

INQUIRY NO. 1/95

NOTICE UNDER SECTION 9 OF THE SPECIAL PRESIDENTIAL
COMMISSION OF INQUIRY LAW

TO : MR. KAIRSHASP NARIMAN CHOKSY

You, whilst holding the office of Director of Hotel Developers (Lanka) Ltd., which was the owning Company of the Colombo Hilton Hotel and the Company responsible for the construction of the said Hotel by Mitsui and Taisei Corporation of Japan, did or omit to do, between 19th December 1986 and 10th June, 1993 the following acts -:

- (1) deliberately and wrongfully fail and neglect to take action to ensure that the construction of the said Hotel was in accordance with the original Architectural Plans dated 15.08.1983 and the schematic design plan of 1980 marked as P4 and P4A, notwithstanding the fact that these matters were specifically brought to your notice by Nihal Sri Amarasekera, a Director of the said Company,
- (2) wrongfully oppose the recommendation made by the Government Nominee Director, M.T.L. Fernando to have an independent physical examination of the said Hotel carried out to ascertain whether the said Hotel had been constructed by the contractor in accordance with the original Architectural Plans dated 15.08.1983 and the schematic design plan of 1980 marked as P4 and P4A,
- (3) notwithstanding the serious discrepancies and queries that had surfaced at the meetings of the Board of Directors of the said Company and the objections raised by several Directors to the payments to be made to the contractors, collusively act together with Cornel L. Perera and persuade and/or induce the Secretary, Ministry of Finance, R. Pas-karalingam, to make a payment of US Dollars Two Million (US \$ 2,000,000) to Mitsui & Taisei Corporation of Japan,
- (4) 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,

(5) Notwithstanding the serious discrepancies, shortcomings and queries that had surfaced and disregarding the objections raised at the Meetings of the Board of Directors of the said Company for the making of any payment to Mitsui & Taisei Corporation of Japan, issue a Letter dated 28.02.1990 addressed to H. Ogami, representative of Mitsui & Taisei Corporation, inter-alia, stating that, the two Certificates (of conformity) issued by the Urban Development Authority are "adequate coverage that the Hotel construction work is in conformity with all the stipulations of the Contract, and the owner will be justified in making the balance payment to the contractor" and thereby attempt to wrongfully and deliberately facilitate the making of the full payment to Mitsui & Taisei Corporation of Japan, which was detrimental to the interests of the said Company and/or the Government of Sri Lanka,

The aforesaid acts of commission and/or omission on your part were fraudulent and were detrimental to the interests of the said Company and/or the Government of Sri Lanka, in its capacity as the major Shareholder, causing financial loss and damage to the said Company and/or the Government of Sri Lanka.

Having regard to the matters set out hereinabove, you are hereby required to show cause as to why you should not be found guilty of misuse or abuse of power and/or corruption and/or the commission of fraudulent acts in terms of Section 9 of the Special Presidential Commission of Inquiry Law No. 7 of 1978, as amended.

BY ORDER OF THE COMMISSION

SECRETARY

My No: SPC 95/PIQ/1/95

12th December, 1995

Inquiry No. 1/95

TO: MR. KAIRSHASP NARIMAN CHOKSY

NOTICE UNDER SECTION 9 OF THE SPECIAL PRESIDENTIAL
COMMISSIONS OF INQUIRY LAW.

The Commission has directed me to forward to you the original Notice in Sinhala in terms of Section 9 of the Presidential Commissions of Inquiry Law No. 7 of 1978, which is annexed hereto.

You are also informed that there is an error in Count 5 of the Notice served on you on 8.12.1995 (English Copy). This error has now been rectified. The correction being, in Count 5, in lieu of the words


" (of conformity) issued by the Urban Development Authority"

the following words are substituted:

"dated 10.4.1987 and 25.08.1988 issued by the Architects Kanko Kikaku Sekkeiysha".

Count 5 of the said Notice in its corrected form is attached herewith.

BY ORDER OF THE COMMISSION


(N A Obadage)
SECRETARY TO THE COMMISSION

- (5) Notwithstanding the serious discrepancies, shortcomings and queries that had surfaced and disregarding the objections raised at the Meetings of the Board of Directors of the said Company for the making of any payment to Mitsui & Taisei Corporation of Japan, issue a letter dated 28.02.1990 addressed to H. Ogami, representative of Mitsui & Taisei Corporation, inter-alia, stating that, the two Certificates dated 10.4.1987 and 25.8.1988 issued by the Architect Kanko Kikaku Sekkeiysha are "adequate coverage that the Hotel construction work is in conformity with all the stipulations of the Contract, and the owner will be justified in making the balance payment to the contractor" and thereby attempt to wrongfully and deliberately facilitate the making of the full payment to Mitsui & Taisei Corporation of Japan, which was detrimental to the interests of the said Company and/or the Government of Sri Lanka.

