

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 2150 OF 2016**

Yogesh Natwerlal Thakkar

..Petitioner

V/s.

1. State of Maharashtra & Ors.

..Respondents

**ADDITIONAL AFFIDAVIT ON BEHALF OF THE PETITIONER**

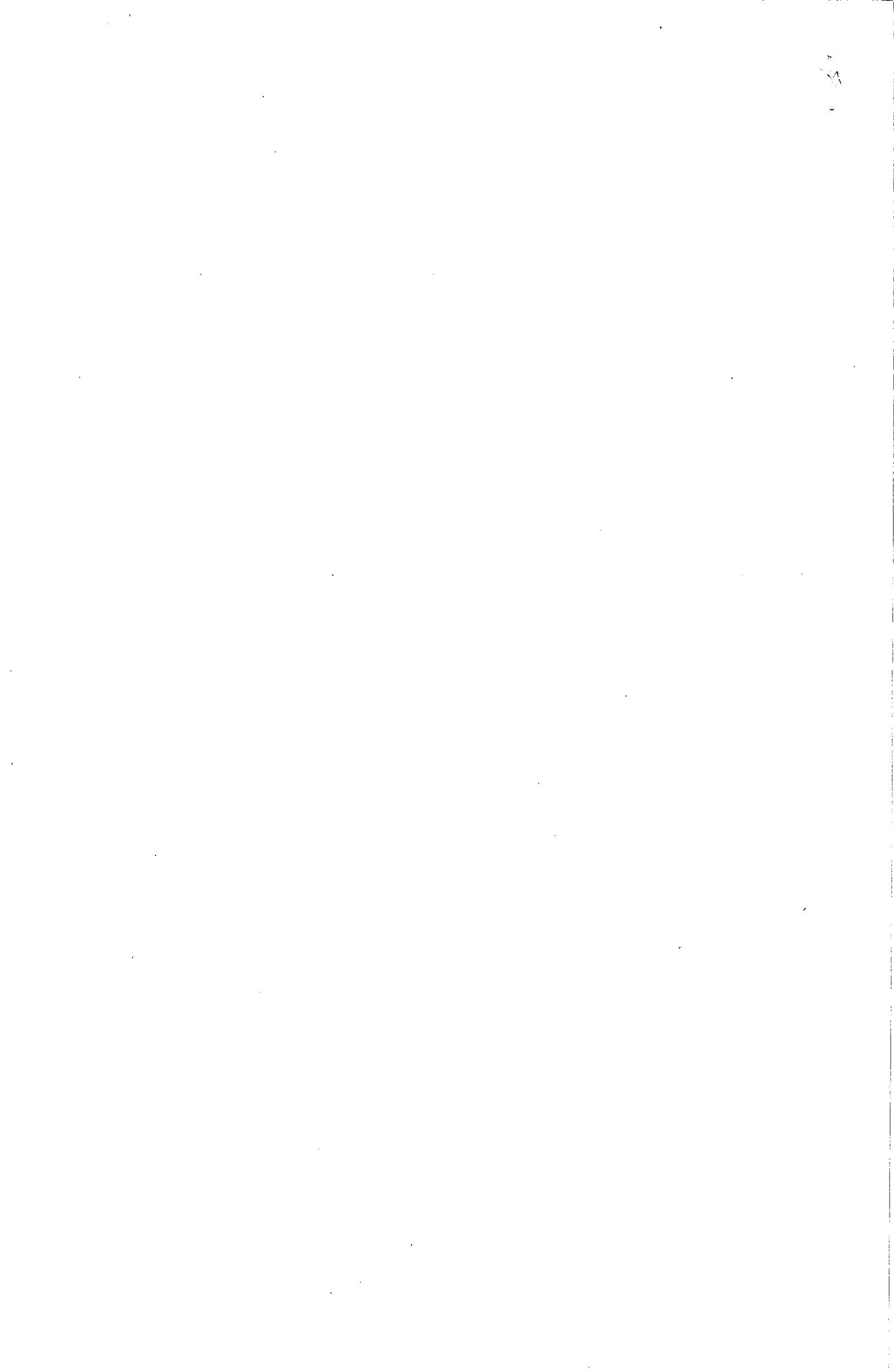
I, Yogesh Natwerlal Thakkar, the Petitioner in the present Petition, seek to place additional facts for this Hon'ble Court to appreciate that the Respondent No.4 have demonstrated their lethargy in investigating FIR No.149/13 dated 8.12.2013, irrespective of various directions issued by this Hon'ble Court.

1. I state that the Accused persons have illegally transferred OSHO's Intellectual properties and articles used by OSHO outside India valued over Rs.1000's of Crores [*worth millions of \$s per annum in the International Markets*] on the basis of the THREE counts:

[A] By executing the said illegal Assignment of Copyrights dated 1.4.1981 which is contrary to the Deed of Assignment executed in the year 1978 [*and the same has been done at the behest of the accused persons who are the present Trustees of OSHO International Foundation*], and;

[B] Forgery of Osho's Will

[C] The Accused persons and the present Trustees of the have



~~A~~ registered various private limited companies in India as well as abroad. List of these Companies and their Directors is annexed to the Writ Petition at Pgs. 118 to 122.

I say that, the Accused persons and present trustees are the Directors and Share Holders of these companies. These companies are used as Special Utility Vehicles to clandestinely siphon off, loot and rob wealth, funds and properties of Public Charitable Trusts, registered in India.

2. I say that from the chronological events it is evident that the Respondent No.4 is not taking any interests on effective investigations. I say that the lack of effective investigations is also based on one of the many reasons that; the jurisdiction of the investigations is stretched to outside India. And the Respondent No. 4 is shying away to accept that the due to the jurisdictional limitation they are unable to take any effective steps to bring the culprits on the books and save illegal transfer of high value of properties siphoned outside the country. I state that in spite of the various following remainders and Orders issued by this Hon'ble Court as well as Further and Additional Statements furnished by the Petitioner, the Respondent No. 4 has not taken note of the same nor have lead or effective interrogations of the accused in this matter to investigate series of crime and offences committed by the accused persons.

3. I state that vide order dated 12.8.2016 this Hon'ble Court was pleased to direct the DCP (Crime), Pune to give appropriate instructions to the Investigating Officer and monitor the further investigations. I state that vide ~~the~~



~~AP~~ order dated 25.10.2016 this Hon'ble Court was pleased to observe that the investigating agency shall include experts in the field for examining the allegations and investigate into the same. I state that vide order dated 28.11.2017 this Hon'ble Court was pleased to direct the investigating officer of the subject crime to expedite the investigation and take further steps in pursuance of their proposal dated 2<sup>nd</sup> November 2017.

4. I state that the accused persons are privy to all documents that is furnished to the Hon'ble Court as well as the Investigating Agency and have succeeded in evading and obstructing the investigations undertaken by Respondent No.4. I state that I have lodged further statement dated 29.3.2017 with Respondent No.4 with a copy to DCP (Crime), Pune, the contents therein be read as part and parcel of the present affidavit. Hereto annexed and marked as Exhibit-1 is the copy of further statement dated 29.3.2017 lodged by me with the Respondent No.4 in FIR No.149/2013 dated 8.12.2013. I state that the accused persons have been successful in ensuring that the Respondent No.4 and the DCP (Crime), Pune do not investigate the same and what is shown to be done by Respondent No.4 is only ministerial work and place it before this Hon'ble Court their so called status report.

5. I state that as per the Police Complaint filed by the Petitioner on 18.11.2013 the Respondent No. 4 are aware about the huge wealth syphoned off by the Accused, vide Para No. 9, 10, 11 and 18. Notably, the Respondent No.4 have not taken any effective steps till date. The said Police Complaint dated 18.11.2013 is annexed to the Petition at Pgs. 102 to 111. ~~AP~~



AA

6. I state that I have also lodged additional statement dated 1.1.2018 with the Respondent No.4 and the DCP (Crime), Pune as the Advocates for accused (on instruction from the accused persons) have deliberately mislead this Hon'ble Court and the investigating agencies for opposing transfer of investigation on the ground that alleged illegal transfer of funds is on the basis of Deed of Assignment executed in the year 1978. I state that this so called Deed of Assignment executed in the year 1978 never gave any right to the accused persons to even allegedly transfer any rights interest in the intellectual or copyrights or trademark of any wealth which vested in Rajneesh Foundation [A Public Charitable Trust bearing Registration No. E- 625 (Pune) recently transferred to Mumbai Region bearing Registration No. E31387 under the Maharashtra Public Trust Act, having its office in India at 608, Maker Chambers V, 6<sup>th</sup> Floor, Nariman Point, Mumbai - 400 021] to Countries abroad, hence the Petitioner [Complainant in FIR No.149/2013] has filed additional statement dated 1.1.2018 with Respondent No.4 and the DCP (Crime), the same be read as part and parcel of the present affidavit. Hereto annexed and marked as Exhibit 2 is the copy of additional statement dated 1.1.2018 lodged by the Petitioner with the Respondent No.4 in FIR No.149/2013 dated 8.12.2013. I state that Respondent No.4 and the DCP (Crime), Pune ought to ensure that additional charges [i.e. conspiracy of OSHO's death, so also stealing, hijacking and smuggling Copyrights, Trademarks and wealth to foreign Shores by the accused persons] in the existing FIR No.149/2013 be incorporated and be directed to investigate the offences committed by the accused persons under the Copyright Act, 1957 and Foreign Exchange Management Act 1999, so as to ensure that Koregaon Park Police Station by enforcing Prevention of





~~AT~~ Money Laundering Act gets back the National Wealth and Valuable Heritage and properties from Foreign Shores [*Europe, USA, Ireland etc.*] back to India.

7. I state that FIR No.149/13 registered on 8.12.2013 with Koregaon Park Police Station under Sections 465, 467, 471, 120(B) of I.P.C. in connection with the offences committed by accused persons for forging Will of OSHO, who are as under:

- 1. *Mr. Michael Byrne (O'Byrne) alias Swami Anand Jayesh,*
- 2. *Mr. D'Arcy O'Byrne alias Swami Yogendra / Anandraj,*
- 3. *Mr. Philip Toelkes alias Swami Prem Niren,*
- 4. *Dr. John Andrews alias Swami Amrito,*
- 5. *Mr. Mukesh Kantilal Sarda alias Swami Mukesh Bharti and*
- 6. *Mr. Klaus Steeg alias Pramod,*

I state that all the accused persons are foreigners except Mr. Mukesh Kantilal Sarda [*Accused No.5*] who has been attending all Court hearings including having filed Intervention Application No.383 of 2016. I state that one Devendra Singh Dewal [*the proposed accused persons in the complaint lodged by me with the Economic Offences Wing, Mumbai*] has filed Intervention Application No.415 of 2016. I state that this accused Mr. Mukesh Sarda and Devendra Singh Dewal have filed these Intervention Applications in the present Petition and want to be heard as a matter of right, to scuttle investigations being transferred to CBI. I state that it is unheard of that the Accused Persons and one another who is a Proposed-Accused have a right to choose as to whom, & as to how the investigations should be done.

8. I state that it is the obligation and the duty of the investigating agency ~~11~~



~~A~~ to act on further statement dated 29.3.2017 and additional statement dated 1.1.2018 as well by adding charges of conspiracy of OSHO's death, so also stealing, hijacking and smuggling Copyrights, Trademarks and wealth to foreign Shores by the accused persons.

9. I state that during my conversation with the then Investigating Officer following contradictions have surfaced which are crucial suggests that the investigations must be handed over to CBI.

- a) As per the information received from the then IO Mr. Mulik, it reveals that the accused had informed IO that One Foreigner lady namely Alexa Alexander [*name as per the Police record*] and as per the death certificate she is referred to as Alisha Alexander also known as Ma Nirvano had torn up / destroyed the Original of the Will. This lady Nirvano died on 9<sup>th</sup> December 1989. Hence the investigating agency could not receive the original of the Will.
- b) The IO has not yet investigated that who has torn up Osho's Original Will i.e. Alexa Alexander or Alisha Alexander? Who has been declared dead in some suspicious circumstances i.e. Alexa Alexander or Alisha Alexander? Who was the girlfriend (live in relation) with accused No. 1 Michael O'byrne (Byrne) i.e. Alexa Alexander or Alisha Alexander. The accused No. 1 claims to be the Executor of the Will.
- c) OSHO had died on 19.1.1990, whereas the said lady Nirvano i.e. Alexa Alexander or Alisha Alexander died on 9.12.1989. As per the statement of the accused the Original of the Will was destroyed by Nirvano prior to her demise. Then a question arises that the Executor of the Will could have asked OSHO to Sign this Will once again as the Original has been destroyed? ~~AD~~

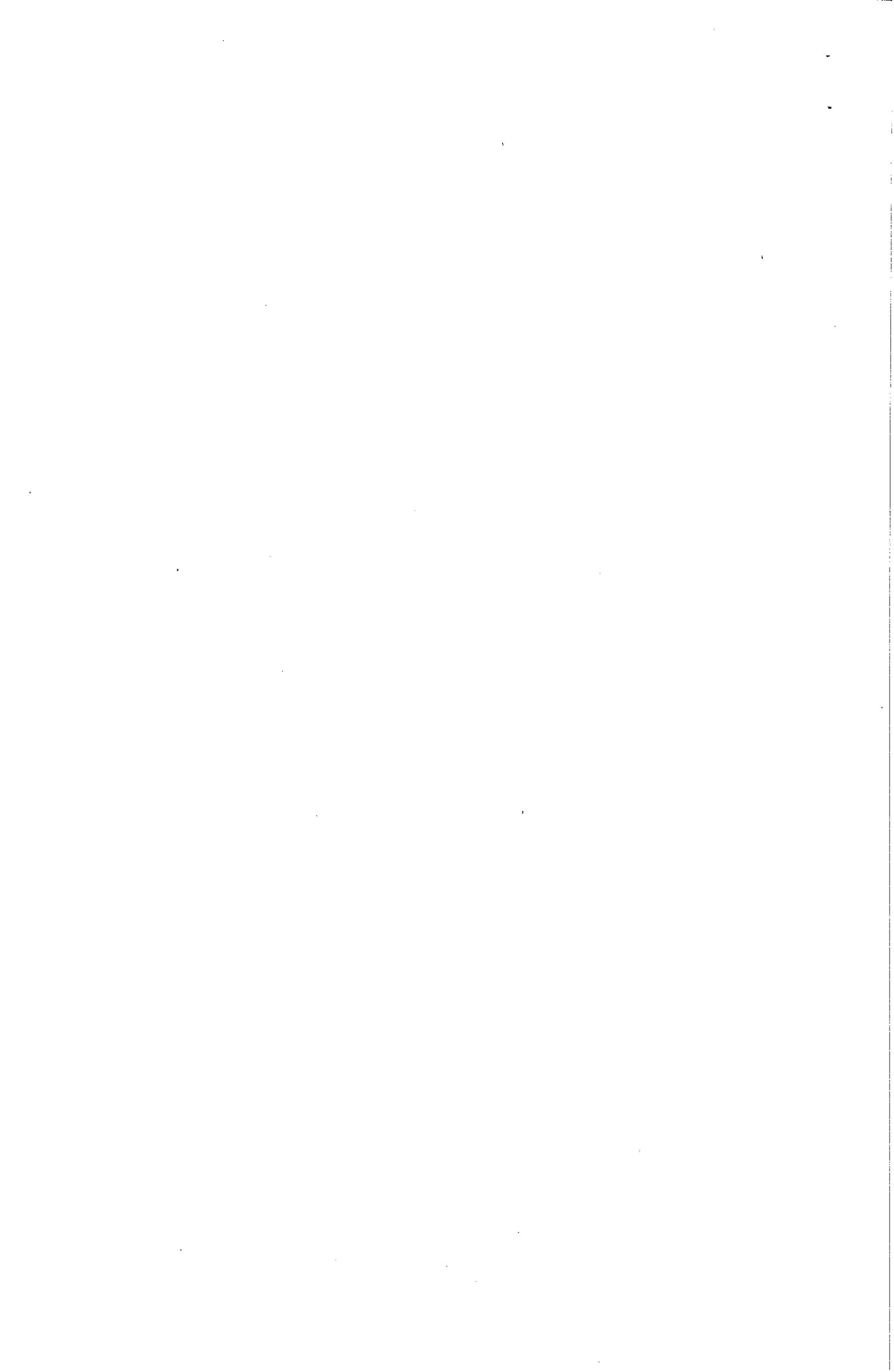


- ~~AA~~ d) On the Forged Will Accused No. 1 Michael and Accused No. 4 Dr. John Andres have signed as Witness of the Will. They are residing in Pune/ Mumbai.
- e) The Respondent No. 4 has till date has not interrogated the said witnesses of the Forged Will and have failed to produce any findings on why the income of the royalties in millions of \$ per annum is siphoned in the Private Companies of the both Accused No.1, 4 along with other accused.
- f) Whereas on 30<sup>th</sup> May 2014 before a Public Notary in Cologne, Germany namely Dr. Stephan Bleisteiner the Accused are producing Original of the Forged Will after 23 years for attesting the true copy of the Will and the same is mentioned by accused No.3 [*Philip Toelkes*] in his Second Supplement Witness Statement dated 4.6.2013 filed by him in Community Trade Mark Registration, in Para.26 confirms the same.
- g) There is no record if the Respondent No. 4 had made any efforts to communicate or contact or meet the said Public Notary from Cologne in Germany till date? And further if the Respondent No.4 wish to carry out interrogations with the public notary in Germany will then the Respondent No. 4 is empowered for the same?
- h) Original Will is in the Custody of Accused No. 1 Michael Byrne or with any other accused as the same has been produced outside India and continues to cause loss to National Interests. The detail and quantum of Foreign Exchange siphoned outside India illegally is mentioned in detail in the FIR and Additional Statements, yet Respondent No.4 have not proceeded against the accused.
- i) The Statements of the Witness of the Will is not yet recorded by the Police, nor statement of accused No.3 [*Philip Toelkes*] in ~~AD~~



~~AT~~ India, from the time FIR.149/2013, has been registered. The Accused no. 3 is a very important link in the forgery as he has declared the Forged Will after 23 years of OSHO's demise. Further, he is admitting to drafting the same and has got the Will executed.

- j) The said accused no. 3 [*Philip Toelkes*] is a US citizen. Since the FIR being registered, he has not returned to India. The Respondent no. 4 is not revealing details of any of such interrogations taken place with the said accused no. 3.
- k) The investigating agency has not restricted the exit of accused outside the Country nor have they informed their respective Embassy seeking details of the accused till date.
- l) It is deliberate Omission on the part of investigating agency to delay and not carrying out detailed investigation. The investigating agency has deliberately sent Xerox copy of the Will to the document experts knowing that the examiner will not be able to give any report and there will not be any result in these investigations.
- m) If Michael Byrne and other Accused are taken on remand, the Original of the Will would be made available for the examination before the handwriting experts. The investigating agency deliberately has neither investigated the Accused nor have they searched their offices in and residences in Pune, Mumbai, Switzerland, US, UK and Ireland.
- n) As this is a question of National interests of Millions of \$'s of Foreign Exchange Revenues, meticulous investigation needs to be carried out on multiple grounds and causes which involves Forgery investigations within India and abroad, Foreign Exchange violations of Millions of \$'s being siphoned to ~~DD~~



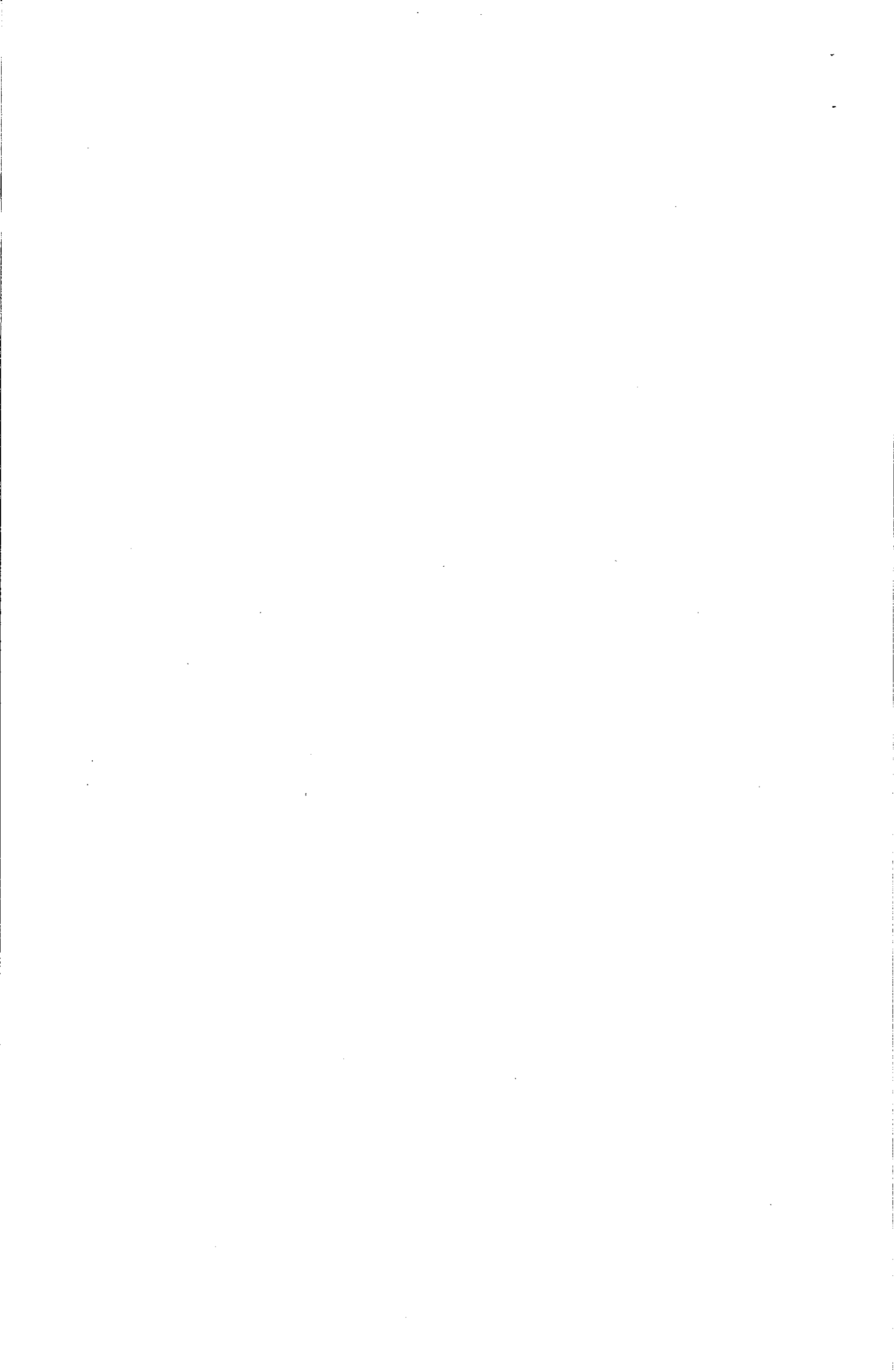


~~AA~~ Switzerland and Europe, so also Copyrights and Trademark Violations.

10. I state that after IO Mr. Mulik, one another IO Mr. Kalyan Pawar took the investigation in his hand. Now Mr. Pawar is suspended from the duties having been found in various illegal involvements of sex rackets etc. in Pune. I state that whenever I requested an acknowledgment of documents and inquired about the progress in FIR No.149/2013, Mr. Pawar had replied that *"Nothing is going to happen to accused and no investigation is required to be carried out in this FIR as it is not in our jurisdiction and you should go to High Court and Supreme Court"*, he further said that "neither he, nor future Ten IO's appointed after me, will be able to do anything".

11. I state that these are some clinching facts of Willful Omission on the part of Respondent No.4 and the DCP (Crime) that in spite of knowing these facts, have not acted on the same. I state that, other possibilities to search for the Original Will was deliberately omitted by the IO and not undertaken till date, the deliberate illegal omissions on the part of IO such as:

- a) The Accused could have been taken in the custody and taken on remand for obtaining the Original of the Will.
- b) Most importantly Investigating Officer knowing that the accused are Foreigners, in this case IO could have written letters to the embassy of the accused seeking search of the Accused offices and residences in outside India.
- c) The IO could have informed the respective Consulate General of the Accused and tried searching where the Original Will has been hidden. ~~AA~~

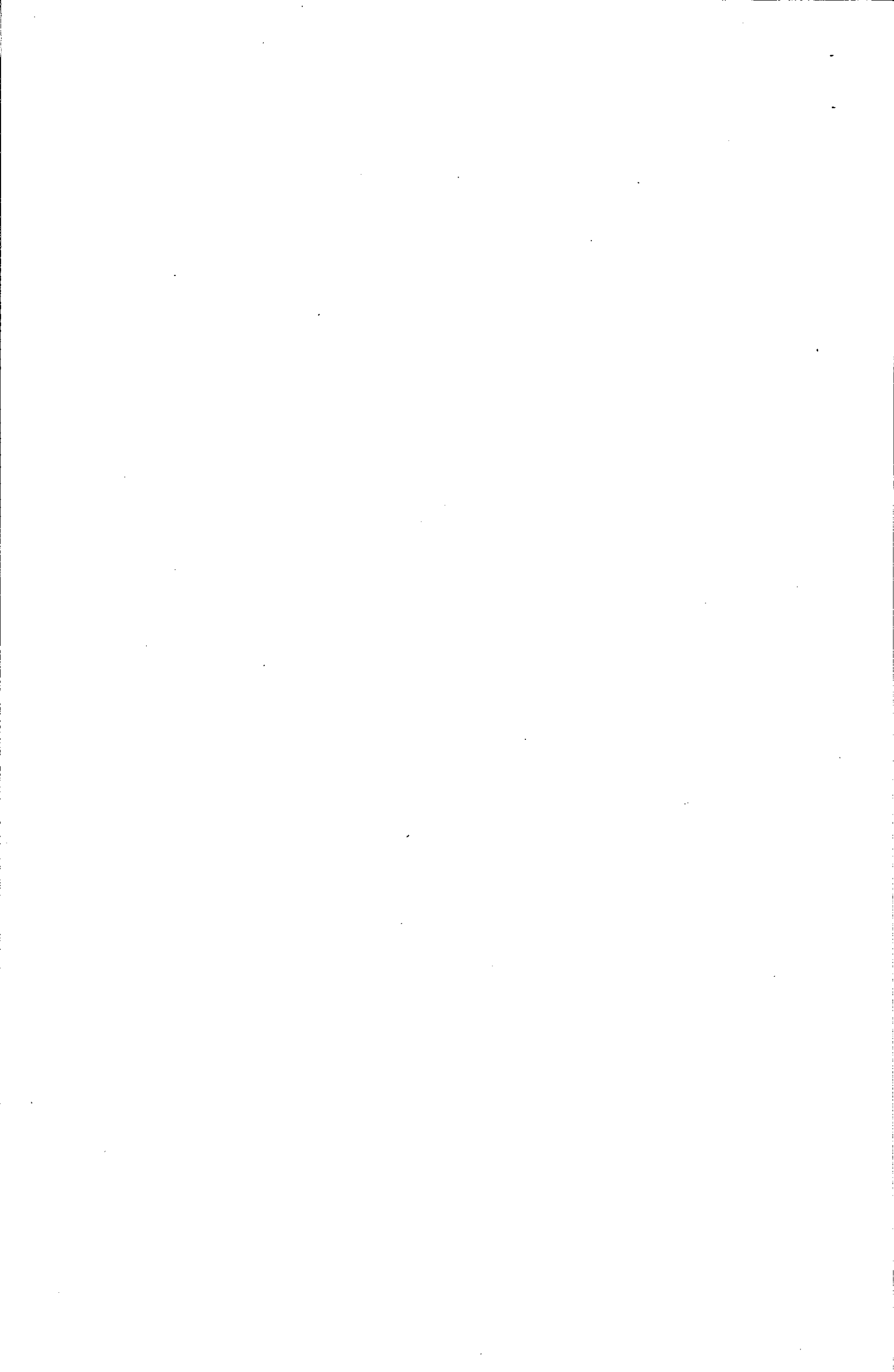



~~A~~d) Why the Executor / Accused No. 1 of the Will did not produce the same for 24 years, especially in 2008 USPTO [*United State Patent and Trademark Office*] when Accused had been defeated in USPTO in 2008, and other numerous cases filed against him?

e) I am holding 'Credible Proofs' that the transfer of Intellectual Property Rights of OSHO from India to Switzerland / US / UK was done without following compulsive requisite permissions from Foreign Exchange Department, Reserve Bank Of India, nor the permission of the Charity Commissioner was taken by a Trustee at the time of 'Hijacking' royalty income worth Millions of \$'s PER YEAR to Switzerland, US and Europe. This rich heritage and wealth belongs to India and not in the Private Companies of the accused persons in their offshore accounts.

f) On 17.12.2012 it is informed to the Police Department that a Deportation Notice had been issued by the Home Ministry, New Delhi against the same Accused in the year 2002. It is reported in Times of India dated 13<sup>th</sup> May 2002 that Respondent No.4 have not taken any actions against the accused persons as they were not available in India for the interrogations. However, it is informed to the Respondent no. 4 that the accused persons in the said FIR and persons as stated in the said Deportation Notice were and are staying in Osho Ashram at Koregaon Park Pune and at Hotel Trident and Hotel Taj Mahal at Mumbai. It is unfortunate that the Respondent No.4 has not taken any Action has till date on this deportation notice. A copy of the said intimation to the Police department is annexed to the Petition at Pgs. 26 to 31.


12. I state that as per the Forged Will, and Accused No. 1, Mr. Michael Byrne [*Swami Anand Jayesh*] a Foreigner is claiming to be an 'Executor' of the Will, actually the accused are transferring benefits of royalty income in their names through various Private Companies registered in US, UK, Ireland and ~~11~~



 Hong Kong. I state that I have given the list and details of these companies to investigating agency along with the FIR No.149/2013.

- i) He is Chairman of OSHO Inner Circle, a group of 21 persons, designed to administer OSHO's work all over the World.
- ii) He is a Chairman of OSHO International Foundation, Zurich Switzerland.
- iii) He is a Chairman of OSHO International Presidium which overlooks OSHO's work outside India.
- iv) Whereas, as per the settled principles of Law being an Executor of the Will he is obliged to perform various obligations which in 24 years of time have not performed the Will such as, there are no standing instructions in the Will which could restrict the Executor of the Will for 24 years for hiding it to the Public, especially when the intellectual properties belong to a 'Public Charitable Trust' namely Rajneesh Foundation [*now named as Neo Sannyas Foundation*] registered under the provisions of the Maharashtra Public Trust Act.

13. I state that after filing FIR No.149/2013 dated 8.12.2013, the Accused filed an Application on 2.1.2014 to Withdraw the Forged Will from Community Trademark Registration before the "Office For Harmonization in the Internal Market" at Avenida de Europa, 4, 03080 Alicante, Spain.

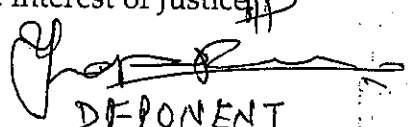
14. More over the spiritual treasures of OSHO will be lost from India and the future generations will be deprived for eternity. This loss will continue till that time that Forged Will amongst aspects are investigated in detail. I state that Respondent No.4 and the DCP (Crime), Pune ought to ensure that 

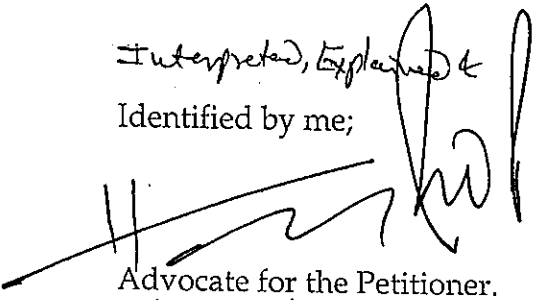


additional charges [conspiracy of OSHO's death, so also stealing, hijacking and smuggling Copyrights, Trademarks and wealth to foreign Shores by the accused persons] in the existing FIR No.149/2013 be properly investigated by the competent agency and be directed to investigate the offences committed by the accused persons under the Copyright Act, 1957 and Foreign Exchange Management Act 1999, so as to ensure that Koregaon Park Police Station by enforcing Prevention of Money Laundering Act gets back the National Wealth and Valuable Heritage and properties from Foreign Shores [Europe, USA, Ireland etc.] back to India as the Hon'ble High Court in its order dated 28.11.2017 is satisfied that the investigation is progressing on appropriate line.

