

IN THE DISTRICT COURT OF COLOMBO

NIHAL SRI AMERESEKERE, of No.167/4, Sri Vipulasena
Mawatha, Colombo 10.

PLAINTIFF

No.3155/Spl.

- VS -

1. MITSUI AND COMPANY LIMITED, a Company organized and existing under the Laws of Japan and having the Principal Place of business at 2-1, Ohtemachi 1-Chome, Chiyoda-Ku, Tokyo, Japan and having a Liaison office and/or a Place of business in Sri Lanka at No.315, Vauxhall Street, Colombo 02.
2. TAISEI CORPORATION, a Company organized and existing under the Laws of Japan and having the Principal place of business at 25-1, Nishi-Shinjuku 1-chome, Shinjuku-ku, Tokyo, Japan and having a Liaison Office and/or Place of business in Sri Lanka at No.65, High Level Road, Maharagama and presently of Colombo Hilton Hotel, Echelon Square, Colombo 1.
3. KANKO KIKAKU SEKKEISHA YOZO SHIBATA & ASSOCIATES, Architects & Designers, a corporation duly organized under the Laws of Japan and having the Principal place of business at No.9, Mori Building, 1-2-2, Atago, Minato-ku, Tokyo, Japan.
4. HOTEL DEVELOPERS (LANKA) LIMITED, formerly known as LANKA JAPAN HOTELS LIMITED, and of No.16, Alfred Place, Colombo 03, with an Operational Office at 1000, Echelon Square, Colombo 1.
5. CORNEL LIONEL PERERA, Chairman/Managing Director, Hotel Developers (Lanka) Limited, of 16, Alfred Place, Colombo 03.
6. FREDERICK GERMAIN NOEL MENDIS, Director, Hotel Developers (Lanka) Limited, and of No.51/3, Dharmapala Mawatha, Colombo 03.
7. KAIRSHASP NARIMAN CHOKSY, Director, Hotel Developers (Lanka) Limited, of 23/2, Sir Ernest de Silva Mawatha, Colombo 07.
8. DON PETER SEVERINUS PERERA, Director, Hotel Developers (Lanka) Limited, of No.696/2, Havelock Road, Colombo 06.
9. KAZUTAKA KOBOL, Director of Hotel Developers (Lanka) Limited, and of 6-38, Fujimicho, Chigasaki, Kasagawa, Japan.
10. KANAPATHIPILLAI SHANMUGALINGAM, Director, Hotel Developers (Lanka) Limited, and of No.4, Ramakrishna Avenue, Colombo 06 and presently of 75 1/1, Isipatana Mawatha, Colombo 5.
11. KOJI ITO, Director of Hotel Developers (Lanka) Limited, and presently of No.315, Vauxhall Street, Colombo 02.

DEFENDANTS

To: The 1st & 2nd Defendants abovenamed

(To be served through their registered Attorney-at-law Mr. Razmara Abdeen, 15 Belmont Street, Colombo 12.)

Interrogatories on behalf of the Plaintiff abovenamed for the examination of the 1st & 2nd Defendants abovenamed

In terms of Section 94 of the Civil Procedure Code, you are required to Answer all of the following interrogatories within ten days of the service of the same on you:

1. Do you admit, that you were also Promoters named in the Prospectus of the 4th Defendant Company abovenamed and signatories thereto, through your authorised signatories ? If not, why not ?
2. Do you admit, that the said 4th Defendant Company cannot constitute a valid General Meeting of its Shareholders and/or its Board of Directors without the presence of your Representative and/or Nominee Director ? If not, why not ?
3. Do you admit, that the said 4th Defendant Company under Article 129 of the Articles of Association of the 4th Defendant Company cannot make any decisions and/or pass any resolutions at Meetings of its Board of Directors, without the affirmative vote of your Nominee Director ?
4. Do you admit, that the said 4th Defendant Company's Accounts for the Year ended 31.03.90 was adopted by its Board of Directors at your instance, by the invocation of the powers under Article 129 of its Articles of Association ? If not, why not ?
5. Do you admit, that at all times material to this Action, that you had your representative functioning as the full-time resident Executive Director of the said 4th Defendant Company, fully in charge of its day to day administration, management and affairs ? If not, why not ?
6. Do you admit that through such Executive Director, who was your representative, you were directing and instructing the 3rd Defendant abovenamed, as the Architect of the Colombo Hilton Hotel Project ? If not, why not ?
7. Was not the said 3rd Defendant professionally and contractually bound and required to direct and supervise the correctness of your very own work as Contractors/Suppliers of the said Colombo Hilton Hotel Project ? If not, why not ?
8. Were queries raised by the Plaintiff in 1987 on the correctness of the number of Guest Rooms in the Colombo Hilton Hotel built by you after the said Hotel opened for operations ?
9. Do you admit, that you objected to and prevented an independent examination and physical verification of the Colombo Hilton Hotel by an independent Engineer prior to the said 3rd Defendant issuing its Final Certificate ?
10. Do you admit, that the 7th Defendant abovenamed supported you in such objection by his Letter dated 08.08.88 ? If not, why not ?
11. Do you admit, that such an independent examination was called for, by Mr. M.T.L. Fernando, Chartered Accountant, Precedent Partner of Ernst & Young, in his capacity as a Government Nominee Director ?
12. Do you admit that no such independent examination, as called for as aforesaid, was ever carried out ? If not, why not ?

13. Do you admit, that the Plaintiff pointed out discrepancies in the number of Guest Rooms and Floors at the Meetings of the said 4th Defendant Company's Board of Directors and at the Meetings at the Ministry of Finance, at which Meetings you were present through your representatives?
14. Do you admit, that the Construction Agreement to build the said Colombo Hilton Hotel specified, inter-alia, 22 Storeys ?
15. Do you admit, that in the Monthly Reports on the progress of construction of the same, signed and submitted by you and certified also by the said 3rd Defendant, the Architects, you have admitted, as so certified, that the number of Storeys in the said Colombo Hilton Hotel was only 20 ?
16. Did you through your representatives participate in discussions and/or deliberations at the Board Meetings of the said 4th Defendant-Company, when matters pertaining to this Action were being discussed, deliberated and considered ?
17. Should you not have so participated, through your representatives at such discussions and deliberations, in so far as you were party defendants to this Action, and whose interests were in conflict with the interests of the said 4th Defendant Company ? If not, why not ?
18. Do you admit that your aforesaid participation at such discussions and deliberations through your representatives at the said 4th Defendant Company's Board Meetings, prejudicially influenced and inhibited independent evaluation of the interests of the 4th Defendant Company ? If not, why not ?
19. Did you and/or your representatives and/or agents receive a copy of the Answer of the said 4th Defendant-Company, prior to it being filed in this Action in Court ?
20. If so, from whom did you and/or your representatives and/or agents receive a copy of such Answer of the said 4th Defendant Company ?
21. Did you and/or your representatives and/or agents, in any way comment and/or have discussions and/or otherwise assist in the preparation of the said Answer filed by the said 4th Defendant-Company in this Action ? If so with whom and so assist whom ?
22. Did you and/or your representatives and/or agents discuss matters pertaining to such said Answer, with the representatives/officials of the 4th Defendant-Company and/or any of its Directors, other than your own representatives, prior to and/or after filing of the said Answer in this Action ? If so, with whom ?
23. Did you and/or your representatives participate at discussions and/or deliberations at the Board Meetings of the said 4th Defendant-Company, when the matter of the said Answer of the said 4th Defendant Company was discussed, deliberated and considered ?
24. Did you, for the purpose of formulating the Answer of the said 4th Defendant-Company, give instructions to the said 4th Defendant-Company, on the conduct and actions of your representatives, who had functioned as the Executive Directors of the said 4th Defendant-Company ?
25. Did you have negotiations with Officials/Representatives of the said 4th Defendant-Company and/or with Officials/Representatives of the Government of Sri Lanka, and offer rebates and/or write-offs on your alleged claims, during the currency of the Enjoining Orders and/or Interim Injunctions issued and pending in this Action ? If so, with whom and in whose presence?
26. Do you admit, that in or about February '90, that the Ministry of Finance required of you a 30% write-off on the original loan principal/capital ?

27. Do you admit, that the Ministry of Finance, at the very same time raised queries on the shortfall in the number of Hotel Guest Rooms, as per the Prospectus and the Profitability Forecasts and Cash Flow Projections prepared and submitted by you, the 1st Defendant, on the basis of 452 Hotel Guest Rooms?
28. Were not the State Guarantees referred to in the Plaint in this Action given on the basis, inter-alia, of your said Profitability Forecasts and Cash Flow Projections showing the repayment ability on the Loans ? If not, on what basis ?
29. Do you admit, that the aforesaid requirement of a 30% write-off, in such context, on the original loan principal/capital was conveyed to your representatives and/or agents at the Ministry of Finance in or about February '90, in the presence of the Board of Directors of the 4th Defendant-Company ?
30. Do you admit, that the said requirement of write-off of 30% on the original loan principal/capital was further confirmed at the subsequent discussions had at the Ministry of Finance in or about March '90, at which discussions your representatives were present together with some of the Directors of the said 4th Defendant Company ?
31. Do you admit, that the query on the material shortfall in the number of Hotel Guest Rooms i.e. from 452 to 387 Hotel Guest Rooms was further confirmed at the Ministry of Finance in or about March '90 whereat your representatives were present, together with some of the Directors of the said 4th Defendant Company ?
32. Do you admit, that your Representatives were informed by the Ministry of Finance, at the said discussions at the Ministry of Finance in or about March '90, that the said State Guarantees had been given on the basis of Profitability Forecasts & Cash Flow Projections computed on the basis of 452 Hotel Guest Rooms ?
33. Do you admit, that your Representatives were informed by the Ministry of Finance at the aforesaid discussions that any deviation from the aforesaid original position would affect the Government's position ?
34. Did not the Plaintiff raise objections to the payment of any monies to you at the Board Meetings of the said 4th Defendant Company in November '89 & December '89, until certain categorical clarifications were received from the Architects the said 3rd Defendant ? If not, what did the Plaintiff state ?
35. Did not the Plaintiff at the same time suggest that the Public Shareholders be refunded their Share Capital ? If not, what did the Plaintiff state ?
36. In or about January' 90, did not your representatives meet the Officials of the Ministry of Finance, together with the 5th and 7th Defendants abovenamed, to obtain the release of US \$ 2.0 Mn to yourselves ? If not, why was such Meetings had ?
37. Was not US \$ 2.0 Mn paid to you as a consequence of such Meeting ?
38. Was not the aforesaid Meeting held to avoid and in disregard of the aforesaid views expressed by the Plaintiff at the said 4th Defendant-Company's Board Meetings immediately preceding in November '89 and December '89 ? If not, why was such Meeting held ?
39. Was not such stand taken by the Plaintiff unopposed at such aforesaid Board Meetings ? If not, who opposed ?
40. Was not the concurrence of the Ministry of Finance for the release of the aforesaid US \$ 2.0 Mn. obtained, without the full disclosure of the aforesaid position at the said 4th Defendant Company's Board of Directors? If not, what was disclosed ?

