

As Ms Hathaway is obviously the originator of this claim, it leads me to have to include in this document evidence in my defence against her claim. **And what a defence! I literally have several files full of evidence.**

Below are just some examples of events that have led me to resort to withholding payment of service charges in the hope of putting pressure on Ms Hathaway, as the lessor's agent, to fulfil her contractual obligations – and to receive the service I am entitled to as contributor to the £10,000+ management fee she is charging residents for *'managing'* the block.

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[216] My letter to Ms Hathaway, dated 31 December 2003

(**NB**: The earlier examples took place at a time when the headlessor was Acrepost / Langhaven Holdings. However, as explained at the beginning of this document under the 'Background information' section, some of the then directors e.g. Mr Patrick May O'Connor also featured in the ownership profile when Steel Services was identified as the headlessor)

These examples highlight years of on-going 'battles' with Ms Hathaway, entailing an unbelievable amount of letter writing fighting-off her excuses, delaying tactics, as well as gross mismanagement.

All my 'battles' with Ms Hathaway have led to the need to involve / employ external parties. These parties have included, among others, the British Petroleum Pension Fund who was the freeholder at the time of some of my disputes with Ms Hathaway, as well as their surveyors Debenham Tewson & Chinnocks (over a period of one year); Citizen Advice Bureau. In addition, I have also had to resort to employing a surveyor.

These examples start with a recap of the more recent events which include additional information.

256. I have previously detailed in this document that I asked Ms Hathaway for a copy of the:

- **Certified 2002 year-accounts for Jefferson House** a total of **3 times** over the period from 9 October 2003 to 18 July 2004. To these must be added the request sent by Kensington & Chelsea Council, dated 25 June 2004, as well as my requests to CKFT.

- **Trust fund accounts** a total of **5 times** during the period spanning from 15 May 2003 to 18 July 2004. These include highlighting this in my letters to West London County Court on which CKFT was copied

and that, at the date of writing, **I am still waiting for my requests to be complied with by Ms Hathaway**. It means that MRJ is committing a criminal offence under Section 25 of the L&T Act 1985 - but, evidently, does not care.

13.1 Her non-compliance with my requests – and consequent criminal offences - leads me to conclude that Ms Hathaway has something to hide about both, the year-end accounts and the trust fund

257. It must also be noted that **in the past Ms Hathaway has also failed to comply with statutory requirements** e.g. her letter to 'All Residents', dated 30 January 1990 in which she states that she is enclosing *"…a copy of the audited accounts… for the year 31 December 1988"* [217]

258. **13.2 Ms Hathaway has been ignoring my requests for service charges since December 2003 leading me to suspect an intention to use Forfeiture law against me at the first available opportunity**

While I assume that the reasons Ms Hathaway has not complied with my requests to send me the service charges since December 2003 are:

(i) because she would have to send me the certified year-end accounts in support of the demand;
(ii) I have long since come to the obvious conclusion that the accounts do not reflect the demand for the major works

I also suspect an intention to use (the absolutely appalling and globally unique) Forfeiture law against me at the first available opportunity.

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[217] Letter from Ms Hathaway to 'All Residents', dated 30 January 1990

I have therefore *attempted* to guard against this, as can be seen from the following:

259. I sent payment of the ground rent on 31 December 2003 (as always, by **recorded delivery – which is the only way of communicating with Ms Hathaway, otherwise she will claim that she has not received the correspondence**) [218]

I also did this again in my correspondence to Ms Hathaway, dated 18 July 2004, in which I wrote: "*June-December 2004 ground rent – In my letter dated 31 December 2003 I pointed out to you that, although I had not received the half-yearly service charge demand – due in December – I was nonetheless sending you a £100.00 cheque in payment of the ground rent for period 25 December 2003 to 23 June 2004. You cashed this cheque on 9 February 2004. To date, I have not received the service charge for December 2003 – nor have I received them for June 2004. In spite of the fact that, (1) Steel Services has had £6,350 from me now for many months (2) the works have not started, as I did in December, I am enclosing cheque NatWest #1328 for £100.00 in payment of the ground rent for the period 24 June 2004 to 24 December 2004*" [219]

6 MONTHS ON and <u>my cheque for the ground rent has not been cashed</u>

260. Enclosed in the same correspondence as MRJ's 21 October 2004 invoice which includes a ***"Brought forward balance"*** **of £14,450** (with no explanation whatsoever), was a letter from Mr Barrie Martin, dated 5 October 2004, stating: *"We have been informed by the solicitors acting for the freeholders, Steel Services Limited that although the ground rent on your flat increased in September 2002 the increase was not sufficient to comply with the terms of your lease. This was because, unfortunately, the information given to us was not correct. Consequently to put matters right we have to ask you for an additional payment as set out on the enclosed demand"*.

Actually, it is true that my lease states that the ground rent would increase from £100 to £600 p.a. I had not paid attention to it. (It is buried at the back of the lease).

My view is that I do not need to pay this as Steel Services-MRJ currently holds a large amount of credit from me given that, as explained under the section 'Back to square one', MRJ did not issue a Section 20 Notice.

