

COURT FILE NUMBER **1001-03215**

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE 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 **AFFIDAVIT OF DON LAL PERERA**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **Christopher Williams
Masuch Albert LLP
#209, 10836 – 24th Street SE
Calgary, AB T2Z 4C9**

**Phone: 403-543-1100
Fax: 403-543-1111**

AFFIDAVIT OF DON LAL PERERA

Sworn on November 20, 2011

I, **DON LAL PERERA**, of Calgary, Alberta, SWEAR AND SAY THAT:

1. I am the Respondent and Initial Purchaser named in the Application filed on November 10, 2011 by Deloitte & Touche Inc in its capacity as Court-Appointed receiver and manager of Perera Development Corporation and Perera Shawnee Ltd, and as such have a personal knowledge of the facts and matters hereinafter deposed to, except where stated to be based upon information and belief, and where so stated, I do verily believe the same to be true.
2. On May 26, 2007 I executed an offer to purchase Suite 701 (the "Unit") in Phase I of the Highbury condominium project located at 30 Shawnee Hill SW, Calgary, Alberta (the "Project"). The Developer/Builder, Perera Shawnee Ltd. (the "Developer"), accepted this offer on May 26, 2007 (the "Purchase Agreement").
3. The agreed purchase price for the Unit was \$556,900.00 (inclusive of GST)(the "Purchase Price").

4. On or about May 4, 2007 I made an initial deposit of \$27,845.00 by cheque 1037 payable from Insight Dynamic Solutions Inc. to McCleod & Company ("McCleod") in Trust (the "First Deposit").
5. On or about June 4, 2007 I executed an *Addendum – Additional Terms* that amended the Purchase Agreement to change the Purchaser from myself to Insight Dynamics Solutions Inc. At the time I was, and remain to this day, a Director and Shareholder of Insight Dynamics Solutions Inc.
6. Sometime between early June and late June 2007, Don Perera, representative of the Developer, asked me to provide additional deposits totalling \$300,000.00. Don Perera explained that financing for the Project had not been finalized, and that the Project required additional funding in order to apply for, and to obtain the required Development Permit.
7. On or about June 13, 2007 I agreed to provide an additional deposit of \$100,000.00 directly to Perera Shawnee Ltd in order for Perera Shawnee Ltd and/or Perera Development Corporation to apply for and obtain the relevant Development Permit, provided the \$100,000.00 was specifically credited to the purchase of the Unit. I attach hereto and mark as Exhibit "A" a copy of cheque 1039 dated June 13, 2007 payable from Insight Dynamic Solutions Inc. to Perera Shawnee Ltd (the "Second Deposit").
8. On or about June 13, 2007 I executed, and the Developer accepted, an *Addendum – Additional Terms* that amended the Purchase Agreement to confirm, "the balance owing on completion would be \$429,055". In other words, the Developer expressly agreed that the Second Deposit was specifically provided for, and was to be applied to, the purchase of the Unit. The *Addendum – Additional Terms* dated June 13, 2007 is attached as Schedule 3 to the Receiver's *Twenty Fifth Report* filed November 10, 2011.
9. Further, I am informed and verily believe that the Second Deposit was deposited into a bank account of Perera Shawnee Ltd and/or Perera Development Corporation on or about June 15, 2007. I attach hereto and mark as Exhibit "B" a copy of cheque butt 0030 provided to me by Don Perera evidencing the deposit of \$100,000.00 into a bank account controlled by Perera Shawnee Ltd and/or Perera Development Corporation.
10. On or about June 29, 2007 I agreed to provide an additional deposit of \$200,000.00 directly to Perera Shawnee Ltd in order for Perera Shawnee Ltd and/or Perera Development Corporation to apply for and obtain the relevant Development Permit, provided the \$200,000.00 was specifically credited to the

purchase of the Unit. I attach hereto and mark as Exhibit "C" a copy of cheque 1048 payable from Insight Dynamic Solutions Inc. to Perera Shawnee Ltd (the "Third Deposit").


