Ms Rajdeep Tutt
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This letter provides yet more IRREBUTABLE PROOF of the Law Society's UNBELIEVABLE CORRUPTION – and of ITS BEING A FERTILISER FOR MALPRACTICE.

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Your ref: CRO/45399-2004/RT4/AA1/R TUTT CRO

(My complaint against Mr Richard Twyman and Ms Lisa McLean, Piper Smith & Watton (previously Piper Smith & Basham), London SW1 2AF)

30 November 2004

Dear Ms Tutt

As per my letter of 28 October 2004 to you, this is my response to:

- the first part of your reply to my complaint, dated 3 August 2004 – to which you had attached a reply from Mr Skuse, Piper Smith Watton, dated 1 July 2004 – as well as some enclosures.

- the last part of your reply, dated 22 September 2004 with which you enclosed a reply, also from Mr Skuse, dated 25 August 2004, also with some enclosures.

Explanation for the timing of my response:

- In your 3 August 2004 reply you stated: *"I cannot see that the solicitors' letters addressed all of the issues you raised…I attach a copy of the letter I am sending to the solicitors today, in relation to the complaints I will be investigating further… If you do not agree with the conclusions I have reached, please let me know and explain the reasons why. It would be helpful if you could provide any comments you wish to make within 14 days of the date of this letter"*

NB = one of the mafia typical sick ploy

- To this I replied to you in my letter of 16 August 2004: *"As you are still in the process of obtaining a response from Piper Smith Watton to parts of my complaint, I will await a complete reply from you before responding"*

- In your 3 September 2004 reply you wrote: *"You say you would prefer to await the solicitor's further response before replying. I am happy for you to do that… As soon as I have received Mr Skuse's comments and have had opportunity to review them I will forward you a copy"*

- As I explained to you when you phoned me on 18 October 2004, I had not received your reply dated 22 September 2002. You sent me a copy. My letter of 28 October was to acknowledge receipt of your correspondence and to inform you that I would reply by the end of November.

To this exchange of correspondence must also be added:

- My feedback to you, dated 6 June 2004, on the 2 June 2004 letter you sent to Mr Skuse relating what you perceived as my complaint against Mr Twyman and Ms McLean. In spite of commitments, I nonetheless took the time to send you this letter, explaining: *"As you have given them until 14 June to reply and I noticed that some amendments and additions are required to the letter you sent them, for the time being, I will only address these…"*

- As I also explained at the time, due to commitments, it would take me another few days to reply to your covering letter of 2 June 2004. I did this on 17 June 2004.

In February of this year, as I was contemplating the possibility of writing a complaint to your Office about Mr Richard Twyman and Ms Lisa McLean, it occurred to me that, as your Office has the dual role of 'trade union' and 'regulator' of that profession, this might lead to a potential conflict of interest. Namely, to use a colloquial expression, that there might potentially be the possibility of your 'not wanting to bite the hand that feeds you'.

I was far from imagining that it would be so blatantly obvious. On all the substantive points, as well as the majority of the lesser ones, you have disregarded the information supplied to you.

1. **Your reply to my letter of 17 June 2004**

   In your 3 August 2004 reply, you start by addressing my letter of 17 June 2004.

2. ***Intimidation and bullying***

   In your letter dated 2 June 2004 you dismissed my claim that Mr Twyman and Ms McLean used bullying and intimidation tactics holding the view that *"Mr Twyman and Ms McLean were simply advising* [me] *of* [my] *legal position"*.

   You have continued dismissing my claim in spite of my giving you what I considered to be 12 examples of these tactics. You replied that I: *"would need to provide strong evidence in support, before I could investigate the complaint, as it raised serious issues of professional misconduct"*. What constitutes strong evidence for you? It is clear that whatever evidence you are provided with you would dismiss.

   I very much resent the use of your patronising and defamatory comment in dismissing my claim: *"Even though I can understand that you feel disappointed with some aspects of your case because you were unable to take certain actions you wished to, I do not feel you were bullied or pressurised…"*.

   The implication of your comment is that I have made-up these allegations out of frustration and that they are therefore unfounded. You really ought to have noted that throughout my complaint I have not made statements that I could not back-up – including those under the heading of intimidation and bullying.

   For additional comments, see towards the end of this document, my reply to your section '7. Allegation of bringing the profession into disrepute'.

   Your assessment: *"…I do not feel that you were bullied or pressurised, and I will not therefore be able to investigate this complaint further"*

3. ***Section 20 Application***

   It is fascinating to observe how you move from one corner to the other – totally overlooking evidence in the process.

   I remarked to you under point 20 of my 17 June 2004, *"I note that you are giving me a legal opinion…"*. Later on, under points 28 and 29 I highlighted extracts from a letter dated 23 June 2003 sent by Ms McLean to my then solicitors, Oliver Fisher.

   Now you are back to saying: *"I am not able to give legal advice"*. Why have you done this? Because this letter provides irrefutable evidence that the advice I had been given by Mr Twyman and Ms McLean was totally the opposite of the view they held **before** I became a client.

   What did you do with this evidence? You totally ignored it. Your reply does not include one

single word in relation to this letter.

Your assessment: *"I am not able to give legal advice and cannot say whether this is correct"*

4. ***Ensuring that Steel Services complied with the deadlines***

Not only do I not share your view that it was not PSB's role to chase CKFT to ensure compliance with the court's directions, what actually took place contradicts your position: **without consulting me**, Ms McLean said to have sent a letter to CKFT on 27 October 2003 to *"suggest Witness Statements are exchanged by 12 December Experts Reports by 9 January 2004…".* In her 3 November 2003 letter to me she stated that she had received from CKFT *"…a letter confirming the extension to the timetable for exchange of witness statements and expert's reports is agreed…".* This is captured in my complaint of 16 March 2004 under points 10.2, 10.3, 126, 128, 131.

So, yet again, you are opting to overlook the evidence.

Your assessment: *"This situation is different… your solicitors only had obligations towards you, and I am therefore unable to investigate this aspect of your complaint further"*

5. ***My Witness Statement***

I did not ask you to tell me what is allegedly wrong with my Witness Statement. The question is addressed to Ms McLean. You ought to have ensured that a reply was provided given that it forms part of my complaint.

6. **Your reply to my complaint – your 3 August 2004 reply**

7. **1. Failure to follow instructions**

8. **(a) – Part 36 Offer – your 3 August 2004 reply**

You state you are addressing this under section 2, Failure to advise

9. **(b) My lease – Your reply of 3 August 2004**

10. Your comment: *"the solicitors state that this issue was not raised by you at the conference with Counsel on 28 October"*. I maintain that I did - and I can assure you that I am not going senile.

Your comment: *"… and they provide a copy of the attendance note of the meeting…"*. It only proves that it was not captured.

In fact, this is damning evidence against PSB (and Mr Gallagher): how could this dispute be resolved fairly and justly in isolation of the terms of the lease?