261. **13.3 What must be noted about the current situation is that it is <u>Ms Hathaway who is preventing me from making payment</u>**

262. **13.4 It required 4 letters from me over a 6 month period to obtain the December 2001 service charges. The replies from Ms Hathaway demonstrate an acute level of incompetence and cover-up**

263. - In my (recorded delivery) letter of **19 February 2002** to Ms Hathaway, I wrote: *"Please be informed that I have not as yet received my service charges for the period ending December 2001. I know that some other residents have received theirs"* [220]

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[218] My letter to Ms Hathaway, dated 31 December 2003

[219] My letter to Ms Hathaway, dated 18 July 2004

[220] My letter to Ms Hathaway, dated 19 February 2002

- In her reply of **25 February 2002** Ms Hathaway wrote: *"We write to inform you that the accounts for 2001 have not as yet been prepared as they have not been received back from the auditors and we would confirm that no residents have received any accounts"* [221]

- In my **2 April 2002** reply to Ms Hathaway I stressed the fact that in my 19 February letter I wrote *"service charges"* and *"not year-end accounts"*. As, in the past, an interim demand has been made before the completion of the audited accounts, I therefore expected to receive a demand. I state in my letter that I am nonetheless enclosing payment of the ground rent [222].

- **Ms Hathaway's reply of 3 May 2002 is a complete and utter muddle**: *"The reason we thought you meant the service charge accounts, as you said you had not receive the bill for the period ending December 2001. The bill that you received on the 25 December 2001 is for the period ending 23 June 2002. We enclose herewith a copy of the service charge demand"* [223]

Please, note the contents of Ms Hathaway's letter relative to what I had asked her in my 2 previous letters.

As can be seen from the enclosed, what she attached was an invoice stating *"Brought forward balance"* of £1,299.74 and an amount for electricity. **No other detail was supplied** i.e. no information as to the composition of the sum of £1,299.74. Yet, I had specifically told her that I had not received the demand in December 2001.

This led me to reply to her by writing on her **3 May 2002** letter, as well as enclosing copy of my previous correspondence to her [224]

In her **25 July 2002** letter Ms Hathaway continues 'spinning her own story' as she wrote: *"You said you did not receive your service charge and this I would assume was your demand for the service charges because you did not mention the word 'accounts'… In respect of your details of service charges for June 2001 to December 2001 I enclose herewith a copy of the demand that was sent to you"* [225]

It took all of this correspondence over a period of 6 months for me to finally get the December 2001 service charge demand.

264. **13.5 The electricity charges in the 29 November 2002 claim filed by Ms Hathaway in West London County Court were full of errors and included amounts for which Ms Hathaway had not, despite repeated requests, sent me an invoice – and still has not**

265. As can be seen from my defence to the claim, practically every entry relating to the electricity charges is wrong. **This is an example typical of the very sub-standard level of administration provided by Ms Hathaway**.

They also include amounts for which **I have never received an invoice** – **in spite of repeated**

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[221] Letter from Ms Hathaway to me, dated 25 February 2002
[222] My letter to Ms Hathaway, dated 2 April 2002
[223] Letter from Ms Hathaway to me, dated 3 May 2002
[224] My reply to Ms Hathaway, on her letter dated 3 May 2002
[225] Letter from Ms Hathaway, dated 25 July 2002

requests to Ms Hathaway. These were for the periods of 21 October 2000 to 18 January 2001, and 12 July 2001 to 21 January 2002.

266. **13.6 Comparing my electricity charges with that of friends has led me to conclude that I am being 'ripped-off' by Ms Hathaway and her client**

267. I started to withhold payment of electricity as, in Q4 (from 13 Oct 1999 to 17 Jan 2000) the standing charge **suddenly increased by 59%** to £19.96. It remained at this level for the next 17 months. It then increased in the next quarter ie. from 28 March 2001 to £20.68 - **making it a 64% increase** relative to Q3 1999.

When I contacted London Electricity in 2000 they told me that, rather than going up, the standing charge had in fact gone down.

In her reply of 3 August 2000, Ms Hathaway stated that what MRJ is charging me *"…is the figure that is charged by London Electricity"* She also stated that *"… the standing charge varies according to the period that the account covers"* [226]

She again repeated this in her 18 December 2002 letter: *"The actual standing charge on your invoice is based on the standing charge that is received and billed from London Electricity. When a bill is received from them it is for so many days and this is why the standing charge varies"* [227]

Having seen quite a number of London Electricity invoices from various people – this is certainly the basis on which London Electricity invoices the standing charge.

However, as supported by the evidence in my attached analysis covering the period from 10 July 1996 to 2 April 2003, **it has clearly not been the basis on which MRJ has been charging me for the standing electricity charge** [228] For example, it consistently charged me £12.58 per quarter for the period 2 July 19997 to 12 October 1999 i.e. nearly 2 years.

While the period covered is from 1996, **a similar pattern applies to the preceding period from 1989 when MRJ was appointed as managing agents.**

In her 18 December 2002 letter Ms Hathaway wrote: *"I would point out that the demand is not necessarily the date of the electricity standing charge"* [229] The point is, it **has to align** with the period for which consumption of electricity is charged. And these periods have varied. **Therefore, the amount of standing charge should, likewise, have varied**.

