

**MINUTES OF THE 10<sup>TH</sup> ANNUAL GENERAL MEETING OF HOTEL DEVELOPERS (LANKA) LIMITED HELD AT THE AUDITORIUM OF "SASAKAWA," NO.4, 22<sup>ND</sup> LANE, COLOMBO 3, ON THE 21<sup>ST</sup> DAY OF JANUARY 1998 AT 3.00 P.M.**

**DIRECTORS PRESENT**

: Mr.D.Y.Liyanage	- Chairman
: Dr.P.B.Jayasundara	- Director
: Mr.N.S.Ameresekere	- Director
: Mr.D.Kondo	- Director
: Mr.K.Kojima	- Director
: Mr.C.L.Perera	- Director
: Mrs.T.P.Perera	- Director

**MEMBERS**

: E.D.Sabarathnam	K.C.Perera
: A.O.Fernando	G.H.A.Liyanage
: H.J.Karim	J.V.M.Junaideen
: E.J.Samarakoo	W.D.E.Perera
: W.A.W.Gunarathna	T.W.Junoos
: D.L.Atapattu	A.Mohamed Thahir
: J.W.Fernando	Rafaideen
: T.E.Dias	N.K.B.De Silva
: D.A.Amarasena	L.Balapatabendi
: C.L.Gunawardena	K.D.Yasawardena
: S.M.Fernando	D.P.D.Kuruppu
: K.Arunachalam	K.D.R.K.Kuruppu
: B.Wiyayarathna	D.D.A.Devapriya
: M.B.P.Weerasuriya	V.Dhamasena
: J.G.Daryani	C.I.L.Nicholes
: G.U.R.Kariyawasam	Nimal Peiris
: B.Selvanayagam	M.W.Wickramasinghe
: C.Wickramasinghe	V.N.Kulasekaran
: M.Thassim	L.D.Dissanayake
: P.Arunachalam	W.D.S.Prematilleke
: Kulasekara	W.D.L.Prematilleke
: D.A.Kulasuriya	W.D.E.Prematilleke
: D.N.Dias	A.V.I.Gunawardena
: M.Thiyagarajah	W.G.Rodrigo
: K.D.S.Fernando	K.C.Perera

**MEMBERS REPRESENTED BY PROXY**

: Mohamed Thassim  
: C.J.S.Fernando  
: V.J.L.C.Fernando  
: Mitsui & Company Ltd

**PROXY**

-  
M.Chanmugam  
Sri Skantha  
D.Y.Liyanage

: Taisei Corporation	D.Y.Liyanage
: L.J.Amaresekere	Harsha Cabraal
: B.C.Perera	Bandula Wijerathna
: S.Hewagamage	P.B.Jayasundara
: M.I.Alanmiya	M.A.Adamani
: C.Athapattu	C.F.Ling
: S.Jayasekera	D.Y.Liyanage
: S.P.Kularathna	L.Balapatabendi
: A.M.Mendis	-
: W.M.Gunatilaka	-
: N.D.Abeyseena	-
: J.J.Anoma & J.L.P.Mendis De Silva	-

**BY INVITATION** : U.L.Kadurugamuwa -Attorney-at-Law  
Partner – F.J.& G. De Saram  
Representing Lawyers for the  
Company.

**IN ATTENDANCE** : Miss. R.Kobbekaduwa - Attorneys-at-Law  
: Miss.L.L.Walpola Representing Corporate  
: Mrs.J.Wijesekera Services Limited  
: Miss.D.Jayasuriya Secretaries of the Company

The Chairman Mr.D.Y.Liyanage took the Chair and introduced the Directors.

Notice convening the meeting was taken as read.

(1) **APPOINTMENT OF NEW AUDITORS**

Special Notice having been given by Mr.B.C.Perera, Secretary to the Treasury of the Ministry of Finance of the Democratic Socialist Republic of Sri Lanka of his intention to propose a resolution to appoint M/s. Someswaran Jayawickrama & Company as the new auditors of the company, the proxy holder for Mr.B.C.Perera, Mr.B.Wijayarathna proposed the following resolution.

IT IS HEREBY RESOLVED that in accordance with the decree entered in H.C. (Civil) 134/96 (1) (D.C.Colombo Case No. 3231/Spl) that the company do appoint another firm of Chartered Accountants as the auditors of the company to have the annual accounts of March 1990 finalized and certified, M/s. Someswaran Jayawickrama & Company, Chartered Accountants be and are hereby appointed as the auditors of the company for the financial year ended 31<sup>st</sup> March 1990.

