

@import url(../../../../css/generic.css); EUR-Lex - 62000J0235 - EL

Avis juridique important

/

62000J0235

?????? ??? ?????????? (?????? ?????) ??? 13?? ?????????? 2001. - Commissioners of Customs & Excise ??? CSC Financial Services Ltd. - ?????? ??? ?? ?????? ?????????????????
?????????: High Court of Justice (England & Wales), Queen's Bench Division (Crown Office) -
????????? ????????. - ??? ?????? ??? - ????? 13, B, ??????? ?, ???o 5 -
????????????? ?????? - ?????? ??? ?????? ?????? - ?????????????? - ?????????? - ??????
????????? ?????? ?? call center. - ?????? C-235/00.

?????? ??? ?????????? ??? ?????????? 2001 ?????? I-10237

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????????? ?????? ?????????????? ????? - ?????????? ?????????????? ??? ??? ?????? ?????? -
????????????? ??????? ??? ?????? ?????? ?? ?????? 13, ?, ??????? ?_, ?????? 3 ??? 5 -
?????????, ?????????????????? ??? ?????????????? ??? ?????????? - ??????

(?????? 77/388 ??? ??????????, ??? 13, ?, ????. ?_, ??? 5)

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\$?? ??? 13, ?, ??????? ?_, ?????? 5, ??? ?????? ?????? 77/388 ??? ?????????????? ???
?????????? ??? ?????? ???, ??? ??????? ?? ??? ?????? ?????? ?????? ???????, ?????? ??
?????????? ??? ??? ?????? ??? ?? ??? «????????? ?? ?????? ?????? ?????? ??????»
????????????? ?????????? ??? ??? ?????? ?????? ?????? ?????? ?? ?????????????? ??
????????????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????????? ??? ?????? ?????? ?????? ?????? ??????.

?????? ?? ??? «????????????? ??? ??? ?????? ??????» ??? ?????????????? ??? ???????,
?? ?????? ?????????? ?? ?????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????????????? ??????, ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
?????? ?? ?? ?????? ??? ?? ??? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??
????????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??

????????? ??? ??????? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ?? ??? ?????? ???????, ? ?????? ??????????, ?????? ????, ??? ??????????
????????? ??? ?? ?????? ??? ?????? ?????????, ??? ?????????? ??? ?????? ??? ?????? ???
??? ?????????????? ??' ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ????.

(?? . ??????? 28, 33, 39-41 ??? ??????.)

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???? ?????? C-235/00,

??? ??? ?? ?????????? ??? High Court of Justice (England & Wales), Queen's Bench
Division (Crown Office) (?????? ???????), ??? ?? ??????????, ???' ?????????? ?? ??????
234 ??, ?? ??? ????? ???????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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Commissioners of Customs & Excise

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CSC Financial Services Ltd,

? ?????? ?????????? ?????? ?? ??? ?????? ??? ?????? ??? ?????? 13, ?, ?????????? _,
?????? 5, ??? ?????? ??????? 77/388/??? ??? ??????????, ??? 17?? ??_?? 1977, ???
????????????? ??? ?????????? ??? ?????? ???, ??? ?????? ?? ??? ?????? ??? ?????? ??????
????????? - ??? ?????? ?????? ?????? ?????????????? ?????: ?????????? ?????????? ??? (??
???. ???. 09/001, ?. 49),

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

????????? ??? ??? P. Jann, ??????? ???????, A. La Pergola, L. Sevón (?????????), ?.
Wathelet ??? C. W. A. Timmermans, ???????,

????????? ??????????: D. Ruiz-Jarabo Colomer

?????????: D. Louterman-Hubéau, ?????????? ????????,

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

- ? CSC Financial Services Ltd, ?????????? ??? D. Milne, QC, ??? ??? E. Wilson,
barrister, ?????????? ??? L. Allen, accountant,

- ? ?????????? ??? ?????? ???????, ?????????????? ??? ??? G. Amodeo,
????????????? ??? N. Paines, QC, ??? ??? R. Baldry, barrister,

- ? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? R. Lyal,

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

???? ?????? ??? ?????????? ?????????? ??? CSC Financial Services Ltd, ??? ??????????
??? ?????????? ?????????? ??? ??? ???????, ??? ?? ?????????? ??? 12?? ?????? 2001,

???? ??????? ??? ?????? ??????????? ??? ??????? ??? ?????????? ??? ????? ?? ???????????
??? 12?? ??????? 2001,

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

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1 ?? ??????? ??? 1?? ??????? 2000, ??? ??????? ??? ?????????? ??? 13 ??????? 2000, ??
High Court of Justice (England & Wales), Queen's Bench Division (Crown Office), ????????,
?????? ??? ??????? 234 ??, ?????????????? ??????? ?? ??? ??? ??????? ??? ??????? 13, ?,
???????? ?_, ?????? 5, ??? ????? ??????? 77/388/???, ??? ???????????, ??? 17?? ??_?? 1977,
???? ??????????? ??? ??????????? ??? ??????? ??? ??????? ??? ??????? ?? ??? ????? ??????? ???
???????? - ??? ????? ??????? ??? ?????????????? ????: ?????????? ?????????? ??? (??
???. ??? 09/001, ?. 49, ??? ????: ??? ?????).

2 ?? ??????? ??? ??????? ??? ??????? ??????? ??? Commissioners of Customs &
Excise (???: Commissioners), ??? ????: ??????? ??????? ??? ??? ??????? ???
????? ?????????????? ????: (???: CSC) ??? ??????? ?? ?? ??? ?????????? ????: CSC Financial
Services Ltd (???: CSC) ??????? ?? ?? ??? ?????????? ????: ?? ?????????? ?????????? ????:
????? ? CSC ??? ?????????? ??? Sun Alliance Group (???: Sun Alliance).

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

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3 ?? ????? 13, ?, ??????? ?_, ?????? 5, ??? ????? ??????? ????????:

«?? ?? ?????????? ??? ????? ??????? ???????, ?? ??? ????? ????? ???????????, ??? ??
????????????? ??? ??????? ??? ?? ?????????????? ? ??? ?? ??? ????? ?????????? ???
????????????? ??? ??????? ??? ??????? ??? ?? ?????????????? ??? ?? ?????????? ??? ???????????,
????????????? ??? ??????????:

[...]

) ??? ?????????? ???????:

[...]

5. ??? ???????, ?????????????????? ??? ??? ?????????????????, ??? ??????????? ???
????????? ??? ??? ?????????????, ?? ??? ????? ?????????? ??? ??????? ??? ??????? ?????????? ?
??????, ?????????? ??? ??????? ???????, ??????????:

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

- ?????????? ? ?????? ?????????? ??? ?????? 5, ?????????? 3».

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

4 ????? ?? ?????????? 9, ??????? 5, ??????? 6, ??????? e, ??? 7, ??? Value Added Tax Act 1994 (????? ?? 1994 ??? ?? ?????????????????????), ?? ??? ????? ?? ??????? ????:
?? ?????????? ?????????????? ??? ??????? ??????, ?????????????? ??? ???:

«6. ? ??????, ? ??????????, ? ??????? ? ??? ?????? ?????? ?????? ?? ?????? ?? ?????? ? ?? ?????????????? ??????, ?????????????? ??????, ?? ?????? ?????????? ??

[...]

e) ?????? ? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????.

7. ?? ?????????????? ?? ? ?????????? ?????? ?????? ?????????????? ?????????? ?? ?????? ?? ?????? 6.»

5 ? ?????? 5 ??? ?????? 5 ??? ?????????? 9 ?????????? ??? «[?] ? ?????? 7
????????? ?? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?? ??????
????????? ?? ?????? ?? ?????? ?? ?????? 6, ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??????
?? ?????? ?? ?????? ?? ?????? ???.

