

Mr Tim Brock
LSM Partners
2 Gees Court
St Christopher's Place
London W1U 1JA

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

Tel – Work:

24 October 2004

Dear Tim

Confirmation of what you said at the 28 October 2003 meeting with Mr Stan Gallagher and Ms Lisa McLean

I filed a complaint against Mr Gallagher because the draft Consent Order and Notice of Acceptance he drafted and which **were sent without my consent** by Piper Smith & Basham to CKFT, solicitors for Steel Services, did not reflect what had been agreed at the 28 October 2003 meeting.

The point of contention is Mr Gallagher's assertion that, at the meeting, you had said that the offer by Steel Services "could not be bettered". I totally disagree with Mr Gallagher.

As the evidence against Mr Gallagher's assertion is, in my view, so overwhelming, I did not feel that there was a need to trouble you to get your input. However, I am now doing it – and apologise for this - as, in his latest reply of 11 October 2004, under paragraph 10, page 6, Mr Gallagher wrote: "I note that Ms Rawé does not supply a statement from Mr Brock as to his recollection of the conference"¹.

I appreciate that the meeting took place a year ago – which is a long time. The following is what has been captured in correspondence since. Although a voluminous amount, I thought it best to attach copies:

28 October 2003	Ms McLean's attendance note: "Tim Brock said that whilst the offer seemed to be a good one..." ²
12 November 2003	Mr Gallagher's email of 17h09 to Mr Twyman, Piper Smith & Basham: "2. Ms Rawé's expert (Mr Brock of LSM Partners) confirmed in conference that, having regard to the LVT's determination, his calculations showed that "this sum could not be bettered" by Ms Rawé" ³
13 November 2003	As I captured in under Point 59 of my complaint to the Bar Council, dated 5 April 2004 ⁴ , the conditions in which I was placed on that day were horrendous. As I also state under point 60, being at work prevents me from sending a comprehensive response. The best I can do is to say: "...I find some of [Mr Gallagher's] comments difficult to reconcile with events/facts..."
20 November 2003	My fax to Ms McLean: "I would also point out that contrary to Mr Gallagher's comment in his 12 November email to Mr Twyman, Mr Brock did not say that "I could not better the sum offered". Rather, he said that my insisting on having the outstanding specification redrawn, or tightened up i.e. in relation to items amounting to £144,745.87, would add to my advisory costs and I had to balance this against my share of the costs of these works" ⁵

¹ Reply from Mr Stan Gallagher to the Professional Conduct and Complaints Committee of the Bar Council, dated 11 October 2004

² Ms McLean's attendance note, 28 October 2003 meeting with Mr Gallagher

³ Mr Gallagher's 12 November 2003, 17h09 email to Mr Twyman, Piper Smith & Basham

⁴ My complaint against Mr Gallagher, dated 5 April 2004

⁵ My fax to Ms McLean, dated 20 November 2003

23
November
2003

My letter to Ms McLean: "...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?"⁶

5 April
2004

My complaint to the Bar Council against Mr Gallagher

Point 22 - "It was agreed that the following points would be made in the reply: (1) The fact that the specifications for a number of items have not been redrawn. My surveyor identified as a key concern the fact that, although more than four months had elapsed since the 17 June 2003 report by the LVT, the lack/ insufficient specification on items amounting in total to £144,745.87 (exc. VAT and management fees) - which had prevented the LVT from coming to a decision on these items - had still not been addressed. My surveyor gave a copy of his assessment of Steel Services' offer to Mr Gallagher (as well as to Ms McLean)"

Point 23 - "This was of great concern and discussed at length during the three hour meeting - taking up a large part of it. It was agreed that this fact would be included in the reply - as Ms McLean captured in her Attendance memo of 28 October 2003:

"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..."

Point 24 - Because of this, the reply would specify that the payment was made "in full and final payment of my share of the major works"

From Ms McLean's Attendance Memo: *"Tim Brock said that whilst the offer seemed to be a good one he was not happy that the specifications remained unchanged and provided we could have some sort of proviso in the agreement that this payment was in full and final settlement of the current major works and so that no further demands in respect of these current major works would be charged to the client we would then be happy".*

Point 50 - "Not true: the claim that my "surveyor's calculations had demonstrated that this sum could not be bettered". This is simply not true. Mr Brock neither stated, nor demonstrated this. (I pointed this out to Ms McLean in my fax of 20 November 2003)"

Point 51 - The evidence for this is that he cannot do this for three reasons:

Firstly, in the revised costs sent by CKFT with the offer, the lack of specification identified by the Tribunal, for items amounting to £144,745.87, has not been addressed.

Secondly, the boilers account for a large part of the £144,745.87, for which the LVT said to be unable to make a decision.

As Mr Brock stated during the Tribunal hearing, he is not qualified to comment about the boilers - other than say that the specifications are so vague that it is impossible to determine the

⁶ My letter to Ms McLean, dated 23 November 2003

	<p>type of boiler required - and hence the costs. (A point endorsed by the Tribunal in its 17 June 2003 report: "...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").</p> <p>The third reason is that Mr Brock did not: (1) draw-up the specifications for the remaining items (for which the Tribunal said to have no/insufficient specification); (2) put them out to tender to three contractors - and nor did I ask him to do it"</p>
9 June 2004	<p>Mr Gallagher's reply to my complaint⁷</p> <p>Point 29. (4) (iv) under which Mr Gallagher wrote that he asked you "...whether the offer figure could be beaten on a straight apportionment out of the sums that had been allowed by the LVT. Mr Brock's unqualified answer, which I took a careful note of, was that the offer figure "could not be bettered".</p>
29 August 2004	<p>My reply to Mr Gallagher⁸</p> <p>Point 82: "...as [Mr Brock] said during the LVT hearing, he is not a qualified engineer. See point 26 of the LVT determination: "Mr Brock accepted that certain matters e.g. lift were outside his areas of expertise".</p> <p>Point 127 - "...I therefore maintain what I have stated - and explained - in my complaint under points: 2.3, 50 and 51: "Mr Brock did <u>not</u> say that the offer could not be bettered". The simple reason for this is that: <u>he could not have said it.</u></p> <p>Mr Gallagher describes what he alleges Mr Brock to have said as "a central point arising out of the conference" yet, this has not been captured. He refers to Ms McLean's note as follows: "It is also consistent with McLean's note of Mr Brock saying that the Offer was a good one.."</p> <p>While 'good' certainly does not mean that it "cannot be bettered", Mr Gallagher has in fact omitted to capture a verb in Ms McLean's note which weakens his claim even further. She wrote: "Tim Brock said that whilst the offer seemed to be a good one"</p>
11 October 2004	<p>Under point 10, Mr Gallagher wrote: "I do not know why "the could not be bettered" statement is not recorded in Ms McLean's notes - if I had been asked to settle a note of the conference I would have ensured that it was recorded. However, I did not see Ms McLean's notes until after the complaint had been made"</p>

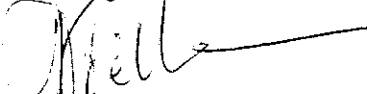
Please, let me stress that I do not want you to feel under any obligation to reply.

If you do opt to reply, please let me know if you wish to have copy of any

I would be most grateful if you could get back to me by the end of the week

Thank you

Kind regards


Noelle Rawé

⁷ Mr Gallagher's reply to my 5 April 2004 complaint, dated 9 June 2004

⁸ My response to Mr Gallagher's reply of 9 June 2004, dated 29 August 2004

to

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