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Our Ref: MB/LS/0271

28 October 2011

Mr Tony Hetherington  
Financial Mail  
Mail on Sunday  
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Carter-Ruck

**MOST URGENT  
NOT FOR PUBLICATION**

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Dear Mr Hetherington

**Tullett Brown**

We act for Tullett Brown and write on its behalf in response to your letter dated 24 October 2011.

We write to record our client's concerns about the nature of your investigation and to put you on notice of the fact that your newspaper risks publishing a number of allegations about our client that are false and defamatory.

We have set out below the questions posed in your letter and our client's response:

Which of CERs and VERs do you offer to clients?

Our client currently only offers Voluntary Emissions Reductions (VERs) which are all certified by the Verified Carbon Standard (VSC). There are currently no trading prices attached to VERs as there is with Certified Emissions Reductions (CERs).

Our client operates a transparent pricing policy that enables potential investors to see exactly what they are paying for.

Please be aware that that our client is not merely operating a carbon credit trading scheme, VERs are offered to potential investors as but one form of investment in addition to precious metals and plots of land. Our client simply enables investors to diversify their portfolios from the traditional investment streams which currently have lower demand and performance. To broaden the range of investments it might offer to potential investors our client is looking to offer CERs in the coming year.

We should also draw your attention to the manner in which our client's potential investors are contacted. Tullett Brown does not purchase cold leads to whom they might then make 'cold calls'. Our client does not call 'investment register' leads like many brokerages. All of the 'standard' data our client relies on stems from people who have completed telephone surveys and opted-in to receiving further details from third parties such as our client. This makes up 60% of all data purchased. The other

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40% are leads from a mixture of tailor-made tele-marketing campaigns, e-mail bulletins, e-mail campaigns and referrals.

What is the exit strategy or resale mechanism?

Our client does not operate an exit strategy or a resale mechanism. However, in appropriate circumstances our client would offer a facility to resell outstanding carbon credits to existing clients. Clients are made aware of this prior to any transaction. Alternatively, external businesses may opt to buy remaining carbon credits.

What is the significance of UN Certified Carbon Credits?

Long term projects, in which significant levels of Carbon Dioxide and Carbon Monoxide are expected to be produced, are required to offset their Carbon emissions with carbon credits. At the outset, projects such as these are investigated by the United Nations Framework Convention on Climate Change (UNFCCC) who, if satisfied with the governance of the project, provide certification. Please note that every project our client is, and has ever been involved with, is certified by the UNFCCC.

For the avoidance of doubt, all projects certified by the UNFCCC, and those in which our client is involved with, are listed at the hyperlinks below:

[www.cdm.unfccc.int/projects](http://www.cdm.unfccc.int/projects)

<http://www.vcsprojectdatabase.org/>

Do investors receive ownership of individual projects?

Investors in VERs do not receive ownership or any such rights or obligations in relation to individual projects.

Where did your traders gain experience in this sector?

Please note that Tullett Brown does not *trade* in carbon credits. Tullett Brown offers investment in commodities such as gold, silver, land and, more recently, carbon credits. In addition, as is the case with most investment firms, employees are trained 'on the job' whilst working in the market and learning from those more experienced.

The vast majority of our client's employees come from an investment and brokerage background and many from specifically carbon or ethical brokerage houses.

Do you still market investment plots of land?

Our client is not actively marketing investment plots of land at the moment due to its concerns over the reputation surrounding such investments in recent years. Our client retains some small land investments and may expand its interests in investment plots in the future depending on its concerns over security for investors being allayed. Our client has sold land in the past but its prime focus is currently on precious metals and carbon credits as our clients believe these currently represent the best long-term investment products.

Is there a connection between Tullett Brown and Foxstone Carr?

The majority shareholder of Tullett Brown is also a majority shareholder and Director of Foxstone Carr.



## Responsible Journalism

Both you and your newspaper group are familiar with the well known test of responsible journalism.

Given the concerns raised by your letter dated 24 October 2011 it would be just as well to remind you of the test of responsible journalism and to demonstrate to you how your investigation to date has completely failed to meet that standard.