41. Do you admit that subsequently, on or about 21.02.90 you wrote to the said 7th Defendant, through your representative H. Ogami, on the Plaintiff's objections to making any payments to you and on the Plaintiff's calling for certain categorical clarifications from the said 3rd Defendant, the Architects ? If not, what did you write ?
42. Consequently, did the said 7th Defendant abovenamed write and state as per his Letter dated 28.02.90 that such clarifications from the said 3rd Defendant, the Architects, were not necessary and that payments could be made to you ? If not, what did he state ?
43. Was the aforesaid payment of US \$ 2.0 Mn. consequently paid to yourselves?
44. After the Plaintiff had raised the aforesaid material queries/ discrepancies and had called for certain categorical clarifications from the 3rd Defendant, the Architects, did you propose to transfer a part of your Shareholdings to the Secretary Treasury, to afford the Secretary Treasury a 75% controlling interest ? If not, what did you propose ?
45. Was the aforesaid proposal in writing, and if so, what was the date of such writing ?
46. Was such aforesaid proposal made to enable the amendment of the Articles of Association of the said 4th Defendant Company by the Secretary Treasury without you being a party to such amendments ? If so, Why ?
47. Did you through your representatives/agents in regard to, inter alia, the aforesaid proposals, have any discussions and/or negotiations with Officials/Representatives of the Government of Sri Lanka ? If so, with whom ?
48. Did you through your representatives/agents in regard to, inter alia, the aforesaid proposals, have any discussions and/or negotiations with Officials/Representatives of the Attorney-General's Department ? If so, with whom ?
49. Did you through your representatives / agents in relation to any matters whatsoever pertaining to this Action have any discussions and/or negotiations with Officials / Representatives of the Attorney-General's Department ? If so, with whom and when ?
50. Did you, the 1st Defendant, enter into an Agreement called the Basic Agreement on the 8th day of April 1983, executed on your behalf by M. Yoshiuchi, a General Manager of your Overseas Development and Construction Division, with a Company registered in the United Kingdom, in connection with the promotional services and assistance to be rendered to you, for the promotion and realisation of the Hilton Hotel Project in Colombo, Sri Lanka, upon certain given conditionalities for a compensation of 2.5 (two point five) percent in Japanese Yen on the total contract prices of the Construction Contract and the Supply Contract stipulated in Articles 3 & 4 of the Preliminary Agreement (P06) filed of record in this Action ?
51. Did you, the 1st Defendant, enter into a further Agreement on the 1st day of April 1984, superseding the above Agreement executed on your behalf by the said M. Yoshiuchi, a General Manager of your Overseas Development & Construction Division, with a Company registered in the United Kingdom, in connection with the promotional services and assistance to be rendered to you, for the promotion and realisation of the Hilton Hotel Project in Colombo, Sri Lanka, upon certain given conditionalities and for the specified compensation of Japanese Yen 340,000,000 (Three Hundred Forty Million Japanese Yen) ?
52. Do you admit that the aforesaid conditionalities in the aforesaid Agreements, inter-alia, included obtaining and receiving by you the 1st Defendant of the following ?
 - " (A) The letter of guarantee by the Government of Sri Lanka in the form attached as an appendix "D" of the loan agreement entered into by and between Mitsui and Taisei as a lender and Hotel Developers (Lanka) Ltd. as a borrower as of 31st of January, 1984 (hereinafter called the "Loan Agreement")

- (B) The opinion of Attorney General of Sri Lanka in the satisfactory form by Mitsui as set forth in Article 6 of the Loan Agreement.
 - (c) The total exemption of corporate income tax for Hotel Developers (Lanka) Limited for 10 (ten) years after it starts operation as set forth in the agreement for the investment in Hotel Developers (Lanka) Ltd. made and entered into by and between Mitsui, Taisei, Cornel & Co. Ltd. and the Government of Sri Lanka as of 31st day of January, 1984 (hereinafter called the "Investment Agreement")
 - (D) The total exemption of all taxes on interest to be paid or other payment to be made by Hotel Developers (Lanka) Ltd. under the Loan Agreement as set forth in Article 17 of the Investment Agreement.
 - (E) The total exemption of import duty on all materials and equipment stipulated in Article 17 of the Investment Agreement. "
53. Do you, the 1st Defendant, admit that the aforesaid compensation amounting to Japanese Yen 340,000,000 (Three Hundred Forty Million Japanese Yen) for, inter alia, the aforesaid services, was to be paid by you to Account No.10022558/06, Mr.S.C.S. Cloppenburg at European Asian Bank, Hong Kong at No.16-18, Queens Road, Central, Hong Kong ?
54. Do you, the 1st Defendant, admit, that the aforesaid compensation under the aforesaid agreements, were remitted by you the 1st Defendant in two instalments through the Bank of Tokyo, after such aforesaid conditionalities had been fulfilled, to the aforesaid Bank Account at the European Asian Bank, Hong-Kong, in April '84 and December '84 respectively?
55. Do you admit, that the conditionalities aforesaid, are the very same conditionalities, as inter-alia, set out in Article 17 of the Investment Agreement (P09) dated 31.01.84, filed of record in this Action, more particularly those conditionalities stipulated in Article 17.02 therein caused to be fulfilled by Cornel & Co. Ltd., a party to the said Investment Agreement ?
56. Outside the said Investment Agreement, which, inter-alia, provided for the fulfillment of the aforesaid conditionalities, why did you the 1st Defendant, in addition have such additional Agreements, referred to above, for payments to be made outside Sri Lanka in Hong Kong ? And why were such payments made ?
57. Being the majority Shareholder and party to the said Investment Agreement was the Government of Sri Lanka made aware of such additional Agreements? And was the Government of Sri Lanka's prior approval obtained for such additional Agreements and the aforesaid payments to be made outside Sri Lanka in Hong Kong for the fulfillment of the aforesaid conditionalities? If not, why not ?
58. Do you not admit, that the aforesaid conditionalities, inter-alia, pertaining to the Letters of Guarantee from the Government of Sri Lanka, the opinion of the Attorney General of Sri Lanka, total exemption of corporate income tax & exemption of taxes on interest in Sri Lanka and the total exemption of Import Duties in Sri Lanka, were conditionalities that could only be afforded by the Government of Sri Lanka ? If not, by whom ?
59. If so, how could and why should such payments have been made outside Sri Lanka in Hong Kong for concessions/exemptions that could have been granted only by the Government of Sri Lanka ?
60. Do you admit, that the Hon. Minister of Finance and Planning by his Letter dated 02 March '84, acting on the legal opinion also dated 02.03.84, given by the Hon. Attorney General, recommend that no waiver of Customs Duties be granted to the Colombo Hilton Hotel Project ? If not, what did the said Hon. Minister state and what was the opinion of the Hon. Attorney-General?

61. Do you admit, that thereafter, the said 7th Defendant abovenamed, gave a written opinion dated 06.03.84 countermanding the aforesaid opinion of the Hon. Attorney General ? Did not such opinion cause the Government of Sri Lanka to grant the waiver of Customs Duties to the Colombo Hilton Hotel Project ? Was not subsequently such waiver of Customs Duties granted to the Colombo Hilton Hotel Project ?
62. Did you not cause your representative A. Naka, the former Executive Director of the said 4th Defendant Company, to obtain a fresh set of Architectural Plans in July '85 described as "Amended Plans" from the said 3rd Defendant, Architects ? If not, who caused and how ?
63. Did you not cause your representative A. Naka, the former Executive Director of the said 4th Defendant Company, to suppress the obtaining of the said Architectural Plans from the Board of Directors of the said 4th Defendant Company ? If not, when was it intimated to the Board of Directors of the said 4th Defendant Company ? If not, why not and what action did you take in such regard ?
64. Did you not cause your representative A. Naka, the former Executive Director of the said 4th Defendant Company, to obtain a fresh set of Architectural Plans in July '85 described as "Amended Plans", without the express written authority and/or approval from the 4th Defendant Company ? If not, when was such written authority and/or approval given and by whom ? If not, why not and what action did you take in such regard ?
65. Do you admit, that at the Meetings of the said 4th Defendant Company's Board of Directors in June '85 and July '85, at the instance of the Plaintiff, decision was made requiring Reports from yourselves and the said 3rd Defendant on the progress of the construction of Colombo Hilton Hotel, to be submitted to the said Board of Directors ? If not, what decision did the said Board of Directors make ?
66. Do you admit, that the aforesaid introduction of a new set of Architectural Plans has been in deliberate contravention and violation of the aforesaid Board Decision ? If not, why not ? If Yes, what action did you take in such regard ? If not, why not ?
67. In obtaining such aforesaid set of Architectural Plans in July '85 described as Amended Plans, did you not contravene and violate specific provisions in such regard in the several Agreements/Contracts ? If not, why not ? If yes, why ? Did not such act also materially affect the Supplies Contract ? If not, why not ?
68. Did you not also thereby, by such aforesaid act, contravene and violate specific provisions in such regard in the Investment Agreement, which required that any such amendments had to be entered into in writing by all parties to the said Investment Agreement, including also the Government of Sri Lanka ? If not, why not ? If yes, why ? If such written agreement as required was entered into, when was it ? If not, why not ?
69. Do you admit that the aforesaid State Guarantees were issued by the Government of Sri Lanka as parties to the said Investment Agreement to you, inter-alia, on the basis of the said Investment Agreement ? If not, on what basis ?
70. Do you admit that such contravention and violation, as aforesaid, of the said Investment Agreement, by you as parties thereto, thereby renders void the aforesaid State Guarantees ? If not, why not ?
71. Do you admit, that all copies of the original Architectural Plans approved by the Board of Directors of the said 4th Defendant Company and by the Urban Development Authority in January '84 and March '84 respectively, could not have been destroyed by the Fire at your Construction Site Office? If not, why not ?