This was seconded by Mr.H.Cabral.  
Mr.S.M.Fernando objected to Mr. B.Wijerathna proposing the above resolution.

When the motion was put to the vote on a show of hands 6 shareholders voted for the resolution and 19 shareholders voted against this resolution.

Mr.Sri Skantha demanded a poll. Chairman stated that the poll will be taken after taking up item 2 in the agenda.

(2) **APPOINTMENT OF M/S.SOMESWARAN JAYAWICKRAMA & COMPANY TO FINALIZE THE ACCOUNTS OF THE COMPANY FOR THE YEARS ENDED 31<sup>ST</sup> MARCH 1991 UP TO MARCH 1997**

The Chairman then moved to item 2 in the notice of the meeting.

Mr.B.Wijayarathne proposed the appointment of M/s. Someswaran Jayawickrama & Company, Chartered Accountants as Auditors to finalise the statements of accounts of the company for the years ended 31<sup>st</sup> March 1991, 31<sup>st</sup> March 1992, 31<sup>st</sup> March 1993, 31<sup>st</sup> March 1994, 31<sup>st</sup> March 1995, 31<sup>st</sup> March 1996 and 31<sup>st</sup> March 1997.

This was seconded by Mr.H.Cabraal.

When the motion was put to vote on a show of hands 6 shareholders voted for the resolution and 16 shareholders voted against this resolution.

Mr.Sri Skantha demanded a poll.

(3) **POLL**

A Poll was taken on each of the two resolutions mentioned above. Some shareholders objected to the polling cards on the ground that they did not bear a number. The objection was overruled. The Chairman declared that 41, 267,365 have voted for and 8650 voted against each resolution.

Chairman then declared that each of the above two resolutions have been carried by the said majority.

Some of the shareholders walked out of the meeting at this stage.

(4) **ADJOURNMENT OF THE MEETING FOR A FUTURE DATE**

The Chairman then took up item 3 in the agenda.

Mr.B.Wijerathna proposed to adjourn the meeting for a future date to be fixed by the Board of Directors for the purpose of receiving and considering the report of directors and the audited statements of accounts for the years ended 31<sup>st</sup> March 1990 upto 31<sup>st</sup> March 1997 together with the reports of the auditors thereon.

This was seconded by Mr.Sri Skantha.

This resolution was carried unanimously on a show of hands.

There being no other business the meeting terminated.



இதல் ஸக கும ஸமீபாடன தமாதநாண்டய  
நிதி, திட்டமிடல் அமைச்சு  
MINISTRY OF FINANCE AND PLANNING

மேல் த-கய  
எனது இல.  
My No.

மேல் த-கய  
உமது இல.  
Your No.

மேலேகல் காரியாலய, கோலம்பு 01  
காலி முகச் செயலகம், கொழும்பு 01  
The Secretariat, Colombo 01

.....199.....

Hotel Developers Lanka Ltd  
C/o Colombo Hilton Sports Complex,  
Echelon Square,  
Colombo 1.

Dear Sirs,

**SPECIAL NOTICE**  
**IN TERMS OF SECTION 138 OF THE COMPANIES ACT NO.17 of 1982**  
**OF RESOLUTION TO APPOINT AN AUDITOR OTHER THAN THE**  
**RETIRING AUDITOR IN TERMS OF SECTION 157 OF THE SAID ACT**

Take Special Notice that I, Brandigampolage Chandradasa Perera, the Secretary to the Treasury of the Government of Democratic Socialist Republic of Sri Lanka, being a Member of Hotel Developers (Lanka) Limited, intend to move the following Ordinary Resolution in terms of Section 157 of the Companies Act No. 17 of 1982 to appoint M/s Someswaran & Jayawickrama & Co. as the Auditors of the Company in place of the retiring Auditors, M/s Ford, Rhodes, Thornton & Co.

" It is hereby resolved, that in accordance with the Decree entered in H.C. (Civil) 134/96 (1) [D.C. Colombo 3231/Spl], that the Company do appoint another firm of Chartered Accountants as the Auditors of the Company to have the Annual Accounts of March 1990 finalized and certified, M/s Someswaran, Jayawickrama & Co., Chartered Accountants be and are hereby appointed as the Auditors of the Company for the financial year ended 31st March 1990."