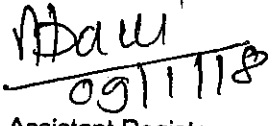
15. I state that it is the obligation and the duty of the investigating agency to act on further statement dated 29.3.2017 and additional statement dated 1.1.2018 as well by adding charges of conspiracy of OSHO's death, so also stealing, hijacking and smuggling Copyrights, Trademarks and wealth to foreign Shores by the accused persons and get back OSHO's rich heritage, wealth and proceeds back to Rajneesh Foundation [now named as Neo Sannyas Foundation] registered under the provisions of the Maharashtra Public Trust Act and get the accused persons to justice, in the interest of Justice.

Solemnly affirmed at Mumbai )  
Dated this 9<sup>th</sup> day of January, 2018 )

  
DEPONENT  
Solemnly affirmed before me  
by Yogesh Narwaral Thakkar  
who is identified before me  
by Major S. Dandekar Clerk  
whom I personally know  
This 9<sup>th</sup> day of Jan 2018  
High Court, Appellate Side  
Bombay

Interpreted, Explained &  
Identified by me;  
  
Advocate for the Petitioner.

Identified by me  
M. S. Dandekar Clerk  
Aadhkar  
CAN 61452534  
2305 Adam

  
091118  
Assistant Registrar  
High Court, Appellate Side





Ex-1  
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**Yogesh Natwerlal Thakkar**

By Hand Delivery

Flat No.11, Anand Park  
368, Behind Koregaon Park Police  
Station, Koregaon Park,  
Pune 411001

Mobile No. 90494 55099  
Dated : 29<sup>th</sup> March, 2017

To,

✓ **1. The Deputy Commissioner of Police [Crime],  
Office of the Commissioner of Police  
Sadhu-Vaswani Chowk  
Pune 411001**

*[Hon'ble High Court having directed DCP (Crime) Pune to monitoring the  
Investigations by the Koregaon Park Police Station in Criminal Writ Petition No.2150  
of 2016 vide order dated 12.8.2016]*

**2. Sr. Inspector of Police,  
Koregaon Park Police Station,  
Koregaon Park, Pune 411001**

**Reg: FIR No.149/13 is registered on 8.12.2013 with Koregaon Park Police  
Station under Sections 465, 467, 471, 120(B) of I.P.C. registered  
against 6 Accused Persons who are Foreigners, [except Mr. Mukesh  
Kantilal Sarda who is an NRI]**

**Sub: Register further offence of "Who Killed OSHO" be added in the FIR  
No.149/2013 or by filing a separate FIR on the basis of the details  
provided by Mr. Abhay Vaidya in his book published by OM Books  
International.**

Sir,

1. I am the complainant / informant in FIR No.149/13 registered on 8.12.2013 with Koregaon Park Police Station under Sections 465, 467, 471, 120(B) of I.P.C. in connection of offences committed by Accused Persons for forging Will of Osho, so also siphoning & transferring of Osho's properties & assets to foreign Nations, the names of the Accused Persons is as under:

- i. Mr. Michael Byrne (O'Byrne) alias Swami Anand Jayesh,
- ii. Mr. D'Arcy O'Byrne alias Swami Yogendra / Anandraj,
- iii. Mr. Philip Toelkes alias Swami Prem Niren,
- iv. Dr. John Andrews alias Swami Amrito,
- v. Mr. Mukesh Kantilal Sarda alias Swami Mukesh Bharti,

*Handwritten:*  
29/3/17

आवक क्लिनीक  
पोलीस आयुक्त कार्यालय, पुणे

Received  
29.3.2017  
Mukesh Sarda  
ठाणे अमलदार  
कोरेगांव पार्क पो स्टे पुणे

Page 1 of 3

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**vi. Mr. Klaus Steeg alias Pramod,**

2. As you are aware that the Hon'ble High Court has directed DCP [Crime] Pune to monitoring the Investigations by the Koregaon Park Police Station in Criminal Writ Petition No.2150 of 2016 and various orders passed therein.

3. One book published by OM Books International written by Abhay Vaidya discloses the details of OSHO's suspicious death on 19<sup>th</sup> January 1990 in various Chapters, which are hereunder:

- i. Chapter – 7 "Jan 19. 1990 'OSHO has left his Body' @ Pg.119
- ii. Chapter – 9 'OSHO's Death : A Fabricated Account ? @ Pg. 144
- iii. Chapter – 10 'Did Drug Overdose Kill OSHO ? @ Pg. 157
- iv. Chapter – 11 "They Have Killed You...Killed You, My Son" @ Pg. 170

The aforementioned Chapters 7, 9, 10 & 11 amongst other Chapters give details of suspicious death of OSHO [*My Guru*]. I request you, as the Law Enforcing Agency can cull out this valuable information from the said Book for the purpose of initiating investigations under Indian Penal Code. And in case you need any insight &/ or more details on this, you can also contact Abhay Vaidya who is a permanent resident of Pune. His mobile number is +91 9545 515338, and email address is : [abhaypvaidya@gmail.com](mailto:abhaypvaidya@gmail.com)

4. Notably, Accused No. (i) & (iv) have admitted that they were with Osho while Osho was leaving His body [*When Osho was Dying*]. The Accused no. (i) & (iv) are the signatories in the Will in question as Executor and Witness thereof. AND ALSO are the beneficiaries of the income worth millions of Dollars per annum arising thereof along with all other Accused Persons.

5. Please treat this as my Statement of Facts u/s 154 of the Cr.PC. 1973, I request you to add charges in the existing FIR No.149/13 or register fresh FIR [*First Information Report*] on the information mentioned in the book published by OM Books International written by Abhay Vaidya disclosing the details of OSHO's suspicious death, as per directions passed by the Hon'ble Supreme Court in the

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matter of Lalita Kumari v/s. Govt of U.P. reported in (2014) Supreme Court Cases at Page.1.

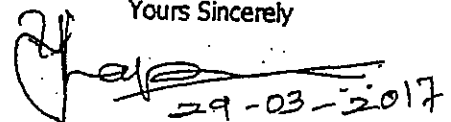
6. Kindly take a note that Accused Persons in the aforementioned FIR are Foreigners, except Mr. Mukesh Kantilal Sarda [*is Non Resident Indian*] shall be taking advantage of they being Non-Indians and flee the Country if you further delay the Investigations on the additional information provided me vide the Book Published and it shall be most difficult for you to get these Accused Persons back to India through rigorous process of repatriation. And you may know that these Accused Persons shall get to hideouts, few other Countries which do not have repatriation treaties with India and your Investigations be frustrated. To get these Accused Persons to Justice for having committed various crimes in and outside India their arrest and custodial interrogation is a must.

7. However, for your benefit and record, I am furnishing you with the Photographs and the contact details of the Accused Persons, so as to enable you to ensure that you circulate the same to all the Airports and exit points, if in case the said Accused Persons are to leave our Country.

8. Be pleased to inform me the FIR number in case you chose to register EITHER as fresh FIR, OR to incorporate this information in the existing said FIR No. 149/2013 on the information mentioned in the book published by OM Books International written by Abhay Vaidya discloses the details of OSHO's suspicious death & Oblige.

Thanking you,

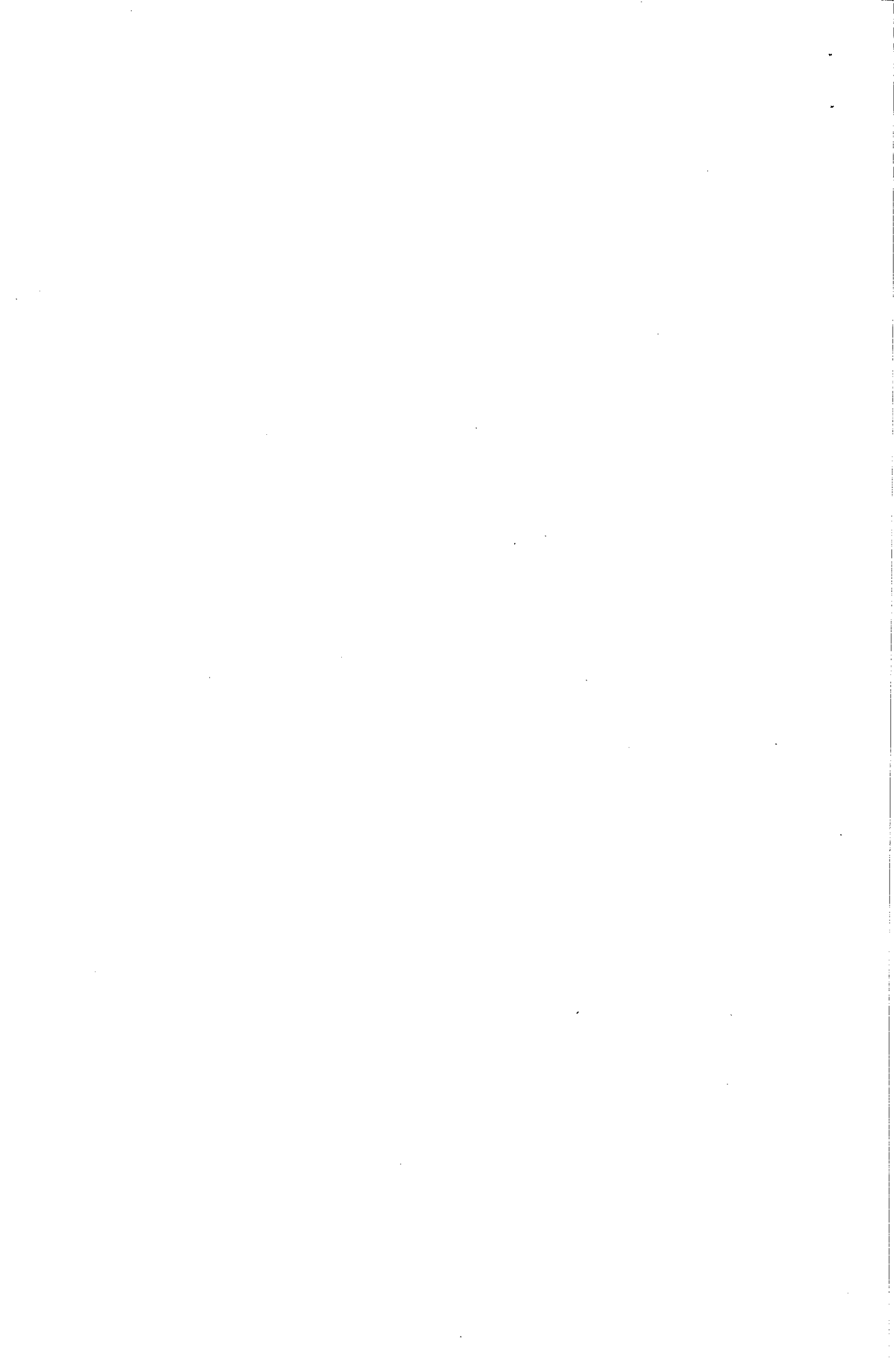
Yours Sincerely



Yogesh Natwerlal Thakkar

**Enclosed:**

- i. **Copy of the Book published by OM Books International authored by Abhay Vaidya titled, "WHO KILLED OSHO ?"**
- ii. **Photographs and the contact details of the Accused Persons in FIR No.149/13 registered on 8.12.2013 with Koregaon Park Police Station under Sections 465, 467, 471, 120(B) of I.P.C.**



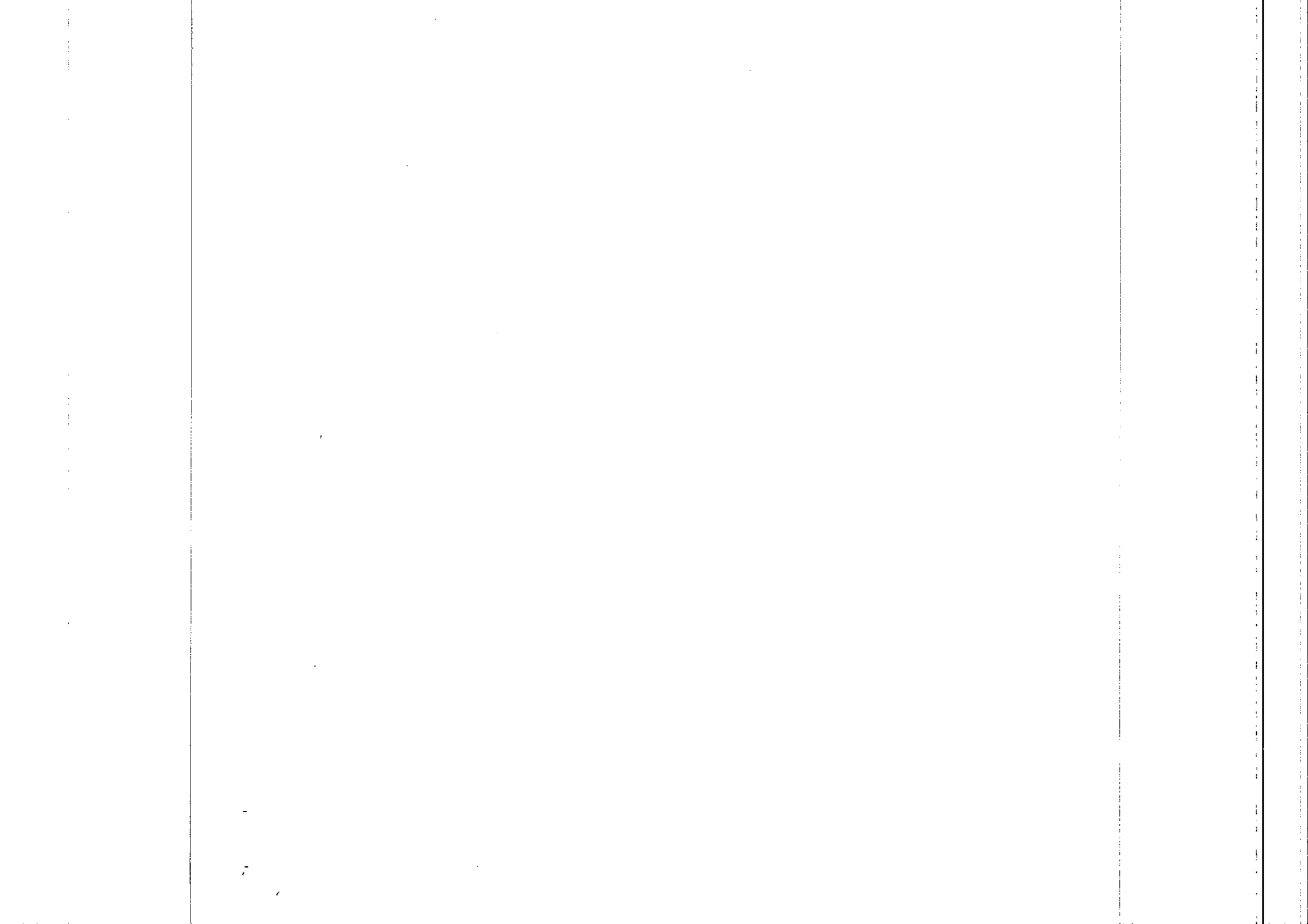


**3. Mr. D'Arcy O'Byrne Alias Swami Raj (Yogendra)**



**4. Dr. John Andrews, alias Dr. George Meredith, Alias Swami Amrito**





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matter of Lalita Kumari v/s. Govt of U.P. reported in (2014) Supreme Court Cases at Page.1.

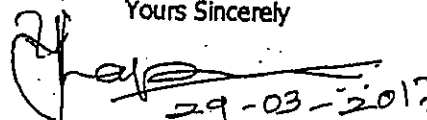
6. Kindly take a note that Accused Persons in the aforementioned FIR are Foreigners, except Mr. Mukesh Kantilal Sarda [*is Non Resident Indian*] shall be taking advantage of they being Non-Indians and flee the Country if you further delay the Investigations on the additional information provided me vide the Book Published and it shall be most difficult for you to get these Accused Persons back to India through rigorous process of repatriation. And you may know that these Accused Persons shall get to hideouts, few other Countries which do not have repatriation treaties with India and your Investigations be frustrated. To get these Accused Persons to Justice for having committed various crimes in and outside India their arrest and custodial interrogation is a must.

7. However, for your benefit and record, I am furnishing you with the Photographs and the contact details of the Accused Persons, so as to enable you to ensure that you circulate the same to all the Airports and exit points, if in case the said Accused Persons are to leave our Country.

8. Be pleased to inform me the FIR number in case you chose to register EITHER as fresh FIR, OR to incorporate this information in the existing said FIR No. 149/2013 on the information mentioned in the book published by OM Books International written by Abhay Vaidya discloses the details of OSHO's suspicious death & Oblige.

Thanking you,

Yours Sincerely



29-03-2017

Yogesh Natwerlal Thakkar

**Enclosed:**

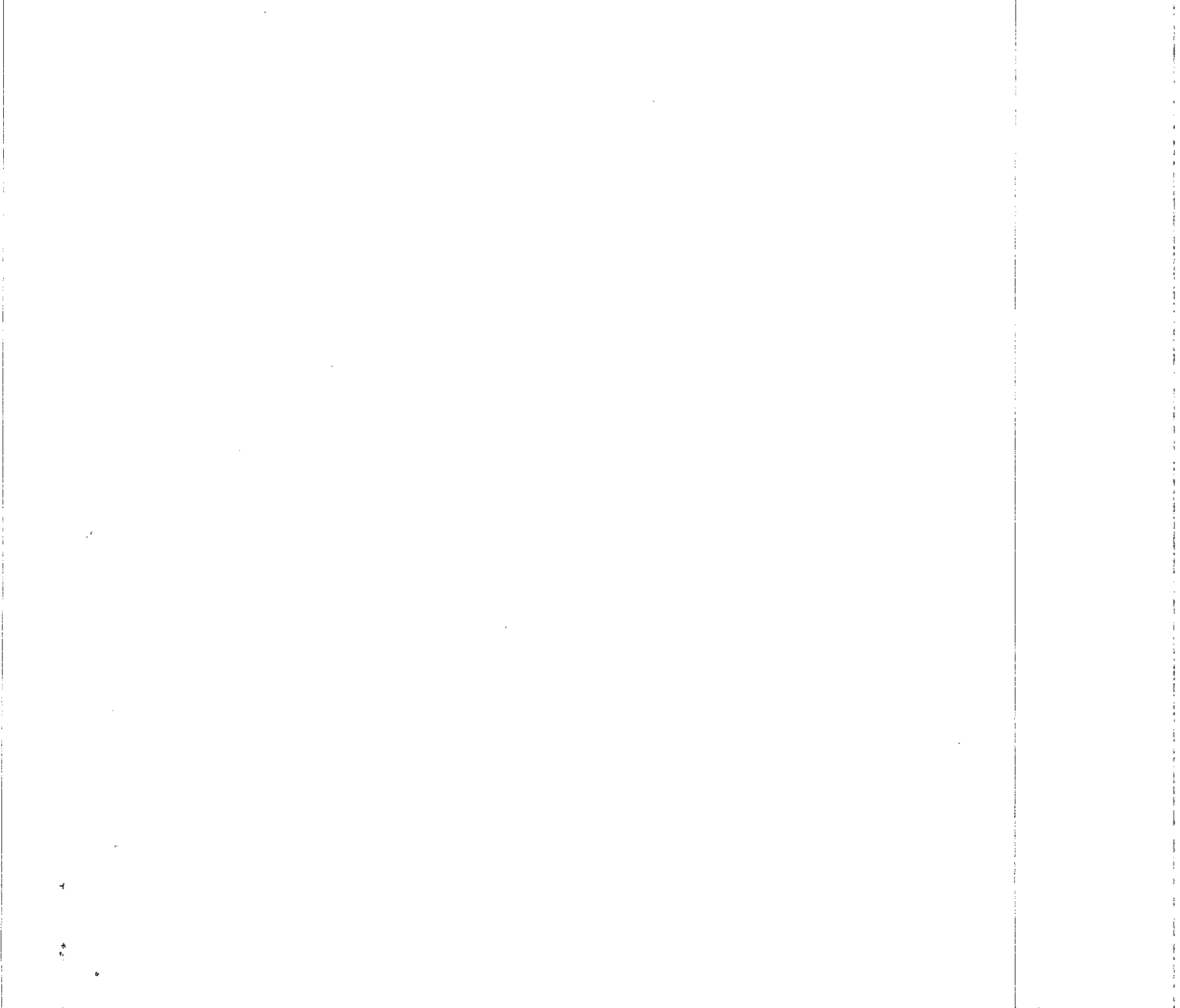
- i. **Copy of the Book published by OM Books International authored by Abhay Vaidya titled, "WHO KILLED OSHO ? "**
- ii. **Photographs and the contact details of the Accused Persons in FIR No.149/13 registered on 8.12.2013 with Koregaon Park Police Station under Sections 465, 467, 471, 120(B) of I.P.C.**





**6. Philip Toelkes (Mr. Prem Niren)**





Who Killed Osho? is the result of nearly three decades of reportage and investigative journalism by author Abhay Vaidya, on the Rajneesh Movement and is based on extensively recorded audio and video interviews with Osho's closest followers and a mass of official documents, testimonies and press reports.

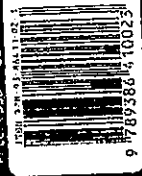
The book traces the early years of Osho, his Neo Sannyas Movement and his magnetic appeal that drew a large number of Indians and Westerners, many of them highly accomplished, to him.

Revolutionary in his thoughts and ideas, Osho struck a chord in many hearts through his powerful oratory and exposition on religion, spiritualism and the meaning of life itself. His meditation techniques are part of his unique contribution to the world and are popular across the globe.

His death on 19th January, 1990 triggered intense factional fights and intrigue among his closest followers for the control of the funds, intellectual properties and other lucrative assets of the Movement.

Who Killed Osho? not only captures the history of the Movement but is also the definitive account to date of Osho's death and that of his soulmate, Nirvano. Throwing fresh light on the controversial circumstances of their deaths, this book makes a case for investigations into the affairs of the Osho trusts as they exist today.

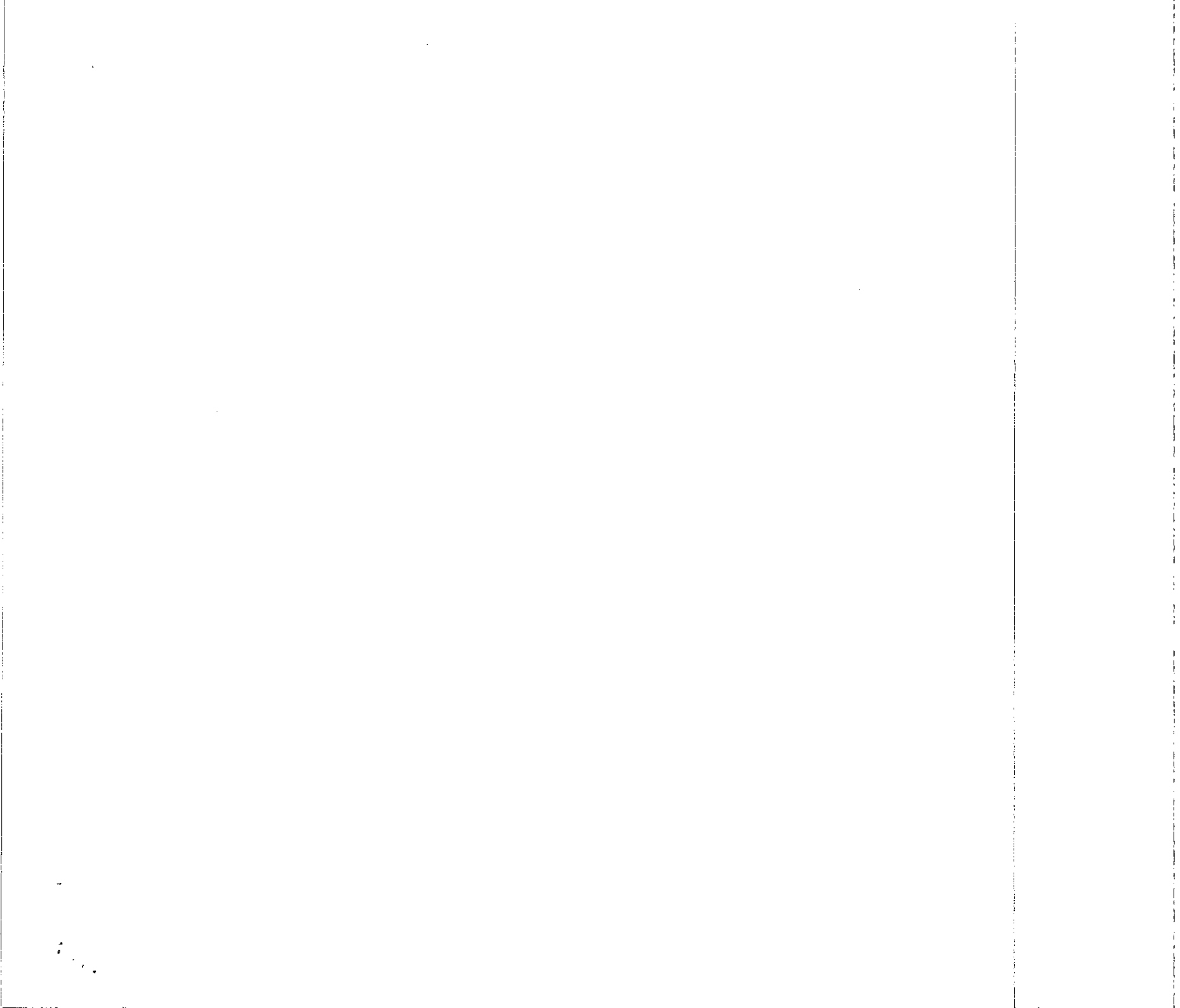
ISBN 9789386410023



NON-FICTION

Om Books International

ABHAY V



Ex-2 179

EMS SPEED POST  
 NON INSURED  
 Sender: ~~Yogesh~~ Thakkar  
 2-JAN 2018  
 To: Enforcement Directorate  
 City: Ballard Estate, Mumbai 400001  
 Tariff Rs. Packing Rs  
 GST 18% Service Charges 5%  
 Tariff Rs. 46 Upto 50 Grams  
 Tariff Rs. 22 For PIINE

From:  
 Yogesh Natwerlal Thakkar,  
 Flat No.1, Anand Park,  
 368, Behind Koregaon Park  
 Police Station,  
 Koregaon Park, Pune - 411 001.  
 Mobile No. +91 9049455099 &  
 +917020307721  
 Email: <sosyogesh@gmail.com>

1<sup>st</sup> January, 2018

To:  
 1. The Deputy Commissioner of Police (Crime),  
 Office of the Commissioner of Police,  
 Sadhu Vaswani Chowk, Pune - 411 001.

[Hon'ble High Court having directed DCP (Crime) Pune to monitoring the Investigations by the Koregaon Park Police Station in Criminal Writ Petition No.2150 of 2016 vide order dated 12.8.2016]

2. The Sr. Inspector of Police,  
 Koregaon Police Station,  
 Koregaon Park, Pune - 411 001.

Reg: FIR No.149/13 registered on 8.12.2013 with Koregaon Park Police Station under Sections 465, 467, 471, 120(B) of I.P.C. registered against 6 Accused Persons, who all are Foreigners [except Mukesh Kantilal Sarada, who is an NRI].

Sub: Additional statement of facts in addition to the facts mentioned in FIR No.149/13 and further statement furnished by me on 29.3.2017, a copy whereof is annexed hereto as Annexure-1.

Sirs,

1. Vide Order dated 28.11.2017 the Hon'ble High Court presided by Their Lordships Justice Ranjit More and Justice Dr. Shalini Phansalkar Joshi have been pleased to observe in Para Nos.7 to 10 as under :

"7. We have gone through the report of the Police Inspector of Koregaon Park Police Station as well as the status report filed by the respondent No.6-Enforcement Directorate. At this stage, we are satisfied that the investigation is progressing on appropriate line and, therefore, we do not propose to pass any order regarding transfer of the same at this stage.

*Pls. Read*  
 Dy. Commr. of Police (Crime)  
 Pune City

*31/1/18*  
 Page 01/06  
 ठाणे अंमलदार  
 कोरेगांव पार्क पो.स्ट. पुणे

8. We direct the investigating officer of the subject crime to expedite the investigation and take further steps in pursuance of their proposal dated 2<sup>nd</sup> November, 2017. We also direct the Under Secretary (Legal), Internal Security Division, Ministry of Home Affairs, Lok Nayak Bhavan, New Delhi, to take appropriate decision at the earliest regarding fresh proposal submitted by Koregaon Park Police Station in the subject crime on 2<sup>nd</sup> November, 2017.

9. The writ petition is adjourned to 15<sup>th</sup> January, 2018, for further hearing.

10. The Koregaon Park Police Station, Pune, as well as the respondent No.6-Enforcement Directorate shall file fresh report regarding progress of the investigation in the subject crime."

However, since the Sr. Advocate, Mr. Ravi Kadam, who appeared on behalf of one of the accused persons [Mr. Mukesh Sardar], in the FIR, has opposed the transfer of investigation to CBI on the ground that illegal transfer of funds is on the basis of Deed of Assignment executed in the year 1978 and the same is recorded by the Hon'ble High Court in Para No.3 of the Order dated 28.11.2017.

2. The Accused, Mr. Mukesh Sardar through his Advocate has brought to my notice that the Deed of Assignment is executed on 28.7.1978, as mentioned by the accused, which is in fact a Declaration in which OSHO [Bhagwan Shree Rajneesh] has divested and given all his properties to Rajneesh Foundation [A Public Charitable Trust bearing Registration No. E- 625 (Pune) recently transferred to Mumbai Region bearing registration no. E31387 under the Maharashtra Public Trust Act, having its office in India at 608, Maker Chambers V, 6<sup>th</sup> Floor, Nariman Point Mumbai - 400 021. The said Rajneesh Foundation was originally registered as Jeevan Jagruti Kendra constituted on 11<sup>th</sup> June 1969 whereas the said Trust was shifted to Pune and in the year 1974 the name was changed to that of Rajneesh Foundation and in furtherance in the year August 1992 the said Rajneesh Foundation has been renamed as Neo Sannyas International Foundation.

3. That Para No.1 of the Declaration dated 28.7.1978 reads thus:

"1. I say the exclusive printing and publishing rights in the said Books, Articles, Speeches, Writings and other Works heretofore written or delivered as the case may be by the Declarant and the Books, Articles, Speeches, Writings and other Works to be hereafter written or delivered by the Declarant [hereinafter be referred to as "the said Works"], have or shall be the property of the Trust. The Trust has agreed to the conditions hereinafter appearing as regards the said works."

Hereto annexed as Annexure-2 is the copy of the Declaration dated 28.7.1978. It would not be out of place to apprise you that the Hon'ble High Court has directed the Investigation Officer of the subject crime to expedite the investigation and take further steps in pursuance of their proposal dated 27.11.2017.