13.7 The evidence conclusively disproves Ms Hathaway's claim.

268. **13.8 10 times over a 3 year period I asked Ms Hathaway for an explanation of the sudden 59% increase in the standing electricity charge**

269. Given Ms Hathaway's replies of 3 August 2000 and 18 December 2002, on ***five* occasions** I requested copy of the invoices from London Electricity for the periods referred to above. These

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[226] Letter from Ms Hathaway to me, dated 3 August 2000

[227] Letter from Ms Hathaway to me, dated 18 December 2002

[228] My analysis of the electricity standing charge invoiced to me by Ms Hathaway, from 10 July 1996 to 2 April 2003

[229] Letter from Ms Hathaway to me, dated 18 December 2002

were on:

- 22 March 2003 [230]
- 15 April 2003 [231] - in which I also reminded Ms Hathaway that I still had not received an invoice for the periods of 21 October 2000 to 18 January 2001 and 12 July 2001 to 21 January 2002
- 15 May 2003 [232] - in which I, yet again, also reiterate my request for the invoices I never received
- 1 June 2003 [233] - in which I highlight that it is now the 4th time that I am requesting a copy of the invoices from London Electricity – and the 8th time I am writing about the issue of the sudden 59% increase in the standing charge
- 6 July 2003 [234] (on which I copied CKFT)

This is in addition to ***five* other occasions** when I raised this matter. My letters of:

- 10 July 2000 (to Ms Hathaway) [235]
- 10 September 2000 (to Ms Hathaway) [236]
- 6 May 2001 (to Ms Hathaway) [237]
- 17 October 2002 (to CKFT) (enclosed)
- 17 December 2002 (in my defence to the claim) (enclosed)

Therefore, this amounted to **a total of 10 times over a three-year period.**

270. True to form, in its 21 October 2001 letter to me, CKFT states: *"You have not paid the standing charge in respect of electricity charges and you are therefore in breach of your obligations under the terms of your lease"* (enclosed)

In the same letter, CKFT describes the amount I was disputing *"as very modest"*. This may be so but, over a period of several years this may represent a significant sum. Given the history of non-compliance with my numerous requests I concluded that in fact, it had to be the case that MRJ had been overcharging me - over a period of many years. And, indeed, comparison with other people's bills from London Electricity suggests that it is the case.

As I captured this history in my letters to West London County Court (22 June 2003, 15 July 2003 and 9 August 2003) – given that the demand for payment was part of the claim – this eventually led MRJ's accounts department to send me a copy of London Electricity invoices covering three quarters of year 2000 (correspondence dated 19 August 2003 enclosed).

Getting these invoices led me to discover that the electricity charge only applies to Steel Services' account with London Electricity, **not to the meter for each flat**. In other words, the electricity meter for each flat is under the control of Steel Services-MRJ. As I stated in my Witness Statement under point 33: *"Hence, while the explanation provided by MRJ is contradicted by the pattern of charging over the years, it seems that I have no choice: I have to resign myself to paying – once the Claimant has addressed the errors in its claim"*. As can be seen in my

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[230] My letter to Ms Hathaway, dated 22 March 2003
[231] My letter to Ms Hathaway, dated 15 April 2003
[232] My letter to Ms Hathaway, dated 15 May 2003
[233] My letter to Ms Hathaway, dated 1 June 2003
[234] My letter to Ms Hathaway, dated 6 July 2003
[235] My letter to Ms Hathaway, dated 10 July 2000
[236] My letter to Ms Hathaway, dated 10 September 2000
[237] My letter to Ms Hathaway, dated 6 May 2001

enclosed letter to Ms Hathaway, dated 31 December 2003, I paid all the electricity charges claimed of me.

Conclusion: Another 'rip-off' situation!

271. **13.9 Another example of dishonesty is found in relation to the insurance for the block – as well as evidence of mis-management.**

Myself and other residents first raised the issue of the insurance on the block through Nucleus, local Citizen Bureau. This led Ms Hathaway to reply to Nucleus in a letter dated 15 October 2001: *"…we would point out that there are two i.e. Building and Engineering and copies of both are enclosed"* [238]. In fact, as can be seen from the reply from Nucleus dated 29 October 2001 [239], what Ms Hathaway supplied as the 2nd document was an engineering survey for *"Pressure systems safety regulations, written scheme of examination"* i.e. not an insurance policy [240]

In my letter of 25 November 2002 to the LVT I wrote: *"The current sum demanded of £736,206.09 is nearly half the declared value of the building (document # 19 - Norwich Union insurance policy which gives a declared value of £1,785,000 at December 2000)"* [241]

In her reply of 16 December 2002 to this letter, Ms Hathaway stated: *"The insured value of the building is in excess of £3.5m and not as you state."* (enclosed)

As the Sun Alliance insurance document for 1989-1990 puts the value at £3.48 million [242] it indicates that the value of the block has not increased over a 12 year period. Given the property market over the period – and the fact that the block is located in Knightsbridge – this simply cannot be the case.