11. On or about June 29, 2007 I executed, and the Developer accepted, an *Addendum – Additional Terms* that amended the Purchase Agreement to confirm, "the balance owing on completion will be \$229,055". In other words, the Developer expressly agreed that the Third Deposit was specifically provided for, and was to be applied to, the purchase of the Unit. The *Addendum – Additional Terms* dated June 29, 2007 is attached as Schedule 4 to the Receiver's *Twenty Fifth Report* filed November 10, 2011.
12. Further, I am informed and verily believe that the Third Deposit was deposited into a bank account of Perera Shawnee Ltd and/or Perera Development Corporation on or about June 29, 2007. I attach hereto and mark as Exhibit "D" a copy of cheque stub 0044 provided to me by Don Perera evidencing the deposit of \$200,000.00 into a bank account controlled by Perera Shawnee Ltd and/or Perera Development Corporation. I also attach hereto and mark as Exhibit "G" a copy of the Year-to-date Ledger dated 20 March 2008 evidencing the deposit of my Second Deposit and Third Deposit into a bank account controlled by Perera Shawnee Ltd and/or Perera Development Corporation.
13. Further, I am informed and verily believe that the Second and Third Deposits were used, in whole or in part, towards the application for, and the obtaining of, the Development Permit for the Project. I attach hereto and mark as Exhibit "E" a copy of cheque stub 0048 dated July 6, 2007 provided to me by Don Perera evidencing the payment of \$277,979.18 to the City of Calgary with respect to Development Permit DP 2006-1891.
14. On or about November 12, 2009 I received a Possession Letter dated November 12, 2009 advising that the pre-possession walk-through was scheduled for December 8, 2009, and that the possession date was December 18, 2009. I attach hereto and mark as Exhibit "F" a copy of the Possession Letter dated November 12, 2009.
15. On or about November 16, 2009 I contacted Judy Poole, who I believed to be a representative of Perera Shawnee Ltd, and advised Ms. Poole that I would be overseas at the time of the pre-possession walk-through, and at the time of the possession date. As a result Ms. Poole promised to delay the possession date until sometime in March or April, 2010.

- 16. On April 6, 2010 I received a letter from Deloitte & Touche Inc (“Deloitte”) advising that Deloitte had been appointed as receiver and manager of all of the assets, properties and undertaking of Perera Development Corporation and Perera Shawnee Ltd.
- 17. I am, and have always been ready, willing and able to close the purchase and sale of Suite 701 pursuant to the terms of the Purchase Agreement by paying the balance owing, namely \$229,055.00 (the “Balance Owing”). I have advised the Receiver, and its legal counsel, of this numerous times. I am ready, willing and able to close the transaction by paying the Balance Owing even though the Purchase Price of \$556,900.00 is far in excess of the market value of the Unit today. The Receiver refuses to recognise payment of my Second and Third Deposits in the total sum of \$300,000.00, and refuses to close the transaction.
- 18. I believe that the Purchase Agreement is binding and valid with a balance owing of \$229,055.00.
- 19. I make this Affidavit in opposition to the Application of the Receiver to disclaim the Purchase Agreement, and request this Honourable Court to:
 - a. Grant an Order for specific performance of the Purchase Agreement to enforce the valid interest of Insight Dynamic Solutions Inc. in the Unit.
 - b. In the alternative, to grant an Order returning in whole, or in part, the First, Second and Third Deposits:
 - i. by virtue of its equitable discretion to grant relief from forfeiture of the total deposit monies, being \$327, 845.00, or
 - ii. on the grounds of unjust enrichment as the Receiver, all other Purchasers, and all other creditors have directly benefited from the application of my Second and Third Deposits to the development of the Project, in particular the obtaining of the Development Permit, or
 - iii. such other ground that may be established at the hearing of this Application.

SWORN BEFORE ME at Calgary, Alberta,)
 this 20th day of November, 2011.)