4. I state that the said Declaration executed by Osho on 28 July 1978 is valid and subsisting until date, which is also admitted by the Accused in various forums in US, Europe and Switzerland, so also in High Court's order dated 28.11.2017. Further, I state that on 1<sup>st</sup> April 1981 a 'General Assignment of Copyright' was executed by Rajneesh Foundation in favour of the Chid Villas Rajneesh Meditation Centre situated at 154, Valley Road, Montclair, New Jersey USA on 1<sup>st</sup> April 1981. A Copy of this General Assignment of Copyright dated 1<sup>st</sup> April 1981 is enclosed herewith and marked as Annexure-3, which reads as under :

"1. The Foundation assigns to Chidvilas all the Foundation's right, title and interest in all existing and future works of Bhagwan Shree Rajneesh any translations, abridgements, selections, compilations, derivations and reproductions in any form whatsoever of said works, and the copyrights therein, printing, publishing and reproducing the same in any form whatsoever for the entire period for which copyright exists and for any renewal thereof, with full power and authority to apply for and receive the renewal and extension thereof."

Notably the said Assignment of Copyright, dated 1<sup>st</sup> April 1981 is not signed by all the 'Nine Trustees' of Rajneesh Foundation. A list of Trustees as of 1<sup>st</sup> April

1981 is attached herewith marked as Annexure-4. The said Assignment of Copyright was signed only by one entity namely Swami Yogendra Manu Alias Manikant Ratansi Khona residing at 17, Koregaon Park, Pune 411001, who was only one of the Trustees. Further, in the said Assignment of Copyright dated 1<sup>st</sup> April 1981, nowhere mentions that there was any Resolution, which was passed by all the Trustees of the Rajneesh Foundation authorising the said Swami Yogendra Manu Alias Manikant Ratansi Khona to execute and transfer the said Assignment on behalf of the Rajneesh Foundation Trust. I state that just One Trustee cannot assign the valuable articles and intellectual property rights, hence all those are the beneficiaries of the said Assignment is illegal and unlawful attracting the provisions of the Indian Penal Code as well.

5. Further, I state that the said assignment of copyrights dated 1<sup>st</sup> April 1981, which was executed by Swami Yogendra Manu, in favour of '*Chid Villas Rajneesh Meditation Center, New-Jersey, USA*' is without any authority of law and illegal on the following counts:

- i. At the time of executing the said Assignment of Copyrights, Rajneesh Foundation [*now Neo Sannyas Foundation*] has not taken Pre Requisite Permission of the Foreign Exchange Department, Reserve Bank of India. On this count alone the said General Assignment of Copyrights dated 1<sup>st</sup> April 1981 is illegal and cannot be acted upon.
- ii. At the time of executing the said General Assignment of Copyright dated 1<sup>st</sup> April 1981, only One trustee Mr. Yogendra Manu had executed the same, whereas, the remaining other Eight trustees on board of the Trust has neither signed the said General Assignment of Copyright nor, have passed any resolution in the meeting of the Trust authorizing Mr. Yogendra Manu aka Manikant Ratansi Khona to execute the same on behalf of the Trust.

Whereas, as per the Public Trust Act, any Assignment pertaining to the valuable properties of the Trust if it is not consented by all the members/ trustees then it is null and void.

- iii. As per the said Declaration dated 28<sup>th</sup> July 1978 executed by OSHO,



His work was in the ownership of a Public Charitable Trust namely Rajneesh Foundation. Hence all the trustees were obliged to take prior permission of Hon'ble Charity Commissioner to assign the valuable articles and properties of the trust, which was not taken by the trustees. Hence, the said assignment is null and void.

I say that by virtue of this document dated 1st April 1981 the Accused Persons have taken away all the existing work so also future work of Bhagwan Shree Rajneesh all and any translations, abridgements, selections, compilations, derivations and reproductions in any form whatsoever of said works, and the copyrights therein.

6. In the year 2001, the accused attempted to legitimize the said transfer of copyrights and trademark and properties which vests with the Rajneesh Foundation to that of Foreign Shores [i.e. *United States Patent and Trademark Board (USPTO), Trademark Trial and Appeal Board*], when few disciples OSHO's resisted the claim of the accused persons by contesting in USPTO, the accused persons lost the said legal battle vide order dated 30.10.2008. Hereto annexed as Annexure-5 is the copy of the Order dated 30.10.2008.

7. I say that by observing a proceeding of the said Osho International Foundation in the court of America in the year September 2010 and May 2011, it was noticed that the Accused and the present Trustees of the said Trusts had smuggled in 90 boxes outside India containing the various precious and timeless articles belonging to the Trust without the permission of concerned authorities of the State such as Foreign Exchange Department and Office of the Charity Commissioner. The same is enclosed herewith enclosed herewith and marked as Annexure-6

These valuable articles referred consist of:

- a) Original Archives, Manuscripts of OSHO's Work
- b) 880 paintings of OSHO known as OSHO Signatures
- c) 80,000 books which were kept in OSHO Library
- d) 830 Robes, Diamond studded caps, socks and Expensive precious and semi-precious stones and diamond studded watches

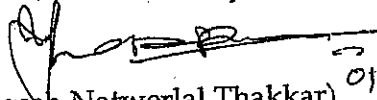
184

I state that the Accused persons have illegally transferred Hundreds of Crores of Rupees per annum [*worth millions of \$s in the International Markets*] of Osho's Intellectual properties and articles outside India. The statement based on the balance sheet of Osho International Foundation, Zurich evidencing the same is enclosed herewith and marked as Annexure-7.

Kindly treat this as my further Statement of Facts u/s 154 of the Cr.PC. 1973, I call upon you to add charges in the existing FIR No.149/13 and investigate the offences committed by the accused persons under the Copyright Act, 1957 and Foreign Exchange Management Act 1999, so as to ensure that Koregaon Park Police Station by enforcing Prevention of Money Laundering Act gets back the National Wealth and Valuable Heritage and properties from Foreign Shores [*Europe, USA, Ireland etc.*] back to India as the Hon'ble High Court in its order dated 28.11.2017 is satisfied that the investigation is progressing on appropriate line. Hence investigate the further statement dated 29.3.2017 and this additional statement as well by adding charges of conspiracy of OSHO's death, so also stealing, hijacking and smuggling Copyrights, Trademarks and wealth to foreign Shores by the accused persons.

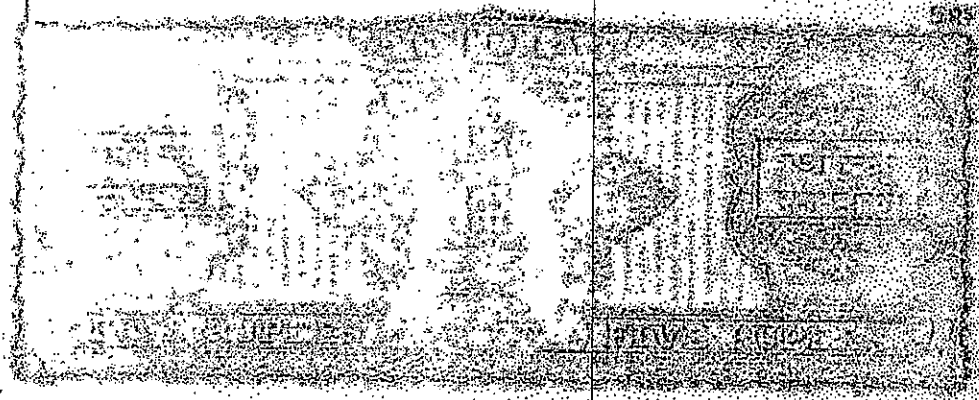
Thanking you,

Yours faithfully,

  
(Yogesh Natwerlal Thakkar) 01/01/2018

Copy To: [*For Information & Record, with request to act in accordance with law*]  
Mr. H.S. Mandlekar [IO & Assistant Director, ED]  
Enforcement Directorate,  
4th floor, Kaiser I - Hind building  
Currimbhoy Road, Ballard Estate, Mumbai 400 001. (Sent by Speed post  
copurier)

NO. 2095 of 1967



Handwritten text and a signature, including the name 'S. S. Srinivasan' and a date '1967-10-23'.

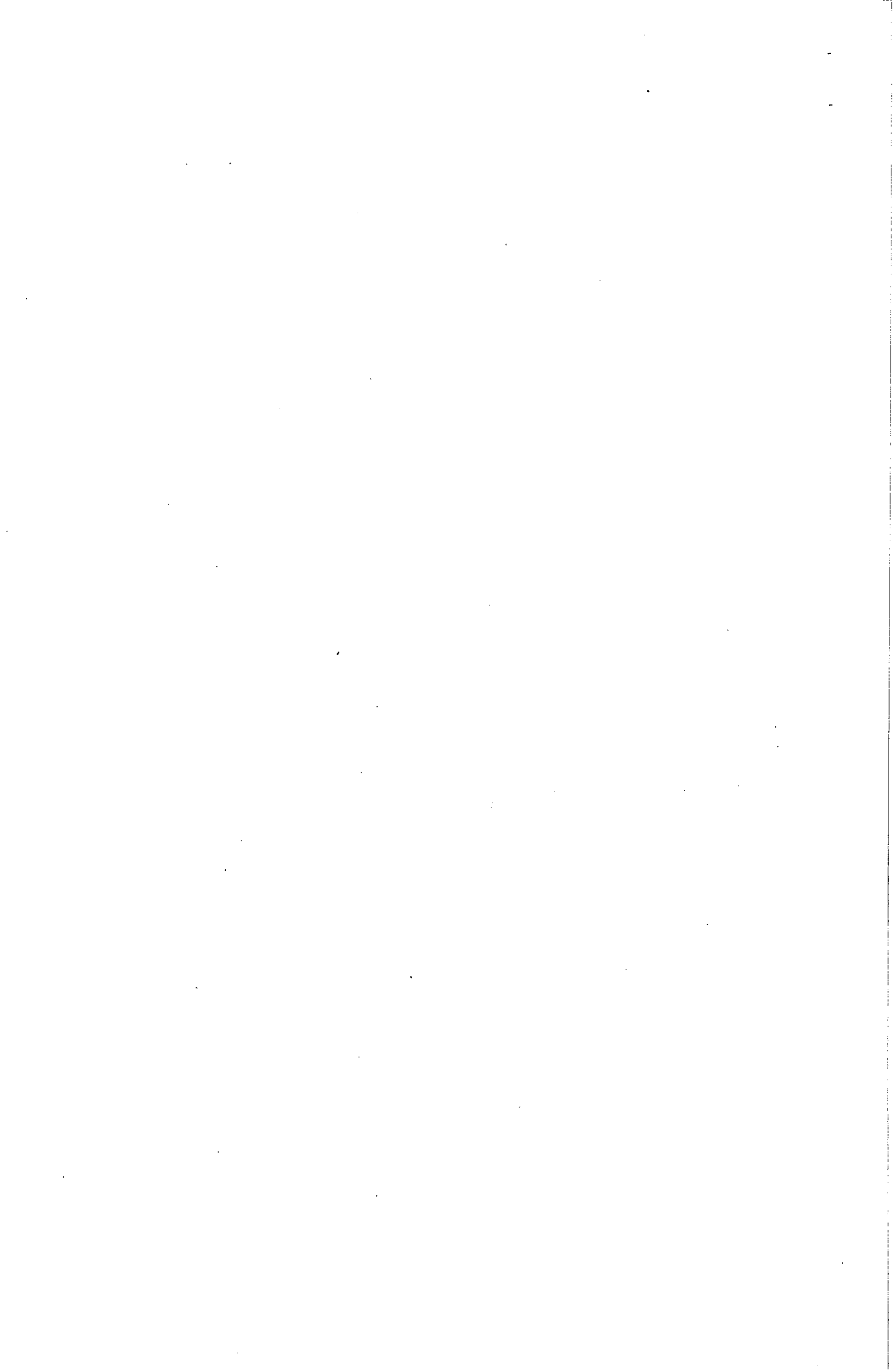
TO ALL TO WHOM THESE PRESENTS SHALL COME  
I, SACHIN KUMAR SAHNEY, Indian Inhabitant (hereinafter  
referred to as "the Declarant") SAHYA SAHNEY.

PROVISIONS

- 1) By an Indenture of Trust dated the 17th day of June 1965, a charitable Trust was formed known as "Devi Anand Math" (which name was changed to "Sahney Foundation" by court order dated 23 October 1975) for the charitable objects therein mentioned (hereinafter referred to as "the said Trust").
- 2) The said Indenture of Trust dated the 17th

Sachin K. Sahney, Sahney Foundation  
S. No. 12, 13, 14, 15  
Lahore, India

State Court Exhibit 1



WL 2085-11156

day of June 1959. Inter alia provided that  
Aurangzeb Khan Bakhshani (the defendant above-  
named) shall be the advisor of the said Trust  
for its life;

iii) Under the auspices of the said Trust, the  
Defendant has composed and delivered discourses,  
lectures, and has also written and published  
books, pamphlets, papers on various philosophical,  
ontological and cultural matters touching upon  
problems or relations which are published in  
English and/or Hindi language and some of which  
are also translated and published in Urdu and  
in Pashto languages and which have also been  
recorded with the aid of tape-recorders or other  
recording devices;

iv) The said Books, Discourses, Lectures, Pamphlets,  
Papers and Tapes, Records etc., in the possession,  
the property of the said Trust;

v) The Trustees of the said Trust have requested the  
Declarant to take this Declaration so as to  
enable the Trust to establish its title to the  
said Books, Lectures, Pamphlets, Papers and  
Tape Records.

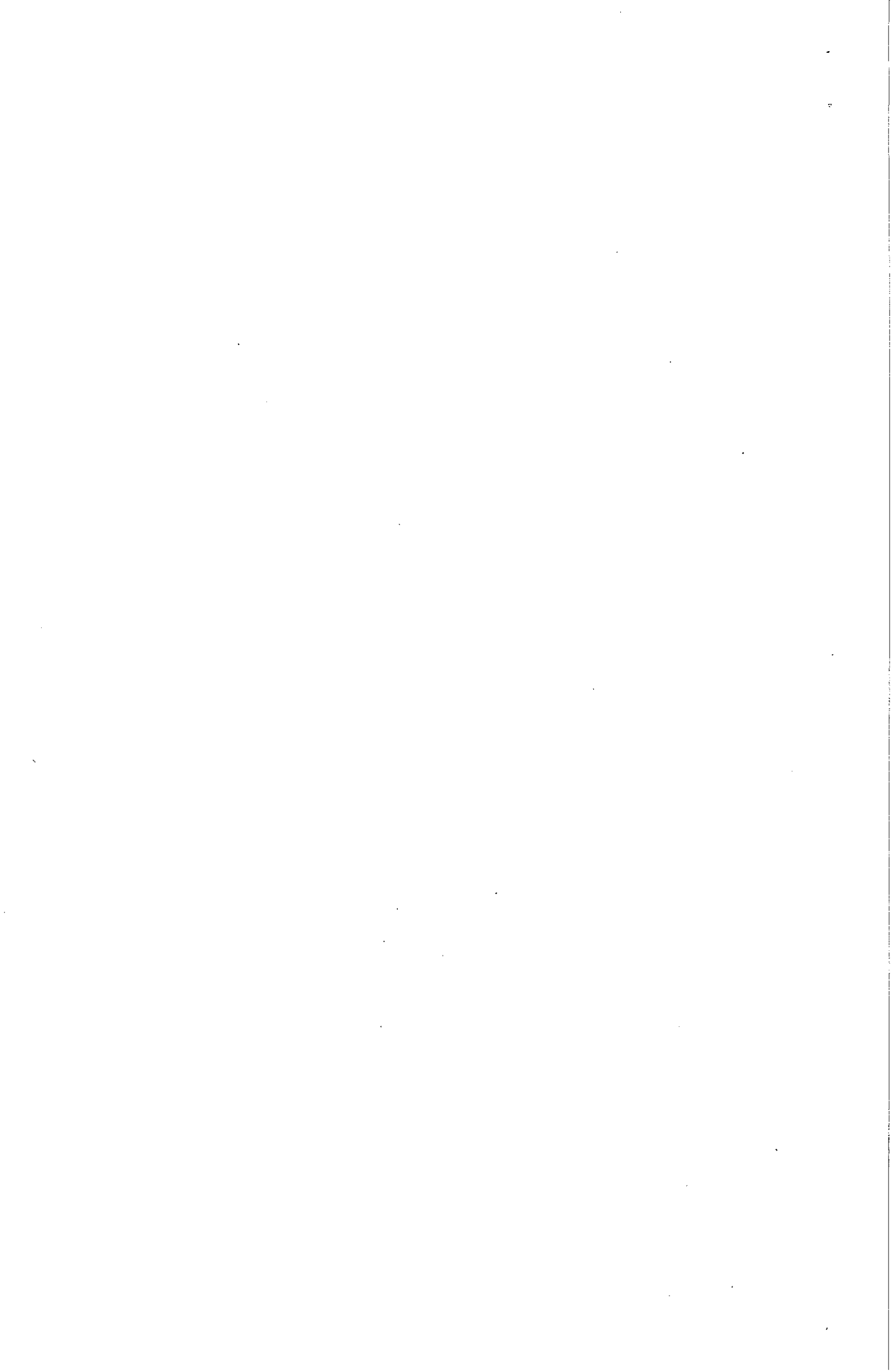
Now ( the said EXHIBIT THREE SAID TO BE TRUE

DECLARE AND STATE as follows:-

I, by the exclusive printing and publishing rights  
in the said Books, Articles, Speeches, Writings and other  
works heretofore written or delivered as the case may be by the

Usha Frank (the Civil Suit Plaintiff)  
Opposite No. 11, 10th St.  
Bombay City by Civil Suit Plaintiff

Munshi, Kishan D.



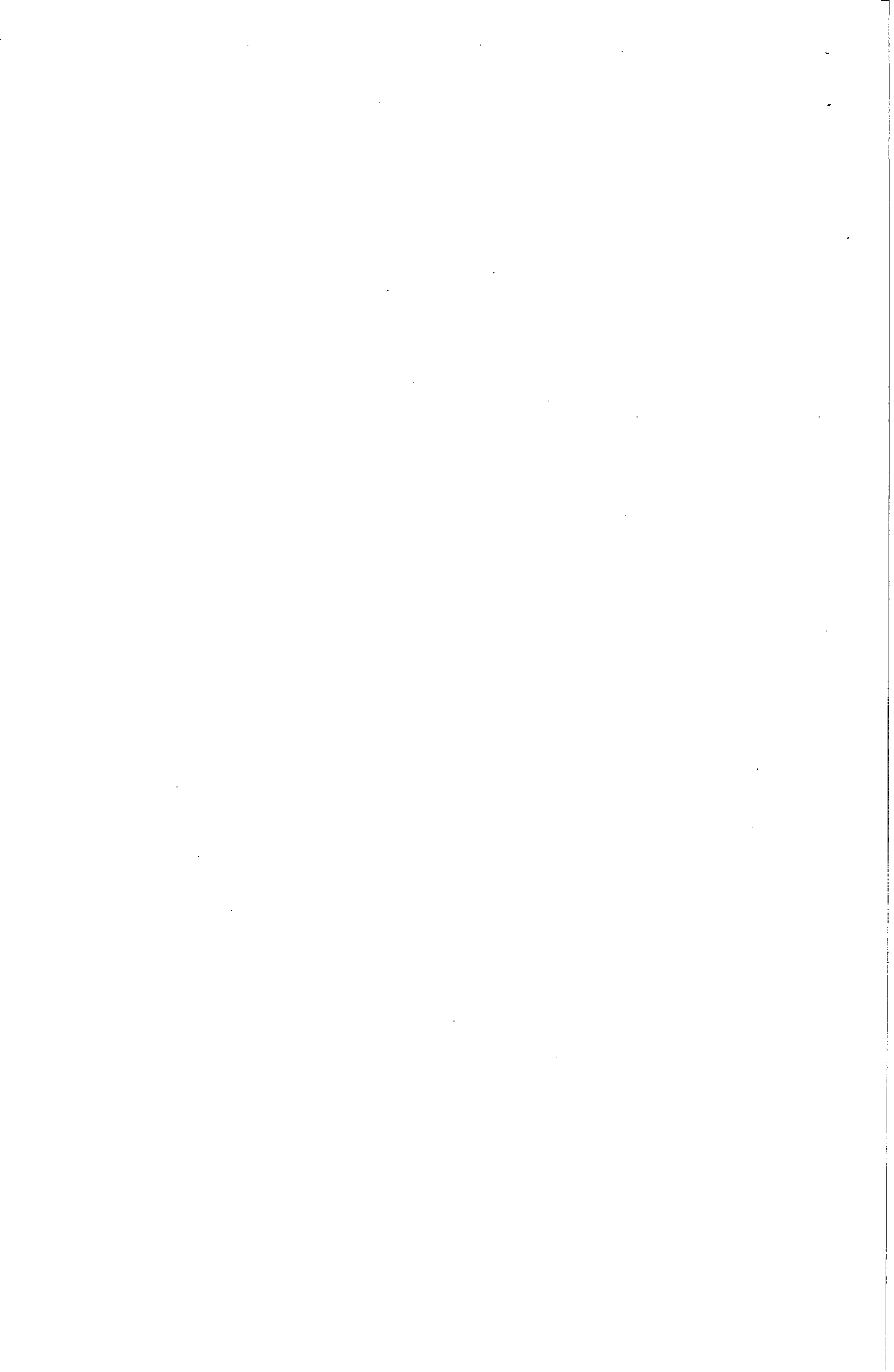
Declaration and the Books, Articles, Speeches, Writings and other Works to be hereafter written or delivered by the Declarant (hereinafter referred to as "the said Works"), have or shall be the property of the said Trust. The Trust has agreed to the conditions hereinafter appearing as regards the said Works.

2. The Trust shall give all such information and particulars as the Declarant may require from time to time in respect of the publication of the said Works. The publishers shall publish the said Works at their own cost.

3. The Declarant shall deliver to the Trust the completed typescripts of the Works and the Trust shall print, produce, publish and sell the works at its own cost and expense in such number and style and at such places as the Trust may at its discretion deem fit.

4. The Declarant has given to the Trust a list of the books, articles and writings to be written by the Declarant and shall no longer write any further books and articles or write, or any speeches are delivered, he shall transfer the right thereof to the Trust to enable them to publish the same as hereinafter provided.

5. The Trust shall have the sole and exclusive right of publishing, reproducing and producing in any part of the world the said Works and all translations, abridgements and selections in any of the languages whatsoever and/or parts thereof for the said purposes. PROVIDED HOWEVER no translation or abridgement shall be made except with the written consent of the Declarant and on the terms imposed by him and all such grants shall be subject to this Declaration. The Declarant shall not publish or cause to be published in any part of the world any copy of the Works or any translation, abridgement or selection thereof. The entire control and right of publication, production, publicity and sales shall remain





MA 2085 2-17-70

with the Publishers who will be entitled to all royalties and profits thereof.

6. The Trust shall, at its own risk and expense, and at the convenience, produce and publish the said Works and bear the cost of the same. The production, publication, publicity and sale of the said Works shall be controlled entirely by the Trust and it shall have full right and authority to reproduce and produce all such Works either by itself or through its agents in any part of the world.

7. The Trust has agreed to deliver to the Declarant free of charge 3 presentation copies of the Works when ready.

8. The Declarant hereby reserves the right to assign or give right for publication of any future work or works hereafter written by him.

9. The Trust shall not publish or authorize anybody to publish any abridgement of any of the Works of the Declarant except with the consent in writing of the Declarant.

10. The Trust has undertaken to see that the proofs of the said Works are properly corrected and revised.

11. The Trust has agreed that the name of the Declarant as the Author shall appear in its customary form in due prominence on the title page and on the binding of every copy produced, and on all advertisements of the Books issued by the Trust or their agents or licensees.

12. Should the Trust at any time willfully fail to fulfill or to comply with any of the conditions herein contained, the license to publish the said Works shall

Done First at New York, New York  
Second at New York, New York  
Eighth at New York, New York

Wm. D. East



W. 2895-1071

- 3 -

thereupon determine and the Declarant shall be free to  
grant license to any other person to print and publish  
the same.

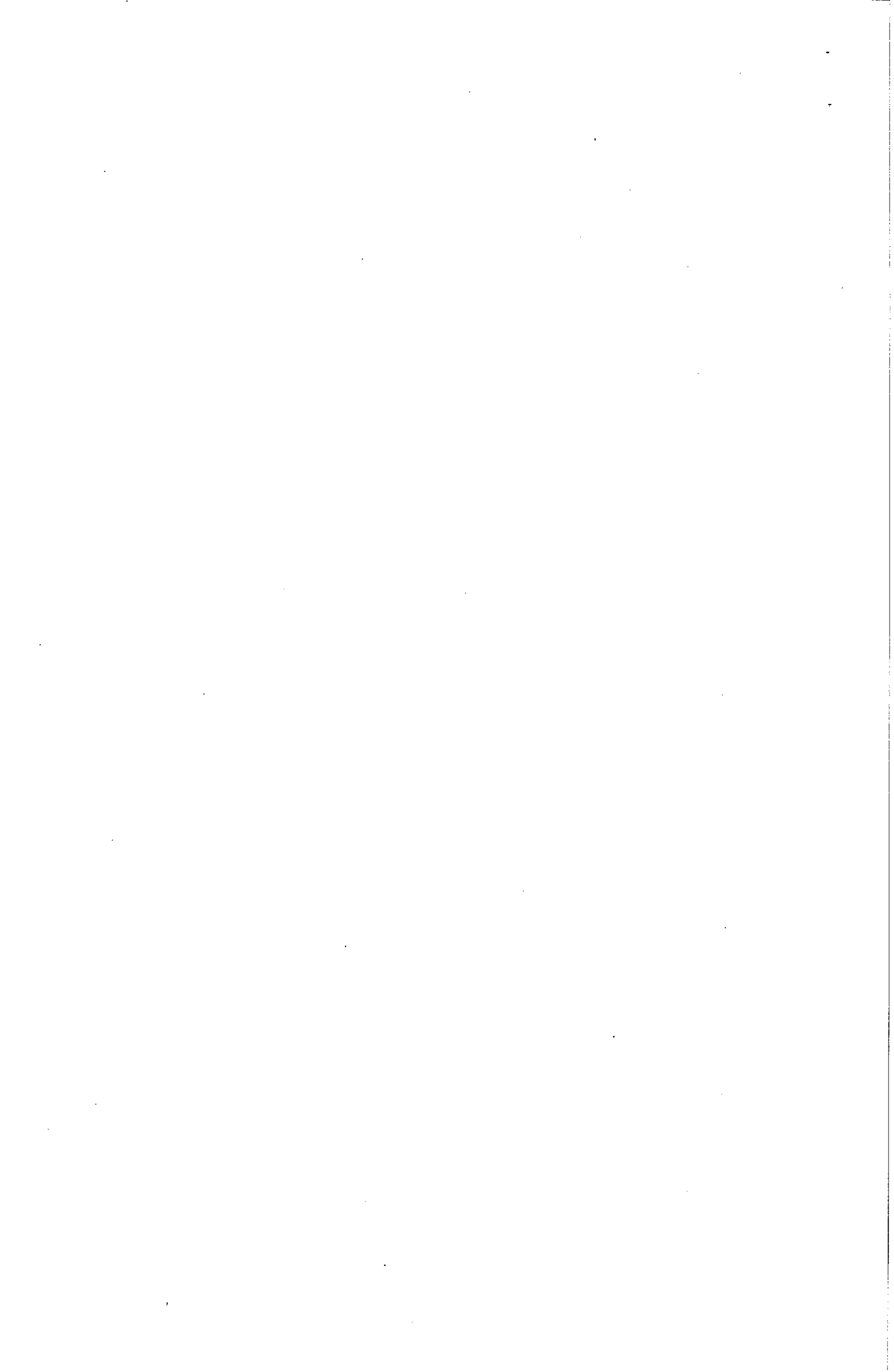
19. The Declarant hereby authorizes the American Foundation  
to use his portraits, photographs, sketches, writings  
and other written images, as well as his name and  
his likeness to such use by the Foundation on any article,  
such as books, publications, tapes and any other object  
or product related to his person,

solely declared by the )  
Declarant )  
ARNOLD BARRA BARRA )  
Date 20th day of July 1970. )

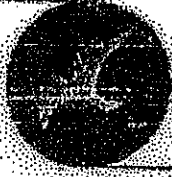
*When is the Original Document?*  
*Not a copy of the original*  
*By the way, I think I can't connect*  
*where is the original document*  
*with the original?*  
*Is the original of the 1st 1st?*  
*By the way, I think I can't connect*

Case Filed: Int'l v. Case Int'l Foundation  
Opposition 2-1, 121, 049 et al.  
Exhibit Offered by Case Int'l Foundation

Stage Deal, Exhibit 2



RAJNEESH FOUNDATION  
INTERNATIONAL



Vol. 2095 Dec 172

PO Box 9, Rochester, Oregon 97063 USA

03017973301

List of titles referred to in the attached document

- The Wasteful seed
- I am the gate
- 252
- The inner navigation
- The silent explosion
- Dynamic of meditation
- No father, no man
- Seeds of revolutionary thought

376 Friends Int'l. Org. of I. Foundation  
Department No. 110341 et al  
Rajni Offic. by Case Int'l Foundation

Shree Devi Karbir I



GENERAL ASSIGNMENT OF COPYRIGHT

THIS AGREEMENT is made between RAJNEESH FOUNDATION, a Charitable Trust, 17 Koregaon Park, Pune 411 001, India (hereinafter referred to as the "Foundation") and CHIDVILAS RAJNEESH MEDITATION CENTER, a non-profit corporation, 154 Valley Road, Montclair, New Jersey, U.S.A. (hereinafter referred to as "Chidvilas").

By virtue of a declaration of Bhagwan Shree Rajneesh dated the 28th day of July, 1978, the Foundation is the exclusive owner of the copyrights in all books, articles, speeches, writings and other works written or delivered by the said Bhagwan Shree Rajneesh, except in so far as the Foundation has assigned any interest in one or more of such works to any other person or organization.

Both the Foundation and Chidvilas are non-profit organizations whose main purpose is to spread the teachings of Bhagwan Shree Rajneesh. To further that purpose the Foundation is executing this assignment in consideration of Chidvilas's agreement to adhere to said purpose.

Bhagwan Shree Rajneesh agrees with the Foundation's desire to the above mentioned assignment of copyright and has signed a declaration to this effect, a copy of which is attached and marked as Exhibit "A".

THEREFORE:

1. The Foundation assigns to Chidvilas all the Foundation's right, title, and interest in all existing and future works of Bhagwan Shree Rajneesh any translations, abridgements, selections, compilations, derivations, and reproductions in any form whatsoever of said works, and the copyrights therein, and all other rights and advantages to be derived from





whatsoever for the entire period for which copyright exists and for any renewal thereof, with full power and authority to apply for and receive the renewal and extension thereof.

2. The parties agree that this agreement is binding upon their respective executors, administrators, heirs, and assigns.

3. The parties agree that should any dispute arise under this agreement which is not capable of mutual resolution by the parties then jurisdiction shall be at the option of Chidvilas, or its assigns.

IN WITNESS WHEREOF we have set our hands this 1st day of April, 1981.

