

## When a “conflict” creates conflict: RNJM Limited v Purpose Social Homes Limited

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Nearly three decades on from the introduction of statutory adjudication, and its underlying principles are now second nature to many of us. *Neutral, quick, robust, and enforceable* are just a few of the words that we’re all familiar with when it comes to describing a process that has, by and large, evolved into a well-respected and well-oiled machine. Yet, every once in a while, a case emerges that shows how fragile the process can be when the rules aren’t played properly. That’s exactly what happened in *RNJM Limited v Purpose Social Homes Limited* [2025] EWHC 2224, where the Technology and Construction Court once again reminded parties that honesty and transparency are central to the adjudication nomination process ...

### Background to the dispute

The parties, RNJM Limited (“RNJM” or “the Claimant”) and Purpose Social Homes Limited (“PSHL” or “the Defendant”) entered into a JCT Minor Works Building Contract 2016 for the construction of a block of six apartments in Harrogate. Over time, the relationship had become fraught, resulting in no fewer than five adjudications in 2024:

**Adjudication No. 1:** This adjudication did not proceed as the adjudicator resigned when RNJM did not pay the requested security for fees.

**Adjudication No.2:** This was determined by the adjudicator, Mr Bunker, in favour of the RNJM who was awarded damages and costs.

**Adjudications No. 3 and 4:** These were also presided over by Mr Bunker. On these two occasions, it was PSHL who prevailed, and RNJM was ordered to pay Mr Bunker’s fees immediately. RNJM failed to do so. Mr Bunker chased both parties for payment, threatened legal action, and then ultimately PSHL paid. RNJM gave no explanation for its refusal, and correspondence from both Mr Bunker and PSHL was ignored.

**Adjudication No. 5:** When RNJM initiated a fifth adjudication, its representative completed the Royal Institution of Chartered Surveyors (“RICS”) nomination form declaring a conflict of interest due to a “dispute over payment” with Mr Bunker. The RICS did not appoint Mr Bunker again, but instead appointed Mr Wood, who went on to award RNJM £132,884.72 in damages.

RNJM sought summary judgment to enforce the adjudicator’s award. In opposing enforcement of Mr Wood’s award, PSHL relied heavily on *Eurocom Ltd v Siemens Plc* [2014] EWHC 3710 (TCC), arguing there was a strong prima facie case that RNJM’s statement about a conflict of interest was

deliberately or recklessly false, made in order to secure an advantage. PSHL contended that this undermined the appointment of Mr Wood, deprived the adjudicator of jurisdiction, and rendered the decision void. Alternatively, if the jurisdictional challenge failed, PSHL sought a stay of execution on the basis of the Claimant's inability to re-pay any sum enforced by way of summary judgment.

## **The decision**

RNJM's application for summary judgment was dismissed. The court held that the Defendant had a realistic prospect of establishing that the Claimant made a false statement about a conflict of interest on the nomination form, giving rise to a jurisdictional defence. In light of that finding, the judge did not need to address the Defendant's alternative application for a stay of execution. As a result, the Claimant cannot enforce Mr Wood's £132,884.72 award at this stage.

## **Going back to the issues in question ...**

The case turned, not on the merits of the underlying construction dispute, but on, as the parties agreed, whether the Defendant has a real prospect of successfully arguing that the Claimant either deliberately or recklessly made a false statement in the process of applying to the RICS for the appointment of an adjudicator for the fifth adjudication.

To establish this, the court had to consider:

1. What information was provided by RNJM to the RICS?
2. Was the information provided false?; and
3. Was this false information given either deliberately or recklessly as to its truth?

## **The evidence before the court**

On considering the evidence and submissions put forward by the parties, the court found that it fell far short of showing there had been any genuine dispute with Mr Bunker, and the application form included nothing more than a "bald assertion" that the Claimant had refused to pay. The Claimant had never actually disputed liability for Mr Bunker's fees, there had been no argument about his entitlement or about the amount claimed. Despite repeated requests, the Claimant never explained what the supposed dispute was or that steps taken by Mr Bunker to pursue payment of his fees gave rise to a genuine risk of apparent bias against it. The reality was that the Claimant had simply refused to pay and, once the Defendant paid, Mr Bunker had no ongoing dispute with either party.

The witness statements filed on behalf of the Claimant did little to assist either. They were almost identical in parts raising questions about their independence, and failed to explain why anyone could genuinely have believed that non-payment of fees amounted to a dispute giving rise to a conflict of interest.