272. **13.10 Analysis of the insured value for the block over the last 12 years raises a very serious question about MRJ's handling of this aspect of its duties**

As can be seen from my enclosed analysis [243]:

- The insured value was increased from £3.48 million in 1989-90 to £4.87 million in 1991-1992 (an increase of 22%) [244] [245]
- The following year, it increased by 40% to £4.87 million
- 9 years later, in 2000 (for which the insurance period indicates a calendar year) it had dropped by 52% to £2.32 million (assuming that *"Day one Inflation value"* is the sum to be considered – as the *"Declared value"* is entered as £1.78 million [246]

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[238] Letter from Ms Hathaway to Nucleus, dated 15 October 2001
[239] Letter from Nucleus to Ms Hathaway, dated 29 October 2001
[240] Royal & Sun Alliance letter to Saxon Law, Pressure system… scheme of examination, dated 7 August 2001
[241] My letter to the LVT, dated 25 November 2002
[242] Sun Alliance Insurance for 1989-1990, start date 25 March 1989
[243] My analysis of the declared value of Jefferson House, October 2002
[244] Sun Alliance Insurance for 1991-1992, start date 25 March 1991
[245] Sun Alliance insurance for 25.03.87 to 24.03.88
[246] Norwich Union Insurance Policy Wording, period 12 months at 31 December 2000

- Based on Ms Hathaway's 16 December 2002 letter, the insured value then increased by 51% to £3.5 million over a 2 year period from 1999-2000. This means that the insured value is back to what it was 12 years previously, in 1989-1990.

What must be noted about the **'Norwich Union Insurance Policy Wording' document is that the post code for Jefferson House is wrong as it states 'SW1'.** The post code for the block is 'SW3 1AX'. Also, it is not a proper insurance document – not only as suggested by its title, but also by the fact that it is not on Norwich Union headed paper.

13.11 This leads me to have 2 very serious concerns: (1) Is the building actually insured? (2) Am I covered in case of damage to the parts of my flat not covered under my own home-contents insurance?

Maybe the explanation for the very erratic pattern in the declared value of the block is to be found in Ms Hathaway's letter of 16 December 2002 in which she stated: *"...the building…to some extent has come to the end of its useful life…"* (enclosed). Or maybe not as, in her letter to me dated 26 March 2002 she wrote: *"…a building of this quality…"* (enclosed)

It is amasing to note the changes which - according to Ms Hathaway – can occur to a block of flats over a 9 month period!

273. **13.12 Concurrently, the cost of the insurance captured in the year-end accounts leads to also question what is actually going on**

As can be seen from my attached analysis of the year-end accounts for the years 1992 to 2001 [247] which, not only shows an erratic pattern for the insurance premium, but also missing years for the 'so called' 'engineering insurance', as well as for the 'terrorism' insurance. (And these are not the only items leading to raise questions).

While the erratic pattern for the cost of the insurance premium suggests over-charging, evidence of this can be seen in the 'Norwich Union Insurance Policy Wording' document, dated *"12 months @ 31 December 2000"* which states that the insurance premium is £1,893.12, but the accounts for year-end 2001 state £3,455.54 – as can be seen in the enclosed [248] (while those for year-end 2000 state £3,050.31 [249]

274. **13.13 It took a 4 year battle, as well as the involvement of the then freeholder, British Petroleum and of their surveyors Debenham Tewson & Chinnocks (over nearly a year) to get remedial work done to the external wall in front of my window. Some years later, I had to resort to employing a surveyor (Frank Morris Associates) at a cost of £300**

275. It took **4 years of numerous letter writing for works to be finally carried out to the external wall facing my main window**. The cost of the works for all 4 basement flats was a pitiful £1,000

My letter to Mr Martin Walford, Langhaven Holdings, dated **20 June 1989**: *"I would like to bring to your attention… that I reported that the wall immediately facing the window was affected by a serious damp problem and that simply painting over it would be a waste of time… Indeed within 2-3 months the wall regained its unpleasant and ugly appearance. Can*

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[247] My analysis of the year-end accounts for the years 1992 to 2001

[248] 2001 year-end accounts for Jefferson House

[249] Year 2000, statement of charges

something be done about it..." [250]

Letter from Ms Hathaway to me, dated **17 August 1989:** *"…unfortunately, when Mr Walford wrote to us he did not send your letter…"* [251]. Why should Ms Hathaway need my letter given that Mr Walford had informed her of what I had reported? This was a delaying tactic.

276. **At this point I started withholding a quarter of my share of the management fees.**

My letter to Spyer Johnston Evans (now know as MRJ), dated **5 September 1989**: *"I am enclosing a copy of my letter to Mr Walford. Please note from appendix 4, my letter to PCB Management of 27 June 1987 that I had already highlighted the damp problem in the wall at the time… I have therefore complied with the terms of the lease agreement 'to notify the lessor as quickly as possible'…As, on the other hand, the lessor is not fully complying with the terms of the above mentioned agreement,* ***I am withholding payment of £20.24, representing a quarter of my contribution to the agents fees****… I am also withholding my full contribution of £18.76 to the stated costs of the entryphone until I get an answer from you to my questions."* [252]

Letter from Ms Hathaway to me, dated **15 September 1989**: *"…suggest we make an appointment to view the problem on 28 September…"* [253]

Letter from Ms Hathaway to me, dated **1 November 1989**: *"…we would inform you that the sum you are withholding of £20.24 is due for payment. We appreciate that you have problems with the front area, but as stated on our recent visit, we are arranging to deal with the various points but unless residents pay money, we will have insufficient funds with which to carry the work out"* [254]

My letter to Ms Hathaway, dated **18 October 1990**: *"…matter we have so far discussed on a number of occasions over the last 12-14 months: damp/corrective treatment to the outside wall in front of my main window. Last December/ January you told me that it could not be attended to because of the wet weather, but assured me that it would be dealt with during the summer... To this date nothing has happened. Evidently, the weather cannot be blamed, as we have had the longest dry spell, I think, since records began…"* [255]

