

@import url(../../../../css/generic.css); EUR-Lex - 61999J0108 - EL

Avis juridique important

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61999J0108

?????? ?? ?????????? (???? ?????) ??? 9?? ??????? 2001. - Commissioners of Customs & Excise ??? Cantor Fitzgerald International. - ?????? ??? ??? ?????? ?????????????
?????????: High Court of Justice (England & Wales), Queen's Bench Division (Divisional Court) -
?????? ??????. - ??? ?????? ??? - ???????? ??? ?????????? ?????? - ?????? - ??????
????????? - ?????????? ?????????? ?? ?????? ?? ?????? ?????? - ?????? C-108/99.

?????? ?? ?????????? ??? ?????????? 2001 ?????? I-07257

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?????? ??? ?????????????? ??? - ?????????? ?????????????? ??? ??? ??? ?????? -
????????? ??? ?????????? ?????? - ?????? - ?????? ??? ??? ??? ?????? ??? ??
????????? ??????? ??? ?? ?????????? ??? ?????????? ?????? - ???????????

(?????? 77/388 ??? ??????????, ??? 13, ?, ????. ?_)

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\$? ??????? ??????? ??? ?????? ??? ?????? ??? ?????? 13, ?, ??????? ?_, ??? ?????? ???????
77/388 ??? ?????????? ??? ?????????? ??? ??????? ??? ?????? ???, ??? ?????????? ?? ??? ?????? ??????
?????? ???????, ?????????? ???' ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ???????
????????? ??? ???????, ?????? ?????????? ??? ??? ?????????? ???????, ???
?????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????? ??? ???????
?????? . ? ??????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???, ???
????????????? ??? ??? ??? ??? ?????? ??? ?????? ?????????? ???, ???
????????????? ??? ??? ??? ??? ?????? ??? ?????? ?????????? ???, ???
????????????? ??? 13, ?, ??????? ?_, ??? ?????????? ??? ?????? ?????????? ???, ???
????? ? ?????? ?????????? ? ?????? ?????????????? ??? ?????? ?????? ?????? ?????? ???
?? ?????? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???, ???
??????, ??? ??????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??

(???. ??????? 21, 24, 34 ??? ???????.)

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???? ??????? C-108/99,

??? ??? ?? ??????????? ??? High Court of Justice (England & Wales), Queen's Bench Division (Divisional Court) (?????? ???????), ??? ?? ???????????, ???' ?????????? ??? ??????? 177 ??? ??????? ?? (?? ?????? 234 ??), ?? ??? ????? ????????, ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??????? ??????? ??? ??????? ??????? ??????? ??????? ??????? ???????

Commissioners of Customs & Excise

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Cantor Fitzgerald International,

? ?????? ??????????? ?? ??????? ?? ???? ?? ??????? ?? ??????? 13, ?, ??????? ?_, ??? ?????? ??????? 77/388/??? ??? ????????, ??? 17?? ??_?? 1977, ??? ?????????????? ??? ??????????? ??? ??????? ?? ??????? ??, ??? ??????? ?? ??????? ?? ??????? ??????? ??????? - ??? ??????? ??? ?????? ?????????????? ????: ?????????? ?????????? ??? (?? ????. ????. 09/001, ?. 49),

?? ?????????? (???? ????),

?????????? ??? ??? F. Macken, ??????? ???????, ??? N. Colneric (??????????) ??? ??? C. Gulmann, J.-P. Puissochet ??? R. Schintgen ???????,

?????? ??????????: A. Tizzano

?????????: D. Louterman-Hubeau, ?????????? ????????

