

cc. Mr Ian Skuse, Complaints Partner, Piper Smith & Basham – inc. completed OSS Complaint form

This is a complaint against Mr Richard Twyman and Ms Lisa McLean of Piper Smith & Basham, London, for abuse of fiduciary relationship, negligence, non-compliance with client instructions and use of intimidation and coercion tactics in relation to a 'Landlord-Tenant' service charge dispute with Steel Services represented by Cawdery Kaye Fireman & Taylor, solicitors (CKFT)

SUMMARY OF COMPLAINT (contained in pages 1–5)

This summary is based on details contained in the main body of this supporting document, which comprises 5 sections (contained from pages 6-39):

- Introduction and Background to the case (page 6)
- (A) - Steel Services "Without prejudice Part 36 Offer" (page 7)
- (B) – The response to the directions set by West London County Court (page 25)
- (C) – The handling of my 20C Order Application to the LVT (page 28)
- (D) – Appalling administrative management of my file (page 37)

(My letters of complaint to Piper Smith & Basham of 2 December 2003 and 24 January 2004, and their replies of 18 December 2003 and 30 January 2004 are enclosed with this complaint)

1 Giving me the wrong advice and refusing to change their position in spite of my numerous requests and emphasis on the binding nature / relevance / importance /of documents and/or legal rules and guidelines (actions which, as the client, I should not have had to take)

- 1.1 Not advising me that the Claimant's offer, described as a "Part 36 Offer", is not compliant with CPR guidelines (Lord Woolf's recommendations on the requirements for the working of Part 36 Offers in *Ford v GKR Construction Ltd* [2000] 1 All ER 802 – as the offer was not supported with the information necessary for me to assess it.
- 1.2 Opting to totally ignore the requirements for the working of Part 36 Offers in the reply to the Claimant – in spite of my (as the client!) bringing it up to the attention of Mr Twyman (page, 13, 14, 18)
- 1.3 In spite of my four specific requests (which I should not have had to make), plus other documents (page 8, 9,15) - repeatedly refusing to take into consideration the terms of my lease (need for advanced payment to be certified by an accountant – leading to the position that, **even at the date of writing, Steel Services cannot ask me to pay a single penny** towards the cost of the major works as I have not been provided with the accounts).
- 1.4 Repeatedly refusing to take into consideration the findings contained in the 17 June 2003 report from the Leasehold Valuation Tribunal (LVT). (Principally that some £200,000 of works are not specified/ lack specification). But also, generally refusing to acknowledge the findings e.g. by stating in the minutes of the 28 October 2003 meeting with Counsel "...they had sent her a demand for £14,400 which it now seemed was an incorrect figure...". I wrote to Ms McLean that I found 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 its demand downwards (by then for the 3rd time)) (page 8)

I emphasised/ explained/ pointed out the issue of the LVT findings to Ms McLean at least 8 times. In addition to which, she had the LVT report, my surveyor's assessment and my letters to the Court (page 10, 11, 12, 20, 21).

- 1.5 Telling me that I could not make a 20C Order Application for the whole block – this in spite of my arguing with them that their advice went against that of: (i) LEASE; (ii) the Lands Tribunal case 'Langford Court v Doren Limited (LRX/37/2000) - of which I sent them a copy; (iii) my previous solicitor who had initially informed the LVT of my application; (iv) Counsel's action at the 28 April 2003 LVT hearing (page 28, 29, 33, 34, 36)
- 1.6 Telling me that I am wrong / what I want cannot be asked/ raised when I brought the above points to their attention (instances of this throughout the supporting document – and exemplified above).

2 Including critical changes to the reply to the Claimant's offer without my consent (page 17, 21, 22, 23)

- 2.1 Accepting a condition (payment of interest) which had been agreed at the 28 October 2003 meeting with Counsel would not be accepted (page 8, 19, 20, 21)
- 2.2 Leaving out a highly material point (lack of specification for some items), which had been agreed (at the same meeting) would be included (page 8, 20, 21, 22)
- 2.3 Including points that had been agreed would not be included (references to clauses in my lease). (These made up 50% of the reply) (page 8, 21)
- 2.4 Making a generic comment about non-compliance with the terms of my lease – thereby not addressing the issue (as well as making it impossible for a third-party to appreciate the issue) (page 17)