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

6 ? CSC ?????? ?? ?????????????????? ?????? ?????? ?????? ?????? ?? ?????? ??
????????? «call center» [??????? ??????]. ??? ? ?????? ??????????, ? ??? ??
????????? ?????? ?????? ???' ?????? ??? ?????? ??? ?? «call center» ???
????? ?? ?????? ??? ?????????????? ?????? ?? ?????? ?? ?????? ??? ?????? ???
????? ?????? ?????? ?????????????? ??????, ??? ?? ?????? ?? ?????? ??? ?????? ???
?????, ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????.

7 ? Sun Alliance, ??? ?????? ?????? ?????? ?????????????? ?? ?????? ?????????? ??? ??????????
????? ?????? ?????? ?????? ??? ?????????? ?????? ?????????? ?????? ??? CSC ??
????? ?? ?????? ??? ?????? ?????? ?????? ?? ?????? ?????????? ?????? ??? ?????? ??? ??????????
????? ?? ?????? ?????? ?? ?? ?????? «Daisy personal equity plan» ??? ?? ?????? ???
????? ?? ?????? ?????? ?? units (??????) ??? «unit trust» (?????? ?????????? ???)
????????? ??????).

8 ?? ?????? ??? CSC ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????????? ??
?? ?? ?????? ?????? ??? ?????? ??? ?????? ?? «Daisy personal equity plan».
????? ?? ??? ?????? ?????? ??? ?????? ??????, ?? ?????? ??? CSC ??? ?? ?????? ?? ??????
?? ?????? ??????, ??? ?????? ?????? ?. CSC ?????????? ?????? ?? ?????? ??
?? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????? ??
????? ?? ?????? ??? ?????? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????? ?? ?????? ??? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????? ?????? ??? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??.

9 ??????, ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ?????? ?? ?????? ?? ??????
units ??? unit trust, ?????????? ??? ?????? ?? ?????? ?? CSC.

10 ? Sun Alliance ??????? ?? CSC ??? ??? ?????????? ??? ????? ??????????? ???
?????????? ??? ??? ????? ??? ??? ??? ??? ????? ??? ?????????? ??? ??? ?????? ???
?????? ??? ??? ???????.

11 ?? ??????? ??? 21?? ??????? 1997, ??? ?????????? ??? ??? ??????????, ??
Commissioners ??????? ??? ?? ?????????? ??? ?????? CSC ??? ?????????????? ??? ??
????? ??? ????? 13, ?, ??? ????? ???????.

12 ? CSC ?????? ??????? ??? ?????? ??? ?????????? ??? ?????? VAT and Duties Tribunal,
London (?????? ??????). ?? ?????????? ??? ?????? ??? ? ??????? ??? ?????????? ??
????? 13, ?, ??????? ?, _, ?????? 5, ??? ????? ?????? ?????????? ??? ?????? ???
????????? ???' ?????? ??? ??????? ??? ?????????? ??? ?????????????? ??????.

13 ??? ?????? ??? ?????? ??? ?????????? ???, ?? Commissioners ?????????? ??????? ???
High Court ??? ?? ????? 13, ?, ??????? ?, _, ?????? 5, ??? ????? ?????? ?????????? ??
????????? ??? ?????? ??? ?????? ??? ??? ?????? ??? ?????????? ??? ?????????? ???
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
CSC ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ???
????? ??? ?? Sun Alliance ??? ???????, ??? ???????, ?????????? ?? ?????? ???????
?????? ??? ??? ??? ?????? ??? ?????? 13, ?, ??????? ?, _, ?????? 5.

14 ??? ??? ??????? ???, ?????????? ??? ? ??????? ??? ?????????? ??? ?????????? ???
??? ??????? ??? ?????????? ?????????? ??? ??????? ??? ?????? ???????, ?? High Court of Justice
(England & Wales), Queen's Bench Division (Crown Office), ?????????? ?? ?????????? ??
????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ?????????????? ??????:

«?? ?????? ?? ?????????? ??? ??????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????? 13, ?, ????????
?, ?????? 5, ??? ????? ?????? 77/388/???, ??? ??????????, ??? 17?? ??_?? 1977, ???
????????? ??? ?????????? ??? ?????? ???, ??? ?????????? ?? ?????? ?????? ??????
???????? - ??? ?????? ??? ?????? ?????????????? ????: ?????????? ?????????? ???, ??
????? ?? "?? ?????? ?? ?????? ?????? ??????"; ??????????,