72. Do you admit, that the Owner's copy of the aforesaid Architectural Plans, which was in the custody of the said 4th Defendant Company's Office, is questionably missing and/or deliberately suppressed ? If not, why not ? If Yes, what action did you take in such regard as your representative was the Executive Director in charge of such Office ? If not, why not ?
73. Do you admit, that the 3rd Defendant's Completion & Final Certificates are mere simple "Medical Certificate" type letters ? And further that they have failed to disclose and/or have deliberately suppressed the fact that they related to a new set of Architectural Plans that had been subsequently introduced described as "Amended Plans" ? If not, what was disclosed ? If Yes, what action did you take in such regard ? If not, why not ?
74. Do you admit, that the said 4th Defendant Company does not have Specified Bills of Quantities and Final Measurements to support the said Certificates of the 3rd Defendant and/or to verify the correctness of the Colombo Hilton Hotel construction ? If not, how could the correctness be verified ? If Yes, what action did you take in such regard ? If not, why not ?
75. Do you admit, that Exhibit "A" to the Supplies Contract that defined the scope of supplies of Furnishings, Fixtures and Equipment to the said Colombo Hilton Hotel is also questionably missing and/or deliberately suppressed from the said 4th Defendant Company's Office ? If not, why not? If Yes, what action did you take in such regard as your representative was the Executive Director in charge of such Office ? If not, why not ?
76. Do you admit, that in the absence of the aforesaid Exhibit "A", that the said 4th Defendant Company is unable to verify the correctness of the Quality, Specifications and Quantities of such Supplies of Furnishings, Fixtures and Equipment to the said Colombo Hilton Hotel ? If not, how could the correctness be verified ? If Yes, what action did you take in such regard ? If not, why not ?
77. Do you admit that payments were drawn by you from the Loans provided by you yourselves under the said Loan Agreements, merely on the basis of the effluxion of time ? If not on what basis were such payments drawn ?
78. Do you admit that there were no interim work certificates issued by the Architects, the said 3rd Defendant, as conventionally issued to make such payments to you ? If not, where are such certificates certifying such payments ?
79. Do you admit that, in the absence of the aforesaid several material documentations, that the said 4th Defendant Company is unable to verify the correctness of the construction and delivery, as per the agreed qualities, specification, quantities and values of the furnished and equipped Colombo Hilton Hotel ? If not, how could such correctness be verified ?
80. Do you admit that, in the context of the aforesaid, that the said 4th Defendant Company has no valid, satisfactory and acceptable basis to make payments to you ? If not, why not ?
81. Do you admit that the learned District Judge, in issuing the Interim Injunctions after Inquiry in this Action, in his Order, inter-alia, observed that, there is no acceptable basis, at present, for making payments to you ?
82. Did you not prepare and submit Profitability Forecasts and Cash Flow Projections to the said 4th Defendant Company computing Room Revenue on the basis of 452 Hotel Guest Rooms ? If not, on what basis were they computed ?
83. Did you not subsequently, after the Plaintiff raised queries in regard to the number of Guest Rooms, prepare and submit revised Profitability & Cash Flow Projections to the said 4th Defendant Company, computing Room Revenue on the basis of 387 Hotel Guest Rooms ? If not, on what basis were they computed ?

84. Did you not, acting together with the said 4th Defendant Company, make representations to the Government of Sri Lanka and/or its officials and/or its representatives, on the basis of such Profitability Forecasts & Cash Flow Projections, computing Room Revenue on the basis of 452 Hotel Guest Rooms and showing the repayment ability on the said Loans, and negotiate, obtain and receive the aforesaid State Guarantees, on the said Loans, you yourselves provided, to construct and deliver the said Colombo Hilton Hotel ? If not, why not ?
85. Did you not, as Promoters named in the Prospectus of the said 4th Defendant Company and as signatories thereto, through your representatives, represent and hold out as stipulated therein, to the investing public of Sri Lanka and to the relevant statutory authorities, that the said Colombo Hilton Hotel was to comprise, inter-alia, of 452 Rooms (i.e. 452 Hotel Guest Rooms excluding the 4 Rooms as Manager's Apartment), going up 22 Floors and having covered (i.e. basement) car parking for 400 Vehicles? If not, why not ?

Colombo, 6th March 1992

A handwritten signature in cursive script, appearing to read "Desai Law", written in black ink. The signature is fluid and somewhat stylized, with a long horizontal stroke extending to the right.

Attorneys-at-law for Plaintiff

IN THE DISTRICT COURT OF COLOMBO

NIHAL SRI AMERESEKERE of
No.167/4, Sri Vipulasena Mawatha,
Colombo 10.

PLAINTIFF

No.3155/Spl.

- VS -

1. **mitsui and company limited**, a Company organized and existing under the Laws of Japan and having the Principal Place of business at 2-1, Ohtemachi 1-Chome, Chiyoda-Ku, Tokyo, Japan and having a Liaison office and/or a Place of business in Sri Lanka at No.315, Vauxhall Street, Colombo 02.
2. **TAISEI CORPORATION**, a Company organized and existing under the Laws of Japan and having the Principal place of business at 25-1, Nishi-Shinjuku 1-chome, Shinjuku-ku, Tokyo, Japan and having a Liaison Office and/or Place of business in Sri Lanka at No.65, High Level Road, Maharagama and presently of Colombo Hilton Hotel, Echelon Square, Colombo 1.
3. **KANKO KIKAKU SEKKEISHA YOZO SHIBATA & ASSOCIATES**, Architects & Designers, a corporation duly organized under the Laws of Japan and having the Principal place of business at No.9, Mori Building, 1-2-2, Atago, Minato-ku, Tokyo, Japan.
4. **HOTEL DEVELOPERS (LANKA) LIMITED**, formerly known as LANKA JAPAN HOTELS LIMITED, and of No.16, Alfred Place, Colombo 03, with an Operational Office at 1000, Echelon Square, Colombo 1.
5. **CORNEL LIONEL PERERA**, Chairman/Managing Director, Hotel Developers (Lanka) Limited, of 16, Alfred Place, Colombo 03.
6. **FREDERICK GERMAIN NOEL MENDIS**, Director, Hotel Developers (Lanka) Limited, and of No.51/3, Dharmapala Mawatha, Colombo 03.
7. **KAIRSHASP NARIMAN CHOKSY**, Director, Hotel Developers (Lanka) Limited, of 23/2, Sir Ernest de Silva Mawatha, Colombo 07.
8. **DON PETER SEVERINUS PERERA**, Director, Hotel Developers (Lanka) Limited, of No.696/2, Havelock Road, Colombo 06.

9. **KAZUTAKA KOBOI**, Director of Hotel Developers (Lanka) Limited, and of 6-38, Fujimicho, Chigasaki, Kasagawa, Japan.
10. **KANAPATHIPILLAI SHANMUGALINGAM**, Director, Hotel Developers (Lanka) Limited, and of No.4, Ramakrishna Avenue, Colombo 06 and presently of 75 1/1, Isipatana Mawatha, Colombo 5.
11. **KOJI ITO**, Director of Hotel Developers (Lanka) Limited, and presently of No.315, Vauxhall Street, Colombo 02.

DEFENDANTS

To:

The 3rd Defendant abovenamed

(To be served through its registered Attorney-at-law Mr. S.D. Yogendra, 136, Hulftsdorp Street, Colombo 12)

Interrogatories on behalf of the Plaintiff abovenamed for the examination of the 3rd Defendant abovenamed

In terms of Section 94 of the Civil Procedure Code, you are required to Answer all of the following interrogatories within ten days of the service of same on you:

1. Do you admit that as the Architects of the Colombo Hilton Hotel of the 4th Defendant Company abovenamed, you were professionally bounded to perform professional services and carry out duties, responsibilities and obligations in accordance and conformity with the professional practices and standards of the profession of Architects ? If not, why not ?
2. Do you admit that as the Architects of the Colombo Hilton Hotel of the said 4th Defendant Company, you were contractually bound to perform professional services and carry out duties, responsibilities and obligations in accordance and conformity with, and under and in terms of, the Design & Supervision Contract (**P14**) entered into, by and between yourselves and the said 4th Defendant Company ? If not, why not ?
3. Do you admit, that the original Architectural Plans for the said Colombo Hilton Hotel drawn and submitted by you was tabled at and approved by the Board of Directors of the said 4th Defendant Company in or about January '84 ? If not, why not ?
4. Do you admit, that a copy of the original Architectural Plans for the said Colombo Hilton Hotel drawn and submitted by you was submitted to the Urban Development Authority in or about October '83 and approval received for the same from the Urban Development Authority in or about March '84 ? And that construction of the said Colombo Hilton Hotel commenced with a "Ground Breaking Ceremony" in March '84 ?
5. Do you admit, that at all times material to this Action, that the 1st and/or 2nd Defendants abovenamed had their representative functioning as the full-time resident Executive Director of the said 4th Defendant Company, fully in charge of its day to day administration, management and affairs ? If not, why not ?
6. Do you admit, that such representative of the said 1st and/or 2nd Defendants, who functioned as the aforesaid Executive Director of the said 4th Defendant Company was directing and instructing you, as the Architects of the Colombo Hilton Hotel Project ? If not, from whom specifically, did you receive such directions and instructions ?
7. Are you aware, that the representative of the said 1st and/or 2nd Defendants, who functioned as the aforesaid Executive Director of the said 4th Defendant Company, objected to and prevented an independent examination and physical verification of the said Colombo Hilton Hotel by an independent Engineer, prior to you issuing your Final Certificate ?

