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Our Ref: RSP/BF/83/07259
 /39300

Your Ref: TAH/SEC

17th July 1990

Dear Sirs,

M.D. DEBONO AND MR. AND MRS. STANBOROUGH

Thank you for your letter of 6th July.

The simple situation is that because of your client's behaviour Mr. and Mrs. Stanborough were placed in extreme difficulty. In short your client embarked in an exercise, whenever they attempted to get him to put right defects, of fobbing them off. He showed a complete disregard for the problems that he had caused Mr. and Mrs. Stanborough and indeed for his obligations under the NHBC Scheme.

Mr. and Mrs. Stanborough entered into their House Purchaser's Agreement on 13th May 1981. Their Standard Notice of Insurance Cover was dated 15th September 1981. The two year initial guarantee period under the NHBC Scheme expired on 14th September 1983.

The NHBC Agreement contains an arbitration clause which eventually Mr. and Mrs. Stanborough were forced to take advantage of. The House Purchaser's Insurance Policy limits NHBC's liability as insurer of any Award made under that Arbitration Agreement to proceedings commenced within the initial guarantee period or within 12 months of its expiry. Mr. and Mrs. Stanborough did not give notice of arbitration until 27th June 1985. The result was that NHBC had no contractual obligation to pay any Award which your client failed to meet under the insurance cover.

However in view of your client's appalling behaviour NHBC considered that it would be entirely wrong to leave Mr. and Mrs. Stanborough with an Arbitration Award which had not been met when, of course, the defects were breaches of NHBC's Requirements and the arbitration had been commenced under the NHBC Scheme.

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In view of NHBC's commercial interest in this matter it was agreed to lend Mr. and Mrs. Stanborough the amount due under the Award plus costs in accordance with the terms of an Agreement of 3rd November 1986 a copy of which I enclose.

In reaching its decision to enter into this arrangement NHBC considers various factors and in particular, as I have mentioned above, your client's conduct. At the time I noted, in a memorandum to NHBC's then Director of Insurance:

"This builder as I mentioned in my previous note to you is difficult in the extreme. As you will have seen from the file he has adopted the tactic - in some sort of effort to avoid liability under the arbitration proceedings - of simply sending on the papers sent by the Arbitrator and the purchaser to us, sometimes with a compliments slip - sometimes in an envelope without any explanation at all.

I have spoken to the purchasers' solicitors and also made some attempt to knock some sense into the builder over the telephone.

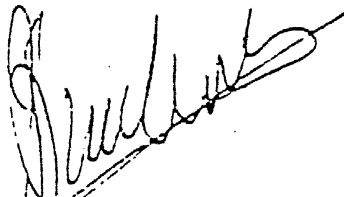
Apparently he has adopted this tactic all along and has successfully managed to fob off the purchasers by a system of confusion and bamboozling.

When I explained to him that NHBC would take action if he did not honour the Award - which may lead to court proceedings and ultimately bankruptcy - his answer was, when he stopped laughing, to say that God will be looking after him!".

Following this Agreement and payment proceedings were commenced by Messrs. Summers & Co for recovery which resulted in bankruptcy proceedings.

Had Mr. and Mrs. Stanborough commenced their arbitration within the time limit the result would have been exactly the same. NHBC would have simply paid the amount awarded by the Arbitrator under the Insurance Policy and then, under its Rules - which require a builder to repay any such payment to NHBC - have sued your client.

Yours faithfully,



R. S. PEMBROKE
COMPANY SOLICITOR