1) ?????????? ?? ??? "????????? ?? ?????? ?????? ??????" ??? ?? ??? ?????? ?? ???
????? ?????????? ?? ??? ?????? ?????????? ?? ?????? ?????????? ?? ??? ?????????? ??
????????? ?? ??? ??? ?? ???;

2) ?????????? ?? ??? "????????, ?????????????? ??? ?????? ??? ??????????????, ?? ???
????? ??????" ?? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ?????????? ??
??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? (?? ??? ??????????)
????? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????), ??? ? ?????????? ???
????????? ?? ??? ?????? ??? ?? ??? ?????? ?????????? ?? ?????????? ??? ?????? ???
??? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ???
»

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

15 ?? ?????????? ?????? ?????? ??? ?????? ?? ??? ?????? ?? ?????? ??? ?????? ???
????????? ?? ??? «????????? ?? ?????? ?????? ??????» ??? ?? ?????? ??? ?????? 13,
?, ??????? ?, _, ?????? 5, ??? ????? ?????? ??? ?? ?????? ?????? ??? ?????? ???
«????????, ?????????????? ??? ?? ??? ??????????????, ?? ?????? ?????? ??????» ???
?? ?????? ??? ?????? ???????.

?? ?? ?????????? ?? ??? «????????? ?? ?????? ?????? ?????? ??????»

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

16 ? CSC ??????????? ???. ??? ???. ??????? ???. 5?? ??????? 1997, C-2/95, SDC (???????)
1997, ?. ?. -3017, ????? 68), ?????????? ???. ??????????? ???. ?? ???. ?????????? ???. ??????????
??? ?????? ?????????? ???. ??????? 13, ?, ??????? ?_, ??? ?????? ???????, ??????? ???.
????????? ????? ???. ?????? ??????????????, ?????????? ??? ?????????? ??? ???.
????????????? ???????.

17 ?????? ??? CSC, ? ??????????? ?? ?????? ?? ?????? ?????? ?????????? ?????? ?? ?????? ??????????
??? ?? ?????? ??? ?????????????? ?? ?????????????? ?? ?????????? ?? ??? ?? ?????? ?????? ?? ??????????????
??? ?????????? ?? ??? ?? ?????? ?????? ???, ??? ?????? ? ?????? ?????????? ?????????????? ?? ?
????????? ?? ??? ?? ?????? ??? ??????????. ? ?????????? ?? ??? ?????? ??? ?????? ??????????????
????????? ?? ?? ?? ??? ?????? ?????????? ?? ?????? ?????? ?????????????? ?? ?????? ?? ?????? ??????
???? ?? ?? ??? ?????? ?????????? ?? ?????? ?????? ?????????????? ?? ?????? ?? ?????? ??????????
??? ? ?????? ?????????? ?? ?? ?????? ??? ?? ?????? ?????? ?????? ?????????? ?????????????? ?? ?????????? ??
????????? ?? ??? ?????????? ?????? ?????????? ?? ?????? ?????? ?????? ?????? ????. ? ?????????? ?? ???
????????? ?? ?? ?? ??? ?????? ?????????? ?????????????? ?? ??? ?????? ?????? ?????????????? ??????
????????????? ?? ?? ?????????? ?? ?????? ??? ?? ?????? ?????? ?????? ?????????? ?????????????? ??
????????? ?? ??? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??
????????????? ?????? ?????????? ?? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??
??? ??????, ? ?????? ?????? ?????? ?????? ?? ?????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?? ???
????????? ?? ?????? ?????? ??????.

