



SCANNED

**REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY**

THE ESTATE OFFICER, KOLKATA PORT TRUST
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971
1st Floor, 6, Fairlie Place Warehouse,
Kolkata-700001

Court Room At the 1st Floor
6, Fairlie Place Warehouse
Kolkata- 700 001.

REASONED ORDER NO. 13 DT 07.11.19
PROCEEDINGS NO.1236 OF 2011

BOARD OF TRUSTEES OF THE PORT OF KOLKATA
-Vs-
M/s. Kidderpore Hard Coke Company

F O R M - "B"

**ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC
PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **M/s. Kidderpore Hard Coke Company of 152, Harish Mukherjee Road, Kolkata-700025 And Also Chetla Railway Siding, Plot No. 39 (K.P. Dock), Kolkata-700027** is in unauthorized occupation of the Public Premises specified in the Schedule below:

REASONS

1. That O.P. has failed to file reply to the Show Cause Notice/s in spite of sufficient chances and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P., demanding possession dated 18.04.2006.
2. That O.P. has defaulted in payment of monthly rent and taxes and the accrued interest thereon, has unauthorisedly parted with the possession of the premises to the rank outsiders and has erected construction unauthorisedly upon KoPT's premises in violation of the terms and conditions of the tenancy and without having any authority under law.
3. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
4. That the Quit notice dated 18.04.2006 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties and O.P's occupation into the Public Premises has become unauthorised in view of Sec.2(g) of the P.P. Act.
5. That O.P. is liable to pay damages for wrongful enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

Please see on reverse

A copy of the Reasoned Order No. **13 DT.** 7.11.19 is attached hereto which also forms a part of the reasons.

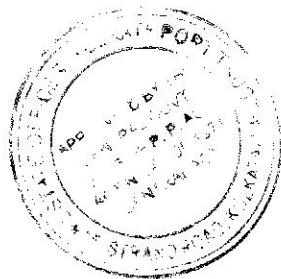
NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **M/s. Kidderpore Hard Coke Company of 152, Harish Mukherjee Road, Kolkata-700025 And Also Chetla Railway Siding, Plot No. 39 (K.P. Dock), Kolkata-700027** and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises within 15 days of the date of publication of this order. In the event of refusal or failure to comply with this order **M/s. Kidderpore Hard Coke Company of 152, Harish Mukherjee Road, Kolkata-700025 And Also Chetla Railway Siding, Plot No. 39 (K.P. Dock), Kolkata-700027** and all other persons concerned are liable to be evicted from the said premises, if need be, by the use of such force as may be necessary.

SCHEDULE

The piece or parcel of land msg. about 123.186 Sq.m or thereabouts is situate within the said Trustees Property known as Chetla Station Yard, P.S. New Alipore, Now P.S.- Chetla, District- 24 Parganas, Registration District- Alipore under Plate No. D-454. The said piece and parcel of land is bounded On the North by the said Trustees' Nikashi drain on the east by the said Trustees land leased to Sri Janardan Prosad Singh, On the South by the said Trustees strip of open land used as passage alongside the Trustees Railway Siding and On the West by the said Trustees land leased to Banerjee Bros.

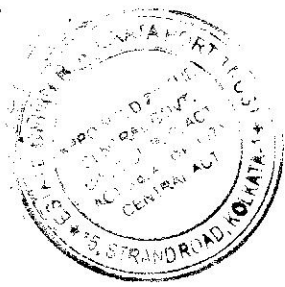
Trustees' means the Board of Trustees' for the Port of Kolkata.

Dated: 11/11/19




Signature & Seal of the
Estate Officer.

**COPY FORWARDED TO THE ESTATE MANAGER/CHIEF LAW OFFICER,
Kolkata Port Trust for information please.**



**REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY**

THE ESTATE OFFICER, KOLKATA PORT TRUST
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central
Act)

Public Premises (Eviction of Unauthorized Occupant) Act 1971
1st Floor, 6, Fairlie Place Warehouse,
Kolkata-700001

Court Room At the 1st Floor
6, Fairlie Place Warehouse

Form " E"

PROCEEDINGS NO.1236/R OF 2011
ORDER NO.13 DATED: 7.11.19

Form of order under Sub-section (1) and (2A) of Section 7 of the Public
Premises (Eviction of Unauthorised Occupants) Act,1971

To
M/s. Kidderpore Hard Coke Company,
152, Harish Mukherjee Road,
Kolkata-700025.
And Also
Chetla Railway Siding,
Plot No. 39 (K.P. Dock),
Kolkata-700027.