?????????? ??? ?? ??????? ??????????? ?? ??????????:

- ? Cantor Fitzgerald International, ??????????? ??? ??? D. Goy, QC, ???' ?????? ??? Deloitte & Touche, accountants,

- ? ?????????? ??? ??????? ????????, ?????????????? ??? ??? ?. Ewing, ?????????????? ??? ??? N. Pleming, QC, ??? ??? P. Whipple, barrister,

- ? ?????????? ????????, ?????????????? ??? ??? W.-D. Plessing ??? C.-D. Quassowski,

- ? ?????????? ??? ????????, ?????????????? ??? ??? E. Traversa ??? ??? F. Riddy,

?????? ??? ?? ??????? ????????????,

???? ?????? ??? ?????????? ??????????? ??? Cantor Fitzgerald International, ?????????????? ??? ??? D. Goy, ??? ?????????? ??? ??????? ??????????, ?????????????? ??? ??? G. Amodeo, ?????????? ??? ??? N. Pleming ??? ??? P. Whipple, ??? ?????????? ??????????, ?????????????? ??? ??? W.-D. Plessing, ??? ??? ???????, ?????????? ??? ??? R. Lyal, ??? ?? ?????????? ??? 16?? ??????? 2000,

???? ??????? ??? ?????? ??????????? ??? ??????? ??? ?????????? ??? ??? ?? ???????????
??? 23?? ??????????? 2001,

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1 ?? ??????? ??? 2?? ??????????? 1998, ? ????? ??????? ??? ?????????? ??? 30 ???????
1999, ?? *High Court of Justice (England & Wales), Queen's Bench Division (Divisional Court)*,
???????, ??????? ?? 177 ??? ??????? (??? ?????? 234 ??), ?????????????? ???????
?? ??? ?? ??????? 13, ?, ??????? ?_, ??? ????? ??????? 77/388/?? ??
??????????, ??? 17?? ??_?? 1977, ??? ??????????? ??? ?????????? ??? ??????? ??,
??? ??????? ?? ??? ????? ??????? - ????? ??????? ??? ????? ???????????
????: ?????????? ?????????? ??? (?? ????. ??? 09/001, ?. 49, ??? ????: ??? ?????).

2 ?? ??????? ??? ??????? ??? ??????? ??????? ??? Cantor Fitzgerald International
(???: CFI) ?? ?? Commissioners of Customs & Excise (???: Commissioners), ??
?????? ?? ??????? ??? ??????? ??? ??????? ?????????????? ??? (???: ??)
?? ??????? ???????, ??????? ?? ?? ??? ????? ?????????? ??? ?? ? ??????? ??????????
????? ??????? ??? ?? CFI ???????, ?????? ???????, ?? ?????????? ??? ??
?????????? ??? ?????????? ??? ??????? ?????????? ?????????????? ??? ?? ??????? ?? ?? ??????????
?? ??????? ??? ???????.

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3 ??????? ?? ?? ?????? 2, ?? ????? ??????? ??? ????? ?? «???? ???????», ??? ??????
???????:

«???? ?? ?????????????? ?????? ??????????:

1. ?? ?????????? ?????? ??? ?? ??????? ?????????? ??? ?????????????????? ?? ???????
?????? ?? ?????????? ??? ????? ?? ?????????? ??? ??, ??? ??????? ?? ?? ??
????????? ??? ?????.

[...]».

4 ?? ????? 5 ??? 6 ??? ????? ???????, ?? ????? ??????????? ??? ????? V «??????????»,
????????? ?? ????:

«????? 5

?????? ??????

1. ?? "????????? ??????" ??????? ? ?????????? ?? ?????????? ??? ??????? ?? ??????? ??????
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1. ?? "?????? ??????????" ?????????? ????, ???? ?, ???? ??? ?????? ?????????? ?????????? ??????
???? ??? ?????? ??? ?????? 5.

? ?????? ??? ?????? ?????? ?? ?????????? ?????? ??????, ??:

[...]

- ?????????? ??? ?????? ?????????? ? ?????? ?????? ? ?????? ??????????,

[...]».

