

Mr Richard Berns, Senior Partner
Mr Ian Skuse, Complaints Officer
Piper Smith & Basham
31 Warwick Square
London SW1V 2AF

Ms Noëlle K-Dit-Rawé
3 Jefferson House
11 Basil Street
London SW3 1AX

(By special delivery)

Ref: LM.R360/1

2 December 2003

Dear Sirs

In her letter of 1 December 2003 I received today as an attachment to an email, Lisa McLean suggests that if I have a complaint I should address it to you Mr Skuse. Mr Berns, as I understand that you are the firm's Managing Partner, I am opting to also address this letter to you.

My objective in writing to both of you is to ensure that the matter is rightfully resolved, in a professional manner.

As I assume that you have not heard about my case, in order to highlight the issues I am also providing details of events.

1 I opted to employ your firm due to a strong recommendation by Mr []

Before I get on to the details of the matter, I feel it is important to relate the circumstances which led me to employ your firm.

I had a County Court hearing scheduled on 26 August. Although I had successfully represented myself at a previous hearing (on 24 June), my lack of knowledge of the legal terminology and procedures led me to feel that I needed the assistance of a solicitor in order to help me pursue my case.

I asked my , whom I have known for many years and in whom I have the utmost trust, whether he knew of a solicitor dealing in leasehold property matters. He mentioned your firm, in particular, Mr Mark Spash, and said to be delighted with the quality of advice and level of service he was receiving.

As I had previously been approached by your firm on behalf of two residents, and had also met Lisa in this context at the Leasehold Valuation Tribunal in April where she came across to me as 'fighting her corner' on behalf of her clients – I concluded that I had found the 'right firm' to assist me.

I therefore started the relationship on the basis of complete trust – convinced that your firm would only act in my best interest. Sadly, a series of events have led me to now be at the opposite end of the spectrum.

2 Background information to my case which is a service charge dispute for major works

2.1 Based on the date of relevant documentation, the starting date for the case is 7 June 2001. As you can imagine, a lot has taken place during that time. I attach the witness statement I prepared for the County Court hearing as it provides a good summary of the case ¹.

3 The issue for which I require your assistance is the fact that the documents sent by Mr Twyman to CKFT in reply to Steel Services' offer do not reflect what was agreed – and need to be corrected accordingly

¹ My Witness Statement, dated 19 October 2003

- 3.1 I had my witness statement hand-delivered to Lisa first thing on 20 October. Twenty-four hours later, CKFT sent your firm what they described as a "Part 36 Offer"²
- 3.2 On 28 October, Lisa, my surveyor, Mr Tim Brock, and I met with Mr Gallagher to discuss the offer. In preparation for the meeting, Mr Brock had produced a summary of his assessment of the offer (and gave a copy to both, Lisa and Mr Gallagher). One of his key concerns was the fact that, although more than four months had elapsed since the 17 June report by the LVT, the **lack/ insufficient specification on items amounting in total to £144,745.87** (exc. VAT and management fees) - which had prevented the LVT from coming to a decision on these items - had still not been addressed³. This was of great concern and discussed at length during the meeting. It was agreed that this would be included in the reply - as Lisa captured in her attendance note⁴:
- "In the covering letter if we were to accept the offer we would say that we were not happy that the specifications remain unchanged and the LVT had commented on the same fact, there had been no re-tendering of any sort, the matter had stayed with the same contractor etc etc.."*
- 3.3 Also at the meeting, in relation to the **interest charge of £143.49**, Mr Gallagher said that this could not be charged as the works had not yet started.
- 3.4 What troubled me during this meeting – and which I expressed to all three attendees - was disregard of the fact that I had ended-up in this situation through no fault of my own other than posing the following question to Martin Russell Jones (MRJ)-Steel Services (SS): you want £14,400.19 from me. What are you going to spend it on? I also added that, among the consequences of my asking the question – and wanting a reply - I had: suffered harassment, intimidation and, on one occasion assault; **received a threat to forfeit my lease for non-payment**. Lisa said that she was *"writing this kind of letter everyday"*. (She had previously written to me that it was *"perfectly legitimate"* for SS to do this (CKFT letter of October 2002)).
- 3.5 I also felt under quite a lot of pressure to 'get it over and done with'. On two occasions Lisa repeated what she had already told me 2-3 times previously: *"If you go to a hearing and the Court decides that the amount you have to pay is just £1.00 more than the offer, then you will have to pay for SS costs"*.
- 3.6 On these previous occasions I had replied that because of the lack/insufficient specification identified by the Tribunal (and initially by Mr Brock) it could not be determined what, if any of this amount was actually due by residents. Consequently, if the Tribunal could not determine the reasonableness of the sum demanded for these items, how could the Court rule that I owed even £1.00 more? (As detailed in my letter of 7 November⁵, SS's offer includes the sum of £1,735.74 representing my 1.956% share of these items + VAT and management fees).
- 3.7 (Lisa also has on file several of my letters to the Court in which I explained the issue).
- 3.8 Yet, in spite of this, and of, yet again, being presented with this evidence by Mr Brock at the meeting, Lisa chose to ignore this fact, repeating the same thing in, what I view, as an attempt to put pressure on me.
- 3.9 This evident lack of support for my case – (a perception reinforced by previous events, in particular the handling of the '20C order application' – a matter which, if you wish, I would happy to discuss in a separate correspondence) led me to say that I would be seeking additional advice. While I felt that the situation ought to be handled differently, both, my lack experience of this type of situations, as well as lack of knowledge of legal matters prevented me from challenging the discussion.
- 3.10 On Thursday 6 November around 13h00 I left a message on Mr Twyman's voicemail to let him know that I would have my reply hand-delivered to him first thing the following day – which I did. (The courier's log shows that receipt of my letter was signed at 9h00). This left five working days to the deadline of 13 November.