Signed for and on behalf of  
Rajneesh Foundation

Signed for and on behalf  
of Chidvilas Rajneesh  
Meditation Center

Yogendra Manu

Asha Agius

Title Manu's Trustee

Title Trustee

Witness J. P. Mark

Witness Pamela Sherman

Address 17 Kingston Park

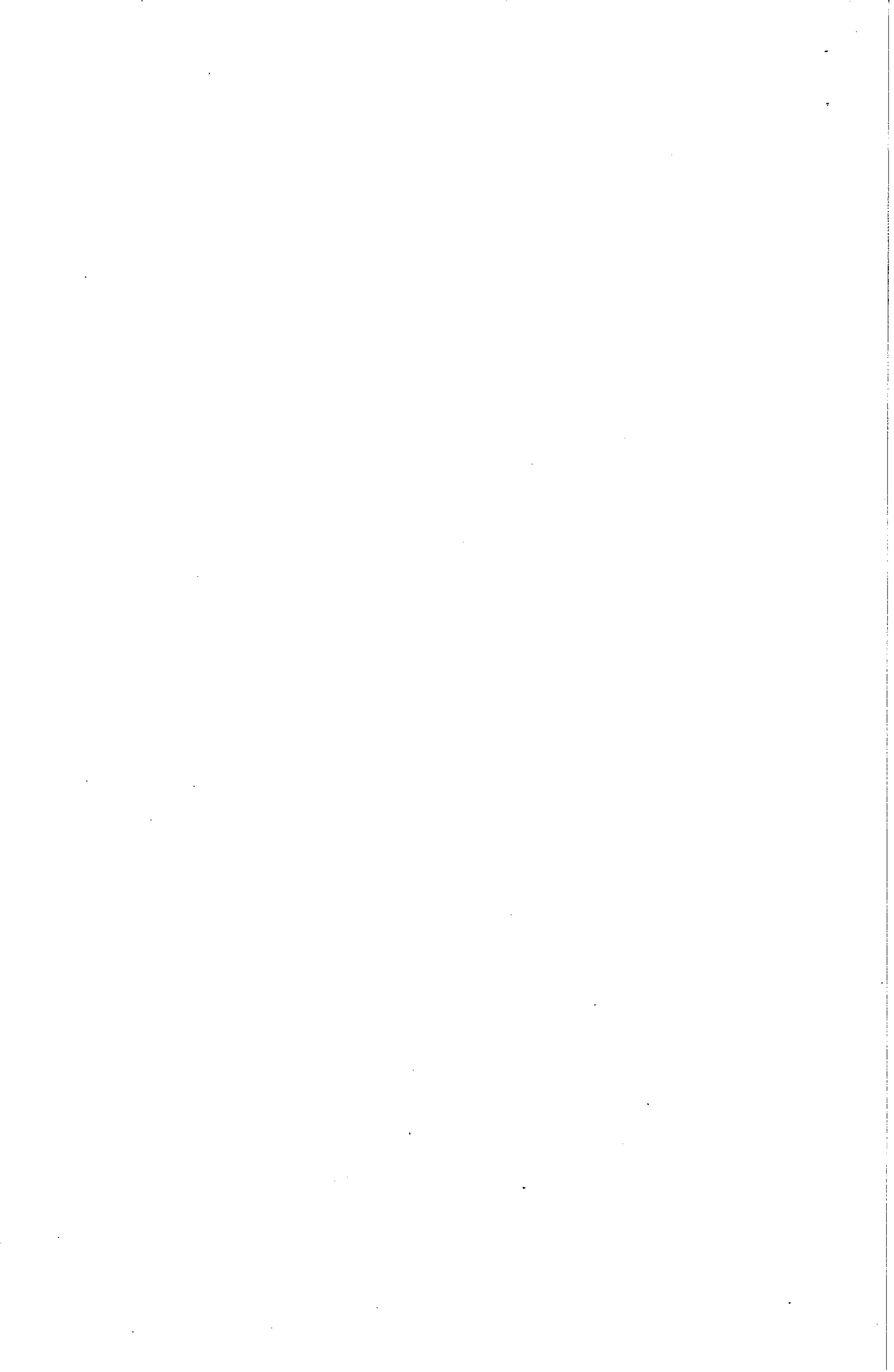
Address 156 Valley Rd

Pam Tucker

Montclair NJ

Occupation Volunteer Worker

Occupation Secretary



Report of changes that have occurred or are desired in the particulars recorded in the Register of Public Trust  
 Registered No. and Name of Public Trust : No.E/625/(Pune) Rajneesh Foundation

CF No - 1045/51

ANNEX  
-4

Nature of Change (1)	Reasons for the Change (2)	Remarks if any
Please delete the names of: ✓ <del>Ma Yoga Lexmi</del> ✓ <del>Harish K. Malhotra</del> ✓ <del>(Sv Anand Swabhava)</del> ✓ <del>Lalchand B. Shah</del> ✓ <del>(Sv Chaitanya Sagar)</del> ✓ <del>Jyantilal M. Makker</del> ✓ <del>(Sv Satya Bodhisattva)</del> ✓ <del>Taru L. Mahtra</del> ✓ <del>(Ma Yoga Taru)</del> ✓ <del>Pali Chiny</del> ✓ <del>(Sv Gyan Vimal)</del>	resigned on 29.5.81 resigned on 29.5.81 resigned on 29.5.81 resigned on 29.5.81 resigned on 29.5.81 resigned on 29.5.81 resigned on 29.5.81	Copies of resolutions and resignation letters attached Trustees present at meetings of Board on 29.5.81 1. Ma Yoga Lexmi 2. Sv Yopendra Haru (Headquater, P. Khona) 3. Ma Yoga Darshan (Darshan "H. Valia") 4. Ma Yoga Hansa (Hansa Khona) 5. Sv Ajit Saraswati (Tr. H.M. Pradhis) 6. Ma Yoga Ram (Taru L. Maltra)

Board No. ~~9110~~  
 Dated ~~24.8.81~~

Date: 21-8-81

Board No. 9110  
 Dated 24-8-81

Signature ..... Yopendra Haru  
 and address .....  
 Hanikant B. Khole, (Sv Yopendra Haru)  
 72 Tulan Jyoti Society  
 103 B-1, JUDU Scheme, Pune  
 Reporting Trustee .....  
 BOMBAY 400 056



SCHEDULE III (Vide Rule 13(1))

Part of changes that have occurred or are desired in the particulars recorded in the Register of Public Trusts  
Registered No. and Name of Public Trust : No.E/625/(Pune) Rajnesh Foundation

Stamp  
100  
81

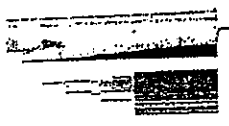
Nature of Change (1)	Reasons for the Change (2)	Remarks if any
<p>✓ Please delete the name of: Sheela Silverman (alias Ma Anand Sheela)</p>	<p>Resigned on 1.5.81</p> <p>Reporting trustee present on 3/11/81 and he produced Minute Book and copy of resignation letter ON FILE</p> <p>No enquiry deems necessary. Change Report be accepted. Entries in P. T. R. be amended accordingly.</p>	<p>Copy of resolution attached Copy of resignation letter attached Trustees present at meeting of Trust on 1st May 1981</p> <ol style="list-style-type: none"> <li>1. Ma Anand Sheela</li> <li>2. Ma Yoga Hansa</li> <li>3. Sw Yogendra Mann (President)</li> <li>4. Sw Anand Sashhaya</li> <li>5. Sw Gyan Nirmal</li> <li>6. Ma Yoga Tharu</li> <li>7. Sw Ajit Saraswati</li> <li>8. Ma Yoga Darshan</li> </ol>

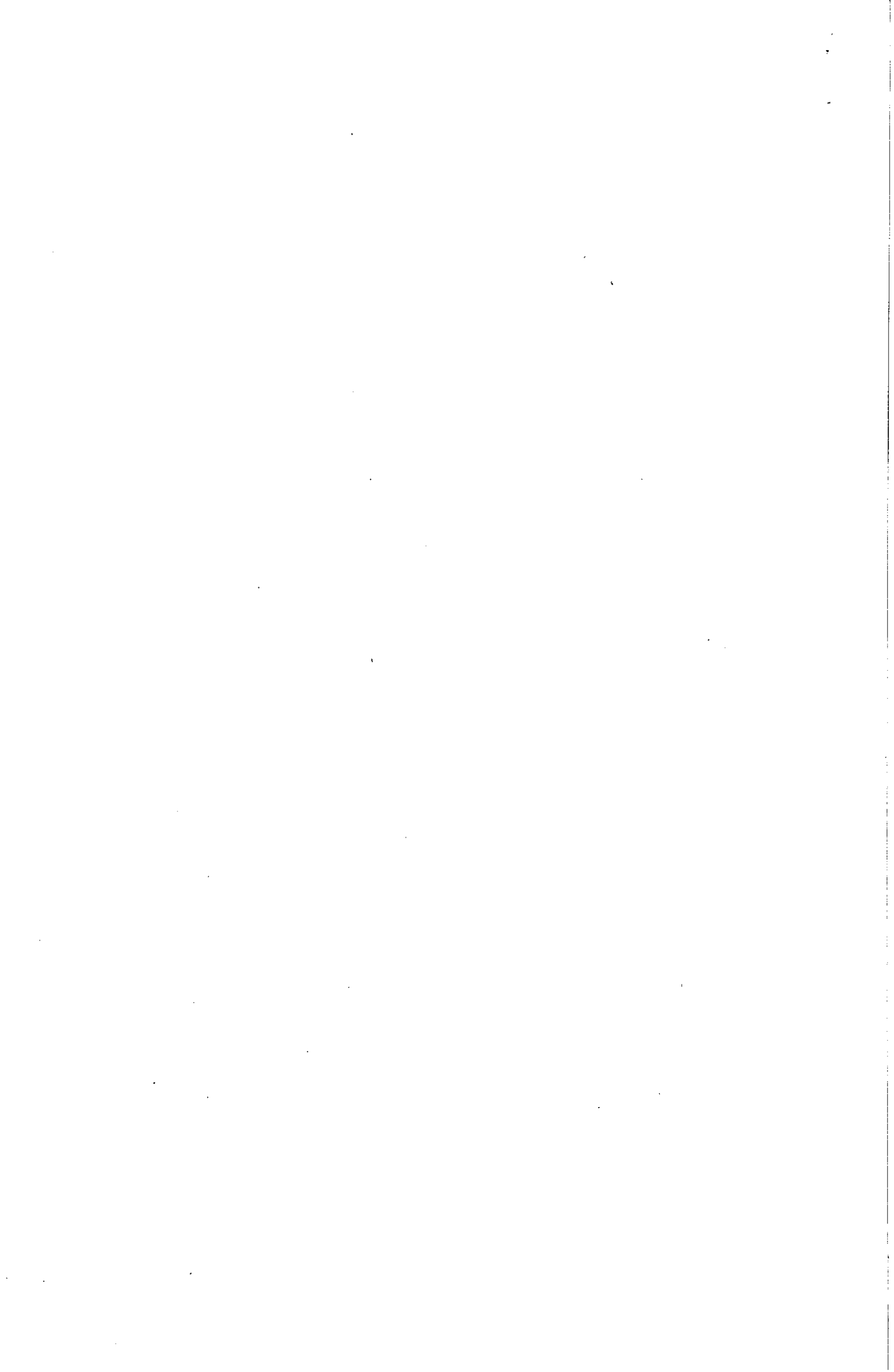
Date: 25-7-81

Trust Charity Commission  
Poonja Region, Poonja

Signature: M. T. R. S. V.  
 and address: Mankant R. Khona  
77 Nutan Ixami Society  
8th NS Road, JHUF Scheme  
Reporting Trustee Parle West, Bombay 56

(Yogendra Mann)





195

**Annexure: Rajneesh Foundation (Now Neo Sannyas Foundation)**

**List of Trustees On Board in the effective period of Assignment dated 01.04.1981**

Date	Change report no. Admitted as trustee	Date Of Resignation	Change report no. Resigned as trustee	Name
18.3.1974 (filled on 11.6.1979)	696/1979 ✓	29.05.1981	1045/81 ✓	Ma Yoga Laxmi (Ms. Laxmi T Hiraji) Managing Trustee
18.3.1974	696/1979 ✓	14.07.1974	697/79 ✓ (filed on 1.6.1979)	Shri Hari Prasad Lohia
18.3.1974	696/1979 ✓	14.07.1974	697/79 ✓	Shri Dhanpatri Karnani
18.3.1974	696/1979 ✓	14.07.1974	697/79 ✓	Shri Jayendra D Lashkari
18.3.1974	696/1979 ✓	14.07.1974	697/79 ✓	Shri Pravinbhai D Desai
18.3.1974	696/1979 ✓	14.07.1974	697/79 ✓	Shri Kishan G Chainani
18.3.1974	696/1979 ✓	14.07.1974	697/79 ✓	Smt. Sushila Tapuria
21.3.1978 filed on 11.6.1979	699/79 ✓	15.11.1981	776/82 ✓	Swami Yogendra Manu (Manikant Ratansi Khona)
20.8.1975 filed on 11.6.1979	698/79	29.05.1981	1045/81 ✓	Swami Satya Bohisatva (Mr. Jayantilal M Thakar)
28.6.1979	745/79	01.05.1981	1044/81 ✓	Ma Anand Sheela (Ms. Sheela Silverman)
28.6.1979	745/79	15.11.1981	776/82 ✓	Ma Yoga Darshan (Mrs. Darshan H Valia)
28.6.1979	745/79	15.11.1981	776/82 ✓	Ma Yoga Hansa (Mrs. Hansa Khona)
28.6.1979	745/79	29.05.1981	1045/81 ✓	Swami Chaintanya Sagar (Mr. Laherchand Shah)
28.6.1979	745/79	29.05.1981	1045/81 ✓	Swami Gyan Nirmal (Mr. Fali Chinoy)
28.6.1979	745/79	29.05.1981	1045/81 ✓	Ma Yoga Taru (Mrs. Taru L Mehta)
28.6.1979	745/79	15.11.1981	776/82 ✓	Swami Ajit Saraswati (Dr. Hemant Narayan Phadnis)
28.6.1979	745/79	29.05.1981	1045/81 ✓	Swami Anand Swabhava (Mr. Harish K Malhotra)
15.11.1981	776/82 ✓			Swami Anand Maitreya
15.11.1981	776/82 ✓			Ma Amrit Mukti
15.11.1981	776/82 ✓			Swami Mukesh Bharti
15.11.1981	776/82 ✓			Swami Narendra Bodhisatva
15.11.1981	776/82 ✓			Swami Amrit Siddhartha

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696





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ANNEX. 5

THIS OPINION IS NOT A  
PRECEDENT OF  
THE T.T.A.B.

Hearing: October 30, 2008 Mailed: January 13, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Osho Friends International  
v.  
Osho International Foundation

Opposition Nos. 91121040; 91150372; 91150379; 91152313;  
91153103; 91155927; 91157465; 91157610; 91157698; and  
Cancellation No. 92031932<sup>1</sup>

Mark I. Feldman of Piper Marbury Rudnick & Wolfe for Osho  
Friends International.

Mary M. Luria and Sara Edelman of Davis & Gilbert LLP for  
Osho International Foundation.

Before Grendel, Cataldo and Wellington,  
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

Osho International Foundation ("defendant") seeks to  
register on the Principal Register the following marks, all  
in typed form:

OSHO ACTIVE MEDITATIONS

for "educational services, namely, conducting individual  
sessions, workshops, retreats, seminars, groups, courses and

<sup>1</sup> The referenced proceedings were consolidated in a series of  
Board orders, the most recent of which issued on April 8, 2004.

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training in the field of the teachings of the mystic Osho" in International Class 41 and "spiritual counseling and meditations" in International Class 42;<sup>2</sup>

OSHO ZEN TAROT

for "instructional books and playing cards for the game of Tarot" in International Class 16 and "entertainment services, namely, providing an on-line computer game" in International Class 41;<sup>3</sup>

OSHO TRANSFORMATION TAROT

for "instructional books and playing cards for the game of Tarot" in International Class 16 and "entertainment services, namely, providing an on-line computer game" in International Class 41;<sup>4</sup>

OSHO KUNDALINI MEDITATION

<sup>2</sup> Application Serial No. 75834601 was filed October 29, 1999 under Trademark Act Section 1(a), alleging 1990 as the date of first use and date of first use in commerce. The application includes a disclaimer of the exclusive right to use "ACTIVE MEDITATIONS" apart from the mark as shown.

<sup>3</sup> Application Serial No. 76159554 was filed November 3, 2000 under Trademark Act Section 1(a), alleging July 1, 1995 as the date of first use and date of first use in commerce for the goods in International Class 16 and December 1, 1995 as the date of first use and date of first use in commerce for the services in International Class 41. The application includes a disclaimer of the exclusive right to use "TAROT" apart from the mark as shown.

<sup>4</sup> Application Serial No. 76159553 was filed November 3, 2000 under Trademark Act Section 1(a), alleging November 1, 1999 as the date of first use and date of first use in commerce for the goods in International Class 16 and January 1, 2000 as the date of first use and date of first use in commerce for the services in International Class 41. The application includes a disclaimer of the exclusive right to use "TAROT" apart from the mark as shown.

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for "educational services, namely, conducting individual sessions, workshops, retreats, seminars, groups, courses and training in the field of the teachings of the mystic Osho" in International Class 41 and "spiritual counseling and meditations" in International Class 42;<sup>5</sup>

OSHO

for "educational services, namely, conducting individual sessions, workshops, retreats, seminars, groups, courses and training in the field of the teachings of the mystic Osho" in International Class 41;<sup>6</sup>

OSHO NADABRAHMA MEDITATION

for "educational services, namely, conducting individual sessions, workshops, retreats, seminars, groups, courses and training in the field of the teachings of the Mystic Osho" in International Class 41;<sup>7</sup>

OSHO MEDITATION RESORT

<sup>5</sup> Application Serial No. 76060676 was filed May 31, 2000 under Trademark Act Section 1(a), alleging 1990 as the date of first use and date of first use in commerce. The application includes a disclaimer of the exclusive right to use "KUNDALINI MEDITATION" apart from the mark as shown.

<sup>6</sup> Application Serial No. 75683097 was filed April 15, 1999 under Trademark Act Section 1(a), alleging 1990 as the date of first use and date of first use in commerce. The application includes a statement that "OSHO" does not represent the name of a living individual.

<sup>7</sup> Application Serial No. 76210213 was filed February 14, 2001 under Trademark Act Section 1(a), alleging 1978 as the date of first use and date of first use in commerce. The application includes a disclaimer of the exclusive right to use "NADABRAHMA MEDITATION" apart from the mark as shown.

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for "educational services, namely, conducting individual sessions, workshops, retreats, seminars, groups, courses and training in the field of the teachings of the Mystic Osho" in International Class 41 and "spiritual counseling and meditations; and providing meditation information via a global computer information network" in International Class 42;<sup>8</sup>

OSHO MULTIVERSITY

for "educational services, namely, conducting individual sessions, workshops, retreats, seminars, groups, courses and training in the field of the teachings of the Mystic Osho" in International Class 41 and "spiritual counseling and meditations; and providing meditation information via a global computer information network" in International Class 42;<sup>9</sup> and

OSHO TIMES

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<sup>8</sup> Application Serial No. 76158894 was filed November 3, 2000 under Trademark Act Section 1(a), alleging 2000 as the date of first use and date of first use in commerce. The application includes a disclaimer of the exclusive right to use "MEDITATION RESORT" apart from the mark as shown and a statement that OSHO does not identify a living individual.

<sup>9</sup> Application Serial No. 76158895, filed November 3, 2000 under Trademark Act Section 1(a), alleging 1989 as the date of first use and date of first use in commerce. The application includes a disclaimer of the exclusive right to use "MULTIVERSITY" apart from the mark as shown and a statement that OSHO does not identify a living individual.

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for "on-line periodical relating to the spiritual and mystical teachings of the Mystic Osho" in International Class 42.<sup>10</sup>

Defendant has also registered on the Principal Register the following marks in typed form:

OSHO

for "prerecorded audio and video tapes in the field of education, religion, philosophy and science" in International Class 9;<sup>11</sup> "education books and printed teaching materials in the field of religion and philosophy" in International Class 16;<sup>12</sup> and "providing religion, philosophy and science information via a global computer network" in International Class 42;<sup>13</sup> and

OSHO REBALANCING

<sup>10</sup> Application Serial No. 76158893 was filed November 2, 2000 under Trademark Act Section 1(a), alleging 1989 as the date of first use and date of first use in commerce. The application includes a disclaimer of the exclusive right to use "TIMES" apart from the mark as shown and a statement that OSO does not identify a living individual.

<sup>11</sup> Registration No. 2180173 issued August 11, 1998. Section 8 affidavit accepted.

<sup>12</sup> Registration No. 1815840 issued January 11, 1994. Section 8 affidavit accepted, Section 15 affidavit acknowledged. We note that the Section 15 affidavit was filed prior to the commencement of Cancellation No. 92031932.

<sup>13</sup> Registration No. 2174607 issued July 21, 1998. Section 8 affidavit accepted, Section 15 affidavit acknowledged. We note, however, the Section 15 affidavit was improperly filed during the pendency of Cancellation No. 92031932.

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for "books and printed materials for education purpose in the field of religion and philosophy" in International Class 16.<sup>14</sup>

Osho Friends International ("plaintiff") has opposed registration of defendant's applied-for marks and seeks cancellation of defendant's registrations. As grounds therefor, plaintiff alleges as follows:

the term OSHO as used in the involved alleged marks is generic for the goods and/or services at issue;

the term OSHO as used in the involved alleged marks is merely descriptive of the goods and/or services at issue;

the involved applications and applications underlying the involved registrations are void *ab initio* because defendant did not own the involved alleged marks on the application filing dates;

defendant committed fraud upon the United States Patent and Trademark Office (USPTO) by executing the declarations in the involved applications and applications underlying the involved registrations in which it stated that no other person, firm, corporation or association has the right to use the involved alleged marks when it knew of such use; and

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<sup>14</sup> Registration No. 2322901 issued February 29, 2000. Section 8 affidavit accepted; Section 15 affidavit acknowledged. We note, however, that the Section 15 affidavit was improperly filed during the pendency of Cancellation No. 92031932.

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defendant has abandoned all proprietary interest in the involved alleged marks.

In its answers, defendant has denied the salient allegations of the notices of opposition and petition to cancel.<sup>15</sup>

#### The Record

The record consists of the pleadings and the files of the involved applications and registrations. In addition, plaintiff submitted the trial testimony, with related exhibits, of Prabhat Tiwari, leader of an Osho center in Maryland; Rachael Freeman, board member of an Osho center in Colorado; Sirlea Naster, leader of an Osho center in North Carolina; Gloria Terhaar, leader of an Osho center in California; Leonard Rosansky, leader of an Osho center in California; Priya Hemenway, officer of an Osho center in California; Maniko Dru Dadigan, an individual in California associated with a number of Osho centers; and Atul Anand, a trustee of plaintiff. Plaintiff further submitted notices of reliance upon defendant's responses to plaintiff's First and Second Requests for Admissions; defendant's responses to plaintiff's First Set of Interrogatories and First Request for Production of Documents; selected pages of the discovery deposition transcripts of two of defendant's directors,

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<sup>15</sup> In addition, defendant asserted certain affirmative defenses, but did not pursue them by motion or at trial. Accordingly, they are deemed waived.

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Klaus Steeg and D'Arcy O'Bryne; copies of articles retrieved from the Lexis/Nexis computer database; certified copies of official records from the United States Copyright Office; excerpts from books containing quotes from Osho; public records on file with the Arizona Secretary of State regarding the American Multi-Media Corporation; and additional selected pages of discovery deposition Klaus Steeg.

Defendant, for its part, submitted the trial testimony, with related exhibits, of two of its directors, Klaus Steeg and John Andrews; one of defendant's volunteers, Ursula Hoess; and David Alexander, an employee of David Alexander Publishing Ltd. Applicant further submitted notices of reliance upon plaintiff's responses to defendant's First Set of Interrogatories and Second Request for Admissions; the discovery depositions of Atul Anand and Chaitanya Keerti, trustees of plaintiff; printed publications, dictionary definitions, and USPTO Trademark Electronic Search System (TESS) printouts; certified copies of its involved registrations; and copies of several Osho Times magazine covers.

The parties have designated portions of the record as "confidential." While the information contained therein plays a role in determining the issues before us, we are mindful that such information was filed under seal. Thus,



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we will endeavor to refer to those portions of the record that are marked confidential only in a very general fashion.

Both parties filed main briefs on the case, and plaintiff filed a reply brief. In addition, counsel for the parties presented arguments at an oral hearing held before the Board on October 30, 2008.

**Evidentiary Objections**

Plaintiff has filed numerous objections against certain testimony and exhibits introduced by defendant. Plaintiff's objections number approximately 125; defendant has responded to plaintiff's objections.

None of the testimony and/or exhibits sought to be excluded is outcome determinative. Given this fact, coupled with the number of objections, we see no compelling reason to discuss the objections in a detailed fashion. Suffice it to say, we have considered all of the testimony and exhibits submitted by the parties. In doing so, we have kept in mind the various objections raised by the parties, and we have accorded whatever probative value the subject testimony and exhibits merit.

**General Facts**

Rajneesh Chandra Mohan was born in India in 1931.<sup>16</sup> He obtained a masters degree in philosophy from the University of Sagar, located in India, and taught philosophy for nine

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years at the University of Jabalpur, also located in India.<sup>17</sup> While serving as a professor of philosophy, he traveled throughout India giving lectures, engaging attendees in public debate, and introducing his meditation techniques.<sup>18</sup> Beginning in 1962, he began conducting guided meditations at the end of his talks.<sup>19</sup> As a result, meditation camps and meditation centers began to emerge based upon his teachings.<sup>20</sup> In 1971, he changed his name to Bhagwan Shree Rajneesh.<sup>21</sup> In 1974, he moved from Bombay to Pune, India, where he established a place of learning dedicated to meditation and self-discovery.<sup>22</sup> The Pune commune was and remains a combination of 10 separate and independent entities offering programs relating to his teachings.<sup>23</sup> Between 1981 and 1985, he and a number of his followers lived in the high desert of eastern Oregon, on a 126-square mile former cattle ranch organized as a commune. Following his deportation from the United States in 1985, he went on a world tour to meet his followers, returning to

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<sup>16</sup> Amended petition to cancel, p.2; answer to amended petition to cancel, p. 1.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Answer to amended petition to cancel, p. 2.

<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> Steeg testimony at 603-4.

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Pune, India on January 4, 1987.<sup>24</sup> Later, in 1989, he adopted the name Osho.<sup>25</sup> Osho died on January 19, 1990.<sup>26</sup>

Osho urged and authorized his followers to spread his teachings as broadly as possible, throughout the world.<sup>27</sup> To this end, his followers transcribed and recorded his discourses and shared them with others during Osho's lifetime.<sup>28</sup> In addition, Osho's followers opened meditation centers and camps in different parts of the world, offering several of his meditation techniques.<sup>29</sup> These followers have created and offer their variations of music, cultural and celebratory events, education and therapeutic courses, workshops and retreats based upon Osho's ideas.<sup>30</sup> Some of these followers and their centers have offered and continue to offer publications, recordings and newsletters relating to their activities and Osho's ideas.<sup>31</sup> Such centers have also begun operating internet websites relating to the same

<sup>24</sup> Answer to amended petition to cancel, p. 2.

<sup>25</sup> Steeg Discovery Deposition, p. 101.

<sup>26</sup> Answer to amended petition to cancel, p. 3.

<sup>27</sup> Hemenway testimony at p. 13-14; Steeg discovery deposition at 99.

<sup>28</sup> Id. at 8; Terharr Testimony at 39; Freeman Testimony at 33; Discovery Deposition on written questions of Keerti at q. 84-87.

<sup>29</sup> Naster Testimony at 24, 27 and 30; Tiwari Testimony at 7-9; Dadigan Testimony at 14-15 and 114-116; Rosansky Testimony at 11; Freeman Testimony at 8-9; and Terharr Testimony at 7-9.

<sup>30</sup> Id.

<sup>31</sup> Rosansky Testimony at 23-24, 77; Dadigan Testimony at 14, 21; Freeman Testimony at 10-11; Terharr Testimony at 45; Naster Testimony at 41-2.

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subjects.<sup>32</sup> These centers operate independently and separately from one another, without coordination by any single source or hierarchy.<sup>33</sup> Osho gave each center a name as a gift and a certificate bearing such name.<sup>34</sup> However, Osho neither controlled nor created a hierarchy to control or supervise these centers.<sup>35</sup> Nonetheless, in 1989, upon adoption of his name, Osho requested that the centers use Osho in their names so people would recognize them as meditation centers based upon his teachings and ideas.<sup>36</sup> Most centers immediately complied with this request.

#### Plaintiff's Standing

Plaintiff must prove its standing as a threshold matter in order to be heard on its substantive claims. See, for example, *Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185 (CCPA 1982). The purpose of the standing requirement is to prevent mere intermeddlers from initiating proceedings. Thus, the Federal Circuit has enunciated a liberal threshold for determining standing, namely, whether a plaintiff's belief in damage has a reasonable basis in fact and reflects a real interest in the

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<sup>32</sup> Rosansky Testimony at 16; Freeman Testimony at 13-14; Terharr Testimony at 17-18; Naster Testimony at 50; Hemenway Testimony at 100.

<sup>33</sup> Id.

<sup>34</sup> Hemenway Testimony at 13-14; Naster Testimony at 22; Terharr Testimony at 35.

<sup>35</sup> Tiwari Testimony at 11; Dadigan Testimony at 39-40; Hemenway Testimony at 43-4; Rosansky Testimony at 8; Freeman Testimony 12.

<sup>36</sup> Plaintiff's Fourth Notice of Reliance, doc. 5.

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case. See *Ritchie v. Simpson*, 170 F.3d 1092, 50 USPQ2d, 1023 (Fed. Cir. 1999). See also *Jewelers Vigilance Committee Inc. v. Ullenberg Corp.*, 853 F.2d 888, 7 USPQ2d 1628 (Fed. Cir. 1988).

In this case, plaintiff has established that it is an association of individuals and centers, including members in the United States, who are involved in spreading the teachings of Osho and utilizing the term OSHO in so doing.<sup>37</sup> Plaintiff's charter charges plaintiff with preserving and protecting the rights of its members to so use the term OSHO.<sup>38</sup> We find that plaintiff's members seek, inter alia, to make descriptive or generic use of the term OSHO for many of the same products and services that are the subject of defendant's involved applications and registrations. As a potential competitor who would use the term OSHO generically, plaintiff has established its standing to oppose defendant's marks and petition to cancel its registrations. See, e.g., *Lipton Industries, supra*, (One basis for standing includes "descriptive use of term in registered mark"); *Ferro Corporation v. SCM Corporation*, 219 USPQ 346, 352 (TTAB 1983) (Opposer "has a real interest sufficient to give it standing. The rationale is that a competitor should be free from harassment based on the presumed exclusive right which registration of a generic

<sup>37</sup> Anand Testimony at p. 2, 5.

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term would erroneously accord") (citation omitted).

We note in addition that defendant does not dispute plaintiff's standing to bring the above-referenced opposition and cancellation proceedings.

#### Claim of Genericness

A trademark or service mark that becomes generic is no longer entitled to protection. See *Park 'n Fly, Inc. v. Dollar Park and Fly, Inc.*, 469 U.S. 189, 105 S.Ct. 658, 83 L.Ed.2d 582 (1985). A mark is subject to cancellation on the ground of genericness at any time, even if it is incontestable. *Id.* 194-5, 105 S.Ct. at 662.

Evidence of the public's understanding of a particular term may be obtained from any competent source, including direct testimony of consumers, consumer surveys, listings in dictionaries, trade journals, newspapers, and other publications. See *Magic Wand Inc. v. RDB Inc.*, 940 F.2d 638, 19 USPQ2d 1551 (Fed. Cir. 1991); *In re Merrill Lynch, Pierce, Fenner, and Smith, Inc.*, 828 F.2d 1567 (Fed. Cir. 1987); and *In re Northland Aluminum Products, Inc.*, 777 F.2d 1566, 227 USPQ 961 (Fed. Cir. 1985).