5 ??? ????? 13 ??? ????? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????
????? ??? ?????? ??? ?????????? ??? ??????. ?? ????? 13, ?, ?????? ?_, ?????????? ??
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«?? ??? ?????????? ??? ????? ?????????? ??????????, ?? ?????? ??? ??????????????, ??? ???
????????????? ??? ??????, ??? ?? ?????????????? ? ??? ??? ??? ?????????? ???
????????????? ?????????? ?????????? ??? ?? ?????????? ?????????? ?????????? ??????????????,
????????? ??? ??????????:

[...]

) ??? ?????????? ???????? [...]».

? ??????? ??? ?????? ??? ?? ?????????????? ????????

6 ??? ?????? ??? 1986, ? ?????? Prudential Assurance Co. Ltd (??? ????: ?????? ???
?????????) ?????????? ??? ????? Wako International (Europe) Ltd (??? ??? Wako), ???
????????? ?????????? ???, ??? ?????? ??? ????? ?????????? ??? ?????????? . ?????? ???
????????? ??????????, ? Wako ?????????? ??? ?????????? ?? ??? ?????????????? ?? ?????? ???
?? ??? ?????????? ?? ?????? ??? ?????? ?? ?????????? ??? ?????? ?? ?????????? ?? ??????????.

7 ?? 1993, ?? Wako ??? CFI ??????????, ?? ?? ?????????? ??? ?????? ??? ??????????, ??
????????????? ? ?????? ??? CFI. ?? ?? ?????? ??????????????, ? CFI, ? ?????? ??????????
???? ???????, ?????????? ??? ?????????? ?? ?????????? ??? ?????????????? ??? ?????????? ???
????? ? Wako ?????? ??? ?????? ?????????? ??? ?? ?????????? ?? Wako ??? ???
????? ? ?????? ??? ?? ?????????? ?? ?????????? ?? ?????????? ??? ?????????????? ??? ?????????? ???
CFI, ? Wako ?????????? ??? ?????????? ?? ??? ?????????? ?? ??? ?????????? ?? ??? 1,5 ??????????????
????? ?????????? (GBP).

8 ? CFI ?????? ??? 1,5 ?????????? GBP ?? ??? ?????? ??? ?????????? ??, ?????? ? ???
????????? ?? ?????? ??? 30?? ?????? 1996 ??? Commissioners. ? CFI ?????? ??????????
???? ??? ?????????? ??? ?????? VAT and Duties Tribunal, London. ?? ?????? ??? 6??
????????? 1997, ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ??.

9 ?? Commissioners ?????? ??? ?????? ??? ?????????? ??? ?????? ??? High Court.

10 ?? ?????????? ??? ?????????? ?? ?? ?????? 13, ?, ?????? ?_, ??? ?????? ??????
??????, ??? ?? ??? ??? ?????????? ??? 15?? ?????????? 1993, C-63/92, Lubbock Fine
(?????? 1993, ?.-6665), ?? ?????????? ??? ?????? ??? ?????? ??? ?????????????????? ??? ??
CFI ?????? ?????????? ?????????? ??? ?? . ?? ?? ?????? ?????????? ??? ?????? ??? ??????
????? ??? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??

???????????? ???? ?????????????? ???? ?????????????? ?????????????? ?????????????? . ???? ?????? ????.
????????? ?? ?????????????? ?????????????? ??? ?????????????????? ?????????? Lubbock Fine,
????? ?? ?????????????? ??? ?????????????? ??' ?????? ??? ?????.

11 ??? ??? ?????????? ????, ?? High Court of Justice (England and Wales), Queen's Bench
Division (Divisional Court), ?????????? ?? ?????????? ?? ?????????? ??? ?? ?????????? ???
????????? ?? ?????????? ?????????? ?????????? ??????:

«????????? ??? ?????????? ??? ?????????? ??? ?????????? C-63/92 (Lubbock Fine & Co. ????
Customs & Excise Commissioners), ?????????? ?? ?????? 13, ?, ?????? ?_, ??? ??????
????????? ?? ??? ??? ?? ??? ?????? ?????????? ??? ?????????????? ??? ?????????? ?? ?????? ???
???? ?????????? ??? ?????????, ??? ?? ?????? ??? ?????????? ?? ?????? ?????????? ?? ??? ??????????????
????????? ?????????? ??? ?? ?????? ?????? ??? ?????????? ??? ?????????? ?????? ?????? ??????????????
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12 ? CFI ?????????? ??? ?? ?????? 13, ?, ?????? ?_, ??? ?????? ?????? ?????????? ?????????? ???
??? ?? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??
????????????? ?????? ?? ?????? ?????????? ??? ?????? ?????????????? ??? ?????? ?????? ?????? ???????????.
???? ? ??? ?????????? ??? ?? ?????????????? ?????? ?????? Lubbock Fine ??? ???????????.
?????????, ??????? ?? ??? ?????? ???, ?? ?????? 13, ?, ?????? ?_, ??? ?????? ??????
????????????? ??? ?????????????? ??? ?????????? ?????????? ??? ?????? ?????? ?????????? ???
????????????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???.

13 ????????, ??? ?? CFI, ? ??????? ??? ?? ?? ?????? ?????????????? ?? ? CFI ???
?????? ?? ??????? ??? Wako ?? ?????????? ??? ?????????? ??? ?????????? ??? ???????????. ??
????????? ?????? ??? ? ?????? ?????????? ??? ??? ?????????? ??? ???? ??? ??????????
?? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??.

14 ? ?????????? ??? ?????????? ?????????? ??? ? ?????????? ?????????? ?????????? ??? ?????????? ???
????????? ??? ?????? 13, ?, ?????? ?_, ??? ?????? ?????? ?????? ?????????? ??? ? ??????
????????? ??? ??? ?????? ?????? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ????
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ????
????????, ??????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ????
????????? Lubbock Fine, ? ?????? ?????? ??? ?????? ??? ?????? ?????? - ??? ? CFI -
??? ??????? ?? ?????? ?????????? ??? ?????? ?????????????? ??? ?? ?????????????? ????. ?
????????? ? ??? ?????? ?????????? ??? ?????? 13, ?, ?????? ?_, ??? ?????? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ???.

15 ? ??????? ???????????, ?? ??? ?????? ?????????? ?????????? ???, ??? ? ?????????? ??????????,,
????????????? ?? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? 13, ?,
????????? ?_ ??? ?_ ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?_ ???
????? ??????????, ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? 13, ?, ?????? ?_, ????
????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????, ?? ?????????? ??? ?????, ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ??? ?????????? ?????? ?????? Lubbock Fine. ? ?????? ????
????????????? ??? ?????? 9 ??? ?????????? ???, ???, ?????? ? ?????? ?????? ?????? ??? ??????
??? ?????? ?????????? ??? ?????? 13, ?, ?????? ?_, ??? ?????? ?????? ??? ?????? ??? ??????
????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ??? ??? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
Lubbock Fine. ? ?????? ?????? ?????? ???, ??? ?????? ???, ?????? ?????? ??? ??????

? ?????????? ??? ???. ??????? ???? ?????? ??? ????????, ? ?????? ?????????? ????
????????? ??? ??????? ???? ?? ??????? ?????? ??? ??????? ??????? ?????? ????
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16 ??? ? ?? ?' ?????????? ???????, ? ??????? ??????? ??? ?????? ??? ?????????? ???,
?????? ?????????? ??? ??????? ??????? ???????, ?? ??? ?????????????? ?? ?????????? ?
?????? ??????? ?? ?????????? ??? ??????? ??????? ??? ?????????? ??? ?????????????? ??? ??
????????????? ??? ???????, ???????, ??? ?????? ??? ??????? ??? ?????????? ?????????????? ?,
?????? ??? ??????? ??? ?????? ??? ??????? ?? ?????????? ??? ?? . ?????????? ???, ??? ??
?????? ??? ???????, ? Wako ?? ??????? ?? ??????? ??? ??????? ??? ?????????? ??? ??????????
?????? ?????????? ?????????? ?? ??????? ??? ??????? ??? ??????? ??? ?????????? ??? ??????? ??
?????? ?? ??????? ??? ??????? ?? ??????? ??? ???????, ? CFI. ? Wako ?? ????????
?????? ?? ?????????? ?? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??
?????? ?????? ??? ?????????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????????
?? ?????????? ??? ??????? ??? ??????? ??? ???????, ?? ??? ?????????? ??? ?? ?????????? ??? ??????? ??
????????? ? Wako, ?? ?????????? ??? ??????? ??? ?? ??????? ??? ??????? ?? . ??? ?? ??????? ??,
????????? ??? ??????? ??? ???????, ???' ??????? ??? ??????? ??? ?????????? ??? ??????? ??
????????????? ??? ?????????? ??? ???.

