

BY COURIER

18th April 2008

IMPORTANT

Mr. Sisira Mendis,
Deputy Inspector General of Police
Criminal Investigation Department
4th Floor, New Secretariat Building
Colombo 1.

Dear Mr. Mendis,

**Criminal Prosecution against Mr. K.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam & Others**

My congratulations on your appointment as DIG-CID, and my best wishes for the New Year !

I refer to Letter dated 4.4.2008 addressed to me, on behalf of Director, CID, by Chandra Nimal Wakishta, Senior Superintendent of Police, with copy to Hon. Attorney General, on the above-mentioned subject, which was personally delivered to me in my office, by Sub-Inspector Gunatilleke of the CID. *Copy of the said Letter is attached for your reference.*

I acknowledged the receipt of the said Letter, with following endorsement made thereon:

***"I do not agree with the above position. I shall reply as I may be advised on the matter" –
"Please inform the Hon. Attorney General".***

Accordingly, I refused to accept the several documents, including a photocopy of the Plan in issue, which had been furnished by me to the CID, upon they recording my statement of complaint on or about 12.3.2004, and followed-up, as requested, forwarding further documents with my Letter dated 15.3.2004. Hence, Sub-Inspector Gunatilleke took the said documents back to the CID.

On the very same day, I telephoned you and briefly informed you of the foregoing matter, and intimated that I would submit a reply after the New Year !

At the very outset, I reiterate that I cannot agree with the contents of the said Letter. In fact, I assisted the CID to trace the documents to the Department of National Archives, and caused the Secretary to the President, Mr. Lalith Weeratunga, to direct the Department of National Archives, to release the said documents in terms of the National Archives Law. I was made to understand that the Department of National Archives had agreed to do so, whereas on the contrary, then SSP-CID questionably endeavoured to make a futile attempt to photocopy the voluminous documents, as evidenced by his Letter dated 19.10.2006, *copy attached; thereby giving the lie to the stance, that documents are not available !*

In addition, I had pointed out that documents, which had been acceptable to and admitted in the Supreme Court are also with the Commercial High Court, having been transferred from the District Court. Furthermore, that copies of documents are also with the Attorney General's Department, they having appeared in my civil action, and also having assisted the Special Presidential Commission.

Secretary, Special Presidential Commission, Mr. S.K.P. Bambarenda, who on behalf of the then Secretary to the President, had transmitted the aforesaid documents to the Department of National Archives, was the person who confirmed to me that the aforesaid documents are at the Department of National Archives, when in the first instance they had questionably indicated to the CID, that they had no such documents, but later when confronted with Mr. Bambarenda's disclosure, reneged on their earlier position, as evidenced by the aforesaid Letter ! Mr. Bambarenda, who at present is the Co-ordinating Secretary to Mr. Mahinda Madihewa, Secretary, Ministry of Labour, confirmed to me that **an inventory of the aforesaid documents transmitted to the Department of National Archives had been made, and which too, would be available at the Department of National Archives !**

As requested in September 2007, I called over at the CID, and after discussions, I was requested to assist the CID to accompany the CID to trace the documents, particularly Sub-Inspector Gunatilleke, who I was informed was thereafter transferred outstation for a considerable period of time. Mr. Bambarenda being the State Official, who transmitted the said documents to the Department of National Archives, when phoned by me from the CID, consented to come and assist to trace them, if necessary. However, my cogent question to the then SSP-CID was, as to why a "B" Report could not be filed, as is the normal case, and an Order of Court obtained to retrieve the said documents. **I was informed that then Director-CID was reluctant to do so !**

This was indeed most baffling, because I have first hand experience of seeing "B" Reports filed by the CID, on the advice of the Hon. Attorney General and his Officials, comparatively on far more trivial matters, whereas this being a matter of national economic proportions and of far greater gravity, ought to be dealt with, with far greater zeal and commitment; however I am intrigued by the questionable and unenthusiastic indifference ! Law enforcement ought to have been with far more greater dedication and commitment, with the Supreme Court having upheld this to be a serious case of fraud on the Government, observing that the government could not be indifferent, **which necessarily includes the law enforcement authorities.**

In addition, a Special Presidential Commission of Inquiry, after investigations by the CID Officers on the advice of the Hon. Attorney General represented by the then Solicitor General, had issued Show Cause Notices on the aforementioned and other persons containing several charges on grounds of fraud committed against the Government, which were in fact prepared by the then Solicitor General. Hence this investigation before the CID for prosecution is not on a mere complaint by me, as a citizen, as in other cases. **Therefore, it is beyond comprehension, as to what is the apparent difficulty now ?**

Furthermore, I am indeed quite amused of the implication or connotation in the aforesaid Letter, that the original Plans are essential to launch a criminal prosecution ! I have to believe that this has been the advice proffered by the Officials of the Attorney General's Department ! I am advised that this is contrary to statutory provisions in the criminal law and applicable case law ! Ironically, I myself have witnessed, where in the absence of even a photocopy of the original document, and on the mere reference to such a document in an *ex-parte* report, a prosecution has been zealously and successfully carried out by the Officials of the Attorney General's Department. **Hence, it begs the question, as to why such duplicity ?**

I am advised that more than adequate documents and corroborative circumstantial evidence are available for criminal prosecution, which, however, had not been adequately examined and addressed or the relevant facts clarified from me, who successfully carried out a civil prosecution and assisted the Special Presidential Commission to issue Charge Sheets on grounds of fraud committed against the Government i.e. the country.

This inquiry by the CID commenced with the Letter dated 23.12.2003, *copy attached*, by the then Hon. Attorney General, **who at a discussion having examined the facts and documents, conceded that there was irrefutable evidence of criminality.** Significantly, thereafter it was you, as then Director-CID, who wanted to have my statement recorded on or about 12.3.2004, stating that it was an urgent and important matter, **and quite rightly so !** However, thereafter I have been intrigued, as to the unenthusiastic and uncommitted manner, in which this matter of national economic proportions and gravity has been handled, notwithstanding the foregoing, both by the Attorney General's Department and the CID, whereas I can cite cases of far less gravity and triviality handled zealously and committedly, which I have cited in some of my correspondence. The CID got activated again only after I made a complaint to the Police Commission and the Police Commission called for a Report from the IGP.

Being reasonably aware, as to how investigations and prosecutions are supervised and directed by the Hon. Attorney General and his Officials, I cannot fault the CID, since I verily believe, that the Hon. Attorney General and his Officials are questionably unenthusiastic *vis-à-vis* such fraud of national economic proportions and gravity, notwithstanding the Supreme Court having upheld a serious case of fraud, and a Special Presidential Commission, chaired by a Supreme Court Judge, with 2 Appeal Court Judges as Members, assisted by the **Solicitor General, having framed charges of fraud committed against the Government !**

I am not surprised at all, in that, excluding the Hon. Attorney General, Sunil de Silva P.C., who did not oppose my prosecution of the civil action in the interest of the country, the subsequent Hon. Attorney Generals and Officials, questionably '*kicking the rule of law*' opposed my civil prosecution, I verily believe, due to socio-political influences and pressures by parties impleaded, who in fact were castigated by the District Judge in his Order issuing the interim injunctions ! The only other Hon. Attorney General, who appreciated the facts of this case and its national importance and gravity, and acted accordingly, is the present Chief Justice His Lordship Sarath N. Silva P.C., at the time he was the Hon. Attorney General.

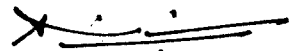
As intimated, I wish to call over for a proper and meaningful discussion on this grave and serious matter, in view of the volume of facts and gravity of this matter, which I cannot again repetitively include in this Letter. A perusal of the Files at the CID will disclose that I have made several written representations disclosing material facts to assist and urge the CID to enforce the 'rule of law', irrespective of the social standing and status of the personalities concerned ! If required, I can make photocopies of my said Letters and forward same to you !

I wish to however place on record, that I have made **two** complaints to the CID, **one** on the fraud perpetrated on the government and attempts to cover-up the same, *which ironically would include certain Officials of the Attorney General's Department, which therefore begs the question, as to whether the Hon. Attorney General and his Officials are eligible to advice on this matter, and two*, an attempt to make fraudulent payments, that too, in foreign exchange, in the region of US \$ 207 Mn., in 1995, *which today would amount to over Rs. 45,000 Mn.*, an offence under and in terms of Section 10 of the Offences Against Public Property Act No. 12 of 1982. **The said Letter dated 4.4.2008 under reference has no bearing, whatsoever, to my such second complaint !**

I attach for your kind information and necessary action, Letter dated 15.3.2007 addressed to the Hon. Attorney General by Mr. Lalith Weeratunga, Secretary to the President.

Attempting to perpetrate a fraud of this magnitude on the Government and the country, which was prevented by me, is a grave crime on the country and its people, whereas *on the contrary endeavouring to sweep such crime under the carpet, and shield the parties involved in such grave crime, is a far graver crime and a denial of equitable social justice !*

Yours truly,



Nihal Sri Ameresekere

cc: Mr. Victor Perera, Inspector General of Police
Mr. Gotabhaya Rajapakse, Secretary, Ministry of Defence

Mr. C.R. de Silva, Hon. Attorney General

Mr. S.K.P. Bambarenda, Co-ordinating Secretary, to the Secretary, Ministry of Labour

Mr. Neville Piyadigama, Chairman, Police Commission

Ven. Elle Gunawansa, Member, Police Commission / Chairman, Committee to combat Fraud, Bribery & Corruption

Mr. Lalith Weeratunga, Secretary to the President

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SRI LANKA POLICE

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குற்றவியல் புலனாய்வுத் திணைக்களம்
CRIMINAL INVESTIGATION DEPARTMENT

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4 ஆம் மாடி, புதிய செயலகக் கட்டிடம்

4th Floor, New Secretariat Building

කොළඹ 1, ශ්‍රී ලංකාව කොழும்பு 1, இலங்கை Colombo 1, Sri Lanka

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- 02. පැමිණිල්ලේ සඳහන් පරිදි මුල් පිඹුරුවලට පටහැනිව හෝටලේ ව්‍යාපෘතිය ඉදිකිරීම පිලිබදව පරීක්ෂා කර ඇත. අපරාධ නඩුවකදී පැමිණිල්ල විසින් චෝදනා ඔප්පු කල යුතු හෙයින් එකී තත්වය තහවුරු කර ගැනීම සඳහා මුල් පිඹුරු සොයා ගැනීමට සියළු උත්සාහ දරන ලදී. එසේම නීතිමය කරුණු සම්බන්ධයෙන් ගරු නීතිපතිගේ සහායද ලබාගෙන ඇත.
- 03. කොළඹ නගරසභාව එහි ගිණි නිවීමේ අංශය සහ නාගරික සංවර්ධන අධිකාරියෙන් පරීක්ෂා කර ඇතත්, මුල් පිඹුරු සොයා ගත නොහැකිවිය. ඔබ විසින් දුන් තොරතුරු අනුව ජාතික ලේඛණාංකයක දෙපාර්තමේන්තුවෙන්, විශේෂ ජනාධිපති කොමිසමේ පරීක්ෂණ වලින් පසු මෙකී පිඹුරුපත් භාරදී ඇත්ද යන්න පරීක්ෂා කර ඇතත්, නිසි බලධාරියෙකුගෙන් මුල් පිඹුරුපත් ලබාගැනීමට නොහැකිවිය.
- 04. මේ සම්බන්ධයෙන් 2007.09.20 වන දින ඔබ මෙම කාර්යාලයේ පෙනී සිටියදී කරුණු පැහැදිලි කර දී ඇති බව විමර්ශන නිලධාරීන් වාර්තා කර ඇත.
- 05. තවදුරටත් මේ සම්බන්ධයෙන් ඉදිරි පරීක්ෂණ පැවැත්වීමට අවකාශයක් නොමැති හෙයින්, අවසන් කරනු ලබන බව කාරුණිකව දන්වා සිටිමි.

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Please inform
Received original
delivered by SI Anuruddha
I do not agree with the above position.
I shall reply as I may be advised on
the matter.
Year 2008/Reports/CCIUI
04-Apr-08

mk

Case filed against Cader for alleged fraud

Sandasen Marasinghe

COLOMBO: A case has been filed against UNP Parliamentarian and former Minister Abdul Cader before the Colombo High Court on six counts including misappropriating Rs one million of state funds.

The case was filed against Abdul Cader and M. S. Mohamed Fahim. According to the charges Abdul Cader forwarded two fraudulently drafted documents as 'quoted prices' issued by Taj Mahal Stores and New Ratnasiri Stores in Gampola to the Secretary of the

Samurdhi, Social and Development Trust Fund Priyantha Pathirana Abeysekara on November 17, 2003. Fahim was charged for aiding and abetting Abdul Cader to forward forged documents. Cader was also charged for misappropriating state funds.

