

IN THE DISTRICT COURT OF COLOMBO

Nihal Sri Ameresekere
of 167/4, Sri Vipulasena Mawatha
Colombo 10.

PLAINTIFF

Case No: 21819/MR

Vs

1. Gamini Lakshman Peiris
of "Visumpaya", Staples Street
Colombo 2, and also of
37 Kirula Place
Colombo 5.
2. Hotel Developers (Lanka) Ltd.
C/o Colombo Hilton Sports Complex
Echelon Square,
Lotus Road
Colombo 1.

DEFENDANTS

To:

The 1st Defendant abovenamed

(To be served through his registered Attorneys-at-law, Paul Ratnayake Associates, of 59, Gregory's Road, Colombo 7, under Section 95 of the Civil Procedure Code)

Interrogatories on behalf of the Plaintiff abovenamed for the examination of the 1st Defendant abovenamed. (The 2nd Defendant Company abovenamed being hereinafter referred to as "HDL").

In terms of Section 94 of the Civil Procedure Code, you are required to Answer all the following Interrogatories within ten days of the service of same on you:

1. Have you not in your Affidavit dated 29th August 1999 filed in the Court of Appeal in Revision Application No. 775/98 (D.C. Colombo 19849/MR filed against you by the Plaintiff) affirmed at para 8 therein that –

" no power or duty pertaining to the subject of finance has been delegated to me under Article 46(2) of the Constitution by Notification published in the Gazette" ?

2. Having been the Deputy Minister of Finance, when the Plaintiff was appointed in September 1994, as Advisor, Ministry of Finance, how could you have been unaware of the Plaintiff's professional background and standing, inasmuch as, would not the same have been set out in the Cabinet Paper on his appointment, whilst you were then a Cabinet Minister ?
3. Do you not admit, that the Plaintiff and/or his Attorneys-at-law, M/s De Silva & Perera through several written representations had specifically brought, amongst other, the relevant facts and documents pertaining to the Plaintiff's derivative action, filed on behalf of HDL, D.C. Colombo Case No. 3155/Spl, including the Supreme Court Judgment, to your notice as a then member of the Securities & Exchange Commission (hereinafter referred to as "SEC") ?
4. Do you not admit, that it was because the then Directors of HDL, did not take any action, even in the face of the Supreme Court judgment in December 1992, that upheld the Plaintiff's action, as a prima-facie case of fraud, that the Special Presidential Commission of Inquiry was appointed to inquire into this matter ?
5. Do you not admit, that the said written representations to you, as a then member of SEC also pertained to another derivative action in law, D.C. Colombo Case No. 3231/Spl, also instituted by the Plaintiff, that related to the Annual Accounts of 31.03.1990 of HDL, which as a consequence were enjoined by Court ?
6. Do you not admit, that the conduct of affairs of HDL and its Annual Accounts were matters that came within the purview of SEC, as per the SEC Act No. 36 of 1987 as amended, governed by its rules ?

7. Do you deny, that whilst you were Deputy Minister of Finance,
- i. the Secretary, Ministry of Finance forwarded letter dated 23rd September 1994 to the SEC, requiring the SEC to take appropriate action in this regard, stating that the Minister of Finance, having reviewed the said matter, had directed that remedial action be taken by the SEC ?
 - ii. that the Chairman of the SEC had replied by letter dated 6th October 1994 undertaking to do so ?
8. i. Do you not admit, that the then Attorney General, Mr. Tilak Marapana P.C. and the then Addl. Solicitor General, Mr. Srinath Perera (now P.C.) deemed that action ought to be taken by the government, amongst others, against you, as a then member of the SEC, for deliberate failure and neglect of statutory duties, by including a specific condition in such very regard in the Hilton Settlement Agreements ?
- iii. Did not, subsequently the Solicitor General, Mr. Douglas Premaratne P.C. also concur therewith ?
9. Did you not examine in detail, the Hilton Settlement Agreements numbered 1 to 4 entered into on 28th June 1995 ?
10. i. Did you not accordingly, make a statement in Parliament on 8th August 1995, inter-alia, quoting out of context only a part of a specific Clause from the said Settlement Agreements, leaving out an integral part thereof ?
- ii. Was not the following first part and last part of the said paragraph, deliberately suppressed and/or omitted by you in your said statement to Parliament, only quoting the middle part thereof ?