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17 ??? ? ?? ?????????? ???, ??????? ?? ?? ?????? 2, ?????? 1, ??? ?????? ???????, ??? ??
????????? ?? ?????????? ?????? ??? ?? ??????? ??????? ??????? ??? ?????????????? ??
????????? ?????? ??? ?????????? ??? ?????? ??? ??????? ??????? ??? ??, ??? ??????? ???
?? ??????? ??? ?????? ??? ?????? ???????, ?? ??? ??????? ???????, ?? ?????????? ??? ??????? ??
?????? ??? ??????? ??? ?????? ??? ?????? ??????? ??????? ??? ?????? ??????? ??? ??????? ??
????????? ??? ?????????? ???, ??? ?? ?????????? ?? ??????? ??????? ??????? ??? ?? ??????? ??
????????? ??? ?? ?????????? ??? ??????? ??????? ??????? ??? ?????????? ??? ??????? ??.

18 ???????, ??????? ??? ?????????? ?????? ?? ?????????? ??? ?? CFI, ??? ?????? ???????, ??
?????? ??? ??? ??? ?????? ???, ?? ?????????? ???, ? ?????????? ?? ? ?????????? ??
?? ???????, ?????????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????? ??? ??????
?????????.

19 ?????? ??????? ?? ?????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ? CFI
???? ?? Wako, ?????? ??? ?????????? ?????????? ?????????? ???, ?????? ?????????? ??
??, ???' ???????, ?????????? ???' ??????? ??? ?????? 13, ?, ??????? ?_, ??? ??
??????.

20 ??? ??????? ?? ?????? ??????????, ? ??????? ??? ?????? ??? ?????? ?????? ?????? ???
?? ??? ?????? ???????, ?? ??????? ???????, ??????? ?? ??????? ?? ??????? ?? ??????? ???
????????? ??? ?????? ??? ?????????? ? ??????? ?? ??????? ??? ??????? ?? ??????? ???
?????? ??? ?????? ??? ?????????? ???, ??????? ??? ?????? ??? ??????? ?? ??????? ??? ??????? ??,
?? ?????????? ??? ?????? ??? ?????????? ? ?????? ??????? ??? ?????? ??????? ??? ??????? ??
????????? ??? ??????? ??? ?????? ??? 2, ?????? 1, ??? ?????? ??????? ?????????? ??? ??
????????? ?????????? ?? ?????? ??????? ??? ?????? ??? ??????? ??? ?????? ??????? ??
????????? ?? ? ?? ??? ?????? ??????? ?????????? ??? ??????? ??? ?????? 13, ?, ??????? ?_, ???
????? ??????.