WHEREAS you are in occupation of the public premises described in
the Schedule below. (Please see on reverse).

AND WHEREAS, by written notice dated 11.01.2018 you were called
upon to show cause on/or before 05.04.2018 why an order requiring you to
pay a sum of Rs.1,58,794/- (Rupees One Lakh Fifty Eight Thousand Seven
Hundred and Ninety Four only.) being the rent payable together with
compound interest in respect of the said premises should not be made;

And whereas you have not made any objections or produced
any evidence before the said date.

PLEASE SEE ON REVERSE

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 7 of the Public Premises(Eviction of Unauthorised Occupants) Act 1971, I hereby require you to pay the sum of Rs.1,58,794/- (Rupees One Lakh Fifty Eight Thousand Seven Hundred and Ninety Four only.) for the period 01.06.1988 to 17.05.2006 to Kolkata Port Trust by 10.10.2019.

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest at the rate of 15% per annum upto 18.09.1996 and thereafter @18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazettee/s as per Kolkata Port Trust's Rule.

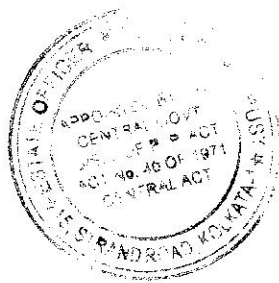
In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.

SCHEDULE

The piece or parcel of land msg. about 123.186 Sq.m or thereabouts is situate within the said Trustees Property known as Chetla Station Yard, P.S. New Alipore, Now P.S.- Chetla, District- 24 Parganas, Registration District- Alipore under Plate No. D-454. The said piece and parcel of land is bounded On the North by the said Trustees' Nikashi drain on the east by the said Trustees land leased to Sri Janardan Prosad Singh, On the South by the said Trustees strip of open land used as passage alongside the Trustees Railway Siding and On the West by the said Trustees land leased to Banerjee Bros.

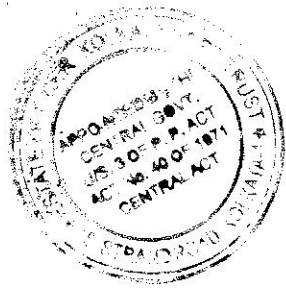
Trustees' means the Board of Trustees' for the Port of Kolkata.

Dated: 11/11/19



Signature and seal of the

Estate Officer.



**REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY**

THE ESTATE OFFICER, KOLKATA PORT TRUST
(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971
1st Floor, 6, Fairlie Place Warehouse,
Kolkata-700001

Form G

Court Room At the 1st Floor
6, Fairlie Place Warehouse
Kolkata- 700 001.

PROCEEDINGS NO.1236/D OF 2011
ORDER NO. 13 DATED: 7.11.19

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

M/s. Kidderpore Hard Coke Company

Form of order under Sub-section (2) and (2A) of Section 7 of the Public
Premises (Eviction of Unauthorised Occupants) Act, 1971

To
M/s. Kidderpore Hard Coke Company,
152, Harish Mukherjee Road,
Kolkata-700025.
And Also
Chetla Railway Siding,
Plot No. 39 (K.P. Dock),
Kolkata-700027.

Whereas I, the undersigned, am satisfied that you are in unauthorised
occupation of the public premises mentioned in the Schedule below:

And whereas by written notice dated 11.01.2018 you were called upon
to show cause on/or before 05.04.2018 why an order requiring you to pay
damages of Rs.6,43,092.73/- (Rupees Six Lakhs Fourty Three Thousand
Ninety Two and seventy Three paise only.) together with compound interest for
unauthorised use and occupation of the said premises, should not be made.

And whereas you have not made any objections or produced any
evidence before the said date.