According to Police statement Cader forwarded a letter to former Samurdhi Minister S. B. Disanayake requesting payment from the Samurdhi Social Development Trust Fund of Rs one million to provide 690 bags of samba

rice to distribute at certain Mosques during Ramazan month.

As a result a cheque had been forwarded to Mahajana Stores, Gampola but the mosques received less rice while certain mosques did not receive any and thereby misappropriated state funds.

Colombo Chief Magistrate Additional District Judge Sarojini Kusala Weerawardana ordered yesterday the suspects to appear before the Colombo High Court on June 5.

BY COURIER

16th March 2007

Mr. D.W. Prathapasinghe
Deputy Inspector General of Police
Criminal Investigation Department
4th Floor, New Secretariat Building
Colombo 1.

Dear Sir,

**Criminal Prosecution against Mr. K.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam & Others**

Let me first congratulate you on your appointment as the DIG-CID and wish you success in enforcing the rule of law, including also against the high level of economic crimes in this country, some of which got exposed in the recent COPE Report to Parliament.

I thank you for your prompt response dated 9.3.2007 to my Letters dated 28.2.2007 and 2.3.2007 to the National Police Commission, with copies, to among others, to the IGP.

Since my Complaint recorded by the CID, as far back as 12.3.2004, I have made repeated representations to the IGP and the CID. *Copies of some of the Letters attached.*

In fact, the Director of National Archives, to whom all the Documents of the Special Presidential Commission had been transmitted by the Secretary to the President, initially informed that no records were available. Thereafter upon me confronting the said Department, with the former Secretary of the Commission, Mr. S.K.P. Bambarenda, the Director of National Archives renegeing on the earlier stance, had admitted that all the relevant Documents were available and were in fact very voluminous.

The Secretary to H.E. the President, Mr. Lalith Weereatunga, whom I intervened with, in terms of the National Archives Law required the release of the said Documents for the prosecution.

Without obtaining the release of the said Documents, the CID by Letter dated 19.10.2006 informed me that they were obtaining photocopies thereof ! *I simply could not understand why ?* By my Letter dated 30.12.2005, I intimated several locations where authentic copies of Documents and those accepted by Courts of Law were available, in addition to those pertaining to the Special Presidential Commission transmitted to the Department of Archives by the Secretary to H.E. the President.

As regards, para 2 of your Letter, that the Director of National Archives by Letter dated 9.1.2007 had reported that - "*documents (plans) pertaining to the original structure of the Hilton Hotel are not available with them*" - this in fact, is one of the aspects of the very fraud, in that, all copies of the original Plans, which ought to have been with the Company, itself. UDA, Colombo Municipal Council, Fire Brigade, etc. were mysteriously not available. They had all been destroyed ! But that did not prevent the Supreme Court of this country upholding a very strong *prima-facie* case of fraud and injuncting the payment under the Government Guarantee, and the Special Presidential Commission after investigating into this matter. with the assistance of the CID and the Solicitor General, issuing Charge Sheets on Mr. K.N. Choksy P.C. M.P., Mr. R Paskaralingam and others (*Copies attached*) on grounds of fraud against the Government.

What is available is a cannibalised version of the original Plans, which itself, discloses fraud and criminality, which could be very easily demonstrated to you. The UDA admitted to this and drew a Measured Drawing in September 2005 of the Hotel constructed.

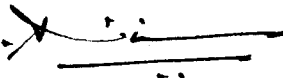
I reiterate the contents of my previous Letters and urge you to examine my Complaint made to the CID on 12.3.2004 and the Documents, which were handed over in connection therewith to the CID. I shall be only too pleased to afford you any requisite clarifications and explanations.

In addition to the aforesaid fraud, my Complaint also included the offence of making fraudulent and false representations to the Government and the offence of aiding and abetting to cause the payment of a large scale of Government monies in foreign exchange to the foreign companies, which would have caused extensive loss to the Government, which offences come under the ambit and scope of the Offences Against Public Property Act No. 12 of 1982, prosecution of which offences does not require all the documents referred to above.

Consequent to the upholding by the Supreme Court of a serious fraud in this matter, the write-off on alleged Claims on Government Guarantees, I obtained due to my sole sustained efforts in 1995 amounted to US \$ 207 million i.e. then Rs. 10,200 million, and at 12.5% interest, it amounts today to around Rs. 39,600 million. This reflects the magnitude.

Given the facts stated in my previous Letters and the documents and evidence available, no one being above the 'rule of law', I simply cannot understand why proceedings have hitherto not been commenced with a 'B Report' filed in the Magistrate's Court for the conduct of further investigations and prosecution as done in other instances of far less gravity. I have witnessed several instances of 'comparatively' insignificant matters, in which the CID and AG's Department had acted with much 'enthusiasm' and 'undue' haste, even getting reprimanded by Supreme Court therefor !

Yours faithfully,



Nihal Sri Ameresekere

cc: Mr. Victor Perera, IGP

Mr. J. Paranama, Director, National Police Commission
Mr. Neville Piyadigama, Chairman, Police Commission

Mr. Gotabaya Rajapakse, Secretary, Ministry of Defence, Public Security, Law & Order
Mr. Lalith Weeratunga, Secretary to His Excellency the President

Ven. Elle Gunawansa, Member Police Commission / Chairman, Committee to Combat Fraud,
Bribery & Corruption

කැ. පෙ. අංකය }
த. பெ. இல. } 534
P.O. Box No. }

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தந்தி } "செக்ரீம்" கொழும்பு
Telegram } "SECRIM" COLOMBO

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பாக்ஸ் இல. } 422176
Fax No. }



ශ්‍රී ලංකා පොලීසිය
இலங்கைப் பொலிசு
SRI LANKA POLICE

අපරාධ පරීක්ෂණ දෙපාර්තමේන්තුව
குற்றவியல் புலனாய்வுத் திணைக்களம்
CRIMINAL INVESTIGATION DEPARTMENT

සිවිල් කි මහල, නව මහ ලේකම් ගොඩනැගිල්ල
4 ஆம் மாடி, புதிய செயலகக் கட்டிடம்
4th Floor, New Secretariat Building
கොலம்பி 1, ශ්‍රී ලංකාව கொழும்பு 1, இலங்கை Colombo 1, Sri Lanka

1228/07
CLASSIFICATION

මගේ අංකය } 119/CID/942/
எனது இல. } 2004
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ඔබේ අංකය }
உங்கள் இல. }
Your No. }

දිනය } 09.03.2007
திகதி }
Date }

Mr. Nihal Sri Ameresekere
167/4, Sri Vipulasena Mawatha
P.O. Box: 1796
Colombo 10

Dear Sir.,

**Criminal prosecution against Mr. W.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam and others**

References are made to your letters dated 28th February 2007 and 2nd March 2007 addressed to Mr. J. Paranamana of the National Police Commission with copies to the Inspector General of Police on the above noted subject.

The Director of National Archives by their letter dated 09th January 2007 has reported that documents (plans) pertaining to the original structure of the Hilton Hotel are not available with them.

The Hon. Attorney General was consulted for instructions in view of paragraph 2 and advice is awaited.

You will be kept informed of the progress on receipt of instructions from the Hon. Attorney General, please.

~~D.W. Prathapasinghe~~
D.W. Prathapasinghe
Deputy Inspector General of Police
Criminal Investigation Department
D. W. PRATHAPASINGHE
Deputy Inspector General of Police
Criminal Investigation Department



ජාතික පොලීස් කොමිෂන් සභාව
தேசிய பொலிசு ஆணைக்குழு
NATIONAL POLICE COMMISSION

රොටුන්ඩා ටවර්, 3වන මහල, අංක 109, ගාලු පාර, කොළඹ 03.
நொற்றுண்டா ரவர, 3 வது மாடி, இல. 109, காலி வீதி, கொழும்பு 03.
Rotunda Tower, Level-3, No. 109, Galle Road, Colombo 03.
Website: www.npc.gov.lk

දුරකථනය } 2395865
தொலைபேசி } 2395866
Telephone }

ෆැක්ස් }
பெக்ஸ் } 2395867
Fax }

ඊමේල් } Polcom@sltnet.lk
ஈ மெயில் }
E-Mail }

මගේ අංකය }
எனது இல. }
My No. }

NPC/PC/C/COL/134/06

ඔබේ අංකය }
உமது இல. }
Your No. }

දිනය }
திகதி } 08.03.2007.
Date }

Inspector General of Police,
Police Headquarters,
Colombo 1.

**CRIMINAL PROSECUTION AGAINST MR.K.N.CHOKSY, PC, MP,
MR.R. PASKARALINGAM AND OTHERS**

Reference the letters dated February 28, 2007 and March 02, 2007 by Mr. Nihal Sri Amarasekera addressed to Director, PCID with copies to you and others on the above subject and my letter to you dated January 01, 2007 requesting a report to be submitted to the National Police Commission.

I shall be grateful if you could send a report very early.

J Paranamana
Director
Public Complaints Investigation Division
for Secretary, National Police Commission.

cc.: ✓
Mr.Nihal Sri Amarasekera,

- for information.

BY COURIER

15th December 2006

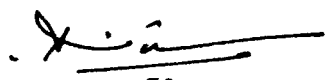
Mr. Gotabhaya Rajapakse
Secretary
Ministry of Defence, Public Security, Law & Order
15/5, Baladaksha Mawatha
Colombo 3.

Dear Mr. Rajapakse,

Further to the correspondence submitted on this matter, I forward herewith for your kind attention and warranted action, copy of my Letter to the IGP dated 14.12.2006.

Indeed is this not a 'classic case' of socio-political considerations thwarting and inhibiting due process of investigation, and shielding social-politically influential persons, from being arraigned, enforcing the rule of law.

Yours truly,



Nihal Sri Ameresekere

BY COURIER

14th December 2006

Mr. Victor Perera,
Inspector General of Police,
Police Headquarters,
Colombo 1.

Dear Sir,

**Criminal Prosecution against Mr. K.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam & Others**

I thank you for the prompt action taken on my Letter of 13.10.2006, in that, I received a copy of the annexed Letter dated 19.10.2006 addressed by the CID to the Director, National Archives Department, to obtain copies of relevant Documents for the investigation.

The background, *vis-à-vis*, this major fraud to deviously siphon out by fraudulent means, a massive amount of foreign exchange from the Government, under Government Guarantees, is as follows:

1. In September 1990, I instituted a public interest action and the Supreme Court in December 1992 upheld it as a serious *prima-facie* case of fraud on the Government, observing that in the given circumstances, the Government could not be indifferent; and further upheld the interim injunctions, which had been issued by the District Court in October 1991 'to prevent the siphoning of large scale of a foreign exchange from the country'.
2. Mr. K.N. Choksy P.C., M.P., as a Director of the Hilton Hotel owning Company, majority owned and controlled by the Government, notwithstanding my objections as a professional Director, and in the known absence of Bills of Quantities and Final Measurements, endorsed in writing that the said alleged claims be paid in full by the Government, which led me to institute the above action.
3. As a result of my action, the Japanese contractors of the Hilton Hotel in June 1995 wrote-off Jap.Yen 17,586 Mn. (then equivalent to US \$ 207 Mn., SL Rs. 10,200 Mn. i.e. equivalent today to Rs. 37,600 Mn. @ 12% p.a. interest) on their alleged claims made against the Government on the Government Guarantees. The Japanese contractors having been so penalised and therefore pardoned, is it not just and equitable that penal action as warranted be taken against those others, as was the endeavour by the Special Presidential Commission.
4. Mr. K.N. Choksy P.C., M.P., among others, was a Defendant in my action and was unable to file Objections and Answer. However, he desperately made a futile attempt to have my action dismissed; also bringing to bear pressures on me, misusing and abusing his political office, whereas I acted in the interest of the country.
5. In addition to the matter of the above fraud, I draw your kind attention to the provisions of the Offences Against Public Property Act No. 12 of 1992, including the offence to 'attempt to commit an offence punishable under that Act' – *vide Section 10 of the Act*. I had drawn specific attention of the CID to this other aspect. To establish this, only a very few available documents would be necessary, and not the entirety of the documentation pertaining to the above fraud.
6. In March 1995, a Special Presidential Commission was warranted comprising Supreme Court Judge Justice Priyantha Perera (*present Chairman, Public Service Commission*) and 2 Judges of the Court of Appeal, Justices Hector Yapa and late Ninian Jayasuriya. The Commission in its investigations was assisted by the CID and the Solicitor General Mr. Douglas Premaratne P.C.. The then Minister of Justice & Constitutional Affairs G.L. Peiris assured Parliament that it was intention of the Government that fraud and wrong-doing will be dealt with severely under the law.