18 ? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ??? ?? ?????????? ??? ?????????? ??
????? 13, ?, ??????? ?_, ??? ???? ?????? ?????? ?????????? ??? ??????????????????????
????????? ??? ??? ?????????? ?????????? ?????????? ?????? ?? ?? ??? ????? ?????????? ???
????????? ??? ??????? ??, ?????? ??? ??? ?????????? ??? ?????? ?? ?????? ?? ??????
????????? ??? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??? ?????? ??? ???
????????? ?????? ? ?????????? ??? ?????????? ??? ?????????? ? ??????. ????????, ? ??????
????????? ??? ?????????? ?????? - ??? ??? ??????, ??? ??????, ??? ?????? ??? ??????
????????? ??? ??? ?????? ?? - ?????????? ?? ?????????? ??? ?????????? ??? ??, ??? ??? ??
????????? ??? ?????? ?????????? ?????????? ??????. ????????, ?? ?????????? ??? ??? ??
????? ? ?????? ?????????? ? ?????? ??? ?????? 13, ?, ?????? ?_, ?????? 1, 2 ??? 6, ??? ????
?????.

19 ????? ??? ?????????? ??? ???????? ??????????, ?? ?????????? ??????, ??? ?????? 66
??? 73 ??? ?????????????? ??? ??????? SDC, ??? ?? ??? «????????? ?? ?????? ??????
??????» ?????????????? ??? ?????? ?? ?????????? ?? ?????? ??? ?????????? ??????
?????? ??? ?????????????? ??? ?????? ??? ??????. ??? ??????????, ? ?????????? ???
«??????[?] ?? ?????? ?????? ??????» ??? ??? ?????? ?????????, ??? ?????????? ??????????
????????? ??? ??????? ??????????, ??? ?????? ?????????? ?????????? ??? ?????? ???
??? ?????? ? CSC ??? Sun Alliance ??? ?????? ??? ?????? ??????, ?????????? ??? ?????
?? ??? ?????? ? CSC ??? ?????????? ?? ?????? ?????????? ??? ?????????????? ?? ??????
?? ??? ?????.

20 ? ?????????? ?????????? ??? ? ?????????? ??? ?????????? ?? ?????? 13, ?, ?????????? ?,
?????? 5, ??? ???? ?????? ?????? ??? ?????????? ??? ??? ?????????? ?? ?????? ??? ??????
????????? ? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ???
(????????????? ?????? SDC, ?????? 32 ??? 38). ??? ???? ??????, ?????? ??????
????? ?????? ?? ?? ? ?????? ?????? ??? ??? ?????? ??????????, ?? ?????, ??? ??????
????????? ??? ??? ??? ?????? ?????? ?????? ?????? (????????????? ??????
SDC, ??? 59).

21 ???? ??? ???????, ?????? ??? ?????? 13, ?, ?????????? ?, ??? ?????? ??????? ?????? ?
????????? ??? ?????????? ??? ?? ???? ?????? ?????????????????? ???????, ???
????????? ??? ??????? ?????? ?????????????????? ???, ??? ??? ?????????? ??????????? ???
????????? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ???
??? ?????? ??? ??????????. ??????, ?? ?????? ?????? ??? ?????? ?????? ?????????? ???
????????, ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ???
???????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????????? ???
???????? ??? ?????????? ??? ?????? ?????? ??? ?????? CSC, ??? ???? ?????????? ???
???????? ??? ? ?????????? ??? ?????? ??? ?????????, ?????????? ?????? ?????????? ???
???????? ??? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??????, ??????? ??
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

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

22 ?????? ?? ?????? ??????????? ? ?????????? ???, ??? ???? ?????? ??????????, ? CSC ???
????????? ??? ?????????? ??? ?????? ??? ?????? ? ?? ?????????? ??? ?????? ???
????????? ?????????? ??? ?????? ?????, ??? ??? «units» ??? «unit trust».

23 ??????, ?????? ?? ??????? ??? ?? ?????? ??? ?????? 13, ?, ?????????? ?, ?????? 5, ???
????? ?????? ??? ????????, ???' ????, ?? ?? ?????????? ? ?????? ??? ?????? ?????? ???
?? ?????? ?????????? ??? ?????? ???????, ?? ??????, ??? ?????? ?????? ???, ?????? ???
????????? ?????? ??? ?????? ?????? ???????, ??? ??? ?????? ??? ?????? ??? ?????????? ???,
??? ?? ?????? ??? ?????????? ??? ?????? ?????? (??., ??? ??? ??????, ??? ?????? ???
????????? ?????????? ???????, ??? ??? ?????? ??? ?????? 13, ?, ?????????? ?, ?????? 3,
??? ??? ??????, ?????????????? ?????? SDC, ?????? 64).

