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M. POIARES MADURO

??? 12?? ?????? 2008 (1)

?????? C?288/07

The Commissioners of Her Majesty's Revenue & Customs

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Isle of Wight Council,

Mid-Suffolk District Council,

South Tyneside Metropolitan Borough Council,

West Berkshire District Council

[?????? ??? High Court of Justice (England & Wales), Chancery Division (?????? ????????)
??? ??? ?????? ?????????????? ?????]

«?????? ?????????????? ??? – ?????????????? ?????? ?????????? ?????? – ???
????????? ??? ?????? – ?????????? ??? ?????? ??? ??????????»

1. ?? ?????????? ??? ?????????????? ?? ??? ?????? ?????????????? ?????????? ??????????
??? ?????????? ??? ?????????? ??????? ??? ?????? 4, ?????????? 5, ??? ?????? ??????
77/388/??? ??? ??????????, ??? 17?? ???? 1977, ??? ?????????????? ??? ?????????? ???
?????? ??? ?????? ??? ?????????? ?? ??? ?????? ?????? ?????? – ??? ?????? ?????? ???
????????????? ????: ?????????? ?????????? ??? (2) (??? ????: ??? ??????), ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? (??? ????: ???) ??? ??????????
????????? ?????? ??? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ??????
????? ??? ? ?? ?????? ??? ?????? ??? ?? ?????????? ?? ?????????? ?????????? ??? ???
??? ??????????. ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????
??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????
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??? ?????????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

I – ?????? ??????, ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????????????
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2. ? ?????? ??? ?????? ??? ???????????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Isle of Wight Council, ???

Mid-Suffolk District Council, ??? South Tyneside Metropolitan Borough Council ??? ??? West Berkshire District Council (3), ??????? ?????? ??????????????. ? ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ??????.

3. ????????, ?? ?????????? ??????? ?????????????? ?????????? ??? ?????????? ??? ?????????? ???
??? ??? ? ? ?????? ??? ?????????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? . ? ???
????????????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???
????????? ??? ??? ??? ?????? ??? ??????.

4. ??????, ????, ???, ?????? 4, ?????????? 5, ????? ??????, ??? ????? ??????, ??
????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ?? ?????? ?????????? ? ??? ??
????????? ??????????, ?????? ??? ?? ?????? ????: «?? ?????, ?? ??????????, ?? ???,
?? ????? ??? ?????????? ??? ?? ?????? ?????????? ?????? ?????? ??? ?????????? ??
????????? ??? ?????? ??? ?? ?????? ?????????????? ? ??????, ??? ?????? ?????????????? ??
????????? ??????, ??? ??, ??? ?? ?????????????? ? ??????, ?????, ??????????
?????????, ???, ?????? ???? ??????????»

5. ???, ?? ???? 4, ?????????? 5, ??? ????? ??????? ??????, ??? ?????? ??????, ??
?? ??????? ?????????? ?? ?????????? ?????? ?????? ?????? ???. ?????????? ??????:

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

????????????, ?? ?????????????????? ??????????? ??????????? ?? ??????????? ?? ???, ????
??? ??? ??????? ?? ?????????????? ??? ?????????? ? ??? ??? ?? ??? ?? ??? ?? ??????
????? ??? ????? ??????????.

?? ?????? ?? ???? ??????? ?? ??????? ?? ?????????????????? ??????? ??, ???
????????????????? ?? ?????????????????? ???????, ??? ?????????????? ??????? ?? ??????
13 ?? 28».