7. The Commission after recording the evidence of 24 witnesses, including obtaining a Report from a panel of 3 Chartered Architects, issued Show Causes Notices framed by the Solicitor General on Mr. K.N. Choksy P.C. M.P., R. Paskaralingam (*former Secretary Ministry of Finance & Treasury / Chairman UDA*) former Chairman & Managing Director of the Company, Mr. C.L. Perera and one other Director Mr. F.G.N. Mendis (*Chairman, Delmege Forsyth & Co. Ltd.*), *inter-alia*, on grounds of fraud on the Government, causing loss and damage.
8. Subsequently, it was discovered before the Commission (*a fact not discovered at the time of the Supreme Court Judgment and the issuance of the above Show Cause Notices*), that the *floor elevations* depicted on the floor sheets of the substituted architectural plans (*original plans were missing*) of the Hotel Building, described as "amended plans" and approved by the UDA on 29.4.1986, are not the same *floor elevations* given in respect of the corresponding floors on the cross-sectional sheets forming a part and parcel of the very same UDA approved plans.

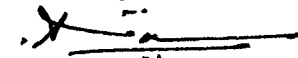
The 3rd and 4th floors were shown to be at the same *elevation* of 24.5 meters, whilst the 19th floor and the Roof of the 19th floor were shown to be at *elevations* of 72.7 meters and 72.5 meters, respectively. The Commission observed this to be an inherent, intrinsic impossibility, raising the question, as to how the UDA could have ever approved such a plan. Furthermore, the sheet numbers given on the "amended plans" reveals the absence of the 'basements', in that, the relevant sheets are missing.

In February 2005 the UDA having examined the substituted architectural plans described as "amended plans", conceded that the architectural plans are irregular, and therefore undertook to prepare a 'measured drawing' of the Hotel Building actually constructed, and forwarded the same in September 2005.

9. With one of the Commissioners having fallen critically ill, the Inquiry was not concluded and the Warrant of the Commission having thereafter expired, all the Documents of the Commission were transmitted by the Secretary to the President to the Department of National Archives.
10. Subsequently, the Hon. Attorney General having advised to investigate, the Director CID, Mr. Sisira Mendis required my Statement to be recorded. Accordingly, my Statement / Complaint was recorded in March 2004 by a team of CID Officers led by Inspector of Police Mr. P. Visvanathan. The CID Officers upon the evidence presented admitted that this was patently a very major fraud.
11. Consequently, I assisted the CID to trace the relevant documents of the Commission to the Department of National Archives, and the Secretary to the President, in terms of Section 23 of the National Archives Law, required the Documents to be released for investigation by CID. In such circumstances, I cannot understand the CID endeavouring to obtain 'photocopies' of a very large volume of Documents, including Architectural Plans, as evidenced by the annexed Letter.
12. In fact, authenticated copies of the relevant Documents, upon which the District Court issued interim injunctions and Supreme Court delivered Judgment, are available in the Commercial High Court.

Given the foregoing facts (*particularly the Supreme Court Judgment and the Special Presidential Commission's Show Cause Notices after investigations*), ought not, as normally done, a "B" Report be filed in a Magistrates' Court and Orders obtained to retrieve Documents and record statements of the concerned persons, whose statements, in fact, had been recorded by the CID, itself, in assisting the Commission under the advice of the Solicitor General ?

Yours truly,



Nihal Sri Ameresekere

අංකය }
O. Box No. } 534

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SRI LANKA POLICE

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குற்றவியல் புலனாய்வுத் திணைக்களம்
CRIMINAL INVESTIGATION DEPARTMENT

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4th Floor, New Secretariat Building
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BY COURIER

13th October 2006

Mr. J. Thangavelu, Attorney-at-Law
DIG – Legal
Legal Division
Police Headquarters
Colombo 1.

Dear Sir,

**Criminal Prosecution against Mr. K.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam & Others**

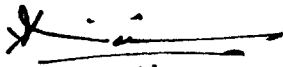
I forward a copy of my Letter dated 28.9.2006 forwarded to the CID, with copies to the persons shown therein. I draw your kind attention to the contents therein.

You would note that I had persistently made several representations, as referred to in my said Letter.

I am appalled, as to why there appears to be an 'unenthusiastic' and 'indifferent' approach, *vis-à-vis*, such a grave and serious criminal matter, and of 'national economic proportions', upheld by the Supreme Court in a civil action, and by a Special Presidential Commission, *to be a 'serious fraud on the Government'*; whereas I have cited instances, where action has been taken with much 'enthusiasm, haste and speed', *vis-à-vis*, matters comparatively of 'insignificance'. *I also attach a news report in today's 'Daily Mirror' of another example !*

I regret that I am compelled to infer that 'holders' of 'high political office', wielding 'socio-political influence', appear to be 'shielded' and given 'refuge' from being held accountable and responsible, and being dealt with enforcing the 'rule of law'; *presumably being blunted due to fear or favour.*

Yours truly,



Nihal Sri Ameresekere

cc: Mr. Victor Perera, Inspector General of Police

Former J'pura hospital Chairman convicted of criminal breach of trust

By SUSITHA R. FERNANDO

The Colombo Magistrate yesterday convicted former chairman of Sri Jayawardeneapura Kotte hospital for criminal breach of trust by using moneys belonging to Musaeus College to buy beds to the hospital.

Gunamuni Chandima Sudarma de Silva, former chairman of Sri Jayawardeneapura hospital and McCarthy hospital

and Managing Trustee of Musaeus College along with two other accused was convicted by the Colombo Additional Magistrate Ajith Anavaratne.

The other two accused were Siri Bakmideniya, Administrative Secretary of Musaeus College and Anton Marshal a welding worker.

The first accused Chandima Sudarma de Silva was charged with conspiring to

misuse cheques to the value of Rs. 64,000 from the account 00454000 belonging to Musaeus College, Colombo fraudulently. The offence was said to have been committed between February 7 and March 31, 2000.

The first accused and the second accused Siri Bakmideniya were charged with criminal breach of trust by issuing cheques and the third accused Anton Mar-

shal was charged with aiding and abetting the other two accused to commit the said offence.

It was revealed the accused Sudarma de Silva had directed the school accountant to issue cheques worth Rs. 64,000

Meanwhile it had transpired that the hospital also had paid money for the beds. The second accused, the Administrative Secretary of the school had directed the accountant of the school to give the money to the third accused, the welding worker to make the beds which were to be treated as a donation. The hospital manager giving evidence stated that while the tender had

been passed to make beds, accused Chandima Sudarma de Silva had changed it and awarded it to the third accused. At the end of a long trial the court acquitted the accused from the charge of conspiring to misuse a cheque and convicted them of criminal breach of trust. The sentence was fixed for October 26.

BY COURIER

13th October 2006

Mr. Victor Perera,
Inspector General of Police
Police Headquarters
Colombo 1.

Dear Sir,

**Criminal Prosecution against Mr. K.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam & Others**

Permit me, first and foremost, to congratulate you on the assumption of Office of the IGP, an Office at the very helm for the enforcement of the 'rule of law' in our country. I wish you every success.

On numerous occasions, I have acted in the public interest to combat fraud and corruption, particularly in the upper political echelons of society, which pillage and plunder public resources, impoverishing the poor, leading to poverty and consequently social tensions.

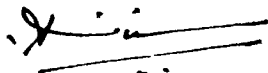
One such instance was the successful 'crusade' against the perverse 'Tax Amnesty' of 2003, where the Supreme Court upheld the same to be antithetic to the 'rule of law' and 'to have defrauded public revenue, causing extensive loss to the State'. Intriguingly, no one has been held accountable and responsible therefor.

I enclose a copy of my Letter of even date forwarded to the DIG-Legal, for your kind attention and for the strict enforcement of the 'rule of law', regardless of the personalities concerned, in conformity with the policy enunciated by His Excellency the President in his Address to the Nation on assumption of Office:

"In this respect my policy will be to consolidate the rule of law to the maximum. The law of the country should be just. Everybody including the President of the country should obey and respect that just law. I would like to state here that I will not allow anyone to subvert law and order using political power and privileges. I believe all state institutions should strictly follow policies of good governance. My Prime Minister, members of my Cabinet, the Armed Forces and the Police, the entire public service from the highest officer to the lowest rank should follow these good governance norms. Public service should be a responsible and ethical service where there is no room for fraud, bribery and corruption."

Trusting that, eventhough belatedly, warranted action would be expeditiously and effectively taken, to bring to book the miscreants before the law, without any fear or favour; *thereby sending a strong signal in our society, vis-à-vis, the enforcement of the 'rule of law'*.

Yours truly,



Nihal Sri Ameresekere

BY COURIER

28th September 2006

Mr. A. Ravindra Waidyalankara, L.L.B
Superintendent of Police
Criminal Investigation Department
4th Floor, New Secretariat Building
Colombo 1.

Dear Sir,

**Criminal Prosecution against Mr. K.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam & Others**

I refer to the telephone call and the previous Letters addressed to you, copies of which are attached for easy reference; i.e. my Letters dated 8.11.2005 and 21.12.2005, your Letter dated 27.12.2005, and my Letters dated 30.12.2005 and 6.1.2006. *In addition, I have addressed several Letters to the IGP on this investigation.*

You intimated that the CID with difficulty had to provide '5 packets of photocopy' paper to the Department of National Archives to obtain photocopies of the Documents, which had been produced before the Special Presidential Commission, and which Documents in the interim (*in that the Commission prosecution had not been concluded*) had been deposited with the Department of National Archives.

I am aware that the Director of National Archives in terms of the Law (*vide* – Section 23 of the National Archives Law) had agreed to make available to the Secretary to His Excellency the President the Documents for the purpose of this investigation and prosecution. **I cannot understand why the Documents therefore cannot be obtained to a 'designated location' for continuation of this investigation ? Surely, the deposit of Documents with the Department of National Archives ought not prevent and frustrate a criminal investigation, that too, of such serious nature of fraud on the Government of national economic proportion !**

CID Officers came to my Office and recorded my Statement of Complaint (for nearly 4 hours) **as far back as 12.3.2004** (*and admitted that this was one of the biggest frauds !*), and I produced authenticated copies of Documents (some of which had been filed in Court). I reiterate the contents of my aforesaid Letters and, *inter-alia*, as disclosed therein, I assisted to locate the Documents pertaining to the investigation conducted by the Special Presidential Commission (comprising a Supreme Court Judge and 2 Judges of the Court of Appeal), which was assisted by the CID and the Attorney General's Department, who too, I pointed out would have copies of authenticated Documents and Proceedings, naming the Officers who had handled this investigation. In fact, after investigations, it was the Attorney General's Department, specifically the then Solicitor General, who assisted the Commission to issue Charge Sheets against the aforementioned 2 persons and 2 others on grounds of fraud on the Government. Thereafter, it was further discovered before the Commission that the surreptitiously 'Substituted Plans' at the UDA were themselves inherently defective, which fact the UDA consequently has admitted – (vide UDA Letters dated 18.2.2005 and 7.9.2005).

Authenticated Documents in addition are available in the Court Case in D.C. Colombo Case No. 3155/Spl (Later transferred as H.C. (Civil) W.P. Case No. 116/96(1)), where the Supreme Court had upheld this matter *as a serious prima-facie case of fraud and observed that it had real prospect of success of being proven, even in the light of the defences, and that interim injunctions had been issued to prevent the devious siphoning of a large scale of foreign exchange from the country, and that the Government could not be indifferent. The Supreme Court acted on the authenticated copies of Documents before Court, which are available.*

Mr. K.N. Choksy P.C., M.P., as a then influential Director, acting in concert with others, regardless of objections by me, a professional Accountant, specifically gave Letters deliberately endorsing and recommending payment and acted to intervene to attempt to somehow cause the making of payment referred to in the Supreme Court dicta, which was injuncted by my actions, and consequently resulted in a write-off of US \$ 207 Mn. on alleged Claims made against the Government, thereby proving beyond any reasonable doubt, whatsoever, the Offence of 'attempt to defraud and siphon out of the country a large scale of Government monies in foreign exchange' !

Mr. K.N. Choksy's Letters are specifically quoted in full in the Plaint (settled by Late P. Navaratnarajah Esqr., Q.C. and K. Kanag-Isvaran Esqr., P.C.), and marked in the above Case in Court, wherein Mr. K.N. Choksy who was a Defendant, did not file Answer to controvert such attempt to fraudulently and deviously siphon out a large scale of foreign exchange of the Government, whereby which Offence therefore stands confirmed and admitted. The Attorney General's Department too appeared in this Case, and hence is aware of the totality of the facts and would be in possession of authenticated copies of Documents, based upon which even the Supreme Court acted.

In this instant case, attempt was made to manipulatively and fraudulently deviously siphon out a large scale of foreign exchange of Government monies under Government Guarantees, which attempt was prevented by me through injunctions obtained from Court in the above Case, which was a civil action.