1. *The seriousness of the allegation. The more serious the charge, the more the public is misinformed and the individual harmed, if the allegation is not true.*

The allegations set out and/or implied in your letter dated 24 October 2011 could not be more serious for our client. They impute that our client is running a scam and that its investment opportunities are not genuine. That imputation is false and defamatory and should not be published.

You should be in no doubt as to the substantial damage that would be caused to our client by publication of the allegations (or similar) implied by the questions in your letter.

2. *The nature of the information, and the extent to which the subject – matter is a matter of public concern.*

The matter - scam trading in carbon credits - is plainly one of public concern which makes it all the more important that your article should be accurate, fair and balanced and that any references to our client are not inaccurate, misleading or distorted.

3. *The source of the information. Some informants have no direct knowledge of the events. Some have their own axes to grind or are being paid for their stories.*

We are deeply concerned at the reliance you place on the paragraph described as a 'letter' submitted for possible publication. We find it difficult to accept that the paragraph represents the entirety of the communication to you and can only speculate on the reasons for your reluctance to disclose the letter in its entirety.

We are sufficiently confident as to the identity of your source (not least from a tweet that he sent) to be able to inform you that he should not be relied upon where our client is concerned. Online postings by your source make it clear that he has an axe to grind and that he is neither independent nor accurate in his representations of our client.

Both you and your Editor should be concerned by a source that uses the internet to openly boast about using your newspaper to launch an attack on our client: Further evidence, if any were needed, that your source is unreliable.

We have heard the recording of the telephone conversation between your source and our client's David Hogg and can tell you that your source's recollection of the conversation is so misleading and distorted as to be defamatory of our client and we advise you in the strongest possible terms not to publish it or to place any reliance upon it.

4. *The steps taken to verify the information.*

The terms of your letter to our client do not give it any confidence whatsoever that your attempts, such as they have been, to verify the accuracy of your implied allegations have gone beyond the most superficial online research and a wholly unreliable source.

Do you really think that this is a sufficient basis to ground allegations as serious as those that you make against our client? It plainly is not and we are confident that the court would agree.

*5. The urgency of the matter. News is often a perishable commodity.*

We note that your letter makes no reference to a publication date. In the absence of such basic information our client has to assume that you intend to publish on the next available date – Sunday 30 October 2011.

The allegations as set out and/or implied by your letter are not time sensitive. Publication without setting out what allegations you intend to publish about our client would be wholly unreasonable in the circumstances and we ask that you provide, by return, both written confirmation of the date of publication and the specific allegations that you intend to publish in accordance with your legal and regulatory obligations together with a reasonable time in which to respond.

*6. Whether comment was sought from the plaintiff. He may have information others do not possess or have not disclosed. An approach to the plaintiff will not always be necessary.*

We refer you to the point above and reiterate your duty to provide our client with the specific allegations that you intend to publish about it.

*7. Whether the article contained the gist of the plaintiff's side of the story.*

Again we refer you to the point above.

*8. The tone of the article. The newspaper can raise queries or call for an investigation it need not adopt allegations as statements of fact.*

Your line of questioning and the allegations implied by them suggest that you have condemned our client by association with carbon credit trading schemes.

We urge you to take care not to adopt allegations as statements of fact.

*9. The circumstances of the publication, including the timing.*

We repeat our request for any allegations that you intend to make regarding our client to be specified in writing and with a reasonable time to respond.

**Notice**

We reiterate that you are on notice of our Client's position both in respect of the allegations that you imply and its intention to seek legal redress should you ignore this letter and proceed to publish any allegation that is defamatory of it.

Should you publish, or cause the publication of, allegations defamatory of our client a copy of this letter will be brought to the attention of the Jury and the Court at the appropriate time. We will invite the inference that in so publishing the allegations you and your newspaper were recklessly indifferent to the truth of the allegations and published them maliciously.

You should be in no doubt that our client takes these hugely distasteful and false allegations seriously and will take whatever steps are necessary to vindicate its reputation should that be necessary.

We urge you to consider the content of this letter very carefully when considering whether or not it is appropriate to publish an article regarding our client and, in the meantime, we reserve its rights in their entirety.

Yours faithfully



**Carter-Ruck**

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