Letter from Ms Hathaway to me, dated **4 January 1991**: *"…the reason why no action has been taken is there are various problems which are tied up with water penetration both into the basement area and into your flat…"* [256]

277. **As by then 7 months had gone by and all that Ms Hathaway had done was to give me excuses and use delaying tactics, in protest, I opted to increase the non-payment of my share of the management fees from 25% to 50%**

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[250] My letter to Mr Walford, Langhaven Holdings, dated 20 June 1989
[251] Letter from Ms Hathaway to me, dated 17 August 1989
[252] My letter to Spyer Johnston Evans, dated 5 September 1989
[253] Letter from Hathaway to me, dated 15 September 1989
[254] Letter from Ms Hathaway to me, dated 1 November 1989
[255] My letter to Ms Hathaway, dated 18 October 1990
[256] Letter from Ms Hathaway to me, dated 4 January 1991

278. My letter to Ms Hathaway, dated **2 February 1991**: *"In response to your long awaited answer of 4 January to my faxes of 18 October and 5 November 1991…I cannot help feeling that your comments amount to yet, another delaying tactic… And patient I have been… I strongly suspect that the true reasons why no action has been taken are cost, and the fact that the expense would primarily be for my own benefit. These reasons would of course be in breach of the terms of my lease. Additionally, I would remind you that I contribute to expenses such as those for the lift and video entryphone from which I derive absolutely no benefit. Finally,* ***as I am only getting partial service from you, the enclosed cheque excludes payment of 50% of my contribution to the annual management fees, or £66.50.*** *When I did that last year,* ***you tricked me into paying*** *it by promising that you would deal with the outside wall at the latest by the summer. I will not be tricked again this year. The outstanding £66.50 will be paid to you on the first day that the work starts…"* [257]

Letter from Ms Hathaway to me, dated **4 April 1991**: *"…we would inform you that we have now received the estimate for undertaking the work… we are looking into the question of whether the entire external redecoration is due this year… our client is not bound to decorate one area separately… although in view of the problems that are being experienced by you, he is prepared to consider this accordingly. We trust that we will be able to come back to you within the next three weeks…"* [258]

By then it was **nearly 2 years since Ms Hathaway had been made aware of the problem** – and during which she had made promises she had not kept. I had attempted to put pressure by withholding payment of my share of the managing agents fees but, to not avail.

279. **13.14 I lost my patience and wrote to the then CEO of British Petroleum for his assistance as BP Pension Fund was the freehold owner at the time.**

He gave me a contact in the investment department to whom I wrote a letter on **28 April 1991** in which, among others, I stated: *"As you can see form the weighty enclosures, getting anything done is a struggle that uses up a lot of my precious little free time writing endless letters. In the case of the damp proofing in the kitchen, I even had to resort to using a solicitor (over £100 in cost) to get the work done…I am sure you will understand my feeling that after more than 4 years of excuses and battling I am getting rather tired of the whole thing. Also, that it is not unreasonable to expect service from a company who, in the last year, has been charging us £6,800 in management fees"* [259] I copied MRJ on this letter.

This led to Ms Hathaway to write in her letter to me dated **13 May 1991:** *"…the external redecoration specification for the entire block has now been drawn-up… we would confirm that this includes treatment to all four basements and lightwells…"* [260]

280. **13.15 British Petroleum asked its surveyors, Debenham Tewson & Chinnocks to get**

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[257] My letter to Ms Hathaway, dated 2 February 1991
[258] Letter from Ms Hathaway to me, dated 4 April 1991
[259] My letter to Mr Brian Tisdall, BP Finance, dated 28 April 1991
[260] Letter from Ms Hathaway to me, dated 13 May 1991

involved

281. In their **5 June 1991** letter to me they reported that Ms Hathaway had informed them that the specification was *"currently out to tender"* [261].

Indeed, Ms Hathaway finally obtained an estimate for the works. The cost for doing the works – to the 4 basement areas - was £1,000. In my letter to Ms Hathaway, dated **10 June 1991**, I wrote: "*All this hassle for £1,000? …So, over the last 4 years I have wasted hours of my precious free time writing numerous letters to get work done that will cost £1,000? All this hassle, countless excuses, for that? I am appalled, but glad to know that at long last the works are going to be carried out – thanks to Mr Tisdall of BP!"* [262]

I replied to Debenham Tewson & Chinnocks on **10 June 1991** highlighting a second problem (which I had brought-up to Ms Hathaway's attention), the fact that damp had reappeared in my kitchen [263] I also copied MRJ on this letter, including the photographs I had taken to show the problem.

282. **13.16 To prove that my withholding payment of the service charges was solely due to Ms Hathaway's non-performance of her obligations, I opened a special account in which I placed the sums I was withholding**

283. Given my previous experience with Ms Hathaway, I opted to continue withholding payment until the works had been carried out. And, to show that this was not motivated by an intention to not pay my service charges, I opened a special interest bearing account. This is captured in my **17 July 1991** letter to her to which I attached confirmation by my bank [264].