Now, therefore, in exercise of the powers conferred on me by Sub-section
(2) of Section 7 of the Public Premises(Eviction of Unauthorised Occupants) Act
1971, I hereby order you to pay the sum of Rs.6,43,092.73/- (Rupees Six
Lakhs Fourty Three Thousand Ninety Two and seventy Three paise only.) for
the period 18.05.2006 to 30.06.2017 assessed by me as damages on account
of your unauthorised occupation of the premises to Kolkata Port Trust by
20.11.2019.

PLEASE SEE ON REVERSE

::2::

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay simple interest @18% per annum upto 06.04.2011 and thereafter @ 14.25% per annum on the above sum till its final payment in accordance with Kolkata Port Trust Notification Published in Calcutta Gazettee/s as per Kolkata Port Trust's Rule.

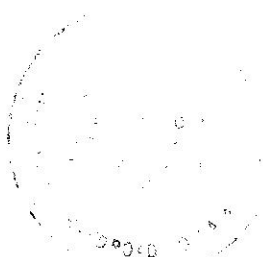
In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue.


SCHEDULE

The piece or parcel of land msg. about 123.186 Sq.m or thereabouts is situate within the said Trustees Property known as Chetla Station Yard, P.S. New Alipore, Now P.S.- Chetla, District- 24 Parganas, Registration District- Alipore under Plate No. D-454. The said piece and parcel of land is bounded On the North by the said Trustees' Nikashi drain on the east by the said Trustees land leased to Sri Janardan Prosad Singh, On the South by the said Trustees strip of open land used as passage alongside the Trustees Railway Siding and On the West by the said Trustees land leased to Banerjee Bros.

Trustees' means the Board of Trustees' for the Port of Kolkata.

Dated: 11/11/11




Signature and seal of the
Estate Officer.



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act 1971

Proceedings No. 1236, 1236/R-D Of 2011 Order Sheet No. 9

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

^{VS}
M/s. Kidderpore Hard Coke Company.

13
07.11.19

FINAL ORDER

The instant proceedings No. 1236, 1236/R and 1236/D of 2011 arises out of the application bearing No. Lnd.3184/125/06/6845 dated 07.09.2006 filed by the Kolkata Port Trust (KoPT), the applicant herein, praying for an order of eviction and recovery of dues, compensation/damages and other charges etc. along with accrued interest in respect of the public premises as defined under Schedule- 'A' of said application, against M/s Kidderpore Hard Coke Company, the O.P herein, under relevant provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

The fact of the case in a nutshell is that the O.P. came into occupation as a short term lessee of the port property measuring 123.186 sq.mtrs. or thereabout at Chetla Station Yard (under Plate No. D 454) in the Presidency Town of Kolkata, morefully described in the Schedule 'A' of the KoPT's application dated 07.09.2006. The allegations levelled by KoPT against the O.P is that the O.P has defaulted in payment of monthly rent and taxes and the accrued interest thereon, has unauthorisedly parted with the possession of the premises to the rank outsiders and has erected unauthorised construction on KoPT's land in gross violation of the terms and conditions of the tenancy. It is the case of KoPT that the tenancy with the O.P. was determined w.e.f. 18.05.2006 in terms of the Notice to Quit dated 18.04.2006 and the O.P. failed and neglected to vacate/ hand over the possession of the premises after service of the said Notice to Quit.

Considering the submission advanced by KoPT and the documents on record, Notice/s to Show Cause all dated 12.03.2018 under section 4 and 7 of the Public Premises (Eviction of Unauthorized Occupation) Act, 1971 and the Rules made thereunder were issued by this forum to O.P. The Notice/s were issued in terms of the said provisions of the Act calling upon the O.P. to appear before this forum in person or through authorized representative capable to answer all material questions in connection with the matter along with the evidence which the opposite party intends to produce in support of the Cause shown as to why an Order of eviction and/ or Order of payment of rent and /or Order

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER
PAGE 10 OF 10 ESTATE OFFICER

KOLKATA PORT TRUST

[Signature]
ESTATE OFFICER
KOLKATA PORT TRUST

Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971



Proceedings No. 1236, 1236 R-D Of 2011 Order Sheet No. 10

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/s. Kidderpore Hard Coke Company.