Yours faithfully,

Brandigampolage Chandradasa Perera,  
Secretary to the Treasury,

On this 30th day of September, 1997

Ministry of Finance & Planning  
The Secretariat, Colombo 1.

**NITHYA PARTNERS**

**ATTORNEYS - AT - LAW**

265/1, R.A. de Mel Mawatha,  
Colombo 3, Sri Lanka.

Tel: 074-712625, 074-712628  
Fax: 074-712625

REGISTERED POST  
COPY BY HAND

27th October 1997



Mr. Daya Liyanage  
Chairman  
Hotel Developers (Lanka) Limited  
C/O Colombo Hilton  
Colombo 1.

*To Board Meeting  
25<sup>th</sup> Nov:*

Dear Sir,

Our client, Messers Ford, Rhodes and Thornton and Co, (Ford Rhodes) has referred your letter dated 21st October 1997 to us with instructions to respond on their behalf.

You have in your letter requested Ford Rhodes to submit their resignation to facilitate the implementation of the Court Decree which you have annexed to your letter. You will note that Ford Rhodes is not a party to the Decree. You will also note that the Decree requires "the Defendant (i.e., Hotel Developers (Lanka) Limited) to appoint another firm of Chartered Accountants as the Auditors of the Defendants to have the Annual Accounts of March 1990 finalized and certified in the context of the agreements". There is no directive in the said Decree that Ford Rhodes should resign as Auditors, and the obligation cast by the Decree is for Hotel Developers (Lanka) Ltd to appoint another firm.

Ford Rhodes indicated to you by letter dated 14th December 1996 that they did not have any objection to you appointing another firm since you are entitled to do so under the law, provided that the proper steps are followed. However, your request for their resignation is another issue altogether. You will no doubt appreciate that resignation could be perceived as being an admission of wrongdoing which our client categorically rejects. Hence, Ford Rhodes regrets that they cannot accede to your request.

Yours faithfully,

*[Handwritten Signature]*  
**NITHYA PARTNERS**

CC: The Chairman, Securities and Exchange Commission  
The Chairman, Colombo Stock Exchange  
Corporate Services Limited

# HOTEL DEVELOPERS (LANKA) LTD.

C/o Colombo Hilton, Colombo 1, Sri Lanka. Tel : 446552, 433435 Fax : 446545

REGISTERED POST  
COPY BY HAND

21st October 1997

M/s KPMG Ford, Rhodes, Thornton & Co.,  
Chartered Accountants,  
32A, Sir Mohamed Macan Markar Mawatha,  
Colombo 3.

Dear Sirs,

I refer to your letter dated 14<sup>th</sup> October 1997 and regret to note that the copy of the Decree entered by the High Court of Western Province (Civil) in Case No. 134/96 (1) [D.C. Colombo Case No, 3231/Spl], wherein the company is the Defendant, had not been attached to my letter of 26<sup>th</sup> September 1997. Accordingly, I attach a certified copy of the said Decree.

Commenting on the first sentence of the last paragraph of your letter, my request for your resignation was to facilitate the implementation of the Court Decree and I hope that you will not refrain from doing so, by drawing distinctions between statements such as, consent to resign and no objection to the appointment of new auditors.

We are all aware of the procedure for the removal and appointment of Auditors. You will no doubt appreciate that your resignation will avoid the necessity to take these formal steps and I trust that in such circumstances, you will do so, without further delay.

Yours faithfully,

  
Chairman

Hotel Developers (Lanka) Ltd.

cc: Chairman, Securities & Exchange Commission  
Chairman, Colombo Stock Exchange  
Corporate Services Ltd. - Secretaries



# Ford, Rhodes, Thornton & Co.

(CHARTERED ACCOUNTANTS)

32 A, Sir Mohamed Macan Markar Mawatha,  
P.O. Box 100,  
Colombo 3,  
Sri Lanka

Telephone : (94-1) 445671, (6 Autolin  
Telex: (94 17 445672, 446058, 5412  
Cable: GMARCOLUNT, Colombo  
E-mail: ford@col.lanka.net

14th October 1997

The Chairman  
Hotel Developers (Lanka) Ltd.  
C/o. Colombo Hilton  
COLOMBO 1

Dear Sir

We refer to a letter dated 26th September 1997 under your hand which was received at our office on the 13th of October 1997. You will therefore appreciate that it was not possible for us to respond to your letter by the 30th September as requested by you.