7. ?? Commissioners ?????????? ?? ??????????? ?? ????????. ?????????? ?? ?? ?????????? ?? ??
????????? ?? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? VAT and
Duties Tribunal ????, ??, ? ??????????? ?? ??????? ?? ??????? ?? ??????? ?? High Court of Justice
(England & Wales), Chancery Division (?????? ?? ???????), ?? ?????????? ?? ?? ?? ??
?????? ?? ?? ?????????? ?? ??????? ?? ?????????? ?? ?????????? ?? ??????????:

«1) ?????? ? ???"????????????? ??? ??? ??? ??????????????", ??? ?????????????? ??????????????
????????? ?????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ???
????????? ? ??? ?????? ??? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ? ?? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????;
2) ??? ?????? ??? ?????? ??? ?????? ??? ?????? "?? ?????? ???"; ??????????, ??? ?????? ?????? ??????????

? ?????????? ?????????? ??? ?? ?????????? ? ?????????? ???;

3) ??? ?????? ??? ?????? ??? ??? “??????????”; ??????????, ? ??? “??????????”
????????? ?????????? ??? ??? ?????????????? ?????????????? ??? ?????????? ? de minimis,
“?????????” ?????????? ? “???? ??????????” ??????????;»

II – ?????? ??????

? – ??? ??? ?????? ?????????????? ??????????

8. ?? ?? ?????? ???, ?? ?????? ?????????? ??? ?????? ??? ?? ?????? ?? ? ??????????
??? ?????? 4, ?????????? 5, ??????? ??????, ??? ?????? ?????? ?????????? ?????????? ??? ?
????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ? ?? ?????? ???
????????? ?????????? ??? ?????? ?????? ?????????? ?????????????? ?? ?????????? ??? ?????? ??????????
?? ?????? ??????, ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ??????, ? ?? ?????????? ?? ?????? ??? ?? ? ?????????? ???
?????????????.

1. ?????????????? ?????????????? ?? ??? ??? ??? ?????????? ??? ?????? 4, ?????????? 5 ???
????? ??????

9. ? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????? 4, ?????????? 5, ??? ?????? ??????. ? ?????? ??? ?????????? ??? ?????????? ? ?????? ???
????? ??? ? ?????????? ??? ??? ??? ?????????? ?????????? ?????? ?????? ?????????? ???
????????? ?????. ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
??? ?????? 4, ?????????? 5, ??? ?????? ??????, ?? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????? ???
????????? ??? ? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
??? ?????????? . ??? ? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ? ?????? ???,
?? ?????? ?????????? ?????????? ?????????????? ??? ??? ?????? ?? ?????????? ??? ??????????
??????, ??? ? ??? ??? ??? ?????? ?? ?????? ???, ?????????? ??? ??? ????. ??? ???, ???,
??? ? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????, ?? ?????? ??? ??????, ?? ? ??????
?? ??? ?????????? ??? ?????? ?????? ??? ???.

10. ???, ?? ?????? ?????? ??? ?????? 4, ?????????? 5, ??? ?????? ??????
????????? ????. ????. ?????????? ?, ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ????. ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ??? ? ??????. ?????? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ???, ???????, ? ?????????? ?? ?????? ??? ?????? ???
????. ??? ?????? ??? ?????? ??? ? ?????? ?????????? ?????? ??? ?????? ??? ?????? ???
????????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????, ?????????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????? ?? ??? ?????? ?????????? (5).

11. ?????????? ??? ???? ?????????????? ? ?????????? ??? ?????????????? ?????????????? ?? ??
????????????? ???, ?????????? ?? ?????????????? ?????????????? ?? ?????????????? ??? ?????????? ??
????? ??? ?????????????? ??? ?? ?????? ?? ??? ?????? ?????? ?????? ?????????????? ??? ??
????????? ??????. ????????????, ??? ?????? ?????? ??? ? ?????? ?????? ?????? ?? ?????????? ??
????????????? ?????????? ??? ?????? ?????? ??? ?????????????? ??? ?????????? ?????? ??????????.
????????? ??? ?? ?????? ?????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ??
??? ?????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ? ?????? ?????????????? ??? ?????? ??? ??
????????? ?????????? (6), ????? ?????? ?? ?????? ?????????? ?? ?????? ??? ?????? ???.