13

7.11.19

requiring payment of damages together with interest should not be made.

The said notices were served through 'Speed Post' to the recorded addresses of O.P. at 152, Harish Mukherjee Road, Kolkata- 700025 and also at Chetla Railway Siding, Plot No. 39 (K.P.Dock) Kolkata - 700 027. It appears that the Notice/s sent to the above recorded addresses of O.P. were returned undelivered by the Postal Department with the remarks 'not known' and 'left'. The Notice/s were also sent to the occupation of O.P. at Chetla Railway Siding, Plot No. 39 (K.P.Dock) Kolkata - 700 027 through hand delivery and it appears from the report of the Process Server dated 20.03.2018 that the O.P. was not found at the address. However, from the report of the Process Server dated 20.03.2018 it appears that copy of the Notice/s have been affixed on the said premises on 20.03.2018 in terms of the provisions of the Act and the Rules made thereunder. On the day fixed for appearance and filing of reply to the Show Cause by the O.P., none appeared on behalf of O.P. before this forum. Thereafter a newspaper publication was made in the Kolkata edition of 'The Times of India' on 05.05.2018 for a Notice to all concerned fixing the date of hearing/evidence on 24.05.2018. Finally as the O.P failed to appear on 24.05.2018 the final Order was reserved in the matter.

Now, while passing the Final Order, I have carefully considered the documents on record and the submissions of KoPT. It is a settled question of law that a lessee like O.P. cannot claim any legal right to hold the property after expiry of the period as mentioned in the Notice of Ejectment. None appears on behalf of O.P. to satisfy this Forum about any consent on the part of KoPT in occupying the public premises. Rather it is a case of KoPT that by notice dated 18.04.2006, O.P. was directed to hand over possession of the premises to KoPT. A letter /notice issued in official course of business has definitely got an evidentiary value unless there is material, sufficient to contradict the case of KoPT on the basis of such letter. Further, I am consciously of the view that KoPT never recognized O.P. as a lawful user/tenant in respect of the property in question after expiry of the period mentioned in the Notice to Quit dated 18.04.2006. As per Section 2 (g) of the P. P. Act the "unauthorized

Office of
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
Office of the
Assistant
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Casings No. 1236, 1236) R-D Of 2011 Order Sheet No. 11

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/s. Kiddenpore Hard Lake Company

13

7.11.19

occupation", in relation to any Public Premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever. Further, as per the Transfer of Property Act, a lease of immovable property determines either by efflux of time limited thereby or by implied surrender or on expiration of notice to determine the lease or to quit or of intention to quit, the property leased, duly given by one party to another. It is a settled question of law that O.P. cannot claim any legal right to hold the property after expiry of the period mentioned in the Notice to Quit dated 18.04.2006, without any valid grant or allotment from KoPT's side.

Further, as there is no reply to the Show Cause notice issued u/s 4 and u/s 7 of the Act inspite of sufficient chances provided to the O.P., I am left with no other alternative but to issue order of eviction u/s 5 of the Act against O.P. on the following grounds/reasons :-

1. That O.P. has failed to file reply to the Show Cause Notice/s inspite of sufficient chances and as such, there is nothing to disbelieve KoPT's contention regarding service of Quit notice to O.P., demanding possession dated 18.04.2006.
2. That O.P. has defaulted in payment of monthly rent and taxes and the accrued interest thereon, has unauthorisedly parted with the possession of the premises to the rank outsiders and has erected construction unauthorisedly upon KoPT's premises in violation of the terms and conditions of the tenancy and without having any authority under law.
3. That O.P. has failed to bear any witness or adduce any evidence in support of their occupation as "Authorized Occupation" despite sufficient chances.
4. That the Quit notice dated 18.04.2006 as served upon O.P. by the Port authority is valid, lawful and binding upon the parties and O.P's occupation into

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST

[Signature]
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises
(Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1236, 1236/R-D Of 2011 Order Sheet No. 12

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/s. Kilderspore Hard Loke Company.

13

7.11.19.

the Public Premises has become unauthorised in view of Sec.2(g) of the P.P. Act.