Moreover, although you have stated that a copy of a Decree entered by the High Court of the Western Province (Civil) in Case No. 154/96 (1) D.C Colombo Case No. 3231/Spl has been forwarded with your letter we regret to note that it has not in fact been forwarded. Hence, we are unaware of the contents thereof.

With regard to your request that we resign as Auditors to the Company, we wish to point out that there does not appear to be any Court Order directing us to resign. We also wish to point out that in our letter dated 14th December 1996 which you have referred to, we have not consented to resigning as Auditors, but instead, merely indicated that we have no objection to the appointment of a new Auditor in our place. As you are no doubt aware, the procedure for the removal and appointment of new Auditors is laid out in the Companies Act No. 17 of 1982. Hence, we see no reason for us to submit our resignation.

Yours faithfully,

RS/od

26th September 1997.

M/s KPMG Ford Rhodes Thornton & Co.,  
Chartered Accountants  
32A, Sir Mohamed Macan Markar Mawatha  
Colombo 3.

Dear Sirs,

I forward herewith a copy of the Decree entered by the High Court of Western Province (Civil) in Case No.134/96 (1) [D.C. Colombo Case No. 3231/Spl], whereby the Court has ordered and decreed, that Hotel Developers (Lanka) Ltd. do appoint another firm of Chartered Accountants as Auditors to have the Annual Accounts of 31st March 1990, finalized and certified.

This has been intimated to the Colombo Stock Exchange and we have been requested by the Exchange to ensure that the appointment of new Auditors is completed by 31st October 1997.

I also annex hereto for your easy reference a copy of your letter of 14th December 1992.

In the circumstances, I hereby request your resignation as Auditors of Hotel Developers (Lanka) Ltd., to enable the said Company to comply with the terms of the said Court Decree and have the Audited Accounts updated in conformity with stipulations made by the Securities and Exchange Commission of Sri Lanka and the Colombo Stock Exchange.

Please let me have your response to this request on or before 30th September 1997.

Yours faithfully,

  
Chairman  
HOTEL DEVELOPERS (LANKA) LTD

Cc: Chairman, Securities & Exchange Commission  
Chairman, Colombo Stock Exchange  
Corporate Services Ltd.



# COMINDTAX MANAGEMENT SERVICE LTD.

BUSINESS, FINANCIAL ENGINEERING & MANAGEMENT CONSULTANTS

167/4, SRI VIPULASENA MAWATHA, COLOMBO 10, SRI LANKA.

NIHAL SRI AMERESEKERE

BY HAND & REGISTERED POST

28th December '95

Mr. N.G.P. Panditharatna  
47, Galle Face Terrace  
Colombo 3.

Dear Sir,

AUDIT OF THE ACCOUNTS OF HOTEL DEVELOPERS (LANKA) LTD.  
FOR THE FINANCIAL YEAR ENDED 31ST MARCH '90

I write with reference to certain statements made before Parliament on Tuesday 19th December '95 by Prof. G.L. Peiris, Deputy Minister of Finance and Minister of Justice & Constitutional Affairs.

As reported in the Hansard and the press, Prof. G.L. Peiris has asserted, that you, personally and exclusively, were solely responsible and accountable for the audit and certification of the abovementioned Annual Accounts. He has specifically stressed that two Senior Partners of M/s Ford, Rhodes, Thornton & Co., Chartered Accountants, namely, Mr. G.C.B. Wijeyesinghe and Mr. R.N. Asirwatham, personally well known to him and whom he could well vouch for, had nothing, whatsoever, to do with the audit of the said Accounts and nor did they carry any responsibility or accountability therefor.

As to how Prof. Peiris, without being personally aware of the factualities of the relevant matters and issues, and without proper verification thereof, had laboured to assert such a position is really incomprehensible. Moreover, the said matter, inter-alia, is before a Presidential Commission of Inquiry.

Furthermore, it would appear, that there is a propounding of a profound new concept of partnership law, and the joint and several responsibility and accountability of partners thereunder.

As you know, the factual truth is far from such stated position. During the relevant time in or around November '90, when the said Accounts came to be certified on 28.11.'90, you were seriously indisposed. In or about that time you were hospitalised at Nawaloka Hospital for a prostate operation and was immediately thereafter undergoing, to my knowledge, medical recuperation in preparation for heart surgery, which you underwent at the Apollo Hospital, Madras.

In fact, Mr. R.N. Asirwatham, himself, indicated to me on a telephone conversation initiated by me in regard to the aforesaid audit of the said accounts, that in view of your health condition at that time, that you should not be troubled with the said matter and accordingly, he requested me to forward, whatever, relevant material, undertaking that he would look into the matter. I did so, regrettably without any response, whatsoever, thereto.