2. ?????????? ??? ?????? 4, ??????????? 5, ?????? ?????? ??? ?????? ??????

12. ?????????????? ???????, ?? ?????????? ?????? ??? ??? ?????? ?????????? ??
?????????? ?? ?????????? ?? ?????????? ?????? ?? ?????? ?? ?????? ?? ?????? ?????????? ??
????????? ?? ??????? ?????????? ?????????? ??? ??? ??? ?????????? ??? ??? ?? ?????
??? ?????? 4, ?????????? 5, ?????? ??????, ??? ?????? ??????, ?????????????? ?????????? ??
????????? ??? ?? ?? ?????? ??? ?????????? ?????? ?????? ??? ?????? ??
????????? ???, ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???.

13. ?????????? ?????????? ??' ??????. ?? ?????? ??? ?????? ?????? ?????? ??? ? ???????
????????? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ?? ? ?????????? ??? ?????????? ??? ?????? ??? ??, ??? ?? ?????????? ???
???? ?? ???? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??
????????? ???????????. ?? ?????? ?????? ?????? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? . ? ??????
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
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15. ??????????????, ? ?????? ?????????? ??? ?????????????? ??? ??? ?????? ?????? ??? ??? ????
????????????? ?????????????? ??? ?????????? ?? ?????? 4, ?????????? 5, ??? ?????? ??????

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

16. ?????????? ?????? ??? ?????? ?? ?????? ??????. ??? ?????? ??? ? ?????????? ???
????????? ?????????? ??? ?????? ?????? ?? ?????? ?????? ?????????? ?????????? ??? ??????
????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??????, ????
????????? ? ?????????? ?????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ?? ?? ???
????????? ?????????? ?? ?????????? ?????? ??? ?????? ?????? ?????? ??????. ????????, ???
????????????? ??? ?????????? ?????? ?? ?????????? ??? ?????? ?????????? ?????? ??????
????????????? ?????? ??? ?????????? ?????? ?? ?????? ?????? ??? ?????????? ?????? ??????
????????? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? 4, ?????????? 5,
??? ?????? ??????, ????, ????, ??? ?????? ?????? ??????, ? ?????? ?????? ?????????? ??????
??? ?????? «????? ?????? ?????????? ??? ?????? ??????????», ??? ?????? ?? ? ??????????????
????? ??? ?????????? ??? ??????????, ?????? ?? ? ?????????? ??? ?????????? ??? ??????????, ???
????????????? ??? ?????????? ?????????????? ?? ?????????? ?????? ?????? ?????????? ???????. ??
??????, ????, ??? ?????????????? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ??
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??????????
????? ?????????? ? ?????? ??? ?????? ?? ?????? ?????? ??????????, ??? ?????? ?????? ??????, ???
??? ?????????? ??????. ?? ?????? ??? ?????? ?? ?????? ??????, ??? ?????? ?????? ??????, ??
????????? ??? ??? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??????????