8. Do you admit that you carried out the Final Inspection of the said Colombo Hilton Hotel in or about 24th/25 March 1988 ? If not, why not ?
9. Are you aware that such independent examination was called for at the Board of Directors of the said 4th Defendant Company, by Mr. M.T.L. Fernando, Chartered Accountant, Precedent Partner of Ernst & Young in his capacity as a Government Nominee Director ?
10. Did not the said 1st and/or 2nd Defendants inform you of the aforesaid suggestion for an independent examination of the said Colombo Hilton Hotel? If not, should they have not done so ?
11. Do you admit that no such independent examination, as called for as aforesaid, was ever carried out ?
12. Do you admit that eventhough you carried out your final inspection of the said Colombo Hilton Hotel, in or about 24th/25th March 1988, you issued your Final Certificate only in or about 25th August 1988, after the said 4th Defendant Company's Board decided against an independent examination as called for as aforesaid ? If not, why not ?
13. Are you aware, that the Plaintiff queried in 1987, from the said 1st and/or 2nd Defendants the correctness of the number of Hotel Guest Rooms actually built in the said Colombo Hilton Hotel, after the said Hotel opened for operations ?
14. Did the said 1st and/or 2nd Defendants discuss the aforesaid queries and/or discrepancies with you ? If not, should they have not done so ?
15. Do you admit, that the Construction Agreement (**P11**) also counter-signed by you, to build the said Colombo Hilton Hotel, specified, inter-alia, 22 Storeys ?
16. Do you admit, that in the Monthly Reports on the progress of construction of the said Colombo Hilton Hotel, signed and submitted by the said 1st and/or 2nd Defendants and certified by you, that it is admitted and so certified, that the number of Storeys in the said Colombo Hilton Hotel actually built was only 20 ?
17. Do you admit, that such certification by you of the number of Storeys actually built in the said Colombo Hilton Hotel, is in contravention and/or violation of the said stipulation in the said Construction Agreement ? If not, why not ?
18. Did you ever attend the Board Meetings of the said 4th Defendant Company? If so, on which dates and where ? And who was present on your behalf at such Board Meetings ?
19. Are you aware, in or about February '90/March '90, that the Ministry of Finance, raised queries on the shortfall in the number of Hotel Guest Rooms from the representatives of the said 1st and/or 2nd Defendants, as per the Prospectus and the Profitability Forecasts and Cash Flow Projections prepared and submitted by the said 1st Defendant, on the basis of 452 Hotel Guest Rooms ?
20. Did the said 1st and/or 2nd Defendants discuss such queries and/or discrepancies with you ? If not, should they have not done so ?
21. Are you aware, that in or about February '90/March '90, that the Ministry of Finance required of the said 1st and/or 2nd Defendants a 30% write-off on the original loan principal/capital on the construction and delivery of the said Colombo Hilton Hotel ?
22. Did the said 1st and/or 2nd Defendants discuss the aforesaid requirement with you ? If not, should they have not done so ?
23. Are you aware that the Plaintiff raised objections to the payment of any monies to the said 1st and/or 2nd Defendants at the Meetings of the said 4th Defendant Company's Board of Directors in November '89 & December '89, until certain categorical clarifications were received from you ?

24. Did the said 1st and/or 2nd Defendants inform you of the aforesaid ? If not, should they have not done so ? If yes, when did they do so ?
25. Do you admit, that the learned District Judge, in issuing the Interim Injunctions, prayed for as per prayers "g" and "h" of the Plaint, had in his Order, inter-alia, observed that, the significance that is shown, is that, generally the Company which has to pay money, would be raising questions in respect of such situation and would not allow other parties to act arbitrarily, and that there is no acceptable basis, at present, for making payments to the said 1st and/or 2nd Defendants ?
26. Do you admit, that you and/or the said 1st and/or 2nd Defendants had introduced a new set of Architectural Plans described as "Amended Plans" in July '85 ?
27. Do you admit, that the aforesaid introduction of a new set of Architectural Plans described as "Amended Plans" had been carried out without the knowledge and/or express written approval and/or authority of the said 4th Defendant Company's Board of Directors ? If not, why not ?
28. Are you aware, that at the Meetings of the Board of Directors of the said 4th Defendant Company in June '85 and July '85, at the instance of the Plaintiff, decision was made requiring Reports from the said 1st and/or 2nd Defendants and yourselves on the progress of the construction of Colombo Hilton Hotel, to be submitted to the said Board of Directors ?
29. Did the 1st and/or 2nd Defendants inform you of the said requirement by the Board of Directors of the said 4th Defendant Company ? If not, should they have not done so ?
30. Do you admit, that the aforesaid introduction of a new set of Architectural Plans described as "Amended Plans" has been in deliberate contravention and violation of the aforesaid Board Decision ? If not, why not ?
31. Do you admit, that you did not have express written authority and/or approval from the said 4th Defendant Company to redraw a new set of Architectural Plans, described as "Amended Plans" or otherwise ?
32. Ought not such approval and/or authority have been obtained from the said 4th Defendant Company ? If not, why not ?
33. Do you admit that you have addressed and forwarded Schedules in or about July '85 purporting to contain the "Amendments" to the original Architectural Plans, directly to the Urban Development Authority ?
34. Did you have express written approval and/or authority of the 4th Defendant Company, to forward such schedules of amendments directly to the Urban Development Authority ? If yes, from whom ?
35. Ought not such approval and/or authority have been obtained from the said 4th Defendant Company ? If not, why not ?
36. Do you admit, that as Architects, you have deliberately neglected and failed to obtain the official signature and seal of the 4th Defendant Company i.e. the Owner of the said Colombo Hilton Hotel, on the said new set of Architectural Plans introduced described as "Amended Plans", as is normally stipulated and required ? If so, why ?
37. Ought you not have obtained such official signature and seal of the 4th Defendant Company ? If not, why not ?
38. Do you admit, that under the terms of the Design & Supervision Agreement, that to redraw and introduce a new set of Architectural Plans described as "Amended Plans" in July '85, you should have had written express approval and/or authority from the said 4th Defendant Company ? If not, why not ?
39. Did you receive such written express approval and/or authority from the said 4th Defendant Company, to redraw the Architectural Plans and/or to effect any such amendments whatsoever ? If not, why not ? If yes, from whom did you receive such written express approval and/or authority ?

40. Do you admit, that the absence of any such written express approval and/or authority from the said 4th Defendant Company, for you to redraw a new set of Architectural Plans, described as "Amended Plans" or otherwise, is a contravention and/or violation of the conditions in the said Design & Supervision Agreement ? If not, why not ?
41. Furthermore as Professional Architects, do you admit that you should have received such written express authority and/or approval from the Owner, of the said Colombo Hilton Hotel i.e. the said 4th Defendant Company ? If not, why not ?
42. Do you admit, that the aforesaid introduction of a new set of Architectural Plans, described as "Amended Plans" in July '85 has contravened and violated the specific provisions in such regard in several Agreements/Contracts ? If not, why not ? Did not such act also materially affect the Supplies Contract ? If not, why not ?
43. Do you admit, that the aforesaid introduction of a new set of Architectural Plans described as "Amended Plans" has contravened and violated the specific provisions in such regard in the Investment Agreement, which required that any such Amendment had to be entered into in writing by all parties to the said Investment Agreement, including also the Government of Sri Lanka ? If not, why not ?
44. Do you admit, that all copies of the original Architectural Plans approved by the Board of Directors of the said 4th Defendant Company and by the Urban Development Authority as aforesaid in January '84 and March '84 respectively, could not have been destroyed by the Fire at the Construction Site Office of the 1st and/or 2nd Defendants? If not, why not ?
45. Do you admit, that the Owner's copy of the aforesaid original Architectural Plans, which was in the custody of the said 4th Defendant Company 's Office, is questionably missing and/or deliberately suppressed? If not, why not ?
46. Do you admit, that your Completion & Final Certificates are mere simple "Medical Certificate" type letters ? And further that they have failed to disclose and/or have deliberately suppressed the fact that they related to a new set of Architectural Plans that had been subsequently introduced as "Amended Plans" ? If not, what did they disclose ?
47. Do you admit, that the said 4th Defendant Company do not have Specified Bills of Quantities and Final Measurements to support your said Certificates and/or to verify the correctness of the Colombo Hilton Hotel construction ? If not, how could the correctness be verified ?
48. Do you admit, that Exhibit "A" to the Supplies Contract that defined the scope of supplies of Furnishings, Fixtures and Equipment to the said Colombo Hilton Hotel is also questionably missing and/or deliberately suppressed from the said 4th Defendant Company's Office ? If not, why not ?
49. Do you admit, that in the absence of the aforesaid Exhibit "A" of the Supplies Contract, that the said 4th Defendant Company is unable to verify the correctness of the Quality, Specifications and Quantities of such Supplies of Furnishings, Fixtures and Equipment to the said Colombo Hilton Hotel ? If not, how could the correctness be verified ?
50. Do you admit, that payments were drawn by the said 1st and/or 2nd Defendants from Loans provided for by they themselves, under the said Loan Agreements, merely on the basis of the effluxion of time ? If not, on what basis were such payments drawn ?
51. Do you admit, that there were no interim work certificates issued by you as conventionally issued, for the said 1st and/or 2nd Defendants to draw such payments ? If not, where are such certificates certifying such payments ?
52. Do you admit that, in the absence of the aforesaid several material documentations, that the said 4th Defendant Company is unable to verify the correctness of the construction and delivery, as per the agreed qualities, specifications, quantities and values of the furnished and equipped Colombo Hilton Hotel ? If not, how could such correctness be verified ?