Accordingly, in view of your such health condition, the matter of the Audit of the said Accounts, I could not and did not take up with you. Nevertheless, in addition to the Letter of Notice dated 25.09.'90 forwarded to M/s Ford, Rhodes Thornton & Co., prior to the certification of the said Accounts, by my Attorneys-at-Law, M/s De Silva & Perera, I too, prior to the certification of the said Accounts, specifically communicated with the other partners, particularly Mr. G.C.B. Wijeyesinghe and Mr. R.N. Asirwatham, amongst other, forwarding a number of communications, some of them with separate copies specifically marked for their personal attention, objecting to the said Accounts and pointing out several serious deficiencies therein. Furthermore, upon my urging, the Company itself called for an examination of the several matters that were raised by me prior to the certification of the said Accounts.

In practice, you would no doubt accept, that normally inward and outward correspondence is seen by all partners and decisions made at regular Meetings of the partners. Is it not foolhardy to suggest, that such a controversial matter as the above, which had been pre-notified of as aforesaid, would not have been deliberated and acted upon at such Meetings of the partners, prior to such certification of the said Accounts ?

After you recovered from your illness, I personally visited you and placed before you the relevant facts and as to what had transpired and the circumstances that had led me to institute a further Court Action on 11.01.'91 to have the said Accounts, audited and certified by M/s Ford, Rhodes Thornton & Co. disregarding by objections thereto and rejection thereof, set a side by Court. I draw your kind attention to my Letter dated 15.08.'91 forwarded to you and quote the first and the last two paragraphs therefrom:

*" I write to place before you, a complete set of the Letters and Documents that had been submitted to Ford, Rhodes, Thornton & Co., by the abovementioned Company, by me and by my Attorneys-at-Law, in relation to the Audit of the Accounts referred to above.*

*.....  
I consider this a matter of grave public interest and importance. Furthermore, it is also a matter of professional interest and concern. No cognisance appeared to have been taken, of the matters reported on by me, as a Director and Shareholder, notwithstanding that I am also a Fellow Member of the Institute of Chartered Accountants of Sri Lanka, having also been a Member of the Council.*

*I did not wish to, take up the aforesaid matters with you personally, at the relevant times, in view of your health condition and hospitalisation, at that time. However, now I thought, I should bring the said matters to your kind attention. "*

Having considered the matters placed before you, your cryptic response thereto was that, *"Our chaps should never have certified these Accounts."*

I am made to believe, that you have issued some sort of statement taking responsibility for the certification of the said Accounts, notwithstanding the circumstances as aforesaid, obviously as the then Senior Partner. Such honourable and noble act, under the aforesaid circumstances, is commendable, particularly moreso, when others notwithstanding the given circumstances, do not appear to want to be held accountable and responsible therefor.

In fact, in the given circumstances, when I was compelled to institute such a further Court Action to have the said Accounts set aside, personally in deference to you, I did not make the partners of M/s Ford, Rhodes Thornton & Co. Defendants to the said Action, eventhough the late Mr. P. Navaratnarajah, Q.C., my Counsel in this Action, strongly advised me to do so and when I did not concede, he exhorted, "Remember, young man, that you are going against professional advice. I have known Mr. Panditharatne long before you. There is no room for such personal relationships in matters of litigation."

Subsequently thereafter, the Company answering Interrogatories served by me, asserted in its reply to a number of Interrogatories, that such Interrogatories could only be answered by the Auditors of the Company. In such circumstances and on Counsel's advice, I was compelled to move Court to add the partners of M/s Ford, Rhodes, Thornton & Co., as Defendants, and the Court thereupon issued Notices, on the partners of M/s Ford, Rhodes, Thornton & Co. Objections and Affidavit therein, having been filed by Mr. R.N. Asirwatham, himself, the matter was not proceeded any further, in view of the settlement discussions that were initiated before the Attorney General by the Government .