"Whereas in the context of the promotion of the Colombo Hilton Hotel and/or Hotel Developers (Lanka) Ltd., Nihal Sri Ameresekere (hereinafter referred to as "Mr. Ameresekere") of 167/4, Sri Vipulasena Mawatha, Colombo 10, having been induced by the main promotors thereof to get involved and/or concerned in the affairs of Sun-Cornel Textiles Ltd., and the Colombo Apothecaries Co. Ltd., and in consideration of the settlement initiated by the Government and the write-offs, reductions and rescheduling referred to in Agreement No.1, the Government as the major Shareholder and Guarantor, being a beneficiary thereof and further in the context of the conditions stipulated in Clause 9 in the Agreement No. 4 shall and will assist Mr. Ameresekere

.....

[middle part only quoted to Parliament]

.....
and whereas in some of the said Actions, Mr. Ameresekere had been added and/or had been moved to be added as a party and/or an accused only after the institution of the litigations referred to in the aforesaid Agreement No. 3, to which this Annexure "Y" relates"

- iii. Was it not thereby a false and misleading statement made by you to Parliament and thereby to the public ?
11. Do you deny, that the Settlement Agreements, specifically Agreement No. 3 from which you misleadingly so quoted, in its preamble stated, that the Secretary, Ministry of Finance, at the instance of the Japanese Companies [Mitsui/Taisei], had intervened to have discussions with the Plaintiff, with a view to reaching such settlement ?
12. Do you deny, that the same said Settlement Agreement No. 3 contained the condition, inter-alia, that the government shall and will take action against then members of the SEC, which included you, on their conduct and actions on the representations made by the Plaintiff, whilst the Plaintiff also reserved his right to pursue such action ?
13. Do you not admit, that the Cabinet of Ministers approved a Cabinet Memorandum dated 21st June 1995 submitted by the Minister of Finance on the matter of the said Hilton Settlement Agreements on or about 28th June 1995, the Cabinet having been previously briefed thereof by the Minister of Finance on 21st June 1995 ?

14. Do you not admit, that the said Cabinet Memorandum stated that the Settlement Agreements to be executed had been finalised by the Solicitor General and that the Solicitor General had kept the Special Presidential Commission apprised of the said settlement ?

15. Do you not admit, that the said Cabinet Memorandum, inter-alia, also stated:

- i. "Thereafter, in December '92 the Supreme Court, presided by the Chief Justice, upheld the Interim Injunctions, that had been issued by the District Court, observing in its judgment, that Mr. Ameresekere had established a strong prima-facie case, with a reasonable and real prospect of success, even in the light of the defences, and that the Interim Injunctions had been issued to prevent the devious syphoning of a large scale of foreign exchange from the country." ?
- ii. "The Supreme Court in its judgment had, inter-alia, further specifically observed, that under the given circumstances of the Government being the major Shareholder and Guarantor, that this could not entirely be a matter of indifference to the Government. In the given circumstances, it is the Government that should have taken action and not Mr. Ameresekere, a private citizen, as a individual Shareholder, acting on behalf of the Company, owned by the Government, with substantial Loans Guaranteed by the Government, which is a commitment on public funds." ?

16. Do you deny, that in your statement made to Parliament on 8th August 1995, you specifically referred to certain comparatively insignificant Court Cases, in which the Plaintiff had been impleaded, as a consequence of the promotion of the Hilton Hotel and you deliberately suppressed, such relevant parts of the paragraph, that specified how the Plaintiff was so impleaded in such Court Cases and as to why, the government was obligated to assist the Plaintiff ?

17. Did not the said Cabinet Memorandum dated 21st June 1995 approved by the Cabinet on 28th June 1995, inter-alia state:

"A Special Presidential Commission is carrying out an inquiry into the totality of this matter and the Government and the public would be afforded a report thereon. The Government would consider taking appropriate action, based on the findings and recommendations of the Commission. The Solicitor General has kept the Commission apprised of this settlement." ?

18. Did you not state, at the press conference on 30th June 1995 that-

"However this settlement has nothing to with the punitive action which the legal machinery will take against the offenders by the Special Presidential Commission of Inquiry and the Permanent Commission on bribery and corruption" ?

19. What punitive action have you, as the Minister of Justice, caused the legal machinery to take against the offenders by the Special Presidential Commission of Inquiry and the Permanent Commission on Bribery and Corruption" ?