If one follows PSB's logic (and, evidently, your endorsement of it) it leads to a most interesting question: in her attendance note, Ms McLean captured: *"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..."*. Why is it that this was not captured in the reply? It was in the attendance note!

Your assessment: *"I am therefore writing to the solicitors again in relation to this aspect of your complaint""*

11. **1. My lease – Your reply of 22 September 2004**

12. Your comment: *"Mr Skuse…. also says that your letter dated 21 September 2003 did not specifically refer to the issue about certification by an accountant"*

I note Mr Skuse's comment in his 1 July 2004 reply: "*There is certainly no evidence on our file to suggest that this was a regularly raised topic".* How many times does it need to be raised to be considered?

While in his 25 August 2004 reply Mr Skuse states: *"In the letter of 21 September from the client under the heading terms of my lease the client refers to the matter being passed to an expert but there is no reference that we can see to the issue in relation to the certification by an accountant to be raised with the Claimant"*

PSB describes itself as specialist in landlord-tenant disputes on the Law Society online database (as well as on the LEASE website) yet, it needs to be told – on more than one occasion – that my lease must be considered as it plays a critical part in this dispute? And, **in spite of being told – it still ignores it**!

13. As a means of pre-empting further counter-claims in relation to my needing to be provided with the year-end accounts certified by an accountant, I will now provide a detailed explanation.

14. In the 29 November 2002 Particulars of Claim MRJ / Steel Services refer to the claim as an *"interim payment"*. The sum demanded cannot be described as such because:

(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 beyond June 2003, time by which, under the terms of my lease and of Section 21 (4) of the Landlord & Tenant Act 1985, Steel Services had to issue the year-end accounts given that the year-end for Jefferson House is December. These accounts had to reflect the demand.

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

(a) The sum quoted by Killby and Gayford referred to **all** 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)

(c) Steel Services 7 August 2002 application to the LVT is for **all** 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.".* This *"payment"* is the sum of £14,400.19 – which is 1.956% of £736,206.00

16. ***(2) At the earliest, works would have only been completed well into the following year – beyond June 2003***

(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"*

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

(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)

(e) Both, Gleeson and CLC quoted a time of 22 weeks to complete the works (in MRJ's letter of 15 July 2002 sent with the demand from me of £14,400.19).

(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.

(g) However, Steel Services-MRJ **did** file an application to the LVT. In fact, this application was filed on 7 August 2002, and therefore, **within less than 2 weeks** of Ms Hathaway 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). **Why was this done – if the demand was 'fair and reasonable'** (which is how Steel Services positioned its application to the LVT)?

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

NB: Correction: CKFT filed the WLCC claim, Hathaway endorsed the 'statement of truth'

Further supporting my opinion as to its objective in making the application to the LVT, is the fact that precisely one month after the pre-trial hearing, i.e. on 29 November 2002, Ms Hathaway (on behalf of Steel Services), filed **one** claim in West London County Court against 11 residents representing 14 flats.

She did this in spite of the fact that at the 29 October 2002 pre-trial LVT hearing we (I and other residents) were specifically told by the Tribunal to **not pay** the service charge. (For more detail on this, see below section '(i) The 29 October 2002 pre-trial LVT hearing')

Based on the directions given to residents by the LVT at the 29 October 2002 pre-trial hearing, 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.

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

Clause 2 of my lease

(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.."

18. The demand of £14,400.19 was dated 17 July 2002. Ms McLean (and Mr Gallagher) knew that the 2001 year-end accounts for Jefferson House **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…".*

Ms McLean (and Mr Gallagher) knew that, on 9 October 2004, I had asked Ms Hathaway, MRJ, to send me the 2002 accounts within the next 14 days. And they knew that I had not received them.

19. Not only are Steel Services-MRJ in breach of the terms of my lease, they are also in breach of Section 21 (4) of the Landlord & Tenant Act 1985 – and are thus committing a criminal offence (Section 25 of the Act). Needless to say that Mr Twyman and Ms McLean did not make any comment about this.

20. Even to date I have not received the year-end accounts for 2002 – which are now **more than 17 months overdue** - nor for 2003 – which are **more than 5 months overdue**. **Why not?** The conclusion is obvious: as was my belief at the time of the offer - it will provide evidence in support of my position. Steel Services and MRJ are in breach of the terms of my lease – in addition to having committed a criminal offence.

For further comments on my lease, see my reply to your section '(i) Experienced solicitor' towards the end of this document.

21. **Your assessment**: *"The solicitors failed to follow your instructions and I consider that this*

may amount to inadequate professional service"

Not *"may"*. This is a serious breach of its duty.

22. **(c) Interest payment – your 3 August 2004 reply**

23. What Mr Skuse states is inaccurate. I am absolutely adamant that Mr Gallagher did not say that about the interest at the 28 October 2003 meeting.

Mr Gallagher very specifically said that in the reply we would say that I was *"not paying for the interest because the works had not started"*. I repeated what he had said in:

(a) My fax of 7 November 2003, under point 5: *"I refuse to pay the interest charge. The costs have not been incurred and therefore the sum demanded is not due and payable".* And, in the right-hand column wrote: *"(As discussed on 28 October)"*

(b) On the draft 'reply to the offer' which I faxed to Mr Gallagher and Mr Twyman on 13 November at 16h29 I wrote, next to 'interest'*: "On 28 October – Mr Gallagher said "no because works had not started"*

I would not have written this if it had not been said.

24. Furthermore, I will refer to points 22, 74, 75, 92, 93, 95, 96, 98 of my complaint which clearly demonstrate that the position adopted by Ms McLean and Mr Gallagher took place – **after** the 28 October meeting:

(a) Ms McLean's letter of **18 November** 2003: *"… **I have in fact spoken to Mr Gallagher** and he confirms that were the matter to go to trial, the interest point is an argument that we would raise and we would argue that rather than pay them interest on sums, any interest should go into the trust fund. However, for the purposes of settling this case and giving (sic) the amount of interest, **the advice would be** to settle on the terms as set out in that order"*

(b) To which I replied on 20 November 2003: *"This is incorrect: it was crystal clear from what Mr Gallagher said that he would deal with the issue of the interest in the reply to the offer. He said "the works have not started, hence interest cannot be charged". Hence, it was not the advice given".*

(c) And received the following from Ms McLean on 21 November 2003: *"As I say in my letter of 18th November **I spoke to Mr Gallagher on my return from holiday and the information he gave me is that as set out in my letter of the 18th November"***

(d) To this I responded on 23 November 2003: *"In relation to the conversation you said to have had with Mr Gallagher post 28 October regarding the interest, I note that this led to a change of position relative to what was agreed with him at the 28 October meeting. Evidently, a similar 'off-line' conversation has taken place post the 28 October meeting in relation to Mr Brock's highly significant key conclusion - namely that Steel Services has not addressed any of the lack/insufficient specifications identified by the LVT in their June report (items amounting to £144,745.87) – as the reply totally omits any reference to this. Yet again, I am asking the question: why was this left out?"*

Ms McLean (and Mr Gallagher) seem to be mixing up what they said at the meeting with their subsequent offline conversation. (As I captured in my 18 November 2003 reply to Ms

McLean).

