

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-01.

In the matter of an application for the Winding-up by Court under Part IX of the Companies Act, No.17 of 1982.

Case No. 217/CO

-Vs-

NIHAL SRI AMERESEKERE,
No.167/4, Viupulasena Mawatha,
Colombo-10.

PETITIONER

On this 28th day of June, 2012


The **STATEMENT OF OBJECTIONS** of **CORNEL LIONEL PERERA AND CORNEL & COMPANY LTD., TWO (2) OF THE OPPOSING CREDITORS** with regard to the application contained in the two identical Motions dated 15th March, 2012 filed by Hotel Developers (Lanka) PLC, the Company sought to be wound-up and the Honourable Attorney General on the basis of an Intervenant-Respondent appearing by Mrs.N.Y.Kunaseelan, their Attorney-at-Law states as follows:-

01. The Company sought to be wound-up, Hotel Developers (Lanka) PLC (hereinafter referred to as "**HDL**") and the Honourable Attorney General as an Intervenant-Respondent filed two identical Motions dated 15th March, 2012.
02. When the matter came up in Court on 15th March, 2012 Counsel for the Petitioner and the Counsel for Cornel Lionel Perera and Cornel & Company Ltd., (hereinafter referred to as "**Cornel**") two of the opposing creditors/contributories as well as the Counsel for Mitsui and Company Limited and Taisei Corporation (hereinafter referred to as "**Mitsui and Taisei**") two other opposing creditors/contributories objected to the said Motions/application.
03. Thereafter, the Court directed the parties to file written Objections and these written Objections are tendered on behalf of Cornel with regard to the two purported Motions dated 15th March, 2012 as referred to hereinbefore.
04. In limine, Cornel, two of the opposing creditors/contributories deny all and singular the various matters stated in the said Motions and specifically states that the matters stated in the said Motions are contrary to position taken up by the Company sought to be wound up, HDL as well as the Honourable Attorney General who represented the Secretary to the Treasury.

05. In limine, Cornel states that procedurally the said two purported Motions cannot be accepted and determined in this manner in that -
- (a) there are only two purported Motions that have been filed;
 - (b) there is no provision to file a Motion in this manner to have this application dismissed and/or terminated;
 - (c) the said purported Motions are not supported by any Affidavit of any person;
 - (d) the contents of the said purported Motions is not supported by any evidence;
 - (e) there is no proper validly known application before Court;
 - (f) the purported Motions contains false and inaccurate positions and particularly contradictory positions taken up by HDL as well as by the Secretary to the Treasury on whose behalf one of the said purported Motions has been filed by the Honourable Attorney General.
06. Cornel specifically pleads that the matters stated in the said Motions are quite contrary to the matters taken up by HDL as well as by the Secretary to the Treasury in these proceedings in that at all times and particularly in the Affidavit in opposition filed by HDL and the Secretary to the Treasury on behalf of the Government of Sri Lanka it has been stated that HDL is a viable Company and there exists no grounds for winding up.
07. Whereas in the purported two Motions filed, HDL and the Secretary to the Treasury have taken up the position that HDL, the Company sought to be wound up is hopelessly in debt and is hopelessly bankrupt.
08. Cornel specifically states that the purported Motions filed by HDL and the Honourable Attorney General are mala-fide.
09. Cornel specifically denies the penultimate paragraph in the said Motions filed by HDL and the Honourable Attorney General and further states that the matter stated therein are incorrect.
10. Cornel specifically pleads that the rights of parties are determined as at the date of action and any subsequent act will not take away the entitlement of the Courts to hear and determine an action.
11. These winding-up proceedings had been filed on 17th November, 2006 on which date the alleged Act No.43 of 2011 was not in operation and in view of Section 277 of the Companies Act No.7 of 2007 the winding up is deemed to have commenced as of 17th November, 2006 and thus and otherwise these Motions cannot be entertained at this stage.
12. Cornel specifically states that this Court has jurisdiction to determine this application on its merits.
13. Cornel further states that the purported Motions filed by HDL and the Honourable Attorney General are to prevent the due administration of justice according to law.

WHEREFORE Cornel Lionel Perera and Cornel & Company Ltd., pray -

- (a) that the purported Motions dated 15th March, 2012 filed by HDL and the Honourable Attorney General be rejected;
- (b) for the Court to proceed to hear the winding-up application on its merits and determine;
- (c) for costs; and
- (d) for such other and further relief as to this Court shall seem meet.


**ATTORNEY-AT-LAW FOR
CORNEL & COMPANY LIMITED AND
CORNEL LIONEL PERERA**

Settled by:

Miss.S.Somarathna,
Attorney-at-Law.

Mr.M.M.M.P.Manathunga,
Attorney-at-Law.

Mr.Nagalingam R.Sivendran,
Attorney-at-Law.

Mr.S.Sivarasa,
President's Counsel.

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