53. Do you admit that, in the context of the aforesaid, that the 4th Defendant Company has no valid, satisfactory and acceptable basis to make payments to the said 1st and/or 2nd Defendants ? If not, why not ?
54. Do you admit that the learned District Judge, in issuing the Interim Injunctions after Inquiry in this Action, in his Order, inter-alia, observed that, there is no acceptable basis, at present, for making payments to the said 1st and/or 2nd Defendants ?
55. Do you admit, that in the Prospectus, of the said 4th Defendant Company, to which you have lent your name, it has been held out, to the investing public of Sri Lanka and to the relevant statutory authorities, that the said Colombo Hilton Hotel was to comprise, inter-alia, of 452 Rooms (i.e. 452 Hotel Guest Rooms excluding the 4 Rooms as Manager's Apartment), going upto 22 Floors and having covered (i.e. basement) car parking for 400 Vehicles ? If not, why not ?
56. Do you admit that Meetings were had in Tokyo in or around April/May '85, or thereabout between yourselves, the said 1st and/or 2nd Defendants, Hilton International and the 5th Defendant abovenamed, just previously to the aforesaid redrawing by you of the Architectural Plans in July '85, described as "Amended Plans" ? If not, why not ?
57. Are you aware that during discussions at the Ministry of Finance, in or about February '90/March '90, that the said 5th Defendant, when confronted in the presence of the 10th Defendant abovenamed and Mrs. V.M.Y. Casie Chitty, Director Economic Affairs, Ministry of Finance, admitted to the reduction of two Guest Room Floors in the so introduced redrawn new set of Architectural Plans described as "Amended Plans", and that it was the said 5th Defendant, who pointed out the compromise in the basement, resulting in the shortfall in the number of covered car parking bays ?
58. Do you admit that in your Architectural Plans dated July '80 (P08) marked of record in this Action, that there are 456 standard size Guest Room Bays/Room Modules in 2 Towers ? If not, why not ?
59. Do you admit that the standard size of a Guest Room Bay/Room Module in the aforesaid Architectural Plans (P08) was 33 sq.mtrs. in conformity with standards for International 5-Star Class Hotels ? If not, why not ?
60. Do you admit that such standard size Guest Room Bays/Room Modules are normally sold as standard double occupancy Hotel Guest Rooms ? And that two or more such standard size Guest Room Bays/Room Modules are combined to form Suites ? If not, why not ?
61. Do you admit that in the aforesaid Architectural Plans (P08) that, each Guest Room Floor in each Tower had 12 such standard size Guest Room Bays/Room Modules, thereby having 24 such standard size Guest Room Bays/Room Modules on each Guest Room Floor level in both Towers taken as a total ? If not, why not ?
62. Do you admit, that accordingly, the total number of the aforesaid 456 standard size Guest Room Bays/Room Modules, in the aforesaid Architectural Plans (P08) occupied 19 such Guest Room Floors in each Tower ? If not, why not ?
63. Accordingly, do you admit that 12 such standard size Guest Room Bays/Room Modules per Guest Room Floor in each Tower X 19 Guest Room Floors X 2 Towers as above = 456 standard size Guest Room Bays/Modules, contained in 2 Towers of the aforesaid Achitectural Plans (P08) ? If not, why not ?
64. Do you admit that the new set of Architectural Plans introduced by you described as "Amended Plans" in July '85 has only 17 Guest Room Floors in each Tower ? If not, why not ?
65. Therefore do you admit that 456 such standard size Guest Room Bays/Room Modules, as aforesaid, cannot be there in such lesser number of 17 Guest Room Floors ? If not, why not ?

This 6th day of March 1992.



Attorneys-at-law for Plaintiff

IN THE DISTRICT COURT OF COLOMBO

NIHAL SRI AMERESEKERE of
No.167/4, Sri Vipulasena Mawatha,
Colombo 10.

PLAINTIFF

No.3155/Spl.

- VS -

1. **MITSUI AND COMPANY LIMITED**, a Company organized and existing under the Laws of Japan and having the Principal Place of business at 2-1, Ohtemachi 1-Chome, Chiyoda-Ku, Tokyo, Japan and having a Liaison office and/or a Place of business in Sri Lanka at No.315, Vauxhall Street, Colombo 02.
2. **TAISEI CORPORATION**, a Company organized and existing under the Laws of Japan and having the Principal place of business at 25-1, Nishi-Shinjuku 1-chome, Shinjuku-ku, Tokyo, Japan and having a Liaison Office and/or Place of business in Sri Lanka at No.65, High Level Road, Maharagama and presently of Colombo Hilton Hotel, Echelon Square, Colombo 1.
3. **KANKO KIKAKU SEKKEISHA YOZO SHIBATA & ASSOCIATES**, Architects & Designers, a corporation duly organized under the Laws of Japan and having the Principal place of business at No.9, Mori Building, 1-2-2, Atago, Minato-ku, Tokyo, Japan.
4. **HOTEL DEVELOPERS (LANKA) LIMITED**, formerly known as LANKA JAPAN HOTELS LIMITED, and of No.16, Alfred Place, Colombo 03, with an Operational Office at 1000, Echelon Square, Colombo 1.
5. **CORNEL LIONEL PERERA**, Chairman/Managing Director, Hotel Developers (Lanka) Limited, of 16, Alfred Place, Colombo 03.
6. **FREDERICK GERMAIN NOEL MENDIS**, Director, Hotel Developers (Lanka) Limited, and of No.51/3, Dharmapala Mawatha, Colombo 03.
7. **KAIRSHASP NARIMAN CHOKSY**, Director, Hotel Developers (Lanka) Limited, of 23/2, Sir Ernest de Silva Mawatha, Colombo 07.
8. **DON PETER SEVERINUS PERERA**, Director, Hotel Developers (Lanka) Limited, of No.696/2, Havelock Road, Colombo 06.

9. **KAZUTAKA KOBOI**, Director of Hotel Developers (Lanka) Limited, and of 6-38, Fujimicho, Chigasaki, Kasagawa, Japan.
10. **KANAPATHIPILLAI SHANMUGALINGAM**, Director, Hotel Developers (Lanka) Limited, and of No.4, Ramakrishna Avenue, Colombo 06 and presently of 75 1/1, Isipatana Mawatha, Colombo 5.
11. **KOJI ITO**, Director of Hotel Developers (Lanka) Limited, and presently of No.315, Vauxhall Street, Colombo 02.

DEFENDANTS

To:

The 4th Defendant abovenamed

(To be served through its registered Attorney-at-law Mr. T.G. Guneratne, Attorney-General's Department, Colombo 12)

Interrogatories on behalf of the Plaintiff abovenamed for the examination of the 4th Defendant abovenamed

In terms of Section 94 of the Civil Procedure Code, you are required to Answer all of the following interrogatories within ten days of the service of same on you:

1. Do you admit, that you cannot constitute a General Meeting of your Shareholders and/or your Board of Directors, without the presence of the abovenamed 1st and/or 2nd Defendants' Representative and/or Nominee Director ? If not, why not ?
2. Do you admit, that you cannot make any decisions and/or pass any resolutions at Meetings of your Board of Directors under Article 129 of your Articles of Association without the affirmative vote of the said 1st and/or 2nd Defendants' Nominee Director ?
3. Do you admit, that your Annual Accounts for the year ended 31.03.90 was adopted by your Board of Directors, by the invocation of powers under Article 129 of your Articles of Association, at the instance of the said 1st and/or 2nd Defendants ? If not, why not ?
4. Was an Action No.3231/Spl. instituted against you in regard to the aforesaid Accounts by the Plaintiff ?
5. Was an Enjoining Order issued against you, in the aforesaid Action, by the learned District Judge, restraining you from tabling and adopting the aforesaid Annual Accounts ?
6. Do you admit, that at all times material to this Action, that the said 1st and/or 2nd Defendants had their Representative functioning as the full-time resident Executive Director in your Company, fully in charge of your day to day administration, management and affairs ? If not, why not ?
7. Do you admit, that the original Architectural Plans for the said Colombo Hilton Hotel drawn and submitted by the 3rd Defendant abovenamed was tabled at a Board Meeting and approved by your Board of Directors in or about January '84 ? If not, why not ?
8. Do you admit, that a copy of the original Architectural Plans for the said Colombo Hilton Hotel drawn and submitted by the said 3rd Defendant was submitted to the Urban Development Authority in or about October '83 and approval received for the same from

the Urban Development Authority in or about March '84 ? And that construction of the said Colombo Hilton Hotel commenced with a "Ground Breaking Ceremony" in March '84 ?

9. Do you admit, that such Representative of the said 1st and/or 2nd Defendants, who functioned as your aforesaid Executive Director was directing and instructing the said 3rd Defendant, as the Architect of the Colombo Hilton Hotel Project ? If not, why not ?
10. Do you admit, that the Representative of the said 1st and/or 2nd Defendants, who functioned as your aforesaid Executive Director objected to and prevented an independent examination and physical verification of the Colombo Hilton Hotel by an independent Engineer, prior to the said 3rd Defendant issuing its Final Certificate ?
11. Do you admit, that the 7th Defendant abovenamed, supported the aforesaid objection to an examination by an independent Engineer, by his Letter dated 08.08.88 ? If not, why not ?
12. Do you admit, that such independent examination was called for by Mr. M.T.L. Fernando, Chartered Accountant, Precedent Partner of Ernst & Young in his capacity as a Government Nominee Director ?
13. Do you admit that no such independent examination, as called for as aforesaid, was ever carried out ? If not, why not ?
14. Do you admit, that the Plaintiff pointed out discrepancies in the number of Guest Rooms and Floors at the Meetings of your Board of Directors and at the Meetings at the Ministry of Finance at which Meetings, the said 1st and/or 2nd Defendants were present through their representatives, together with some of your Directors ?
15. Do you admit, that the Construction Agreement to build the said Colombo Hilton Hotel specified, inter-alia, 22 Storeys ?
16. Do you admit, that in the Monthly Reports on the progress of construction of the same, signed and submitted by the said 1st and/or 2nd Defendants and certified also by the said 3rd Defendant, they have admitted, as so certified, that the number of Storeys in the said Colombo Hilton Hotel was only 20 ?
17. Did you discuss and deliberate upon at Meetings of your Board of Directors, the several averments of facts and breaches complained of in the Plaint, particularly of the conduct and actions of the said 1st, 2nd & 3rd Defendants ? If not, why not ? If yes, what action was taken thereon ?
18. Did you consequently, as a listed Public Company, cause proper inquiries and/or investigations to be carried out into the several serious matters of facts and breaches averred of in the Plaint, particularly of the conduct and actions of the said 1st, 2nd & 3rd Defendants ? If not, why not ? If Yes, what action was taken thereon ?
19. In the context of the above, did you make any inquiries and/or seek any clarifications from the Plaintiff as the principal complainant, who was a Director/Shareholder and as one who was involved in the promotional and formulation work of the Colombo Hilton Hotel Project? If not, why not ?
20. If such inquiries and/or investigations were had, did you discuss and deliberate at Meetings of your Board of Directors, the several matters pleaded by you in your Answer, before the same was filed in Court ? If not, why not ?
21. Did you refer and/or report the several breaches and acts of wrong doing complained of to the relevant and appropriate law enforcement authorities, as would have been normally and ordinarily done by a listed Public Company? If not, why not ?
22. If not, did you plead in your Answer on the several wrongful conduct and actions of the

said 1st and/or 2nd Defendants and/or their representatives, who at all times material to this Action, had functioned as your Executive Directors, without having conducted such inquiries and/or investigations ?

