

DEFENDANT’S SKELETON ARGUMENT re. [Claim 7WL00675](#) drawn-up by Portner and Jaskel, solicitors, London W1U 2RA

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This document is supported by 67 appendices

1.

1 WHAT IS THE TRUE IDENTITY OF THE CLAIMANT – AND THE ADDRESS?

2. The name of the Claimant is given as “**Roostock Overseas Corp**”. In its 16 February 2007 letter ([1 attached](#)) letter (in which it threatened the Defendant with bankruptcy proceedings if she failed to immediately pay the sum £8,937.28) Portner and Jaskel identified its client as “**Roostock Overseas Corp**”

In breach of CPR Part 16 Statements of case – PD 2.2, no address has been provided.

3. “Roostock Overseas Corp” describes itself as “*the Lessor*” of the Defendant’s flat, whereas the Particulars of Claim (on Martin Russell Jones (MRJ) letter headed paper) state “**Landlord: Steel Services Ltd**” (This discrepancy was highlighted to WLCC by the Defendant with the 22 March 2007 Acknowledgement of Service)

4. **1.1 The Defendant is only aware of ‘Steel Services Ltd’ as being her ‘Lessor’, or ‘Landlord’ – and therefore considers the Claim to be from Steel Services**

5. As the Defendant communicated in her 25 February 2007 reply ([2 attached](#)) to Portner and Jaskel, she has never heard of “Roostock Overseas Corp” – nor indeed, has she heard of “Roostock Overseas Corp”

(NB: Portner and Jaskel ignored the Defendant’s request for clarification, opting instead to file the 27 February 2007 claim against her i.e. the day after it had received her 25 February letter).

The Defendant knows of ‘Steel Services Ltd’ as being her ‘Lessor’ or ‘Landlord’ (as was the case with the West London County Court claim of 27 November 2002, ref. WL203 537) ([3 attached](#))

6. **1.2 Indications are that the ‘true originator’ of the Claim is none of the above, but Sloan Development**

7. This name is captured in the file path at the bottom of the Claim:

G:\Bulstrode\data\docs\S\23208 ' **Sloan Development**\oo2 Miscellaneous Matters\Oyez Forms\Claim Form - Ms N

Sloan Development was party - with 'Steel Services' - in the 5 August 2005 transaction on the lease for the penthouse flat ([4 LR title attached](#)). It also acquired the lease for flat 7 ([5 LR title attached](#)) on 15 April 2004 (subsequently acquired by Mr Ladsky ([6 LR title attached](#))).

8. **2 THE DEFENDANT ASSUMES THAT ALL THE SUPPORTING INFORMATION WAS SUPPLIED WITH THE CLAIM**

9. The header “*Particulars of Claim*” has the word “(attached)” crossed out, leaving the word “(to follow)”. Considering CPR Rule 7.4 (1) and (2), the only communication received by the Defendant since the filing of the Claim, on 27 February 2007, is a 1 March 2007 invoice ([7](#))

¹ 07.02.16 – Letter from Portner and Jaskel to the Defendant

² 07.02.25 - Defendant’s reply to Portner and Jaskel’s 16 February 2007 letter

³ 02.11.29 – WLCC Claim WL203 537, 29 November 2002

⁴ 06.02.27- LR title, BGL 54458, penthouse flat

⁵ 04.04.26 – LR title, BGL 43 656, flat 7, recorded on 15 April 2004

⁶ 06.02.22 – LR title, BGL 43 656, flat 7, recorded on 28 November 2005

⁷ 07.03.01 - Martin Russell Jones invoice stating a “*Brought forward balance*” of “£8,688.42”

[attached](#)) i.e. two days later, from MRJ, stating “Brought forward balance **£8,688.42**”. It does not make any reference to the current Claim. This amount is different from that stated in the Particulars of Claim: **£8,937.28**

The Defendant therefore assumes that the reverse of the Claim form which includes the “Particulars of Claim” header and Statement of Truth, as well as the attachments: **(1)** MRJ headed paper list of claimed charges; **(2)** follow-on page of claimed charges; **(3)** ‘Schedule B’ – represent the sum total of the Particulars of Claim.

10. **2.1 Contrary to CPR Part 16 – Statements of Case – PD 7.3, the ‘contractual obligation’, i.e. the Defendant’s Lease, was not supplied with the Claim – leading the Defendant to supply it now to prevent a repeat of the situation with the 29 November 2002 WLCC claim when her contractual obligations were falsely represented**

11. Considering the wording in the Particulars of Claim produced by Portner and Jaskel:

“...the Defendant covenanted to pay the Claimant all service and other charges as they fell due”,

the Defendant fears a repeat of the situation with the 29 November 2002 Claim WL203 537, drawn-up by Cawdery Kaye Fireman & Taylor (CKFT) when the Lease ‘apparently’ for flat 23 ([8 attached](#)) had been attached to the Claim, falsely stating that it is representative of the Defendant’s Lease ([9 attached](#))

(Clause (2)(2)(c) (i) in the Lease for flat 23 is very materially different from the same Clause in the Defendant’s Lease – and would allow the above statement by Portner and Jaskel)

12. **3 REQUEST FOR TRANSFER TO THE LEASEHOLD VALUATION TRIBUNAL UNDER SCHEDULE 12 SECTION 3 OF THE COMMONHOLD AND LEASEHOLD REFORM ACT 2002**

13. Request that the jurisdiction be transferred to the LVT as:

- (1) the claim relates to service charges under residential leasehold
- (2) the Defendant disputes the claimed charges, in terms of amount claimed for items, as well as her share of these
- (3) the case is linked to the Tribunal’s determination of 17 June 2003, LVT/ SC/007/120/02 (ref #992 on the LVT database) ([10 attached](#)).