 Commissioner for Oaths in and for the)
 Province of Alberta)

CHRISTOPHER WILLIAMS
 Barrister, Solicitor & Notary Public
 209, 10836 -24 Street S.E.
 Calgary, Alberta T2Z 4C9
 Phone (403) 543-1100
 Fax (403) 543-1111



 DON LAL PERERA

Insight Dynamic Solutions Inc.
5 Mount Alberta View S.E.
Calgary, Alberta T2Z 3G6

1039

DATE 13 06 2007
D D M M Y Y Y Y

PAY to the order of Perera Shawnee Ltd
One hundred Thousand

\$100,000⁰⁰

XX DOLLARS  Security features included.



ROYAL BANK OF CANADA
DEER VALLEY SHOPPING CENTRE BRANCH
5-1221 CANYON MEADOWS DR. S.E.
CALGARY, AB T2J 6G2



Insight Dynamic Solutions Inc.

RE Deposit UMT 901 8012 701

PER: [Signature]

⑈001039⑈ ⑆00629⑈003⑆ 100⑈879⑈6⑈ ⑆0010000000⑆

THIS IS EXHIBIT A
referred to in the Affidavit of
Don Lal Perera
Sworn before me this 20
Day of November 20 11

[Signature]
A Commissioner for Oaths
in and for the Province of Alberta

0030 ✓

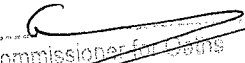
DATE June 15/07

TO Harry Perera

RE City Cash show suite

GST #	GST #
BALANCE FORWARD	7240 10
THIS CHEQUE	60 00
DEPOSIT	100,000 00
OTHER	
BALANCE	107180 10

THIS IS EXHIBIT B
 referred to in the Affidavit of
Don Lal Perera
 Sworn before me this 20th
 Day of November 2011


 A Commissioner for Oaths
 in and for the Province of Alberta

Insight Dynamic Solutions Inc.
5 Mount Alberta View S.E.
Calgary, Alberta T2Z 3G6

1048

DATE 29 06 2007
D D M M Y Y Y Y

PAY to Perera Shawnee Ltd
the order of

\$ 200,000

Two Hundred Thousand

00 DOLLARS 100
Security features included.



ROYAL BANK OF CANADA
DEER VALLEY SHOPPING CENTRE BRANCH
5-1221 CANYON MEADOWS DR. S.E.
CALGARY, AB T2J 6G2



Insight Dynamic Solutions Inc.
PER [Signature]

RE Payment for 109

⑈001048⑈ ⑆00629⑈003⑆ 100⑈879⑈6⑈ ⑆0020000000⑆

THIS IS EXHIBIT C
referred to in the Affidavit of
Don Lal Perera
Sworn before me this 20
Day of November 20 11

[Signature]
A Commissioner for Oaths
in and for the Province of Alberta

THIS IS EXHIBIT D
referred to in the Affidavit of
Jon Lal Perera
Sworn before me this 20
Day of November 20 11

C
A Commissioner for Oaths
in and for the Province of Alberta

0044 ✓

DATE June 28, 07

TO First Calgary Savings
& Credit Union

RE application fee

GST#		GST #	
BALANCE FORWARD	68138	06	
THIS CHEQUE	25000	00	
DEPOSIT	200000	00	
OTHER			
BALANCE	243138	05	

0048

DATE July 6/07
TO City of Calgary

RE DP 2006-1891

GST #		GST #	
BALANCE FORWARD	242237	58	
THIS CHEQUE	277979	18	
DEPOSIT			
OTHER			
BALANCE			

THIS IS EXHIBIT " E "
referred to in the Affidavit of
Don Lal Perera
Sworn before me this 20
Day of November 20 11

G
A Commissioner for Oaths
in and for the Province of Alberta

P PERERA

Shawnee Ltd

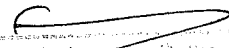
November 12, 2009

Insight Dynamic Solutions Inc.
5 Mount Alberta View SE
Calgary, Alberta.
T2Z 3G6

THIS IS EXHIBIT F
referred to in the Affidavit of
Don Lal Perera
Sworn before me this 20
Day of November 2011

Dear Lal;

Re: Highbury Phase One Completion
Unit No. 701, 10 Shawnee Hill, SW


A Commissioner for Oaths
in and for the Province of Alberta

We are very pleased to advise that your new home at Highbury has been completed and our construction team is putting the finishing touches on the common areas in readiness for occupancy.