23. Did the Plaintiff, particularly by his Letters dated 07.09.91 and 08.11.91 further in addition, bring to your attention the wrongful conduct and actions of the aforesaid representatives of the said 1st and/or 2nd Defendants and urge that action be taken ? If no action was taken, then as a listed Public Company, why not ?
24. Did you plead in your Answer on the several wrongful conduct and actions of the 5th and 7th Defendants abovenamed averred of in the Plaint, without having conducted inquiries and/or investigations into the same ? If not, why not ?
25. Did the Plaintiff, particularly by his Letters dated 07.09.91, 08.11.91 and 21.02.92 further in addition, bring to your attention the wrongful conduct and actions of the aforesaid 5th and/or 7th Defendants and urge that action be taken ? If no action was taken, then as a listed Public Company, why not ?
26. Did the Plaintiff consistently and specifically point out, both orally and in writing, that the said 1st and/or 2nd Defendants' interest in this Action, is in conflict with your interests and that of your Shareholders ?
27. If the Plaintiff did point out as above, did you take any action thereon? If not, why not ?
28. Did the said 1st and/or 2nd Defendants' representatives participate at discussions and/or deliberations at Meetings of your Board of Directors, when matters relating to this Action were being considered ?
29. Did the said 1st and/or 2nd Defendants' representatives participate at discussions and/or deliberations at Meetings of your Board of Directors, when the several serious matters averred of in the Plaint, particularly pertaining to their wrongful conduct and/or actions and/or those of their representatives were being considered ?
30. Should not the said 1st and/or 2nd Defendants' representatives have participated at the aforesaid discussions and/or deliberations, in so far as they were party Defendants to this Action, and whose interest were in conflict with your interests and that of your Shareholders ? If not, why not ?
31. Did not the participation of the 1st and/or 2nd Defendants' representatives at discussions and deliberations at Meetings of your Board of Directors as aforesaid, prejudicially influence and/or inhibit independent evaluation of your interests and that of your Shareholders ? If not, why not ?
32. Did the said 1st and/or 2nd Defendants' representatives participate at discussions and/or deliberations at Meetings of your Board of Directors, when the matter of your Answer was being considered ?
33. Was your Answer, prior to being filed in Court in this Action, given to the said 1st and/or 2nd Defendants and/or their representatives and/or agents ?
34. Did the 1st and/or 2nd Defendants and/or their representatives and/or agents in any way comment and/or have discussions and/or otherwise assist in the preparation of your Answer filed in this Action ? If Yes, with whom and how ?
35. Did you through any of your Directors and/or Officers and/or any representatives and/or agents in any way whatsoever, have discussions with the said 1st & 2nd Defendants and/or their representatives and/or their agents on matters pertaining to your Answer, prior to and/or after filing of the said Answer in Court ? If Yes, through whom, and how, and when ?

36. Did you plead in Court to the several serious matters averred of in the Plaint, in accordance with proper deliberations and decisions at Meetings of your Board of Directors, after proper inquiries and/or investigations, in conformity with the proper and professional conduct of a listed Public Company ? If not, why not ?
37. Did the Plaintiff by his Letter dated 22.07.91 bring to your attention irregularities in the award of your Reflections Casino Contract ? If Yes, what action did you take thereon ? If not, why not ?
38. Did the Plaintiff inter-alia, by his Letters dated 11.04.91, 06.07.91, 10.10.91, 20.01.92, 21.01.92 and 28.01.92 bring to your attention matters pertaining to your Answer and/or submissions made on your behalf in Court? If Yes, what action did you take thereon ? If not, why not ?
39. Did the said 1st and/or 2nd Defendants' representatives and/or Agents have negotiations with you and your Officials / Representatives and/or with Officials / Representatives of the Government of Sri Lanka, and offer rebates and/or write-offs on their alleged claims, during the currency of the Enjoining Orders and/or Interim Injunctions issued and pending in this Case ? If yes, with whom ?
40. Do you admit, that in or about February '90, that the Ministry of Finance required of the said 1st and/or 2nd Defendants a 30% write-off on the original loan principal /capital ?
41. Did not the Ministry of Finance, at the very same time raise queries on the shortfall in the number of Hotel Guest Rooms, as per the Prospectus and the Profitability Forecasts and Cash Flow Projections prepared and submitted by the 1st Defendant, on the basis of 452 Hotel Guest Rooms ?
42. Were not the State Guarantees referred to in the Plaint in this Action given, inter-alia on the basis of the aforesaid Profitability Forecasts and Cash Flow Projections ? If not, on what basis ?
43. Do you admit, that the aforesaid requirement of a 30% write-off, in such context, on the original loan principal/capital was conveyed to the 1st and/or 2nd Defendants' representatives and/or agents at the Ministry of Finance, in the presence of your Board of Directors ?
44. Do you admit, that the said requirement to write-off of 30% on the original loan principal/capital was further confirmed at the subsequent discussions had at the Ministry of Finance in or about March '90, at which the said 1st and/or 2nd Defendants' representatives were present together with some of your Directors ?
45. Do you admit, that the query on the material shortfall in the number of Hotel Guest Rooms i.e. from 452 to 387 Hotel Guest Rooms was further confirmed at the Ministry of Finance in or about March '90 to the representatives of the 1st and/or 2nd Defendants in the presence of some of your Directors ?
46. Do you admit, that the said 1st and/or 2nd Defendants' representatives were informed by the Ministry of Finance at the said discussions at the Ministry of Finance in or about March '90, where some of your Directors were present, that the said State Guarantees had been given on the basis of Profitability Forecasts & Cash Flow Projections computed on the basis of 452 Hotel Guest Rooms ?
47. Do you admit, that the said 1st and/or 2nd Defendants' representatives were informed by the Ministry of Finance at the aforesaid discussions that any deviation from the aforesaid original position would affect the Government's position ?
48. Are you aware that at the time of the aforesaid discussions at the Ministry of Finance, that the 5th Defendant abovenamed, your Chairman and Managing Director, when

confronted in the presence of your Director, Mr. K. Shanmugalingam, Addl. Deputy Secretary to the Treasury, 10th Defendant abovenamed and Mrs. V.M.Y. Casie Chitty, Director Economic Affairs, admitted to the reduction of two Guest Room Floors in the new set of Architectural Plans, described as Amended Plans, introduced by the 1st and/or 2nd and/or 3rd Defendants, and that it was the same said 5th Defendant, who pointed out the compromise in the basement, resulting in the shortfall in the number of covered car parking bays ?

49. Do you admit that in the said 3rd Defendant's Architectural Plans dated July '80 (P08) marked of record in this Action, that there are 456 standard size Guest Room Bays/Room Modules in 2 Towers ? If not, why not ?
50. Do you admit that the standard size of a Guest Room Bay/Room Module in the aforesaid Architectural Plans (P08) was 33 sq. mtrs. in conformity with standards for International 5-Star Class Hotels ? If not, why not ?
51. Do you admit that such standard size Guest Room Bays/Room Modules are normally sold as standard double occupancy Hotel Guest Rooms ? And that two or more such standard size Guest Room Bays/Room Modules are combined to form Suites ? If not, why not ?
52. Do you admit that in the aforesaid Architectural Plans (P08) that, each Guest Room Floor in each Tower had 12 such standard size Guest Room Bays/Room Modules, thereby having 24 such standard size Guest Room Bays/Room Modules on each Guest Room Floor level in both Towers taken as a total ? If not, why not ?
53. Do you admit, that accordingly, the total number of the aforesaid 456 standard size Guest Room Bays/Room Modules, in the aforesaid Architectural Plans (P08) occupied 19 such Guest Room Floors in each Tower ? If not, why not?
54. Accordingly, do you admit that 12 such standard size Guest Room Bays/Room Modules per Guest Room Floor in each Tower X 19 Guest Room Floors X 2 Towers as above = 456 standard size Guest Room Bays/Modules, contained in 2 Towers of the aforesaid Architectural Plans (P08) ? If not, why not ?
55. Do you admit that the new set of Architectural Plans introduced by the said 1st and/or 2nd and/or 3rd Defendants described as "Amended Plans" in July '85 has only 17 Guest Room Floors in each Tower ? If not, why not ?
56. Therefore do you admit that 456 such standard size Guest Room Bays/Room Modules, as aforesaid, cannot be there in such lesser number of 17 Guest Room Floors ? If not, why not ?
57. Do you admit that Hilton International by their letter dated 31.03.83 with copy to the said 1st Defendant confirmed their Profitability Forecasts prepared on the basis of the aforesaid Architectural Plans (P08)? If not on what basis ?
58. Do you admit that the Letter of Award for Construction was issued to the said 1st & 2nd Defendants on the very previous date i.e. 30.03.83 ? If not when ?
59. Do you admit that the Profitability Forecasts and Cash Flow Projection consistently submitted to you thereafter by the said 1st Defendant, was strictly in conformity with the aforesaid Profitability Forecasts of Hilton International, which was based on the aforesaid Architectural Plans (P08) ?
60. Did not the Plaintiff raise objections to the payment of any monies to the said 1st and/or 2nd Defendants at the Meetings of your Board of Directors in November '89 & December '89, until certain categorical clarifications were received from the 3rd Defendant abovenamed ? If not, what did the Plaintiff state ?
61. Was not such stand taken by the Plaintiff unopposed at such aforesaid Board Meetings ?

If not, who opposed ?