14. **4 THE SUMS CLAIMED IN THE 27 FEBRUARY 2007 [CLAIM 7WL00675](#) CAN BE GROUPED UNDER FIVE HEADINGS**

15. The sums claimed can be summarised under five headings:

- Half-yearly service charge in advance: **£4,539.62**
- Reserve fund contribution / Half yearly reserve fund: **£1,130.60**
- Balancing charge: **£573.70**
- Electricity: £549.36 - £56.00 = **£493.36**

⁸ 95.01.15 – Lease ‘apparently’ for flat 23 supplied with WLCC 29 November 2002 Claim

⁹ 86.03.10 - Full copy of the Defendant’s Lease

¹⁰ 03.06.17 – Leasehold Valuation Tribunal determination, LVT/ SC/007/120/02, ref #992 on LVT database

- Ground rent: **£ 2,200.00**

A total of £8,937.28

(As previously detailed, the Defendant received a 1 March 2007 invoice from MRJ stating a "Brought forward balance" that is lower: **£8,688.42**)

16. **4.1 The Defendant has a £6,100 credit following her Landlord's non-compliance with consultation proceedings. This has not been acknowledged**
17. MRJ sent a 15 July 2002 service charge demand of £736,207 for "major works" at Jefferson House ([11 attached](#)), amounting to £14,400 for the Defendant ([12 attached](#)) - based on her 1.956% share.
18. No detail of costing was supplied with the demand – in breach of the Defendant's statutory rights under S.20 of the L&T Act 1985.
- (NB: The false claim made to the Tribunal by Ms Hathaway, MRICS, MRJ, that the Defendant had been supplied with a priced version of the specification was exposed during the hearing, leading to a postponement "in the interest of justice" – as captured under points 14 and 16 of the 17 June 2003 LVT determination)
19. Three weeks after sending the service charge (in the holiday period) Steel Services-MRJ filed an application to the LVT on 7 August 2002 ([13 attached](#)). (The leaseholders were not informed of this until two months later (10 October 2002 letter from the Tribunal)).
20. The remit of the Tribunal is detailed in its 29 October 2002 pre-trial directions ([14 attached](#)):
"The application is for the Tribunal to determine the reasonableness of the refurbishment and repairs work proposed by the applicants at a cost of 736,206.09"
- As well as under point 1 of its 17 June 2003 report "The Tribunal was dealing with an application to determine the reasonableness of a service charge to be incurred under Section 19(2B) of the L&T Act 1985"
21. **4.1.1 The impact of the 17 June 2003 Tribunal's determination, LVT/SC/007/120/02, on the global sum demanded by Steel Services – Martin Russell Jones of £736,207, in July 2002, was a reduction of £500,000 (including the contingency fund).**
22. The total sum demanded was £736,207 (£564,467 excl. VAT and management fees of 11%)
- **Amount disallowed by the LVT because improvements: £169,498** (£129,958 excl. VAT and fees) = 23% of the global sum demanded
 - **Amount for which the LVT could not make a determination due to lack of specification = £188,784** (£144,745 excl. VAT and fees) = 25.6% of the global sum demanded
 - 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** - or 19.3% of the global sum demanded (As with everything else, the LVT cannot enforce this)
- Leaving an amount that can be charged of £235,947 - or 32% of the original sum demanded.

¹¹ 02.07.15 - Letter from Ms Hathaway, MRJ, to "All Lessees"

¹² 02.07.17 - Service charge demand of £14,400 sent by MRJ to the Defendant – with the 15 July 2002 letter

¹³ 02.08.07 – Steel Services-MRJ application to the LVT

¹⁴ 02.10.29 – LVT pre-trial hearing directions

In other words, £500,000 of the sum demanded was NOT considered as reasonable.

NB: This is based on the assessment of the Defendant’s RICS accredited Surveyor ([15 attached](#)) as, having written a very damning report - by not including a summary of its determination - the Tribunal failed to perform its remit – which it yet again confirmed post issuing its report, in its 21 July 2003 reply ([16 attached](#)) to Mr Silverstone, CKFT:

*“It is not the **duty of the Tribunal** to assess the particular contribution payable by any specific tenant but **only to determine the reasonableness, or otherwise of the service charges as a whole to go on the service charge account** from which no doubt you can assess the proportion for that particular tenant”*

23. **4.1.2 It follows from the LVT determination that Steel Services – Martin Russell Jones breached statutes, as well as covenants in the Defendant’s Lease**

24. Section 19(2B) of the L&T Act 1985 *“Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable”*

Clause 2(2)(c)(ii) – *“The Lessor will use its best endeavours to maintain the annual service charge at the lowest reasonable figure consistent with due performance and observance of its obligations herein”*

(NB: Against Steel Services’ party false position that the demand was an “interim demand”, the Defendant highlights Clause 2(2)(j) *“...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”*

25. **4.1.3 Ignoring the Tribunal’s directions to the Leaseholders to NOT pay the service charge, Steel Services issued a WLCC 29 November 2002 Claim, WL203 537, against the Defendant (and ten other Leaseholders)**

26. At the 29 October 2002 LVT pre-trial hearing, the Defendant (and other Leaseholders who, against the odds, managed to attend) were specifically told by the Tribunal to **not** pay the service charge demand until the Tribunal has issued its determination, and it had therefore been implemented.

27. In support of this, the Defendant (and other Leaseholders) were given a booklet which, on page 5 ([17 attached](#)), relates the outcome of the Court of Appeal ruling in the case of Daejan Properties Ltd v LVT: *“...determined that LVTs only have the jurisdiction to decide the reasonableness of disputed service charges **that are still unpaid...**”* (emphasis as per booklet)

28. Knowing that this direction had been given to the Leaseholders (the LVT directions list the attendees (supplied), and Mr Silverstone, CKFT, having stated in his 21 October 2002 letter ([18 attached](#)) to the Defendant being aware that Steel Services was pursuing the action in the LVT, CKFT nonetheless drew-up the 29 November 2002 Claim WL203 537 against the Defendant (and 10 other Leaseholders) - representing in total 14 flats – stating under point 4 of the Particulars of Claim:

“The Defendants have failed to pay the service charges, details of which are set out in Schedule 1 and there is now due and owing from the Defendants to the Claimant the sums set-out in

¹⁵ 03.07.31 – Assessment of Steel Services 17 July 2003 “Revised price” by Defendant’s RICS accredited Surveyor

¹⁶ 03.07.21 – Letter from LVT to Mr Lanny Silverstone, CKFT

¹⁷ 02.10.29 – “Applying to a Leasehold Valuation Tribunal”, LVT publication

¹⁸ 02.10.21 – Letter from Mr Lanny Silverstone, CKFT, to the Defendant

Schedule 1 payable by way of payment...”