20. i. Did you not state to the press, as reported in the Daily News of 25th July 1995 that –

"no payment which is contemplated by the settlement will be made nor will any other aspect of the settlement be implemented in any way, until the conclusion of the inquiry by the Special Presidential Commission into the Hilton case" ?

- ii. Have you not admitted this in your Answer dated 31.10.1997 filed in D.C. Colombo Case No. 19849/MR instituted against you by the Plaintiff ?

21. i. Did you not state to Parliament on 8th August 1995 that,

"The People's Alliance promised to uncover the facts behind this episode during the election campaign and in keeping with its pledge, set up a Special Presidential Commission of Inquiry to inquire into the circumstances behind the transaction. It must be reiterated that this Commission will continue with its inquiries into this matter and that the Government will take all necessary action to ensure that the wrongdoers are dealt with under the laws of this country." ?

“However, it must be reiterated that there was no intention or understanding whatsoever at any stage, to either slow down or shelve the work of the Special Presidential Commission inquiring into the circumstances relating to the alleged fraud and misdeeds behind the Hilton project and that it remained the intention of the Government, that if any wrongdoing is discovered or found by the Commission, such activity will be dealt with severely under the laws of the country.” ?

- ii. Did you not state to Parliament on 19th September 1995 again as follows -

“The signing of the settlement agreements by the Secretary to the Treasury will not and should not in any way affect, slow down or influence the inquiries conducted by the Special Presidential Commission into the circumstances relating to the alleged frauds and misdeeds behind the Hilton Project. It remains the intention of the Government that, if any wrongdoing is discovered or found by the Commission, the wrongdoers will be dealt with severely under the laws of the land.” ?
- iii. Do you not admit, that you, including the other then members of the SEC, did not take action into the said alleged fraud/misdeeds, as you ought to have under statute ?
22. i. Do you not admit, that the Hilton settlement arrived at as a consequence of the action of the Plaintiff was immensely beneficial to the government and the country ?
- ii. Why did you endeavour to pinpoint and mislead Parliament on 8th August 1995 and thereby the people of this country, by referring to only one condition, that pertained to the Plaintiff, as an unacceptable condition to the government, that too, deliberately suppressing and not disclosing the full facts pertaining thereto ?
- iii. If it was not for the sole sustained efforts of the Plaintiff, then whose efforts was it, that resulted in such immense benefit to the government and the country, with a write-off of Rs. 10,200 million and the balance debt re-scheduled over further 15-years upto 2010, at a reduced rate of interest ?
- iv. Do you not admit, that as a then member of the SEC, you had failed and neglected to take any action, whatsoever, in regard to HDL/Hilton Hotel, notwithstanding the Plaintiff's/Plaintiff's Lawyers' several written representations to you, urging you to do so ?
23. Do you not admit, that at the press conference on or about 30th June 1995, you, inter-alia stated,
 - i. that "it was the happiest day in your life", making out that the settlement was your achievement and/or that of the government, thereby denying the Plaintiff the credit that was legitimately due to him ?
 - ii. “the Settlement signed with the Japanese contractors also conforms to the major planks of the People's Alliance government's election manifesto of combating the pillage and plunder of national resources and the government's commitment, which has brought about the large scale saving” ?
 - iii. To have so stated, would you not have been aware of the past background and circumstances pertaining to the Hilton Settlement ? If not, how did you so state ?
24. i. Do you not admit, that it would have been the responsibility of the Directors of HDL to have taken action, on the several grave matters that had been brought to their notice by the Plaintiff, to have prevented the pillage and plunder of national resources, as you have so stated ?
- ii. Do you not admit, that the Auditors of HDL, M/s Ford, Rhodes, Thornton & Co., ought to have refrained from certifying the Annual Accounts of HDL, under the grave circumstances then known to them, as had been brought to their notice by the Plaintiff, to have prevented the pillage and plunder of national resources, as you have so stated ?
- iii. In the same manner, would not such pillage and plunder of national resources have been prevented, had the government, being the major shareholder and guarantor, taken prompt and effective action, in the grave circumstances revealed/disclosed by the Plaintiff since 1990 ?