25. In his 1 July 2004 reply Mr Skuse states: *"She does refute the interest claim on page 2 of her letter of 7 November 2003 but events superseded that and many of the other comments by counsel's opinion subsequently"*

As the evidence demonstrates, I was not party to these *"events"*.

26. I note Mr Skuse's comment in his 1 July 2004 reply: *"In her 12:26 email she instructs acceptance of the offer without any comment on the interest provisions. Comments only in after the deadline and after the acceptance letter has been sent"*

What a laughable counterclaim. Having paid PSB significant fees to advise me, I had not realised that I had to tell them step-by-step what to do, word-for-word what to write – in order to reflect what had been agreed.

And even then, what had been agreed was the result of PSB (and Mr Gallagher) abusing their position to take advantage of me.

And to pre-empt the question: yes, I most definitely wanted to change both, solicitor and barrister. However, by then, I did not see it as an option – see point # 65 of my complaint.

Even a few days before the deadline for the reply when I started to get seriously worried, it was too late. Aside from my work commitments, there was very little chance of another solicitor taking on my case from where I was at – as I determined. As I have stated in my complaint, I view this as having been heavily relied upon.

That was the ploy – see my Comments to Gallagher's 13.11.03 'draft documents'

27. The amount of interest might be *"modest"*. However, the implication of paying would have been an admission that I had owed this sum – which I did not.

In addition to not being provided with the certified year-end accounts in support of the demand, additional reasons for this comprise of:

(i) The directions that I (and other residents) were provided by the LVT at the 29 October 2003 pre-trial hearing

(ii) The 17 June 2003 determination by the LVT

(iii) Steel Services non-implementation of the LVT determination

28. **(i) The 29 October 2002 pre-trial LVT hearing**

29. **Residents were told to not pay the service charge demanded until the Tribunal had issued its determination**

At the 29 October 2002 pre-trial LVT hearing we (i.e. I and other residents) were asked by the Chair, Mr J.C. Sharma JP FRICS, whether we had already paid the service charge demanded. 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)

Given that PSB describes itself as specialist in landlord-tenant disputes on the Law Society online database (as well as on the LEASE website) – although it totally failed to show it in my case - it had knowledge of this.

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

31. Precisely one month after we were told this by the Tribunal, Steel Services filed its claim in West London County Court i.e. on 29 November 2002. (The first LVT hearing – at which the first day of the substantive hearing was postponed until 13 March 2003 – took place more than two months after Steel Services filed its claim in court i.e. on 5 February 2003).

32. Although fully cognisant of the LVT action - instigated by its client (application filed in the LVT on 7 August 2002) - CKFT nonetheless proceeded with the court action. Proof it knew of it:

(a) In my letter to CKFT of 17 October 2002 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?"*

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

Subsequent to this, as solicitors acting for Steel Services, CKFT would have had a 'blow by blow' account of the LVT proceedings from, among others, Mr Warwick, Counsel acting for Steel Services during the LVT proceedings.

33. **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. This was combined with West London County Court opting to repeatedly ignore the directions that had been given to the Residents by the LVT**

34. Ms McLean knew that there was an abuse of process of court as she captured this in her 9 April 2003 letter to my then solicitors, Oliver Fisher – at the time when she was acting for another resident:

"We shall be contending that the county court proceedings should be stayed pending the outcome of the LVT which we understand is brought pursuant to Section 19 2(a)(b)(c) of the Landlord and Tenant Act 1985. It could be said in our view that having issued an application in the LVT seeking the reasonableness of service charges to therefore commence proceedings in the county court seeking the recovery of those same charges could be an abuse of the process of court"

She again acknowledged this in her letter to me dated 25 September 2003.

"You refer to the attitude of CKFT in …pursuing their claim against you in the County Court while the LVT was in the process of dealing with the action… I have of course seen the correspondence in relation to the duplicity of action in the County Court and the LVT and quite clearly CKFT should have agreed to stay the County Court proceedings pending the determination of the LVT decision.

35. West London County Court ignored the critical fact that we (i.e. the Residents) had been specifically told by the LVT to not pay the service charge until it had issued its determination. This is in spite of my bringing the LVT action to the Court's attention a total of **seven times between 10 December 2002 and 9 August 2003 – including reporting what Mr Sharma had told us.**

(NB: In fact, West London County Court has been instrumental in making **7 residents** pay the service charge – **before the LVT had issued its determination – dated 17 June 2003)**

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

36. **(ii) The 17 June 2003 LVT determination**

37. **The outcome of the LVT determination was that of the £736,206 originally demanded by Steel Services, the LVT considered £500,000 as unreasonable.**

38. **The sum demanded was full of estimates. These were due to the very badly drawn-up specifications by Mr 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)

Although I have already provided you with very ample evidence of the LVT determination and its impact on the global sum demanded, I will again capture it by quoting from my surveyor, Mr Brock's Expert Witness report, dated February 2003 and the LVT determination, dated 17 June 2003.

I am doing this in order to emphasise that you have ignored a highly substantive point in my complaint. I refer to my 6 June 2004 reply to your 2 June 2004 letter, and in particular my following statement:

While you have made specific reference to e.g. the interest and my lease, you have omitted to do this in relation to the ***findings contained in the 17 June 2003 report by the Leasehold Valuation Tribunal*** *which were persistently ignored by Ms McLean and Mr Twyman over a period of 4 months – during which time I emphasised / explained / pointed out the issue to them at least* ***8 times****. Please see my complaint, points in the summary: 1.4, 6.1, 8.1, 9.3; points in the main body of my complaint: 8, 19, 33 to 44; 47, 56, 61, 75, 93, 95, 96, 98, 100 and 102. (The exception during the 4 months period was the notes Ms McLean had captured in her Attendance Notes of the 28 October 2003 meeting – see my complaint, points 20, 24 and 98).*

How could you have failed to notice this given the number of references I have made to the LVT determination in my complaint – as well as various enclosures that detail the determination?

In your email reply to me of 8 June 2004 you stated: *"I note the amendments you have suggested. For the time being, I have not discussed these with the solicitors, but will do so at a later stage, if necessary"*.

Your replies indicate that you have not taken any step to address this – as there is not one single reference to this in your documents.

In other words: you have intentionally turned a blind eye to PSB's serious instance of professional misconduct.

My surveyor's overall assessment of Steel Services specification :

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"*.

39. ***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"*

40. 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"*.

41. ***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 s****pecification 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****"*

42. 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****"*

43. ***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**".

44. **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**

45. 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"*

46. 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"*

47. **The contingency fund**

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

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

Under point 62 the LVT states: *"The Tribunal draws the parties' attention to the RICS Code to which property managers should subscribe and abide by, as a matter of good practice. Section 10 of the Code covers reserve funds. A reserve fund is referred to as "a pool of money created to build-up sums which can be used to pay for large items of infrequent expenditure (such as the replacement of a lift or the recovering of a roof) and for major items which arise regularly (such as redecoration)".*

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

49. 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"

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

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

51. In her 15 July 2002 letter Ms Hathaway had changed her position as she stated: *"It is intended to maintain the existing reserve fund, in part, to cover any additional costs"*

52. Evidently, the fact that I had found Ms Hathaway's letter of 7 June 2001 was communicated by PSB 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).