17. ?????????????? ??? ?????????? ?????????? ?????????? ?????? ?? ?????????? ? ?????????????? ??????????????
????????????? ??? ?????? ?????? ?????? ??? ?????? 4, ?????????? 5, ??? ?????? ??????, ???
????????? ??? ?????? ?????????????? ?????????????????? ??? ?????????????????? ??? ?????????? ? ???
????????? ??????. ?????????? ??? ?????????????????? ?????????????????? ?????????????? - ?????????? ??????,
?????????, ?????????? ??? ?????????? ?????? ?????????? ?????????- ?????????? ?????? - ?????????? ??????????
??? ?????????????? ??????????- ?????????? ?????????- ?????????? ?????????? ?????????? ??????
????????????????? ??? ?????? ?????? ?????????? ???- ?????????????? ?????? ?????????? ??????????
????????????? ??? ?????????? ?? ?????????? ?????? ?????????? ??? ?????????????????? ???'
????????? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ?????????? .
????????????? ?????????????? ?????????????? ??? ?????????? ?????? ?????????? ?????????? ??????????,
????????????? ??????????????- ?????????????? ?????????????? ?????????? ?????????- ??????????????
????? ??? ?????????? ??????????????, ??????????, ?????????????? ??? ?????????? ?????????? ??????????
??? ?????????????? ?????????????? ?????????? ??? ?????????? ?????? ?????????? ?????? ??? ??????????????
??? ?? ?????? 13, ?, ?????????? 1, ?????????? ???, ??? ?????? ??????. ??? ?? ?????? ???
????????? ?????? ?????????? ?????? ??? ? ?????????? ?????? ?????????? ?????? ??? ?? ??????
????????? ? ?????????? ?????????? ?????? ??? ?????? ?????? ?????????? ?????? ??????, ???
????? ?? ?????????????? ?????? ?????? ?????? ?????? ?? ?????????? ??? ?????????? ??? ??????????
????????? ??? ?????????? ?????? ?????? ?????? ?????????? ??? ?????? ?????????? . ?? ??? ??????????
??? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??????????????.

18. ??????????????, ?? ??????? ??????? ??? ?????? 4, ??????????? 5, ??? ????? ??????
??? ???????, ??? ???? ?? ????? ?????? ??? ?????? ???, ?????????? ??? ?? ??
?????? ?????? ?? ?????? ?? ??????? ??? ?????? ??? ?????? ??? ?????? ?? ?? ?????? ???, ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ?????????????? ???.

19. ??? ??????? ???, ?? ??????? ?? ??????????? ??? ????? ??? ?????? ??? ??????????????

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? ?????????????? ?????? ? ??? ?????? ?? ?????????? ?????? ???.. ? ?????? ??? ?????????? ???
????? ??? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????? ?????? ?????? ??????, ??? ??
????????? ??? ?????? ?? ?????? ?? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??????
??? ?????????? ?? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ?? ??? (8). ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ??????, ??? ???? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

20. ? ??????, ??? ? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ??? ?????? ?????????? ??? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ????. ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????? ????.

21. ??? ??? ??? ???, ?? ?????? ??? ?????? ??? ?????? 4, ?????????? 5, ??? ???
????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???????????, ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? (9), ?? ??????????, ?????? ??? ?????? ?????? ???????????????, ?? ??????
????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?? ??????????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???.

? – ??? ??? ?????? ?????????? ?????????? ??????

22. ?? ?? ?????? ?????? ??? ?? ?????? ?????????? ?????????? ?????????? ?? ??? ???
????? ??? ?????? «?? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? 4, ?????????? 5, ??? ?????? ?????? ????. ???
??? ?? ? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ????.
????????? ??? ?????? ???.

23. ?? ??? ?????????? ??? ? ?????????? ?????????? ?????????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????. ????,
??? ???? ??? ?????????? ? ?????? ??? ?????? ??? ?????? ????, ??? ?????? ????.
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ????.

24. ???? ???, ?? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ????, ??? ?????? 4,
????????? 5, ??? ?????? ?????? «????? ?????? –????????? ?? ?????? ??? ?????? ????
????????? ??? ??????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? – ??? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ???, ???
????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??
????? ??? ??????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???» (10). ?? ??? ?????? ???
????? ??? ? ?????????? ??? ?????? ????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

25. ??????, ??? ?????????? ? ?????? ?????????? Kokott «????????? ??? ??? ?????? ???
??? ?????? ?????????? ??? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???

???, ? ?????????? ???????????? ??? ?????????????? ?????? ?? ?????? ??????????????. ??????????
????? ?? ?????? ?????????? ? ?????? ?????????, ??? ?? ?????????????? ?? ??????????
????????????? ??? ?????????????? ?????????????????? ??? ?????? [...]» (11).

26. ??? ?????????? ??? ??????? ?? ??? ?????? ??? ?????????????? ? ??????????, ? ??????? «??
????????? ??» ??? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ??? ??? ??? ??
????????? ?????????? ??? ?????? ??? ?????? ??????????.

