

**CONFIDENTIAL**

**Ms N Klosterkötter-Dit-Rawe**  
**3 Jefferson House**  
**11 Basil Street**  
**London**  
**SW3 1AX**

**Our ref: 32354**

**| | July 2005**

Dear Ms Klosterkötter-Dit-Rawe

**Re: CKFT, 25-26 Hampstead High Street, London NW3 1QA**

Further to our previous correspondence, I am writing to let you know that we have now received the file on your case from the Law Society and I have considered what you say about the way that they dealt with **your complaint about CKFT**. Having reviewed all the correspondence and related documents on the Law Society's file, I am now in a position to let you know my conclusions.

You are one of eleven residential tenants in Jefferson House and in dispute with your landlord, Steel Services Limited (SSL), as to service charges at the property. CKFT were instructed to act on behalf of SSL. On 20 December 2004, you complained to the Law Society that various actions that CKFT had taken in relation to service charges involved serious breaches of a number of the rules and principles of professional conduct with which all solicitors are obliged to comply. (A solicitor and barrister, about whom you later complained to the Law Society and the General Council of the Bar respectively, acted for you. Subsequently, you contacted my Office expressing dissatisfaction with the responses of those professional bodies to your complaints. I sent you my report on the complaint about your solicitor on 12 May 2005 (my ref: 31681). The complaint about your barrister is awaiting allocation. This report, however, relates only to your complaint to the Law Society about CKFT and its outcome). Among other things, you alleged that CKFT had sought to take unfair advantage of you, defamed you, compromised the good repute of the legal profession, were guilty of abuse of process, breached their duty to the court and acted generally in ways that were *'evil and immoral'*. Furthermore, you told the Law Society that CKFT's actions involved serious criminality by reason of fraud, blackmail, theft, harassment and breaches of the Money Laundering Regulations/Proceeds of Crime Act 2002. You said that you wanted the Law Society to take disciplinary action against CKFT, to direct the solicitors to pay you the maximum compensation the Law Society could award of £5,000 and to refund a sum of £6,100 that they had obtained from you inappropriately.

The Law Society acknowledged receipt of your complaint on 11 January 2005 and told you that they were in the process of allocating the file they had opened on it to a caseworker in their Conduct Assessment and Investigation Unit. Subsequently, they wrote to you to confirm the identity of the caseworker. On 8 February the caseworker sent you a decision letter confirming his view that the available evidence was not sufficient to justify further investigation by the Law Society of your allegations of professional misconduct on the part of CKFT. The caseworker set out his detailed reasons for having reached his conclusions on the various aspects of your complaint. As both you and CKFT received a copy of the decision letter, I do not consider it necessary to go into detail about its contents and I will only summarise them here briefly insofar as I consider that necessary for the purposes of this report.

The caseworker first explained that, as you were not CKFT's client, the Law Society could only investigate whether or not your complaint gave rise to any prima facie issue of professional misconduct. In that regard he said that the solicitors' primary duty was to act in their own client's best interests and to give effect to that client's instructions. In so doing, the caseworker told you that the solicitors were entitled to rely on information given to them by the client for that purpose. He made it clear that, even if a finding of misconduct had been made, the sanctions available to the Law Society were disciplinary in nature only and they had no power to award you compensation or to direct CKFT to refund any related costs that you had incurred. The caseworker then told you that the Law Society had no remit to comment upon the legal issues, or the professional judgements exercised by CKFT in their conduct of proceedings against you on behalf of SSL, that underpinned a number of the aspects of your complaint. He also said that the Law Society had no power to consider, or where appropriate, reconsider, the matters you had raised that fell more properly within the jurisdiction of the courts or that of the Leasehold Valuation Tribunal (LVT). Furthermore, the caseworker explained, by reference to your claim that CKFT had falsified a Statement of Truth, that the Law Society would need rather more compelling evidence than that which you had provided in order to justify further investigation of your allegations of serious misconduct on the part of CKFT. Finally, he told you that only the police were empowered to investigate the serious allegations of criminality on the part of CKFT that were inherent in your complaint, and he suggested that you should report your concerns in that regard to the police. The caseworker said that it was open to the police to refer matters back to the Law Society if their investigations indicated that there were issues of criminality that warranted further consideration from a disciplinary viewpoint. He told you that the Law Society were closing their file.

You wrote to my Office on 20 February 2005, and told me that you were not satisfied with the reply from the Law Society, as it simply referred you back to the courts and the police as the appropriate agencies to resolve your complaints about CKFT. Among other things, you said that the courts had proved to be inefficient 'paper pushers' who had allowed SSL's representative to 'run the show' to the extent that the court ignored both your own submissions and a breach by SSL/CKFT of an LVT direction. Consequently, you told me you felt you had done all that you could to try to get the courts to handle your case 'fairly and justly', even going so far as to try to enlist the assistance of the Parliamentary Ombudsman, Ann Abraham, in that regard. However, and for reasons that you did not explain, you said that your then Member of Parliament, the Rt Hon Mr Michael Portillo, had refused three requests that you had made to him that he initiate the necessary approach to the Parliamentary Ombudsman on your behalf. You also set out a chronology of your contacts with the police about various allegations of criminality that you were convinced had their origins in the dispute with SSL. You made clear that the unsatisfactory

NO  
I did  
not write this

No!

outcomes had led you to conclude that you had no chance of getting the police to take any sort of meaningful action against CKFT. You asked me to consider your complaint.