#### Evidence of Genericness

##### 1. Use by Osho

We begin by observing that there is no evidence of record that the individual known as Osho ever used OSHO as a

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<sup>38</sup> *Id.*

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trademark. Indeed, the parties agree that Osho never owned or used OSHO as a mark.<sup>39</sup> In that regard, plaintiff has made of record a published statement in which Osho expresses his opinion that certain practices, like meditations, do not lend themselves to trademark protection:

Maharishi Mahesh Yogi has copyrighted "transcendental meditation and just underneath in a small circle you will find written TM - that means trademark!

For ten thousand years the East has been meditating and nobody has put trademarks upon meditations. And above all, that transcendental meditation is neither transcendental nor meditation...just a trademark.

I told [my secretary] to reply to these people, "You don't understand what meditation is. It is nobody's belonging, possession. You cannot have any copyright. Perhaps if your country gives you trademarks and copyrights on things like meditation, then it will be good to have a copyright on stupidity. That will help the whole world to be relieved...Only you will be stupid and nobody else can be stupid; it will be illegal."<sup>40</sup>

In addition, plaintiff has made of record a published statement in which Osho indicated that he neither authorized nor expected a single entity to serve as a source for his teachings and ideas:

But nobody is my follower.  
Nobody is going to be my successor.  
Each sannyasin is my representative.  
When I am dead, you all - individually - will have to represent me to the world. There is not going to be any pope. There is not going to be any shankaracharya. Each sannyasin, in his own capacity, has to represent me.<sup>41</sup>

<sup>39</sup> Defendant's brief, p. 45-7; plaintiff's reply brief, p. 3.

<sup>40</sup> Plaintiff's Fourth Notice of Reliance, doc. 2.

<sup>41</sup> Id., doc. 1.

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Plaintiff has made of record further evidence of Osho's intention that his followers spread his teachings, first utilizing his name Rajneesh and later Osho when he adopted such name:

Q And did you ever hear Osho suggest someone start a mediation center?

A You know, I don't remember those specifically, because it wasn't part of my reality. I'm aware that it was going on somehow.

Somehow we all knew, you know, in the course of what was going on, that the people were coming and people who weren't staying were specifically told to go back and open centers or somehow make the work available, spread the word for other people to come. I mean, everybody, whether they were given specific center names or not, sort of had that desire. And I absolutely know that people were given names for centers and specific tasks to do that.

Q By Osho himself?

A By Osho. ...

Q Do you know personally of any instance where Osho withdrew permission to use his name from any center or other entity using his name?

A No.<sup>42</sup>

Q During his lifetime did Osho authorize Sannyasins to go forth from India and to open centers in other parts of the world?

A Yes.

Q Did he during his lifetime encourage them to use his name on those centers which were devoted to his teachings and his form of meditation?

A Yes.

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<sup>42</sup> Hemenway Testimony, p. 13-14.



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Q Did he ever retract that permission to use his name in that way?

MS. EDELMAN: Objection to form.

A I don't know.

Q Are you aware of any writing?

A I'm not aware.<sup>43</sup>

Q You changed the name from Rajneesh to Osho?

A Yes.

Q That coincides in the same period of time where Osho adopted the name of Osho for himself?

A Yes.

Q You believe the same thing with the Sannyasins that had opened centers to change it from Rajneesh to Osho?

A Yes.

Q To your knowledge did he ever during his lifetime retract permission for them to use the name Osho in connection with centers devoted to his teaching or to his meditation techniques?

A No.<sup>44</sup>

Thus, the record in this case supports a finding that Osho himself neither claimed nor used OSHO as a trademark. The record further supports a finding that Osho gave permission to his followers to individually open centers utilizing his name to spread his teachings throughout the world. In addition, the record supports a finding that upon

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<sup>43</sup> Steeg Discovery Deposition, p. 99.

<sup>44</sup> Id. at 101.

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his adoption of the name, Osho requested that such centers utilize OSHO at the beginning of their titles so they would be recognized as "Osho meditation centers."<sup>45</sup> Finally, the record supports a finding that Osho never withdrew his permission for such centers to refer to themselves using his name. Such usage, while not determinative of the issue of genericness, nonetheless illustrates that Osho did not recognize or use OSHO as a trademark, but rather indicates that he used and authorized others to use his name as a generic term for his teachings and meditations rather than as a trademark to identify a single source for goods or services related to such teachings and meditations. As a result, this evidence weighs in favor of genericness.

## 2. Dictionary Definitions and Reference Works

Plaintiff has not submitted any evidence of the term OSHO appearing in a dictionary. Defendant, for its part, has submitted entries from three dictionaries in which the term OSHO does not appear at all and one in which the term refers to Osho, the individual described above.<sup>46</sup> Defendant argues that such evidence "overwhelmingly directs a conclusion that OSHO is not a generic mark."<sup>47</sup> We disagree.

"Dictionary definitions, while not conclusive, reflect

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<sup>45</sup> Plaintiff's Fourth Notice of Reliance, doc. 5.

<sup>46</sup> Steeg Testimony, Exhibit 60; Defendant's Second Notice of Reliance, docs. 19-20.

<sup>47</sup> Defendant's brief, p. 13.

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the general public's perception of a mark's meaning and are thus helpful in determining whether a term is generic." *Pilates, Inc. v. Current Concepts, Inc. and Kenneth Endelman*, 120 F.Supp.2d 286, 296, 57 USPQ2d 1174, 1183 (SDNY 2000), citing *Murphy Door Bed Co. v. Interior Sleep Sys., Inc.*, 874 F.2d 95, 101 (2d Cir. 1989). In this case, we cannot determine from the evidence of record the number of individuals who are followers of Osho. Thus, the absence of references of any kind to OSHO in three of the four English language dictionaries submitted by defendant may simply reflect the relatively small number of English speaking individuals who follow Osho and his teachings. As a result, the dictionary evidence of record does not support a finding that the relevant consuming public perceives OSHO either as a generic term or a trademark. As such, this evidence is far from conclusive on the issue of genericness.

Plaintiff has submitted the following evidence in which OSHO appears in printed reference books:

Different religious groups have different affirmations, renunciations, rituals, core symbols, and dogmas that promote and maintain personal reorganization...

For example, the Osho movement, which was originally founded by Rajneesh, does not renounce wealth but affirms it (Thompson and Heelas 1986). Adherents of the movement differ from mainstream society in the means they advocate for acquiring wealth and the attitude they have toward using it, but on the whole they stand with mainstream society in contrast to more traditional religious groups...

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Some new religions argue that truth is attained by nonpropositional revelation - that is, by something other than a set of rational propositions. They contend that truth has little to do with ideas but a lot to do with meditation or silence. As the Bhagwan Shree Rajneesh puts it, "Spirituality simply means that you have gone beyond the mind. Ideas as such are transcended."

Many Americans who join new religions, such as the various meditation groups, come from upper-middle-class homes in which intellectual and/or professional achievements are highly valued...  
(New Religions as Global Cultures, Making the Human Sacred, Irving Hexhan and Karla Poewe (1997);<sup>48</sup>

The Osho movement is the only movement, apart from the Brahma Kumaris, that has a female majority in leadership and administrative roles...

The women's movement has been highly critical of the master-disciple relationship for its encouragement of female submissiveness to a male master. The requirement to wear a mala was a particularly regressive symbol to feminists, who single out the Osho movement for criticism on this score. Yet a number of women sannyasins had been in the women's movement prior to joining...

The predominant media image of the Osho movement during Osho's lifetime was of a "sex cult" led by a "sex guru." However, his aim was to create a scientific yet sacramental sexuality based on a synthesis between Tantra and Reichian psychotherapy...

Although the "free love ethic" was normative in the Osho movement, sexual behaviour was as varied as elsewhere in Western society, and serial monogamy was the predominant pattern especially among long-term sannyasins...  
(The New Age Movement, The Celebration of the Self and the Sacralization of Modernity, Paul Heelas (1996);<sup>49</sup>

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<sup>48</sup> Id., doc. 12.

<sup>49</sup> Id., doc. 13.

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This use of OSHO in reference works is generic because it identifies OSHO as a religious and meditative movement and not as a trademark. Accordingly, this evidence weighs in favor of genericness.

3. Media Usage

Plaintiff has made of record examples of use of OSHO in various printed publications. The following examples are illustrative:

Puttick's research is based in Britain, where she has personally participated in Eastern-based, New Age, and shamanic religious practices, and was, for five years, a disciple of the Indian guru best known as "Osho."...The group discussed in most depth is the Osho movement, yet references to an incredibly wide variety of New Religious Movements are interspersed throughout...

Puttick describes the typical member of the Osho movement and other Eastern-based movements as class, well educated, professionally qualified, has been divorced at least once, has suffered a "personal crisis," has been through mysticism, drugs, politics, feminism and is "thirtyish"...

...The Osho movement stands out as promoting and preferring women for leadership roles.  
(NWSA Journal, Summer 1998);<sup>50</sup>

Now you see it, now you don't. You read a newspaper report that Asia Television Network (ATN) has gone off the air, then you switch on your television and the channel's right there...

Though 75 per cent of the programming is film-based, they also have religious programmes in the morning - everything from Osho to Hindu and Islamic themes...  
(Business Line, September 15, 1997);<sup>51</sup>

<sup>50</sup> Plaintiff's Second Notice of Reliance., doc. 1.

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Fearing the apocalypse, Osho - a Hindu meditation group formed by the late Bagwan Shree Rajneesh - moved onto a spectacular patch of land near Alto Paraso where it runs a type of eco-spiritual resort.

(Sun-Sentinel [Fort Lauderdale, FL] June 2, 1999);<sup>52</sup>

The Taliban and others say they will wage a Holy War and that the God of Islam is behind them. So be it.

We will meet them on the fields of the holy battleground.

But behind us, we also have a God.

The God(s) of Christianity, Judaism, Baha'i, Mormon, Jehovah's Witnesses, Buddhism, Hinduism, Shinto, Confucianism, Jainism, Taoism, Sikhism, Moonies, Hare Krishna, Zoroastrianism, Roma, Asatru, Druidism, Wicca, Caodism, Damanhur, Druse, Gnosticism, Lukumi, Macumb, Mowahhidoon, Unitarians, Native Americans, New Age, Osho, Thelem, and so many others.

Plus we have behind us, the God of true Islam.

Are they prepared?

(Intelligencer Journal [Lancaster, PA.] September 24, 2001);<sup>53</sup>

At first glance, prisons may seem an unlikely place to find religion. There's not much in the way of stained glass, but plenty of security fencing and razor wire...

But as inmates grapple with the despair and monotony of prison life, some find religion for the first time. Others return to the beliefs of their childhood or the religion they abandoned as teens and adults for more worldly and criminal ways...

The prison population also includes five Mennonites, one Coptic Christian, two Jainists, one Sikh, a Confucian, 23 Unitarians and seven

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<sup>51</sup> Id., doc. 2.

<sup>52</sup> Id., doc. 3.

<sup>53</sup> Id., doc. 4.

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Quakers.

There are Druids and Wiccans, practitioners of Shamanism, Osho, Santeria and Zoroastrianism...  
(The Dallas Morning News, July 14, 2002);<sup>54</sup>

Going over the articles in this issue on Health Consciousness, I took notes from each and every one to include in this column. With my space limited, however, none can be shared, but you'll surely find your own favorite.

Welcome New Advertisers & Newz!

-Rev. Pipsa Hos, Sound and Healing, mediator of sound medicine and crystal bowl healing concerts. She resides in Odessa

-Lauana Lei's Enviro-Clay Intl., magnetic clay detox bath kits, Mars Hill, NC

-Swami Prem Prabuddh's Osho event (see special events)

(Tampa Bay New Times September 1998/October 1998);<sup>55</sup>

When Pragito Dove first sat down to meditate all those years ago in London, she never dreamed she'd spend time in India, write a book called "Lunchtime Enlightenment: Modern Meditations to Free the Mind and Unleash the Spirit - at Work, at Home, at Play." ...

"I'm a bit of a fidget, and I can't really sit still for very long, so those long Zen things don't work for me," she says. "You can imagine how great it was for me to be doing all this gibberish (another Osho meditation technique) and all this laughing or crying or dancing. I realized I can sit there after I've been doing something energetic."

(The San Francisco Chronicle July 8, 2001);<sup>56</sup>

This evidence demonstrates use of OSHO in the media as

<sup>54</sup> Id., doc. 5.

<sup>55</sup> Id., doc. 7.

<sup>56</sup> Id., doc 9.

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a generic term for a religious and meditative movement and not as a trademark. "Newspaper and magazine use of a term in a generic sense is strong evidence of genericness." *Pilates*, 120 F.Supp.2d at 300, citing *Harley-Davidson, Inc. v. Grottanelli*, 164 F.3d 806, 811 (2d Cir. 1999).

4. Use by Plaintiff and Others in the Trade

In his discovery deposition, defendant's director, Klaus Steeg, acknowledged that in 1994 there were over 300 OSHO information and meditation centers located in 45 countries.<sup>57</sup> Further, and despite defendant's efforts at enforcement, Mr. Steeg was unable to say how many of those centers were licensed by defendant's predecessor, or how many centers existed at the time of his discovery deposition.<sup>58</sup> In addition, plaintiff has made of record testimony and evidence of use of OSHO by its members and third parties:

Q You testified that you changed the corporate name of the Deepta Rajneesh Meditation Center to Osho Deepta in 2002, 2001?

A Yes.

Q And at that time did OIF Zurich object to the change?

A No.

Q Did Global Connections object to the change?

A No.

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<sup>57</sup> Plaintiff's First Notice of Reliance, doc. 6.

<sup>58</sup> Id.



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Q In your opinion, could the center carry on what you have described as the purpose of the center, in a real way, if it were not allowed to use the word Osho to refer to those activities?

A No.

Q Why not?

MS. EDELMAN: You mean in its trade name?

MS. DUCHANE: Q To refer to the activities, that's the question.

A Right. Osho - I mean, Osho is like the blood of it. If you can't, you know, if you can't describe it by its substance, how can you describe it? You know, it's not like we could call ourselves the Priya Meditation Center, that's meaningless. The fact is that it's an Osho meditation center. We couldn't describe what we're doing as, you know, Shivanandas meditation, they're Osho meditations.

Q So that would be, if I understand you correctly, partly because some of the meditation techniques that you use are Osho's meditation techniques?

A Right;<sup>59</sup>

Q What kind of work do you do [at your work address]?

A Run the Osho center.

Q Are you an Osho sannysin?

A Yes.

Q How long have you been an Osho sannysin?

A January 6, 1981.

Q Were you involved with Osho Viha [center] during the period when Osho was still alive?

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<sup>59</sup> Hemenway Testimony, p. 46-7.

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A Yes.

And did the center have a legal relationship with Osho at the time?

A No.

Q To your knowledge, did Osho ever ask Osho Viha to sign a legal agreement with him?

A No.

Q. To your knowledge, did Osho ever establish any kind of legal hierarchy to supervise or control Osho Viha?

A No.

Q During the time you've been involved with the center, did Osho Viha ever agree to be part of a legal hierarchy where the center would be subject to outside control?

A No.

Q To your knowledge, did Osho ever transfer legal authority over the centers to anyone else?

A No.

Q Does Osho Viha use Osho in its activities?

A Yes.

Q Does - well, you've already testified that it uses Osho in its activities and its name. Does it use Osho in any other way?

A Well, Osho activities, Osho books, everything we do is Osho.

Q What are the activities of your center, what kind of activities does your center engage in?

A Well, we had Satsang meditation, we have Kundalini, not at the center, but we have Kundalini and promote it, we have musicians and people coming through that we advertise and promote and make them known, and of course we sell all kinds of Osho products.

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Q And what is an Osho product?

A Well, Osho's books, Osho's meditation CDs, Osho's tapes.

Q Do you believe you could continue fulfilling the purpose of your center if you were not allowed to call the center Osho Viha?

A No. It has to be Osho. Viha you could eliminate but you can't eliminate Osho.

Q Why is that?

A Because everything is Osho. If there's no Osho, then there's nothing.<sup>60</sup>

Osho Viha Information Center is proud to supply books, tapes, CDs, videos, Tarot cards and other reflections of Osho's work, to you through this web site. Please use the links on this page to find the Osho material you want and contact us. We are always happy to assist you;<sup>61</sup>

- Osho Networking
- Osho International Commune Information and Booking
- Call Ma Avinasho at Viha...
- Osho Times Subscriptions - Call Viha OMC...
- Osho Commune International...
- Osho Net Computer Network...
- Major Osho Centers in the USA-
  - Osho America-Yorba Linda, CA
  - Osho Bindu-Encinitas, CA
  - Osho Payonidhi-New York City, NY
  - Osho Suravi-Seattle, WA
  - Osho Viha-Mill Valley, CA;<sup>62</sup>

Q Are you familiar with any meditation techniques created by Osho?

A Yes.

<sup>60</sup> Rosansky Testimony, p. 7-28.

<sup>61</sup> Id., Exhibit 2.

<sup>62</sup> Id., Exhibit D.

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Q What's your familiarity with those techniques?

A Well, I have done all of them for years.

Q For how many years?

A Since 1977.

Q Okay. And were you ever aware or were you ever informed that Osho had restricted the use of his meditation techniques by centers or individuals?

A No.

Q Were you ever aware that Osho issued a legal license to use his meditation techniques?

A No.

Q Have you ever been informed that Osho transferred any rights to control his meditation techniques to anyone else?

A No.<sup>63</sup>

THE ESSENTIAL OSHO DIRECTORY  
Osho Viha Information Center:  
Osho Commune International:  
Pune Information and Booking Center:  
Osho Pages on the World Wide Web:<sup>64</sup>

In the autumn of that year I found out about the Osho commune, Medina Rajneesh, and I immediately booked in for the Birthday Celebration weekend.

Over a weekend in August I was attuned to Osho Neo-Reiki Level One. The four attunements were very special and very powerful, and the reconnection with Osho meditations encouraged me to dive back into sannyas.<sup>65</sup>

REIKI + OSHO = Awesome weekend  
Courses - all levels, all locations. Amazing,

<sup>63</sup> Dadigan Testimony, p. 8.

<sup>64</sup> Rosansky Testimony, Exhibit 2.

<sup>65</sup> Id.

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powerful healing in your hands & deep meditative awareness, sensitivity, skill, as you channel this energy. Distance sessions available. Call today.<sup>66</sup>

Plaintiff's evidence demonstrates generic use of OSHO for meditative techniques and a meditative movement by members of plaintiff who are competitors with defendant and third-parties, including use with the permission of Osho himself, as discussed above. Such use "by competitors and other persons in the trade weighs strongly in favor of genericness." *Pilates*, 120 F.Supp.2d at 299.

#### 4. Use By Defendant

Defendant has made of record numerous documents in which it claims trademark use of OSHO and its asserted OSHO formative marks. However, many of these same exhibits demonstrate use of OSHO as a generic term.

Osho International Meditation Resort is a great holiday destination where visitors can have a direct personal experience of the Osho vision of a new way of living with more alertness, relaxation and fun. Located in Pune, India, the resort attracts thousands of people from around the world every year. Courses and workshops ranging from creative arts and holistic health to personal transformation and therapy are offered, as well as a full daily schedule of meditations.<sup>67</sup>

Just released by the Harmony Imprint of Random House (USA) this groundbreaking work brings Osho publishing to a new level, and introduces Osho to a new generation of readers. *The Book of Understanding* is drawn from Osho's revolutionary and prescient talks in America, given at a time

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<sup>66</sup> Id.

<sup>67</sup> Steeg Testimony, Exhibit 29.

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when Ronald Reagan was leading the country with a cowboy mentality and a Christian fundamentalist worldview.<sup>68</sup>

ONLY IN eBook FORMAT

There are several books in eBook format in English that are not available in any other form. One of them is a fascinating compilation of Osho insights into the seven energy centers of the body-mind known as "chakras." For more information see The Seven Vital Energy Centers.<sup>69</sup>

Osho International Foundation in Switzerland a non profit foundation is the registered copyright owner of all the published and unpublished Works by Osho and the owner of other intellectual property including the trademark OSHO and ancillary rights, music, photos, art, images related to Osho and/or Osho International Foundation.

More than 22 publishing houses in more than 80 countries around the world have publishing licenses signed with the foundation. Currently we have 2,537 active publishing contracts in a total of 54 languages around the world. Each contract represents an Osho book reaching thousands of readers. Total annual sales are now close to 3 million copies - 10 to 15 times the volume of sales during Osho's lifetime. In 2004 alone Osho International signed 395 publishing agreements for Osho titles worldwide - the equivalent of more than one new Osho title or reprint per day.<sup>70</sup>

OSHO TIMES

OSHO MEDITATIONS FOR BUSY PEOPLE

Would you like to discover another Osho Meditation?

Remember "I am"<sup>71</sup>

The OSHO Experience

<sup>68</sup> Id., Exhibit 46.

<sup>69</sup> Id.

<sup>70</sup> Id.

<sup>71</sup> Id.

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A new magazine-style coffee table presentation of the Osho experience. This elegant, notebook-sized production will be of interest both to those already familiar with Osho and those wanting to know exactly what "Osho" can mean for them today.<sup>72</sup>

As you are interested in Osho, I am enclosing our latest book and audio-tape lists. You can find subscription forms for both the English and Hindi editions of the Osho Times International magazine included in this mailing. Subscribing to it is a beautiful way to be in touch with what is happening here in the commune, news about Osho and His work from around the world. Each issue features excerpts from Osho's discourses, colorful pictures and other news from the world of Osho. In it you can also find more information about the Osho meditation camps happening in your area. I am sending you an English Osho Times as a gift by separate mail.<sup>73</sup>

OSHO INTERNATIONAL  
Secretariat

We received your request to open an Osho meditation center. Recently Osho said that all new meditation centers be called "Osho Meditation Center." So, the name for your center is Osho Meditation Center.

We've enclosed the guidelines for His meditation centers and your center's name paper with this letter. Let us know how you're doing from time to time.<sup>74</sup>

NEW FROM OSHO MYSTERY SCHOOL

Osho Dreamwork

Using the energy and insight contained in dreams to further creativity and mystical transformation.

Osho Creative Leap: Out of the Gap

A seven day, four-stage leap into a new creative surge.

<sup>72</sup> Id.

<sup>73</sup> Id., Exhibit 73.

<sup>74</sup> Id., Exhibit 94.

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A permanent jump in understanding and creativity.  
Osho Co-Dependency  
As a child, one way or another, we were betrayed.  
We lost touch with ourselves and with our feelings  
and became false. Now, when we get close to  
someone, we lose ourselves because we don't know  
who we are. We lose our personal boundaries.  
This is co-dependency. The remedy is to create a  
whole new way of relating.  
Osho Deprogramming: Cutting the Roots of Fear  
...Short and immensely powerful, it is not a  
therapy, not a catharsis, not a training, not a  
process. It imparts no new body of knowledge. It  
is utterly new and unique. It is a transmission,  
a revolution - surgical and final.  
Osho Tibetan Pulsing Healing  
Using hidden techniques from the monasteries of  
Tibet and China, this profound energy work  
involves the internal organs of the body and  
brings subconscious experience to the surface,  
exploding into a new awareness. It gives new  
meaning to the word "release."<sup>75</sup>

Thus, notwithstanding its claim of trademark rights in  
OSHO and OSHO-formative marks, defendant itself uses OSHO as  
a generic term at least for meditative techniques as well as  
those related to spirituality and religion. Such use  
further weighs in favor of a finding of genericness.

#### Analysis

In determining whether the primary significance of a  
term is generic, our primary reviewing court has stated:

...[D]etermining whether a mark is generic ... involves a  
two-step inquiry: First, what is the genus of goods or  
services at issue? Second, is the term sought to be  
registered ... understood by the relevant public  
primarily to refer to that genus of goods or services?

H. Marvin Ginn Corporation v. International Association of

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<sup>75</sup> Id., Exhibit 105.



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Fire Chiefs, Inc., 782 F.2d 987, 228 USPQ 528, 530 (Fed. Cir. 1986). See also In re American Fertility Society, 188 F.3d 1341, 51 USPQ2d 1832 (Fed. Cir. 1999). The critical issue in genericness cases is, therefore, whether members of the relevant public primarily use or understand the term sought to be registered to refer to the genus or category of goods or services in question. See In re Montrachet S.A., 878 F.2d 375, 11 USPQ2d 1393, 1394 (Fed. Cir. 1989); In re Merrill Lynch, supra; and Zimmerman v. National Assn. Of Realtors, Inc., 70 USPQ2d 1425 (TTAB 2004).

In some genericness cases, the specification of the genus of goods or services is a subject of dispute. See, e.g., In re American Institute of Certified Public Accountants, 65 USPQ2d 1972, 1981 (TTAB 2003). In the case at hand, we find the genus to be cogently specified by defendant's identifications of goods and services in the subject registrations and applications. See In re Reed Elsevier Properties Inc., 77 USPQ2d 1649, 1654 (TTAB 2005) ("we consider applicant's identification as largely defining the genus of services involved in this case"), aff'd 482 F.3d 1376, 82 USPQ2d 1378 (Fed. Cir. 2007).

Based upon the testimony and evidence of record, we find that the primary significance of OSHO is as a religious or meditative movement, and not as a source identifier for goods or services. The parties do not dispute that the

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mystic known as Osho developed a number of meditative techniques, established centers to spread the teaching of such techniques, and encouraged his followers to do the same. Further, the evidence outlined above demonstrates that OSHO is understood by the public to refer to these meditation techniques as well as the meditative and religious movement that developed around them.

We recognize that OSHO does not present a clear case of a generic noun, but rather often appears as a generic adjective. Certain of the evidence referenced above points to use of OSHO as a generic noun for a religious or meditative movement. More commonly, however, the term OSHO appears as an adjective, directly naming the most important or central aspect or purpose of defendant's goods and services, that is, that they are based upon the religious and meditative teachings of the mystic Osho. As such, this term is generic and should be freely available for use by competitors. See *In re Northland Aluminum Products, Inc.*, supra, (BUNDT for coffee cake held generic); *In re Sun Oil Co.*, 426 F.2d 401, 165 USPQ 718 (CCPA 1970) (CUSTOMBLENDED for gasoline held generic because category of gasoline was blended personally for the motorist); and *In re Central Sprinkler Co.*, 49 USPQ2d 1194, 1199 (TTAB 1998). As a result, defendant cannot appropriate the term OSHO to identify the source of its goods and services related to

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such teachings.

As this Tribunal previously held in *American Montessori Soc'y, Inc. v. Association Mostessori Internationale*, 155 USPQ 591 (TTAB 1967): "it necessarily follows that if the term 'MONTESSORI' is generic and/or descriptive as applied to the 'MONTESSORI' teaching methods, it is equally so as used in connection with toys, games, teaching aids, and other material employed in connection with said methods." *Id.* at 593. See also *Pilates, Inc.* at 304. In this case, because the term OSHO is generic for a series of religious and meditative teachings, it is necessarily generic for goods and services offered in connection therewith. See *Pilates, Inc.* at 304-5. Because the evidence of record shows that consumers identify the term OSHO with a series of meditative and religious teachings, defendant cannot monopolize such teachings by asserting trademark rights in the generic term used to identify them.

"A final factor in the genericness inquiry is the availability of other means to describe the product or service at issue." *Pilates, Inc.* at 305. In this case, testimony and evidence of record establishes that Osho himself requested that his followers change the names of their centers to include OSHO so that they would be recognized as "Osho centers." Further testimony and evidence establishes that the term OSHO is necessary to

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describe the meditations, practices and beliefs that form the core of the OSHO meditative and religious movement. Several witnesses have stated that they do not, and cannot, use any other term to describe the teachings and techniques of OSHO. As such, the term OSHO must be freely available for the practitioners and followers of the mystic Osho to be able to identify their activities based upon his teachings.

Based upon the foregoing, we find the term OSHO is generic for the meditations devised by the mystic Osho and the meditative and religious movement arising therefrom. As a result, defendant cannot foreclose others from utilizing the term OSHO to describe their own goods and services based upon such meditations and movements.

Accordingly, we grant plaintiff's petition to cancel as to those marks consisting in whole of the term OSHO, and Registration Nos. 1815840; 2180173; and 2174607 will be cancelled in due course.

#### Claim of Mere Descriptiveness

A term is deemed to be merely descriptive of goods or services, within the meaning of Trademark Act Section 2(e)(1), if it forthwith conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods or services. See, e.g., *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); and *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215,

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217-18 (CCPA 1978). A term need not immediately convey an idea of each and every specific feature of the defendant's goods or services in order to be considered merely descriptive; it is enough that the term describes one significant attribute, function or property of the goods or services. See *In re H.U.D.D.L.E.*, 216 USPQ 358 (TTAB 1982); and *In re MBAssociates*, 180 USPQ 338 (TTAB 1973).

Whether a term is merely descriptive is determined not in the abstract, but in relation to the goods or services for which registration is sought, the context in which it is being used or is intended to be used on or in connection with those goods or services, and the possible significance that the term would have to the average purchaser of the goods or services because of the manner of its use or intended use. That a term may have other meanings in different contexts is not controlling. See *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979). It is settled that "[t]he question is not whether someone presented with only the mark could guess what the goods or services are. Rather, the question is whether someone who knows what the goods and services are will understand the mark to convey information about them." *In re Tower Tech Inc.*, 64 USPQ2d 1314, 1316-17 (TTAB 2002).

Finally, we note that a mark need not describe all of the goods or services for which registration is sought.

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Registration must be refused if the mark is merely descriptive of any of the goods or services for which registration is sought. See *In re Quik-Print Copy Shop, Inc.*, 616 F.2d 523, 205 USPQ 505, 507 (CCPA 1980); and *In re Patent & Trademark Services Inc.*, 49 USPQ2d 1537, 1539 (TTAB 1998).

In this case, the above evidence of record supports a finding that OSHO merely describes, without conjecture or speculation, a significant characteristic or feature of defendant's goods and services, namely, that they involve or are based upon the meditative techniques as well as the meditative and religious movement arising from the teachings of the mystic Osho.<sup>76</sup> Indeed, the identifications of goods and services for several of the involved marks specifically recite "the field of the teachings of the mystic Osho" as their subject matter.<sup>77</sup> We further note that defendant's disclaimer of additional wording in many of its applied-for marks is a concession that such wording is merely descriptive. Moreover, the combination of OSHO and the disclaimed, descriptive wording in the applied-for marks

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<sup>76</sup> In its brief on the merits of the case, defendant argues in the alternative that its asserted OSHO marks have acquired distinctiveness under Section 2(f) of the Trademark Act. However, defendant did not plead that its marks have acquired distinctiveness in any of these consolidated proceedings. Accordingly, the issue of acquired distinctiveness of the term OSHO under Section 2(f) is not before us.

<sup>77</sup> See application Serial Nos. 75834601; 76060676; 75683097; 76210213; 76158894; 76158895; and 76158893, *supra*.

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does not create any new or different significance beyond the merely descriptive meaning thereof.

We find, therefore, as follows:

The mark OSHO ACTIVE MEDITATIONS in application Serial No. 75834601, consisting of the descriptive term OSHO and the disclaimed wording ACTIVE MEDITATIONS, merely describes a function or characteristic of the recited services, namely, that the educational services, spiritual counseling and meditations employ active meditation techniques created by the mystic Osho;

The mark OSHO ZEN TAROT in application Serial No. 76159554 consists of the descriptive term OSHO, the disclaimed term TAROT, and the term ZEN. We note that defendant's own evidence indicates that its instruction books and Tarot playing cards are used for "THE TRANSCENDENTAL GAME OF ZEN."<sup>78</sup> We further take judicial notice of the word "ZEN:" "An approach to religion, arising from Buddhism, that seeks religious enlightenment by meditation in which there is no consciousness of self."<sup>79</sup> Thus, we find that the mark OSHO ZEN TAROT merely describes books and playing cards as well as an on-line computer game

<sup>78</sup> Steeg Testimony, Exhibit 32.