Under the given circumstances, the Settlement Agreements, finalised by the Attorney General, inter-alia, provided for the following Clause:

*" The Government shall and will requisition and hold Meetings of the Board of Directors of HDL and/or Shareholders of HDL and pass requisite Resolutions to, have the present Auditors of HDL removed and have another firm of Auditors appointed and have the Annual Accounts of March 1990 finalised in the context of this Agreement and the settlement and withdrawal of D.C.Colombo Action No 3231/Sp1"*

In his said Affidavit, Mr. R.N. Asirwatham, himself, has inter-alia, sworn,

*"..... as Auditors, 2nd and 4th to 10th Respondents and I have audited the accounts of the Company and issued the necessary endorsements....."*

After the issuance of the Interim Injunctions by the District Court in the main Case, I contacted you to kindly request the partners of M/s Ford, Rhodes, Thornton & Co., to consider withdrawing and disassociating themselves from the said Accounts in terms of the Code of Professional Conduct & Ethics that was then being adopted by the Institute of Chartered Accountants Sri Lanka,. Eventhough, you personally consented to discuss the said matter and requested me to speak with Mr. G.C.B. Wijeyesinghe, he declined to consider the same.

In this regard I quote from my Letter dated 10.03.'92 forwarded to M/s Ford, Rhodes, Thornton & Co:

*" I am constrained to refer you to the proposed Code of Professional Conduct & Ethics, prepared by a Committee of Members of the Institute, Chaired by your Mr. G.C.B. Wijeyesinghe, including also your Mr. M.R. Mihular, who is at present, also a Member of the Council of the Institute. I wish to draw your kind attention to the Sections titled Introduction, Public Interest, Objectives, Fundamental Principles, Integrity & Objectivity and more particularly to Section 1.4 on page 8, therein, which reads:*

*'A member should not permit a misstatement to appear in a financial statement with which he is associated. If he becomes aware of such misstatement subsequent to the preparation of the financial statement, he should bring this to the notice of all concerned parties and disassociate himself from the financial statement if the misstatement is not corrected.'*

.....

*I write to request you, to objectively consider withdrawing and disassociating yourselves, from the said Statement of Annual Accounts, in keeping with and in the spirit of the provisions of the said Code of Professional Conduct and Ethics.*

*You would no doubt appreciate, that professional Standards should be upheld at the highest level of integrity, honesty and competence and that a leading firm such as yours, should provide the necessary leadership in such regard.*

*Eventhough belated, any such action by you now, would not only right the wrong, but also, would uphold the Standards of the Profession and demonstrate that the same cannot be compromised."*

A Special Presidential Commission of Inquiry, Chaired by a Supreme Court Judge with two Judges of the Court of Appeal, having conducted investigations, have now issued show cause notices on the concerned Directors of the Company, one of the charges made being;

" disregard the discrepancies, shortcomings and irregularities which were brought to the notice of the Board of Directors, and wrongfully attempt to approve as authentic the Annual Accounts of the said Company for the year ended 31st March 1990 and endeavour to take action, to adopt the Accounts with the object of suppressing the aforesaid fraudulent acts and omissions "

The said Accounts were certified, notwithstanding my urging your then partners not to do so as aforesaid.

Personal regards,



Nihal Sri Ameresekere

FILE VI

3rd June, 1993.

Ford Rhodes Thornton & Co.,  
(Chartered Accountants),  
P.O. Box 186,  
Colombo 3.

Dear Sir,

Hotel Developers (Lanka) Ltd.

The Secretary to the Treasury, Mr. R. Paskeralingam has directed me to inform you that auditors in respect of Companies in which the Government of Sri Lanka is the majority shareholder are presently nominated by the Auditor General. As you are aware the Government of Sri Lanka is the majority shareholder of the above Company.

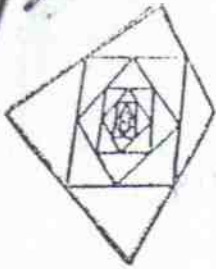
The Secretary to the Treasury has, therefore, directed me to request your Company to kindly tender its resignation to enable an Auditor to be appointed by the Auditor General.

Yours faithfully,

*HL*

(Mrs.) V.M.Y. Cassio Chitty  
Director General,  
Fiscal Policy/Economic Affairs.

R/3.



**COMINDTAX MANAGEMENT SERVICE LTD.**  
**BUSINESS & MANAGEMENT CONSULTANTS.**

167/4 SRI VIPULASENA MAWATHA, COLOMBO 10, SRI LANKA.

P.O. BOX 1796  
CABLES: "NIHALSRI"

FAX: 697134  
TELEPHONE: 686364 696814.

TELEX: 22489 SHALAK CE  
21549 DESIGN CE

REGISTERED POST

20th March 1992

M/s. Ford, Rhodes, Thornton & Co.,  
Chartered Accountants,  
32A, Sir Mohamed Macan Markar Mawatha,  
Colombo 3.