Therefore, in addition to the above charges of fraud on the Government, I also drew attention to the Offences Against the Public Property Act No. 12 of 1982, particularly Section 10 thereof *vis-à-vis* '**Attempts to Commit Offences**' – "*10. Any person who attempts to commit an offence punishable under this Act, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with such imprisonment of either description as is provided for the offence and with such fine, as is provided for the offence*".

Even on such grave and serious Offence, which involved very few admitted Documents available and evidence before Court, curiously no action has been taken ! Why ?

In my Letter dated 29.5.2006 to the IGP, whilst setting out the background, I, *inter-alia*, stated as follows:

"Notwithstanding the gravity and the national economic proportions of this economic crime, I regret that the CID has been 'tardy' in this investigation, particularly when compared with the haste and speed at which the following subsequent matters have been investigated by the CID, as per advice / directions of the Hon. Attorney General, with proceedings commenced in the Magistrates' Courts –

- Rs. 1 Mn. alleged Offence by Mr. Abdul Cader M.P. in terms of Offences Against Public Property Act No. 12 of 1982
- Investigations into Accounts of Sri Lanka Cricket for alleged malpractices including re- a payment of UK Pds. 1500/- as an alleged Offence under the Immigrants & Emigrants Act
- Alleged misappropriation of Rs 82 Mn. in the 'Helping Hambantota' issue, found fault with by the Supreme Court."

"I drew attention to the Offence to attempt to commit an Offence in terms of Section 10 of the Offences Against Public Property Act No. 10 of 1982. In this instance, the attempt to fraudulently obtain a large scale of foreign exchange from the Government under Government Guarantees, including by cheating, forgery, false certification of records and accounts, etc."

In addition to the foregoing, I also cite M.C. Colombo Case No. B7018/01/2004, where a 'B Report' has been filed by the CID on 1.1.2004 in mere 2 weeks, upon a Complaint recorded on 19.12.2003, and Orders of Court obtained to take into custody and investigate records of Sri Lanka Cricket, pertaining to alleged financial irregularities of monies, **meagre**, *in comparison to the Government monies, that too, in foreign exchange, of far greater national economic proportion, which were attempted to be defrauded in the above instance.*

Hence, it is beyond comprehension, as to why in like manner, Orders of Court cannot be obtained to examine the Documents with the Department of National Archives, also in this instant case ?

The Attorney General's Department having participated right throughout in the above Case, which was upheld by the Supreme Court as a serious *prima-facie* case of fraud, observing that the Government cannot be indifferent, **ought it not, in itself, be good, sufficient and valid grounds to have warranted the immediate initiation of consequent criminal investigation and prosecution ? Curiously, it did not so happen !**

Subsequently however, a Special Presidential Commission, with the assistance of the CID and the Attorney General's Department, conducted investigations in public, into the aforesaid fraud on the Government. Such investigations **resulted in the Solicitor General assisting the Commission to frame Charge Sheets against the above 2 persons and 2 others on grounds of fraud on the Government.** Therefore, the Attorney General's Department would be fully possessed of the totality of the relevant facts and copies of the authenticated Documents, Proceedings and CID Records of such investigation and prosecution.

I cite the following extract from His Excellency's *Address to the Nation on assumption of Office*-

"In this respect my policy will be to consolidate the rule of law to the maximum. The law of the country should be just. Everybody including the President of the country should obey and respect that just law. I would like to state here that I will not allow anyone to subvert law and order using political power and privileges. I believe all state institutions should strictly follow policies of good governance. My Prime Minister, members of my Cabinet, the Armed Forces and the Police, the entire public service from the highest officer to the lowest rank should follow these good governance norms. Public service should be a responsible and ethical service where there is no room for fraud, bribery and corruption."

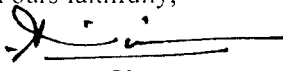
The foregoing 'curious indifference' and questionable delay and 'inaction' on the part of the law enforcement authorities, on a matter,

- i) which had been upheld by the Supreme Court to be a serious *prima-facie* case of fraud on the Government, ***observing that the Government could not be indifferent***, and
- ii) further concurred upon and confirmed by the issuance of Charge Sheets on grounds of fraud on the Government by the Special Presidential Commission, **after** investigations by the CID, assisted by the Attorney General's Department,

is in blatant contravention of and an affront to and contemptuous of the above Government policy clearly enunciated; *rendering the same nugatory*; and only enables and encourages wrong-doers to continue to freely subvert the 'rule of law' !

Hence, regardless of the personalities concerned, **to give credence and uphold the above clearly enunciated policy of the Government for the enforcement of the 'rule of law' to the maximum**, warranted action ought be taken, **eventhough belatedly** (*my Statement of Complaint was recorded by the CID on 12.3.2004*), on this serious matter of gravity and national economic proportion, taking due cognisance of the historical facts and the authenticated Documents available as aforesaid. **Involvement of socio-politically influential persons, ought not inhibit or stall the enforcement of the 'rule of law', in terms of the clearly enunciated Government policy cited above, stipulating that all persons, without exception, are equal before the law.**

Yours faithfully,



Nihal Sri Ameresekere

cc: Mr. Sisira Mendis, Director-CID
Mr. Asoka Wijethilake, DIG-CID
Mr. Chandra Fernando, IGP

Mr. Neville Piyadigama, Chairman, Police Commission

Mr. Gotabaya Rajapakse, Secretary, Ministry of Defence, Public Security, Law & Order
Mr. Lalith Weeratunga, Secretary to His Excellency the President

Ven. Elle Gunawansa, Chairman, Committee to Combat Fraud, Bribery & Corruption

BY LOCAL COURIER

29th May 2006

Mr. Chandra Fernando,
Inspector General of Police,
Police Headquarters
Colombo 1

Dear Sir,

**Criminal Prosecution against K.N. Choksy P.C., M.P., R. Paskaralingam & Others
for the fraud perpetrated on the Government / cover-up thereof**

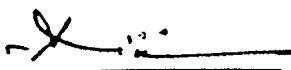
1. The above investigations commenced as far back as December 2003, upon my representations to the Hon. Attorney General and his advice to your predecessor, of which I was advised by the Hon. Attorney General by Letter dated 23.12.2003.
2. A team of Officers of the CID headed by Mr. P. Visvanathan, IP called over at my Office and recorded my Statement on 12.3.2004. I handed over copies of relevant Documents and further Documents as required were forwarded by my Letter dated 15.3.2004, with copies to Mr. Sisira Mendis, Director CID, who required me to make the Statement.
3. The CID without recording statements from the other persons concerned, had referred the matter again to the Hon. Attorney General for advice, and I was made to understand that the Hon. Attorney General had advised that the original documents which had been given to the Special Presidential Commission be obtained and the investigations proceeded with. I raised the query, without answer, as to whether in all instances CID refers the recorded complaints to the Hon. Attorney General, before recording the statements from those involved / investigating ?
4. I contacted Mr. S.K.P. Bambarenda, who was the Secretary to the above Commission, and assisted Mr. A. R. Waidyalankara S.P., CID to trace the documents with the Department of the National Archives. The Director Archives had required a request from the Secretary to the President for the release of the Documents, inasmuch as the Secretary to the President had deposited the Documents as an interim measure with the Department of Archives, since the Commission had not completed the investigations.
5. The Special Presidential Commission assisted by the CID and the Hon. Attorney General had recorded the evidence of 24 Witnesses and issued Charge Sheets on grounds of fraud on the Government against certain persons. I have already brought to your attention that irrefutable evidence of criminality was unfolded before the Commission, when the Commission discovered that the 'floor elevations' depicted on the Floor Sheets of the 'Amended' Architectural Plans had been tampered with, and that the 'floor elevations' did not correspond to the corresponding 'floor elevations' given in the Cross-sectional Sheets of the very same Plans. Floor Sheets had been removed, including those of the Basement, and new Cross-Sectional Sheets introduced. The 3rd and 4th Floors had been given to be at the same 'elevation', whilst the Roof Slab had been given to be at an 'elevation' below that of the 19th Floor. The Commission pointed out that the above was an inherent, intrinsic, impossibility, and questioned as to how the UDA could have ever approved such Plans ? The UDA had recently admitted that the Plans were irregular / fraudulent and had prepared a 'Measured Drawing' of the existing Hotel Building, of which I informed you.
6. The Secretary to the President had promptly called for the above documents from the Department of Archives, as per the request made by the CID.

7. In my several previous correspondence, in addition to the fraud perpetrated on the Government, particularly by my Letter dated 28.4.2005 to you, I drew attention to the Offence to attempt to commit an Offence in terms of Section 10 of the Offences Against Public Property Act No. 10 of 1982. In this instance, the attempt to fraudulently obtain a large scale of foreign exchange from the Government under Government Guarantees, including by cheating, forgery, false certification of records and accounts, etc.
8. In a civil action instituted by me, the Supreme Court delivered judgement upholding the interim injunctions preventing any payments to the Japanese, observing that they had been issued 'to prevent the devious siphoning of a large scale of foreign exchange from the country', and that I had a real prospect of success in proving the Case even in the light of the pleadings, objections and the submissions of the Defendants, observing it to be a strong *prima-facie* case of fraud, and that the Government being the major investor and the guarantor could not be indifferent.
9. Consequently, the Japanese agreed to write-off 10 years' interests of Jap Yen 13,476 Mn. [i.e. Rs. 12,400 Mn. as at now] and 30 % of the Capital amounting to Jap Yen 4,110 Mn. [i.e. Rs. 3,781 Mn. as at now]. A total write-off of Jap Yen 17,586 Mn. [i.e. Rs. 16,181 Mn. as at now]. If not for my civil action, would not this massive sum of money have been defrauded from the Government? I attach copies of Letters dated 8.8.1988 and 28.2.1990 of Mr. K.N. Choksy, P.C. M.P. preventing the correct examination and endeavouring to make the full payment to the Japanese.
10. Notwithstanding the gravity and the national economic proportions of this economic crime, I regret that the CID has been 'tardy' in this investigation, particularly when compared with the haste and speed at which the following subsequent matters have been investigated by the CID, as per advice / directions of the Hon. Attorney General, with proceedings commenced in the Magistrates' Courts –
 - Rs. 1 Mn. alleged Offence by Mr. Abdul Cader M.P. in terms of Offences Against Public Property Act No. 12 of 1982
 - Investigations into Accounts of Sri Lanka Cricket for alleged malpractices including re-payment of UK Pds. 1500/- as an alleged Offence under the Immigrants & Emigrants Act
 - Alleged misappropriation of Rs 82 Mn. in the 'Helping Hambantota' issue, found fault with by the Supreme Court.

Given the above facts and circumstances, I regret that I am compelled to write this Letter, and trust that you will now take action to expeditiously and speedily conclude the investigations and initiate prosecutions, inasmuch as the Commission records would reveal the exhaustive investigations carried out by the CID itself, with the advice of the Hon. Attorney General, culminating in Charge Sheets being issued against certain persons on grounds of fraud on the Government; the Supreme Court also having previously upheld this to be a strong *prima-facie* case of fraud, and observing that the Government could not be indifferent.

Recently on an economic crime disclosed 5 years back in the Enron Case, the investigations and prosecution were completed, with the Enron's Chief Executives, Kenneth Lay and Jeffrey Skilling, found guilty of fraud and conspiracy. I trust that similarly, regardless of socio-political status or standing of the personalities involved, you would enforce the rule of law in this matter, inasmuch as your department has acted with haste and speed in the 3 matters of far less gravity cited above.

Yours faithfully,



Nihal Sri Ameresekere

c.c. Mr. Lalith Weeratunga, Secretary to His Excellency the President

BY COURIER

6th January 2006

Mr. A. Ravindra Waidyalankara, L.L.B
Superintendent of Police
Criminal Investigation Department
4th Floor, New Secretariat Building
Colombo 1.