We have scheduled your pre-possession walk through for **1:00 pm on December 8th, 2009**, with the possession at **12:00 noon on December 18th, 2009**.

If you are unable to attend the walk-through and would like to assign this responsibility to someone to act as your agent, we will require a written authorization from you.

In preparation for the closing, it is imperative that you immediately retain a lawyer and advise your mortgage company of your lawyer's name. If you do not have a lawyer, we recommend one of the following two lawyers:

O'Connell Law Office 406, 501 - 18 th Avenue SW Calgary, Alberta T2S 0C7 403 229 9333 Attn: Justin O'Connell	Leclair Thibeault 200, 1333 - 8 th Street SW Calgary, Alberta T2R 1M6 403 245 3500 Attn: Bill Leclair
--	---

P
PERERA

Shawnee Ltd

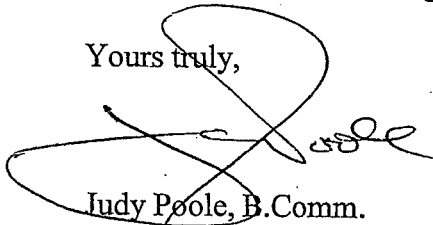
Please let us know who your lawyer is so that we can ensure that all necessary documents are forwarded to your lawyer in a timely manner.

Please note that if the possession date indicated above is not convenient for you, we will entertain a request from you to change the date. Any change in the possession date will require a written amendment to the Agreement of Purchase and Sale. Accordingly, please contact me immediately in this regard.

In the event that you wish to have title registered in the names of persons other than those stated on the Agreement of Purchase and Sale, or in the event your mortgage lender so requires, we ask that you contact us immediately, as any such change also requires a written amendment to the Agreement of Purchase and Sale.

We look forward to hearing from you.

Yours truly,



Judy Poole, B.Comm.