In this letter, I stated, among others: *"I acknowledge receipt of your invoice… Clearly, you expect a considerably faster response rate from leaseholders than that under which you operate. Given that no work of any kind has yet taken place since my letter of 28 April 1991 to Brian Tisdall, BP Finance… I have decided to adopt your policy: ignore your correspondence. However, as proof that the money owed is available and payment entirely dependent on the leaseholders performing their contractual obligations, I have asked my bank to open an interest bearing account, with immediate access, in which I have deposited the sum of £634.15 (see attached). This amount, and any interest accrued will paid to you when the damp problem in the wall outside my window and in my kitchen ceiling has been dealt with satisfactorily…"*

284. To this, Ms Hathaway replied on **23 July 1991**: *"We would point out that the withholding of service charge and ground rent cannot be condoned…"* [265]

To which I replied on **6 August 1991**: *"I find your comment ... rather rich. You seem to conveniently overlook the reason why I am withholding payment, which is a failure on your part as the lessors' agents to fulfil your contractual obligations (whilst throughout I have been fulfilling mine). If anybody has a right to 'not condone', it is me – not you! And I am doing this by not paying the service charge. I have had enough of the extremely poor service and incredible hassle to get anything done!*

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[261] Letter from Debenham Tewson & Chinnocks to me, dated 5 June 1991
[262] My letter to Ms Hathaway, dated 10 June 1991
[263] My letter to Debenham Tewson & Chinnocks, dated 10 June 1991
[264] My letter to Ms Hathaway, dated 17 July 1991 including NatWest confirmation of new account
[265] Letter from Ms Hathaway to me, dated 23 July 1991

I have reached the stage when I am now prepared to write to my local MP, as well as to the central government department currently looking at the possibility of people buying the freehold on their property in order to give my experience as evidence of the plight of leaseholders…Since 1987 i.e. for the last 4 years I have been asking for the nth time for the outside wall attended to…You cannot condone what I am doing? Believe you me, nor can I condone the above from you and your predecessors when, over the years, you have been charging us thousands of pounds in management – or more to the point 'mis-management – fees…" [266]

285. In her **3 September 1991** reply Ms Hathaway states MRJ were not managing agents in 1986 [267]. True, but by then MRJ had been appointed for more than 2 years – and the works were still outstanding – as I captured in my reply to her dated 6 October 1991 [268].

As I stated: *"However some can, hence the reason why my extreme exasperation, and by now anger, are equally directed at you, is that I can see no difference in the quality of service I have so far received from you, from that of your predecessors. Namely, I still have to waste my precious little free time writing countless number of letters, copying them and sending them to numerous parties to increase my chances of, after months, and sometimes years, eventually getting the service to which I am entitled… This was more than 2 years ago. What has been done to the wall since then? ABSOLUTELY NOTHING!"* [269]

In this letter I also give two other examples: one entailing a delay of so far 8 months, with nothing happening; another which amounts to 15 years (**NB:** Yes, 'years') of fighting (damp problem in my kitchen).

286. By **October 1991**, no work had yet taken place. So, once again I was back to asking British Petroleum and Debenham Tewson & Chinnocks for their assistance. In their **17 October 1991** reply Debenham Tewson & Chinnocks wrote: *"…I have written to Ms Hathaway asking her to up-date me on recent developments and her proposals for any remedial work…"* [270]

As evidenced in my letter to Ms Hathaway dated **19 January 1992** [271] nothing had been done by this date. And nothing was done for another long period of time.

What was eventually done was a complete waste of time: the damp was merely painted over. Hence, within a month, the damp was again coming through. In addition, large parts of the wall had not even been painted.

287. **Given this blatant incompetence and evident lack of control by Ms Hathaway over the quality of work of contractors, I opted to employ a firm of chartered surveyors** (Frank Morris Associates) to have works outside my windows redone to a reasonable standard. During the site visit Ms Hathaway displayed considerable aggressiveness towards Mr Everett B.Sc. ARICS during the site visit. Her first sentence was: *"Well, what's wrong with it then?"* **(And Ms Hathaway puts 'BSc MRICS' after her name!)**. The fact that Ms Hathaway

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[266] My letter to Ms Hathaway, dated 6 August 1991
[267] Letter from Ms Hathaway, dated 3 September 1991
[268] My letter to Ms Hathaway, dated 6 October 1991
[269] My letter to Ms Hathaway, dated 6 October 1991
[270] Letter from Debenham Tewson & Chinnocks to me, dated 17 October 1991
[271] My letter to Ms Hathaway, dated 19 January 1992

had the work redone proves the point: the works had not been done properly.

In other words, I ended-up having to pay somebody (at a cost of £293 [272]) to ensure that Ms Hathaway performed the duties I was paying her for in the first place.

288. However, even though I had employed Mr Everett, it nonetheless **entailed well over a year of battling and chasing** as evidenced by my letter of **6 May 2001** to Ms Hathaway: "***One year on*** *and this is still outstanding.* ***I have been withholding payment of my charges in protest…*** *I have deducted the sum of £293.75 for Frank Morris Associates (invoice attached), the firm of chartered surveyors I was eventually forced to employ in order to get the external works (1) carried out; (2) to a reasonable standard. (As you know, I have correspondence to back this up, not to mention, of course, the firm of Frank Morris Associates)"* [273].