Your. Ref. cc/n I 2886/05

Dear Sir,

**Criminal Prosecution against Mr. K.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam & Others**

Further to my Letters dated 21.12.2005 and 30.12.2005 and your Letter dated 27.12.2005, and the telephone call confirming that the Director of Archives has now confirmed that the Documents pertaining to the Special Presidential Commission of Inquiry No. 1/95 *vis-a-vis* Hotel Developers (Lanka) Ltd., have been located, and the clarifications sought, I set out briefly the following:

1. The said Inquiry was the 1st Inquiry commenced by the Commission, which comprised of a Supreme Court Judge and 2 Judges of the Court of Appeal. I attach relevant pages from the 4th Interim Report of the Commission re-this Inquiry.
2. You would note that 24 Witnesses had testified before the Commission, including myself
3. In addition, a panel of 3 Chartered Architects commissioned gave an Investigative Report after parties, who were noticed under Section 16 of the Special Presidential Commissions of Inquiry Law, having had the opportunity to make representations
4. I attach a Note on the Evidence placed by me before the Commission, with reference to the Documents produced. [Copies of which I possess]. Counsel appearing before the Commission on behalf of the Japanese Architects and one of the parties against whom a Show Cause Notice was served did not cross-examine me on the evidence placed before the Commission, even though they were exhorted to do so by the Commission repeatedly.
5. The Investigations were conducted by Officers of the CID headed by Mr. Godfrey Gunsekera, SSP assisted by Officials of the Attorney General's Department
6. The prosecution was led by the Solicitor General, Douglas Premaratne, P.C.
7. After recording of Statements and Evidence, Show Cause Notices under Section 9 of the Special Presidential Commissions of Inquiry Law, on grounds of fraud against the Company and the Government, formulated by the Solicitor General and approved by the Commission were served on 4 persons, as confirmed in the above Interim Report of the Commission. Copies of the Show Cause Notices are attached.

Offences under Section 10 of the Offences Against Public Property Act No. 12 of 1982, I drew attention to in the penultimate paragraph of my Letter dated 28.4.2005 addressed to the IGP is another aspect requiring your attention – quote:

“ I also draw your attention to Section 10 of the Offences Against Public Property Act No. 12 of 1982 *vis-à-vis* persons who attempt to commit Offences to defraud public property, in this instance fraudulently attempting to obtain Government funds under State Guarantees ; in addition to the perpetration of the very fraud itself proven by documentations with irrefutable evidence ”

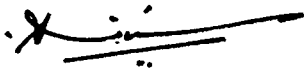
8. I recollect that the above persons responded in writing to the Show Cause Notices. I attach copies of Postscripts made by the Commission and published in respect of one such response.
9. It was after the Show Cause Notices were served, that during me being cross-examined, that irrefutable evidence of criminality was discovered before the Commission by one of the Commissioners, where it was disclosed that the elevations depicted on the floor sheets of the Plans had been tampered with and that such elevations were different to the corresponding elevations shown in respect of the floors in the cross-sectional sheets of the very same Plans, with the 3rd and 4th floor having the same elevation, and the roof slab having an elevation below the 19th floor !

The Commission observed the above as an inherent, intrinsic, impossibility, raising the question as to how the UDA ever approved such Plans in the first instance ? I have shown you this evidence with reference to a copy of the Plans. I enclose copies of Schedules submitted to the Commission in respect of this matter of ‘elevations’.

10. Recently in February 2005 the UDA in the presence of the Minister of Urban Development Authority accepted the above position and prepared Measured Drawings in conformity with the actually constructed building. I attach copies of UDA Letters dated 18.2.2005 and 7.9.2005

As regards the request by the Director of Archives, for a Letter from the Secretary to the President, who had deposited the Special Presidential Commission of Inquiry Documents, for them to be released for the purpose of the CID proceeding with this matter, I trust that such a Letter could be obtained to enforce the rule of law, upholding the policy pronounced by His Excellency the President quoted in my Letter dated 21. 12. 2005.

Yours faithfully,



Nihal Sri Ameresekere

cc: Mr. Lionel Gunatilleke, Deputy Inspector General of Police, CID } *Attachments not enclosed*
Mr. Chandra Fernando, Inspector General of Police }

BY COURIER

30th December 2005

Mr. A. Ravindra Waidyalankara, L.L.B
Superintendent of Police
Criminal Investigation Department
4th Floor, New Secretariat Building
Colombo 1.

Your. Ref. cc/n I 2886/05

Dear Sir,

**Criminal Prosecution against Mr. K.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam & Others**

I thank you for your prompt reply dated 27.12.2005 to my Letter of 21.12.2005.

I note that Mr. S.K.P. Bambarenda, who functioned as the Secretary, Special Presidential Commission has confirmed that the relevant documents, *vis-à-vis*, the above Inquiry had been handed over to the Department of National Archives in early 2002, which you are now trying to retrieve. Should you require, Mr. S.K.P. Bambarenda and I could accompany your Officers to assist to locate and identify the documents, in respect of which I am sure an inventory would have been made.

The above documents are those which were produced at the Special Presidential Commission, which after investigations carried out by Officers of your Department and Officers of the Attorney General's Department and the recording of evidence of 24 persons and having obtained an Investigative Report from a panel of 3 Chartered Architects, issued Charge Sheets, setting out several Charges on grounds of fraud on this Government majority owned Company and the Government, against 4 persons, including the above 2 persons. I trust that a comprehensive investigation had already been completed and the fraud disclosed for the Attorney General's Department to have framed the said Charges. The Attorney General's Department would also have copies of the relevant documents, statements recorded and proceedings before the Commission.

In addition, some of the documents would be available with the following:

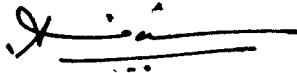
- i) Corporate Advisory Services (Pvt) Ltd., 47, Alexandra Place, Colombo 7, the Company Secretaries, who would have the Board Minutes and Correspondence / Memos / Papers tabled at the Board – Contact Person - Ms. Shayamini Wijetunga – Tel No. 2695782.
- ii) Hotel Developers Office at the Hilton Hotel premises – Contact Person – General Manager Mr. S. R. Sudharshan - Tel No. 2446545 / 2544644 - who was aware and privy to some of the facts, and who had acted collusively in this matter.
- iii) The Ministry of Finance – particularly the Department of Public Enterprises – Contact person - Director General, Mr. V. Kanagasapabathy - Tel No. 2484617. Some of the documents had been kept in the Office of the Secretary to the Ministry / Department of Economic Affairs.

I enclose for your kind information, copy of Letter dated 6.9.1999 addressed to the then DIG, CID by the then Lawyers of the Company on the instructions of the Company, whose then Chairman was Mr. D.Y. Liyanage, who was also the then Deputy Secretary to the Treasury, requesting an investigation into the aforesaid several Charges and for appropriate action to be taken thereon.

In view of the inordinate delay on a grave and serious matter of national economic implications and proportions, I trust that you would give priority to expedite and conclude this incomplete investigation / prosecution, irrespective of the persons concerned, against whom the law ought be enforced more strictly as opposed to ordinary citizens.

I also draw attention to the penultimate paragraph of my Letter dated 28.4.2005, *vis-à-vis*, Section 10 the Offence Against Public Property Act No. 12 of 1992, concerning persons, who attempt to commit Offences to defraud public property, in this instance, attempting to defraud government funds under State Guarantees, regardless of the perpetration of the fraud itself, with irrefutable evidence disclosed, *inter-alia*, by the 'Substituted Plan' approved as an 'Amended Plan' by the UDA, who has now in February 2005 admitted the same to be 'irregular', and had drawn a fresh set out Measured Drawings in September 2005 as per the actual construction.

Yours faithfully,



Nihal Sri Ameresekere

cc: Mr. Lionel Gunatilleke, Deputy Inspector of Police, CID
Mr. Chandra Fernando, Inspector General of Police

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இலங்கைப் பொலிசு
SRI LANKA POLICE

CLASSIFICATION

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குற்றவியல் புலனாய்வுத் திணைக்களம்
CRIMINAL INVESTIGATION DEPARTMENT

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4 ஆம் மாடி, புதிய செயலகக் கட்டிடம்

4th Floor, New Secretariat Building
கோலம்பி 1, ශ්‍රී ලංකාව கொழும்பு 1, இலங்கை Colombo 1, Sri Lanka

මගේ අංකය }
எனது இல. } CC/MI 2886/05
My No. }

ඔබේ අංකය }
உங்கள் இல. }
Your No. }

දිනය } 27.12.2005
திகதி }
Date }

Mr. Nihal Sri Ameresekere
167/4, Sri Vipulasena Mawatha
P.O Box 1796
Colombo 10.

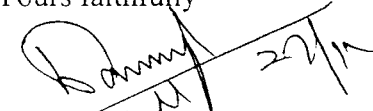
Dear Sir,

**CRIMINAL PROSECUTION AGAINST MR. K.N. CHOKSY PC,
M.P. & MR. PASKARALINGAM & OTHERS.**

I make reference to your letter dated 21.12.2005 on the above noted investigation.

2. The contents of your letter is noted and your assistance rendered so far is highly appreciated.
3. However the investigation has come to a standstill due to the non availability of the documents relating to the alleged transactions. As instructed by you in your letter dated 08.11.2005 Mr. S.K.P. Bambarenda was contacted and he confirmed that the relevant documents were handed over to Department of National Archives in early 2002, which was earlier denied by Director National Archives by her letter dated 05.08.2005.
4. Mr. S.K.P. Bambarenda's Stance was conveyed to the Director, Archives once again personally and the Director had agreed to conduct a further search in this regard. A reply is being awaited .

Yours faithfully


A.R. Waidyalankara
Supdt. Of Police

Criminal Investigation Department

BY COURIER

21st December 2005

Mr. A. Ravindra Waidyalankara, L.L.B
Superintendent of Police
Criminal Investigation Department
4th Floor, New Secretariat Building
Colombo 1.

Dear Sir,

**Criminal Prosecution against Mr. K.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam & Others**

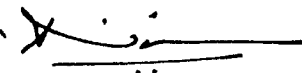
I draw your kind attention to my Letter dated 8.11.2005, *copy attached for your easy reference.*

I wish to ascertain as to whether you have been successful in making any progress ?

In this regard, I quote the following from the *Address to the Nation* by His Excellency the President -

"In this respect my policy will be to consolidate the rule of law to the maximum. The law of the country should be just. Everybody including the President of the country should obey and respect that just law. I would like to state here that I will not allow anyone to subvert law and order using political power and privileges. I believe all state institutions should strictly follow policies of good governance. My Prime Minister, members of my Cabinet, the Armed Forces and the Police, the entire public service from the highest officer to the lowest rank should follow these good governance norms. Public service should be a responsible and ethical service where there is no room for fraud, bribery and corruption."

Yours faithfully,



Nihal Sri Amereskere

cc: Mr. Lionel Gunatilleke, Deputy Inspector of Police, CID
Mr. Chandra Fernando, Inspector General of Police

Mr. S.K.P. Bambarenda, Co-ordinating Secretary, to the Secretary, Ministry of Labour
Mr. Lalith Weeratunga, Secretary to the President

Mr. K.C. Kamalabayson, P.C., Hon. Attorney General

REGISTERED POST

8th November 2005

Mr. A. Ravindra Waidyalankara, L.L.B
Superintendent of Police
Criminal Investigation Department
4th Floor, New Secretariat Building
Colombo 1.

Dear Sir,

**Criminal Prosecution against Mr. K.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam & Others**

I write with reference to the clarifications and explanations sought from me at a Meeting had, at your request, on or about 23.8.2005 at your Office. I was made to understand that this Meeting, was pursuant to the advice of the Hon. Attorney General to investigate into the Complaint recorded from me by your Officers on or about 12.3.2004, *vis-à-vis*, the Letter dated 23.12.2003 addressed to me by the Hon. Attorney General, intimating that he had called for the relevant particulars from the Inspector General of Police.


In the context of your requirement, as per the Hon. Attorney General's advice, to obtain the original documents, I intimated that they had been given to the Special Presidential Commission of Inquiry, and that to my understanding, they had been lodged with the Department of Archives.

Consequently, you intimated to me that you were unable to trace the same at the Department of Archives, and sought my co-operation to endeavour to locate the original documents, in which connection as suggested, you intimated that you had also written to the Secretary to the President, since it was a Special Presidential Commission of Inquiry under a Warrant of Her Excellency the President. The Special Presidential Commission of Inquiry was assisted by Officers of the CID and then Solicitor General, Mr. Douglas Premaratne P.C. and Officers of the Attorney General's Department, and later by Mr. J. Marsoof P.C., then Addl. Solicitor General, who I understand had taken over the files and records, which had been then maintained by the Attorney General's Department.

Coincidentally and unexpectedly, the then Secretary to the Special Presidential Commission of Inquiry, Mr. S.K.P. Bambarenda spoke to me recently, when I endeavoured to contact the Secretary, Ministry of Labour. Mr. Bambarenda confirmed to me that he had deposited all the original documents with the then Director of Archives, and that you could obtain the same; and that perhaps, you may require a Letter from the Secretary to the President requesting the release of the same.