3 Use of coercion tactics to push me into a decision against my will

- 3.1 Abuse of their fiduciary relationship by taking advantage / repeatedly attempting to take advantage of my lack of knowledge and experience of legal matters and processes (page 16, 19, 20, 23, 24, 30, 31, 32, 33, 34)
- 3.2 Focus only on the negatives (not the positives), thereby resulting in biased, unbalanced advice
- 3.3 Relentlessly using the threat of legal proceedings and the associated costs as a means of pushing me into a decision against my will:

e.g. by Ms McLean disregarding the facts at the 28 October 2003 (page 9)

e.g. in relation to the 20C Order Application - after Ms McLean had sent a letter to the managing agents on 18 September 2003 (which contained a point we had never discussed and therefore never agreed would be included), every single day she referred to the threat of litigation by 2 means: correspondence from the Claimant's side (page 32, 35) and, if there was not anything she could send me, by adding to it herself e.g. on 19 September 2003 she wrote: *"Where I the representative for the landlord... I would seek costs against you on an indemnity basis"*

e.g. Ms McLean's letter of 12 December 2003 telling me, in relation to the reply sent to CKFT: *"I am surprised that they have not chased for it (signed consent order) before now.. They will argue, correctly in my opinion, that we have an agreement"*

e.g. the 18 December 2003 reply I received from Mr Skuse, the Complaints Partner, who stated, in relation to my continuing to refuse to give my consent to the reply they had sent to CKFT: *"... would only lead to further litigation at your cost..."*

- 3.4 Very clear evidence of reliance on the fact that no solicitor would take-on my case given where I was at. Among others, Ms McLean's letter of 12 December 2003 *"One final point (NB: !!!) 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"*. Realising that the strategy had backfired as I had opted to write directly to CKFT on 19 December 2003, (and that the threat in their 18 December 2003 letter did not have the desired effect), in her letter dated 21 January 2004 Ms McLean 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 (sic) the telephone I am happy to do so"*

- 3.5 Frequently writing correspondence that was obtuse / muddled the issues, evidently in the hope that I would give up (page 9, 11, 22, 30, 31)

4 Not carrying out instructions by ignoring my 3 requests to have the draft reply sent for my review:

- 4.1 Ignoring my 3 written requests to be provided with the draft reply for my review (on 7 November 2003 and twice on 13 November 2003) (page 17, 18)
- 4.2 Not ascertaining that I received it and, within 21 minutes of the draft reply being sent by Counsel as an attachment to an email, sending me an email saying that it would be *"sent to the other side in the next 10 minutes"* (page 16)

5 Refusing to admit they did not follow instructions and did not implement what had been agreed – and lying as a means of covering up non-compliance with instructions (claiming I had faxed my comments one hour later than I had actually done it - which I was able to prove – page 13, 17, 18)