53. **Hence, in conclusion on the 17 June 2003 LVT determination:**

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, <u>£500,000.00 of the sum demanded was not considered as 'reasonable' by the LVT</u>

<u>My share: 1.956% of £235,946.56 = £4,615.11 (As captured, among others, in my 7 November 2003 fax to Mr Twyman</u>)

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

and for which it filed a claim against me in West London County Court stating that:

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

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

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

54. 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"*

55. 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 [1]

56. In his 1 July 2004 reply Mr Skuse states: *"The alteration* [that I had] *suggested was to the first paragraph which as drafted commented that the LVT's determination was vulnerable due to a number of technical defences. NR wanted to add 'non-compliance' for section 20/or more items as a consequence of which the LVT was unable to take a decision. Accordingly NR lost nothing by the letter being sent but gained a great deal as advised".*

I *"lost nothing"*?

For further comments, see my reply to your section '(e) Contents of the reply'

57. **(iii) Steel Services non-implementation of the LVT determination**

58. **<u>As I had been told by the LVT</u>, 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**. **<u>Steel Services DID NOT DO THIS. AND PSB KNEW THIS.</u>**

59. **24 June 2003**

Case Management Conference in West London County Court which 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 informed the court of this). While the hearing nonetheless took place, Judge Wright agreed with me and ordered that Steel Services pays my costs for the day (and that of other Residents present) – and, obviously, refused Steel Services' demand that I (and the other Residents) pay its costs for the day.

60. At this Case Management Conference hearing Mr Silverstone of CKFT, handed me:

(1) A <u>*"Major works apportionment 24th June 2002 Revised"*</u> produced by MRJ for which in my case (and that of other 5 residents listed) the original sum demanded has been reduced by only 24.19%

(2) A <u>"Case Summary"</u> (which a reasonable person – cognisant of the facts - would describe as: 'a pack of lies')

The case summary states: *"Proceedings for recovery of service charges due from tenants…"* (NB: Not true. What is detailed is **<u>not</u>** the amount due)

"Proceedings issued on 29 November 2002… Proceedings settled with

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

all but 4 D's on the basis of payment of the service charges.

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 CKFT and Ms Hathaway)

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

"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**).

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

(3) A Draft order which states: *"Upon the proceedings between the Claimant and the 3rd, 4th, 6th, 8th, 9th, 10th and 11th Defendants having been resolved, it is ordered that: 1. Claimant shall make such applications for summary judgment against the 2nd 5th and 7th Defendants at it shall deem appropriate supported by witness statement evidence, to be filed and served 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. 3. Claimant to file and serve evidence in reply by 4 pm on 22 July. Matter to be fixed for hearing before District Judge on 1st open date after 29th July… 9. Fix for trial first open date after 1st January 2004 – multi track"*

Judge Wright reprimanded Mr Silverstone, CKFT, for *"wasting my time and the Court's time… the LVT report has only just been issued, you must give the Defendants time to review it"*

61. **25 June 2004**

"*Without prejudice*" letter from CKFT to me requesting 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: False statement)**

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…

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:** 14 November 2002 meeting which did not comply with the LVT directions) – *where a very full, frank and meaningful discussion took place with a large number of residents who subsequently paid their service charge in full.* (**NB**: 2 weeks later Steel Services filed its claim against 11 Residents 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 which has now resulted in a percentage uplift in the contract figure and a significant delay to the project".

Blatantly false statements, plus 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'*. Steel Services 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. **Steel Services 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'.**

62. Based on my first-hand, horrendous nightmare experience now going into its 4th year, I have gained very comprehensive knowledge, understanding and insights of the landlord-tenant sector.

Among others, this has led me to develop what I view as the business model in operation in landlord-tenant disputes in this country. (Including this explanation is relevant not only in relation to my previous point, but also in the context of the treatment I received from PSB, the conduct of West London County Court and the criticisms levelled at me by CKFT).

I have called this model the ***'Business Model of the Unscrupulous Landlord in 21st Century GB'*.** The sena qua non of this model is *'the 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 beginning to look uncomfortable for the landlord, and/or perhaps the professional adviser cannot be bothered / is scared to challenge the other side / [???????], this is the time at which the strategic arm, the invocation of *'the costs,'* kicks in. There are variations of how this is brought in:

(1) One approach is to 'scare' lessees into giving in - as per Ms McLean's approach: points 3.3, 33, 61,158, 173 of my complaint – including, among others, at the 28 October 2003 meeting when, on at least 2 occasions she repeated what she had previously told me *"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 Steel Services costs"*.

This was further reinforced by, among others, Mr Skuse in his 18 December 2003 letter: *"… would only lead to further litigation at your cost…",* in which he also quoted from Mr Gallagher's email of 12 November 2003: *"His firm advice was that the part 36 offer should be accepted and if you declined you would certainly end-up paying significantly more by virtue of being ordered to pay the claimant's costs"*

Consider that in light of :

(a) The terms of my lease

(b) the determination of the LVT – and bearing in mind that Ms McLean herself had stated in her 23 June 2003 letter to my then solicitor Mr Conway:

"There would seem to be a fairly substantial reduction in the sums claimed by the applicant as well as the clear indication by the Tribunal that they think the reserve fund should be used at least in part to fund some of the works making a further reduction in the sums due from the lessees…… We have spoken to a surveyor whom we had instructed to attend the premises. His preliminary view is that the service charges seem high and also that it would appear that the top floor flats are being enlarged. Clearly, if this is the case that is improvement rather than repair"

(c) the fact that I (and other residents) had been specifically told by the Tribunal on 29 October 2002 to not pay until the Tribunal had issued its determination and consequently that it had been implemented by Steel Services

(d) Steel Services had not – even 4 months later when it made me the offer on 21 October 2003 – implemented the LVT determination

(2) Another approach under my model – also used by Ms McLean - goes along the following lines: *"It doesn't make any sense. Look at all the money you've spent so far fighting this. Going to trial will cost you a lot more. 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!' He can then 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).

Another example of evidence in support of 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"*

Based on my own first-hand experience in West London County Court: 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 no notice of by the court.

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

63. **15 July 2003**

My letter to West London County Court stating: *"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 (dated 31 July 2003) of the LVT's determination.

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

pay this amount now.

I disagree with this amount on the basis that my surveyor assesses the 17 June 2003 LVT decision as follows:… Hence, by reducing the amount by a mere 24.18%, Steel Services - Martin Russell Jones fall very short of implementing the LVT decision.

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

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

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

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

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

I copied Mr Silverstone, CKFT on this letter

64. **17 July 2003**

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. 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"*

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).