5. That O.P. is liable to pay damages for wrongful enjoyment of the Port Property in question upto the date of handing over of clear, vacant and unencumbered possession to the Port Authority.

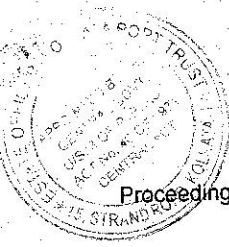
ACCORDINGLY, formal order of eviction u/s 5 of the Act as per Rule made there-under, is drawn giving 15 days' time to O.P. and any person/s whoever may be in occupation, to vacate the premises. I make it clear that all person/s, whoever may be in occupation, are liable to be evicted by this order and the Port Authority is entitled to claim damages for unauthorized use and enjoyment of the property against O.P. in accordance with the Law, up to the date of recovery of unencumbered possession of the same.

KoPT is directed to submit a comprehensive status report of the Public Premises in question on inspection of the property after expiry of the 15 days as aforesaid so that necessary action could be taken for execution of the order of eviction u/s 5 of the Act, as per Rule made under the Act.

Regarding payment of rental dues to KoPT, I must say that Rs. 1,58,794/- as claimed by the Port Authority in relation to the Plate in question, is correctly payable by O.P. for the period 01.06.1988 to 17.05.2006 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the aforesaid sum to KoPT by 15.10.2019. O.P. shall be liable to pay simple interest @ 15% per annum upto 18.09.1996 and thereafter @ 18% per annum till 06.04.2011 and thereafter @14.25% per annum on the above sum from the date of incurrance of liability till its final payment in accordance with the relevant notification/s published in Official Gazette. The formal order u/s 7 of the Act is signed accordingly.

In my opinion KoPT's claim for damages from 18.05.2006 to 30.06.2017 for Rs. 6,43,092.73/- against Plate No. D-454 (excluding interest for delayed payment) for wrongful occupation may be payable by O.P. as it is gathered in course of hearing that the charges so claimed by KoPT is on the basis of the Schedule of Rent Charges published

A



By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST
TO M/s. KILDERSPORE HARD LOKE COMPANY
OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971



Proceedings No. 1236, 1236/R-D Of 2011 Order Sheet No. 13

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

VS

M/s. Kidderspore Harad Coke Company

13

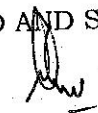
7-11-19

under the Authority of Law as per provisions of the Major Port Trusts Act 1963. In course of hearing, I find that KoPT has made out an arguable claim against O.P., founded with sound reasoning. I make it clear that Kolkata Port Trust is entitled to claim damages against O.P. for unauthorized use and occupation of the public premises upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law and KoPT is entitled to claim interest upon dues/charges right from the date of incurrence of liability by O.P. as per KoPT's Rule.

NOW THEREFORE, I hereby assess the damages payable by the O.P. for wrongful and unauthorised occupation of the public premises in question, for the period 18.05.2006 to 30.06.2017 as Rs 6,43,092.73/- (principal amount). In terms of Section 7 (2-A) of the PP Act, 1971, such dues attract simple interest @ 18% per annum till 06.04.2011 and thereafter @14.25% per annum on the above sum with effect from the date of incurrence of liability, till its final payment in accordance with Notification Published in Official Gazette/s. I sign the formal order u/s 7 (1) & (2-A) of the Act. I make it clear that in the event of failure on the part of O.P. to pay the amount to KoPT as aforesaid, Port Authority is entitled to proceed further for recovery of its claim in accordance with law.

I also make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for recovery of possession in accordance with law. All concerned are directed to act accordingly.


GIVEN UNDER MY HAND AND SEAL


(A. K. SARKAR)
ESTATE OFFICER

*** ALL EXHIBITS AND DOCUMENTS
ARE REQUIRED TO BE TAKEN BACK
WITHIN ONE MONTH FROM THE DATE
OF PASSING OF THIS ORDER ***

By Order of:
THE ESTATE OFFICER
KOLKATA PORT TRUST

CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
KOLKATA PORT TRUST


OFFICE OF THE ESTATE OFFICER
KOLKATA PORT TRUST