289. **NB: It should be noted that other parties have also highlighted mis-management of the property (which, of course, has also been denied by Ms Hathaway):**

13.17 In its February 2002 condition survey of the lift J Bashford & Associates reported mismanagement of maintenance: non-performance of 3 consecutive routine visits; unavailability of service records, health & safety tests, insurance

From its report [274]:

- *"… we are of the view that numerous items detailed herein should have been undertaken by the incumbent maintenance contractor*
- *No copy of the current insurance company reports were available*
- *There was no documentation for tests and examinations to comply with the (now superseded) Health and Safety executive guidance Note PM7 1982*
- *Although the on-going site log card advises of the annual tests to comply with the current Safety Assessment Federation Guidelines on the Thorough Examination and Testing of Lifts 1998 during June 2001, there was no documentation available. Therefore we recommend the lift be subject to a full series of 10 yearly tests and examinations to meet the new guidelines*
- *No copies of the lift maintenance contractors service reports were available*
- *The lift maintenance contractors on-site log card was available indicating preventative maintenance visits during the proceeding 12 months period*
- *We are given to understand that the current lift maintenance agreement includes 12 visits per annum. The last recorded maintenance detailed within the on-site log card was 11 October 2001, consequently the routine visits on November, December 2001 and January 2002 appear to have been missed. The incumbent maintenance contractor should be approached to explain this oversight and advise on an any financial recompense due to the client"*

I included extracts from the J Bashford report in my 16 September 2002 letter to Ms Hathaway, stating that these findings: *"contradict your statement that "the lift is maintained on a regular basis"*

290. **Other battles also continued in order to get other works done** (as captured in my **19 January 1991** letter to Ms Hathaway) – including requiring the continued assistance of Debenham Tewson & Chinnocks. (Leading me to continue withholding payment of my service charges as can be seen for example in the summary of services I captured in June 1992 and on

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272 Invoice from Frank Morris Associates, dated 18 February 2000

273 My letter to Ms Hathaway, dated 6 May 2001

274 J Bashford & Associates condition survey of the lift, dated February 2002

which I wrote to Ms Hathaway: *"The amount outstanding for the June 1992 period of £611.11 will be deposited with the rest of the outstanding service charge on the Special Reserve account I opened specially for this purpose…"* [275])

On **11 February 1994**, the head of the Residents Association also put pressure on Ms Hathaway to get works to my flat carried out: *"It was strongly felt that action should be taken to rectify the damp penetration in flat 3, in view of the very long delay that has arisen"*. [276] What is also noted in this latter is the lack of expertise of the proposed contractors: *"… a question has therefore been raised as to the accuracy of the diagnosis and the risk that the recommended treatment might not prove effective"*

These on-going battles meant that I continued to use the (ineffectual) tactic of withholding payment of service charges – as evidenced by a letter from Ms Hathaway to me, dated **8 September 1995**: *"We must inform you now that unless payment is made by return, our clients will have no alternative other than to take the matter further as there is no reason why the sums should not be cleared"* [277]

My **17 September 1995** hand-written reply on her letter reads: *"I really wish your company had shown the same haste in dealing with works required in my flat as it is showing in requesting payment. It is more than 5 years since I reported the damp reappearing in my flat. However, I am not going to let the matter drag on. I plan to send you a cheque covering all outstanding service charges with a covering letter on my return to the UK w/c 2 October"*

As promised, I did this in my letter dated **16 October 1995**: *"Works to all the areas I had brought to your attention over the last 5 years have indeed been carried out…On this basis, and trusting that the works have been carried out in a manner and to a standard that one would expect from professionals qualified in carrying out this type of work, I am happy to enclose a cheque for £5,598.60…"* [278]

Unfortunately, as is evidenced above and below this point, not all the works had been carried out properly. So, after a short respite, the battle re-started.

291. **13.18 A similar long-running battle took place in relation to wet rot in one my windows, eventually also leading me to employ a surveyor**

292. Actually, it is best described as 2 long-running battles as, when it was eventually addressed the first time, it had not been done properly, leading to the need to replace half the window in 1998-1999.

I first reported the problem of wet rot in my main window to Mr Walford, Langhaven Holdings, in my letter dated **20 June 1989**: *"I would like to bring to your attention the fact that…my main window is affected by wet rot and this is causing disintegration of the window frame…"* [279]

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[275] My summary of service services at 30 (?) June 1992 with note to Ms Hathaway

[276] Letter from the head of Jefferson House Residents Association to Ms Hathaway, dated 11 February 1994

[277] Letter from Ms Hathaway to me, dated 8 September 1995

[278] My letter to Ms Hathaway, dated 16 October 1995

[279] My letter to Mr Walford, Langhaven Holdings, dated 20 June 1989

Some 2 years+ later, work carried out comprised fitting a splash back to prevent the water from getting on the window. In fact, this made matters worse.

The second time, I first reported the problem in **March 1997**. I chased Ms Hathaway in a letter dated 26 August 1997, stating: *"I have yet to hear from the builder…It is now 5 months since I brought this matter to your attention i.e. March. When I contacted you again in May… your excuse for lack of contact was that I had been away on holiday. I had been on holiday for 2 out of 5 weeks… I have now been back for 16 weeks or nearly 4 months. What is the excuse this time? Why is it Ms Hathaway that every single time I ask for repairs to be carried out to my flat which, under the terms of the lease the lessor is bound by law to have carried out, I have to ask for it times and times again?"* [280].