I suggest that you contact Mr. S.K.P. Bambarenda (Tel No. 2368437), who is the Co-ordinating Secretary, to the Secretary, Ministry of Labour, who could assist you in your endeavour to obtain the originals of the documents or certified copies thereof for the purpose of your investigations, **which as you are aware are long overdue, notwithstanding this being a matter of serious gravity and of national economic proportions, impacting, I am advised, also on the Offences Against Public Property Act.**

Yours faithfully,



Nihal Sri Ameresekere

cc: Mr. Lionel Gunatilleke, Deputy Inspector of Police, CID
Mr. Chandra Fernando, Inspector General of Police – *Re - my Letter dated 28.4.2005. copy attached*

Mr. S.K.P. Bambarenda, Co-ordinating Secretary, to the Secretary, Ministry of Labour
✓ Mr. W.J.S. Karunaratne, Secretary to the President

Mr. K.C. Kamalabayson, P.C., Hon. Attorney General

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பொலிஸ் தலைமை அலுவலகம், கொழும்பு 1, இலங்கை

POLICE HEADQUARTERS, COLOMBO 1, SRI LANKA

25th May 2004

Her Excellency Chandrika Bandaranaike Kumaratunga
President of the Democratic Socialist Republic of Sri Lanka

Your Excellency

1. **CRIMINAL PROSECUTION AGAINST MR. K.M. CHOKSY, PC, MP AND R. PASKARALINGAM FOR FRAUD PERPETRATED ON THE GOVERNMENT COVER-UP THEREOF.**
2. **TO CHARGE P.B.J. DOUGLAS PEIRIS UNDER THE PROVISIONS OF THE IMMIGRANTS AND EMIGRANTS ACT IN THE APPROPRIATE MAGISTRATE COURTS.**

This refers to Your Excellency's letter number Cosec/M/PH/2004 dated 21.05.2004 on the above noted subject.

1. In connection with the criminal prosecution against **M/s K.N. Choksy, PC** and **M.R. Paskaralingam**, on the instructions of the Hon'ble Attorney General the statement of Mr. Nihal C. Amaraskera has been recorded on 12.03.2004 and copies sent to the Hon'ble AG. Further advice of Hon'ble AG is awaited.
2. Inquires conducted by the CID, had revealed that **Mr. Douglas Peiris** had used Passport bearing number L1171129 issued in the name of Thal pawila Vidana Kankanamage Wimalasena to leave Sri Lanka in 1996. In respect of this passport, on the advice of Hon'ble AG, the CID has filed plaint in MC Fort Case No 78058/2005 under the provisions of the Immigration & Emigration Act and the case is fixed for trial for 26.05.2004.

Hon'ble AG has also indicted Mr. Douglas Peiris in MC Colombo Case No. 1452/2005 under the provisions of the Penal Code for the offences of tendering forged documents to obtain a fraudulent passport. This case is fixed for trial for 15.07.2004.

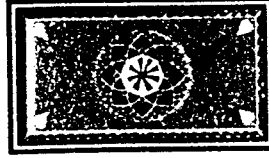
The copy of memo of Hon'ble AG with his advice in connection with the above is attached herewith.

For your information, please

Yours obediently

(T.I. de Silva)
Inspector General of Police

T. I. de SILVA
Inspector General of Police



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இலங்கை சனாதிபதி
President of Sri Lanka

21 May 2004

Ref. Cosec/M/PH/2004

Mr. T. I. de Silva
I G P
Police Headquarters
Colombo 01

- 1. Criminal Prosecution against Mr. K. N. Choksy PC. MP. and R. Paskaralingam for Fraud Perpetrated on the Government / Cover-up Thereof**
- 2. To Charge P. B. J. Douglas Peiris under the Provisions of the Immigrants and Emigrants Act in the Appropriate Magistrate Courts.**

I refer to you letter No. Staff.DIG/IG/03/51/04 dated 05th March 2004 on the above issues. I have still to receive the relevant reports.

Please forward the reports to me before 12.00 noon on Tuesday, 25th May 2004.


Chandrika Bandaranaike Kumaratunga



BY HAND

28th April 2005

Mr. Chandra Fernando,
Inspector General of Police,
Police Headquarters,
Colombo 1.

Dear Sir,

**CRIMINAL PROSECUTION AGAINST K. N. CHOKSY, P.C., M.P., R. PASKARALINGAM
& OTHERS**

**Re- the Fraud in the construction of the Hilton Hotel, and the attempt to siphon out a large
scale of foreign exchange from the Government, under State Guarantees**

I refer to the telephone communication I had with you and the connected File of Documents I have forwarded to you, in regard to the foregoing.

In response to my Letter dated 18.12.2003 (copy attached), the Hon. Attorney General by Letter dated 21.3.2003 informed me that he had called for relevant particulars from your predecessor.

As no action was taken by your predecessor, I wrote Letter dated 18.2.2004 to the Hon. Attorney General, with copy to your predecessor and to H. E. the President.

Consequently by Letter dated 5.3.2004, H. E. the President directed your predecessor to forthwith investigate this matter, assigning Officers therefor, and to take warranted action strictly enforcing the rule of law.

Subsequently, the Hon. Attorney General directed the DIG CID by Letter dated 10.3.2004 to record statements of persons to ascertain, as to whether there is sufficient material to proceed with investigations, without proceeding on the basis of investigations done previously by the Special Presidential Commission of Inquiry.

Thereafter on 12.3.2004, upon communication with me by the Director CID, 3 Officers of your Department headed by one Inspector P. Visvanathan came and recorded my Statement, which was a Complaint made by me. I produced material evidence before them, and they conceded that this was one of the major frauds that they had examined in this country. As requested by them, by my Letter dated 15.3.2004 (copy attached), I forwarded copies of further Documents.

Thereafter by Letter dated 25.5.2004 your predecessor informed H. E. the President that my Statement had been sent to the Hon. Attorney General for further advice. I simply cannot understand as to why?

Is it the practice of your Department to submit every Complaint made to your Department to the Hon. Attorney General, without proceeding to record Statements from Suspects, filing B Reports in the Magistrate's Courts in carrying out investigations, and obtaining Orders from Court, where necessary, and further producing Suspects to be remanded pending investigations?

I am simply amazed at the attitude of your Department in respect of a fraud of national economic proportions, which the Supreme Court upheld as a strong prima-facie case of fraud with every prospect of success of being proven, and injuncting payments under State Guarantees, observing that this had been an endeavour to deviously siphon out a large scale of foreign exchange from the country.

Consequently, the Japanese Contractors wrote-off US \$ 207 Million from their alleged Claims from the Government on the State Guarantees, which monies were attempted to be paid in full by K. N. Choksy, P.C., M. P., acting in collusion with R. Paskaralingam and Others.

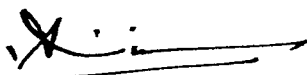
Recently, the UDA admitting that the Hilton Hotel Building Plans were infact irregular, addressed Letter dated 18.2.2005 (copy attached) intimating that they would undertake to re-draw a Measured Drawing for the purpose of regularising the Building Plan.

I have witnessed in connection with my professional practice, Officers of your Department and the Head of the Criminal Division of the Attorney General's Department, namely, Solicitor General C.R De Silva, P.C., acting post-haste on matters that would be deemed to be trivial, in comparison to this major fraud, which I had complained of, and which was a fraud that was perpetrated on the Government, as confirmed by the Charge Sheets served on the above persons by the Special Presidential Commission of Inquiry, after having carried out inquiries and investigations, with the assistance of the then Solicitor General, Douglas Premaratne P.C., and a CID Team led by SSP Godfrey Gunasekera.

I also draw your attention to Section 10 of the Offences Against Public Property Act No. 12 of 1982 *vis-à-vis* persons who attempt to commit Offences to defraud public property, in this instance fraudulently attempting to obtain Government funds under State Guarantees; in addition to the perpetration of the very fraud itself proven by documentations with irrefutable evidence.

I strongly urge you to take warranted action expeditiously, inasmuch as this matter has been deliberately delayed with persistent attempts to cover- up.

Yours faithfully



Nihal Sri Ameresekere

BY HAND

15th March 2004

Mr. P. Visvanathan
Inspector of Police
Criminal Investigation Department
Colombo 1.

Dear Sir,

**Criminal prosecution against K.N. Choksy P.C., M.P. and R. Paskaralingam
for fraud perpetrated on the Government / cover-up thereof**

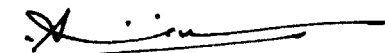
As requested on Friday, 12th March 2004 after my statement was recorded, I am pleased to forward copies of the following:

1. Letter dated 18.12.2003 addressed to Attorney General and the Solicitor General by me, together with the attachments thereto.
2. Letter dated 22.12.2003 addressed to Attorney General and the Solicitor General by me.
3. Letter dated 23.12.2003 from the Attorney General to me.
4. Letter dated 24.12.2003 to the Attorney General and the Solicitor General by me
5. Letter dated 5.1.2004 addressed to Attorney General and the Solicitor General by me
6. Letter dated 18.2.2004 addressed to Attorney General and the Solicitor General by me, together with the attachments thereto.

As intimated, I have addressed several Letters previously to the Attorney General on the matter of this fraud perpetrated on a company, majority owned by the government, involving also state guarantees. As brought to your kind attention, a former Chairman of the Company, also the then Deputy Secretary to the Treasury, too had made written complaints to a former IGP.

I wish to reiterate that, among others, K.N. Choksy P.C., M.P. and R. Paskaralingam, notwithstanding they being public officers, wrongfully acted to cover-up this fraud and jeopardise its prosecution, regardless of the fact that it was perpetrated on the government and the country and involved public funds. Charge Sheets were issued against them by the Special Presidential Commission.

Yours truly,



Nihal Sri Ameresekere

cc: Mr. Sisira Mendis, Director, CID

**Police Headquarters
Colombo 1**

9th March 2004

**Mr. Lionel Gunathilake, DIG CID
Mr. Sisira Mendis, SSP / Director / CID**

1. **CRIMINAL PROSECUTION AGAINST MR. K.M. CHOKSY, PC, MP AND R. PASKARALINGAM FOR FRAUD PERPETRATED ON THE GOVERNMENT /COVER-UP THEREOF.**
2. **TO CHARGE P.B.J. DOUGLAS PEIRIS UNDER THE PROVISIONS OF THE IMMIGRANTS AND EMIGRANTS ACT IN THE APPROPRIATE MAGISTRATE COURTS.**

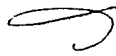
Further to my discussion I had with you today on the above two subjects, the clear directives given by H.E. the President are attached herewith for your perusal.

I hereby direct you to proceed with the two investigations with immediate effect.

The relevant documents in connection with the investigations on the first subject have to be obtained from the Hon'ble Attorney General as well as the Archives Department. This inquiry has to be commenced from its inception, as the findings of the Commission are not valid.

With regard to the second subject, it is in relation with the first forged passport bearing number L1171129 and not the MC Case Number B/2577/00, which had been withdrawn by the Hon'ble Attorney-General. It is learnt that the inquiries have been completed and the files are with the Hon'ble Attorney General to obtain his advice. Please follow this up.

Please report the progress on 15.03.2004.



**(T.I. de Silva)
Inspector General of Police**

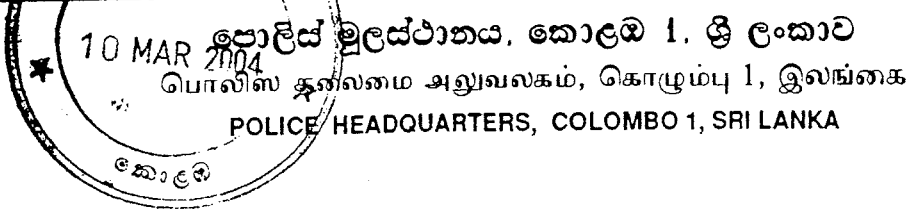
**T. I. de Silva
Inspector General of Police**

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9th March 2004

Her Excellency Chandrika Bandaranaike Kumaratunga
President of the Democratic Socialist Republic of Sri Lanka

Your Excellency

1. **CRIMINAL PROSECUTION AGAINST MR. K.M. CHOKSY, PC, MP AND R. PASKARALINGAM FOR FRAUD PERPETRATED ON THE GOVERNMENT /COVER-UP THEREOF.**
2. **TO CHARGE P.B.J. DOUGLAS PEIRIS UNDER THE PROVISIONS OF THE IMMIGRANTS AND EMIGRANTS ACT IN THE APPROPRIATE MAGISTRATE COURTS.**

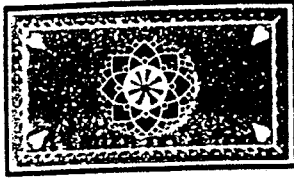
I acknowledge receipt of Your Excellency's letter dated 8th March 2004 on the above noted subjects.

DIG / CID and Director / CID has been directed to proceed with the two investigations with immediate effect and report.

A copy of the letter sent to DIG / CID and Director / CID is attached herewith for your kind perusal, please.

Yours obediently

(T.I. de Silva)
Inspector General of Police **T. I. de Silva**
Inspector General of Police



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இலங்கை சனாதிபதி
President of Sri Lanka

8 March 2004

Mr. T. I. de Silva
I G P
Police Headquarters
Colombo 01.