62. Did not the Plaintiff at the same time suggest that the Public Shareholders be refunded their Share Capital ? If not, what did the Plaintiff state ?
63. In or about January' 90, did not the said 1st and/or 2nd Defendants' representatives meet the Officials of the Ministry of Finance, together with the said 5th and 7th Defendants, to obtain the release of US \$ 2.0 mn to the said 1st and/or 2nd Defendants ? If not, why was such Meeting had ?
64. Was not the aforesaid Meeting held to avoid and in disregard of the aforesaid views expressed by the Plaintiff at the immediately preceding Meetings of your Board of Directors in November '89 and December '89 as aforesaid ? If not, why was such Meeting held ?
65. Was not the concurrence of the Ministry of Finance for the release of the aforesaid US \$ 2.0 Mn. obtained, without the full disclosure of the aforesaid position at your Board of Directors ? If not, what was disclosed ?
66. Did not the said 1st and/or 2nd Defendants' representative subsequently on or about 21.02.90 write to the said 7th Defendant, when the Plaintiff had objected to making any payments to them and had called for certain categorical clarifications from the said 3rd Defendant, the Architects ? If not, what did he write ?
67. Consequently, did not the said 7th Defendant abovenamed write and state that such clarifications from the said 3rd Defendant, the Architects, were not necessary and that payments could be made to them ? If not what did he state ?
68. Consequently was the aforesaid payment of US \$ 2.0 Mn. paid to the said 1st and/or 2nd Defendants ?
69. Are you aware whether, after the Plaintiff had raised the aforesaid material queries/ discrepancies and had called for, from the 3rd Defendant certain categorical clarifications, that the said 1st and/or 2nd Defendants proposed to transfer a part of their Shareholdings to the Secretary Treasury, to afford the Secretary Treasury a 75% controlling interest ? If not, what did they propose ?
70. Are you aware whether, the aforesaid proposal was in writing, and if so what was the date of such writing ?
71. Was such aforesaid proposal made to enable the amendment of your Articles of Association by the Secretary Treasury, without the said 1st and/or 2nd Defendants being a party to such amendments ? If Yes, Why ?
72. Are you aware, whether, the 1st and/or 2nd Defendants' representatives in regard to, inter alia, the aforesaid proposals, had any discussions and/or negotiations with Officials/Representatives of the Government of Sri Lanka ? If Yes, with whom ?
73. Are you aware whether, the 1st and/or 2nd Defendants' representatives in regard to, inter alia, the aforesaid proposals, had any discussions and/or negotiations with Officials/Representatives of the Attorney-General's Department ? If Yes, with whom ?
74. Are you aware whether, the 1st and/or 2nd Defendants' representatives in relation to any matters whatsoever pertaining to this Action have had any discussions and/or negotiations with Officials/Representatives of the Attorney-General's Department ? If Yes, with whom ?
75. As set out in the Investment Agreement (**P09**), is not the land, on which your Colombo Hilton Hotel stands, under-leased from Cornel & Co. Ltd., a party to the said Investment Agreement, which Company had leased the same said land under a principal Lease, from the Urban Development Authority, on the basis of making lease payments in instalments

to the Urban Development Authority ?

76. Had the said Cornel & Co. Ltd. been prompt and regular in their aforesaid instalment payments to the Urban Development Authority on the said principal Lease, under the terms of such principal Lease ?
77. Would not the non-payment of the aforesaid instalment payments under the principal Lease, affect your right, title, interest, possession and continuity to the said land under the said underlease ?
78. Was not the full consideration for the underlease, for a 99-year period, fully paid for by you, by the allotment of a major shareholding to Cornel & Co. Ltd. ?
79. Was not such shareholding, as presently held by the Government of Sri Lanka, transferred to the Government of Sri Lanka by Cornel & Co. Ltd. in terms of a written Agreement entered into, in the context of the aforesaid State Guarantees that were issued to the said 1st and 2nd Defendants ?
80. Are you aware, that the Urban Development Authority appearing by the Attorney-General's Department had instituted legal action against the said Cornel & Co. Ltd., for default of instalment payments under the principal Lease ?
81. Was the aforesaid principal Lease with the Urban Development Authority cancelled and/or taken over by the Government of Sri Lanka and/or the Ministry of Finance, due to the default in the payment of the said instalments by the said Cornel & Co. Ltd. to the Urban Development Authority, under the terms of the said principal Lease ?
82. If so, should not the cancellation of the aforesaid principal Lease have resulted in the cancellation of the aforesaid written Agreement with the said Cornel & Co. Ltd.? If not, why not ?
83. If so, should you not become the principal Lessee from the Urban Development Authority ? If not, why not ?
84. Was not the original State Guarantees issued against Loans, that at that time amounted to about US \$ 55.0 Mn. ?
85. Did not the alleged claims by the said 1st and/or 2nd Defendants in September '90 amount to about US\$ 155.0 Mn. ?
86. Was agreement reached to return part of the aforesaid Government Shareholding to Cornel & Co. Ltd. ?
87. If so, on what basis was agreement reached to return part of the aforesaid Government Shareholding to Cornel & Co. Ltd. when the value of the said Guarantees had so enhanced ?
88. Being a listed Public Company, would not your share transfers, could only be effected through the trading floor of the Colombo Stock Exchange ?
89. Further, did Cornel & Co. Ltd. underwrite the Public Issue as provided for in Article 3.03 of the Investment Agreement (**P09**) ?
90. What was the shortfall not taken up by the Public Issue ?
91. Was Cornel & Co. Ltd. accordingly, called upon to pay and make good the shortfall on the Public Issue ? If not, why not ?
92. Was the Government of Sri Lanka/Secretary Treasury caused to invest Rs.40.0 Mn. to make good part of this shortfall, to enable the aforesaid payment of US \$ 2.0 Mn. to the said 1st and/or 2nd Defendants, consequent to the meeting had by the said 5th and 7th

Defendants, together with the representatives of the said 1st & 2nd Defendants at the Ministry of Finance in January '90 ?

93. Did the Secretary to the Treasury, as a main Shareholder, give notice of resolutions in or about August '90, inter-alia, to remove Cornel L. Perera, F.G.N. Mendis, the said 5th & 6th Defendants respectively and the Plaintiff as Directors of the Company ?
94. Did the Secretary to the Treasury, subsequently in or about October '90, withdraw the said resolutions ? If Yes, why ?
95. Were the negotiations in relation to the aforesaid matters pertaining to Cornel & Co. Ltd. had by Cornel L. Perera, the said 5th Defendant/ representatives of Cornel & Co. Ltd. with the Attorney-General's Department ? If Yes, with whom ?
96. As a result of such aforesaid negotiations, were your Articles of Association changed in December 1990, resulting in the removal of the Plaintiff from your Board of Directors ? If yes, why ?
97. Are you aware that, the said 1st Defendant, had entered into an Agreement called the Basic Agreement on the 8th day of April 1983, executed on its behalf by M. Yoshiuchi, a General Manager of its Overseas Development and Construction Division, with a Company registered in the United Kingdom, in connection with the promotional services and assistance to be rendered to the said 1st Defendant, for the promotion and realisation of the Hilton Hotel Project in Colombo, Sri Lanka, upon certain given conditionalities for a compensation of 2.5 (two point five) percent in Japanese Yen on the total contract prices of the Construction Contract and the Supply Contract stipulated in Articles 3 & 4 of the Preliminary Agreement (**P06**) filed of record in this Action ?
98. Are you aware that, the said 1st Defendant, entered into a further Agreement on the 1st day of April 1984, superseding the above Agreement executed on its behalf by the said M. Yoshiuchi, a General Manager of its Overseas Development & Construction Division, with a Company registered in the United Kingdom, in connection with the promotional services and assistance to be rendered to the said 1st Defendant, for the promotion and realisation of the Hilton Hotel Project in Colombo, Sri Lanka, upon certain given conditionalities and for the specified compensation of Japanese Yen 340,000,000 (Three Hundred Forty Million Japanese Yen) ?
99. Are you aware that the aforesaid conditionalities in the aforesaid Agreements, inter alia, included obtaining and receiving by the said 1st Defendant of the following ?
 - "(A) The Letter of Guarantee by the Government of Sri Lanka in the form attached as an appendix "D" of the Loan Agreement entered into by and between Mitsui and Taisei as a lender and Hotel Developers (Lanka) Ltd. as a borrower as of 31st of January, 1984 (hereinafter called the "Loan Agreement")
 - (B) The opinion of Attorney General of Sri Lanka in the satisfactory form by Mitsui as set forth in Article 6 of the Loan Agreement.
 - (C) The total exemption of corporate income tax for Hotel Developers (Lanka) Limited for 10 (ten) years after it started operation as set forth in the agreement for the investment in Hotel Developers (Lanka) Ltd. made and entered into by and between Mitsui, Taisei, Cornel & Co. Ltd. and the Government of Sri Lanka as of 31st day of January, 1984 (hereinafter called the "Investment Agreement")
 - (D) The total exemption of all taxes on interest to be paid or other payment to be made by Hotel Developers (Lanka) Ltd. under the Loan Agreement as set forth in Article 17 of the Investment Agreement.
 - (E) The total exemption of import duty on all materials and equipment stipulated in Article 17 of the Investment Agreement. "

