

**IN THE DISTRICT COURT OF COLOMBO**

In the matter of HOTEL DEVELOPERS (LANKA)  
LIMITED, C/o Colombo Hilton Sports Complex,  
55 Echelon Square, Lotus Road, Colombo

And

**CASE No.217/CO**

In the matter of an Application for the Winding-  
up by Court under Part IX of the Companies Act  
No.

17 of 1982

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

**PETITIONER**

**I Mohamed Nawaz Rajabdeen of No. 100/11, Horton Gardens Colombo 7  
being of the Islamic faith do hereby solemnly sincerely and truly declare  
and affirm as follows:**

1. I deny all and singular the several averments contained in the Petition of the Petitioner save and except those averments that are specifically admitted to hereinafter.
2. I admit paragraphs 1, 2, 3(a), 4(a) and 5 of the Petition.
3. I admit that the issued share capital of the company is Rs.452,261,410/-, subject to the said admission. I deny the rest of the averments in paragraphs 3(b) & 4(b) of the Petition.
4. Save and except for the several cases referred to in paragraphs 6 -10 of the Petition, I am unaware of the matters averred in said paragraphs 6, 7, 8, 9 & 10 of the Petition and therefore deny the said averments.
5. I deny the matters averred in paragraphs 11 & 12 of the Petition and put the Petitioner to the strict proof thereof.
6. Although a few of the matters averred to in paragraphs 13, 14, 15 & 16 may be factually correct, the manner in which the Petitioner has formulated or

represented such facts, is wholly misleading and constitutes deliberate misrepresentation of facts to Court. I am thus compelled to deny all averments in the said paragraphs and put the Petitioner to the strict proof thereof.

7. I categorically deny the averments in paragraph 16 and put the Petitioner to strict proof thereof.
8. I deny the averments in paragraphs 17, 18, 19 & 20 of the Petition. Further, in view of the matters set out herein below, I categorically deny the averments contained in the said paragraphs that the company is in default to the government.
9. I admit the document annexed as P14. Subject to the said admission I deny the rest of the averments in paragraph 21 of the Petition.
10. I deny paragraphs 22 & 23 of the Petition.
11. I categorically deny the matters averred in the paragraph 24 of the Petition and put the Petitioner to strict proof thereof.
12. Subject and without prejudice to the foregoing I state as follows:
13. I am advised to state that the Petitioner has no standing and or *locus standii* to have and maintain this application in law.
14. I am advised to state that in any event on the averments contained in the Petition Court will not grant the relief prayed for by the Petitioner.
15. I am advised to and I state that the Petitioner has not complied with the imperative provisions of the law.
16. I state that the application to wind up has been made *mala fide*.
17. I am advised to state that in any event without prejudice to the aforesaid that there are alternative remedies available to the Petitioner.
18. I state that in view of the adverse publicity caused by this application the company has suffered loss and damage which the company reserves its right to claim from the Petitioner.

19. I state that neither the Government nor the Japanese creditors have demanded the monies due to them to be paid immediately and thus at present there is no necessity to pay any sum of money either to the Government of Sri Lanka or the Japanese creditors.

20. I state that the shareholding of the company is approximately as follows:

i. Secretary to the Treasury	65%
ii. Japanese creditors	27.5%
iii. Public	7.5%

21. I verily believe that the Secretary to the Treasury and the Japanese creditors oppose the winding up of the company. I verily believe that several public shareholders also oppose the winding up.

22. I state that the only business of the company is the carrying on of the hotel presently called "Hilton Colombo". I state that the "Hilton Colombo" has shown an operational profit as indicated hereinafter.

**I annex hereto a document showing the Gross Operating Profits, Owners Returns and Nett Profits before interest, of the Hilton Colombo for the years 1998 – 2006, marked "X" as part and parcel of this affidavit.**

23. I further state that the said hotel is in operation and is considered one of the best five star hotels in the country.

24. I state that the losses shown in the Profit and Loss Account annexed to the Petition are due to the interest payable on the loans obtained from Mitsui & Taisei, the Government of Sri Lanka and the Bank of Ceylon.

25. I state that the Petitioner has been a director of the company from March 1983 to December 1990 and thereafter from October 1994 to November 2005 and has been the chairman of the company from July 2004 to November 2005.

26. I state that ex-facie the Petition and in any event no benefit will be passed on to the shareholders and/or the creditors by the winding up of the company.

27. In fact, on the contrary, approximately 850 employees of the company would lose employment as well as the image of the country in general and the



tourism industry in particular would be adversely affected as a result of the winding up of the company.