? – ??? ??? ?????? ?????????????? ??????????

27. ?? ?????? ?????????????? ??????? ??? ?????? ?????????????? ?????? ??? ?????? ???
????????? ?????????? ?????????? ??? ?????? ??? ??????????» (12). ?????? ? ??????
????????????? ??? ??? ?????????????? ??? ?????? ?????????? ? ??? «????? ??????????»
????????????? ??? ?????????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??? ??? ??
????????????? ??? ??? ?????? ?????? ?????????????? ??? ?????????????? ??? ?????? ??? ??
?????????;

28. ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?? ?????????: ??? ?? ??? ?? ???
?? ????. ??? ?????? ?????????? ??? ? ?????? ??? ?????????? ?????????? ??? ?? ??
????????? ??? ?????? ??? «?????????» ??? ?????????? ?????????? ??? ?? ??
????????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???????????.
????????, ? ?????????? ??? ?? ?????????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
Bernard Shaw ??? ??? ?? «??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??????».

29. ???????, ? ??????? ??? ?????????? ?? ?????????????? ?? ?????????????? ??? ?? ??
????? ?? ?????????? ??? ?????? ??????. ?????? ?????????????? ?? ??????
????????????? ?? ??? ??? ?????????? ?????????? ???, ??? ??? ?????????????? ??? ??????
???? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ??? ?? ??
????? ??????? ??? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ?????????? ??? ?? ??
??? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?. ' ??? ?? ?????? ??? ?? ?? ??
??????, ? ?????????? ??? ??? «?????????» ?????? ?? ?????????? ?????? ?? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????????? ?? ?????????? ??
????????? ??? ?????? ??? ?????????????? ?????????? (13).

30. ???????, ??? ?????? ? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????????????? ???
????????? ?? ?????? ?????????? ?' ??? ?? ??? ?????? ??? ?????? ?' ??? ?? ??? ??????.
??????, ??? ??????????, ?? ?????? ??? ?????? ??? ?????????? 5 ??? ?????? 4 ??????????
????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?? ??
????? ??? ?????? ??? ??????. ??, ??????, ?????????? ??? ? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? 4, ?????????? 5, ??? ?????? ??????. ??????, ? ?????????? ??? ?? ?? ?????? ??? ??????
??? ??? ??? ?????????? ??? ?????? ??? ?????????? ? ?????? ??? ?????? ?? ?????? ??? ??
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 4, ??????????
5, ??? ?????? ??????. ??????????, ??? ? ?????????? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 4, ?????????? 5, ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

31. ? ??????? «?????????» ??????? ??? ? ???????? ??? ?????? ??? ?????????? ???
????? ??? ??????? ??? ????? ???????, ??? ??????????. ??? ?????????? ??????????
??? ??????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??? ??? ?????? ??? ??????
?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??' ?????? ??????,
????????? ??? ?????????? ??? ? ??????? ??? ?????? ?????? ?????? ?????? ??? ??????????
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ??? ??? ??? ? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????????? ???.

III – ??????

32. ????? ??? ?????????????? ??????? ??? ?????????? ?? ?????? ??? ?????????? ???????
??? ?????????? ???:

«1) ?? ??????? ?????? 4, ??????? 5, ??? ?????? ?????? 77/388/?? ??
??????????, ??? 17?? ??? 1977, ??? ??????????? ??? ?????????? ??? ?????????? ???
??? ??????? ?? ??? ?????? ?????? ?????? – ??? ?????? ?????? ??? ??????????????
?????: ?????????? ?????????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? ??????????????, ???
????????? ??? ?????????? ?????????? ??? ?????? ?????????????? ??? ??? ?????????? ???
????????? ???, ?? ?????????? ?????????? ??? ?????? ?????????????? ??????????????, ?? ??????
????????? ?????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ?????????? ??? ?? ??????????
????????? ?????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ?????????? ??? ?? ??????????
????????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ???.