Dear Sirs,

Hotel Developers (Lanka) Ltd.

AUDIT OF THE ACCOUNTS 31.03.90

Reference my letter dated 10.03.92, in relation to the above, I wish to further reiterate the following:

- i) All copies of the Architectural Plans, as approved by the UDA in March '84, bearing the Approval Seal of the UDA and the Signature and Official Seal of the Company, are said to be missing.
- ii) Copies of such Plans, tabled and approved at the Company's Meeting of the Board of Directors in January '84, whilst the aforesaid copies were with the UDA, (having been lodged with the UDA in October '83 and approved thereafter in March '84), are also said to be missing.
- iii) The Plans/Drawings and Specifications, that formed a part and parcel of the Construction Agreement, bearing the signatures of all the parties to the said Construction Agreement are also said to be missing.
- iv) Significantly and very coincidentally, Exhibit "A", that formed a part and parcel of the Supplies Contract, defining the scope of Supplies of Furnishings, Fixtures & Equipment, bearing the signatures of all parties to the said Supplies Contract, is also said to be missing.
- v) The Company has further admitted, that it does not have a properly reconciled and accounted inventory of such Supplies of Furnishings, Fixtures & Equipment.
- vi) Mitsui/Taisei and the said Japanese Architects, acting together, had in July '85, introduced a new set of Architectural Plans described as "Amended Plans", midstream during construction, without the approval and/or authority from the Company.



- vii) The aforesaid act, had been carried out deliberately, suppressing the same from the Board of Directors of the Company, blatantly in violation of specific Board Decisions made at that very point of time, i.e. in June '85/July '85, requiring that all Reports from the Mitsui/Taisei and/or Japanese Architects, on the progress of the construction, be submitted to the Board of Directors of the Company.
- viii) The aforesaid act of introducing a new set of Architectural Plans, described as "Amended Plans", would have required written approval and/or authority, from the Company to the Japanese Architects, as per the specific provisions in such regard in the Design & Supervision Contract.
- ix) Furthermore, the aforesaid act of introducing a new set of Architectural Plans, described as "Amended Plans", would have required written agreements to be entered into, to effect such amendments, in conformity with specific provisions in such regard, in the Investment Agreement, Construction Agreement, Supplies Contract and the Loan Agreement.
- x) The Company, the Promoters named in the Prospectus and Signatories thereto, which included also Mitsui/Taisei, were statutorily committed to uphold the truth of the statements in the Prospectus, published for the Public Issue, which set out the material features and the said several Agreements/ Contracts therein. Any variations thereto would have required approval as stipulated in the Companies Act. Any untrue statements therein carries both civil and criminal liabilities under the said Companies Act.
- xi) Neither Mitsui/Taisei, nor the Japanese Architects, ever disclosed the fact, that they had surreptitiously executed a new set of Architectural Plans, described as "Amended Plans". They did not even do so, even when discrepancies and queries were raised, on certain configurations, no sooner the Hilton Hotel opened for operations in 1987.
- xii) The Japanese Architects' Certificates were mere "Medical Certificate" type letters, without Priced Specified Bills of Quantities and Final Measurements to support them. The said Certificates deliberately did not disclose, that they referred to a new set of Architectural Plans, that had been introduced described as a "Amended Plans", disregarding both professional and contractual responsibility, the Japanese Architects had to the Company.

In the background of the foregoing how did the said Accounts come to be vouched, verified and accordingly certified?

Two of the pointed and elementary questions that arise are:

- i) How is it, that the Profitability Forecasts & Cash Flow Projections prepared and submitted by Mitsui themselves, both before and after the said Hilton Hotel opened for operations, had computed Room Income based on 452 Hotel Guest Rooms, as also was so stipulated in the Prospectus, (Revenue on 4 Rooms being excluded as Manager's Apartment) but thereafter was changed by Mitsui themselves, to be computed on the basis of 387 Hotel Guest Rooms, upon my raising queries and discrepancies on the number of Hotel Guest Rooms?
- ii) If 456 standard size 5-Star International Class Hotel Guest Rooms, comprised of 19 Guest Room Floors, as set out by the Japanese Architects themselves, how could 17 such Guest Room Floors, still contain 456 such standard size 5-Star International Class Hotel Guest Rooms in the same Towers?