The work was carried out in **October 1997** and hence 7 months after reporting the problem which, for Ms Hathaway, is definitely a record. However, the workmen only put a coat of primer – no paint. I brought this to the attention of Ms Hathaway (who quite clearly had not checked the work done). I sent her a chasing letter on **26 April 1998** [281] In her letter dated **16 June 1998** she apologised for *"the contractor not re-attending the site despite numerous chasing by us"* [282]. By then, 8 months had elapsed since the part of the window frame had been replaced.

293. **13.19 Another example relates to Ms Hathaway waiting 26 days to deal with a leak in my bathroom ceiling, leading to significant damage and leaving me without electricity in the bathroom over the Christmas break. It took 6 months for the damage to be addressed**

On **3 December 1991** I reported to the porter that I could hear water dripping in my bathroom ceiling and that damp patches had appeared over a 24 hour period. I confirmed this in my letter to Ms Hathaway dated **8 December 1991**. I asked her what action had been taken [283] A week later, I again reported to the porter that I could still hear water dripping in my bathroom ceiling.

On **29 December**, water started dripping through one of the light fittings in my bathroom. The porter discovered that the water was dripping from the overflow of the toilet in the flat above. It took a whole day for the plumber called by Ms Hathaway's office to eventually turn up – thereby making me waste a whole day of my annual leave – in addition to causing me considerable stress and anxiety as I did not know whether the leak might suddenly get a lot worse.

For 26 days no action had been taken by Ms Hathaway – resulting in considerable damage to my bathroom for which an insurance claim had to be made.

As the ceiling was soaking wet, the light fitting had to be removed. It meant that I was left without electricity in my windowless bathroom over the entire Christmas break.

I captured the events in my letter to Ms Hathaway, dated **19 January 1992** (enclosed) in which I stated, among others: *"I hold you personally responsible for all this aggravation, the stress and anxiety that I have suffered because **IT WAS DUE TO YOUR FAILURE TO ACT**…In spite of all of this, **NO ACTION WAS TAKEN**. No plumber was called in to investigate the cause of the*

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[280] My letter to Ms Hathaway, dated 26 August 1997
[281] My letter to Ms Hathaway, dated 26 April 1998
[282] Letter from Ms Hathaway to me, dated 16 June 1998
[283] My letter to Ms Hathaway, dated 8 December 1991

dripping… what I cannot accept is your failure to act once the problem has been reported…Because of your inertia considerably more damage has been caused than would otherwise have been the case: the ceiling was soaking wet which led part of it to crumble… I cannot take any more of the distress that your failure to act is causing me… To conclude Ms Hathaway, as far as I am concerned, ***your contract in relation to Jefferson House should be terminated immediately****… Furthermore, I will seek advice in relation to financial compensation for the distress, aggravation, loss of enjoyment of my flat, waste of my spare time writing countless letters that your failure to act has caused me, and is still causing me, and for having totally ruined a day of my annual leave. Yours, who has now run out of patience"*

13.20 As has happened since August 2004, when the 'heat' got too much for Ms Hathaway, the other part of the 'double act', Mr Barrie Martin stepped on the scene.

In his 21 February 1992 letter Mr Martin states, among others: *"When you called in the caretaker to see the water stains… it was not considered by him serious at that time and he told us so"* [284] As though the porter was qualified to give an opinion. **Unbelievable!**

He also states: *"It was not known of course that there was any build-up of water above the ceiling…"* When water is heard dripping constantly for more than 3 weeks into a ceiling, it does not require that much intelligence to arrive at the conclusion that it is obviously accumulating on the upper surface of the ceiling. **(And Mr Barrie Martin has 'FRICS' after his name!)**

Yet again, this episode led me to require Debenham Tewson & Chinnocks' assistance, as can be seen in their letter to me of **19 March 1992** [285] This was the only way I could put 'some kind' of pressure on Ms Hathaway. I was lucky that, at the time, the freehold owner was the British Petroleum Pension Fund and, being a very decent company (it was under no obligation to help me), asked its surveyors to assist me – no doubt, at some cost to BP considering that Debenham Tewson & Chinnocks started to get involved in June 1991.

This led to a letter from Ms Hathaway to me, dated **24 March 1992** that the insurance company had agree to the repair to my bathroom ceiling. This was eventually carried out in **June 1992**. Hence, 6 months after the damage had occurred.

Evidence of not only my decency, but also of my recognition of good service, is the fact that, in spite of the previous 3 years of constant battling with Ms Hathaway, on 3 June 1992, I sent a fax to Mr Martin in which I stated: *"Just to let you know that Mr Child has done an excellent job in redecorating my bathroom ceiling"* [286]

294. **Now, please: consider the events related in this main section against the threat made by:**

Ms Hathaway in her letter to me dated 16 December 2002: *"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 is a matter of some relevance to the LVT…"*

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[284] Letter from Mr Barrie Martin to me, dated 21 February 1992

[285] Letter from Debenham Tewson & Chinnocks to me, dated 19 March 1992

[286] My fax to Mr Barrie Martin, dated 3 June 1992

And the threat made **by CKFT** in its letter to me dated 21 October 2002: *"If it becomes necessary for it to do so our client will also refer to your substantial delays in making payment 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 complaints now"* – for which Ms Hathaway was obviously the originator.

And Ms Hathaway has the letters **'M.R.I.C.S'** after her name, while Mr Barrie Martin has **'F.R.IC.S'!**

- END - **(NOTE: Page 119 to 124 = Contents page)**