- iv. Similarly, HDL being governed, by the rules and regulations of the SEC, do you not admit, that you, as a then members of the SEC, ought to have taken action, when the Plaintiff had brought to your notice several grave malpractices in violation of such rules and regulations, to have prevented such pillage and plunder of national resources, as you have so stated ?
 - v. Do you not admit, that the circumstances and facts pertaining to such pillage and plunder of national resources were well within your knowledge, as a then member of the SEC, in the circumstances of the several representations that had been made to you, as a then member thereof ?
25. i. Do you deny, that the letters dated 24.7.'95 addressed to Mitsui & Taisei by the Secretary to the Ministry of Finance, had been as directed by you, as the Deputy Minister of Finance, as stated therein ?
- ii. Do you deny, that it is stated in the said letters that the settlement will not be implemented until the determination of the Hilton Inquiry by the Special Presidential Commission ?
 - iii. Do you deny, that the Hilton Inquiry by the Special Presidential Commission has not yet been concluded and determined ?
 - iv. Do you deny, that in October 1996, the Hilton Settlement was given effect to, prior to the conclusion and determination of the Hilton Inquiry by the Special Presidential Commission ?
26. i. Do you not admit, that in announcing the suspension of the Hilton Settlement, as reported in the Daily News of 25th July 1995, as has been admitted by you, you had made public pronouncement that the settlement will not be implemented in any way, until the conclusion of the Inquiry by the Special Presidential Commission into the Hilton Case ?
- ii. Do you not admit, that you made no public statement or explanation, whatsoever, on the retraction of the aforesaid position, of the non-implementation of the Hilton Settlement until the conclusion and determination of the Hilton Inquiry by the Special Presidential Commission, when the Settlement was implemented and given effect to in October 1996 ?
 - iii. Do you not admit, that such suspension of the implementation of the Hilton Settlement was caused by you, as the Deputy Minister of Finance, as admitted by you in Parliament on 8th August 1995, by you intervening with President Kumaratunga, as the Minister of Finance ?
27. i. On what legal basis, were the said Settlement Agreements that had been legally and contractually entered into suspended ?
- ii. Do you not admit, that your aforesaid conduct and actions were a remarkable turnabout of the stand taken by you, as aforesaid, at the previous press conference on 30th June 1995 ?
 - iii. Do you not admit, that such remarkable turnabout was because of your personal interests, vis-a-vis the Condition to take action against you as a then member of the SEC ?
28. i. Do you not admit, that the Plaintiff had publicly placed all material documents and facts pertaining to the Hilton Settlement in evidence before the Special Presidential Commission, through the Solicitor General, before the Hilton Settlement Agreements were executed on 28th June 1995 ?
- ii. Do you not admit, that the Solicitor General with the concurrence of the Special Presidential Commission had given written approval for the execution of the said Settlements Agreement, prior to the execution thereof ?
 - iii. Do you not admit, that the Cabinet Memorandum dated 21st June 1995, approved by the Cabinet on 28th June 1995, inter-alia, stated – “The Solicitor General has kept the Commission apprised of this Settlement “ ?
 - iv. Do you not admit, that the Plaintiff after the signing of the Settlement Agreements on 28th June 1995, had given evidence in public before the Special Presidential Commission, through the Solicitor General, on the Settlement Agreements that had been signed ?