1. **Criminal Prosecution Against Mr. K. N. Choksy PC. MP. and R. Paskaralingam for Fraud Perpetrated on the Government / Cover-up Thereof**
2. **To Charge P. B. J. Douglas Peiris under the Provisions of the Immigrants and Emigrants Act in the Appropriate Magistrate Courts.**

I refer to your reply dated 05th March 2004 to my directive on the above issues and bring to your notice the following facts.

1. The Hon. Attorney General by letter dated 23rd December 2003 (copy attached) had intimated that he had called for relevant particulars from you, in the context of the complaint made, clearly to take action thereon.

In reply thereto, by letter dated December 24th 2003, (copy attached) the Hon. Attorney General had been informed that the relevant records and documents are with Addl. Solicitor General, Mr. Saleem Marsoof, who had handled this inquiry.

I am also advised that the Secretary of the Special Presidential Commission had forwarded the records and documents of your Department, into this inquiry, to the Archives Department, from where you could retrieve them.

I hereby direct you to proceed with this matter, obtaining the relevant records and documents from the Addl. Solicitor General and/or the Archives Department.

Cont./



2. The offence referred to in my directive at 2 above is not the offence by P. B. J. Douglas Peiris returning to Sri Lanka on a forged passport. **In respect of this, the second forged passport** the Magistrate Courts Negombo Case No. B/2577/00, which has been instituted, had been withdrawn on the advice of the Hon. Attorney General, on the premise that P. B. J. Douglas Peiris had been brought to Sri Lanka by the CID.


My directive on 05th March, 2004 was for you to proceed to investigate and file charges in respect of the **First Forged Passport bearing No. L 1171129**, which had been used by Mr. Peiris to leave Sri Lanka and had been provided to him by certain persons, as had been disclosed in paragraph 03 of his affidavit.

Whilst, the Hon. Attorney General had admitted having advised to withdraw the case in respect of the second passport, on which Douglas Peiris had been brought back to Sri Lanka by the CID, the Hon. Attorney General at the same time had informed the Court of Appeal, that he had decided to forward charges and had already advised the CID to file charges in the appropriate Magistrate Court, under the provisions of the Immigrants and Emigrants Act against Douglas Peiris, for being in possession of the **first forged passport**, which had been used by him to leave Sri Lanka.

The above facts had been clearly disclosed in the judgment (attached to my directive of 05th March, 2004), delivered on 23rd October 2003 by the Court of Appeal in a Writ Application that had been instituted in this regard by Hon. Mangala Samaraweera, and to which application, among others, the DIG/CID, Lionel Goonetilleke and Director/CID Sisira Mendis had been made parties.

In addition, I drew attention to the offence of aiding and abetting Douglas Peiris in the commission of such offence in terms of Section 45(2) of the Immigrants and Emigrants Act, by those persons referred to by him at paragraph 3 of his Affidavit, a copy of which also was forwarded with my directive of 05th March, 2004.

I hereby direct you to proceed with the investigations in this matter strictly enforcing the rule of law. *Please take action today + report to me tomorrow - Wed. 10 March*


Chandrika Bandaranaike Kumaratunga



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(Telephone No.) } 4211-1



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POLICE HEADQUARTERS, COLOMBO 1, SRI LANKA

CONFIDENTIAL

5th March 2004

**Her Excellency Chandrika Bandaranaike Kumaratunga
President of the Democratic Socialist Republic of Sri Lanka**

Your Excellency

I am in receipt of Your Excellency's letters dated 5th March 2004 under the following subjects:-

1. Criminal Prosecutions against **K.N. Chokey PC, MP and R. Paskaralingam for Fraud perpetrated on the Government / cover-up thereof.**
2. To charge **P.B.J. Douglas Feiris** under the Provisions of the **Immigrants & Emigrants Act** in the appropriate Magistrate Court.

In these two letters Your Excellency has requested me to inform by this evening (05.03.2004) the names of the Officers I have assigned for this investigations.

Regarding the first complainant, although the Hon'ble Attorney General has requested the ICIP to send relevant particulars to him in order to inquire into this complaint, the relevant documents are available with the Attorney General's Department. According to the complainant too, it is mentioned that the relevant documents are available with the Attorney General's Department. Therefore police have no material available to commence an investigation until the Hon'ble Attorney General directs the CID. I am in consultation with the Hon'ble Attorney General. please.

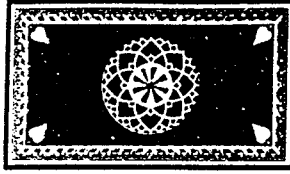
Confid/-

With regard to the second complaint, the first respondent (Mr. Douglas Peiris) was charged in Negombo Magistrate Courts under the Immigrant & Emigrant Act for being in possession of a forged Passport. However, the case was withdrawn by the Hon'ble Attorney General himself. Hence, no inquiries can be commenced by the Police in this case without the directives from Hon'ble Attorney General.

Forwarded for your information, please.

Yours obediently

(T.L. de Silva)
Inspector General of Police **T. L. de Silva**
Inspector General of Police



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இலங்கை சனாதிபதி
President of Sri Lanka

March 5, 2004

Mr. Indra de Silva

Inspector General of Police.

**Criminal prosecution against K.N. Choksy P.C., M.P. and R. Paskaralingam
for fraud perpetrated on the Government / cover-up thereof**

I refer to the contents of the attached Letter dated February 18, 2004 on the above subject, forwarded to the Hon. Attorney General, with copies to you and the CID.

I also refer you to the previous Letters referred to therein, Letters dated December 18, 2003, December 22, 2003, December 24, 2003 and January 5, 2004 forwarded to the Hon. Attorney General, with copies to you and the CID.

I also draw your attention to the Hon. Attorney General's Letter dated December 23, 2003, informing that he had called for the relevant particulars from you.

I hereby direct you to forthwith investigate the aforesaid matter and take warranted action, strictly enforcing the rule of law and forward me a report thereon immediately.


Chandrika Bandaranaike Kumaratunga

p.s. Please inform me by this evening
the names of the officers you have
assigned for this investigation.



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இலங்கைச் சனநாயக சோசலிசக் குடியரசு
Democratic Socialist Republic of Sri Lanka

BY REGISTERED POST

18th February 2004

K.C. Kamalabayson, Esqr., P.C.
Attorney General,
Attorney General's Department,
Hultsdorp,
Colombo 12.

Your Ref: AG55/2003

Dear Sir,

**Criminal prosecution against K.N. Choksy P.C., M.P. and R. Paskaralingam
for fraud perpetrated on the Government / cover-up thereof**

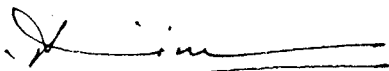
I refer to my Letters dated 18.12.2003 and 22.12.2003 and your reply dated 23.12.2003 (copy attached) on the above subject, intimating to me that you have called for the relevant particulars from the Inspector General of Police, and my subsequent Letters dated 24.12.2003 and 5.1.2004.

The Attorney General, upon investigations carried out by the CID, having caused Charge Sheets (further copies attached), on the premise of commission of fraudulent acts detrimental to the interests of government, to be served by the Special Presidential Commission on K.N. Choksy P.C., M.P. and R. Paskaralingam, would it now not be a matter of filing indictments in the High Court, inasmuch as per media reports, indictments are said to be imminent in respect of far more less grave and less material alleged offences; whereas this involved an attempt to perpetrate a grave crime and fraud of national economic proportions on the government, with an endeavour to cause the payment of monies under state guarantees, notwithstanding my objections as a professional (Supreme Court having previously upheld the same as a serious prima-facie case of fraud, with an attempt to deviously syphon out a large scale of foreign exchange from the government and the country); and furthermore, during the Inquiry before Special Presidential Commission, after the aforesaid Charge Sheets had been served, irrefutable evidence of fraud having surfaced? I draw attention particularly to the final two paragraphs of my Letter dated 18.12.2003.

It is now 2 months since my initial Letter to you on 18.12.2003 and your reply dated 23.12.2003. As such, I wish to ascertain, as to what progress has been made on the subject matter under reference? Or is it that the aforesaid persons having been knowingly recommended by the Prime Minister, Ranil Wickramasinghe to be appointed as the Minister of Finance, and Advisor to the Prime Minister, respectively, intentionally to shield them from such prosecution, and in which circumstances, you and/or the law enforcement authorities are thus and thereby inhibited from enforcing the Rule of Law as in the case of ordinary citizens of the country, notwithstanding the much professed dicta that all are equal before the law?

I urge that warranted action be taken, irrespective of the socio-political standing of the aforesaid persons, upholding the scales of justice as is prevalent in civilised societies.

Yours faithfully,



Nihal Sri Ameresekere

cc: Indra de Silva Esqr., Inspector General of Police
Lionel Gunatilleke Esqr., Deputy Inspector General of Police / CID
Sisira Mendis Esqr., Director, CID

✓ Her Excellency the President Chandrika Bandaranike Kumaratunga

REGISTERED POST

18th December 2003

K.C. Kamalabayson Esqr., P.C.,
Attorney General

C.R. de Silva Esqr., P.C.,
Solicitor General

Attorney General's Department
Colombo 12.

Dear Sirs,

**Criminal prosecution against K.N. Choksy P.C., M.P. and R. Paskaralingam
for fraud perpetrated on the Government / cover-up thereof**

You are aware that a Special Presidential Commission was appointed by Her Excellency the President in terms of the Special Presidential Commission of Inquiry Law No. 7 of 1978, as amended, as per the Proclamation published in the Gazette Extraordinary No. 858/4 of 14.2.1995, to conduct in terms of the said Proclamation, investigations into the conduct of affairs of certain public bodies and matters pertaining thereto, itemised in the Schedule to the said Proclamation; wherein Item 2 stipulated was Hotel Developers (Lanka) Ltd., [HDL] the owning Company of the Hilton Hotel, a company majority owned by the Government and on whose behalf, State Guarantees had been given to the Japanese Collaborators thereof. *Copy of the Gazette Notification is annexed marked "A".*

The Special Presidential Commission, comprised the then Supreme Court Judge, P.R.P. Perera, as its Chairman and the then Appeal Court Judge, present Supreme Court Judge, H.S. Yapa and late Appeal Court Judge, F.N.D. Jayasuriya. The then Solicitor General, P.L.D. Premaratne P.C., assisted the Special Presidential Commission on behalf of the then Attorney General in the conduct of its investigations. A team of CID Officers, headed by then Senior Superintendent of Police, Godfrey Gunasekera, was attached to the Special Presidential Commission to conduct investigations.

The Special Presidential Commission carried out investigations into the matter of the fraud perpetrated on HDL and the Government, recording statements of 24 Witnesses, who included Officers of the Ministry of Finance & Planning, UDA, Ceylon Tourist Board, Colombo Municipal Council, Ceylon Electricity Board, Fire Brigade and Fort Police. The Special Presidential Commission also obtained an Investigation Report from a panel of 3 Chartered Architects, headed by Prof. Nimal de Silva and comprising Upali Iddawela and Dudley Waas. The names of the said 24 Witnesses are set out on page 229 of the 4th Interim Report submitted by the Special Presidential Commission to Her Excellency the President in March 1997, *a copy of which page is annexed marked "B".*

Upon the conclusion of its investigations, the Special Presidential Commission, assisted by the then Solicitor General, in December 1995, served Show Cause Notices on 4 persons, containing several charges on grounds of fraud, stating thus:

"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"

Prior to my instituting legal action, K.N. Choksy P.C. had prevented a correct engineering examination of the Hotel by his Letter dated 8.8.1988. Thereafter, notwithstanding my objections as a professional accountant, as per my Memorandum dated 13.12.1989 to making payment to the Japanese Contractors in the absence of Bills, of Quantities and Final Measurements, K.N. Choksy P.C. M.P. by his Letter dated 28.2.1990 endorsed that the full payment be made to the Japanese Contractors. If not for my legal action this would have resulted in a loss of Jap. Yen 17,586 Million i.e. US \$ 207 Million to the Government i.e. the public. Copies of the said Letters of K.N. Choksy P.C., M.P., are annexed marked "E1" and "E2", respectively and copies of my Memorandum is annexed marked "F"

In my aforesaid legal action, wherein K.N. Choksy P.C., M.P., was a Defendant, the District Court issued interim injunctions, *inter-alia*, observing in its Order thus:

- # the Contractors having performed a lesser volume of work, have attempted to obtain a larger sum of money... and the Plaintiff having raised the question concerning the basis for the payment of monies.
- # the other Defendants, [i.e. the Directors], as persons having connections concerning the said Hotel business, having intervened therein in such matter, acting to obtain the said monies, had not readily acted to conduct a correct examination.
- # they having prevented such correct examination, were attempting to, howsoever, effect the payment of monies.
- # they are exercising the influence, that they have gained in society, acting together with the Company, to prevent the raising of the questions concerning the matters of the work in connection with the Contracts, the Prospectus ...
- # their collaboration was adverse to the interest of the Shareholders of the Company, and they were acting through such collaboration, in a manner amounting to defeat the interests of the Shareholders of the Company.