2) ? ?????? "?? ???????" ??? ?????? ??? ?????? ??? ?????????????? ??? ??? ??????????
??? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??????????.

3) ? ?????? "?????????" ?????? ??? ? ?????????? ??? ?????? ??? ?????????????? ???
????? ??????? ??? ?????? ?????????? ??? ?????????? . ? ??????? ??? ?????????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
77/388, ??? ?????? ??????????????..»

1 – ?????? ??? ??????????: ? ??????.

2 – ?? L 145, ?. 1. ? ?????? ??? ?????????????? ?????????????? ??? ?????????????? ?? ??
?????? 2006/112/?? ??? ?????????? ??? 28?? ?????????? 2006 (?? L 347, ?. 1). ? ??????????
???? ?????? ?????????? ??? ?????? ??? ?????? 13, ?????????? 1, ?????? ??????, ???
????????? ??? ?????? 4, ?????????? 5, ?????? ??????, ??? ?????? ?????? . ??????, ??
????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? 4, ?????????? 5, ?????? ???
?? ?????????? I ??? ?????? 2006/112.

3 – ??? ?: ?? ?????? ?????» ? ?? «????? ??? ?????? ????.

4 – ?????? ??? 14?? ?????????? 2000, C?446/98 (?????? 2000, ?. I?11435).

5 – ?????? Fazenda P?blica, ???. (?????? 16 ??? 17).

6 – ??????? ??? 17?? ?????????? 1989, 231/87 ??? 129/88, Comune di Carpaneto Piacentino
???, ?????????? «Carpaneto I» (?????? 1989, ?. 3233, ???? 16), ??? ?????? Fazenda
Pública, ???. (????? 23).

7 – ??????? Carpaneto I, ???. (????? 26), ???????????? ??? ???????.

8 – ??., ???' ????. ??? ???????, ??? ?????? ??? ??????????? ? ??????? ??????????? Mischo ??? ??????? 14 ??? 15 ??? ?????????? ??? ??? ????? ?????? C?4/89, Comune di Carpaneto Piacentino ??., ??????????? «Carpaneto II» (?????? ??? 15?? ????. 1990, ??????? 1990, ?. I?1869).

9 – ????? ?????????????? ??? ??????????? ??????????? ??? ?????????????? ??? ?????????? ???, ??.,
?????? ??????, ?????????????????? ?????????? Carpaneto I (????? 23)- Carpaneto II (????? 13)
??? Fazenda Pública (?????? 31 ??? 32). ?????????? ?????? ??? ?? ?????????? ??????????
??? ?????????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????? 4, ?????????? 5, ??? ?????? ?????? ??? ??' ?,?? ??? ?? ?????????? ??? ??????
?????? ??? ?? ?????????????? ?? ?????? ???' ???? ?????? ?????????? ??? ?????? ???
?????? ?????? ??? ?????????? ??? ?? ?????????? ???????.

10 – ??????? Carpaneto I, ???. (????? 22). ? ?????? ??? ???????????? ?????????????? ???
????????? ?? ?????? ??? ?????????????? ???' ??????????, ??., ????? ????????, ??????
??? 8?? ?????? 2006, C?430/04, Feuerbestattungsverein Halle (?????? 2006, ?. I?4999,
????? 24).

11 – ?????? 131 ??? ?????????? ??? ?????? C?369/04, Hutchison 3G ?.?. (?????? ?? 2? ?????? 2007, ?????? 2007, ?. I?5247).

12 – ?????????????? ??? ???????????.

13 – ??? ??????? ?????????? ?. ????: ??????? ??? 27?? ?????? 2000, C?240/98 ??? C?244/98, Océano Grupo Editorial ??? Salvat Editores (?????? 2000, ?. I?4941, ??????? 25 ??.).