- v. Do you not admit, that thereby the Plaintiff had handled the finalisation and conclusion of the Hilton Settlement Agreements, with full disclosure, before the public hearings of the Special Presidential Commission of Inquiry, which proceedings had been given wide publicity in the media ?
 - vi. Do you not admit, such is not the normal practice and procedure, that the government follows in finalising and concluding government contracts, regardless of the government's deep and unequivocal commitment to uphold transparency ?
 - vii. Do you not admit, that several other contracts/agreements have been entered into by the government, without such degree of public disclosure and transparency, as much as the Hilton Settlement Agreements, such as Colombo Gas, Orient Lanka, Kotagala, Air Lanka, Tawakkal etc. ?
 - viii. Why did you not intervene to similarly suspend agreements in relation to Colombo Gas, Orient Lanka, Kotagala, Air Lanka, Tawakkal, etc., which are known to have had a number of unsatisfactory conditions ?
29. i. Do you not admit, that the Secretary, Ministry of Finance and the Hon. Minister of Finance had both been directly and indirectly, fully aware and involved in the negotiations had and the Settlement reached and concluded, as evidenced by the several memoranda and minutes in the Finance Ministry file bearing reference No. EA/05/26. ?
- ii. Do you not admit, that the settlement negotiations were had before the Attorney General and/or the Solicitor General, who acted on behalf of the Secretary, Ministry of Finance/Minister of Finance/the Government ?
30. i. Do you not admit, that your aforesaid conduct, actions and statements had been directly, as a result of you having discovered, the condition in the Settlement Agreement No. 3, which committed the government to take action, amongst others, against you, as a then member of the SEC, who had deliberately and willfully failed and neglected to take action, as statutorily bound, to have prevented such pillage and plunder of national resources ?
- ii. Do you not admit, that the only condition, that had been excluded from the Settlement Agreements in the implementation thereof in October 1996, by way of an Addendum executed in October 1996, was the aforesaid condition, that specifically pertained to and personally affected you ?
31. i. Do you not admit, that in your aforesaid statement to Parliament on 8th August 1995, you further stated -; "Subsequently, however, it was discovered by the Deputy Minister of Finance and brought to the notice of the Minister of Finance, that the agreements signed by the Secretary to the Treasury on behalf of the Government of Sri Lanka in the course of this settlement committed the Government to a number of obligations of an unacceptable nature" ?
- ii. Would you not have, in preparing such statement, examined the relevant documentations in the Finance Ministry file bearing reference No. EA/05/26, which contained evidence, inter-alia of memoranda and minutes pertaining to negotiations, clearly disclosing, that the Settlement matters had been well known to the Secretary, Ministry of Finance and the Minister of Finance, who had minuted approving the Settlement Agreements ?
32. i. Do you not admit, whilst you had so stated to Parliament on 8th August 1995 that the Hilton Settlement Agreements had committed the government to a number of unacceptable obligations, you referred to only one specific obligation, that only related specifically to the Plaintiff, without disclosing the circumstances that necessitated the government's obligation to so commit, as had been clearly set out therein ?
- ii. Do you not admit, that you having stated that there had been a number of obligations unacceptable to the government, deliberately failed and neglected to identify, what the other conditions/obligations unacceptable to the government had been ?
33. i. Do you not admit, that in the context of the condition in the Settlement Agreement that the government had to take action against then member of the SEC, you were in fact, an interested and affected party ?
- ii. Do you not admit, that you deliberately suppressed your personal interest and affectation and did not disclose the same to Parliament, and thereby to the people ?

34. i. Do you not admit, that your aforesaid statement was deliberately, wilfully and knowingly false and misleading, by virtue of you quoting out of context, only the middle part of a certain paragraph relating to the Plaintiff, deliberately leaving out the first and the last parts thereof and identifying same to be an unacceptable condition ?
- ii. Do you not admit, that this was deliberately done with the willful intent of causing prejudice to the Hilton Settlement and scuttling the same, due to your personal interest and affectation by the said condition pertaining to you, as a then member of the SEC ?
- iii. Do you not admit, that at no time, whatsoever, thereafter, had you made any correction to the aforesaid misleading statement so made by you, notwithstanding the Plaintiff having specifically written to you in that regard ?
35. i. Do you not admit, that the Secretary to the Ministry of Finance, who was in full possession of all the facts, on the direction of President Kumaratunga, as the Minister of Finance, had prepared an official answer dated 18th September 1995, setting out the true and correct facts to be given by you as an answer to a question in Parliament ?
- ii. Do you not admit, that such is the normal administrative practice and procedure followed by Ministries to prepare answers to questions raised in Parliament ?
- iii. Do you not admit, that you having deliberately rejected the aforesaid true and correct official answer dated 18th September 1995, chose to give your own answer to Parliament, contrary to the true and correct facts, on 19th September 1995 ?
36. i. Do you not admit, that you were unable to controvert and/or prove false, the matters disclosed by Dr. Rajitha Senaratne in his statement to Parliament on 15th December 1995 ?
- ii. Do you not admit, that your inability to have controverted and/or prove false the several matters disclosed by Dr. Rajitha Senaratne in his said statement, only proved that the matters disclosed by Dr. Rajitha Senaratne in his said statement were factually true and correct ?
- iii. Do you not admit, that in the face of the said statement, you deliberately failed and neglected to make any correction, whatsoever, to your aforesaid false and misleading statements made to Parliament on 8th August 1995 ?
37. i. Do you not admit, that one of the matters dealt with by Dr. Rajitha Senaratne in his said statement, was your conduct and actions, in having precipitated a controversy and having forced the resignation of the then Secretary, Ministry of Finance, Mr. A.S. Jayawardena, in November 1995, for an Affidavit he had filed, as the Secretary to the Treasury in D.C. Colombo Case No. 4414/Spl, mainly to protect the interests of the government ?
- ii. Do you not admit, that the Minister of Finance, having examined the said Affidavit, did not find fault with Mr. A.S. Jayawardena and on the contrary, appointed him to a higher post, as the Governor of the Central Bank ?
- iii. Do you not admit, that your aforesaid conduct, as the Minister of Justice & Constitutional Affairs, would be improper in terms of Article 116 of the Constitution ?
38. i. Do you not admit, that at or about the same time, on 24th August 1995 Mr. Vasudeva Nanayakkara M.P. asked certain questions from you, specifically in relation to the Hilton matter, inter-alia, one question pertained to an alleged payment of Jap. Yen 340 million (approx. SL Rs. 170 million) to a bank account in Hong Kong for concessions obtained from the government, implying it presumably to be a huge bribe ?
- ii. Do you not admit, that you did not answer the questions of Mr. Vasudeva Nanayakkara M.P. ?
- iii. Did not therefore, Mr. Vasudeva Nanayakkara M.P. write to you a letter dated 20th November 1995, inter-alia, stating, - " I request that a statement be made to Parliament in reply to my question, clearly clarifying the position. If this is not done, I feel that persons, who have knowledge of the facts, would suspect, that government without answering, is evading the issue." ?
- iv. Having stated, as admitted by you, at the press conference on 30th June 1995, that punitive action with the legal machinery would be taken by the Permanent Commission on Bribery and Corruption, what action, did you take in this regard ?