More significantly, the Claimant ignored the explicit warning on the RICS form itself, which cites the case of *Eurocom* and makes clear that false statements about conflicts can render the adjudication void. There was no evidence that this risk had been explained to the Claimant or properly weighed by its representative.

The judge concluded that the evidence was "wholly inadequate" and that the Defendant had a real prospect of showing that the statement was false and made recklessly, if not deliberately.

## **So, what's the Purpose of all this?**

HHJ Kelly's well-reasoned decision was simple but stark: the Defendant had a realistic prospect of showing that the adjudicator's appointment was tainted by a false statement made in the nomination

process and underscores the strict approach the courts take to misrepresentation. *Eurocom v Siemens* continues to cast a long shadow, and even a single false or reckless statement can void an adjudication entirely. Gamesmanship of this kind clearly still will not wash.

In the world of construction adjudication, speed and finality are prized. Yet this case is a timely caution that those goals simply cannot come at the expense of truthfulness. Misuse of the nomination process will not just damage credibility, it may erase the adjudication result altogether at absolutely no fault at all of the adjudicator. Thanks to the robust approach of HHJ Kelly, the courts have no hesitation in continuing to protect its integrity and have shown that they will not tolerate parties seeking to engineer a “better” appointment by making false or reckless conflict declarations.

With that in mind, a few key takeaways stand out for me:

### **1. Integrity and honesty in the nomination process**

- Extreme care must be taken when completing nomination forms and parties must provide sufficient information when asserting a conflict of interest.
- Representatives must ensure clients understand the severe consequences of misrepresentations, which can render an otherwise favourable adjudication worthless.
- Adjudication depends on impartial appointments. Any attempt to exclude particular adjudicators on spurious grounds may end up undermining the very award a party seeks to enforce.
- The RICS (and other adjudicating nominating bodies) is not an investigative body and their role in the nomination process is administrative: it relies on the information provided by the parties to identify potential conflicts of interest and such bodies cannot be expected to verify alleged conflicts.

### **2. Payment of adjudicators' fees**

- A refusal to pay an adjudicator's fees does not amount to a conflict of interest. In this case, at best, it was a debt owed by the Claimant. The judge emphasised that Mr Bunker had pursued both parties for payment and could have no reason to be biased against the Claimant in particular. But perceptions matter. If a party tries to spin “we didn't pay you, therefore you must be biased,” it risks undermining confidence in the process.
- Unpaid fees don't just disappear. RNJM's refusal to pay past adjudication fees was at the root of this dispute, souring relations with the adjudicator and fuelling the conflict allegation. Adjudicators are entitled to be paid. Their fees are not optional extras, and the system only works if those fees are treated seriously.
- Adjudicators' fees are a joint and several liability, meaning either party may be required to pay. While adjudicators are fully entitled to recover their fees, collection should be managed through neutral mechanisms to avoid any perception of bias. If an adjudicator pursues payment too aggressively, it can create an appearance of partiality, even where none exists. The best practice is for someone else to handle collection, keeping the adjudicator's independence beyond reproach, thereby safeguarding the adjudicator's independence. The decision in *AMEC Capital Projects Limited v Whitefriars City Estates Limited* [2004] EWHC 393 (TCC) is a reminder of how things could perhaps go wrong if adjudicators themselves lose composure. In that case, the adjudicator's frustrated response to abusive conduct led to questions over impartiality although ultimately the decision was enforced. I think Mr Bunker is to be commended here at adjudication no.4 above: he seemingly dealt with matters professionally, pressed for what he was owed, and then stepped back.

### **3. Practical implications for future adjudications**

- This dispute arose against a backdrop of RNJM's failure to pay previous adjudicators' fees and so expect adjudicators to protect themselves by demanding security for their fees up front, especially when dealing with serial adjudications. That trend could change the cost dynamics of adjudication for everyone.

The decision is also a reminder of the tactical interplay between jurisdictional challenges and enforcement proceedings. A party who identifies a flaw in the nomination process has a potentially powerful shield against enforcement. But equally, a party tempted to overstate or invent conflicts risks undoing their own hard-fought adjudication success.

On this occasion, unfortunately, the case turned out to be a waste of money, time and effort for the Claimant, who did not need to persist down that route. The Judge's ruling does not amount to a final determination of which party was correct about what was said in the RICS application form, or the validity of the jurisdiction challenge, but simply that the Claimant has been refused summary judgment to enforce an adjudicator's award. The Claimant can, of course, still pursue enforcement at full Part 7 trial, but only at the cost of further time, effort and expense, which is hardly the language we want to associate with adjudication.



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