<sup>79</sup> The American Heritage New Dictionary of Cultural Literacy, 3d ed. (2005). The Board may take judicial notice of dictionary definitions, including online dictionaries which exist in printed format. See *In re CyberFinancial.Net Inc.*, 65 USPQ2d 1789, 1791 n.3 (TTAB 2002). See also *University of Notre Dame du Lac v. J.*

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employing Tarot cards combining the meditation techniques of Zen Buddhism and Osho;

The mark OSHO TRANSFORMATION TAROT in application Serial No. 76159553 consists of the descriptive term OSHO and the disclaimed term TAROT. In addition, defendant's evidence indicates that its OSHO TRANSFORMATION TAROT provides "insights & parables for renewal in everyday life."<sup>80</sup> We further take judicial notice of the following definition of "TRANSFORMATION:" the act or process of transforming; the state of being transformed; change in form, appearance, nature, or character.<sup>81</sup> Thus, we find that the mark OSHO TRANSFORMATION TAROT merely describes books and playing cards as well as an on-line computer game employing Tarot cards utilizing Osho meditative techniques to achieve change in one's nature;

The mark OSHO KUNDALINI MEDITATION in application Serial No. 76060676 consisting of the descriptive term OSHO and the disclaimed wording KUNDALINI MEDITATION, merely describes a function or characteristic of the recited services, namely, that the educational services, spiritual counseling and meditations employ Kundalini meditation techniques created by the mystic Osho;

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C. Gourmet Food Imports Co., Inc., 213 USPQ 594 (TTAB 1982), *aff'd*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

<sup>80</sup> *Id.*

<sup>81</sup> Random House Dictionary (2009).



Opposition No. 91121040 et.al.

The mark OSHO in application Serial No. 75683097 merely describes a function or characteristic of the recited educational services, namely, that they provide instruction pertaining to the teachings of the mystic Osho;

The mark OSHO NADABRAHMA MEDITATION in application Serial No. 76210213, consisting of the descriptive term OSHO and the disclaimed term NADABRAMHA MEDITATION, merely describes a function or characteristic of the recited educational services, namely, that they employ Nadabramha meditation techniques created by the mystic Osho;

The mark OSHO MEDITATION RESORT in application Serial No. 76158894, consisting of the descriptive term OSHO and the disclaimed term MEDITATION RESORT merely describes a function or characteristic of the recited services, namely, that the educational services, spiritual counseling, meditations and meditation information are provided at a meditation resort employing Osho's meditation techniques;

The mark OSHO MULTIVERSITY in application Serial No. 76158895, consisting of the descriptive term OSHO and the disclaimed term MULTIVERSITY, merely describes a function or characteristic of the recited services, namely that the educational services, spiritual counseling and meditations, and meditation information in the field of the mystic Osho is provided at a university with several campuses;

The mark OSHO TIMES in application Serial No. 76158893,

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Opposition No. 91121040 et.al.

consisting of the descriptive term OSHO and the disclaimed term TIMES, merely describes the recited on-line periodicals on the subject of the teachings of the mystic Osho; and

The mark OSHO REBALANCING in Registration No. 2322901 consists of the descriptive term OSHO and the term REBALANCING. We hereby take judicial notice of the following definition of REBALANCE: "to restore balance or equilibrium to something."<sup>82</sup> Thus, we find that OSHO REBALANCING merely describes a function or characteristic of the recited educational books and printed materials in the field of religion and philosophy, namely, that they employ the teachings of Osho to promote a restoration if equilibrium.

#### Plaintiff's Remaining Claims

Having found that defendant's marks are generic and/or merely descriptive, we do not reach the issues of whether the applications at issue and applications underlying the registrations at issue are void *ab initio*; whether the marks in the involved applications and registrations have been abandoned; and whether defendant has committed fraud against the USPTO.

DECISION: plaintiff's petition to cancel is hereby granted on the ground of genericness as to Registration Nos. 1815840; 2180173; and 2174607. Plaintiff's petition to

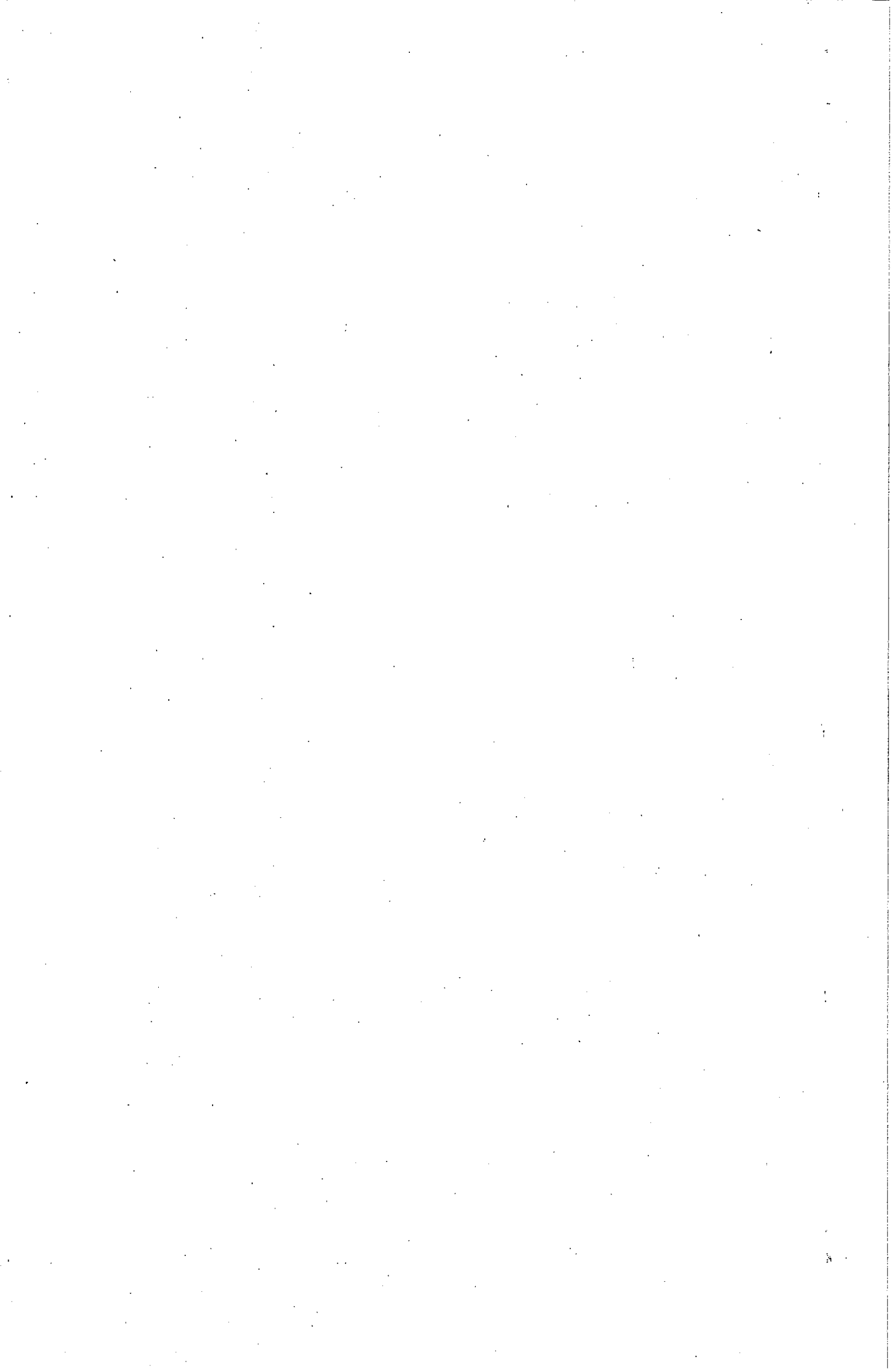
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<sup>82</sup> Webster's New Millennium Dictionary of English (2009).

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Opposition No. 91121040 et.al.

cancel is further granted on the ground of mere  
descriptiveness as to Registration No. 2322901.  
Accordingly, these registrations will be cancelled in due  
course. Plaintiff's oppositions to the registration of  
application Serial Nos. 75834601; 76159554; 76159553;  
76060676; 75683097; 76210213; 76158894; 76158895; and  
76158893 are sustained on the ground of mere  
descriptiveness.



ANNEX

Statement of Foreign Exchange Transactions concurrently made by the Accused persons outside India without permission of Foreign Exchange Department, Reserve Bank Of India ON DAILY BASIS

ANNEX 7

Income of the Trusts siphoned by Trustees in their Private Companies in India											
4	Income of the Trust siphoned by Trustees in their private Companies in India as listed on page 118									8,01,22,60,500	
Osho Digital Products (Income in US \$) Income of ONE Year only											
	Osho Digital products such as Online Radio, TV, Tarot, Music, Lectures etc	Number of Products	Est. 100 each	Avr. Rate per product in USD						Total USD per year	
		5249	524900	40						2,09,96,000	1,40,25,32,800
Total Amount Siphoned in INR without permission of Foreign Exchange Department (1+2+3+4+5) *											
(Over Rs. One thousand Crores) + adding up daily basis											
The following transactions are undeclared by the Accused and unaccounted in the calculations above:											
	* (a) The Online Sells on www.osho.com website for Audio Discourses of Osho DVD, Books, Music, Osho Radio etc.										
	* (b) The Income routed through the Private Companies held by the trustees as Directors (as per the list attached) of the Accused in US, Europe and Hongkong)										
	* (c) The Online Sells of Audio Discourses of Osho, DVD, Books, Music etc. through various Portals such as Amazon, Flipcart etc.										
	* (d) The income of Donations and Course Fees taking place in Pune, India. However funds are collected outside India.										
										10,66,62,09,269	

Statement of Foreign Exchange Transactions concurrently made by the Accused persons outside India without permission of Foreign Exchange Department, Reserve Bank Of India ON DAILY BASIS

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Osho Books - DVD - Royalty Income (in CHF Swiss Frank)										
Switzerland Entity:	Trustees and Accused of Wirt Petition	"D" Declared in 2010	"E" Declared in 2011	"F" Declared in 2012	"G" Declared in 2013	Assumed 10% 2014	Assumed 10% 2015	Assumed 10% till Sept.	Total CHF	INR
Osho International Foundation CH-020, 7, 902, 835-7 Address: Bahnhofstrasse 52, 8001 Zurich,	Mukesh Sarda, Michael Byrne, John Andrews, Darcy Byrne, Klaus Steeg,	8,01,655	6,36,435	6,91,486	8,68,857	9,55,743	10,51,317	8,67,337	58,72,829	39,64,15,969
Total CHF Declared by the Accused (D, E, F, G)					29,98,433					
Total INR Declared by the Accused (D, E, F, G)					20,23,94,228					
List of Osho's Articles hijacked from India (in INR)										
	Quantity	Auction Rate INR								
2 Osho Robes, Caps, Socks and Chapels	830	5,00,000								
3 Osho Paintings and signatures e.g... Colorful paintings painted Osho personally	880	5,00,000								
		41,50,00,000								
		44,00,00,000								

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Annex 7

# ADVOKATURBÜRO MAURER & STÄGER

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POSTFACH 2018  
CH-8022 ZÜRICH  
TELEFAX 043 344 72 51  
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By registered mail  
Department of the Interior  
of the Swiss Confederation  
General Secretariat,  
Supervisory Board for Foundations  
Mr Patrick Rohrbach, Attorney  
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HANS MAURER, DR. IUR. ET DIPL. CHEM.  
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TELEFON 043 344 72 55

HANS-PETER STÄGER, LIC. IUR.  
RECHTSANWALT, MEDIATOR SAV  
TELEFON 043 344 72 50

EINGETRAGEN IM ANWALTSREGISTER

Zürich, 20 May 2014

**Complaint in the matter of Osho International Foundation, Zürich**

Dear Mr Rohrbach

In the matter

Robert Doetsch, Venloer-Strasse 5-7, D-50672 Cologne

**Complainant**

represented by Advokaturbüro Maurer & Stäger, Dr Hans Maurer, Fraumünsterstrasse  
17, Postfach 2018, 8022 Zürich

versus

1. **Osho International Foundation**, Bahnhofstrasse 52, 8001 Zürich
2. Michael **O'Byrne** (since 2013: Michael **Byrne**), Suite 1201, Convention Plaza  
Apartments, 1 Harbour Road, Wanchai, Hong Kong (People's Republic of  
China)<sup>1</sup>, President of the Foundation Board
3. John **Andrews**, London (United Kingdom), Vice President of the Foundation Board<sup>2</sup>
4. D'Arcy **O'Byrne**, Flat 1, Palmeira Ave, Hove, East Sussex, BN3 3GA (United  
Kingdom)<sup>3</sup>, Board Member

<sup>1</sup> Address in accordance with the Commercial Register of Zürich, dated 16 April 2012. The Respondent 2 altered his name around a year ago (deletion of the "O"); his Irish passport is made out accordingly. He probably also has a Canadian passport with the original name (O'Byrne).

<sup>2</sup> Address in accordance with the current excerpt from the Commercial Register of Zürich.

<sup>3</sup> As for footnote 1. The Respondent 4 is the brother of the Respondent 2.

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5. Klaus Steeg, Lütticher Strasse 33 – 35, Cologne (Germany)<sup>4</sup>, Board Member
6. Rudolf Kocher, Steinägerten, 4458 Eptingen (Switzerland), Board Member

**Respondents**

**regarding the recall of the Foundation Board etc.**

I hereby in the name of and by order of the Complainant file a

**Complaint**

with the following

**Petitions**

- "1. The Members of the Foundation Board (Respondents 2 – 6) of the Respondent 1 are to be dismissed.
2. New and suitable Members of the Foundation Board are to be determined and instated."

In addition, I file the following

**Petitions for precautionary measures:**

- "1. The Members of the Foundation Board (Respondents 2 – 6) of the Respondent 1 are to be suspended from their positions for the duration of the proceedings and a trustee is to be appointed until the instatement of a new Foundation Board.
2. As an immediately enforceable ex parte measure (*superprovisorische Massnahme*) (without prior hearing of the Respondents) the debtors of the Respondent 1, in particular the banks "Post Finance" and "Credit Suisse", are to be instructed not to pay out or transfer any funds to the Respondents or to other persons until otherwise instructed by the Federal Supervisory Board for Foundations (ESA).
3. Any complaints against these orders are not to have a suspensory effect."

---

<sup>4</sup> Address in accordance with the current excerpt from the Commercial Register of Zürich and telephone book information



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## Reasons

### 1. Formal matters

1. The undersigned lawyer has been duly authorised by the Complainant.

Evidence: Power of attorney

Exhibit 1

2. According to the excerpt from the Commercial Register, the Respondent 1 is a foundation with charitable purpose. Its registered office is in Zürich. The competent supervisory authority is the Federal Department of Home Affairs (EDI). The EDI is therefore automatically responsible for dealing with this complaint.

Evidence: Current excerpt from the Commercial Register of the Respondent 1

Exhibit 2

3. The Respondent 1 formally (up to 1990) went by the name of "Neo Sannyas International Foundation". On 23 May 1990 the name was changed to "Osho International Foundation" (see following Exhibit, Page 1 ff.). On the occasion of the change in name, the Respondent explained as follows on 2 April 1990 (following Exhibit, Page 6):

"Der Hauptzweck der Stiftung war in den letzten Jahren die Verwaltung der Urheberrechte der gesammelten Werke von dem inzwischen verstorbenen Philosophen Osho (vormals Bhagwan Shree Rajneesh). Die Stiftung besitzt das gesamte Archiv von Osho und alle Urheberrechte in Wort, Ton und Bild. Die Aufgabe der Stiftung ist es, diese Werke weltweit zur Verfügung zu stellen, aus rein idealistischen, d.h. nicht kommerziellen Motiven. Es war der ausgesprochene Wunsch des inzwischen verstorbenen Philosophen, unter dem Namen 'Osho' bekannt zu sein. Der Stiftungsrat beschloss daher, den Namen 'Osho' im Stiftungsnamen zu übernehmen.

"In recent years the main purpose of the Foundation was to manage the copyrights to the collected works of the now deceased philosopher Osho (formally Bhagwan Shree Rajneesh). The Foundation is in possession of the

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entire archive of Osho and all copyrights in word, sound and image. The task of the Foundation is to provide these works to the world for purely idealistic, i.e. non-commercial, purposes. It was the explicit wish of the now deceased philosopher to be known as "Osho". The Foundation Board therefore decided to use the name "Osho" in the Foundation name."

It may therefore be concluded that any person interested in Osho's work can be the beneficiary of the Respondent 1. The same may be derived from the constitution (following Exhibit, Page 8 ff.) in which the article on the purpose of the Foundation states in particular:

**"Article 3**

As a non-profit institution, the Foundation pursues exclusively religious, beneficent, charitable purposes by using its funds globally for charitable purposes and in particular for the dissemination of the religious teachings and messages of Bhagwan Shree Rajneesh through the sannyas movement. The sannyas movement is a non-sectarian practice of religion, (.)"

**Evidence:** Excerpt from the files on the change in name (including constitution) in accordance with the Commercial Register

**Exhibit 3**

It is to be mentioned in this connection that Osho's works also include an extensive collection of works of art and illustrations

Motivation and legitimation of the Complainant:

4. The Complainant assesses the objective of the Respondent 1 of maintaining and managing the Osho archives as an extremely important goal. The archives are of great value for today's world and tomorrow: on the one hand as a foundation of spirituality and on the other as philosophical works or as a cultural historical legacy of our time. The Respondent 1 is also a suitable institution in principle to realise this objective and is located in a safe country with high legal certainty. As will be explained in more detail in the following (Chapters 2 and 3), the Respondents 2 - 6 are seriously endangering the realisation of this goal.
5. The Complainant is a former Foundation Board Member of the Respondent 1 and has an interest worthy of protection in the Respondent 1 being managed and administered in compliance with its constitution. In particular, he is interested in the Respondent 1 being able to maintain and manage Osho's archive on a permanent basis. For these reasons, he assumes a party position in this complaint.

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**Evidence:** Excerpt from the Commercial Register of the Respondent 1, approx. 1990

**Exhibit 4**

6. The Complainant has been concerned with Osho's work since the seventies. He therefore also has an interest worthy of protection in Osho's works (in word, sound and image) being able to be provided to interested people, namely also him, for purely idealistic, non-commercial purposes as provided for in the constitution and as was declared by the Respondent 1 when the name was changed (Paragraph 3). The Complainant is therefore also legitimised as beneficiary of the Respondent 1 to file this complaint.

## **2. Circumstances**

### **2.1 Overview**

7. "Osho" is the religious name of "Rajneesh Chandra Mohan Jain" (1931 -- 1990). He called himself Acharya Rajneesh from the mid-sixties to the beginning of the seventies, thereafter Bhagwan Shree Rajneesh up to the end of 1988 and "Osho" from 1989 up to his death. Osho was an Indian philosopher and founder of the sannyas movement. During his life, he held thousands of lectures, most of which were recorded on video. A major part of the spoken texts were (later) published in book form. In 1981 Osho (then still "Bhagwan") moved the centre of his activities to America where a confidante of his (Sheela) had purchased an old ranch in a remote area of Oregon. Sheela wanted to set up a commune there and convert the run-down ranch into an oasis. The project received worldwide support; several thousand followers moved to the ranch and set up a small town. After a few years the project got out of hand. In 1985 the commune was wound up and Osho was temporarily arrested. Because the US authorities could only accuse him of breaching immigration laws, he was released again after 12 days on the condition that he leave the US forever and on threat of a 10-year period of imprisonment should he repeat the offences<sup>5</sup>. In connection with these events the Respondent was evidently physically given extensive archive material (sound recordings, video recordings, texts, etc.).
8. According to the information of the Respondent 1 on its website, the Osho archive it manages is the world's largest collection of recordings of an esoteric. The archive consists (inter alia) of seven thousand hours of audio and video recordings which have been published in hundreds of books. Osho's works have been translated into over 50 languages and are distributed in 80 countries. It may be further derived from the website of the Respondent 1 that business is broadly conducted on the basis of Osho's works (for example trips to the OSHO International Meditation Resort in India, meditation courses, sale of e-books, books, audio books, meditation music and other music, gifts, apps, videos).

**Evidence:** Excerpts from the website of the Respondent 1

<sup>5</sup> <http://de.wikipedia.org/wiki/Osho>

## Exhibit 5

9. The activity reports of the last financial years are essentially similar. The Respondent 1 explains as follows in its activity report for the 2011/2012 financial year (in the files of the Federal Supervisory Board for Foundations):

Whilst the number of sold copies is on the decline, the number of active licences with international publishing houses remained surprisingly stable in 2012. Numerous agreements for new titles were concluded. Some 2,500 works of the Foundation are currently available around the world in around 60 languages from more than 200 publishing houses. The Foundation kept close relationships with foundations in Europe, the USA, Australia, Japan, China, South East Asia and India. Existing links with publishing houses throughout the world were nurtured in numerous personal meetings and a large number of new contacts made.

New translations by the Foundation from original lectures from Hindi into English permit further new works to be included in the range and catalogue of the Foundation. The subsidiary in the USA expanded its activities as OSHO Media International as part of the purpose of the Foundation. The programme launched the first digital books this year.

New licences were awarded in more than 20 countries including the USA, Spain, Russia and a number of smaller and new countries Serbia, Vietnam, Lithuania and Estonia. The growth rates of licences and sales in Turkish and Spanish are particularly high.

As every year, the Foundation is represented in all major international book fairs (Frankfurt, BEA New York, Bologna, Taiwan, London).

Numerous agreements were entered into once again throughout the world with important publishing houses, such as Ullstein and Random House in Germany, Mondadori in Italy, Random House Mondadori in Spain etc. We are now developing extensive publisher programs with the majority of our publishing houses.

In particular, the activities on the internet were extended in the reporting year. The Foundation has made new contacts with distributors in the digital area such as GOOGLE, AMAZON, IODA, CINETIC and other new partners who are now offering a selection of the Foundation's works on the internet.

**Evidence:** Annual financial statements with activity reports of the Respondent 1, financial years 2012-2013, 2011-2012 and 2010-2011.

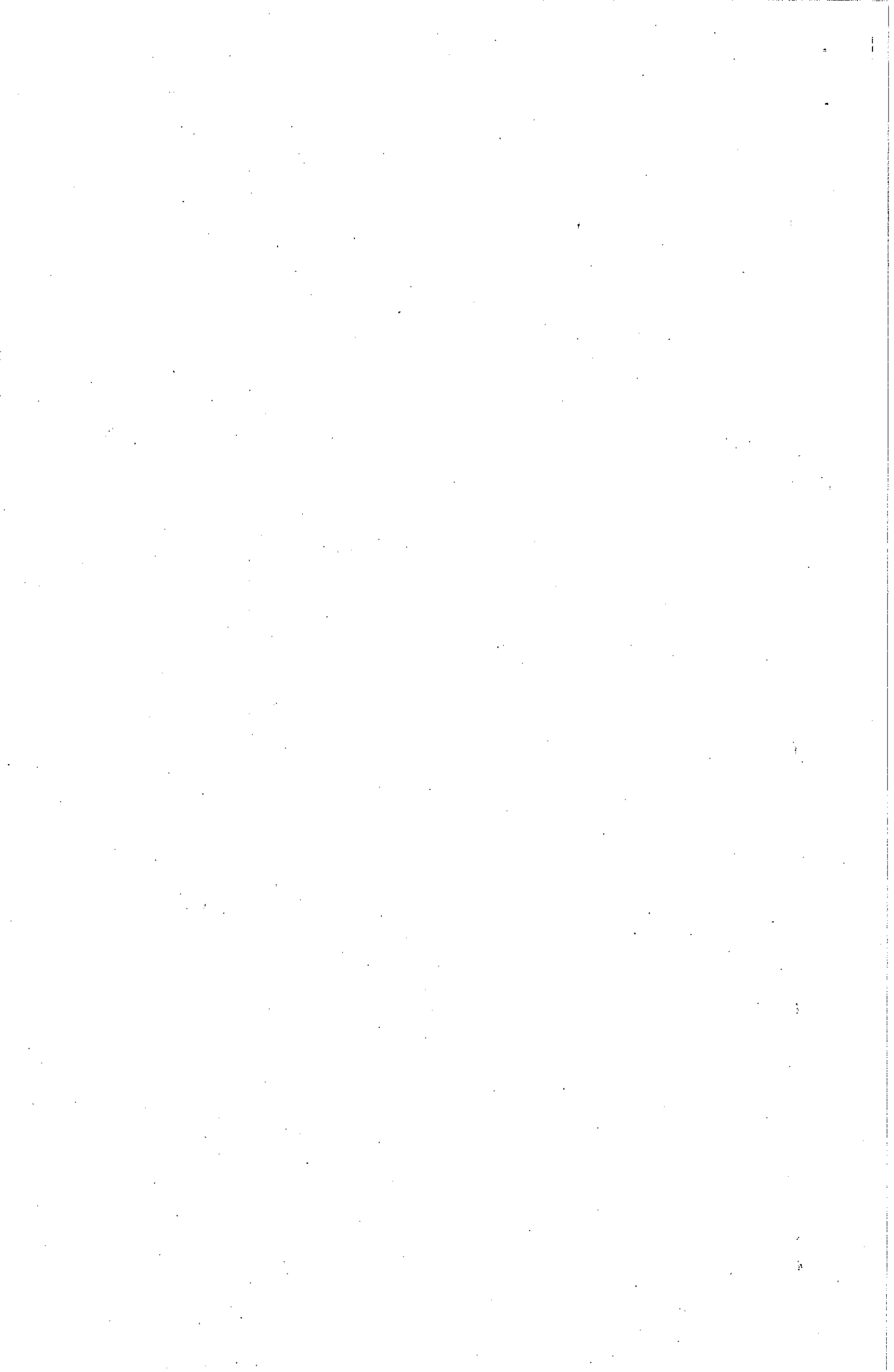
## Exhibit 6

It is therefore demonstrated that extensive business activities were conducted worldwide on the basis of the Osho rights claimed by the Respondent 1. This will be shown in more detail in the following because the achievable profit depends on the extent of business. According to the explanation of the Respondent 2, the actual extent of business is considerably greater than stated on the website (see below in Paragraph 31).

**2.2 Impenetrable network of companies; Foundation Board Members as economic beneficiaries of commercial exploitation companies**

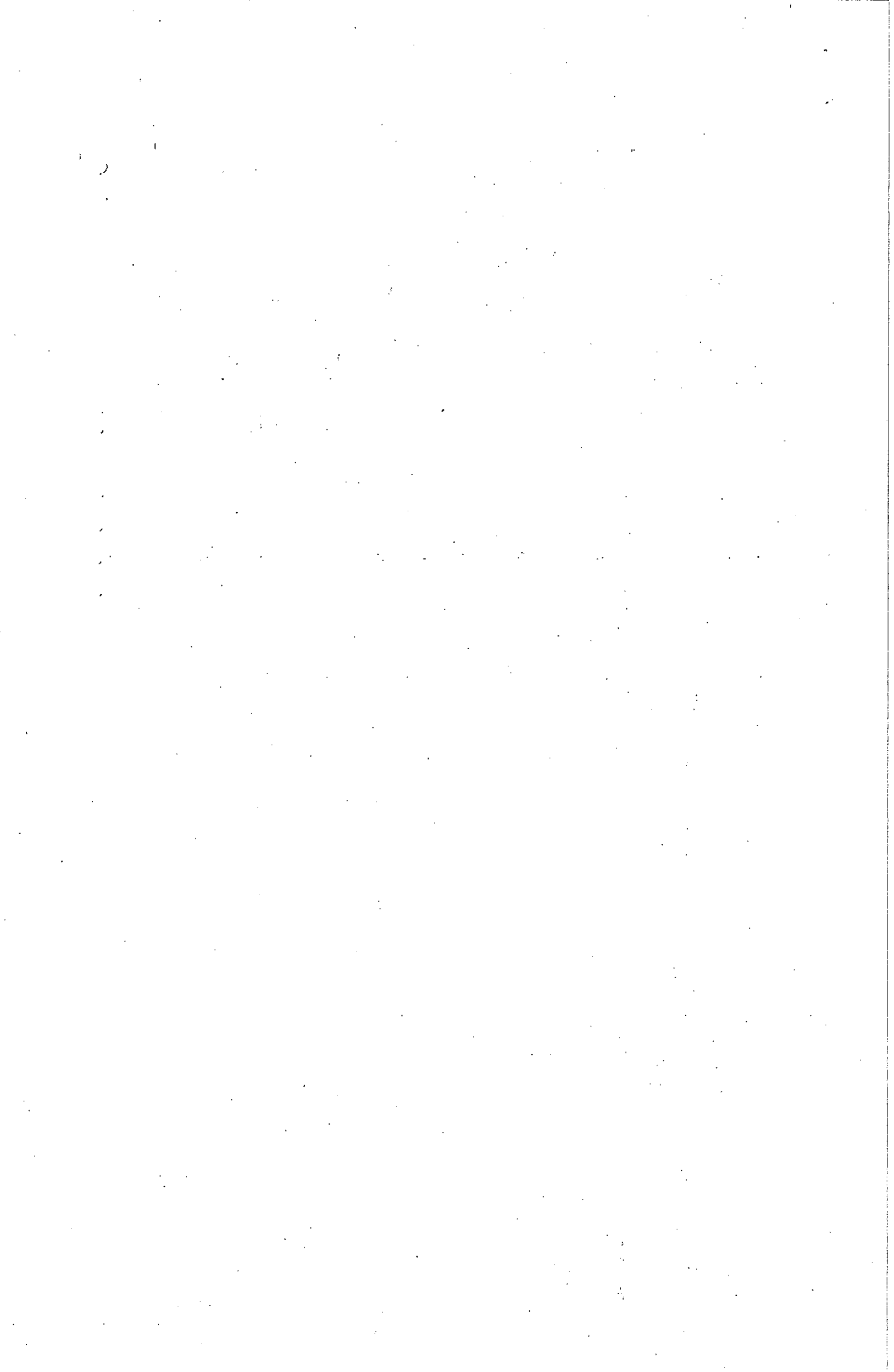
10. During the course of the decade, different Board Members around the Respondent 1 developed and maintained an international network of companies (of different legal forms) with which the rights to Osho's works claimed by the Respondent 1 are commercially exploited.
11. So far, the companies listed in the following Table 1 have been identified in this network. With respect to one very important company in this network (Company No. 1), it is already clear that it belongs to the Foundation Board President (Respondent 2) via an intermediate company in Hong Kong (Company No. 2). In other words, he benefits directly from the profits of Company No. 1.
12. Furthermore, Companies No. 4a, 4b, 8 and 9 belong to the Respondents 2 and 4. The economic beneficiaries have not so far been identified in the other companies. However, in virtually all companies Members of the Foundation Board are responsible for executive activities:
13. The following table provides an overview of the companies marketing and exploiting the rights of Respondent 1 and of the involvement of Members of the Foundation Board in these companies.