39. i. Do you deny, that, as had been finalised by the Attorney General, an Addendum to the Hilton Settlement Agreements entered into on 28th June 1995, was executed by and between the Japanese Companies [Mitsui/Taisei], and the Secretary, Ministry of Finance/ Secretary to the Treasury and the Plaintiff in October 1996 ?
- ii. Do you deny, that the Hilton Settlement Agreements entered into on 28th June 1995, comprised Agreements Nos. 1 to 4, which were inter-related, inter-connected and inter-dependent and were integral parts of one composite settlement ?
- iii. Do you deny, that under the aforesaid Addendum executed in September/October 1996 to the said Settlement Agreements, irrevocable permanent and specific Powers of Attorney were given by the Japanese Companies [Mitsui & Taisei] to the Secretary, Ministry of Finance/Secretary to the Treasury ?
- iv. Do you not admit, that the said Powers of Attorney authorised and empowered the Secretary to the Treasury and/or his representative, to vote on 15% of the shareholdings of HDL held by the Japanese Companies [Mitsui/Taisei] for the specific purposes of implementing the conditions precedent contained in Agreements Nos. 3 and 4 ?
- v. Do you not admit, that thereby the Plaintiff negotiated and achieved a 80% voting right of the HDL shareholdings to vest in the hands of the Secretary, Ministry of Finance/Secretary to the Treasury representing the government, to ensure the fulfilment of all the conditions contained in the said Settlement Agreements Nos. 1 to 4, save and except one condition, that was specifically excluded by the said Addendum ?
- vi. Do you deny, that the only material condition that was significantly excluded from the said Settlement Agreements by the said Addendum was the condition given below in Clause No. 5 of Agreement No. 3, that pertained to the government's commitment to take action against you and the other then members of the SEC ?
- “5. The Government shall and will take appropriate independent actions on the conduct and actions of the Securities and Exchange Commission of Sri Lanka and/or Members of its Commission and the Colombo Stock Exchange and/or of its Directors, in relation to the representations made by Mr. Ameresekere to the said institutions on matters pertaining to HDL, which matters Mr. Ameresekere also reserves the right to pursue.” ?
- vii. Do you not admit, that the Plaintiff had acquiesced in the exclusion of the aforesaid condition, at the behest of the Attorney General, Mr. Sarath Silva P.C., then Secretary to the Ministry of Finance, Mr. B.C. Perera and Deputy Secretary to the Treasury, Dr. P.B. Jayasundera, all of whom come under your purview, as the Minister of Justice and the Deputy Minister of Finance, and this had been at your instance ?
- viii. Do you not admit, that under and in terms of the Addendum and the irrevocable Powers of Attorney given thereunder by the Japanese Companies [Mitsui & Taisei], the Government agreed and undertook to ensure the fulfilment and implementation of all the conditions in the Settlement Agreement Nos. 1 to 4 entered into on 28th June 1995, save and except one condition referred to at Interrogatory No. 39 (vi) above ?
- ix. Do you deny, that prior to the implementation of the Settlement Agreements in October 1996, the very condition in the Settlement Agreement No. 3, that you identified as a condition unacceptable to the government in your statement to Parliament on 8th August 1995, was given effect to and implemented by the Attorney General in September/October 1996, thereby giving lie to your said statement ?
40. i. Do you not admit, that you had been required, as had been approved by the Attorney General, to make a statement to Parliament during the committee stage of the Finance Ministry votes in December 1996, on the retraction of the illegal suspension of the Hilton Settlement Agreements, that had been caused by you and to make a true and correct statement of facts, clarifying the misconceptions that had been so caused by you ?
- ii. Do you not admit that you deliberately failed and neglected to do so ?
41. i. Do you deny, that the HDL quarterly accounts signed by the Chairman, HDL, Mr. D.Y. Liyanage, Deputy Secretary to the Treasury and Director HDL, Dr. P.B. Jayasundera, Deputy Secretary to the Treasury and circulated by the Secretaries of HDL on 7th November 1997, disclosed, that a sum of Japanese Yen. 156,478,693 [SL Rs. 79,629,171] had in addition been paid by HDL as interest for delay ?