21 ? ??????? ??????? ??? ?????? ??? ?????? ??? ??????? 13, ?, ??????? ?_, ??? ?????? ???????
????????? ???' ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????? ??????? ??? ?? ??????? ???,
?????? ?????????? ??? ?? ?????????? ???, ??? ?????????? ?? ?????? ??????? ?? ?????? ?????? ??
????????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? (??., ??? ?? ?????? ???,
????????? ??? 12?? ?????????? 2000, C-358/97, ??????? ??? ?????????? ??? ??????? 2000,

? . -6301, ??????? 52 ??? 57, C-359/97, ???????? ??? ?????????? ??????????, ??????? 2000,
?. ?-6355, ??????? 64 ??? 69, ??? ??? 4?? ???????? 2001, C-326/99, Goed Wonen, ??
????????????? ??? ?? ???????, ??? 54).

23 ?????????? ??? ???? ??????, ? CFI, ?? ??? ???????????, ?????????? ?? ?????????? ??
?????????? ?? ???? ??????????? ?? ???? ?????????? ?? ???? ?????????? ?????????? ??????????,
?????? ?? ???? ?????? ?????????? ?? ???? ?????? ???????, ?? Wako. ? ?????????? ?? ???? ??
?????? ?? ???? ?????????? ?? ???? ??? CFI ??????, ??? ??????? ?? ???? ?????????? ??????????
????? ?? ???? ?????????? ?? ???? ??????????? ?? ???? ?? CFI ???????, ?????????? ?? ????,
??????, ??? ?????????? ?? ???? ?? . ?????? ? ?????? ?? ?????????? ?? ?????????? ?? CFI ???????
???? ?? ?????? ?? ?????? 2, ?????? 1, ??? ????? ???????, ?????????????? ?? ???? ??
?????? ?? ?????? ?? ?????? 13, ?, ??????? ?_, ??? ?? ??? ???????, ??? ?? ???? ???????
?????? ?? ??????? ?? ?????? ?? ?????????? ???????????.

24 ?????????? ??? ? ?????????????????? ??? ?? CFI, ?? ????? 13, ?, ????????? ?_, ??? ?????
????????? ?????????????? ??? ?????????? ??????????, ??? ?????? ?? ?????????? ?? ??????
????????????? ??? ?????? ??? ?????????????? ?????? ? ?????? ?????????????? ????.

25 ????????????, ? ?????? ??????? ??? ????? ?????????? ? CFI ?????????? ???
????????? ??? ?????????? ??? ????? ??? ????? ?? ????? ??? ?????????????? ??? ???
??????????? ??? ?????????? ??? ????? ?????? ?????????? ?? ?????? 13 ??? ????? ??????,
??? ?????? ?? ??? «????????? ??????», ?????? ?? ?????????? ??????????, ??????????
??? ???????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ?????????? ?? ???
????? ???????? ? ?????? ?????????????? ?? ?????? ?????? ??? ?????????? ?? ?????????? ???
????? (??., ?????? ???, ??????? ??? 15?? ?????? 1989, 348/87, *Stichting Uitvoering
Financiële Acties*, ?????? 1989, ?. 1737, ??? 13, ??? 11?? ?????? 1995, C-453/93,
Bulthuis-Griffioen, ?????? 1995, ?. ?-2341, ??? 19, ??? 5?? ?????? 1997, C-2/95, *SDC*,
????? 1997, ?. ?-3017, ??? 20, ??? ??? 7?? ?????????? 1999, C-216/97, *Gregg*, ??????
1999, ?. ?-4947, ??? 12).

27 ?????? ??????? ?? ???? ?????????? ?????? ?? ??? ?????? ?????? ??? ? ?? ?????? ??
???????, ? ?????? ?????????? ?? ? ? ?????? ?? ??????????, ?????? ?? ????????
?? ??????? ?? ?????? ?? ??? ??? ?????? ?? ?????? ?? ?????????? ?? ?????? ??????? ??
«???????, ????», ??? ??? ?????????? ?? ??? ???? 13, ?, ?????? ?_, ??? ????
??????.

