Deloitte.

Clerk's stamp:

COURT FILE NUMBER:	1001-03215
COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE OF CALGARY	
PLAINTIFFS:	FIRST CALGARY SAVINGS & CREDIT UNION LTD.
DEFENDANTS:	PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L. PERERA and SHIRANIE M. PERERA
PLAINTIFFS BY COUNTERCLAIM	PERERA SHAWNEE LTD., DON L. PERERA and SHIRANIE M. PERERA
DEFENDANTS BY COUNTERCLAIM	FIRST CALGARY SAVINGS & CREDIT UNION LTD. and DELOITTE & TOUCHE LLP

DOCUMENT: **ELEVENTH REPORT OF THE COURT APPOINTED RECEIVER OF PERERA SHAWNEE LTD. AND PERERA DEVELOPMENT CORPORATION, DATED JANUARY 13, 2011**

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TABLE OF CONTENTS:

INTRODUCTION

1. On March 3, 2010, Deloitte & Touche Inc. was appointed, pursuant to the *Bankruptcy and Insolvency Act* ("**BIA**") and the Alberta *Judicature Act*, by the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**"), as receiver and manager (the "**Receiver**"), without security, of all the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof of Perera Shawnee Ltd. ("**PSL**") and Perera Development Corporation ("**PDC**") (PSL and PDC are collectively referred to as "**Perera**") (the "**Receivership Order**").

2. The Receivership Order was the result of an application by First Calgary Savings & Credit Union ("**First Calgary**"), a secured creditor of Perera. Perera is a condominium real estate developer which has assets that consist of a three phase condominium real estate project located at 30 Shawnee Hill SW, Calgary, Alberta (the "**Project**").

3. Don L. Perera is the President of Perera ("**Mr. Perera**") and he and Shiranie M. Perera are guarantors of the loans from First Calgary (the "**Guarantors**").

NOTICE TO READER

4. This report constitutes the Eleventh Report of the Court Appointed Receiver (the "**Eleventh Receiver's Report**" or this "**Report**").

BACKGROUND

5. The Receiver has reported on its activities to this Court on numerous occasions through Receiver's reports. In each instance, the Receiver has used reports, not affidavits, to update the Court on activities that have taken place during the receivership.

6. The Guarantors have previously suggested in these proceedings that receiver's reports should no longer be used in light of the new Alberta Rules of Court in force as of November 1, 2010 (the "**New Rules**"). The Guarantors have taken the position that the Receiver should instead file affidavits, presumably because they seek the right to cross-examine the Receiver on the affidavits, which is usually not available when the Receiver submits reports.

PURPOSE OF REPORT

7. The purpose of this Report is to obtain an order confirming that all submissions to the Court by the Receiver shall continue to be made by way of report, and not by way of affidavit, and that the Court shall consider such reports as evidence, unless otherwise ordered.

VIEW OF THE RECEIVER

8. The Receiver was appointed by the Receivership Order and therefore acts as an officer of the Court. As Receiver, we understand that we owe a duty of loyalty and fidelity to the Court and must act within the framework of authority granted to us by the Receivership Order and any governing legislation. Furthermore, in performing our duties, we understand that a court-appointed receiver is required to have regard for and balance the

interests of the various stakeholders, act even-handedly, be the "eyes and ears" of the Court, and give practical effect to the orders of the Court.

9. Historically, the general practice in Alberta is for court-appointed receivers to file reports and not affidavits. We understand that a receiver is permitted to file reports in this manner because of its position as an officer of the Court. Based on our firm's experience acting as a court officer throughout Canada, we understand that the practice of filing reports is consistent with the practices of parallel courts across Canada.

10. In our experience, if a party would like a receiver to clarify a point in its report or to provide additional information, the practice has been for such party to submit questions in writing, or to request a meeting. As the Receiver, we are open to answering appropriate questions. Furthermore, we understand that in exceptional or unusual circumstances, a Court may permit cross-examination of a receiver on a receiver's report. The Guarantors have not applied to the Court for permission to cross-examine the Receiver in this Receivership.

11. Do the New Rules change all of this historical practice? Would it be desirable to require receivers to prepare affidavits instead of reports? We would suggest that the answer is "no" to both questions for the following reasons:

(a) if the New Rules require that court-appointed receivers in Alberta submit evidence and information by way of affidavit, there will be inconsistencies in the practice of receivers across Canada. This will be further exaggerated in an instance where a receivership takes place across various provinces within Canada, thereby unnecessarily complicating an established practice. We realize that the recent amendments to the BIA introduced the concept of a national receiver

whereby a judge has the authority to appoint a receiver with the power to act nationally, thereby eliminating the need to apply to the courts in multiple jurisdictions for the appointment of a receiver. The requirement to file affidavits as opposed to reports may result in "forum shopping" to jurisdictions other than Alberta, even if Alberta may be the best jurisdiction for all stakeholders;

(b) we understand that our role is not that of a pure fact witness. Rather, as Receiver, we understand our role as that of also exercising business judgment and investigating to provide the Court and stakeholders with recommendations, views, perspectives and the like, which may rest upon means of information other than personal observation or knowledge. In our view, this kind of advice has a unique quality and is best conveyed in the form of a report and not an affidavit, as we understand that pure facts are meant to be described in affidavits and in some circumstances, personal knowledge is also required. Furthermore, if the reporting of the receiver was required to be made in affidavit form, the information available to the Court would be more limited and of reduced value to the Court and the stakeholders and, in our view, would not allow for the most effective implementation of the broad duties of a court-appointed receiver;

(c) as noted above, the current practice does not preclude questions from being asked about a report and, in unusual or exceptional circumstances, cross-examination of a receiver about a report, if so ordered by the Court; and

(d) we understand that the stated purpose of the New Rules is to provide a means by which claims can be fairly and justly resolved in or by a court process in a timely and cost effective way (Rule 1.2 of the New Rules). Requiring receivers to file

affidavits instead of reports, and allowing a receiver to be subjected to cross-examination on each occasion it wishes to update the Court and stakeholders, has the potential to cause undue delays, which may result in increased professional and other costs to the detriment of the estate, which is obviously undesirable and would appear to contradict the overall purpose of the New Rules.

CONCLUSION

12. The Receiver respectfully requests that the Court grant the relief set out in the Receiver's Application dated January 13, 2011.

DELOITTE & TOUCHE INC.,
In its capacity as Receiver and Manager of
Perera Shawnee Ltd. and Perera Development
Corporation and not in its personal capacity

Per: _____

Victor P. Kroeger, CA • CIRP, CFE
Senior Vice President