Director Marketing & Corporate Administration

THIS IS EXHIBIT "G"
referred to in the Affidavit of

Don Lal Perera

Sworn before me this 20
Day of November 2007

3-20-2008 Page 1
System Date: 3-20-2008
System Time: 11:46 am

A Commissioner for Oaths
in and for the Province of Alberta

Perera Development Corporation

Year-to-date Ledger - Accrual

Date	Jm	Ref	Ref	Batch	Transaction Des	Beginning Balance	Debit	Credit	Ending Balance
3 Perera Shawnee Ltd. (1-01-2007 - 12-31-2007)									
3-0-1010									
7-25-2007		SAMA	PCJU	714	SAMAN PERERA		1,000.00		
					Total 7-31-07	.00	1,000.00	.00	1,000.00
12-31-2007		ADJ	ADJE	A.1 54	petty cash allocation			1,000.00	
					Total 12-31-07	1,000.00	.00	1,000.00	.00
					Total Account 3-0-1010 - Petty cash	.00	1,000.00	1,000.00	.00
3-0-1025 Canadian Western Bank CM									
1-31-2007					Total 1-31-07	.00	.00	.00	.00
5-20-2007		03-S		13	Import Transactions		200,000.00		
5-29-2007				13	Import Transactions			4,135.00	
5-29-2007	YE	03-S		13	Import Transactions			114.97	
5-30-2007				13	Import Transactions			9,453.50	
					Total 5-31-07	.00	200,000.00	9,703.47	190,296.53
6-01-2007								137,249.93	
6-08-2007								6,306.69	
6-11-2007								10,721.65	
6-12-2007				13	Import Transactions			60.00	
6-13-2007	AP	03-S		13	Import Transactions	100,000.00			
6-15-2007				13	Import Transactions			60.00	
6-18-2007				13	Import Transactions			2,622.71	
6-19-2007				13	Import Transactions			2,385.00	
6-20-2007	YE	03-S		13	Import Transactions			33.70	
6-22-2007				13	Import Transactions			10,000.00	
6-25-2007				13	Import Transactions			695.00	
6-26-2007				13	Import Transactions			4,418.61	
6-28-2007				13	Import Transactions			29,336.94	
6-29-2007				13	Import Transactions			587.50	
6-29-2007	AP	03-S		13	Import Transactions		200,000.00		
					Total 6-30-07	190,296.53	300,000.00	204,477.74	285,818.79
7-01-2007				711	Summary Entry			1,057.35	
7-02-2007				711	Summary Entry			20,600.00	
7-05-2007				711	Summary Entry			1,684.30	
7-06-2007								549,179.18	
7-06-2007	YE	03-S		73	RBC CHQ#009 FR 506936 AB LTD.		159,000.00		
7-06-2007	AP	03-S		73	TFR CHQ FR PERERA CONSULTING		169,000.00		
7-10-2007				711	Summary Entry			12,912.00	
7-12-2007				711	Summary Entry			205.84	
7-12-2007	YE	03-S		75	LETTER OF CREDIT FEES			2,700.00	
7-16-2007				719	Summary Entry			28,090.00	
7-16-2007	YE	03-S		78	CIBC CHQ#3152 P DEV CORP.		5,000.00		
7-17-2007				711	Summary Entry			1,711.20	
7-19-2007				711	Summary Entry			450.25	
7-23-2007				711	Summary Entry			351.74	
7-23-2007	YE	03-S		75	CIBC CHQ#388-892336 AB LTD.		125,000.00		
7-25-2007				711	Summary Entry			1,000.00	
7-27-2007				711	Summary Entry			4,759.64	
7-31-2007	YE	03-S		74	BANK CHARGES JUL07			34.16	
					Total 7-31-07	285,818.79	458,000.00	624,734.50	119,084.29
8-01-2007				13	Import Transactions			51,146.27	
8-06-2007								99.66	
8-07-2007								71,854.70	
8-10-2007								76,733.65	
8-13-2007	YE	03-S		77	TFR FR CWB 892336 AB LTD		100,000.00		
8-15-2007								12,417.60	
8-16-2007								4,000.00	
8-17-2007				720	Summary Entry			47,441.63	
8-17-2007	YE	03-S		77	TFR FR CWB 892336 AB LTD		50,000.00		
8-21-2007	YE	03-S		77	BANK CHARGES AUG07			36.07	
					Total 8-31-07	119,084.29	150,000.00	263,729.46	5,354.81
9-01-2007				725	Summary Entry			3,769.36	
9-11-2007	YE	03-S		78	CITY OF CALGARY LOC		271,200.00		
9-20-2007	YE	03-S		78	BANK CHARGES SEP07			19.46	
9-24-2007	INTE	03-S		59	Transfer To First Cal Shawnee			260,000.00	
					Total 9-30-07	5,354.81	271,200.00	263,788.85	12,765.95
10-01-2007				725	Summary Entry			3,769.36	
10-20-2007	YE	03-S		78	BANK CHARGES OCT07			15.00	
					Total 10-31-07	12,765.95	.00	3,784.36	8,981.57
11-01-2007				728	Summary Entry			3,769.36	
11-07-2007	YE						2,960.32		
11-20-2007	YE	03-S		78	BANK CHARGES NOV07			15.00	
					Total 11-30-07	8,981.57	2,960.32	3,784.36	8,157.51
12-01-2007	CHQ			860	Summary Entry			3,769.36	
12-03-2007	CM	03-S		127	CHQ REF RE: WASEA METAL		1,805.40		
12-30-2007	CM	03-S		127	BANK CHARGES DEC07			15.00	
					Total 12-31-07	8,157.51	1,805.40	3,784.36	6,178.53
					Total Account 3-0-1025 - Canadian Western Bank	.00	1,383,965.72	1,377,787.19	6,178.53
3-0-1050 First Calgary Savings CHQ									
2-15-2007					Total 2-28-07	.00	.00	.00	.00
8-16-2007									
8-27-2007	YE	03-F		48	FIRST CAL - 1ST DRAW		1,437,418.02		
8-28-2007								305,151.07	