(NB: The Statement of Truth was signed by Ms Hathaway, MRJ ([19 attached](#)). Under CPR Part 22 – Statement of Truth – PD 3.1 “*Managing agents cannot sign a statement of truth*”. Under 4.1, when this happens, “*a party may not rely on the contents of a statement of case as evidence until it has been verified by a statement of truth*”)

29. **4.1.4 Instead of implementing the Tribunal’s 17 June 2003 determination, Steel Services used CKFT and the WLCC forum to bully, coerce and intimidate the Defendant into ‘striking a deal’**
30. At the 24 June 2003 hearing, minutes before the Judge, Mr Silverstone, CKFT, handed the Defendant a Case Summary, Draft Order as well as a “*Major works apportionment 24th June 2002 – Revised*” produced by MRJ (covering the Defendant’s flat (as well as that of five other Leaseholders) ([20 attached](#)) – none of which she had seen before.
31. The now claimed amount demanded of the Defendant (and the other five Leaseholders) had been reduced by 24.19%, from £14,400 down to £10,917 - without any evidence as to how this reduction was achieved – in breach of, among others, the Defendant’s statutory rights under S.20 of the L&T Act 1985. The documents falsely claimed that this reduction reflected the Tribunal’s determination. It did not, as it fell very short of it.
32. Having no intention of implementing the Tribunal’s determination, ‘Steel Services’ continued to use CKFT to bully, coerce and intimidate the Defendant, including threatening her with costs – all with the aim of putting pressure on the Defendant to ‘strike a deal’ with Steel Services - by sending four letters to the Defendant over the following weeks: (the day after the Case Management hearing) on 25 June 2003 ([21 attached](#)) ; 24 July 2003 ([22 attached](#)) ; 5 August 2003 ([23 attached](#)) ; 7 August 2003 ([24 attached](#))
33. During this time, the Defendant wrote two letters to WLCC emphasising and re-emphasising the fact that Steel Services-MRJ had *not* implemented the Tribunal’s determination. Her 15 July 2003 letter ([25 attached](#)) finally triggered a so-called “*Revised price*” ([26 attached](#)) from Steel Services, as well as a 17 July 2003 ([27 attached](#)) letter from Mr Silverstone to the Judge portraying the Defendant as making false claims.
34. The Defendant asked her Surveyor to assess the “*Revised price*”. In his 31 July 2003 assessment (supplied) he determined that the global “*Revised price*” had only been marginally reduced relative to the document supplied at the 24 June 2003 Case Management hearing. Hence, it still fell very far short of the Tribunal’s determination. In addition, no evidence was supplied as to how the reductions had been achieved.

¹⁹ 02.11.29 – Particulars of Claim, WLCC claim WL203 537

²⁰ 03.06.24 – Case Summary and Draft Order supplied, in court, to the Defendant, by Mr Silverstone, CKFT

²¹ 03.06.25 – Letter to the Defendant from Mr Silverstone, CKFT

²² 03.07.24 – Letter to the Defendant from Mr Silverstone, CKFT

²³ 03.08.05 – Letter to the Defendant from Ms Ayesha Salim, CKFT

²⁴ 03.08.07 – Letter to the Defendant’s solicitors (of only a few hours) from Mr Silverstone, CKFT

²⁵ 03.07.15 – Letter from the Defendant to WLCC

²⁶ 03.07.17 – “*Revised price*” sent to the Defendant by Mr Silverstone, CKFT

²⁷ 03.07.17 – Letter from Mr Silverstone, CKFT, to Judge, WLCC

35. The Defendant communicated this in her 9 August 2003 letter ([28 attached](#)) to WLCC, as well as supplied 16 enclosures as evidence – including her Surveyor's assessment.

36. Ms Ayesha Salim, CKFT, filed a 6 August 2003 Summary Judgment application to WLCC ([29 attached](#)). Among others, she attached two documents falsely claiming that they reflected the Tribunal's determination:

1) A "Major works apportionment 24th June 2002 revised" produced by MRJ ([30 attached](#)) for which the amount, this time for all the 35 flats, had been revised down by 24.19%

She described this document by stating: "MRJ 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 at the property"

In actual fact the 2002 and 2003 "summary of contributions to the major works fund" sent to the Defendant by the Institute of Chartered Accountants in England and Wales (ICAEW) with its 29 August 2006 letter ([31 attached](#)) show that **nine out the 14 flats** listed on the WLCC claim, WL203 537, were charged the FULL amount originally demanded by Ms Hathaway in her 15 July 2002 letter.

2) The so-called "Revised price" specification of 17 July 2003 (with no further changes)

On the basis of these documents – which did **not** reflect the Tribunal's determination – CKFT wrote:

"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

Accordingly, the Claimant asks the court to enter summary judgement against the Second and Fifth Defendants with an order for payment of the Claimant's costs of these proceedings"

37. While unhappy with the course of events at the 26 August 2003 hearing, the Defendant nonetheless agreed to the payment of £2,255 ([32 attached](#)) - even though the sum demanded was in breach of the Defendant's statutory rights and the terms of her Lease.

The Defendant did this because she had always recognised – from Day 1 (as admitted by Mr Silverstone in e.g. his 25 June 2003 letter (supplied) – that works needed to be carried out to the block. (It had been left to deteriorate with no major works for 12 years – in breach of covenants in the Defendant's lease) - (as evidenced by Ms Hathaway's letter of 7 June 2001 – [33 attached](#)).