Your complaint to the Law Society was, fundamentally, one of professional misconduct on the part of fee earners at CKFT and it might be helpful if I describe how I see my role in such matters. This is to a large extent governed by the fact that I do not have powers of discipline over members of the legal profession. That power is reserved to the appropriate professional body and my role is confined to a review of the professional body's handling of a complaint of misconduct if and when asked to do so by a complainant. Consequently, if I conclude that the professional body has not responded reasonably to a complaint of misconduct, the appropriate course is for me to refer the matter back for further consideration. Briefly, I would want to be satisfied that the procedures followed by a professional body, such as the Law Society, in considering a misconduct complaint were fair and that they had been thorough in their analysis of the issues involved. If I thought that either of these conditions had not been met, I would ask the professional body to reconsider. I would then consider the decision itself. However, I do not see it as my role to substitute my own judgement for the properly constituted conduct procedures of the relevant professional body. The question I ask myself is whether it was reasonable for the professional body to reach the decision that it did on the facts and arguments before it. Only if I thought that the decision was beyond the bounds of reasonableness would I refer the matter back to the professional body.

Having completed my review of Law Society's file in this case, and given full consideration to the very detailed submission that you made to my Office, I am satisfied that their response to your complaint about CKFT was both reasonable and consistent with their role and powers.

The complaint that you made to the Law Society raised matters in which allegations of criminality and serious professional misconduct on the part of fee earners in the employment of CKFT were inextricably linked. Certain aspects of it also involve disputed issues of law and legal opinion, some of which underpin professional judgements exercised by the solicitors complained of, others relating to the role and conduct of judges/the courts. The complaint is further complicated by the fact that your allegations of criminal activity encompass SSL and its various advisers either directly or by inference. Moreover, you were not CKFT's client and, given the adversarial nature of litigation, the solicitors had a primary duty to SSL to put forward their instructions as forcefully and robustly as possible, acting in what they considered to be their own client's best interests. (Solicitors do have some obligations to third parties, but the scope of those obligations is quite limited by comparison).

Although the Law Society might not have made it explicitly clear to you, it seems to me that what they were saying in their decision letter was that these various overlapping themes could only be separated out in the course of either a judicial investigation (perhaps in an action for defamation) or a full-scale criminal investigation. In effect, the Law Society were explaining that they lacked both the jurisdiction and the resources to undertake such investigations and I consider that to be a reasonable response; this Office is similarly placed. If such investigations did lead to a solicitor being implicated in a criminal act, the Law Society would, no doubt, impose the most extreme disciplinary sanctions. In the event that such investigations resulted in the identification of any residual related issue(s) of professional misconduct on the part of any fee earner at CKFT, it would be open to you, the courts or the police to invite, or direct, the Law Society to investigate those issues at the relevant time. However, the Law Society cannot themselves undertake anything comparable with a judicial investigation or a criminal

See My Diary  
22 Nov 08  
for  
UNDENIABLE  
EVIDENCE  
OF FRAUD

investigation and prosecution. They told you that it open to you to take independent legal advice about your concerns (particularly in relation to possible defamation) or consider raising them with the police if you believed that there was evidence of criminal activity. I can understand your reluctance to contemplate those courses of action after all that has gone before.

Nevertheless, I am satisfied that those, too, were reasonable responses, and as much as the Law Society could do for you, given the limits on their own powers to assist you with the matters that you raised with them. For the avoidance of any doubt, I would take this opportunity to make it absolutely clear that the system of professional self-regulation, with its limited jurisdiction, is unable to perform a judicial function; it cannot be used as a substitute for the civil and/or criminal courts.

*Again  
No!  
I did  
not  
state  
this* You did not explain why your previous Member of Parliament refused to initiate a referral to the Parliamentary Ombudsman on your behalf, but this is presumably a course of action that you could attempt to resurrect through you "new" MP, who I understand to be Sir Malcolm Rifkind. Otherwise, if you are still reluctant to go down the legal advice route or to approach the police, I can only suggest that you contact your local law centre or citizens advice bureau to see if they can help you to identify any other courses of remedial action that might be available to you.

In the circumstances, while I realise that this might disappoint you, I take the view that the Law Society's response to your complaint about CKFT was satisfactory and that their decision to close their file was justified for the reasons given in their letter dated 8 February 2005.

I am required by Section 23(1) of the Courts and Legal Services Act 1990 to report my conclusions to the parties involved. I am therefore sending a copy of this letter to CKFT and to the Law Society.

Yours sincerely



Zahida Manzoor CBE  
Legal Services Ombudsman for England and Wales