INQUIRY NO. 1/95

**NOTICE UNDER SECTION 9 OF THE SPECIAL PRESIDENTIAL
COMMISSION OF INQUIRY LAW**

TO : MR. RAMALINGAM PASKARALINGAM

You whilst holding office of Secretary to the Treasury and the offices of Secretary Ministry of Finance & Planning and Policy Planning & Implementation and thereby being vested with control over State finance and guarantees, issued to Mitsui & Taisei Corporation of Japan; did or omit to do, between 1st December 1988 and 30th June 1994, the following acts - :

- (1) deliberately and wrongfully fail and neglect to take meaningful measures through the representative Directors of the Ministry of Finance, to ensure that the said Hotel was constructed in accordance with the original Architectural Plans dated 15.08.1983 and the schematic design plan of 1980 marked as P4 and P4A, notwithstanding the fact that these matters were specifically brought to your notice by Nihal Sri Amarasekera, a Director of the said Company,
- (2) deliberately and wrongfully fail and neglect to take any action or cause any action whatsoever, to be taken to safeguard the interests of the Government of Sri Lanka in the act of issuing guarantees to Mitsui & Taisei Corporation, based on the set of false future cash flow projections and future income statements of the said Hotel, submitted dishonestly and fraudulently, by Mitsui & Co. to the Government of Sri Lanka,
- (3) Notwithstanding the serious discrepancies, shortcomings and queries that had surfaced at the Meetings of the Board of Directors of the Company and notwithstanding the objections raised to the making of any payments to Mitsui & Taisei Corporation of Japan, at such Meetings, which matters had been specifically brought to your notice, authorised the payment of US Dollars Two Million (US \$ 2 Mn.) to Mitsui & Taisei Corporation of Japan and further directed that a contribution of US Dollars One Million (US \$ 1 Mn.) be made from the funds of the General Treasury to Mitsui & Taisei Corporation of Japan which was detrimental to the interest of the Government of Sri Lanka and/or the said Company,

The aforesaid acts of commission and/or omission on your part were fraudulent and were detrimental to the interests of the said Company and/or the Government of Sri Lanka, in its capacity as the major Shareholder, causing financial loss and damage to the said Company and/or the Government of Sri Lanka.

Having regard to the matters set out hereinabove, you are hereby required to show cause as to why you should not be found guilty of misuse or abuse of power and/or corruption and/or the Commission of fraudulent acts in terms of Section 9 of the Special Presidential Commission of Inquiry Law No. 7 of 1978, as amended.

BY ORDER OF THE COMMISSION

SECRETARY

INQUIRY NO. 1/95

**NOTICE UNDER SECTION 9 OF THE SPECIAL PRESIDENTIAL
COMMISSION OF INQUIRY LAW**

TO : MR. CORNEL LIONEL PERERA

You, whilst holding the office of Chairman and Managing Director of Hotel Developers (Lanka) Ltd., which was the owning Company of the Colombo Hilton Hotel and the Company responsible for the construction of the said Hotel by Mitsui and Taisei Corporation of Japan, and having negotiated and induced the issue of guarantees by the Government of Sri Lanka to Mitsui & Taisei Corporation on behalf of the Company, did or omit to do, between 15th March 1983 and 16th August 1994 the following acts -:

- (1) wrongfully fail to retain the Company's set of original Architectural Plans dated 15.08.1983 that had been submitted and approved by the Urban Development Authority, as the owner's copy thereof,
- (2) wrongfully permit and/or cause a new set of Architectural Plans dated 15th July 1985 to be substituted at the Urban Development Authority without the approval of the Board of Directors of the Company,
- (3) deliberately and wrongfully fail and neglect to take action to ensure that the construction of the said Hotel was in accordance with the original Architectural Plans dated 15.08.1983 and the schematic design plan of 1980 marked as P4 and P4A notwithstanding the fact that these matters were specifically brought to your notice by Nihal Sri Amarasekera, a Director of the said Company,
- (4) wrongfully oppose the recommendation made by the Government Nominee Director, M.T.L. Fernando to have an independent physical examination of the said Hotel carried out to ascertain whether the said Hotel had been constructed by the contractor in accordance with the original Architectural Plans dated 15.08.1983 and the schematic design plan of 1980 marked as P4 and P4A,
- (5) notwithstanding the serious discrepancies and queries that had surfaced at the meetings of the Board of Directors of the said Company and the objections raised by several Directors to the payments to be made to the contractors, collusively act together with K.N. Choksy and persuade and/or induce the Secretary, Ministry of Finance, R. Paskaralingam, to make a payment of US Dollars Two Million (US \$ 2,000,000) to Mitsui & Taisei Corporation of Japan,