The WLCC directions set exchange of Witness Statements by 21 October 2003

38. **4.1.5 On 21 October 2003 Steel Services made a £6,350 'offer' to the Defendant (v. the original sum demanded of £14,400) – which she accepted in December 2003**

²⁸ 03.08.09 – Letter from the Defendant to WLCC highlighting her Surveyor's assessment

²⁹ 03.08.06 – CKFT Summary Judgement application to WLCC

³⁰ 03.08.06 – "Major works apportionment 24th June 2002 revised", produced for 26 August 2003 hearing

³¹ 06.08.29 – Letter from ICAEW to the Defendant, inc. contributions paid by the Leaseholders in 2002 and 2003

³² 03.08.26 – WLCC Order

³³ 01.06.07 – Letter from Ms Hathaway, MRJ, to the Leaseholders

39. Through CKFT, Steel Services made an offer to the Defendant for £6,350, plus interest of £143 ([34 attached](#)) (v. the original sum demanded in July 2002 of £14,400).

40. The 'offer' starts with: "*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*" In other words, the same amount claimed at the 24 June and 26 August 2003 hearings.

Considering the vicious attacks on the Defendant – **to this day** – (and the monies it secured from the other Leaseholders), **it is clear that if 'Steel Services' held the view that the Defendant owed this amount, it would not have made her an 'offer' for £6,350.**

41. While the Defendant accepted the LVT determination (as she had stated in her 15 July 2003 letter (supplied) to WLCC, the 'offer' demonstrates that Steel Services kept on challenging it, as it states: "*...our client has, once again (NB:!!!), reviewed the revised apportionment*"

42. In light of the events that had taken place in the legal arena, the Defendant opted to accept the 'offer' in spite of the fact that:

(1) the Tribunal's determination had not been implemented, and hence a new Section 20 Notice had not been issued, nor new costing obtained - thereby breaching her statutory rights

(2) the sum demanded was not compliant with the terms of her Lease on a number of aspects

(3) it was higher than that assessed by her Surveyor – as being the Tribunal's determination.

43. The Defendant's battle with her solicitors (who had sent a reply to the 'offer' falsely claiming that the Defendant had agreed to it), led the Defendant to take back control of her case in mid-December 2003 and to write her *own* Notice of Acceptance to CKFT, sent on 19 December 2003 ([35 attached](#)) in which she accepted the £6,350 'offer', while disagreeing to the payment of £143 of interest.

In this Notice of Acceptance, the Defendant took the opportunity to stress the failings of the 'offer' which she overlooked - stating that **she was accepting the 'offer' "for the sake of bringing the dispute to an end"**

44. This was followed by another seven-month battle with CKFT, partly in WLCC – eventually resulting in a Consent Order that was endorsed by Wandsworth County Court on 1 July 2004 ([36 attached](#)). It states:

"The Claimant having received the sum of £6,350.85 from the Second Defendant, this action has been settled following the determination by the Leasehold Valuation Tribunal of an identical claim, in a report dated 17 June 2003"

45. **4.1.6 In August 2004, MRJ announced the appointment of a new contractor, Mansell, that had not tendered at the time of the original demand – and did this without S.20 / S.151 consultation**

46. Of course, during that time, the Tribunal's 17 June 2003 determination had not been implemented – and has **never** been implemented.

Instead, (on the day the proceedings had been concluded in Wandsworth County Court against the last (valiant) Leaseholder), in his 2 August 2004 letter ([37 attached](#)) to "All Lessees", Mr Barrie Martin, FRICS, MRJ, announced the appointment of a new contractor, Mansell.

³⁴ 03.10.21 – Steel Services 'offer' to the Defendant, for £6,350, plus interest of £143

³⁵ 03.12.19 – Defendant's Notice of Acceptance to CKFT

³⁶ 04.07.01 – Defendant's Consent Order with Steel Services, for £6,350, endorsed by Wandsworth County Court

Deceptively, Mr Martin quoted a price that did not include the 11% management fee, nor VAT. Addition of these items brings the cost to **£669,937** - making this just £66,269, or 9% cheaper than the Killby & Gayford quote - on which the LVT determination was based (and which resulted in a 70% reduction in the original sum demanded – including the contingency fund).

47. Mansell was *not* one of the contractors who tendered against Killby & Gayford i.e. it did *not* issue a tender. Hence, the 'so called' Section 20 Notice of 2002 has been invalidated and a new one should have been issued. This was not done.

48. **4.1.7 The works undertaken by Mansell from September 2004 bear little resemblance to those that formed the basis of the Tribunal hearings – and against which the Defendant accepted the £6,350 offer**

49. Not only did Mansell not issue a tender for the works (and therefore no competitive pricing was obtained - as per statutory requirements), the works it undertook bear little resemblance to the specification drawn-up by Mr Brian Gale, Brian Gale Associates, Steel Services surveyor, in February 2002 ([38 extracts attached](#)) which, with the costing from Killby and Gayford, formed the basis of the 2003 Tribunal hearings – and consequently determination.

This is what the Defendant paid £6,350 for: works being undertaken by Killby and Gayford, with specification and pricing revised in light of the Tribunal’s determination – and in a manner compliant with statutory requirements.

50. Mr Gale’s specification refer to, among others, “*replacing the roof covering*”

At the start of the works in September 2004, Mansell-Mr Gale described the nature of the works being undertaken by Mansell as “*replacing asphalt roof*” ([39 attached](#))

(NB: On completion of the works, in his 19 October 2005 letter to the Leaseholders ([40 attached](#)) Mr Brian Gale continued to misrepresent the nature of the works undertaken, describing it as “*external redecoration*”)

51. In actual fact, Mansell proceeded (from September 2004) with building a penthouse flat that spans the whole length and width of Jefferson House ([41 planning application attached](#)) - thereby demolishing the roof in its entirety ([42 photograph of the back of Jefferson House in July 2002 and September 2005](#)).

52. It also added three other flats to the block: flat 18A ([43 Land Registry record attached](#)); 33A ([44 Land Registry record attached](#)); Flat 35A ([45 Land Registry record attached](#)).