- ii. Do you deny, that such additional interest costs to the HDL had been caused by the illegal suspension caused by you of the Hilton Settlement ?
42. Do you not admit, that due to the illegal suspension caused by you of the Hilton Settlement, further restructuring of the finances of HDL could not be effected, as had been specifically provided for in Clauses Nos. 13 and 14 in the Settlement Agreement No. 2, during the one year grace period on the repayment of the balance loan, that had been specifically negotiated for such purpose by the Plaintiff ?
43. i. Do you deny, that the aforesaid quarterly accounts of HDL, further disclosed, that a massive sum of Rs. 288,567,634 had to be paid by the government, on behalf of HDL to make payment to the Japanese Companies [Mitsui & Taisei] on 1st July 1997 ?
- ii. Do you deny, that such payment by the government of such massive sum of money utilising public funds had been caused by the illegal suspension caused by you of the Hilton Settlement, that prevented further financial restructuring of HDL as referred to above ?
44. Do you deny, in the given circumstances, causing such loss to HDL/Government and conferring benefit upon yourself, falls within the meaning of "corruption" as defined under the Bribery Amendment Act No.20 of 1994 ?
45. a) Do you not admit, that prior to making your aforesaid statements on the Hilton Settlement, you ought to have and would have acquainted yourself, with the full records pertaining thereto in the Finance Ministry files bearing reference No. EA/05/26 ?
- b) Accordingly, do you not admit that,
- i. the terms of Settlement, all those conditions contained in the Settlement Agreements entered into on 28th June 1995, had been agreed upon before the Attorney General/his officials and Secretary Ministry of Finance/officials in October 1992 ?
- ii. the Attorney General had subsequently finalised the Settlement Agreements in 1993 on the basis of such terms of Settlement that had been so agreed upon ?
- iii. President Wijetunga, subsequently in June 1994, having been briefed by the Attorney General and the Secretary, Ministry of Finance had approved the Settlement Agreements and had authorised and empowered the Secretary/Ministry of Finance or in his absence, the Deputy Secretary to the Treasury to execute them ?
- iv. the Settlement Agreements were not executed essentially because the Plaintiff refused to do so, on the condition insisted upon by the Japanese Companies [Mitsui/Taisei] to receive promissory notes from the Government, who was the guarantor, whereas HDL was the borrower ?
- v. subsequently, the Japanese Companies [Mitsui/Taisei] having relented on the said condition, that then Secretary, Ministry of Finance on 19th October 1994, with the concurrence of the Minister of Finance, wrote to the Attorney General that the Settlement Agreements that had been finalised previously be proceeded with to finalise the Settlement, subject to financial re-structuring/debt re-scheduling facilitating loan re-payments by HDL ?
- vi. the Settlement Agreements Nos. 1 to 4 entered into on 28th June 1995 were so finalised ?
- vii. the illegal suspension caused by you of the settlement had frustrated and rendered nugatory the said direction that had been given by the Secretary, Ministry of Finance by letter dated 19th October 1994 ?**

This 28th day of April 1999



Attorney-at-Law for Plaintiff