- 6 **Refusing to redress the situation by sending a substitute reply to CKFT (page 19, 25). This includes when I addressed my request to the Managing Partner, Richard Berns and Complaints Partner, Ian Skuse, who, in fact, also attempted to push me into a decision by saying that “*there is an agreement, that I have endorsed it and that I am now trying to change it*” - and emphasising the threat of legal proceedings from the Claimant**
- 6.1 Ms McLean did write a proposed draft letter for CKFT on 1st December 2003 (page 22) – which captured the point about the lack of specification for some of the items – but she was proposing to send this as an ‘additional’ letter to what had already been sent. I refused it on the ground that it did not address my request. I wanted this captured in the reply – not in a separate, additional letter.
- 7 **Quite clearly, engineering of situations calculated to take advantage of the fact that I am at work so that I would not have the time to respond (reply to offer) / would overlook the contents of documents**
- 7.1 Waiting 3 days to send Counsel my draft reply to the offer - which I had sent 5 full working days before (on 7 November 2003) the deadline for reply (13 November 2003) – and Mr Twyman telling me on 11 November 2003 a.m. when I called him that “*he hoped that Counsel would have the time to look at it*”
- 7.2 ‘Making-up’ a time for the reply as being 16h00; changing this post-replying to the offer to 16h30 (NB: neither of which are correct as a 16h00 deadline only applies to courts) (page 17, 18)
- 7.3 Being put in a position of not being able to reach anybody - On 12 November 2003 I was: told that Mr Twyman was out of the office all day; that his secretary was busy. She did not return my call
- 7.4 Assuming instantaneous transfer of email giving me c. 21 minutes to review the draft (page 17)
- 7.5 In relation to the 20C Order Application, instigating a letter to be sent to the managing agents which, firstly, was totally unnecessary (as proven by correspondence the following day from Ms McLean – page 29, 31) and, secondly, contained a **sentence that we had never discussed – and therefore never agreed would be included – and could not, in any way, shape, or form - be inferred from the body of evidence I provided to Ms McLean** (my previous solicitor’s letter to the LVT; my Counsel’s confirmation at the 28 April 2003 LVT hearing – at which Ms McLean was present as she was representing another resident; my covering letter to the Application). True, I did not spot it. But, why did she put it in? **Why did she in effect trick me?** (pages 28 – 37)
- 8 **Lack of care by not familiarising themselves with my case – this, in spite of charging me for it**
- 8.1 E.g. initially charging me several hundred £s for “*perusing through voluminous file*” which, evidently was not done (e.g. Ms McLean’s unbelievable obstinacy in refusing to acknowledge the findings from the 17 June 2003 LVT report; ignoring the terms of my lease)
- 8.2 Ms McLean ignored several documents making it crystal clear that my 20C Order Application was for the whole block of flats, opting instead to view the application as being only for my own benefit. **Why?**
- 9 **Lack of guidance and advice, as well as ignoring my requests for experienced advice**
- 9.1 Refusing to discuss my reply to the Claimant’s offer and, at the same time, giving me an ultimatum to respond (from page 12, 14, 15)
- 9.2 Not responding to my request for guidance for producing my Witness Statement (page 27)
- 9.3 Ignoring my requests to have an experienced solicitor deal with my case: (1) in relation to my lease, I wrote 3 letters in which I asked Ms McLean to consult somebody with experience (on 3, 9 and 21 September 2003) (page 9). Likewise, in relation to the LVT findings: my letter of 3 September 2003 (page 11). Also in terms of determining the documents I should include in my Standard Disclosure of Documents (my letter of 15 September 2003).
- 9.4 After 3 weeks of asking (page 9), in a meeting on 22 September 2003 Mr Twyman told me that, if she needed to, Ms McLean could discuss matters with him as they were sitting in the same room. Also, in her 22 September letter Ms McLean 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 therefore assumed that I would be receiving proper, expert advice.
- 10 **Demonstrating contempt in relation to the directions set by West London County Court, as well as other compelling evidence clearly indicating an intent that regardless of events/ circumstances – and**

hence of my best interests – my case would not proceed to a Court hearing – thereby, jeopardising my position and getting me extremely worried as a result

- 10.1 The directions set by the Court required: (1) Standard Disclosure of Documents by 16h00 on **19 September 2003** and requests for inspection by 23 September 2003; (2) the exchange of the witness statements by **21 October 2003** and delivery to the Court by 16h00.
- 10.2 On 3 October 2003 Ms McLean sent me a letter stating that the timetable "*may need to be extended*" and that she saw "*no real problem in that*". While on 14 October 2003 she said that she would be discussing an extension to the timetable with CKFT. On 27 October 2003 (i.e. 6 days after CKFT had faxed the offer) she said to have sent a letter to CKFT containing the following: "*May we suggest Witness Statements are exchanged by 12 December Experts Reports by 9 January 2004 with (sic) should give us just over a month before the trial commences which should be ample time, may we please hear from you as soon as possible on the above*"
- 10.3 In her 3 November 2003 letter Ms McLean told me she had received from CKFT "*...a letter confirming the extension to the timetable for exchange of witness statements and expert's reports is agreed...*"
- 10.4 I do not know whether these changes in the timetable were actually communicated to, and approved by the Court, as I was never provided with a document from the Court to this effect.
- Standard Disclosure of Documents** (page 27, 28)
- 10.5 The production of my list of documents dragged on causing me concern relative to the Court's directions, as by 2 October 2003, my list of documents had not yet been submitted. (I thought that my list of documents had to be submitted to the Court).
- Witness statement** (page 26, 27)
- 10.6 At the time I did not know that the exchange of Witness Statements had to be instantaneous. To my knowledge, Ms McLean took no action to ensure that Steel Services would comply with the Court's directions: its offer was faxed by CKFT, at 17h43 on 21 October 2003 i.e. nearly 2 hours after the Witness Statements were due to be in Court – and there was no Witness Statement.
- 10.7 Having ignored my request for guidance on the production of my Witness Statement, Ms McLean waited **7 weeks** to give me feedback - and only because I pressed the issue by sending her a letter on 12 December 2003 in which I reminded her that this was the day she had agreed with CKFT for the exchange of Witness Statements. This is her reply: ..."*Your statement has not (and would not have in any event in its current form) been sent to CKFT*".
- 10.8 In addition to this criticism of my Witness Statement, in the same letter, she also wrote: "*The matter is settled and there is simply no point or purpose to be gained in exchanging witness statements and even less point in having a hearing date*". **Ms McLean had absolutely no grounds on which to take this position: the matter was definitely not settled (and is still not settled at the time of writing).**

