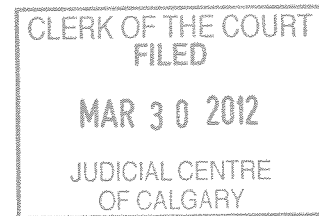


**Deloitte.**



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: **THIRTY-THIRD REPORT OF THE COURT APPOINTED RECEIVER OF PERERA SHAWNEE LTD. AND PERERA DEVELOPMENT CORPORATION, DATED MARCH 30, 2012.**

**OSLER, HOSKIN & HARCOURT LLP**

Barristers & Solicitors

Suite 2500, 450 – 1st Street SW

Calgary, AB T2P 5H1

Solicitor: A. Robert Anderson, Q.C.

Telephone: (403) 260-7004

Facsimile: (403) 260-7024

File Number: 1121689

**TABLE OF CONTENTS:**

INTRODUCTION ..... 1

NOTICE TO READER..... 2

PURPOSE OF REPORT..... 2

SETTLEMENT AGREEMENT ..... 2

SEALING ORDER..... 4

CONCLUSION..... 5

## INTRODUCTION

1. On March 3, 2010, Deloitte & Touche Inc. was appointed 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**" or "**PSL**") (the "**Receivership Order**") in Action No. 1001-03215 (the "**Receivership Proceedings**"). The Receivership Order was amended and restated on January 31, 2011.
2. Don L. Perera is the President of Perera. Don L. Perera and Shiranie M. Perera are guarantors of the loans from First Calgary (the "**Guarantors**"). On December 20, 2010, PDC and PSL were adjudged bankrupt and a Bankruptcy Order was made against each by the Court, pursuant to which Hardie & Kelly Inc. was appointed trustee of the estates of PDC and PSL.
3. 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**").
4. There are 70 units in Phase One of the Project, 40 of which have been sold and conveyed to purchasers (the "**Sold Units**"), the remainder of which are being marketed for sale. Some of the units in Phase One, including some of the Sold Units, were subject to purchase contracts entered into prior to the Receivership Proceedings by PSL and various purchasers and Vesting Orders (the "**Presale Units**").

## NOTICE TO READER

5. This report constitutes the Thirty-Third Report of the Court Appointed Receiver (the “**Report**”).

## PURPOSE OF REPORT

6. The purpose of this Report is to:
  - (a) disclose to the Court the existence but not the particulars of the settlement agreement entered into between the Receiver and the Initial Purchasers (defined below) of Unit 702; and
  - (b) seek the Court’s approval to enter into the Settlement Agreement (defined below).

## SETTLEMENT AGREEMENT

7. One of the Presale Units, “**Unit 702**”, was the subject of a purchase and sale contract dated May 29, 2007 (the “**Purchase Contract**”) between PSL and Tony and Christobel De Silva (the “**Initial Purchasers**”).
8. Pursuant to the Purchase Contract, on or about May 29, 2007 and August 1, 2007, the Initial Purchasers paid two deposits totalling the amount of \$50,490 (the “**Deposit**”), which was held in trust by McLeod & Company LLP (“**MC LLP**”) on behalf of PSL. On or about September 28, 2007, MC LLP released \$26,000 of the Deposit to PSL (the “**Released Deposit**”). The Released Deposit is not now, nor has it ever been, in the possession or control of the Receiver. Of the Deposit, \$24,490 remains held in trust by MC LLP (the “**Remaining Deposit**”).

9. On October 27, 2010, a vesting order in respect of Unit 702 (the “**Vesting Order**”) was granted by the Honourable Madam Justice Kent that, among other things, provided for the Receiver to convey Unit 702 to the Initial Purchasers free and clear of all encumbrances (other than permitted encumbrances) on the closing date of November 18, 2010, or such other date as agreed, in accordance with the Purchase Contract. Paragraph 19(c) of the Vesting Order provided that if the transaction did not close on the closing date, MC LLP shall hold the Remaining Deposit and shall not disburse the Remaining Deposit unless, on notice to the Initial Purchasers, an order allowing for disbursement of the Remaining Deposit is issued by the Court. The Initial Purchasers did not close on the closing date.
10. The Receiver claims that the Purchase Contract ought to have closed and, on December 16, 2011, commenced proceedings against the Initial Purchasers in Court File No. 1101-17183 (the “**Action**”) regarding the Initial Purchasers failure to close the Purchase Contract.
11. To avoid further litigation, the Initial Purchasers and the Receiver have agreed to mutually terminate the Purchase Contract upon the terms and conditions of a confidential settlement agreement dated February 22, 2012 (the “**Settlement Agreement**”) as outlined in the Confidential Thirty-Fourth Report of the Receiver dated March 29, 2012 (the “**Confidential Thirty-Fourth Report**”).
12. Completion of the Settlement Agreement is subject to an Order being granted on or before March 31, 2012 (or such other date as agreed to by the Initial Purchasers and the Receiver) that, among things:
  - (a) seals on the Court file the Confidential Thirty-Fourth Report of the Receiver;

- (b) approves of the Settlement Agreement; and
  - (c) requires the Remaining Deposit to be paid in accordance with the Direction to Pay scheduled to the Settlement Agreement, when such Direction to Pay is executed by the Initial Purchaser and the Receiver.
13. Following the Initial Purchaser's failure to close the purchase of Unit 702 on the closing date, the Receiver began to market Unit 702 for sale. On February 27, 2012 the Receiver entered into a purchase contract with Chris Musah Professional Corporation for the sale of Unit 702, and this sale closed on March 20, 2012.

#### **SEALING ORDER**

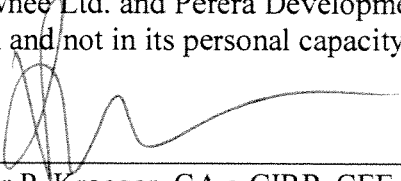
14. The Receiver recommends that a Court Order be granted sealing the Confidential Thirty-Fourth Report to avoid any negative impact that could result from the dissemination of information concerning the Settlement Agreement. Publication of the information in the Settlement Agreement may prejudice the Receiver's position vis-à-vis other purchasers who have similar disputes with the Receiver. The Receiver is not aware of any suitable alternative measures to protect the information contained in the Confidential Thirty-Fourth Report from being disseminated for the reasons discussed above and for the reasons discussed in the Confidential Thirty-Fourth Report.

**CONCLUSION**

15. The Receiver respectfully requests that the Court grant the relief set out in the Application by Deloitte & Touche Inc.

**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