The District Court in its Order further observed thus:

"Accordingly, the present position is that the Defendants' statement, that they have performed their part of the Contracts and the willingness shown by the Company to accept the same, as set out by the Defendants, cannot be accepted as the basis for payment.... in fact, whether, as stated by the Plaintiff, this is a devious method of siphoning out, a large scale of foreign exchange from this country...The significance, that is shown herein, 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...If the position, that explains this is correct, then this actually, is an instance of acting in fraudulent collusion".

[Emphasis added]

Copy of the District Court Order of 28.10.1991 is annexed marked "G".

After the issuance of the interim injunctions by the District Court, the collusion between K.N. Choksy P.C., M.P. and R. Paskaralingam, then Secretary, Ministry of Finance to cover up this fraud perpetrated on the Government i.e. the public, is borne out by the Finance Ministry Minutes dated 20/22/23/27.11.1991. Copies of relevant Finance Ministry Minute Sheets are annexed marked "H".

After I had instituted the aforesaid legal action and the District Court had issued enjoining orders, acting regardless thereof and my objections, K.N. Choksy P.C., M.P., in a further endeavour to cover-up the fraud, acting in concert with R. Paskaralingam, intervened to have a fraudulent set of Audited Accounts of HDL certified and adopted. This too, was prevented by me by instituting a further legal action, D.C. Colombo Case No. 3231/Spl, wherein the said fraudulent Audited Accounts of HDL were enjoined by Court.

Subsequently, the Supreme Court upholding the issuance of the interim injunctions by the District Court, in its Judgment, inter-alia, stated thus:

- # *the Plaintiff has succeeded in establishing that he has a legally enforceable right and that there is a serious question and prima-facie case and wrong-doer control, and that HDL is entitled to the reliefs claimed.*
- # *the Plaintiff has a reasonable and real prospect of success, even in the light of the defences raised in the pleadings, objections and submissions of the Defendants*
- # *the Plaintiff's prospect of success was real and not fanciful and that he had more than a merely arguable case*
- # *because in the circumstances of the case, the Directors, including the Government's representatives on the Board will not assist or are helpless to intervene*
- # *Interim Injunctions were granted to prevent the "siphoning out of money" from HDL and the Country*
- # *but for the Interim Injunctions, HDL, like Pyrrhus after the battle of Asculum in Apulia, might well be constrained to say, "One more such victory and we are lost".*
- # *it might be pointed out that it could not entirely be a matter of indifference to the Government the Government made itself eventually responsible for the repayment of the monies borrowed by HDL*

[Emphasis added]

A copy of the Supreme Court Judgment of 2.12.1992 is annexed marked "I"

K.N. Choksy P.C., M.P., the 7th Defendant in my legal action was unable to file Objections and Answer. Nevertheless, he wrongfully intervened in the Leave to Appeal Application made by the Japanese Collaborators in the Court of Appeal, endeavouring to have by legal action dismissed, **he submitting that I had no legal right to institute such an action in my country**, which matter is dealt with at pages 6 and 7 of the Supreme Court Judgment, shown highlighted.

Whilst R. Paskaralingam absconded abroad from personally facing prosecution before the Special Presidential Commission, K.N. Choksy P.C., M.P. having being found out to make untrue, erroneous and false statements to mislead and deceive the Special Presidential Commission and the public, absconded thereafter from appearing before the Special Presidential Commission. The extracts of the obiter dicta in a Postscript made by the Special Presidential Commission in March 1996, on the Written Submissions made to the Special Presidential Commission by K.N. Choksy P.C., M.P., are given below:

"In the course of the proceedings of February 29, 1996 the Commission has adverted to the provisions of Rules 15, 50 and 51 of the Supreme Court (Conduct of and Etiquette for Attorneys-at-Law) and to two Dicta pronounced by two eminent Judges presiding over the Superior Courts of the Great Britain."

"A Court of Law, a Tribunal, or a Statutory Commission ought to, in the course of its Proceedings, apply and enforce such rules of Conduct and Etiquette. A Court must not only be concerned with punishing Counsel for breach of such rules, but must ensure that such rules are observed in proceedings conducted before it."

"In addition to the dicta of Lord Reid and Lord Esher to which the Commission has already referred to in the Proceedings, this Commission wishes to place on record certain decisions which lay down valuable pronouncements in regard to the paramount duty of Counsel to Court. Lord MacMillan on Ethics of Advocates, states thus: - '*In the discharge of his office, the Advocate has a duty to his Client, a duty to the State, and a duty to himself*'. This passage was cited with approval by Lord Justice Willmer in *Meek vs. Flemming*:"

"We are of the unanimous view that in this respect he [*reference being to K.N. Choksy P.C., M.P.*] has stated untrue, erroneous and false facts, which necessarily has the tendency to mislead and deceive the public in general, and the members of this Commission" - [*Emphasis added*]

The Special Presidential Commission in another Postscript, inter-alia, stated thus:

"Thus, the Supreme Court has in effect upheld the law as laid down the aforesaid English decisions and the law as set out in the Provisions of Article 106. This Commission is surprised to ascertain and note that Mr. K.N. Choksy P.C. was one of the Junior Counsel who appeared for the 2nd, 3rd and 7th respondents at the argument of this appeal before the Supreme Court. In these circumstances, it surprises and startles this Commission how Mr. Choksy with a conscience and consistent with his duties as Counsel to the Commission, making submissions to the effect that the Supreme Court refused to adopt the English law as laid down in these two English Cases and held that the English law did not coincide with the law of Sri Lanka."

Copies of the above Postscripts of the Special Presidential Commission published in the Daily News of 30.3.1996 are annexed marked "J"

The proceedings of the Special Presidential Commission on this matter was not concluded due to the sudden hospitalisation of late Justice F.N.D. Jayasuriya with a serious heart condition, he having been the Member of the Special Presidential Commission, who was actively involved in the conduct of the investigations into this fraud. Nevertheless, the record of the proceedings and copies of the productions / documents would be with Saleem Marsoof, Esqr., P.C., Addl. Solicitor General, who was assisting the Commission towards the end of its period. Hence, all recorded statements of evidence and other productions / documents would be in your custody and possession.

By Letter dated 6.8.2002, J. Charitha Ratwatte, present Secretary, Ministry of Finance, constituted a Committee in the context of a Letter dated 28.2.2001 from you, the Attorney General. Whilst I informed the said Committee and your representative, Nihal Jayawardene Esqr., Senior State Counsel, that whilst I would consent to a settlement of the commercial matters, I specifically refused to compromise on the matter of fraud and/or of the endeavour to cover-up the fraud, particularly by K.N. Choksy P.C. M.P. and R. Paskaralingam. This is confirmed by my Letter dated 26.7.2002 addressed to you, the Attorney General, consequent to a discussion had with you. Quote:

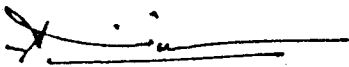
"At the last discussion had with you, together with my Counsel, Mr. Douglas Premaratne P.C., you confirmed to and assured us that, should there be any criminality, that you would be the first person to recommend that warranted action in that regard be taken."

I have witnessed the speed and zeal with which you have been directing the investigations into an alleged offence of aiding and abetting a person, who is alleged to have travelled on a forged Passport, with an alleged payment of U.K. Pounds 1500/- made to him from the Sri Lanka Cricket funds, by its President Thilanga Sumathipala. The concerted efforts made by the Officers of the Criminal Investigation Department, who have been conducting investigations, under your directions, into this alleged offence have been extensively publicised and is well known. The incredible haste, speed and zeal with which you have acted / caused matters to be reported to the Courts of law, including making questionable submissions to the Supreme Court, is well known.

In comparison with the above, **in stark contrast thereto**, you have intriguingly and questionably failed and neglected to take any action, whatsoever, in regard to the foregoing matter of a massive fraud perpetrated on the Government, the country and the public, and its cover-up, **notwithstanding your aforesaid assurance to me**. Such offence of fraud / crime is not prescribed, inasmuch as, I understand, that you recently indicted Rohan Perera, former Chairman of Pramuka Bank after its closure, for a transaction alleged to have been perpetrated in 1992 concerning another Bank.

In the context of the speed and zeal with which you have acted in the aforesaid matter, apparently deeming the same to be of grave importance and of utmost urgency, I urge you to take even more stronger, speedier and effective action, as is warranted, and cause such action to be taken, in regard to the foregoing matter of the massive fraud perpetrated on the Government and the public, and its cover-up, which you would concede is far more graver and of national and public importance; inasmuch as the former Solicitor General, acting on behalf of the Attorney General, having already caused charges of fraud to be made, as aforesaid, admittedly upon credible evidence, after investigations by the Criminal Investigations Department, subsequent to which the aforesaid further **irrefutable evidence of fraud** surfaced before the Special Presidential Commission.

Yours faithfully,



Nihal Sri Ameresekere

cc: Indra de Silva Esqr., Actg. Inspector General of Police
Lionel Gunatilleke Esqr., Deputy Inspector General of Police / CID
Sisira Mendis Esqr., Director, CID

Her Excellency the President Chandrika Bandaranike Kumaratunga

DE SARAMATTORNEYS - AT - LAW
NOTARIES PUBLIC
(COMMENCED 1841)

ATTORNEYS:

S. HERAT - GUNARATNE
U.L. KADURUGAMUWA
M.I.M. JAAFER
S. SUNTHERALINGAM
V.W. WIJAYATILAKE
S. WIJAYASURIYA
T. JAYASURIYATELEGRAPHIC ADDRESS: { "SMARASED"
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"DESARAMS"

TELEPHONE : 327414 - 15, 326636 & 447737

E-mail : fj&gdesaram@eureka.lk

TELEX : 21682 DESARAM CE

TELEFAX : 449482 & 347731

OUR REF : HG:MJ:SA

YOUR REF :

Head Office
2nd Floor,
State Bank of India Bldg.
31 2/1, Mudalige Mawatha
P. O. Box No. 212
Colombo 16th September, 1999.**ORIGINAL - BY REGISTERED POST**
COPY - HAND DELIVERYThe Deputy Inspector General of Police,
Criminal Investigations Department,
4th Floor,
Police Headquarters,
COLOMBO - 1.

Dear Sir,

RE: CHARGES MADE BY SPECIAL PRESIDENTIAL COMMISSION IN INQUIRY NO.1/95
- HILTON HOTEL PROJECT AGAINST MR. C. L. PERERA IN THE NOTICE TO SHOW
CAUSE ISSUED IN TERMS OF SECTION 9 OF THE SPECIAL PRESIDENTIAL
COMMISSION LAWWe write on the instructions of our client, Hotel Developers [Lanka] Limited, of Echelon Square,
Lotus Road, Colombo 1.On investigations that have been carried out by the Special Presidential Commission assisted by the
Criminal Investigations Department, in Inquiry No.1/95 several charges, including the following
charge, had been framed against Mr. C. L. Perera, the former Chairman & Managing Director of Hotel
Developers [Lanka] Limited and who continues to be a Director of the Company.“(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 has surfaced at the meetings of the Board of
Directors of the said Company.”A copy of the said Notice served on Mr. C. L. Perera on 8th December 1995 requiring him to show
cause as to why he should not be found guilty of fraud is annexed hereto.The Board of Directors of Hotel Developers [Lanka] Limited having decided that action be taken
against Mr. C.L. Perera, and being advised in that behalf decided that this matter be referred to the
Criminal Investigations Department.

We

HEAD OFFICE

2nd Floor, State Bank of India Bldg.,
31 2/1, Mudalige Mawatha,
Colombo 1Phone: 327414 - 5, 326636 & 447737
E-mail: fj&gdesaram@eureka.lk
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CORPORATE LAW OFFICE

216, De Saram Place,
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075 334096, 677864
E-mail: fjgsaram@sri.lanka.net
Fax: 074 718220, 677863

INTELLECTUAL PROPERTY LAW OFFICE

3/3, Havelock Road,
Colombo 5Phone: 597240
Fax: 597240

6th September, 1999.

The Deputy Inspector General of Police.

We are therefore instructed by the Board of Directors of Hotel Developers [Lanka] Limited to request you to investigate into the several charges and take appropriate action.

Yours faithfully,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a long, sweeping horizontal line that curves upwards at the end.

Messrs. F. J. & G. De Saram
Attorneys-at-Law

Encl:

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