² CKFT – Steel Services 'Part 36 Offer'

³ Mr Tim Brock's assessment of 21 October SS revised costs

⁴ Lisa McLean, attendance note, 28 October 2003

⁵ My letter of 7 November 2003 to Mr Twyman

- 3.11 On Tuesday 11 November I phoned Mr Twyman asking about the status of the situation. He was extremely curt with me and refused to discuss my reply - other than say "you have rejected their offer". When I tried to explain, he said that he did not have the time to discuss. He said he had just sent my letter to Mr Gallagher and hoped that "he will have the time to look at it".
- 3.12 In light of this, I phoned on Wednesday 12 and was told that Mr Twyman was out of the office all day. I tried to speak to his secretary. She was unavailable. I left a message asking her to phone me back. She did not.
- 3.13 Thursday 13 – the day of the deadline. I did not know whether Mr Gallagher had looked at my reply and did not know whether Mr Twyman would again be unavailable. Because of this uncertainty, I opted to contact Mr Gallagher directly explaining my reasons for doing so: the events of the last two days. I made this contact by fax, and also faxed my letter to Mr Twyman (and Mr Brock).
- 3.14 I will specify the time at which I sent the faxes as this will become relevant in a latter point (#3.26). The time was: 9h11 to Mr Gallagher; 9h26 to Mr Twyman (and 9h15 to Mr Brock). Because the fax machine had not been reset to winter time, all showed the time as being one hour later.
- 3.15 When I accessed my emails, I found one from Mr Twyman (sent at 8h40) asking me whether or not I was accepting the offer. (Below the email was one sent by Mr Gallagher to Mr Twyman the previous day).
- 3.16 At 10h12 Mr Gallagher sent me and Mr Twyman an email acknowledging the fax I had sent him one hour earlier i.e. my fax of 9h11. He deemed my reply to be a counter offer ⁶
- 3.17 I spoke to Mr Twyman mid-morning. When I drew his attention to the fact that my reply had been hand-delivered to him by 9:00 am on Friday 7 - and that I had left him a voicemail message at lunchtime the previous day to forewarn him of this - this last minute rush could have been avoided as it gave a total of five working days, he angrily replied "when was it that you met with Counsel?" and asked whether I thought he had nothing else to do other than deal with my case.
- 3.18 As forwarding of a letter is an activity that can easily be handled by an assistant, I concluded from this - and his comments on the morning of Tuesday 11 – that the situation had been engineered to maximise the probability of my being unable to input into the reply by taking advantage of the fact that I was at work. This became even more evident during the afternoon:
- 3.19 Mr Gallagher sent the draft reply at 15h32.

-----Original Message-----

From: Stan Gallagher [mailto:stangallagher@btinternet.com]

Sent: 13 November 2003 15:32

To: 'Richard Twyman'

Cc: Rawé, Noëlle

Subject: Steel Service

"I attach the acceptance and the draft order NB though a matter for my solicitors, I do not think that it would be right not to include the reference in [] to the major works in the letter of acceptance..."