100. Are you aware that the said 1st Defendant, as per the aforesaid Agreement had agreed to remit the aforesaid compensation amounting to Japanese Yen 340,000,000 (Three Hundred Forty Million Japanese Yen) for, inter alia, the aforesaid services to Account No.10022558/06, Mr.S.C.S. Cloppenburg at European Asian Bank, Hong Kong at No.16-18, Queens Road, Central, Hong Kong ?
101. Are you aware that the said 1st Defendant, had remitted the aforesaid compensation under the aforesaid Agreement, in two instalments through the Bank of Tokyo, after such aforesaid conditionalities had been fulfilled, to the aforesaid Bank Account at the European Asian Bank, Hong-Kong, in April '84 and December '84 respectively ?
102. Do you admit, that the conditionalities aforesaid, are the very same conditionalities as inter-alia, those set out in Article 17 of the Investment Agreement (**P09**) dated 31.01.84, filed of record in this Action, more particularly those conditionalities stipulated in Article 17.02 caused to be fulfilled by Cornel & Co. Ltd., a party to the said Investment Agreement ?
103. Outside the Investment Agreement, which, inter-alia, provided for the fulfillment of the aforesaid conditionalities, why did the said 1st and/or 2nd Defendants have, in addition such additional Agreements, referred to above for payments to be made outside Sri Lanka in Hong Kong ? And why were such payments made ? And would not such payments ultimately be at your own cost ? If not, why not ?
104. Being the majority Shareholder and party to the said Investment Agreement was the Government of Sri Lanka made aware of such additional Agreements? And was the Government of Sri Lanka's prior approval obtained for such additional Agreements and the aforesaid payments to be made outside Sri Lanka in Hong Kong for the fulfillment of the aforesaid conditionalities? If not, why not ? And would not such payments ultimately be at your own cost, covered by the said State Guarantees given by the Government of Sri Lanka ? If not, why not ?
105. Do you not admit, that the aforesaid conditionalities, inter-alia, pertaining to the Letters of Guarantee from the Government of Sri Lanka, the opinion of the Attorney General of Sri Lanka, total exemption of corporate income tax & exemption of taxes on interest in Sri Lanka and the total exemption of Import Duties in Sri Lanka, were conditionalities that could only be afforded by the Government of Sri Lanka ? If not, why not ?
106. If so, how could and why should such payments have been made outside Sri Lanka in Hong Kong for concessions/exemptions that could have been granted only by the Government of Sri Lanka ?
107. Do you admit, that the Hon. Minister of Finance and Planning by his Letter dated 02 March '84, acting on the legal opinion also dated 02.03.84 given by the Hon. Attorney General, recommended that no waiver of Customs Duties be granted to the Colombo Hilton Hotel Project ? If not, what did the said Hon. Minister state and what was the opinion of the Hon. Attorney-General ?
108. Do you admit, that thereafter, the said 7th Defendant abovenamed, gave a written opinion dated 06.03.84 countermanding the aforesaid opinion of the Hon. Attorney General ? Did not such opinion cause the Government of Sri Lanka to grant the waiver of Customs Duties to the said Colombo Hilton Hotel Project ? Was not subsequently such waiver of Customs Duties granted to the Colombo Hilton Hotel Project ?
109. Do you admit, that the learned District Judge, in issuing the Interim Injunctions, prayed for as per prayers "g" and "h" of the Plaint, had in his Order, inter-alia, observed that, the significance that is shown is that, generally the Company which has to pay money, would be raising questions in respect of such situation and would not allow other parties to act arbitrarily and that there is no acceptable basis, at present, for making payments to the said 1st and/or 2nd Defendants ?

110. Have you not, inter-alia, accepted the said findings by Court, having not challenged the said findings ? If so, what action have you even now taken on the said findings of Court ? If not, why not ?
111. Since after the Plaintiff instituted the aforesaid Action, your Board of Directors was restructured to have a majority of six Government Nominee Directors on your Board, what action has your Board of Directors taken in the context of the observations, made by the learned District Judge in this Action in issuing the Interim Injunctions after Inquiry ? If not, why not ?
112. Did your Board of Directors consider and deliberate upon the contents of the Report of Mr. Shelton Wijayaratne, Chartered Architect, filed of record in this Action, obtained as decided at your Board of Directors ? If Yes, what action has been taken thereon ? If not, why not ?
113. Do you admit, that the said 1st and/or 2nd Defendants acting in collusion with the said 3rd Defendant had introduced a new set of Architectural Plans described as "Amended Plans" in July '85 ? If not, why not ?
114. Do you admit, that this had been carried out without the knowledge and/or express approval and/or authority of your Board of Directors ? If Yes, what action did you take in such regard ? If not, why not ?
115. Do you admit, that at the Meetings of your Board of Directors in June '85 and July '85 at the instance of the Plaintiff, decision was made requiring Reports from the 1st, 2nd & 3rd Defendants on the progress of the construction of Colombo Hilton Hotel to be submitted to the Board of Directors ? If not, what decision did the Board of Directors make ?
116. Do you admit, that the aforesaid introduction of a new set of Architectural Plans has been in deliberate contravention and violation of the aforesaid Board Decision ? If not, why not ? If Yes, what action did you take in such regard ? If not, why not ?
117. Do you admit, that the 3rd Defendant did not have your authority and/or approval to redraw a new set of Architectural Plans, described as "Amended Plans" or otherwise ? If Yes, what action did you take in such regard ? If not, why not ?
118. Do you admit, that as the Owner of the said Colombo Hilton Hotel, you have not placed your official signature and seal on the said new set of Architectural Plans so introduced, described as "Amended Plans", as is normally stipulated and required ? If so, why ? Ought you not have placed such official signature and seal of yours on such Architectural Plans ? If not, why not ?
119. Do you admit, that the aforesaid introduction of a new set of Architectural Plans, described as "Amended Plans" , in July '85 has contravened and violated the specific provisions in such regard in several Agreements/Contracts ? If not, why not ? If Yes, what action did you take in such regard ? If not, why not ?
120. Do you admit, that the aforesaid introduction of a new set of Architectural Plans, described as "Amended Plans" in July '85, also materially affects the Supplies Contract ? If not, why not ?
121. Do you admit, that the aforesaid act of introduction of a new set of Architectural Plans described as "Amended Plans" has contravened and has violated the specific provisions in such regard in the Investment Agreement which required that any such Amendment had to be entered into in writing by all parties to the said Investment Agreement, including also the Government of Sri Lanka ? If not, why not ? If Yes, what action did you take in such regard ? If not, why not ?

122. If such written agreement as required as aforesaid was entered into, when was it ? If not, why not ?
123. Do you admit that the aforesaid State Guarantees were issued by the Government of Sri Lanka, as parties to the said Investment Agreement, to the said 1st and/or 2nd Defendants, inter-alia, on the basis of the said Investment Agreement ? If not, on what basis ?
124. Do you admit that such contravention and violation, as aforesaid, of the said Investment Agreement, by the said 1st & 2nd Defendants as parties thereto, thereby renders void the aforesaid State Guarantees ? If not, why not ?
125. Do you admit, that all copies of the original Architectural Plans approved by your Board of Directors and by the Urban Development Authority in January '84 and March '84 respectively, could not have been destroyed by the Fire at the Construction Site Office of the 1st and/or 2nd Defendants? If not, why not ?
126. Do you admit, that your Owner's copy of the said Architectural Plans, which was in the custody of your own Office, is questionably missing and/or deliberately suppressed ? If not, why not ? If Yes, what action did you take in such regard ? If not, why not ?
127. Do you admit, that the 3rd Defendant's Completion & Final Certificates are mere simple "Medical Certificate" type letters ? And further that they have failed to disclose and/or have deliberately suppressed the fact that they related to a new set of Architectural Plans that had been subsequently introduced described as "Amended Plans" ? If not, what was disclosed ? If Yes, what action did you take in such regard ? If not, why not ?
128. Do you admit, that you do not have Specified Bills of Quantities and Final Measurements to support the said Certificates of the 3rd Defendant and/or to verify the correctness of the Colombo Hilton Hotel construction ? If not, how could the correctness be verified ? If Yes, what action did you take in such regard ? If not, why not ?
129. Do you admit, that Exhibit "A" to the Supplies Contract that defined the scope of supplies of Furnishings, Fixtures and Equipment to the said Colombo Hilton Hotel is also questionably missing and/or deliberately suppressed from your Office ? If not, why not ? If Yes, what action did you take in such regard ? If not, why not ?
130. Do you admit, that in the absence of the aforesaid Exhibit "A" that you are unable to verify the correctness of the Quality, Specifications and Quantities of such Supplies of Furnishings, Fixtures and Equipment to the said Colombo Hilton Hotel ? If not, how could the correctness be verified? If Yes, what action did you take in such regard ? If not, why not ?
131. Do you admit, that payments were drawn by the said 1st and/or 2nd Defendants from Loans provided for by they themselves, under the said Loan Agreements, merely on the basis of the effluxion of time ? If not, on what basis were such payments drawn ?
132. Do you admit, that there were no interim work certificates issued by the said 3rd Defendant, Architects, as conventionally issued, for the said 1st and/or 2nd Defendants to draw such payments ? If not, where are such certificates certifying such payments ?
133. Do you admit that, in the absence of the aforesaid several material documentations, that you are unable to verify the correctness of the construction and delivery, as per the agreed qualities, specification, quantities and values of the furnished and equipped Colombo Hilton Hotel ? If not, how could such correctness be verified ?
134. Do you admit that, in the context of the aforesaid, that you have no valid, satisfactory and acceptable basis to make payments to the said 1st and/or 2nd Defendants ? If not, why not ?

135. Do you admit that the learned District Judge, in issuing the Interim Injunctions after Inquiry in this Action, in his Order, inter-alia, observed that, there is no acceptable basis, at present, for making payments to the said 1st and/or 2nd Defendants ?
136. Do you admit, that Profitability Forecasts and Cash Flow Projections for the said Colombo Hilton Hotel was prepared and submitted by the said 1st Defendant on the basis of computing Room Revenues on 452 Hotel Guest Rooms ? If not, on what basis were they computed ?
137. Do you admit, that the said Profitability Forecasts and Cash Flow Projections were prepared and submitted by the 1st Defendant consistently both before and after the said Colombo Hilton Hotel opened for operations? If not, why not ?
138. Do you admit that subsequently, after the Plaintiff raised queries in regard to the number of Guest Rooms that the said 1st Defendant prepared and submitted revised Profitability & Cash Flow Projections to you/your Board of Directors, computing Room Revenue on the basis of 387 Hotel Guest Rooms ? If not, on what basis were they computed ?
139. Did you not, acting together with the said 1st and/or 2nd Defendants, make representations to the Government of Sri Lanka and/or its officials and/or its representatives, on the basis of such Profitability Forecasts & Cash Flow Projections, computed as aforesaid on 452 Hotel Guest Rooms, showing the repayment ability on the said Loans, and negotiate, obtain and receive the aforesaid State Guarantees, on the said Loans provided by the said 1st and/or 2nd Defendants, to construct and deliver the furnished and equipped said Colombo Hilton Hotel ? If not, why not ?
140. Did you not, in your Prospectus, represent and hold out, to the investing public of Sri Lanka and to the relevant statutory authorities, that the said Colombo Hilton Hotel was to comprise, inter-alia, of 452 Rooms (i.e. 452 Hotel Guest Rooms excluding the 4 Rooms as Manager's Apartment), going up 22 Floors and having covered (i.e. basement) car parking for 400 Vehicles ? If not, why not ?
141. Was not and is not the presence and participation of the said 7th Defendant, an influential Government Member of Parliament, as a Member of your Board of Directors, an inhibiting influence on the Government Nominee Directors, who are mainly senior Public Servants, inhibiting and preventing them from dutifully taking proper and requisite action as is warranted, in your own interests and that of your Shareholders ?

This 06th day of March 1992.



Attorneys-at-law for Plaintiff