53. **4.1.8 The intention to build a penthouse flat, or any other enhancements had been most vehemently denied to the Leaseholders, as well as to the Tribunal**

³⁷ 04.08.02 – Letter from Mr Barrie Martin, MRJ, to “All Lessees”, announcing the appointment of Mansell

³⁸ 02.02.xx – Extracts from the “Condition survey” of Jefferson House by Mr Brian Gale, Brian Gale Associates

³⁹ 04.11.xx – Mansell – Brian Gale Associates “description of the works” being undertaken at Jefferson House

⁴⁰ 05.10.19 – Letter from Mr Brian Gale to the Leaseholders

⁴¹ 01.11.13 – Planning application for penthouse flat

⁴² 02.07.xx and 05.09.xx Defendant’s photographs of the back of Jefferson House

⁴³ 06.01.24 – LR title flat 18A, transaction between Steel Services and Lavagna Enterprises (at 22 Feb 2006)

⁴⁴ 06.01.10 – LR title flat 33A, transaction between Steel Services and Lavagna Enterprises (at 22 Feb 2006)

⁴⁵ 05.12.16 – LR title flat 35A, transaction between Steel Services and Lavagna Enterprises (at 22 Feb 2006)

54. Denials to the Defendant include Ms Hathaway’s letters of 26 March 2002 ([46 attached](#)) and 30 August 2002 ([47 attached](#)), while denials to the Tribunal are captured, among others, in:

(1) Mr Brian Gale “*Expert Witness*” report of 13 December 2002 ([48 attached](#)) – section 4 -1.4

(2) Ms Hathaway’s 4 March 2003 correspondence (page 1, point 19) ([49 attached](#)) which was supplied to the Tribunal as part of the evidential documents.

55. Whichever point in time is taken into consideration:

- July 2002 when the original service charge demand for the major works was issued - when Section 20 of the L&T Act 1985 was in application, or
- August 2004 when Mansell was appointed, and Section 151 of the Commonhold and Leasehold Reform Act 2002 was in application in relation to ‘Notification of works’

The outcome is the same: Steel Services *cannot* appoint a new contractor without going through a consultation process.

Under legislation, both in 2002 and 2004: Failure by a landlord to carry out the full consultation procedures in the correct manner, results in the landlord being unable to recover service charges for works to the building above the statutory minimum amount of £250 per leaseholder.

Hence: the Defendant’s position that, having paid the sum of £6,350 (since 19 December 2003) she has a £6,100 credit.

The Defendant communicated this to Ms Hathaway in her 30 March 2005 letter (page 5) ([50 attached](#)). **The Defendant’s Landlord, Steel Services, has *not* acknowledged this.**

And, of course, the ‘Landlord’ cannot charge the Defendant for costs for which she is not liable under the terms of her Lease – as emphasised by the Tribunal in its 17 June 2003 determination.

56. **4.2 Three months after the Consent Order, unsubstantiated large invoices were sent by Martin Russell Jones to the Defendant**

57. Due to what can only be described as an act of vengeance against the Defendant for challenging Steel Services’ 7 August 2002 application to the LVT, as well as, ‘perhaps’, contacting Kensington and Chelsea Housing in 2004 to seek its assistance in getting a copy of the 2002 and 2003 year-end accounts (leading the department to send a Section 21 request to MRJ on 25 June 2004) ([51 attached](#)) - MRJ sent the Defendant:

⁴⁶ 02.03.26 – Letter from Ms Hathaway, MRJ, to the Defendant

⁴⁷ 02.08.30 – Letter from Ms Hathaway, MRJ, to the Defendant

⁴⁸ 02.12.13 – Mr Brian Gale, Brian Gale Associates, “*Expert Witness*” report to the Leasehold Valuation Tribunal

⁴⁹ 03.03.04 – Letter from Ms Hathaway to Mr Brian Gale

⁵⁰ 05.03.30 – Letter from the Defendant to Ms Hathaway, MRJ, highlighting that she has a £6,100 credit

⁵¹ 04.06.25 – Kensington & Chelsea Housing S.21 request to MRJ for the 2002 and 2003 year-end accounts

- an invoice dated 21 October 2004 - stating a "Brought forward balance" of £14,452 (the same amount as the original claim) – without any justification ([52 attached](#))
 - another invoice three weeks later, dated 16 November 2004, this time stating a "Brought forward balance" of £15,447 – yet again, without any justification ([53 attached](#))
58. The Defendant did *not* pay these invoices and did not receive communication from MRJ until fourteen months later, when she received an invoice from MRJ, dated 9 January 2006, stating a "Brought forward balance" of £5,625 ([54 attached](#))
59. In light of the current Claim, the Defendant assumes that the 21 October and 16 November 2004 have 'mysteriously' vanished into 'thin air'. (The latter invoice 'appears' to be in part based on the former)
60. **4.3 The Defendant disputes the claimed charges comprised under the following three groupings**
61. **4.4 Half-yearly service charge in advance: £4,539.62**
62. These include:
- | | | | |
|-------------|-------------|---------------------------------------|--------|
| 25-Dec-2003 | 23-Jun-2004 | Half yearly service charge in advance | 679.36 |
| 24-Jun-2004 | 24-Dec-2004 | Half yearly service charge in advance | 679.36 |
| 25-Dec-2004 | 23-Jun-2005 | Half yearly service charge in advance | 775.83 |
| 24-Jun-2005 | 24-Dec-2005 | Half yearly service charge in advance | 775.83 |
| 25-Dec-2005 | 23-Jun-2006 | Half yearly service charge in advance | 814.62 |
| 24-Jun-2006 | 24-Dec-2006 | Half yearly service charge in advance | 814.62 |
63. **4.5 Reserve fund contribution / Half yearly reserve fund: £1,130.60**
- | | | | |
|-------------|-------------|---------------------------|--------|
| 25-Dec-2003 | 23-Jun-2004 | Reserve fund contribution | 195.60 |
| 24-Jun-2004 | 24-Dec-2004 | Reserve fund contribution | 195.60 |
| 25-Dec-2004 | 23-Jun-2005 | Reserve fund contribution | 195.60 |
| 24-Jun-2005 | 24-Dec-2005 | Reserve fund contribution | 195.60 |
| 25-Dec-2005 | 23-Jun-2006 | Half yearly reserve fund | 174.10 |
| 24-Jun-2006 | 24-Dec-2006 | Half yearly reserve fund | 174.10 |
65. **4.6 Balancing charge: £573.70**
- | | | | |
|-------------|-------------|-----------------------------------|---------|
| 25-Dec-1999 | | Contra S/C Balancing Charge | -247.86 |
| 01-Jan-2003 | 31-Dec-2003 | Balance charge as at 31 Dec 03 | 430.85 |
| 01-Jan-2004 | 31-Dec-2004 | End of year 2004 balancing charge | 390.71 |
67. **4.6.1 The Defendant's Landlord, Steel Services, lost control of the last floor of Jefferson House when it became a 'Lessee' of Lavagna Enterprises in January**