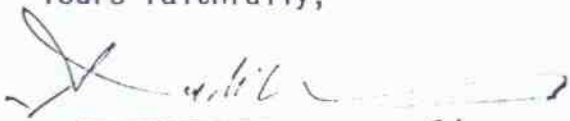
In the background of discrepancies and queries raised, an independent engineer's examination was called for in 1988, by a then Government Nominee Director, Mr. M.T.L. Fernando, a Senior Chartered Accountant, Precedent Partner of Ernst & Young, asserting that the said Japanese Architects are more or less connected with the Contractors, as recorded in the Board Minutes of 25.05.88. *This however was objected to and prevented by interested parties.*

Thereafter, upon the discovery in March '90 of a new set of Architectural Plans, that had been surreptitiously introduced as aforesaid described as "Amended Plans", on the suggestion made by Mr. K. Shanmugalingam, Addl. Deputy Secretary Treasury, Ministry of Finance, and Government Nominee Director, in the context of the seriousness of such matter, with the concurrence of the Board of Directors, as recorded in the Board Minutes of March '90 and April '90, I, to investigate the said matter as authorised by the Board of Directors, engaged the services of an experienced Chartered Architect, particularly in the Hotel Sector, Mr. Shelton Wijayarathna, a one time President of the Institute of Chartered Architects of Sri Lanka, *whose Report thereon dated 22.08.90, is filed of record in Court, in the Derivative Action instituted on 13.09.90.*

The said Derivative Action had been instituted by me as a *Shareholder*, on behalf of the Company and in its right; and in its interest and for its benefit and that of its Shareholders. *All reliefs prayed for in the said Action are solely in the interest and benefit of, the Company and its Shareholders. Your conduct and action as the Auditors of the Company, appointed by and responsible to the Shareholders, affects the interests of the Company and its Shareholders, in whose very same interests the aforesaid Action has been instituted, as a Derivative Action, in the given circumstances of "wrong-doer control"; vide Articles 79, 127 & 129 of the Articles of Association of the Company.*

I trust that you would take into reckoning, the aforesaid matters, in considering the subject matter of any previous letter under reference.

Yours faithfully,



Nihal Sri Ameresekere, F.C.A., F.C.M.A.



**COMINDTAX MANAGEMENT SERVICE LTD.**  
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21549 DESIGN CE

REGISTERED POST

10th March 1992

M/s. Ford, Rhodes, Thornton & Co.,  
Chartered Accountants,  
32A, Sir Mohamed Macan Markar Mawatha,  
Colombo 3.

Dear Sir,

HOTEL DEVELOPERS (LANKA) LTD.  
Audit of the Accounts 31.03.90

I write in pursuance of my earlier correspondence in relation to the above.

I enclose a copy of an undated Circular, submitted in December '91, to the Shareholders by the aforesaid Company.

I particularly draw your kind attention, to the significant admission by the Company, that certain very material and cognisable Current Liabilities, had not been disclosed correctly in the aforesaid Annual Accounts, for reasons now adduced, which you would no doubt acknowledge, *would not fall within the exceptions, specifically provided for in such regard, in the Accounting Standard No. 15 of the Institute of Chartered Accountants of Sri Lanka.*

Furthermore, such considerations, as adduced, were never taken into reckoning, at the relevant Board Meetings had in Oct/Nov.'90, at which the said Annual Accounts were considered, with the attendance of one of your Partners.

I also wish to draw your kind attention, to the significant fact, that the Company has now admittedly acknowledged, that the Interim Injunctions encompassed and restrained several Agreements/Contracts viz. Construction Agreement, Supplies Contract, Design & Supervision Contract and the Loan Agreements. You would appreciate, that the Enjoining Orders too were on the same dictum. Additionally, any Claims on the Government Guarantees too were restrained. Accordingly, you would note that, *the disclosure at Note 19 to the said Accounts was deliberately and manifestly false and misleading; furthermore, it had been intended, inter-alia, for the purpose of jeopardising the Derivative Action, that had been instituted on behalf of the Company, in which Action, all reliefs claimed, being only in the interest and for the benefit, of the Company and its Shareholders.*

I particularly draw your kind attention, to the observations made by the learned District Judge in his Order made, in issuing the Interim Injunctions, inter-alia:

- a) that, there is no acceptable basis, at present, for making payments to Mitsui/Taisei,
- b) that, the main issues are, the basis for the payment of monies and the question, as to whether, in relation to such issue, the volume of work had not been actually carried out, according to the contractual Agreements,