No.	Company	Directors	Shareholders	Function in the exploitation of rights of the Respondent 1 (where known)	Share capital	Evidence	No.	Remarks (the page numbers refer to the corresponding evidence)
1	Osho Media International Ltd. (Cork, Ireland)			<ul style="list-style-type: none"> <li>- Marketing of Osho products and services on the website of Respondent 1 internet business<sup>5</sup></li> <li>- Organisation of Osho festivals for meditation and music</li> </ul>		Memorandum of Association	7/1 7/2 7/3	<p>Company No. 1 was set up by Company No. 2 on 3.4.2012. Company No. 2 is the sole shareholder. The capital of € 100,000 is divided into 100,000 shares of € 1 each nominal value. Only 100 shares were issued (something which is allowed in Anglican corporate law) which are all held by Company No. 2 (Evidence 7/2). Company No. 2 belongs to the Foundation Board President Michael O'Byrne (Respondent 2; see also Company No. 2). D'Arcy O'Byrne (Respondent 4) is the brother of Respondent 2.</p>
	Reg. No: 511572. Business name (dba): Osho International		Company No. 2		€ 100,000, divided into 100,000 shares of € 1 each nominal value	dito	7/1 7/2 and 7/3	<p>The purpose of the company in the broadest sense and with all possible means is the exploitation of materials for education and personal development (Page 1). It is responsible for the internet business with Osho products and also stages Osho festivals. With respect to capital: see Page 4; shareholders: Page 5</p>
	Ronald Tanner (R) D'arcy O'Byrne (RES 4) Daniel Tobl'n					Abridged Financial Statements	7/4	<p>In the period from 1.4.2012 to 31.3.2013 the company recorded a loss of USD 111,917 because it paid royalties to Company No. 2 (of Respondent 2) of USD 251,521. By contrast, it transferred only USD 2,000 to Respondent 1 (Page 10). List of directors: Page 8</p>





2	O International Digital Media Ltd. (Hong Kong)	Michael Byrne (Respondent 2)	Michael Byrne (Respondent 2)	Shareholder (parent company) of no. 1		ARL - Annual Return	8	Company No. 2 was set up by Foundation Board President Michael Byrne (Respondent 2). The capital of HK\$ 10,000 is divided into shares of HK\$ 1 each nominal value. Only 100 shares were issued which are all held by Respondent 2 (Page 3).
	Company No: 1388337	Michael Byrne (Respondent 2)	Michael Byrne (Respondent 2)		\$10,000.00	ditto	8	
		John Andrews (Respondent 3; director)					7/1	John Andrews (Respondent 3) acts as director (Page 5).



3	<p>Osho International Corporation (New York, USA)                  DOS ID: 3976140, Filing Date: 23.07.2010, dba: Osho International</p>	<p>Klaus Steeg (RES 5; Chief Executive Officer)</p>	<p>RES 1</p>	<p>According to website of the Respondent 1, Company No. 3 is:                  - The international publishing headquarters for Osho's works ("the company represents all works by Osho as a literary agency and administers the worldwide rights for the foundation.")                  - Sole competent company for the licensing of the rights of the Respondent 1 outside India<sup>7</sup></p>	<p>N/A</p>	<p>NYS Department of State - Division of Corporations - Entity Information</p>	<p>9/1 7/1 6/3 9/2</p>	<p>Company No. 3 is the successor of America Multi Media Corporation (Company No. 5), Phoenix Arizona, which was active from 1995 to around 2010.                   According to the annual financial statements for 2012/2013, Company No. 3 belongs entirely to the Respondent 1 (Page 6).                   This could not be checked because the US registration office does not provide any such information. Financial information could also not be obtained.</p>
4a	<p>Mayfair Consultants International Limited (London, England)</p>	<p>D'Arcy O'Byrne (RES 4, Director) Klaus Steeg (RES 5, Secretary)</p>	<p>D'Arcy O'Byrne (RES 4, Director)</p>				<p>10/1 10/2 10/3 10/4 10/5 10/2</p>	<p>Company No. 4a was set up in January 2008 under the name "Mayfair Media International Limited" (same name as under 4b). Only one share of Respondent 1 was issued which belongs to the Respondent 2.                   In August 2009 the name was changed (see left). The company was dissolved on 21 February 2012 and re-established in Ireland (Company No. 4b).                   The last known balance sheet total (as at Sept. 2010) was GBP 300,000.                   Company No. 4a belonged to D'Arcy O'Byrne (RES 4).</p>
	<p>Company No: 06471601</p>							

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4b	Mayfair Media International Limited (Cork, Ireland)	Michael Byrne (RES 2) D'Arcy O'Byrne (RES 4)	Michael Byrne (RES 2) and D'Arcy O'Byrne (RES 4)			10/6 & 10/7	Company No. 4b was set up on 3.11.2011. The capital of € 2 is divided into 2 shares of € 1 each nominal value. Only 2 shares were issued. One share each is held by Michael Byrne (RES 2) and D'Arcy O'Byrne (RES 4; Exhibit 10/7, Page 8).
	Company No.: 503559			€ 2.00		10/6	Company No. 4 did not engage in any business activities up to the end of 2012.
5	America Multi Media Corporation (Arizona, USA) File No.: - 0752739-1	Klaus Steeg (RES 5) D'Arcy O'Byrne (RES 4, Vice President)	Company No. 6			11/1 11/2 11/3 11/4	Company No. 5 is the predecessor company of No. 3. No. 5 was officially closed as at 19 January 2011 (11/4) because it did not submit the requisite financial documents. The US authorities reminded of the necessity to supply the documents on several occasions (11/2). The company can be reactivated within six years. Company No. 5 was also registered under the business name "Osho International" in NY. The last known shareholder was the Dutch Company No. 6 "Espedair B.V."
6	Espedair B.V. (Netherlands)	N/A	Company No. 6 is shareholder of No. 5 (function is now assumed by no. 3) It is a financing company ("Bank Holding Company")			12/1	Company No. 6 was the sole shareholder of Company No. 5. It may also be shareholder of No. 3 today (the successor company of No. 5) Information as to who is shareholder/economic beneficiary of No. 6 is not and was not publicly available.
						12/2	Company 6 was deregistered from the Commercial Register as at 16 January 2013 ("uitgeschreven uit het handelsregister per 16-01-2013")

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7	Indian Osho International Foundation India (Mumbai)	Mukesh Kantilal Sarda					13/1 13/2	Company No. 7 was established on 20 July 2011. Despite the same name it is not identical with Respondent 1. The Indian offshoot of Company No. 8 (= Company 16) is also domiciled at the registered office of No. 7 (Mumbai).
8	Adaptive Neural Biometrics Holdings Limited (Cork, Ireland)		Serves as holding for the different companies with the same name (without the addition of Holding). Stated purpose: computer-aided activities incl. development of security software				14/1 14/2	Company No. 8 was established on 11 March 2013. Only 1 share was issued from the capital of € 100,000. This share was initially held by Michael Byrne (RES 2). On 12 March 2013 he transferred the share to D'Arcy O'Byrne (RES 3).
9	Adaptive Neural Biometrics Limited (Cork, Ireland) Company no: 524622	Ronald Tanner (R) John Andrews (RES 3) Ronald Tanner (R) John Andrews (RES 3)	Michael Byrne (RES 2) D'Arcy O'Byrne (RES 4) Michael Byrne (RES 2) D'Arcy O'Byrne (RES 4)	€100,000.00 €100,000.00	Annual Return B1 - Annual Return - 524622	14/2 15	Company No. 9 was set up in 2013. Only 1 share was issued from the capital of € 100,000. This share was first held by Michael Byrne (RES 2). On 5 March 2013 he transferred the share to D'Arcy O'Byrne (RES 3).	

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10	Adaptive Neural Biometrics Limited (London, UK) Company no: 05155088	Ronald Tanner (R) John Andrews (RES 3)	No. 11		2.00 GBP	AR01 - Annual Return	15	Company No. 10 was set up in 2013. Both shares of 1 GBP each are held by Company No. 11.
11	Applied Neural Technology Holdings Limited (UK) Company No: 05384452	D'Arcy O'Byrne (RES 4)	No. 12			AR01 - Annual Return	17/1 17/2	Company No. 11 was presumably set up in 2013. It (and therefore also No. 10) belong to the offshore Company No. 14 on the British Virgin Islands. As at 31 May 2013, No. 11 had debts of GBP 15,069 towards Company No. 14 which was similarly a creditor to Respondent 1 (to the extent of CHF 212,836; see under No. 14). It is stated as follows in 17/2 (Page 2): The ultimate controlling party is the <i>Existence Foundation</i> . It is not known what this foundation is. The "immediate parent company" is Company No. 12 (Applied Neural Computing (BVI) Limited).
12	Applied Neural Computing Limited, British Virgin Islands						16 17	Company No. 12 owns companies 10 and 11. It and therefore also Nos. 10 and 11 belong to the offshore Company No. 14 on the British Virgin Islands. It is obvious that Respondents 3 and 4 also control the parent Company No. 12.

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13	Western Liberty AG, Zürich			Company No. 13 has its registered office at the same address of the Swiss attorney of Respondent 1 (Bienenstrasse 1, Zürich). He is the sole director. The purpose is to conduct and mediate air transportation and asset management. The fact that a connection exists between Company No. 13 and the Respondent 1 may be derived from the fact that the tax assessment of the Respondent 1 for federal taxes of 19 July 2013 was sent to Company No. 13. This company may possibly manage the assets of Respondent 1.
14	Regassi Management Limited, British Virgin Islands (?)	6/2		Company No. 14 is mentioned in the annual financial statements of Respondent 1 for 2011/2012 (Exhibit 6/2). Respondent 1 had a debt to Regassi of CHF 212,816 in 2011. It controls the Companies Nos. 10, 11 and 12 (see there). The role of No. 14 is otherwise unclear. As at 31 May 2013, No. 14 also had credit towards Company No. 11 of GBP 15,069. It presumably has its registered office on the British Virgin Islands.
15	Osho Multi Media Trust	17/2 20 6/3		Company No. 15 is the creditor for the loan towards the Respondent 1 of CHF 9.08 million (status as at September 2013, Page 3). It has not so far been possible to determine where the trust assets come from, who is trustee (trust manager) and who is the beneficiary. The registered office of the trust and the legal system according to which it was set up is similarly unknown. A company "ODRT" is mentioned in the profit and loss statement under loan interest. This could be No. 15 or a further trust, albeit with the name "Osho Digital Rights Trust".

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16	Adaptive Neural Biometrics India Private Limited India (Mumbai)	Vidya Khubchandani Mukesh Kantil Sarda			13/2	Company No. 16 appears to be associated with other companies in this list, in particular with No. 8. Mukesh Kantil Sarda is the managing director of Nos. 7 and 16. Company 16 has its registered office at the address of No. 7 (Mumbai).
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Table 1: Information on the companies in the sphere of Respondent 1 in which the Respondents 2-4 are involved as owners or executive bodies; abbreviations: RES = Respondent // R = auditor of the Respondent 1 to the end of 2013

**EVIDENCE:** Information on Company 1: Osho Media International Ltd.

**Exhibit 7**

Information on Company 2: O International Digital Media

**Exhibit 8**

Information on Company 3: Osho International Corporation

**Exhibit 9**

Information on Company 4a and 4b: Mayfair Consultants Limited and Mayfair Media International Limited

**Exhibit 10**

Information on Company 5: America Multi Media Corporation

**Exhibit 11**

Information on Company 6: Espedair B.V.

**Exhibit 12**

Information on Company 7: Indian Osho International Foundation



**Exhibit 13**

Information on Company 8: Adaptive Neural Biometrics Holding Limited

**Exhibit 14**

Information on Company 9: Adaptive Neural Biometrics Limited, Cork

**Exhibit 15**

Information on Company 10: Adaptive Neural Biometrics Limited, London

**Exhibit 16**

Information on Company 11: Adaptive Neural Technology Holdings Limited

**Exhibit 17**

Information on Company 12: Applied Neural Computing Limited

**Exhibit 18**

Information on Company 13: Western Liberty AG

**Exhibit 19**

Information on Company 14: Regassi Management SA

**Exhibit 20**

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2.3 Intransparent transactions in the annual financial statements for 2012/2013 of Respondent 1

14. The balance sheet of the last annual financial statements of Respondent 1 for 2012/2013 (above; Exhibit 6/1) is as follows:

OSHO INTERNATIONAL FOUNDATION Zürich		
BALANCE SHEET AS OF SEPTEMBER 30.	2013	2012
ASSETS	CHF	CHF
Post Finance Bank Acc - CHF	50'000	-
Post Finance Bank Acc - Euro	132'178	-
Post Finance Bank Acc - USD	60'353	-
C Suisse Bank Acc - Euro	-20	140'751
C Suisse Bank Acc - AUD \$	-	-
C Suisse Bank Acc - CHF	6'637	130'379
C Suisse Bank Acc - STL	-26	149'799
C Suisse Bank Acc - USD	68'363	213'674
<b>Total cash</b>	<b>317'485</b>	<b>634'604</b>
Withholding tax - Bank Interest	226	181
Deposits - Copyright Fee	656	-
Loans and advances	12'482	-
Loan to Osho International Corp - USD	58'795	45'658
<b>Total receivables</b>	<b>70'189</b>	<b>45'839</b>
<b>Total current assets</b>	<b>387'674</b>	<b>680'443</b>
Investments Osho Intl Corp	932	932
<b>Total financial assets</b>	<b>932</b>	<b>932</b>
LTA Arc BkTopes	172'060	191'177
LTA Copyr1 Osho	1	1
LTA Copyr1 Gizmo	1	1
LTA Inf&SndAchv	552'976	614'418
LTA Photo archive	157'647	152'941
LTA Trademarks	87'870	97'633
LTA Vid Mast/Arc	2'385'004	2'650'004
LTA Web Site	38'565	42'850
<b>Total tangible assets</b>	<b>3'374'124</b>	<b>3'749'025</b>
<b>Total fixed assets</b>	<b>3'375'056</b>	<b>3'749'957</b>
<b>TOTAL ASSETS</b>	<b>3'762'730</b>	<b>4'430'400</b>

**OSHO INTERNATIONAL FOUNDATION**  
Zürich

BALANCE SHEET AS OF SEPTEMBER 30,	2013	2012
<u>LIABILITIES AND FOUNDATION EQUITY</u>	CHF	CHF
Creditors	84	5'985
Advances/Receives	126	-
<b>Total liabilities - short term</b>	<b>210</b>	<b>5'985</b>
Loans \$fr- Osho Multi Media Trust	9'080'728	9'724'080
<b>Total liabilities - long term</b>	<b>9'080'728</b>	<b>9'724'080</b>
<b>Total liabilities</b>	<b>9'080'937</b>	<b>9'730'065</b>
Foundation capital	100'000	100'000
Exchange Reserve	47'595	-120'281
Loss carry forward	-5'279'384	-4'070'356
Profit / Loss(-) for the period	-186'419	-1'209'028
<b>Total equity</b>	<b>-5'318'207</b>	<b>-5'299'665</b>
<b><u>LIABILITIES AND FOUNDATION EQUITY</u></b>	<b><u>3'762'730</u></b>	<b><u>4'430'400</u></b>

Fig. 1 Balance sheet 2012/2013 of the Respondent 1 (Exhibit 6/1)

15. The profit and loss statement for 2012/2013 is as follows:

<b>OSHO INTERNATIONAL FOUNDATION</b>		
Zürich		
<b>PROFIT AND LOSS STATEMENT</b>	<b>2013</b>	<b>2012</b>
	CHF	CHF
<b>Income</b>		
Interest Earned - Bank	128	193
Interest Earned - OIC Loan	6'566	-
Donation	195'615	13'611
Royalty Advances	243'961	249'319
Royalties	402'266	392'976
DVD Master Fee	5'207	35'386
Royalties - CD's and DVD's	14'985	-
Royalties - E Books	8	-
Fees for Reprints	122	-
<b>Total Income</b>	<b>848'857</b>	<b>691'485</b>
<b>Expenses</b>		

Accountancy	20'793	29'018
Agents Fees	93'439	78'568
Bank Chrg	2'363	2'124
Legal & Prof. Fees	102'304	61'582
Office Services	9'255	9'851
Research Expenses	13'624	6'191
Sundry Exps	4	-
Trademark Expenses	4'160	2'491
Travelling Expenses	21'002	18'180
Storage Fees	11'839	14'928
Osho Art Project	6'128	3'417
Exchange Rate Variances	14'037	8'006
AMC Counterpoint Pelican Services	4'329	-
Computer Expenses	3'458	-
<b>Total expenses</b>	<b>376'733</b>	<b>234'356</b>
<b>Net operating profit</b>	<b>492'124</b>	<b>457'129</b>
Interest on loan from ODRT	-303'318	-196'972
Bad Debts - AMMC Loan	-	-1'468'854
Depreciation LTA	-374'902	-
Taxes	-323	-330
<b>Net profit / loss (-) for the period</b>	<b>-186'419</b>	<b>-1'209'027</b>

Fig. 2 Profit and loss statement of the Respondent 1 for 2012/2013 (Exhibit 6/3)

#### Who benefits from the companies 1 – 16?

16. It may be derived from the last available annual financial statements of the Respondent 1 for 2012/2013 (above; Exhibit 6/1) that it merely has shares (100%) in **Company No. 3** and therefore has no shares in the other companies 1, 2, 4-16 (Table 1). Since the participation of the Respondent 1 in Company 3 was not shown in the annual financial statements for 2010/2011 and 2011/2012, it could only have acquired these shares in the 2012/2013 financial year.
17. According to information on the files, companies 1 and 2 belong to Respondent 2 and companies 4a and 4b, 8 and 9 to the Respondents 2 and 4. In addition to these two people, other Members of the Foundation Board as well as the auditor (up to the end of 2013) assume or assumed executive or managerial positions in the companies 1 – 16. It may be derived from the files that with respect to some of these companies they assume activities in connection with the exploitation of rights of the Respondent 1 or the distribution of copyright-protected Osho products (in particular Nos. 1, 3, 5, 15). In view of the personal involvements it would appear possible that this is also possible in other companies. The economic authorisation of Members of

the Foundation Boards in companies (Table 1) and their position as executive bodies and managing directors are a strong indication that Members of the Foundation Board received assets which were generated on the basis of rights of the Respondent 1 to Osho's works, namely profits of the companies (as it will be known, these are attributable to the economic owner or shareholder), monetary payments such as director or management board fees and further payments. To what extent this was the case and whether these payments satisfied the "arm's length" principle, i.e. the mutual exchange of services as between independent parties, must be clarified by the Federal Supervisory Board for Foundations or the trustee to be installed.

18. One example of a further payment is shown in the files for Company 1 because Company 1 paid an amount of USD 251,521 to Company 2 (of the Respondent 2) in the 2012/2013 financial year under the "royalties" title, whilst the Respondent 1 received royalties of only US 2,000 in this financial year. It is hardly probable that other royalties (not associated with Osho) generated 100 times the profit for the Respondent 2 than the royalties of the Respondent 1. At all events there is an urgent need to clarify these circumstances.
19. In view of these suspicions alone, the Respondents must be obligated to disclose the following with verifiable documents and in particular with bank statements:
- Who were the shareholders and economic beneficiaries of companies 1 – 16 over the past ten years (since 2004) and who are they today?
  - Annual financial statements of the companies 1 – 16 from 2004
  - Profit distribution and other payments or transfers of the companies 1 – 16 to the Respondents 1 – 6 from 2004
  - Further payments and transfers between companies 1 – 16 from 2004
  - Agreements and monetary flows (incl. transfer transactions) between the Respondent 1 and the companies 1 – 16 from 2004

Debt of the Respondent 1 in an amount of CHF 9.08 million towards Osho Multi Media Trust (Company No. 15)?

20. It may furthermore be derived from the annual financial statements 2012/2013 of the Respondent 1 (Exhibit 6/1) that the Respondent is excessively indebted to a huge extent. (Alleged) main creditor (with a claim of CHF 9.08 million) is a trust, namely Osho Multi Media Trust ("OMMT", Company No. 15). Trusts have the following structure:

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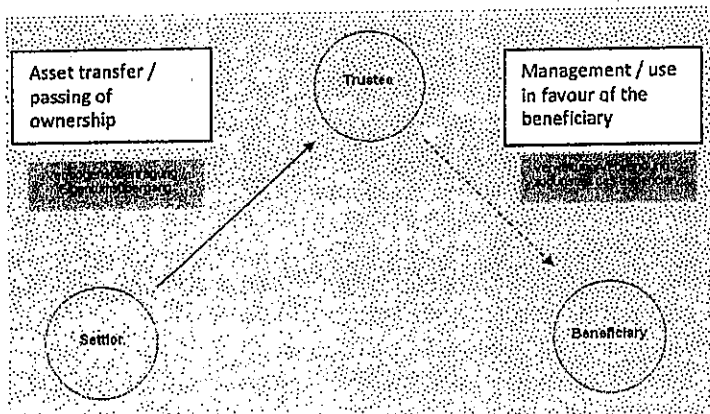


Fig. 3 Structure of trusts

21. The following questions arise in this connection which the Respondents must be obligated to answer by submission of verifiable documents and bank statements:

- Where is the domicile of OMMT and according to which legal system is OMMT incorporated?
- What are the constitutions, by laws, regulations of OMMT?
- When was OMMT set up? Did it formerly operate under a different name?
- Who is the settlor of the trust, i.e. the person which introduced the assets into the trust from which the loan of over CHF 9 million was granted to the Respondent 1?
- How high are the trust assets; how has this changed since 2004?
- Who is the trustee?
- Who is the beneficiary?
- Is this a "revocable trust" in which the settlor can claim back the assets of the trust?
- Which financial flows (incl. transfer transactions) took place between the Respondent 1 and OMMT starting from 2004?
- Which agreements existed and exist between OMMT and the Respondent 1 since 2004?
- Which financial flows (incl. transfer transactions) took place between OMMT and the Respondents 2 – 6 since 2004 (in particular continuous account statements of the accounts and deposit accounts belonging to OMMT)?

- On what legal foundation did OMMT declare subordination to Respondent 1? Who gave this subordination on the part of OMMT?
  - Why is the interest for the loan (CHF 9.08 million) paid to a company "ORDT" and not to OMMT (profit and loss statement, Exhibit 6/1)?
22. The loan of OMMT was reduced in the 2012/2013 financial year from CHF 9.72 to CHF 9.08 million. However, the profit and loss statement does not show any corresponding income which would have facilitated this. It is a mystery how this debt could be reduced without any correspondence in the profit and loss statement. The transaction is an indication of incomplete annual financial statements of Respondent 1. It will be the task of the trustee to be installed to examine the annual financial statements in this respect.

Liquidation of AMMC; writing off of the loan of CHF 1,468,854:

23. It may be derived from the above profit and loss statement that the Respondent 1 completely wrote off a loan receivable against AMMC in an amount of CHF 1,468,854 in the 2012/13 financial year. In actual fact this happened in the financial year prior to this (2011/2012, see below in Paragraph 26). The balance sheet is evidently faulty in this point.
- 2.4 **Intransparent transactions in the annual financial statements 2011/2012 of the Respondent 1**
24. The balance sheet of the annual financial statements 2011/2012 of the Respondent 1 (above; Exhibit 6/2) is as follows:

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**OSHO INTERNATIONAL FOUNDATION**  
 Bahnhofstrasse 82, 8001 Zurich  
 Balance Sheet

	30th September 2012 SFr	30th September 2011 SFr
<b>ASSETS</b>		
<b>Current Assets</b>		
Bank Accounts	140,751	238,084
Bank Acc - Euro	130,379	167,571
Bank Acc - SFr	149,799	347
Bank Acc - STL	213,074	98,075
Bank Acc - USD	634,604	504,157
<b>Debtors &amp; other Loans</b>		36,060
Debtors	181	141
Withholding Tax - Bank Interest	120,281	-
Exchange Reserve	-	1,488,854
Loan to AMMC - USD	932	-
Investment - Osho International Corp.	45,656	43,461
Loan to Osho International Corp - USD	167,052	1,540,485
<b>TOTAL Current Assets</b>	2,011,665	2,082,943
<b>Other Assets</b>		
Intellectual Property & Copyrights	191,177	191,177
LTA A/c BK Tapes	1	1
LTA Copyrt Osho	1	1
LTA Copyrt Gizmo	614,418	614,418
LTA Int&SndAchv	152,941	152,941
LTA Photo archive	97,833	97,833
LTA Trademarks	2,850,004	2,850,004
LTA Vid MastArc	42,850	42,850
LTA Web Site	3,749,025	3,749,025
<b>TOTAL ASSETS</b>	4,550,681	5,801,668
<b>LIABILITIES</b>		
<b>Current Liabilities</b>		
Creditors	5,805	25,672
<b>TOTAL Current Liabilities</b>	5,805	25,672
<b>Other Liabilities</b>		
Loan	9,724,080	8,533,536
Loans Sfr - Regassi	5,279,384	212,816
Losses Incurred to Date	-	4,070,356
<b>TOTAL Other Liabilities</b>	4,444,896	5,675,896
<b>TOTAL LIABILITIES</b>	4,450,681	5,701,668
<b>EQUITY</b>		
Foundation Capital	100,000	100,000
<b>TOTAL LIABILITIES &amp; EQUITY</b>	4,550,681	5,801,668

Fig. 4 Balance sheet for 2011/2012 of the Respondent 1 (Exhibit 6/2)



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25. The profit and loss statement for 2011/2012 is as follows:

OSHO INTERNATIONAL FOUNDATION Bahnhofstrasse 62, 8001 Zurich Profit & Loss Statement for the period 1st Oct 2011 - 30th Sept 2012		
	SFr 2012	SFr 2011
<b>INCOME</b>		
Interest Earned	193	315
Royalty Advances	249,319	147,199
Royalties	392,976	475,873
DVD Royalties and Master Fees	35,386	
Neutral Income	13,811	11,945
<b>TOTAL INCOME</b>	<b>691,485</b>	<b>638,436</b>
<b>EXPENSES</b>		
Accountancy	29,018	19,074
Art Project Archive Fees	3,417	
Agents Fees	75,568	80,458
Bank Chrg	2,124	1,788
Bad Debts - AMMC Loan	1,468,854	
Travel Exps - Bookfairs	18,180	55,585
Exchange Rate Variances	8,096	
Interest	180,972	293,406
Legal & Prof. Fees	51,592	101,038
Office Services	9,851	9,193
Research and Sundry Exps	6,191	
Stadt Zurich	330	1,004
Storage Fees	14,928	12,397
Trademark Expenses	2,491	17,292
<b>TOTAL EXPENSES</b>	<b>1,300,514</b>	<b>669,242</b>
<b>PROFIT</b>	<b>SFr. -1,209,028</b>	<b>SFr. 87,193</b>

Fig. 5 Profit and loss statement for 2011/12 of the Respondent 1 (Exhibit 6/2)

Liquidation of AMMC; writing off of the loan in an amount of CHF 1,468,854.-:

26. It may be derived from the above annual financial statements that the Respondent had a loan receivable against AMMC in an amount of CHF 1,468,854 up to the autumn of 2011. This was **written off completely** between 30 September 2011 and 30 September 2012. In other words, as a result the Respondent 1 incurred a loss of CHF 1,468,854.
27. AMMC must be Company No. 5 (America Multi Media Corporation) which was closed by the US authorities as at 19 January 2011. It is of great interest how this loss occurred and who benefited from the profits of AMMC in its active period or received payments for (alleged) services. AMMC was liquidated because the responsible directors no longer provided any financial statements. Therefore, the liquidation did not take place out of the blue. Rather, the executive bodies of the AMMC were requested several times by the authorities to submit the requisite financial information (Exhibit 11/2). The fact that they did not satisfy this duty could be an

indication that they wished to conveniently get rid of AMMC (i.e. by official liquidation) so that the transactions in this company remain as intransparent as possible. Added to this is the fact that two years later the parent company (Company No. 6 Espedair B.V.) was also deleted from the Dutch commercial register. This was possibly also done with the aim of not having to account for financial transactions.

28. In addition, the Respondents 4 and 5 were Members of the Foundation Board of the Respondent 1 and executive bodies of the AMMC at the same time. The Respondent 4 is the brother of the Foundation Board President (Respondent 2). Given this type of personal relationships, it is evident that conflicts of interest will arise. In particular, a creditor will not usually accept a debtor company to be liquidated but will collect his money at best from the executive bodies if they caused the loss. By contrast, the Respondent 1 remained passive and simply wrote off the receivable.
29. For all these reasons, the Respondents are to be ordered to disclose the following with verifiable documents and bank statements:
- Annual financial statements starting from 2000 of the Company 5 (American Multi Media Corporation from 2000)
  - Profit distributions of the Company 5 and other payments to shareholders/holding company (Company No. 6 Espedair B.V.) and/or to the Respondents 1 – 6
  - Reasons for the liquidation of companies 5 and 6
  - Agreements between AMMC and the Respondents

Debts of the Respondent 1 of CHF 212,816 towards the company Regassi Management SA:

30. It may be derived from the balance sheet (Exhibit 6/2) that the Respondent 1 had a debt of CHF 212,816 towards the company Regassi Management SA (referred to in the following as "Regassi"; Company 14 in accordance with Table 1) in 2011. Regassi appears to be a so-called "offshore company" with registered office on the British Virgin Islands. The question is the purpose for which it was set up and its relationship to the Respondent 1. The Respondents must also provide complete information on this. They are to be obligated to disclose the following with verifiable documents and bank statements:
- Articles of Association and purpose of Regassi Management SA
  - Shareholders or economic beneficiaries of Regassi Management SA
  - Annual financial statements as from 2000 of the Company 14 (Regassi Management SA)

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- Profit distribution of the Company 14 (Regassi Management SA)
- Profit distribution of the Company 14 and other payments to the shareholders and/or Respondents 1 – 6
- Agreements between the Company 14 and the Respondents

Unclear low income of the Respondent 1 from the licensing of rights to the Osho works:

31. In a different legal action known to the Respondents in Alicante/Spain<sup>8</sup> (referred to in the following as "trademark proceedings") the Respondent 5 and the auditor (Ronald Tanner) provided the following information in "witness statements" (see also quotes below from the witness statements):

- I. OIF (Respondent 1) owns and maintains archives of Osho:
  - 6500 Audio Discourse recordings
  - 1870 Video Recordings
  - 600 Approx. original book publications
- II. 220 Publishing houses in 80 different countries in the world have been granted publishing licences by OIF.
- III. 2000 Publishing contracts in 53 different languages are active around the world.
- IV. Total annual sales of Osho branded items are around 2 million, of which 1 million relate to sales in the EU alone.

32. The Respondent 5 explained verbatim as follows:

**Point 29.1:**

«OIF invested over UD\$ 1 million in the creation of the website [www.osho.com](http://www.osho.com). This figure is in addition to the value of substantial voluntary input and services with regards to translations and other work for the website which equates to several million dollars. The website is available in thirteen different languages and attracts 13 million visitors annually. The website contains the full range of OSHO publications on the Shop page including books, audio recordings, e-books, newsletter and the Osho Times, as well as Osho tarot cards, web casts and library.

To further highlight that the OSHO mark is acknowledged and recognized as a trade mark of OIF, I can say that OIF has over 200,000 e-subscribers to its online publications and archives offered on their website.»

**Point 35:**

«I refer to the Witness Statement of Ronald Tanner submitted into these proceedings demonstrating that in the first year following the re-branding the annual turnover from book and audio video royalties alone from OSHO branded publications was only €24,000. By 2010, this had increased to over SFr 1,049,312 (€820,000) a year.»

<sup>8</sup> Community Trade Mark Registration No 1224831 OSHO in Classes 41 & 42 in the name of Osho International Foundation ("OIF") - and - Application for Invalidation No 5063 thereto by Osho Lotus Commune e.V. (UApplicant').

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33. The auditor Ronal Tanner explained verbatim as follows:

**Point 3:**

«The worldwide licensing income received from royalties relating to the sale of sound and audio recordings and books increased from SFR 32,465 (approximately €24,000) in 1990 to SFR 1,049,312 (approximately €820,000) in 2010. The significant increase in royalty payment income from licensees of the OSHO trade mark reflects the increased promotional activities of the OSHO brand between 1990 and 2010. Approximately 40% of this figure relates to royalty income resulting from sales in the EU.»