⁵² 04.10.21 – Invoice from MRJ to the Defendant, stating a "Brought forward balance" of £14,452

⁵³ 04.11.16 - Invoice from MRJ to the Defendant, stating a "Brought forward balance" of £15,447

⁵⁴ 06.01.09 – Invoice from MRJ to the Defendant, stating a "Brought forward balance" of £5,625

2006

68. The 9 January 2006 invoice (supplied) states a “half yearly service charge in advance” of £814.62 for the period 25 Dec 2005 – 23 June 2006
69. Enclosed with the invoice was “Steel Services estimated expenditure for the year ended 2006 ” ([55 attached](#)) from which the £814.62 sum has somehow been calculated. (The Defendant is uncertain as to how the sum was arrived at)
70. This document claims that the £76,167 of “estimated expenditure for 2006” is attributable to “All flats”. This is not true given that:
- Steel Services did not (still does not (?)) control the whole block as it became a ‘Lessee’ of Lavagna Enterprises Limited in a transaction recorded on the Land Registry at 31 January 2006 ([56 attached](#)) (for £875,000)
 - Lavagna Enterprises is also the Lessor of the ‘airspace’ (which Steel Services disposed of) and the airspace includes the title for the penthouse flat (supplied)
71. Further evidence that Steel Services did not, at least at the time, control the whole of Jefferson House can be seen from Portner and Jaskel’s reply of 3 April 2006 ([57 attached](#)) to the Defendant’s letter of 30 March 2006 ([58 attached](#)) (in the context of the ‘bogus’ 10 February 2006 ‘Notice of First Refusal’ (S.5 L&T Act 1987) sent by Portner and Jaskel to the Defendant)
72. **4.6.2 The “2006 estimated expenditure” does not reflect the fact that, in addition to the penthouse flat, three other flats have been added**
73. The “2006 estimated expenditure” refers to “All flats” - with a ‘hint’ of something else hiding behind as the note at the bottom of the page also states “Flats 1 to 35 only”
74. **4.6.3 As she has not been supplied with the 2005 year-end accounts, the Defendant presumes, on the basis of the “2006 estimates of expenditure”, that the 2005 accounts are unlikely to reflect the addition of four flats to the block**
75. The Defendant is unable to make a categorical statement as, at the time of writing, she has not yet received the 2005 year-end accounts.
- This amounts to a breach of the terms of her Lease: Clause 2(2)(e), Clause 2(2)(f) and Clause 2(2)(g)(i) – as well as of her statutory rights under S.21 of the L&T Act 1985. Yet, there is an expectation that she is going to ‘blindly’ pay service charge demands.
- Given that the additional four flats are not reflected in the “2006 estimated expenditure”, it can be safe to assume that the same applies to the year 2005. Taking the example of the penthouse flat, the first transaction (between Steel Services and Sloan Development) was recorded on the Land Registry at 5 August 2005.
76. **4.6.4 While she has not received any communication to this effect, the addition of a penthouse flat, three other flats, as well as Steel Services loss of control over part of the block - mean that the Defendant’s share of the service charges MUST now be significantly less than 1.956%**

⁵⁵ 06.01.xx – “2006 – Steel Services Ltd - Estimated expenditure for the year ended 31 December 2006”

⁵⁶ 06.01.31 – LR title BGL 56 642 for Lavagna Enterprises Limited (at 27 February 2006)

⁵⁷ 06.04.03 – Letter from Portner and Jaskel to the Defendant

⁵⁸ 06.03.30 – Defendant’s letter to Portner and Jaskel

77. At the time when the block comprised of 35 flats, the Defendant's share was 1.956% - as can be seen from:

(1) the attachment to the 7 August 2002 application to the LVT filed by Ms Hathaway

(2) The “Major apportionment 24th June 2002 – Revised” supplied by CKFT with the application to WLCC for the 26 August 2003 WLCC hearing

The Defendant has not received any communication about the impact of the developments on her share of the service charges.

Nor, indeed, has she received any communication in relation to Steel Services being unable to perform some major covenants in her Lease, following its loss of control over the last floor of Jefferson House.

78. **4.6.5 The Defendant demands an explanation for the ‘mysterious’ disappearance of the 2004 invoices and concurrently questions the follow-on invoice of 9 January 2006 of £5,624 which represents a drop of nearly £10,000 – still with no explanation**

79. The 9 January 2006 service charge demand states a “Brought forward balance” of £5,624.70

What is the explanation for this amount given that the previous invoice, dated 16 November 2004, stated £15,447 – and the Defendant did not pay it, as she viewed it as fraudulent.

80. **4.6.6 In addition to her ‘true’ share of the service charges for 2005 and 2006, the Defendant also questions the amount claimed for various items in 2006 (She cannot challenge the 2005 claims as she has not been supplied with the accounts)**

81. Examples include:

(1) £7,500 for “General repairs and maintenance” given that the block has recently been completely overhauled.

By contrast, in 2003, prior to the start of the works, the amount charged for this item was recorded in the accounts as £4,913 ([59 attached](#)). And the year before that, as £5,439.