Presumably this ought to be served by 4.00pm today"

- 3.20 As I explained in my fax of 20 November ⁷ to Lisa, this was the first time that a 16h00 deadline was mentioned to me – and this was in the form of a question by Mr Gallagher. I did not receive confirmation as to whether or not this was the deadline.
- 3.21 Twenty-one minutes later, Mr Twyman sent me the following email.

-----Original Message-----

From: Richard Twyman [mailto:richard.twyman@pipersmith.co.uk]

⁶ Emails from: Mr Gallagher of 12 November 2003 – 17h09 and 13 November 10h12; Mr Twyman of 13 November 2003 – 8h40

⁷ My fax to Lisa McLean, dated 20 November 2003

Sent: 13 November 2003 15:53
To: Rawé, Noëlle
Subject: Steel Services

"I confirm safe receipt of Counsel draft and will be sending it to the other side as drafted save with removal of brackets at the end of the letter as he has advised in the next 10mins or so".

- 3.22 Mr Gallagher said that "he presumed". He did not advise.
- 3.23 Very clearly, Mr Twyman did not want to provide me with an opportunity to input into the reply. This in spite of having stated in my email of the same day at 12h26 to him and Mr Gallagher *"Can you please thus, be kind enough to draft a reply for my review - with the 'tweaking' you detailed"*⁸. (Other than his email of 15h53 he did not contact me to even ascertain that I had seen the documents sent by Mr Gallagher at 15h32).
- 3.24 Nonetheless, I managed to review the drafts on which I annotated my comments (on the draft order, above the word 'interest': *"On 28 October – Mr Gallagher said "no because works had not started"; on the 'without prejudice notice of acceptance' document: "+ Non-compliance with Section 20 for some items, as a consequence of which the LVT was unable to take a decision"*) i.e. the two points that had been agreed at the 28 October meeting with Mr Gallagher, would be included in the reply.
- 3.25 *I faxed both documents to Mr Twyman and Mr Gallagher at 16h29* (from the same fax machine as in the morning; hence the time was recorded as 17h29).
- 3.26 The following day, I received a letter from Mr Twyman stating: *"I sent you an email yesterday regarding transmission of Counsel's draft indicating that the same would be sent by approximately 4pm. In accordance with that direction understanding this to be you instructions the same was sent at that time... At 17h37 a fax was received here with your comments on it which on the face of them are inconsistent with a request for inclusion in any event."*⁹.
- 3.27 Given the events I have detailed above, I view this letter as absolutely appalling.
- 3.28 The overall handling of this situation is not the kind of conduct I expected from your firm. As I said at the very beginning of this letter, I have complete confidence in Mr []'s judgement. Something has happened in my case. I do not know what it is but it has resulted in sending a reply that does not reflect what was agreed – and this was achieved by the use of tactics I view as high-handed and unprofessional.
- 3.29 *As I stated in my 26 November letter to Lisa, I am not endorsing a reply that does not in any way challenge the offer letter which starts with the claim that SS considers that "it is entitled to payment from me of the sum of £10,917.27". This is simply not true. SS is not entitled to ask this amount from me – and it knows this perfectly well.*

I therefore request your kind assistance in ensuring that the necessary steps are taken to redress the situation.

Yours sincerely

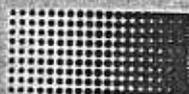
Noëlle K-Dit-Rawé

cc. Richard Twyman, Lisa McLean

⁸ My email to Mr Twyman and Mr Gallagher of 13 November 2003 – 12h26

⁹ Letter from Mr Twyman, dated 14 November 2003

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guaranteed by 12 noon

next day

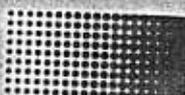
to Name Iron Skuse
Address Pippenmum Bost.
31 Warwick Sq.
London
Postcode SW1V 2AK

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to Name McLean
Address Pippenmum Bost.
31 Warwick Sq.
London
Postcode SW1 2AF

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- Tick if you want a higher than standard compensation limit (this costs more).
Tick one level Up to £1,000 Up to £2,500
- Write your address below.
- Hand this label and your package in at a Post Office® branch.

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guaranteed by 12 noon

next day

to Name Richard Benn
Address Pippenmum Bost.
31 Warwick Sq.
London
Postcode SW1 2AF

Moneyback guarantee for delay. You can claim compensation of up to £250 for lost or damaged items.

- Tick if you want a higher than standard compensation limit (this costs more).
Tick one level Up to £1,000 Up to £2,500
- Write your address below.
- Hand this label and your package in at a Post Office® branch.

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