24 ???? ???????, ?????? ?? ?????????? ?????? ??? ?? ?????????????? ?????????????? ??
????????? ? ?????????? ??? ?? ???? ?????????? ?????? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????? ? CSC ??? ?????? ??? ?????? ???.

25 ?? ?? ????? 66 ?? ?????????????? ?????????? SDC, ?? ?????????? ?????? ??? ??
????????? ??? ?????? ?????????? ?????? ???????????, ?????????? ?? ?????????????? ??
?? ?????? ?????????? ??? ??? ??? ??? ?????? ??? ?????? 13, ?, ?????????? ?,
????? 3 ?? 5, ?????? ?? ?????????? ?????????? ??????, ?????????? ??????????, ??
????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??????.

26 ???? ?????, ??????????, ??? ??????? ?? ?????? ?????? ?????????? ??? ??????????,
????? ??? ?????? ??? ?????? 13, ?, ?????????? ?, ?????? 3, ??? ?????? ??????, ??????????
?? ?? ?????????? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?????? ?????????? ??
?? ?????????? ?????? ?? ?????? ?????????? ?????? ?????? ?. ?????? ?? ?????????? ??
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????, ??? ??
????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??????, ?? ?????? ??????????
????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????
??? ??????, ?????? ?? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??

? ?????????? ?? ?????????? ??? ??????? ?????????? ?????????? ??? ?????? (?????????????????
?????? SDC, ??? 66).

27 ?? ??? ?????? ???', ????, *mutatis mutandis*, ??? ?? ?????? ??????? ?? ?????? ??????
???????, ???? ??? ?????? ??? ?????? 13, ?, ????????, ?_, ?????? 5, ??? ??? ?????? ??????.

28 ???????, ???? ?????? ?? ??????????? ??? ?????? 73 ??? ?????????????????? ??????????
SDC, ?? ??????? ?????????? ?????????? ?????? ??? ?????????? ?? ??????? ?? ?????? ???
?????????? ?????????? ?????? ??? ??????????????, ???? ??? ?????? ?????????? ???? ??? ??????
??? ?????????????? ?? ?????????? ?????????? ?????????? ?????????? ?????????? ?????? ???
?????????, ? ?????????? ??? ?????? ?????, ????????, ?????????? ? ?????????? ?????? ????
????????????? ?????? ??? ?????????? ?????????? ?????????? ??? ?????????? ???? ??? ?????????? ???
????????? ?? ?????? 13, ?, ????????, ?_, ?????? 5, ??? ??? ?????? ??????.

29 ? ?????????? ??? ?????????????? ???' ????, ??? ?? ?????? ??? ?? ?????? 13, ?,
???????, ?_, ?????? 5, ??? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?? ?????? ???
?? ?????????? ??????, ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?????????? ???? ???
??? ?????? ??? ?????????? ?????????? ?????? ??? ?????????? ???? ??? ?????????? ????

30 ?????????? ??? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ? ?????? ??? ??????? ?? ???
????????? ?? ?????? ??????? ????, ?? ?????? ??? ?????? «????????? ??? ?????????? ???
??? ??????????», ??? ?????????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????? ?????????? ?? ?? ??? ?????? ?????????? ??????, ??? ?????? ?????????? ???
?????????. ??? ?? ?????? ?????????? ??? ? ?????????? ?????? ?????? ??? ?????????? ?? ?????? ???
????????? ?? ?????? ??? ?????????? ?????????? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? 13, ?, ????????, ?_, ?????? 5.