(2) £7,500 for “Boiler repairs and maintenance” as replacement with new boilers is believed to have taken place during the major works: points 16.07 and 38 in the 17 June 2003 LVT report

82. (3) £1,000 for “Lift repairs and maintenance” given that the lift is new (it had to be changed in order to reach another floor)

This is the same amount as in 2002. (In 2003 it was £5,087. The Defendant assumes: to justify changing the lift. The ‘story’ is captured on pages 10 and 11 of the 17 June 2003 LVT report)

83. There are other questionable items such as the £20,000 for the contingency fund given that the block has been totally overhauled. The £9,500 for insurance (given the Defendant's experience in relation to questioning this item of expenditure in the past), etc.

84. **4.6.7 The Defendant also questions the claimed charges for 2004**

85. The Defendant questions various items in the accounts, such as, for example, the sum of £9,612 for “General repairs and maintenance” given that the works were started in September 2004.

Also the sum of £14,211 for “Legal and professional fees” – considering, among others, that she

⁵⁹ 03.12.31 – 2003 year-end accounts for Jefferson House

has a Consent Order from Steel Services exempting her from these costs.

The sum of £10,273 for the "Agent's fees", etc. given the appalling state of the area around her flat (externally and internally) throughout the two-year duration of the works, etc. (of which she has photographs)

86. **4.6.8 The Defendant also questions the 'apparent' shortfall of £98,677 in the contribution to the major works from flats owned by Mr Ladsky**

87. According to the ICAEW's letter of 29 August 2006 (supplied) the sum of £46,242 in the 2004 year-end 'accounts' headed "Contributions received" (under "Major works fund") is made up of the £4,095 from the Defendant (her 19 December 2003 letter to CKFT), and the remainder, £42,146, relates to some of Mr Andrew Ladsky's flats (flat 7, 34 and 35).

The total original share for these three flats for the major works was £140,823 ([60 attached](#)).

The Defendant: (1) questions the reason for not detailing these amounts in the list with other flats; (2) seeks an explanation for the apparent shortfall of £98,677 for the three flats

88. **4.6.9 The Defendant has confirmation that the accountant, Pridie Brewster, does not produce accounts in accordance with her Lease and, to her knowledge, has not taken steps to reflect the 17 June 2003 LVT determination in the accounts**

89. Following being copied on the Defendant's letter of 30 March 2005 to Ms Hathaway, the accountant, Pridie Brewster, confirmed in its 15 April 2005 letter ([61 attached](#)) to the Defendant that it had **not** reflected the LVT determination of 17 June 2003 in the 2003 year-end accounts – giving lack of awareness of it as reason.

90. With her 17 April 2005 reply ([62 attached](#)), the Defendant supplied Pridie Brewster with, among others, the LVT determination, while with her 9 May 2005 letter ([63 attached](#)) she supplied a copy of the 3 October 2003 Consent Order ([64 attached](#)) from Steel Services exempting her from Steel Services' LVT costs

91. The follow on three months silence from Pridie Brewster led the Defendant to approach the ICAEW for assistance. The outcome included:

- Confirmation by the ICAEW in its 4 August 2005 letter ([65 attached](#)) that Pridie Brewster produces accounts in breach of Clause 2(2)(e) of the Defendant's Lease as it "does not check the costs for reasonableness"

- And, in its 6 September 2005 letter ([66 attached](#)), agreement with the Defendant's view that "Pridie Brewster simply take the documentation given to them without question"

92. Yet, the obligation to produce accounts - in line with the requirements stated in the Defendant's Lease - is quite clearly understood by Pridie Brewster – as evidenced by its 15 April 2005 letter to the Defendant (supplied): "I will be unable to consider all the matters raised by you in relation

⁶⁰ 06.09.xx – Defendant's calculations of service charge paid by Leaseholders – using ICAEW supplied information

⁶¹ 05.04.15 – Letter from Pridie Brewster to the Defendant

⁶² 05.04.17 – Letter from the Defendant to Pridie Brewster

⁶³ 05.05.09 – Letter from the Defendant to Pridie Brewster

⁶⁴ 03.10.03 – Consent Order from Steel Services to the Defendant exempting her from Steel Services' LVT costs

⁶⁵ 05.08.04 – Letter from the ICAEW to the Defendant

⁶⁶ 05.09.06 – Letter from the ICAEW to the Defendant

to the determination and to the provisions of your lease in time to provide a full reply before the deadline referred to in page 3 of your letter. I will, however, respond in detail when I have had the opportunity to review the issues raised”

93. To the Defendant's knowledge, the accounts have not been restated / subsequent accounts amended to reflect the 17 June 2003 LVT determination.

94. **4.6.10 The clear conclusion is that the Defendant does not owe the amounts of service charges claimed**

95. The Defendant does not know how much of the claimed: (1) ‘Half-yearly service charge in advance’, (2) ‘Reserve fund contribution’, and (3) ‘Balancing charge’ she is liable for – but it is clear from the above that the claimed amounts are false

96. **4.6.11 The specialist experience of the LVT in dealing with the above issues can help explore and resolve them**

97. **4.7 The Defendant also contests the electricity charges of: £549.36 - £56.00 = £493.36, she views as the continuation of an ongoing ‘rip-off’**

98.	05-Nov-2002	???	Electricity as per attached letter	42.70	-37.76
	28-Jan-2003	02-Apr-2003	Electricity as per attached letter	35.19	-18.24
	03-Apr-2003	18-Jul-2003	Electricity charges as attached	41.80	
	19-Jul-2003	03-Oct-2003	Electricity charges as per attached	32.06	
	04-Oct-2003	12-Jan-2004	Electricity as attached	50.63	
	13-Jan-2004	05-Apr-2004	Electricity as attached	46.71	
	06-Apr-2004	06-Jul-2004	Electricity charges as attached letter	47.41	
	07-Jul-2004	11-Oct-2004	Electricity charges as attached	48.28	
	12-Oct-2004	14-Jan-2005	Electricity charges as per attached	17.74	
	15-Jan-2005	19-Apr-2005	Electricity charges as attached letter	38.86	
	19-Apr-2005	25-Jul-2006	Electricity charges as attached	26.88	
	????	????			
	17-Oct-2005	???	Electricity charges as attached letter	25.53	
	07-Jan-2006	02-Jun-2006	Electricity charges as per attached	44.34	
	09-Jan-2006	???	Electricity charges as attached letter	28.28	
	02-Jun-2006	04-Oct-2006	Electricity per attached letter	22.95	

99. The Defendant has had drawn-out battles with Ms Hathaway, MRJ, over electricity charges, going back to the 1990's. The difficulty in challenging the electricity charges is that London Electricity invoices the Landlord ‘for the block’ – instead of invoicing each flat – as the meters are under the control of the Landlord (and under lock and key).

