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By post and email: dan@taxpolicy.org.uk

Our Ref: AMH/CBP/2296
Your Ref:

3 October 2023

Dear Sir

Our clients: (1) Cotswold Barristers Limited ('CBL'), (2) Mr Mark Smith, and (3) Property118 Limited ('P118')

We are instructed by our clients in respect of two articles¹ published on your website www.taxpolicy.org.uk ('the Articles'), a series of tweets posted to your X (formerly Twitter) account (@DanNeidle) between 13 and 22 September 2023 ('the Tweets'), and a series of posts to your LinkedIn account in the same period ('the LinkedIn Posts'). In particular, we write in response to your email to Mr Alexander of P118 of 29 September 2023, in which you refer to the public statement made by our clients of the same date ('the Statement').

In this letter we expand upon the contents of the Statement, in the hope of resolving matters between you and our clients.

We have instructed Felicity Cullen KC and Barrie Akin (pre-eminent tax barristers with whom you will no doubt be familiar) on behalf of our clients to advise on (i) the correct legal analysis of the Substantial Incorporation Structure and various other steps our clients may advise their clients to take ('the IS'), and (ii) your allegations about the same.

We have seen your posts to X (formerly Twitter) on 2 October 2023 concerning "*The Boys Who Won't Say No*" and the practical utility and reliability of KC's opinions generally. Putting aside these somewhat cynical and self-serving statements, this firm selected Ms Cullen KC independently of,

¹ *Property118: a tax avoidance scheme for buy-to-let landlords that defaults their mortgage and increases their tax bill of 13 September 2023* and *The "amazing opportunity" from Property118 to avoid tax, and its amazingly bad consequences*



and without any input from, our clients. Ms Cullen KC was selected based on her reputation and ranking, and due to her work both for private individuals and enterprises and on behalf of the taxpayer (that is to say that she has not spent her career on one side of the argument). Ms Cullen KC requested Mr Akin act as her junior. Great care was taken with the choice of counsel to avoid the sort of pre-emptive arguments set out in your Tweet.

Without any wider waiver of privilege, we enclose a copy of the written summary of the advice received from Ms Cullen KC and Mr Akin ('the Advice Summary').

Our clients have taken the unusual step of waiving privilege in the Advice Summary. They have done so for the sake of transparency, to avoid any suggestion any spin has been placed on the advice or that it is being quoted from selectively.

It is plain from the Advice Summary that parts of your analysis of the IS is flawed. Several of the conclusions that you have reached are not the only available or even logical ones. Your publications do not consider any of the more obvious or innocent or lawful explanations for the way in which the IS operates. Instead, you incorrectly assume that our clients are seeking to obtain an unlawful tax advantage for their clients. You also make very serious allegations of negligence against our clients that are unsustainable. Many of your erroneous conclusions derive from your incorrect assumption that our clients give the same advice to all of their clients, rather than the properly tailored and bespoke advice that is actually dispensed.

It follows that much of what you have said is highly defamatory of our clients and our clients would be entitled to pursue you for damages and injunctive relief. However, your views on precipitous litigation threats are well-known and our clients do not intend to formally assert a claim unless this is necessary. Instead, our clients hope that, apprised with the information in this letter, you will take the appropriate steps, namely:-

1. Amend the Articles, the Tweets, and the LinkedIn Posts, and any other publications of the same or substantially the same allegations against our clients to reflect the true position or, at your option, delete them;
2. Agree to refrain from making the same or substantially the same allegations of wrongdoing against our clients in future.

We trust this proposal is a reasonable one. We understand that you undertake important work in bringing to public consciousness illegitimate and unlawful tax schemes and wider issues with tax policy. In furtherance of this, you will no doubt wish to ensure that what you publish is accurate. As you suggest in your email to Mr Alexander, where a mistake has been made you will seek to rectify it.

We should be grateful for your confirmation that the above has been agreed by **10 October 2023**.

Finally, you will understand that the copyright in the Advice Summary is retained by its authors and it should not be published or reproduced. It is provided to you in confidence as a way of expediting resolution of this matter.

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We look forward to hearing from you.

Yours faithfully

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