31 ????????, ??? ?? ?????????? ??? ?????? ?? ?? ?????? 70 ??? ?????????????? ??????????
SDC, ??? ?? ??? ?? ?????????? ??? ?????? 13, ?, ????????, ?_, ?????? 3 ?? 5, ??? ???
?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
??? ?????? ?????????????? ?????? ?????????????????? ?????????? ??? ??????????, ??
????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???.

32 ?????, ?? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ?????? ?????????? ??? ??
????????? ??? ?????????????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ???
??? ??? ??? ? ?????????? ??? ?????????? ??? ?????? ??? (????????????? ????)
SDC, ??? 65).

33 ??? ?? ?????? ?????????? ??? ? ?????????? «????????? ?? ?????? ?????????? ??????»
????????????? ??? ?????? ??? ?????? ?????? ?????? ?? ??????????????, ?? ??????????????
?? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????????????? ??? ?????? ???.

??? ??? ?????????? ??? ??? «?????????, ?????????????? ??? ?? ??? ?????????????? ???,
?? ?????? ??? ?????? ???»

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

34 ? CSC ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? Sun Alliance ?????????? ???
?????? ??? ?????? «????????????????? ?? ?????? ?????? ?????? ??????», ??? ?? ??? ?????? ???
????? 13, ?, ???????, ?_, ?????? 5, ??? ?????? ??????, ??? ?????? ??? ?????????? ???
????????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ????. ??? ?? ?????????? ???
????????? ?????????? ?????????? ??? ?????? ??? ?????? - ????, ????
?????, ??? ?????? ??? ?????? - ?????? ??? ?????? ?????????? ??? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ??? ?????????????? ??? ?????? ???, ??? ?????? ???, ? ?????? ???

? ?????? ???? «négociant», ??? ??????????? «Vermittlung» ??? ??? ??????????? «bemiddeling».. ?
CSC ????????? ???, ?????????? ??? ???????? ?????????? ?????? ??? ??????? ??? ??? Sun
Alliance, ?? ???????? ??? ?????? ?? ????? ?????????????? ??? ??.

35 ? ?????????? ??? ??????? ?????????? ?????????? ??? ? ??? «????????????????» ???
?????? 13, ?, ??????? ?,_, ?????? 5, ??? ?????? ?????? ?????????? ??????? ??? ??????????
???????. ??? ?? ?????????? ??? ?????? ?????????? ??? ? ?????? ??? ?????? ??? ??????
????????? ?????????? ??? ?????? ??????, ??? ??? ?????? ?????????? ? ?????? ??? ??????
? ??? «Vermittlung» ??? ?????????? ??????????, ?????????? ??? «?????????????» ????
??? ??????? ??? ?????? ??? ?????? ??????. ? ??? ???? ?????? ?????? ?????? ?????????? ???
????? ?????? ??? ?????? ?????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ??? ??????
????? ?????? ??? ?????????????? ??????. ?????? ? ?????? ?????? ?????? ??? ?????? ???
????? ?????????????? ??? ?????????? ?? ?????????? ?????? ?????? ??? ?????? ??? ??????
??? ??????? CSC ??? Sun Alliance, ?????? ??? ? ?????? ??? ??????????????????

????????? ??? ??? ????.

36 ??? ? ?? ???????, ? ??? «?????????????» ??? ?????? 13, ?, ??????? ?,_, ?????? 5,
??? ??? ???? ??????? ?????????? ?????????????? ??? ?????????????? ??? ??????????
????? ??? ????? ?????????? ??? ?? ?????????? ??? ??? ?????????? ????? ??????????
??? ?? ?? ?????????????? ??? ?????? ??? ?' ?????? ??? ?????????? ??? ?????? ???
????????? ??? ???? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??
????????????? ??? CSC ?????? ?? ?????? ??? ?????????? ?????????????? ??? ?????? ???
????????? ???' ?????? ?????? ?? ?????? ?????? ??? ?????????? ?????????? ??? ?????? ???
??? ?????? ?????????? ??? ?????? ?????????? ???, ? ?????? ?????? ??? ?????? ???
????? ?? ?? ? ?????? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????? ?? ?????? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???