100. **The Defendant has not received the invoices highlighted, above, in bold typeface.**

101. In relation to the other amounts, **there are discrepancies** as the Defendant has electricity invoices with **different start / end dates / different amounts** e.g.

18 Oct 02 – 22 Jan 03: £47.57 v. the claimed: “05 Nov 02 - ???: £42.70”

13 Oct 05 – 6 Jan 06: £28.28 v. the claimed: “17 Oct 05 - ???: £25.53”

7 Jan 06 – 02 Jun 06: £28.28 v. the claimed: “09 Jan 06 - ???: £28.28

In light of the above, the Defendant questions the claimed “£44.34 for 7 Jan 06 – 2 Jun 06”

102. Considering that, for a very long time now (due to the ongoing nightmare with her flat) the extent of the daily usage of electricity by the Defendant is extremely limited, she disputes the claimed amount of units used e.g. 1.68 average daily units for the period 7 Jan 06 – 2 June 06.

Other analysis of the claimed charges also highlight large variations e.g. in the ‘average daily electricity standing charge’.

From talking to other people, the Defendant also questions the cost per unit of electricity e.g. a jump from 6.993 pence in January 2006 to 10.38 pence in June 2006.

103. **Conclusion: the claimed electricity charges need to be reviewed**

104. **4.8 Ground rent: £ 2,200.00. The Defendant questions £200**

105.	29-Sep-2002	24-Dec-2002	Ground rent due on revised charge	100.00
	25-Dec-2002	23-Jun-2003	Ground rent due on revised charge	200.00
	24-Jun-2003	24-Dec-2003	Ground rent due on revised charge	200.00
	25-Dec-2003	23-Jun-2004	Ground rent due on revised charge	200.00
	24-Jun-2004	24-Dec-2004	Ground rent due on revised charge	200.00
	24-Jun-2004	24-Dec-2004	Half yearly ground rent in advance	100.00
	25-Dec-2004	23-Jun-2005	Half yearly ground rent in advance	300.00
	24-Jun-2005	24-Dec-2005	Half yearly ground rent in advance	300.00
	25-Dec-2005	23-Jun-2006	Half yearly ground rent in advance	300.00
	24-Jun-2006	24-Dec-2006	Half yearly ground rent in advance	300.00

106. The Third Schedule of the Defendant’s Lease states:

(i) For the period expiring 28th September 2002 £100

(ii) For the period expiring 28th September 2027 £600

107. **The Defendant has paid the following amounts of ground rent:**

24 Jun 2002 – 24 Dec 2002: £100 (initial payment of £25, followed by payment of £75, cheque # 1355, with Defendant’s 17 October 2002 letter to CKFT)

25 Dec 2002 – 23 Jun 2003: £100 (cheque # 1386, 22 March 2003 letter to Ms Hathaway)

24 Jun 2003 – 24 Dec 2003: £100 (cheque # 1398)

25 Dec 2003 – 24 Jun 2004: £100 (cheque # 1415, 31 December 2003 letter to Ms Hathaway)

24 Jun 2004 – 24 Dec 2004: £100 (cheque # 1328, 18 July 2004 letter to Ms Hathaway)

Having increased the half-yearly ground rent from £50 to £100, starting in 2002 – **more than two years later** – MRJ sent the 5 October 2004 letter ([67 attached](#)) to “All Lessees” stating:

“We have been informed by the solicitors acting for the freeholders (NB!!!) of the above, Steel Services Limited, that although the ground rent on your flat increased in September 2002 the increase is not sufficient to comply with the terms of your Lease”

⁶⁷ 04.10.05 – Letter from MRJ to « All Lessees » that increase in ground rent was not sufficient

108. **The Defendant is unclear as to the following amounts:**

29-Sep-2002	24-Dec-2002	Ground rent due on revised charge	100.00
24-Jun-2004	24-Dec-2004	Half yearly ground rent in advance	100.00

109. **4.9** When, in August 2004, Mr Barrie Martin, FRICS, MRJ, announced the appointment of a new contractor, Mansell, without issuing a S.20 / S.151 Notice and, the Defendant realised the nature of the works being undertaken on the roof, she drew the line: **NO MORE PAYMENT TO THE LANDLORD**. She had a £6,100 credit and this would, among others, cover the ground rent.

110. **5** **IN LIGHT OF THIS SECOND FILING OF A VEXATIOUS, ILL-FOUNDED CLAIM, THE DEFENDANT MAKES AN APPLICATION TO WLCC FOR AN EXTENDED CIVIL RESTRAINT ORDER AGAINST HER ‘LANDLORD’**

111. (Borrowing the comment of a Leaseholder about his own landlord), the Defendant puts it to WLCC that her Landlord – through his ‘ever willing aides’ - has “*turned intimidatory litigation into an industry*” for the purpose of securing monies that are not due and payable.

In addition to this Claim, the Claim in November 2002, the Defendant’s Landlord has, since the beginning of 2007: threatened the Defendant with bankruptcy proceedings; made an application to WLCC for Judgment against the Defendant (in connection with this Claim) – which WLCC has rightfully denied.

- END -

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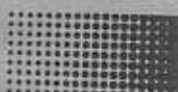
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