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

Because, yet again, I had been placed in a situation of having to incur costs through no fault of my own – other than wanting to pay only what I am truly liable for - I felt that I was justified in claiming the costs against Steel Services as, yet again I was proven to be right. (At the 26 August 2003 hearing Mr Pliener, Counsel selected by PSB to represent me, informed me – after liaising with Ms Ayesha Salim, CKFT, in the court's waiting area - that I would only be able to claim the £1,800 at trial).

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

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

66. **7 August 2003**

Letter from CKFT to Healys (temporarily registered as acting for me).

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

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

And what did PSB do? It ignored it. Ms McLean played games in September pretending to not understand what I was saying when I told her that Steel Services needed to issue another Section 20 notice. (In the process making me waste hours of my time writing her letters to explain))

The following point must also be noted: **following the LVT determination, Steel Services did not amend its original court claim. PSB also knew that this has not been done. It did not do or say anything at the 26 August 2004 hearing, nor subsequently)**

CKFT continues in its 7 August 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 "*

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

67. **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

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

68. **6 August 2003**

Application Notice by Ms Ayesha Salim, CKFT, to West London County Court.

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

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

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

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

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

Hence, a month later, having not only made no changes to the July 2003 *"Revised price"* but, in fact, having reverted back to the 24 June 2003 sum of £10,917.27, Ms Aysha 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 either Ms Ayesha Salim, nor Ms Joan Doreen Hathaway, MRJ, to the meaning of a 'Statement of Truth').

69. **9 August 2003**

My letter to Judge Wright (copied to CKFT) in which, among others, I stated that: *"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.* (Etc.*)*

70. **26 August 2003**

Judge Wright did not challenge Steel Services on its claim. 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 – which I did by sending a cheque to Ms McLean on 3 September 2003. As I have stated in my complaint, I do not know how this sum was calculated by Mr Pliener and Ms McLean and, despite several requests to Ms McLean, I never managed to obtain this information from her.

71. **Aside from the fact that the works had not started, this is why I disagreed with the payment of interest. PSB knew the facts yet, its sole objective was to push me into a deal that took no consideration whatsoever of the evidence.**

72. **So yes: PSB very significantly failed in its duty.**

73. As to Mr Skuse's comment that *"In order to reach a settlement with the claimant it was better to agree to pay the interest"* I wish to point out to you that the Consent Order I exchanged with CKFT (after taking back control of my case) does not include interest. I informed CKFT that I could not agree to paying it. (As stated under point 107 of my complaint)

74. Your assessment: *"It does not therefore appear that the solicitors failed to follow instructions…I do not consider that I will be able to investigate this complaint further"*

75. **(d) Draft reply – Your 3 August reply**

76. Your acceptance of Mr Skuse's explanation is beyond belief and absolutely appalling.

Your comment: *"The draft reply was sent to you for approval but only 10 minutes before it was sent to CKFT…Mr Skuse states that you had been aware of the deadlines…"*.

Deadlines in the plural? I am only aware of two. Obviously I knew that a reply was expected by 13 November – and this is made abundantly clear by the anguish and distress I was made to endure during the 5 working days that elapsed from the time I had my 7 November reply hand-delivered to PSB by 9 a.m. on Friday 7 November.

The only other deadline is the 16h00 deadline which, as stated in my complaint under points 7.2, 69, 70, 73 and 83 I first heard of in Mr Gallagher's email of 15h32 on 13 November.

Your comment: *"…because they had previously corresponded with you by email during office hours they believed your would receive the email in time… Mr Skuse also states that the fact that you replied to the email within an hour shows you did it receive it quickly"*.

Knowing that I am at work, that this is a personal matter and that therefore my duty is to my employer, PSB sends me 3 pages of documents that are highly important to me giving me barely a few minutes to have a look at them– and you support their position that *"I received them on time"*?

Your comment: *"Mr Skuse states that if you had not wished for the letter to be sent you could have telephoned or emailed the solicitor, but you chose not to, even though even though you had been advised that the letter was to be sent within 10 minutes"*.

By the time Mr Twyman sent me his email at 15h53 I barely had a chance to read the documents, let alone assimilate them.

Your comment: *"It would have been preferable for the letter to be sent to you earlier, if possible. Alternatively the solicitors could have called you to advise you to check your email..."*.

This is consistent with the standards set by your Office? Sit on a document for 5 full working days i.e. a week - and give the client 10 minutes to reply?

77. **Your assessment**: *"I feel that this may amount to poor service, and will be investigating the complaint further"*

78.

2. Draft reply – Your 22 September 2004 reply

79. In reply to your comment: *"…on 13 September you accepted the offer and you were aware of the 'tweaking' to be done"* and to Mr Skuse's comment in his 25 August reply: *"The important point to note is that the client accepts the advice as set-out in her 12:26 email of 13 November and is perfectly aware of the tweaking"* - I am not going to waste my time repeating what I have already captured comprehensively in my complaint.

However, I do note Mr Skuse's comment in his 1 July 2004 reply: *"The allegations made by the client are somewhat confused"* which I view as insulting.

And I also note Mr Skuse's comment in his 25 August 2004 reply: *"..it is clear from that email that the client is aware, having already seen the draft, of the "tweaking" that would be engrossed in the reply".* **This is absolutely not true**. The only time I received a draft of the reply was as an attachment to Mr Gallagher's email of 13 November 2003 at 15h32.

See above for other comments

Your acceptance of the way the reply was handled – and your placing of it on the same level as a clerical error (your assessment for this is the same as for e.g. the error in Counsel's fees: *"we expect solicitors to provide a reasonable service, and not a perfect service.."*) is appalling.

80. **Your assessment**: *"I will not be able to investigate this complaint further"*

81.

(e) Contents of the reply

82. **Your comment**: *"Mr Skuse states that the reply did comply with your instructions. The reply was drafted in accordance with Counsel's advice… "* No it was not. You could at least acknowledge what I have written in my complaint under point 74.

Your comment: *"…which you accepted".* As it ought to be perfectly clear to you from the evidence, what was captured is not what had been agreed. Same reference as above in my complaint.

83. **Your comment**: *"Mr Skuse also states that the amendments you suggested would have had little impact and that you lost nothing as a result of the letter being sent as was".*

"I lost nothing"?

Taking into consideration:

(1) The evidence I supplied in my complaint and the supporting enclosures – and which I have repeated in part in this document

- The LVT determination which reduced the sum demanded of me from £14,400 to £4,615
- The fact that Steel Services did not implement the LVT determination
- The recommendation by the LVT to not pay until the determination has been issued, and therefore, implemented
- The way my case was handled in court
- The terms of my lease to which I also draw attention to Clause 2 (i):

  "… 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***

  (I also give this as evidence in case lawyers want to argue that the demand was an 'interim' demand – which as I have explained previously, it is not)

- The fact that **before** I became a client, Ms McLean had written the following to my then solicitor, Mr Conway, Oliver Fisher, in her letter dated 23 June 2003:

  "There would seem to be a fairly substantial reduction in the sums claimed by the applicant as well as the clear indication by the Tribunal that they think the reserve fund should be used at least in part to fund some of the works making a further reduction in the sums due from the lessees"

  And - before the determination had been issued - on 9 April 2003, Ms McLean had written to Mr Conway:

  "…we have spoken to a surveyor whom we had instructed to attend the premises. His preliminary view is that the service charges seem high and also that it would appear that the top floor flats are being enlarged. Clearly, if this is the case that is improvement rather than repair"

  The surveyor had formulated this view – even though he/she did not have access to the information that had eventually been supplied to my surveyor.