**Pkt. 5:**

«For the past 20 years the foundation has financially supported related foundations, centers, and other entities with activities related to meditation services. Osho Verlag, Germany, Rebel Publishing, Germany, Rajneesh Times, Germany, Chidvilas Foundation, USA, Rajneesh Foundation, Australia, Osho Spiritual Health Foundation, Switzerland, Masterzone, United Kingdom, American Multi Media Corporation, USA (AMMC). The expenditure by the foundation in this role has been SFR 5,229,925 (approximately €3,900,000).

34. In an email dated 14 June 2013, the Respondent 2 also provided the following information (translated into German, original text in English):

- I. There are over 3,000 Osho licensed titles (books) in over 60 languages. Over the past 5 years, 300 – 400 new agreements were concluded every year; in 2012 alone, 378 new agreements were entered into despite the global publishing house crisis.
- II. There are over 292 English book titles incl. "inhouse osho media imprint"
- III. Over the past five years we sold over 8 million books ("units").

**Evidence:** Email dated 14 June 2014 of the Respondent 2

**Exhibit 21**

35. According to an article in the English newspaper "The Sunday Times", the estimated sales proceeds from Osho products are GBP 150 million/year (= CHF 225 million : exchange rate 1.0 GBP = 1.5 CHF):

Global sales of Osho books, magazines, CDs, DVDs and other materials, which are available in dozens of languages, are worth as much as £150 million a year, according to Mr Thakkar, who lived on the commune for 13 years. The land on which the commune sits in Koregaon Park, the richest enclave of Poona, is worth 1.6 billion rupees (£175 million).

**Evidence:** Article dated 27 January 2013 in the English newspaper "The Sunday Times"

## Exhibit 22

36. The above information in the trademark proceedings, in the email of 14 June 2013 of the Respondent 1 and in the article in the newspaper "The Sunday Times" are not reflected in the annual financial statements of the Respondent 1: the modest income of the Respondent 1 can in no way be made to correspond with the extensive business activities. The following questions arise in particular:
- I. Why is the total sum of the annual income of the Respondent 1 for the years 2010 to 2012 only CHF 0.6 – 0.87 million (Exhibits 6/1, 6/2 and 6/3; Fig. 2 and 4) although it provided its copyright to the works of Osho in return for payment for global, extensive business activities?
  - II. Why does virtually no income from the sale/licensing of books (see below Paragraph 37 f.) appear in the profit and loss statements of the Respondent 1 if such sales were made in the past five years to an extent of 8 million copies?

**Estimate of the income from books:**

Assuming an average selling price of CHF 10 per book and a usual royalty of 10%, the Respondent 1 must have achieved income from the sale of books in the years 2008 – 2013 of at least CHF 8 million (CHF 1.6 million per year) for 800,000 copies (which are not broken down in detail) totalling CHF 0.4 – 0.6 million/year are declared in the balance sheets up to 2011/2012. In 2012 the figure was only just under CHF 0.2 although this year was very successful according to the statements of the Respondent 1. In the 2012/13 balance sheet (Exhibit 6/4) CHF 8 (eight tranks) are shown from the sale of e-books.

- III. Where is the income in the balance sheets which was achieved with over 200,000 e-subscribers (for example from the download of texts, meditation music, films, apps)? The app, in particular, is designed in a very attractive manner (beautifully illustrated tarot cards) and will probably have hundreds of thousands of subscribers.
- IV. Where is the income in the balance sheets which is generated from courses, holiday offers, e.g. in India?
- V. Why did the Irish Company No. 1 handle the internet business with Osho products according to its website and stage Osho festivals (Exhibits 7/2 and 7/3), transferring an amount of only USD 2,000 to the Respondent 1 in the accounting period from 1.4.2012 to 31.3.2013, whilst transferring an amount of USD 251,521 in alleged royalties to the Company No. 2 which belongs to the Foundation Board President (Respondent 2) (Table 1, Companies No. 1 and 2)? What was the situation in the accounting period 2012/2013?

<sup>9</sup> With respect to the amount of royalties, see <http://en.wikipedia.org/wiki/Royalties>

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In particular no or unusually low royalty income from CD's and DVD's

37. It may furthermore be derived from the annual financial statements of the Respondent 1 (Exhibits 6) that in the periods 2009/2010 and 2010/2011 the Respondent 1 achieved absolutely no royalties (Royalties CD's and DVD's) from the DVD sales. In the period 2011/2012 it stated an income of only CHF 35,386. This figure was only CHF 14,985 (plus CHF 5,207 for DVD Master Fee) in the 2012/2013 period. By contrast, the rights to the Video Master archives (LTA VideoMast Arc) are stated at CHF 2.65 million in the balance sheet. It cannot be understood why such low or no royalties resulted from this.
38. In the above-mentioned trademark proceedings in Alicante/Spain the Respondent 5 and the auditor (Ronald Tanner) also reported in a "witness statement" that the income from licences ("royalties") in 2010 was CHF 1.049 million. It cannot be understood why the figures in the annual financial statements differ so greatly from the figures which were disclosed in the trademark proceedings.

No income from e-books:

39. Income of CHF 8 (eight francs, Exhibits 6/1 and 6/2) for royalties for the sale of e-books appears for the first time in the 2012/2013 period although the osho.com website sells a large number of e-books. This income also appears to be grotesquely low in the light of the above information.

**2.5 Intransparent transactions in the annual financial statements for 2010/2011 of the Respondent 1**

40. The balance sheet from the earlier annual financial statements of the Respondent 1 for 2010/2011 (above; Exhibit 6/3) is as follows:

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OSHO INTERNATIONAL FOUNDATION Bahnhofstrasse 62, 8001 Zurich Balance Sheet		
	30th September 2011 SFr	30th September 2010 SFr
<b>ASSETS</b>		
<b>Current Assets</b>		
Bank Accounts		
Bank Acc - Euro	238,064	112,541
Bank Acc - SFr	197,671	12,638
Bank Acc - STL	347	1,288
Bank Acc - USD	98,075	178,721
	<u>504,157</u>	<u>305,088</u>
<b>Debtors &amp; other Loans</b>		
Debtors	36,060	85
Withholding Tax - Bank Interest	111	-
Loan to AMMC - USD	1,489,854	1,586,633
Loan to Osho International Corp - USD	43,461	-
	<u>1,546,486</u>	<u>1,586,718</u>
<b>TOTAL Current Assets</b>	<b>2,052,643</b>	<b>1,891,804</b>
<b>Other Assets</b>		
<b>Intellectual Property &amp; Copyrights</b>		
LTA Arc BkTapes	191,177	191,177
LTA Copyrt Osho	1	1
LTA Copyrt Gizmo	1	1
LTA Inf&SndAchv	514,418	814,418
LTA Photo archive	152,941	152,941
LTA Trademarks	97,633	97,633
LTA Vid MastArc	2,650,004	2,650,004
LTA Web Site	42,850	42,850
	<u>3,749,025</u>	<u>3,749,026</u>
<b>TOTAL ASSETS</b>	<b>5,801,668</b>	<b>5,640,830</b>
<b>LIABILITIES</b>		
<b>Current Liabilities</b>		
Creditors	25,672	225,433
<b>TOTAL Current Liabilities</b>	<b>25,672</b>	<b>225,433</b>
<b>Other Liabilities</b>		
Loan	9,533,536	9,255,860
Loans Sfr - Regassl	212,816	197,088
Losses incurred to Date	4,070,356	4,137,549
<b>TOTAL Other Liabilities</b>	<b>5,675,996</b>	<b>5,315,397</b>
<b>TOTAL LIABILITIES</b>	<b>5,701,668</b>	<b>5,540,830</b>
<b>EQUITY</b>		
Foundation Capital	100,000	100,000
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>5,801,668</b>	<b>5,640,830</b>

Fig. 6 Balance sheet of the Respondent 1 for 2010/2011 (Exhibit 6/3)

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41. The profit and loss statement shows the following figures (Exhibit 6/3):

**OSHO INTERNATIONAL FOUNDATION**  
 Bahnhofstrasse 52, 8001 Zurich  
 Profit & Loss Statement for the period 1st Oct 2010 - 30th Sept 2011

	SFr 2011	SFr 2010
<b>INCOME</b>		
Interest Earned	318	54,057
Royalty Advances	147,188	108,610
Royalties	478,975	830,829
Sundry Income		10,159
Neutral Income	11,845	
<b>TOTAL INCOME</b>	<b>636,435</b>	<b>801,655</b>
<b>EXPENSES</b>		
Accountancy	19,074	19,300
Advertising		2,195
Agents Fees	50,456	41,850
Bank Chrg	1,788	3,047
Bad Debts		444,068
Consultants & Travel Exps	53,595	
Exchange Rate Variances		2,551
Interest	293,400	177,227
Legal & Prof. Fees	101,036	361,377
Office Services	9,183	7,335
Rights Management - London & USA		204,237
Stadt Zurich	1,004	178
Storage Fees	12,397	17,692
Trademark Expenses	17,292	
<b>TOTAL EXPENSES</b>	<b>589,242</b>	<b>1,280,909</b>
<b>PROFIT</b>	<b>SFr. 67,193</b>	<b>SFr. -479,254</b>

Fig. 7 Profit and loss statement of Respondent 1 for 2010/11 (Exhibit 6/3)

42. From 2010 to 2011 an amount of CHF 444,068 in "bad debts" were written off from the balance sheet of the Respondent 1. It cannot be seen from the balance sheet (Fig. 7) who was the debtor of this receivable. Bookkeeping of this nature which neglects assets is not compliant with the requirements of correct accounting. The Respondents must provide full transparency as to how and against whom this receivable arose, why it was written off and who benefited from this write off.
43. Although the amount of debt did not alter greatly from the 2010 financial year to 2011, the annual interest rose from CHF 177,277 to CHF 293,406 (+ 65%). The base interest rates dropped throughout the world in this period. The high interest payments cannot be understood. The Respondents must disclose the reason for the interest payments and to whom they were made. The loan agreements, in particular, must be disclosed here.



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**2.6 Irregularities in connection with the www.osho.com website of the Respondent 1**

44. The website of the Respondent 1 bears the domain name "www.osho.com". On every page of the website the Respondent 1 states that it is the owner of the website<sup>10</sup>. However, the website server is not located in Zürich but in Ireland<sup>11</sup> where the companies 1, 4, 8 and 9 are also domiciled. This makes it virtually impossible for the Respondent 1 to monitor the website. The Respondents must disclose the parties to the web hosting agreement and its content.

45. The page with the "Terms and Conditions"<sup>12</sup> is deliberately confusing. The introduction reads as follows:

"Please read this carefully because it sets out the terms of a legally binding agreement between you and OSHO International."

If the text is read to the end, it may be seen in the final part that these "Terms and Conditions" were not issued by the Respondent 1 but by the Company No. 1 (Table 1) domiciled in Ireland and that "legally binding agreements" may only be entered into with the latter. This also means that payments by persons purchasing products via the website flow directly to the Irish Company No. 1 which indirectly belongs to the Foundation Board President.

46. The confusion tactics continue: on the contact page of the website under the names Osho International, Osho Global and Osho International NY, the Indian Foundation (Company No. 7) and the address of Company No. 3 in New York are stated. The following is stated on the latter:

"Osho International New York is the international publishing headquarters for Osho's work, managed on behalf of OIF, Zurich. The company represents all works by Osho as a literary agency and administers the worldwide rights for the foundation. From New York, Osho International connects with publishers in more than 80 countries around the world where books are now available in more than fifty languages".

The fact that the Indian Foundation (Company No. 7) is still involved here may be derived from the fact that the prices for staying in the Indian meditation resort are stated in Rupees<sup>13</sup>. Here too, it would appear that payments of third parties for licence rights are only sent to Company No. 3 and not to the Respondent 1.

47. The impression is given that the revenue from all products and services sold via the website of the Respondent 1 are collected by other companies (in particular Companies 1, 3 and 7).

48. The modest financial revenues to Respondent 1 (see Exhibits 6/1, 6/2 and 7) indicate

<sup>10</sup> Copyright 2014, Osho International Foundation, Switzerland. All Rights Reserved.

<sup>11</sup> This can be determined using the IP number (54.229.55.135), for example with the search machine www.utrace.de.

<sup>12</sup> www.osho.com/terms-conditions

<sup>13</sup> See: <http://www.osho.com/visit/rates-offers/seasonal-rates>

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that the agreements between the Respondent 1 and its contracting partners (in particular Companies 1, 3 and 7) have not been drafted in accordance with the "arm's length" principle and that there is no exchange of services at arm's length. One particular question is where the high income from the "Osho" business fields goes.

### 3. Justification of the petitions

#### 3.1 Necessity to recall the Foundation Board Members (Petition 1).

49. In this case supervisory measures pursuant to Art. 84 (2) Swiss Civil Code (ZGB) and Art. 84a ZGB come into consideration.

#### Measures pursuant to Art. 84 ZGB:

50. Pursuant to Art. 84 ZGB, the Foundation Supervisory Body orders the necessary measures for the purposes of

- Securing the purpose of the Foundation;
- Maintaining the viability of the Foundation; and
- Observing the law<sup>14</sup>

51. The main purpose of the Respondent 1 for over 25 years has been to maintain and manage the Osho archive. The main purpose is compliant with the constitution, corresponds to the interpretation of the purpose of the Foundation Board (Paragraph 3 above) and the many years of activity of the Respondent 1. However, this main purpose can only be pursued for as long as the Respondent 1 is viable. The viability of the Respondent 1 is seriously jeopardised by the behaviour of the Members of the Foundation Board (Respondents 2 – 6) in many respects:

- 1.. Firstly, the Respondents 2 – 6 have created a type of group in which the core (Respondent 1) belongs to itself and the thick shell (Companies 1 – 16, without No. 3) of individual Members of the Foundation Board or third parties. Despite different economic entitlement to the companies and assets, both the core and the shell are managed and administered by the same people (Respondents 2 – 6). The available balance sheets and other circumstances (Chapter 2 above) indicate (something to be investigated by the Federal Supervisory Board for Foundations) that profit which would have been attributable to the Respondent 1 found its way to other recipients. The exorbitant excessive indebtedness of Respondent 1 (debts at the end of 2013: CHF 9.08 million) would have been promoted or even caused by the withdrawal of funds (which is still to be verified). The Respondents 2 – 6 can be reproached in that the nature of the group they have created engenders massive conflicts of interest, namely conflicts between the private interest of those Respondents who are involved in the Companies 1 – 16 and the

<sup>14</sup> See BSK ZGB I-Grüninger, Art. 84, N 1.

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- charitable interests of the Respondent 1. The investigation to be initiated will show whether and to what extent individual members of the Foundation Board enriched themselves at the expense of the Respondent 1. Irrespective of this, the Foundation Board is to be recalled because the group structure it has created is not compatible with the safeguarding of the interests of the Respondent 1.
- II. It may be derived from the balance sheet (6/1) that the Respondent 1 had debts in an amount of CHF 9.08 million as at the end of 2013. This is attributable almost entirely to a single creditor (Osho Multi Media Trust – OMMT, Company No. 15). It may be derived from the fact that OMMT has not so far initiated enforcement against Respondent 1 that OMMT must be a related organisation. The Respondent 1 has only been saved from filing for bankruptcy because OMMT has so far submitted letters of subordination (see audit reports in Exhibits 6/1 and 6/2). However, in actual fact this constellation means that the Respondent 1 is dependent on OMMT and is virtually at its mercy. Therefore, pursuing its constitutional charitable purposes and independent activity is greatly jeopardised if not impossible. If it were to be the case that one or a selection of Foundation Board Members are trustees of OMMT, they could manage the Respondent 1 like a marionette. The other Foundation Board Members would be powerless. If Foundation Board Members or companies controlled by them are settler, trustee or beneficiary of OMMT, further conflicts of interest arise which are incompatible with the office of the Foundation Board. For these reasons too, the Foundation Board must be recalled.
- III. The instatement of a trustee is also necessary to ensure annual financial statements and bookkeeping of the Respondent 1 which are in compliance with the law. The documents are subject to the principles of correct bookkeeping pursuant to Art. 957 ff. OR anyway in view of the sales revenues in excess of CHF 0.5 million/year. However, despite reminders from the Federal Supervisory Board for Foundations, the Respondent 1 has not managed to draw up correct annual financial statements. As demonstrated, this is evidently wrong (see Paragraph 22 f. above). Income has not been posted or has been posted only in part using which the loan to OMMT was redeemed in part (by CHF 0.64 million). In addition, the value adjustment with respect to the "AMMC loan" of CHF 1.47 million was made twice (in the account for 2011/2012 and 2012/2013). The disclosure of financial transactions of the Company No. 3 (Osho International Corp., New York) in full ownership of Respondent 1, namely detailed annual financial statements, have not been forthcoming for an assessment. The Respondent's accounting therefore breaches at least the principles of truth (Art. 957 (2) OR), clarity, completeness and materiality (Art. 958c (1) OR).
52. There may possibly be another reason for recall because the Respondents 2 – 6 have violated laws, particularly in the drafting of agreements and in particular in the awarding of licences for copyright, publication of Osho's books or Osho's work of art

between the Respondent 1 and the Companies 1 – 16 insofar as these agreements do not comply with the “arm’s length” principle, i.e. the mutual exchange of goods and services between independent parties. A detailed illumination of the financial transactions, asset and contractual relationships of the Respondent 1 will be necessary for this. The questions and irregularities set out in Chapter 2.2 to 2.6 will have to be clarified here in particular. This may possibly take years because the Respondents 2 – 6 are not cooperative. Their recall as Members of the Foundation Board may not, however, be made dependent on the outcome of this investigation because a recall is already necessary for other reasons (above) and the further existence of the Respondents 2 – 6 in the Foundation Board would greatly hamper the requisite investigation of transactions, if not make it impossible.

Measures pursuant to Art. 84a ZGB:

53. Measures pursuant to Art. 84a ZGB must be taken if the Foundation is excessively indebted based on a justified concern or can no longer satisfy its liabilities in the long term<sup>15</sup>.
54. The Respondent 1 is excessively indebted to a massive extent and it has not been possible to substantially reduce the debt in recent years. In 2010 the loan debts were CHF 9.25 million, as at 30 September 2013 CHF 9.08 million (Exhibits 6/1 and 6/3). Although the excessive indebtedness has been evident for years and the Supervisory Board for Foundations demanded restorative measures, the Respondents 2 – 6 have not reacted. The total assets dropped in the same period (2010 to 2013) from CHF 5.64 to 3.76 million. As at the end of November 2012, the excessive indebtedness was at least **CHF 5.3 million**.
55. The Foundation Board evidently was incapable of bringing about an effective rehabilitation. It must also be recalled (and replaced by a new Foundation Board) so that effective rehabilitation measures can be taken. These must in particular include an improvement in income. In view of the involvement of the Respondents 2 – 5 in the Companies 1 – 16, there is no prospect of them being in a position to do so. They are to be recalled for this reason, too.
56. At best Respondent No. 6 is to be excluded from the recall because he has been a Member of the Foundation Board for only a few months. If he can credibly demonstrate that he had no knowledge of the circumstances described here, neither exercised a function in the Companies No. 1 – 16 nor received payments from them, he can be considered when the Foundation Board is reinstalled.

Recall is proportionate:

57. No milder measure is evident to maintain or restore the viability of the Respondent 1 and to recall the Members of the Foundation Board.

<sup>15</sup> See BSK ZGB I-Grüniger, Art. 84, N 1.

Restricted recognition of the services of the Foundation Board, criticism of the trademark concept:

58. The Complainant is capable of a differentiated view. Whilst the recall of the Respondents 2 – 5 (possibly without 6) is necessary, he still assesses the work of the Members of the Foundation Board to maintain and care for the Osho archives and to develop a good website to be valuable. However, he cannot accept that the Respondents had "Osho" registered as a trademark and attempted by virtue of this trademark to introduce a type of global franchising system in order to control the hundreds of independent Osho centres and to levy a type of church tax on them. This approach was and is completely against the clear will of Osho. The Respondents know this. The "Osho" trademark was fortunately declared invalid in the USA in 2009 because in the view of the US authorities the term "Osho" is generic (usual, non-specific nature and therefore cannot be protected as a trademark<sup>16</sup>). The decision is still awaited in Europe (trademark proceedings in Alicante/Spain mentioned above). It was not a good idea of the Foundation Board to pursue this trademark concept because the movement derives energy from independence and a forced dogmatism with financial charges would have destroyed this.

Fake Osho will:

59. It is furthermore of particular significance for the Complainant that the Respondent 1 submitted an **alleged Osho will** in the trademark proceedings in Alicante/Spain which he is to have drawn up on 15 October 1989, only three months before his death. The alleged original signature in the will was, however, found on a letter of Osho from 1976 and is exactly the same.



Fig. 8 Signature of Osho in the alleged will of 15 October 1989

60. Four graphological appraisals confirm the identity of the signatures in the will of 1989 and in the letter of 1976. They unanimously determined that the signature of Osho in the alleged will was taken from the letter of 1976. In the will the Respondent 1 is named as sole heir of the entire assets of Osho. The Respondent 2 is appointed executor of the will and the Respondent 3 wishes to testify by a signature on an accompanying page to the will that he was personally present when Osho signed the will. The organisation "Osho Friends International" initiated civil law and criminal law proceedings against those persons who are responsible for the creation and submission of the will. Up to now these persons have not been in a position to submit

<sup>16</sup> UNITED STATES PATENT AND TRADEMARK OFFICE, Trademark Trial and Appeal Board, Osho Friends International v. Osho International Foundation, legally binding decision of 13 January 2009 (see <http://ttabvue.uspto.gov/ttabvue/v?pnam=Osho International Foundation>).

the original will as proof of its authenticity which could have eliminated the accusations. In the trademark proceedings in Alicante the lawyers of the Respondent 1 withdrew the Osho will which was submitted as an important piece of evidence after they were confronted with the graphological appraisal. The story has a connection with this complaint in that it questions the seriousness of the Foundation Board and therefore its ability to manage the Respondent 1 in compliance with the law.

### 3.2 Instatement of a new Foundation Board (Petition 2)

61. If the existing Foundation Board is relieved of its duties, suitable new individuals must be appointed as Members of the Foundation Board. They should be amenable to the ideas of Osho and be open to them so that they recognise the inestimably high value of the archives and guarantee their continued existence. They should also have knowledge of international publishing.
62. A main focus of the new Foundation Board must be debt rehabilitation insofar as these debts prove to be substantiated in the upcoming investigation and cannot be reduced or redeemed from retained payments. Discussions with the creditor Osho Multi Media Trust will be necessary here. It may also be necessary to conduct legal proceedings.

### 4. Reasons for the petitions for precautionary measures

#### 4.1 Suspension of the Members of the Foundation Board for the duration of the proceedings and instatement of trustee (Petition 1)

63. Since the decision on this complaint will take some time, the viability of the Respondent 1 in compliance with the laws must be ensured with suitable measures in the meantime. In addition, the financial transactions, asset and contractual relationships of Respondent 1, also in connection with the Companies No. 1 - 16 must be investigated forthwith. The immediate start of this work is necessary so as to secure any assets with third parties (including electronic data with Osho's works) and to interrupt any statute of limitations with respect to legal action for accounts receivable. An inadmissible outflow of funds must also be prevented.
64. It is evident that the Supervisory Board for Foundations cannot entrust this with the Respondents 2 - 6. It cannot be ruled out at the current time that there may even have been criminal activity. It may also be the case that the Respondent 1 must file legal action for repayment. If complaints or demands are directed at Members of the Foundation Board or companies they control, they would have to virtually take action against themselves. The Complainant therefore applies for the Respondents 2 - 6 to be suspended for the duration of the proceedings and that **a trustee be instated until a new Foundation Board is appointed**. The suspicions are sufficiently strong to take such a precautionary measure.

65. Since the trustee will have much work to do, it would appear important to select a person who has sufficient working capacity alongside pertinent knowledge.

**4.2 Immediately enforceable ex parte measures (*superprovisorische Maßnahme*): instructions to the debtors to block assets of the Respondent 1 (Petition 2)**

66. As may be seen from the last annual financial statements (Exhibits 6/1, assets), the Respondent 1 has accounts with Post Finance and Credit Suisse with assets of some CHF 317,485. This credit was CHF 634,604 one year earlier (2011/12). There was therefore a high outflow of funds in the 2012/13 financial year.
67. In his Petition 2 the Complainant requests a precautionary measure as immediately enforceable ex parte measure (without prior hearing of the Respondents) to instruct the debtors of the Respondent 1, in particular the banks "Post Finance" and "Credit Suisse", to refrain from paying out or transferring any funds to the Respondent or other persons until a contrary order from the Supervisory Board for Foundations has been received.
68. In accordance with prevailing theory and practice, the Supervisory Board for Foundations can instigate immediately enforceable ex parte measures at its due discretion, particularly to secure assets. This also includes instructions to the debtors of the Foundation<sup>17</sup>.
69. There is also a substantial urgency for an order of this type. As demonstrated, there was a strong outflow of funds in the 2012/13 financial year. It appears possible that the Respondent 1 will suddenly use its entire liquidity to redeem its (alleged) debts towards Osho Multi Media Trust (OMMT); particularly if it finds out about the proceedings of the Supervisory Board for Foundations. It is not currently known who is the settlor, trustee and beneficiary of OMMT (see above Paragraph 20 f.). If the settlor or beneficiaries of OMMT are persons related to the Foundation Board, the Foundation Board could be inclined to secure its funds or future claims (beneficiaries) or possibilities of returning assets (settlor) insofar as and for long as this is still possible.
70. The precautionary blocking of assets is also required to avoid any other outflows of liquidity. It will be the task of the trustee to examine all claims for their compliance with the law and to settle justified accounts receivable in agreement with the Supervisory Board for Foundations.

**4.3 Revocation of the suspensory effect of any appeal (Petition 3)**

71. The suspensory effect of any possible appeal against the precautionary measures

<sup>17</sup> Hans Michael Riemer, Vereins- und Stiftungsrecht, Stämpflis Handkommentar, Art. 84 ZGB, N 15 with notes.

(Petition 1 and 2) must be revoked. Any such order can also refer to the preliminary instance (Federal Supervisory Board for Foundations)<sup>18</sup>.

72. A revocation of the suspensory effect is indicated in accordance with the practice of the Federal Court if there are convincing reasons for this<sup>19</sup>. This is the case here. If the existing Foundation Board (Respondents 2 – 6) continues to operate, then not only the viability and urgently necessary rehabilitation of Respondent 1 would be endangered. Rather, the danger also exists that periods for legal action against third parties or the Respondents 2 – 6 could not be observed in good time and that claims would become statute barred. There is also the danger that assets with third parties could be made inaccessible to the Respondent 1. The Respondent 1 would sustain serious disadvantages from this. From a correct point of view, the Respondent 1 has a great interest in the revocation of the suspensory effect of a complaint. There is also a great public interest (constitutional interest) in restoring order with respect to the Respondent 1.
73. By contrast, the Respondents 2 – 6 cannot assert any substantial private interest for a continued office on the Foundation Board during the proceedings. In particular, they have no legal interest in the Respondent 1 continuing to grant the Companies 1 – 15 they control licence rights and works of Osho for exploitation. According to the above statements, the prospects of success in the main proceedings must also be assessed as "good", which is why the revocation of the suspensory effect of a complaint against the precautionary measures is to be affirmed also under consideration of this aspect.

Finally, I request you to admit the complaint.

With kind regards

Dr Hans Maurer

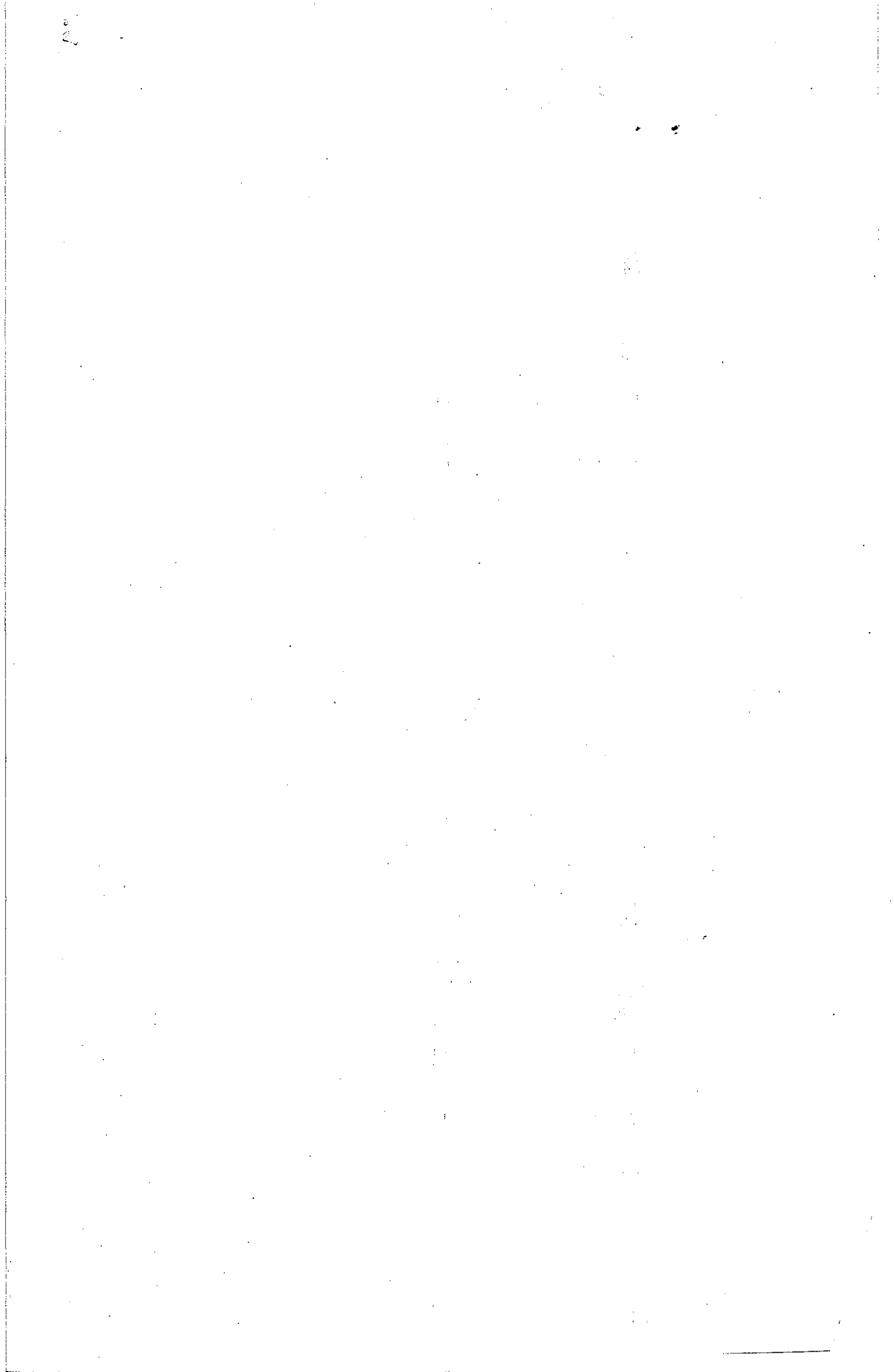
**Exhibits in accordance with a separate list**

**In duplicate**

<sup>18</sup> Kölz, Häner, Bertschi, *Verwaltungsverfahren und Verwaltungsrechtspflege des Bundes*, 3rd Edition, Zürich 2013, N 1073.

<sup>19</sup> BGE 129 II 286 E. 3.2; see also Kölz, Häner, Bertschi, *loc.cit.*, N 1076.





IN THE HIGH COURT OF JUDICATURE AT  
BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2150 OF 2016

Yogesh Natwerlal Thakkar

..Petitioner

V/s.

1. State of Maharashtra & Ors.

..Respondents

ADDITIONAL AFFIDAVIT ON BEHALF OF THE  
PETITIONER

-----  
Dated this 8<sup>th</sup> day of January, 2018

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