

Mr Richard Twyman
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Subsequent NOTE:

This was sent by courier (and delivered at 9h01 on 7 Nov, as the fax would not go through)

(By fax and special delivery)

Your ref: (REF: LM.R360/1)

7 November 2003

Dear Mr Twyman

Subsequent note: [SS = Andrew Ladsky](#)

My reply to [Steel Services](#)' Part 36 Offer sent to your firm by fax on [21 October 2003](#) (with enclosures sent subsequently)

I understand from Lisa that you are dealing with my case while she is on holiday. As per my message on your voicemail yesterday, the following is my reply to Steel Services' Part 36 Offer.

When Lisa, Mr Tim Brock (LSM Partners), and I met with Mr [Stan Gallagher](#) on Tuesday [28 October](#) it was agreed that Mr Gallagher would draft the response to Steel Services' Part 36 Offer. I asked that this be put on hold to allow me to get separate advice.

The following represents my position:

- 1 **I refute the claim made in the first paragraph** – and wish this to be recorded.

The [LVT report](#), as well as the [7 June 2001](#) letter from [Martin Russell Jones](#) in which they clearly stated that they would be using the full amount of the contingency fund, result in Steel Services **not being entitled to claim from me its initial revised amount of £10,917.17.**

- 2 The second paragraph is incorrect – and **I also wish this to be recorded.**

It is not me challenging the LVT decision, but Steel Services, as it has revised the amount it considers due on a number of occasions.

I have caused no inconvenience or expense, and it is the obligation of Steel Services to maintain the building under the terms of [the lease](#) whether or not it is placed in funds by leaseholders.

- 3 In relation to the paragraphs in the Part 36 Offer dealing with the breakdown of reductions – **a major point highlighted by Mr Brock is that no changes have been made to the specifications i.e. the LVT's findings and decisions (in their [17 June 2003](#) report) have not been actioned which, among others, should have included re-tendering for some of the proposed works. (Mr Brock gave a copy of his assessment and conclusions of the Part 36 Offer to Mr Gallagher).**

[\(As discussed on 28 October\)](#)

Based on Mr Brock's original assessment of the LVT report, these items amount in total to £144,745.87, or 25.84% of the original sum demanded.

I therefore maintain the position I have expressed on numerous occasions to Steel Services, its representatives, and to [the Court](#) that, **without proper specifications and tendering process (to three contractors), it cannot be established what - if any of this amount - I am actually liable for under the terms of my lease.**

Hence, as (based on Mr Brock's assessment):

- (i) [the LVT](#) disallowed £129,958.00, or 23.02% of the original sum demanded, (and in its first revised cost Steel Services deducted this amount)
- (ii) the LVT concluded that it could not make a decision on a further £144,745.87, or 25.64% of the original sum demanded, due to lack/insufficient specification

it brings the total that *cannot* be charged to £274,703.87,
and the total that *can* be charged to £289,763.13.

With the addition of management fee and VAT, the total amount that *can* be charged is **£377,923.56**.

- (iii) As Steel Services-Martin Russell Jones had made a commitment to use the full amount of the contingency fund as contribution towards the major costs (their letter of [7 June 2001](#)) which, at the time of the 17 April 2003 LVT hearing was said to amount to £141,977.00 (or 25.15% of the sum demanded)

→ the sum that can be demanded is **£235,946.56, or 32.05%** of the [original sum](#) – making my share of it **£4,615.11**.

However, by comparison, Steel Services' [Part 36 Offer of £6,350.85](#) amounts to 44.10% of the original sum demanded. *There is thus an overcharge of £1,735.74.*

- 4 Although Steel Services has only provided me with partial evidence (as explained above) to back-up its demand of £6,350.85 – of which I paid £2,255.07 by sending your firm a cheque on 3 September 2003 – **I agree to this sum on the condition that it is considered to be in full and final payment of my share of the costs for carrying out all the major works at Jefferson House.** [\(As discussed on 28 October\)](#)

At the meeting Mr Gallagher said “*without admission of liability*”. I believe that one of the points relating to this is, for example, the fact that **the demand does not comply with the terms of my lease.**

- 5 **I refuse to pay the interest charge.** The costs have not been incurred and therefore the sum demanded is not due and payable. [\(As discussed on 28 October\)](#)

- 6 **I do not accept Steel Services' condition “... each party bears its own costs”.**

My position is as follows:

A reduction of 55.897%, representing £8,049.34 relative to the original sum demanded of £14,400.19	=	I won	=	Steel Services pays all my Court related costs since 25 June 2003 (legal and surveyor fees)
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Subsequent note: I did not know about Civil Procedure Rules at the time + was not familiar with the terminology

7 Steel Services' original County Court claim, dated [29 November 2002](#), should be struck-out.

8 A Consent Order from the Court detailing:

- (i) that the original claim was struck-out;
- (ii) the amount of the claim that has been settled;
- (iii) that Steel Services paid my costs

will need to be issued.

While there is no mention of a confidentiality clause, let me stress that, (as I told Lisa on 28 October), if this were to now be considered: I would *not* accept it.

In order to regularise my position under the terms of [my lease](#), as part of the settlement, I wish to be supplied with:

- (i) *A copy of the year-end 2002 accounts* - On [9 October](#) I sent a letter to [Martin Russell Jones](#) requesting this - in accordance with the terms of my lease. Given that the issuing of these accounts is long overdue, I asked that these be provided to me within 14 days. To date, I have not received these accounts.
- (ii) *Copy of the statements issued by the bank(s)/ building society(ies) in which the trust fund is held* - Nor indeed have I received copy of these statements – a request I am entitled to make under Section 22 of the Landlord & Tenant Act 1985 – and for which I have offered to pay reasonable photocopying costs.

Thank you in anticipation of your liaising with [Mr Gallagher](#) to obtain a draft for my review.

Yours sincerely

Noëlle Rawé