  Yet (as highlighted in my complaint), in her 28 October 2003 attendance note Ms McLean wrote: ***"…they had sent her a demand for £14,400 which it now***

seemed was an incorrect figure…".

I replied to this on 30 October 2003: *"I find the use of the word 'seemed' rather interesting – considering (i) the report by the LVT; (ii) the fact that Steel Services has admitted that the sum demanded was unreasonable by revising their demand downwards twice"*.

(2) The 21 October 2003 'offer' from Steel Services which started with the statement: *"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: Not true**)…*"Your client's decision to challenge both the LVT decision"* (**NB**: **Another lie**. It is Steel Services that challenged the LVT determination as evidenced by the statement in the following paragraph *"has once again reviewed the revised apportionment"*) *"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:** 'I' caused the inconvenience?) *without any admission whatsoever, our client has once again reviewed the revised apportionment…"*

(3) The reply prepared by PSB and Mr Gallagher:

- This is the consent order that was sent by PSB 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"

  As captured in Ms McLean's attendance note, what had been agreed at the 28 October 2003 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, this was precisely the intention. Unable to get its way, in the end Steel Services opted to totally ignore the LVT determination and to appoint another contractor (without a Section 20 Notice) for which the costs so far stated are nearly as high as those initially demanded).

- As to the Notice Of Acceptance sent by PSB to CKFT, it does not challenge a single statement in the 'offer'. In fact, it said 'amen' to everything; barely made a ripple in relation to the key issues: the LVT determination and my lease; had 50% of the reply comprising of what I still view as 'unobjectionable padding'. And of course, not a single comment about the approach and method used by Steel Services and CKFT

And Mr Skuse states that *"I was not losing anything"*?

For other comments, see also above my reply to your section '(c) interest payment'.

84. **Who was PSB acting for? Steel Services?**

This question is very much justified when considering the above evidence.

85. **Your assessment**: *"I do not consider I am able to investigate this aspect of your complaint further"*

86.

(f) Requests for another reply to be sent

87. This has nothing to do with, as you call it *"the mix-up"*. How many times am I going to have to repeat this: the reply did not contain what had been agreed. And the draft letter of 1 December 2003 you refer to further demonstrates this.

As I have also explained, I did not want this to be sent as a separate communication – as, assuming that it be would sent, it would have ended up in the bin. It HAD to be part of the reply – as I stated to Ms McLean.

88. **Your comment**: *"… you were advised you did not have the option to change the terms of the offer to suit you. It either had to be rejected or accepted as it was… you would not have been in a position to change the terms of the offer"*. Nonsense! I did this when I took back control of my case.

89. **Your assessment**: *"I do not therefore consider that I am able to assist you further with this complaint"*

90.

(g) Application under section 20 (c) of the L&T Act 1985

91. **Your comment**: *"You said that you therefore made several requests to Ms McLean for the application to be prepared on behalf of all the residents but that your requests were not followed through"*

You are misrepresenting the facts. See my complaint points 1.5, 3.3, 7.5, 157, 158, 162, 163, 164, 166, 173 and 175.

To these must be added points 20 to 30 of my 17 June 2004 reply to your 2 June 2004 letter.

And, in light of all this evidence you conclude by saying: *"I consider that… Ms McLean advised you appropriately…. She addressed your concerns appropriately…".* Absolutely unbelievable!

92. **Your assessment**: *"I will not be able to investigate this aspect of your complaint further"*

93.

(h) Costs paid to CKFT

94. **Your comment**: *"Mr Skuse… states that the calculation of the sums was based on the information that you had provided to CKFT"*. No it is not.

As to Mr Skuse's comment that I was *"present at the court hearing on 26 August 2003"*, I was not party to the conversation that Ms McLean and Mr Pliener had with Ms Ayesha Salim, CKFT. (as stated under point 187 of my complaint)

Your comment: *"The attendance note dated 26 August 2003 suggests you were clearly advised of the money to be paid to the claimant and you were in agreement with the solicitors about this".* Yes I paid (prompted by the realisation that proper and fair treatment of the case was evidently not on West London County Court's agenda) but, as evidenced by my subsequent communications, I could not reconcile the sum paid with my calculations.

Your statement: *"A letter was sent to you on 8 September. This was in response to a fax received from you… I cannot see that you asked for any further information… Unless you are able to provide copies of letters or faxes in which you asked for more details about the sum*

paid…". See point 187 of my complaint for details of the 4 occasions when I requested this information – and for which I have already provided you with a copy of each.

95. **Your assessment**: *"I will be unable to investigate this complaint further"*

96. **(i) Experienced solicitor**

97. In spite of my repeated requests, I never had feedback on my lease. I will again repeat: to ignore my lease in the context of my case is a very serious failing on the part of PSB. Why did Ms McLean and Mr Twyman ignore my lease? It did not fit with the game plan?

As you keep missing what I write, I will include this again: among others, I draw your 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.

98. **Your comment**: *"Mr Skuse explains that… you made no further requests for the file to be transferred"*. See point 191 of my complaint under which I stated: *"Given Mr Twyman's comment during the 22 September 2003 meeting that, if she needed to, Ms McLean could discuss matters with him – plus the fact that, in her 22 September letter she had written: "You have asked that somebody highly experienced deal with this matter in this firm and I will have Mr Twyman review the papers for you." I assumed that I would be receiving proper, expert advice"*

99. **Your assessment**: *"If you do not agree with the solicitors' comments, please let me know and explain the reasons"*. Read my complaint – and this document.

100. **2. Failure to advise**

101. You are missing the point: Lord Woolf's determination in the Ford v GKR case. See my complaint points 1.1, 56, 57, as well as point 12 of my 17 June 2004 letter to you.

This must be viewed in the context of the LVT determination and the fact that Steel Services did not implement the LVT determination. Lord Woolf's determination applies in my case and PSB (and Mr Gallagher) knew this which is why they did not even acknowledge my identifying it.

102. **Your comment**: *"It is also important to note that you accepted the claimant offer on 13 November 2003 after you had been made aware that it was not compliant with the CPR".* See points 61, 65, 66 and 67 of my complaint.

103. **Your comment**: *"I do not therefore consider that you suffered any detriment as a result…"*

Your conclusion is not surprising given that you have not challenged PSB on ignoring the LVT findings – which are highly critical in this dispute. This is in spite of my bringing this to

your attention in my 17 June 2004 letter.

104. **Your assessment**: *"As it is, I am not able to investigate this complaint further"*

105.