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

37 ?????????? ? ?????????? ??? ?? ?????? 13, ?, ??????? ?,_, ?????? 5, ??? ??? ???????
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? «?????????????» ??? «???[?]???

38 ??? ?? ???? 13, ?, ??????? ?,_, ?????? 5, ??? ?????? ?????? ?????? ??? ??????? ???
??? «????????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ? ?????? ??? ?????? ???
?????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ? ?????? ??? ?????? ??? ???????

39 ?????? ?? ?????? ?????????? ?? ?????????? ?? ?????????? ?????????????? ?? ?????
«?????????????», ? ?????? ?????? ?????? ??? ?? ????? ?????????? ?? ?????? ??????,
???, ?????? ????, ??? ??? 13, ?, ?????? ?_, ?????? 1 ??? 4, ??????????? ? ??????????
???, ??? ?????? ??? ?????? 5, ? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????????? ???
????????? ?????? ?? ?????? ??? ?????? ??? ?????????????? ?? ?????? ??? ??? ??
????????? ??? ?????????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ???
??? ??? ?????????? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??????
????????? ?????? ??????, ? ?????????????? ??? ?????????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????????, ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ??' ?????? ??? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?????? ???
????? ? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

40 ????????, ??? ????????, ??? ?????????? ?? ?????????????? ?????????????? ?????? ????????,
???? ?????????? ?? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ?????? ????????,
?? ??????, ??? ?????? ??? ?????????? ?? ?????? ??? ??????, ? ?????? ??? ? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ??????????. ???
????????? ????, ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

41 ?????? ??? ??????, ?????? ?? ?????? ??? ?????? ?????????? ? ???????? ?? ???? 13,
?, ?????? ?_, ?????? 5, ??? ?????? ?????? ?????? ?? ?????????? ?? ?????? ???
- ?? ??? «????????? ?? ?????? ?????? ??????» ?????????????? ?????????? ??? ??
????? ?????? ?????? ?? ??????????????, ?? ?????????? ?? ?? ?????????? ?? ??????????
??? ?? ?????????? ??? ?????????? ??? ?????? ??? ??????,
- ?? ??? «????????????? ??? ?????? ??????» ??? ?????????? ??? ?? ?????????? ???
????????????? ??? ?????? ?????????? ?????? ?? ?? ?????????????? ?? ?????? ???
??? ??? ??? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??????
??? ??? ??? ?????? ???.

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42 ?? ?????? ??? ?????? ?????????? ? ?????????? ??? ?????????? ?????????? ??? ? ????????,
??? ?????????? ?????????? ??? ??????????, ??? ??????????. ?????????? ??? ? ??????
????????? ???, ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?' ??? ?????????? ??
????????? ??? ??? ?????? ?????? ???.

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

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

?????????? ?? ?? ?????????? ?? ?? ?????? ?? ??????? ?? 1?? ??????? 2000 ?? High Court of Justice (England & Wales), Queen's Bench Division (Crown Office), ??????????:

?? ?????? 13, ?, ??????? ?_, ?????? 5, ??? ????? ??????? 77/388/??? ??? ??????????, ??
17?? ??_?? 1977, ??? ?????????????? ??? ?????????? ??? ??????? ?????, ??? ?????????? ??
???? ?????? ?????? ??????? - ?????? ?????? ????? ?????????????? ?????: ??????????
?????????? ???, ?????? ?? ?????????? ??? ??? ?????? ????

- ?? ???? «????????? ?? ?????? ??????? ???????» ?????????????? ?????????? ??? ??
?????? ?????? ??????? ?? ??????????????, ?? ?????????? ?? ?? ?????????? ?? ??????????
?? ?? ?????????? ?? ?????????? ?? ?? ??????????.

- ??? «????????????????? ??? ??? ????? ??????» ??? ?????????????? ??? ?????????? ???
????????????? ??? ??? ????? ?????? ?????????? ??? ?????? ?? ? ?????????????????? ??? ?????? ???
??? ??? ?????? ??? ????? ?????????? ??? ????? ?????? ?????? ?????? ?????? ?????????? ??? ??????
??? ?????? ??? ????? ?????? ???.