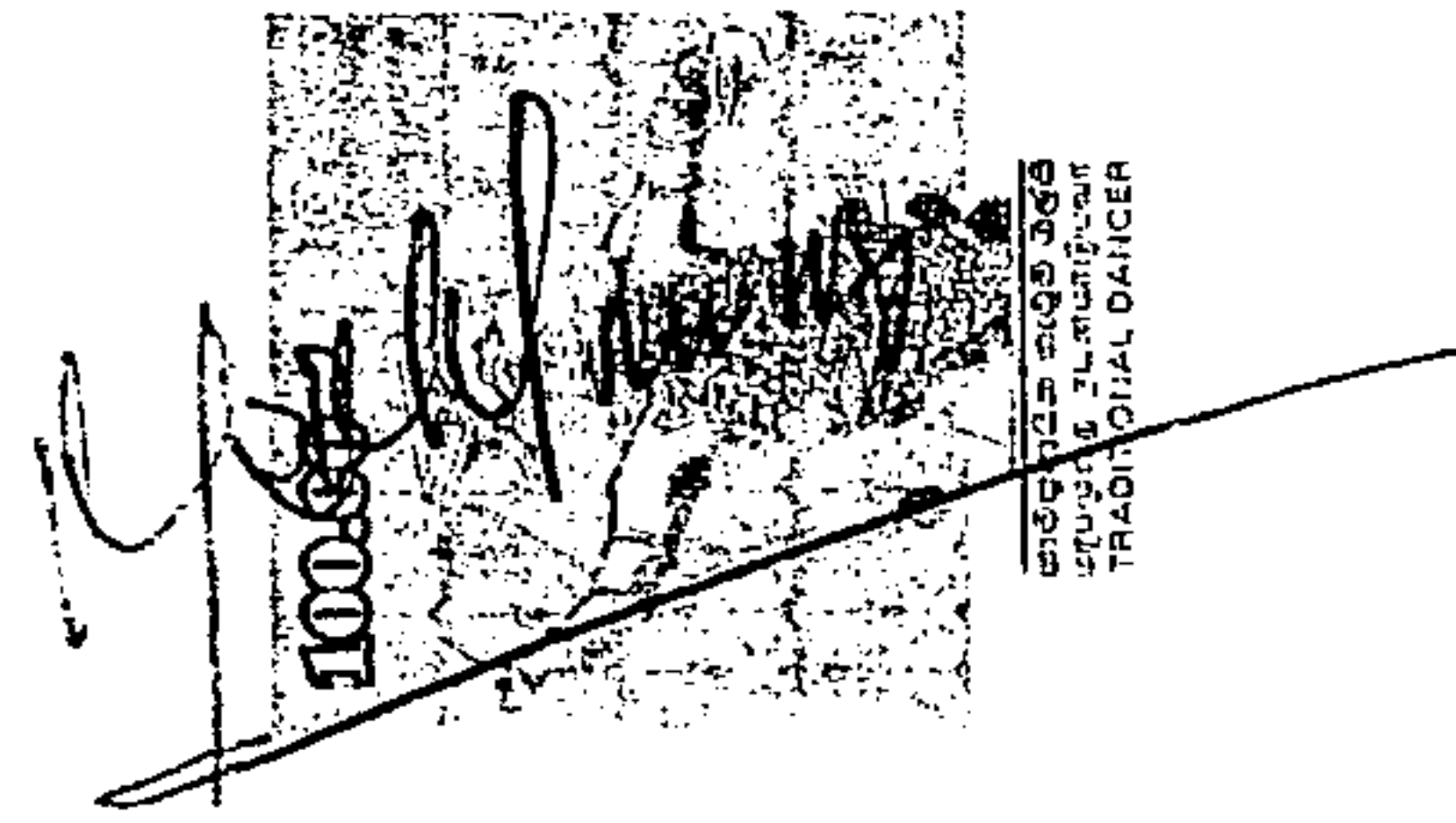
28. I state that it is in the interests of the company, its shareholders and its creditors for the company to continue carrying on business and/or for the company not to be wound up.

29. I verily believe that there are buyers who are willing to purchase the Petitioner's shares.

30. I state that this Affidavit was prepared after perusal of documents available to me and from my personal knowledge and I respectfully reserve the right to file a further affidavit on behalf of the company.

**31. I have annexed hereto True Copies of the Settlement Agreements annexed marked X1 - X3 all dated the 28<sup>th</sup> June 1995 as part and parcel of this affidavit.**

Read over explained and understood ]  
By the affirmanant above named and ]  
Affirmed to and signed at Colombo ]  
on this 8<sup>th</sup> day of December 2006 ]



**BEFORE ME**

*H. M. Mendis*

**JUSTICE OF THE PEACE/  
COMMISSIONER FOR OATHS**

HERBERT S. MENDIS  
Registrar of Oaths  
Regd. Office No. 175/B/1  
175/B, Col. G. G. Gunawardena Mawatha,  
NAPOLA, RAJCOLETA.