3. Delay

106. **(a) Extension of the time limits**

107. Correction: my Witness Statement was not submitted to the court.

Very clearly, there was an arrangement between PSB and CKFT as, nearly 2 hours after the deadline set by the court for the submission of the Witness Statements (i.e. 16h00) CKFT faxed its so called "Part 36 Offer" to PSB at 17h43 (point 120 of my complaint).

108. **Your assessment**: *"I do not consider that there was any unreasonable delay here, and will therefore be unable to investigate this aspect of your complaint further"*

109.

(b) Feedback on my Witness Statement – your 3 August 2004 reply

110. **Your comment**: *"You were in correspondence with Ms McLean over the period of those seven weeks but I cannot see that you raised this matter with her at the time"*.

As I stated at the beginning of this document in reply to your point *"Ensuring that Steel Services complied with the deadlines"* - **without consulting me** - Ms McLean said to have agreed the exchange of Witness Statements for 12 December. She set this up, and you are of the view that I – the client – had to raise this?

The obvious conclusion why this was not done is because of PSB's anticipation and agreement with CKFT that by then it would be a done deal. Why did Ms McLean take the initiative to postpone the exchange of the Witness Statements? Why is there no record of this on my file with the court? Surely, communication with the court was required given that it had set specific directions.

111. **Your assessment**: *"I do not consider that this complaint warrants a finding of inadequate professional service"*

112.

3. Failure to respond – Witness Statement section – your 22 September 2004 reply

113. **Your comment**: *"The solicitors have explained… As there had been an extension of time, there was no urgency in dealing with your Witness Statement"*.

I put it to you that the reality is that PSB was so intent on closing the deal and so sure that it would be done that, by then, it could not care less about my Witness Statement.

In addition, as I have stated at the beginning of this document: why haven't you challenged Ms McLean on her statement in her 12 December 2003 letter: *"Your statement has not (and would not have in any event in its current form) been sent to CKFT"*.

You also ought to have noted the contents of the covering letter I sent to Ms McLean with my Witness Statement in which I specifically detailed the approach I took in presenting it. I actually took guidance on this from one of the law manuals which, by the way, stated the rule that 'it has to be in my own words'.

I put it to you that the contents of my Witness Statement did not fit with the objectives.

114. **(c) Draft reply to the claimant's offer**

115. My reply was hand-delivered at 9 a.m. on Friday 7 November 2003 – giving a total of 5 full working days i.e. one week.

116. **Your assessment**: *"I do not consider that the solicitors delayed in sending the reply to Counsel and will therefore be unable to investigate this complaint further"*

117. **4. Failure to respond – your 3 August 2004 reply**

118. **Your assessment**: *"This may constitute inadequate professional service, but I will first need to give the solicitor the opportunity to comment on this complaint"*

119. **5. Failure to provide adequate costs information – your 3 August 2004 reply**

120. **(a) Costs estimates – your 3 August 2004 reply**

121. You are overlooking what I asked for: an estimate of costs of the stages. You state: *"At the time McLean could not have provided an estimate of costs beyond those, as it may not have been possible to predict at that time how the case would proceed"*.

Given PSB's claim of experience in this type of cases it should have been possible to provide an estimate of costs under different scenarios.

122. **Your assessment**: *"I consider that adequate costs estimates were given to you before you were billed for worked done, and I will therefore be unable to investigate this complaint further"*

123. **(b) Counsel's fees – your 3 August 2004 reply**

124. No further comments

125. **Your assessment**: *"As we expect solicitors to provide a reasonable service, and not a perfect service, I will not be able to investigate this complaint further"*

126. **6. Errors - your 3 August 2004 reply**

127. **(a) Form N265 – your 3 August 2004**

128. **Your comment**: *"The solicitors… explain that you suffered no detriment…".* I do not share this view. Indeed, I suffered anxiety as: (1) I thought that the documents had to be delivered to court; (2) time was running out; (3) the form needed to have my signature – and I could not sign a document which was not right. This anxiety is evidenced by the fact that I brought this to Ms McLean's attention on 3 separate occasions.

129. **Your assessment**: *"I therefore consider that this may amount to inadequate professional service"*

Gosh! Are you sure? Aren't you being a bit harsh with PSB? Well, at least you have limited this to *"may"*.

130. **4. Form N265 – your 22 September 2004**

131. **Your assessment**: *"I consider that the solicitor's failure to address your concerns about the error may constitute inadequate professional service"*

Goodness me! A few weeks later and you still hold this view…but the hesitation as well: *"may"* constitute. That's a really tough wrap on the knuckles for PSB! It must be worried sick about this.

132. **(b) Incorrect fax number - your 3 August 2004 reply**

133. My complaint details the number of occasions when this occurred.

134. **Your assessment**: *"… this may amount to inadequate professional advice"*

Really good to see that you are intent on taking action on the important parts of my complaint. (Yes, this is another sarcastic comment)

135. **(b) Incorrect fax number - your 22 September 2004 reply**

136. **Your assessment**: *"…I consider that this failure may amount to inadequate professional service"*

137. **(c) Letter dated 18 November 2003 – your 3 August 2004 reply**

138. Your leniency knows no bounds.

139. **Your assessment**: *"…but we expect solicitors to provide a reasonable service, not a perfect one, and I am therefore unable to investigate this complaint further"*

140. **7. Allegation of bringing the profession into disrepute – your 3 August 2004 reply**

141. **(a) Bullying and intimidation - your 3 August 2004 reply**

142. To the reply I included at the beginning of this document, I will now quote from Ms McLean's letter to me dated 25 September 2003:

"You say that in your defence you will cite the trauma and stress that you have been through in the last 18 months. Whilst your stress and experiences in the last 18 months are of course very real I do not think that the court will be sympathetic to that line of defence on the basis that you do have legal advisors and it is unlikely that the court would accept that your state of mind on the particular day prevented you from giving proper instructions and understanding the formal content of the correspondence between us…

You refer to the attitude of CKFT in threatening forfeiture of your lease, pursuing their claim against you in the County Court while the LVT was in the process of dealing with the action, MRJ's actions and Brian Gales lies about you.

In respect of the forfeiture threat it is perfectly legitimate for a landlord or those advising the landlord to threaten forfeiture proceedings for non payment of service charges". (**NB:** My bold highlights. This was the 7 October 2002 letter I received from CKFT i.e. 8 months **before** the LVT determination – at a time when residents were about to be informed by the LVT of the application by Steel Services to the LVT to determine the reasonableness of the sum demanded). And Ms McLean states that Steel Services-CKFT's action is *"legitimate"*?

I previously supplied you with a copy of this letter.

143. **Your assessment**: *"I do not consider that the information and evidence you have provided*

is sufficient to investigate this further"

144. **(b) Fax dated 13 November 2003 - your 3 August 2004 reply**

145. Firstly, your comment: *"...their fax machine showed the incorrect time…"*: Correction: it is the fax machine that **I** used that had not been adjusted for winter time and therefore showed the time as one hour later than it was.