11 Causing me loss of earnings as I had to take time off work to:

- 11.1 Reply to some of their correspondence as evenings and weekends were proving insufficient. (Overall, a very large part of the correspondence could have been avoided as it was in response to their correspondence that was quite clearly, intentionally obtuse / muddled issues / disregarded the facts e.g. terms of my lease, LVT report, court cases setting precedents – in the hope that I would give up arguing) (e.g. page 9, 10, 11, 12, 22, 30, 31)
- 11.2 Attend meetings with them that could have been avoided had they given me balanced, unbiased advice and recognised the facts and evidence, as well as rules of law
- 11.3 Consult other legal advisers to get a more balanced – and more accurate – assessment of my position
- 11.4 Do my own desk research as I was doubting their advice (consulting law books on Part 36 Offers, Landlord & Tenant Acts, Section 20C notices, as well as consulting LEASE and the Lands Tribunal)

12 Causing me an enormous amount of stress, anguish, torment and distress from mid-September 2003 onwards, leading to serious consequences on my physical and emotional health requiring the need to seek medical treatment (page 15, 16, 23, 33, 34, 37)

- 12.1 Loss of nearly a stone in weight in the space of one month (weight I did not need to lose given that I weighed under 10 stone and my height is 5ft 9in)
- 12.2 Loss of sleep, as well as depression, leading me to consult my doctor on 18 November 2003
- 12.3 I was told that I “*look like death*”. I certainly felt absolutely awful: very weak, very tired and close to a nervous breakdown
- 12.4 Added to this was the worry that I did not want my work to suffer

13 As a direct result of their mishandling of my case I am still in a state of anguish due to uncertainty as to how my case will develop

14 Subjecting me to appalling administrative management of my file (pages 37 – 39)

- 14.1 In spite of my repeated requests, taking 5 weeks to provide me with an estimate of costs for the subsequent stages up to a hearing and, in fact, only providing me an estimate for the next stage
- 14.2 In spite of my numerous requests, never reverting back to me with an explanation as to how the sum of £2,255.07 agreed for payment at the 26 August 2003 Court hearing was arrived at
- 14.3 Giving me the wrong cost for counsel
- 14.4 Writing to me - 5 days after saying that they had sent the reply to the Claimant - that it had not been sent (page 19)
- 14.5 Making significant errors in documentary documents (e.g. attendance notes)
- 14.6 Not addressing an error on Form N265 despite my requesting it at least 4 times – in writing

15 Causing me embarrassment at work by continuing – in spite of 3 written requests - to send me faxes on the wrong fax number, leading to my private case-related documents being circulated among my several thousand staff, 7 floor office block

16 Conclusions

I have paid £5,000.00 of my life-savings to Piper Smith & Basham. In exchange for this I expected expert, impartial advice – as well as support.

The reality is totally the opposite: the advice has been incomplete, unbalanced and biased; there has been abuse of the fiduciary relationship; use of intimidation, bullying and coercion tactics to make me/ attempt to make me do things against my will; gross mismanagement of my file.

It has been a horrendous experience with serious consequences on my physical and emotional health. An experience that has also cost me, not only all of my spare time over a 3 month period, but also loss of earnings as I had to take time off to write dozens upon dozens of letters to argue with them and/ or endlessly asking them to consider the relevant facts - as well as attending meetings for the same reasons.

Considering all the evidence: Ms McLean and Mr Twyman have very clearly been driving my case led by their own agenda rather than being concerned with my best interests. As a result of their mishandling of my case, I am now very concerned as to how my case will be finally resolved.

As I have addressed my complaint to both, the Managing Partner, Richard Berns, and the Complaints Partner, Mr Ian Skuse, and received the reply that they view my case as having been “*properly managed*” and said to be “*satisfied that the quality of service that we provided was perfectly acceptable...*” - thereby indicating that the treatment I have received is endorsed at the highest level - I will expand my conclusion beyond Ms McLean and Mr Twyman by saying that the conduct of this firm is an absolute disgrace and brings disrepute to the legal profession.