- (6) Dishonestly and fraudulently collude with Mitsui & Co. to submit a set of false future cash flow projections and future income statements of the said Hotel to the Government of Sri Lanka and thereby induce the Government of Sri Lanka to issue guarantees to M/s. Mitsui & Taisei Corporation of Japan,
- (7) Collusively acting together with the Executive Director of the said Company dishonestly and fraudulently prepare Agreements to effect a mortgage of the said Hotel to Mitsui & Taisei Corporation, notwithstanding the fact that Mitsui & Taisei Corporation had already obtained State Guarantees on this account from the Government of Sri Lanka,
- (8) 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,
- (9) Fraudulently and/or dishonestly enter into an arrangement with Mitsui & Co. Ltd. Japan, with the object of receiving payments amounting to a sum of Japanese Yen Three Hundred and Forty Million (Jap. Yen. 340,000,000) for procuring concessions from the Government of Sri Lanka, and thereby, compromise the interest of the said Company and the Government of Sri Lanka and fail to take any action, whatsoever, when serious discrepancies and irregularities relating to the construction of the said Hotel had surfaced at the meetings of the Board of Directors of the said Company.

The aforesaid acts of commission and/or omission on your part were fraudulent and were detrimental to the interests of the said Company and/or the Government of Sri Lanka, in its capacity as the major Shareholder, causing financial loss and damage to the said Company and/or the Government of Sri Lanka.

Having regard to the matters set out hereinabove, you are hereby required to show cause as to why you should not be found guilty of misuse or abuse of power and/or corruption and/or the commission of fraudulent acts in terms of Section 9 of the Special Presidential Commission of Inquiry Law No. 7 of 1978, as amended.

BY ORDER OF THE COMMISSION

SECRETARY

INQUIRY NO. 1/95

NOTICE UNDER SECTION 9 OF THE SPECIAL PRESIDENTIAL
COMMISSION OF INQUIRY LAW

TO : MR. FREDERICK GERMAIN NOEL MENDIS

You, whilst holding the office of Director of Hotel Developers (Lanka) Ltd., which was the owning Company of the Colombo Hilton Hotel and the Company responsible for the construction of the said Hotel by Mitsui and Taisei Corporation of Japan, and having negotiated and induced the issue of guarantees by the Government of Sri Lanka to Mitsui & Taisei Corporation on behalf of the Company, did or omit to do, between 15th March 1983 and 22nd December, 1990 the following acts -:

- (1) wrongfully fail and neglect to cause any action or investigation to be taken or carried out on the loss or suppression of the Company's set of original Architectural Plans dated 15.08.1983 that had been submitted and approved by the Urban Development Authority, as the owner's copy thereof,
- (2) deliberately and wrongfully fail and neglect to take action to ensure that the construction of the said Hotel was in accordance with the original Architectural Plans dated 15.08.1983 and the schematic design plan of 1980 marked as P4 and P4A, notwithstanding the fact that these matters were specifically brought to your notice by Nihal Sri Amarasekera, a Director of the said Company,
- (3) wrongfully fail to support the recommendation made by the Government Nominee Director, M.T.L. Fernando to have an independent physical examination of the said Hotel carried out to ascertain whether the said Hotel had been constructed by the contractor in accordance with the original Architectural Plans dated 15.08.1983 and the schematic design plan of 1980 marked as P4 and P4A,
- (4) notwithstanding the serious discrepancies and queries that had surfaced at the meetings of the Board of Directors of the said Company and the objections raised by several Directors to the payments to be made to the contractors, fail to object to the payment of US Dollars Two Million (US \$ 2,000,000) to Mitsui & Taisei Corporation of Japan by the Secretary, Ministry of Finance R. Paskeralingam,

- (5) fail and neglect to take any action when Mitsui & Co. dishonestly and fraudulently submitted a set of false future cash flow projections and future income statements of the said Hotel to the Government of Sri Lanka and thereby induced the Government of Sri Lanka to issue guarantees to Mitsui & Taisei Corporation of Japan,
- (6) 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 endeavor to take action to adopt the accounts with the object of suppressing the aforesaid fraudulent acts and omissions,

The aforesaid acts of commission and/or omission on your part were fraudulent and were detrimental to the interests of the said Company and/or the Government of Sri Lanka, in its capacity as the major Shareholder, causing financial loss and damage to the said Company and/or the Government of Sri Lanka.

Having regard to the matters set out hereinabove, you are hereby required to show cause as to why you should not be found guilty of misuse or abuse of power and/or corruption and/or the commission of fraudulent acts in terms of Section 9 of the Special Presidential Commission of Inquiry Law No. 7 of 1978, as amended.

BY ORDER OF THE COMMISSION

SECRETARY