146. **Your comment**: *"The solicitors state that they are unable to comment on the timing of the fax machine. It is not relevant whether the fax was sent at 4.37 pm or 5.37 pm as Mr Twyman left the office between 4 pm and 4.30pm"*

How fascinating to see how PSB now dismisses irrefutable evidence – having first denied it.

So, when Mr Twyman sent me the email at 15h53 saying: *"I confirm safe receipt of Counsel draft and will be sending it to the other side…as he has advised in the next 10mins or so"* in fact, what he did, was to send it immediately (if it had not already been sent!).

And how, equally fascinating to see your response: *"Even if the fax had been sent at 4.37 pm…"*. *"Even if"*? Look at the evidence.

Your comment: *"… because as you are aware, this needed to be sent by 4 pm"*. No it did not. See my complaint, points 7.2 and 73: a 16h00 deadline only applies to courts. Normal working hours apply for exchange of documents between solicitors.

And another fascinating event which I note with great interest is the fact that PSB made no comment whatsoever following CKFT faxing the offer at 17h43 on 21 October 2003. Surely, if a 16h00 deadline applies, then it ought to have stated to CKFT that the deadline for the reply needed to be extended by an extra day. Why didn't it do it?

Seeing this – and in the context of other events – leads me to say that I more than ever stand by what I stated in my complaint: the situation was engineered with the aim of sending a reply that suited everybody's interests – except mine.

The rest of your comments do not deserve a reply.

147. **Your assessment**: *"…because again this is a serious allegation of professional misconduct which must be supported with strong evidence, before a finding can be made"*

148. **3. Failure to respond – your 22 September 2004 reply**

149. About PSB not returning my call on 12 November. I maintain what I have stated in my complaint and in my letter to you of 17 June 2004.

150. **Your assessment**: *"Though you were very distressed at that period of time, I do not consider that a failure to respond to one call constitutes inadequate professional service. …we cannot conclude that the solicitors provided a poor service…"*

151. **8. Rule 15 failure - your 3 August 2004 reply**

152. You state that you are reverting back to PSB.

153. **Your assessment**: *"..I am asking the solicitors to specifically date the letters in which they consider they responded to your complaints…"*

154.

6. Rule 15 failure - your 22 September 2004 reply

155. **Your comment**: *"..I do not consider that there was a failure to adequately address your complaints…"*

Considering the treatment I had received, my letter to PSB dated 2 December 2003 was unbelievably generous and conciliatory, giving them the opportunity to take corrective action.

What I received in return was an arrogant and dismissive letter. Indeed, the 18 December 2003 letter starts off by saying that they viewed my *"file as having been properly managed"* and terminates with *"we are satisfied that the quality of service that we provided was perfectly acceptable…"*

As you point out: *"The solicitors did not accept your complaints, and after the work I have done, they still do not accept that they provided a poor service."* (*"After the work"* [you] "*have done"*?)

Your comment: *"It later became clear that they would be unable to resolve the complaint through their own complaints handling procedures…"*.

But they still had a last ditch attempt at 'concluding the deal' – as captured in my 24 January 2004 letter to Mr Skuse:

> in her 12 December letter Ms McLean wrote: *"One final point to make is that whilst there is a current complaint against me personally and the firm it would not be appropriate for me to continue acting for you, our relationship having broken down"*
>
> in her 21 January 2004 letter she wrote: *"There is also of course the outstanding issue of the concluded agreement. Once again if you wish to discuss the matter with me at the telephone I am happy to do so"* (NB: Hence, she wrote this 6 weeks later)

This is in addition to Mr Skuse's bullying and intimidation tactics in his 18 December 2003 letter: *"…as far as CKFT are concerned there is a concluded agreement resolving their client's claim. Your letter appears to suggest that there will be a hearing and witness statements are due to be exchanged. This will not occur as the action is resolved*".

(To which I replied: *"Wrong. This action was certainly not resolved at the time of your letter as you did not have my consent to the reply you sent to CKFT - and you refused to redress the situation. Hence, the possibility of a hearing could not be excluded"*)

156. **Your comment**: "*The solicitors did not offer you a costs reduction or compensation to address your concerns because they did not accept your complaints. This would not amount to inadequate professional service*.

Your comment: "*Though I have identified issues of inadequate professional service in my letter, they are minor inadequacies*". Indeed, this is all that you have done.

Your comment: *"As it is, I consider that for the inadequacies I have identified, a reasonable sum of compensation would be approximately £150 - £200"*. What is this meant to be for? Postage costs?

157. **Your comment**: *"I am aware that you wish to make further comments, and I will be happy to consider your comments, and it may be that I alter the views I have reached so far"*.

No Ms Tutt. This is the end of my correspondence with you. I have wasted enough time with your Office as it is.

In my opinion, in your letter 2 June 2004 letter you tested the ground as to what you would be able to reply. And, as the reply did not suit, you ignored it totally. I refer, among others, to points 28 and 29 of my 17 July 2004 letter in which I provided irrefutable evidence that the advice I had been given by Mr Twyman and Ms McLean was totally the opposite of the view they held before I became a client.

Also, among others, (which I am now repeating for the second time in this document), I had specifically pointed out to you in my letter of 6 June 2004:

*"While you have made specific reference to e.g. the interest and my lease, you have omitted to do this in relation to the **findings contained in the 17 June 2003 report by the Leasehold Valuation Tribunal** which were persistently ignored by Ms McLean and Mr Twyman over a period of 4 months – during which time I emphasised / explained / pointed out the issue to them at least **8 times**. Please see my complaint, points in the summary: 1.4, 6.1, 8.1, 9.3; points in the main body of my complaint: 8, 19, 33 to 44; 47, 56, 61, 75, 93, 95, 96, 98, 100 and 102. (The exception during the 4 months period was the notes Ms McLean had captured in her Attendance Notes of the 28 October 2003 meeting – see my complaint, points 20, 24 and 98)"*.

To this, you replied in your email of 8 June 2004: "*I note the amendments you have suggested. For the time being, I have not discussed these with the solicitors, but will do so at a later stage, if necessary"*. There is no indication whatsoever that you have done this: PSB does not make a single comment about this in its reply, and nor do you.

You continued with your ploy as, in your letter dated 3 August 2004 you stated: *"I cannot see that the solicitors' letters addressed all of the issues you raised…I will be investigating further… It would be helpful if you could provide any comments you wish to make within 14 days..."*

And you have yet again done this with your 22 September 2004 reply. *"It may be that I alter the view that I have reached so far"*

And the list goes on, and on: you overlook PSB's conduct; accept its ludicrous explanations – given the evidence provided, etc, etc..

158. So, in reply to your offer of further contact: thank you, but no thank you. I have wasted enough time as it is with your Office.

I will now contact the Legal Services Ombudsman – as you correctly surmised in your 2 June 2004 letter to Mr Skuse: *"Please note that your reply… may also be seen by the Legal Services Ombudsman"*.

Yours sincerely

N Klosterkotter-Dit-Rawé