28 ?????? ??????? ?? ??????????????? ??? ? ?? ??? ????? ??????? ??????????? ?? ??????? ? ?????
?????? ?? ?????? ??????? ?? ?????? ??? ?????? ??? ???, ??? ???????, ???
?????????? ????, ??????????????? ?? ??????????? ??????? ??? ???????, ?? ??????? ??
?????? ??? ?? ????? ?? ??????. ?????? ?????? ?? ?????? ??? ?????? ?? ??????????? ??????,
??? ??????? 9 ??? 12 ??? ?? ????? ???????, ??? ? ?????????? ??? ??????? ??? ??? ?????
????????? ?? ?????? ??? ?????? ??? ???????, ? ?????? ?????? ??????????? ???
????????? ???????, ?????? ?? ??????? ?????? ?????? ?????????? ??? ?????????????? ? ??? ?
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29 ? ?????????????????? ??????? Lubbock Fine ?????????? ??????? ?? ?????????????? ???
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??, ???????, ? CFI ??? ?????? ?? ??? ?????????? ?????????? ??? ??????? ???
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30 ???????, ??????? ??? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ??'
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?? ?????????? ? ??? ?????? ??? ?????????? ?????? ?????? ??? ?????? 13, ?, ???????
?, ??? ?????? ???????, ??????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? CFI
?????? ??? ?????? ??? ?????? ??? ?????????? ???.

31 ?????? ?????? ??? Wako ?? ??????? ?? ?????????? ?????????? ??? ?? ?????????????? ??
?????? ??? CFI ?? ??????? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????
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32 ?? ??????? ??? ?????? ??? ?????????? ??? ??????? ??? ?????? 13, ?, ???????
?, ??? ?????? ??????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ??????? ?????????? ?
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33 ?????? ??????? ?? ??? ?????? ??????? ??? ?????? ?????? ??? ?????????? ??? ??, ??????
?? ?????????? ??? ??????? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? 13 ??? ?????? ??????. ???????, ?????? ?? ?????????? ???, ??? ??
????????? ?? ??????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ???,
???? ?????????? ??????????, ? ?????????? ??? ?????? ??? ?????? ??? ?????? (?. ??????
??? 6?? ??????? 1995, C-4/94, BLP Group, ?????? 1995, ?. ?-983, ????? 24). ? ??????????
???? ??? ? ??????, ?? ??? ??? ?????? ?????????? ?????????? ?????????? ???, ??? ??
?????? ?????? ?????????????? ??? ?????????? ?????????? ?????? ??? ?????? ???, ??? ??
??????, ?? ?????????? ?????? ?????????? ?????? ?? ?????????? ?????? ??? ?????? ???
??? ?? (?., ??? ??? ?????? ???, ??? ?????????? ?????? BLP Group, ?????? 25
??? 26). ? ??? ??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
???? ??? ? ?????? ??? ?????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??
?? ??? ??? ? ?????????? ??? ?????????? ???.

34 ??? ?????????? ?????? ?????? ?????? ?? ?????? ? ?????? ?????? ???, ?????? ??? ??????
13, ?, ??????? ?_, ??? ??? ?????? ??????, ??? ?????????? ??? ?? ? ?????? ?????????? ?
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35 ?? ?????? ??? ?????? ??????????? ? ?????????? ??? ?????????? ??????????? ??? ? ??????????
??????????, ????, ??? ? ???????, ??? ?????????? ??????????? ??? ???????????, ???
???????????. ?????????? ??? ? ??????? ?????????? ??? ?? ??? ?????? ??? ??????????? ???
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High Court of Justice (England & Wales), Queen's Bench Division (Divisional Court), ??????????:

????? ??? ?????? 13, ?, ??????? ?_, ??? ?????? ??????? 77/388/??? ??? ???????????, ???
17?? ??_?? 1977, ??? ??????????? ??? ?????????? ??? ??????? ??? ???????, ??? ??????????? ??
???? ?????? ?????? ??????? - ????? ?????? ?????? ????? ?????????????? ?????: ???????????
?????????? ???, ??? ?????????? ??? ?????? ?????????????? ?????? ?????? ?????? ?????? ??????????? ?
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