

Synopsis of

“DERIVATIVE / HEDGING” DEALS

by

Citibank- USA, Standard Chartered Bank – UK, Deutsche Bank – Germany
with

Ceylon Government’s Petroleum Corporation

DUBIOUS & ILLEGAL ?

Amazon Books – [‘Derivative / Hedging Deals by Citibank, Standard Chartered Bank, Deutsche Bank, with Sri Lanka Government’s Petroleum Corporation - Dubious & Illegal ?’](#)

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Volume I

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Volume II

Size - 8.25” X 11” - Pages 691

Mooted by the Governor, Central Bank of Sri Lanka, Ajith Nivard Cabraal, and by the Sri Lanka Branch of the German Bank, Deutsche Bank, and after the consequent appointment by the Secretary, Ministry of Finance, P.B. Jayasundera of 7 persons, as a ‘Study Group’, who within one Month having had only 3 Meetings, had submitted a hasty Report, and based upon such questionable Report, permission had been given in principle for the Ceylon Petroleum Corporation to ‘dabble’ in these purported Hedging Deals, actually ‘derivative deals’, by President and Finance Minister, Mahinda Rajapakse, with the approval of the Cabinet of Ministers of Sri Lanka.

The Author had incisively investigated these purported Hedging Deals, actually speculative 'derivative deals', and had exposed them in great educative detail in this Book, as financial frauds perpetrated on the Sri Lanka public, resulting in colossal losses having been caused to the Government of Sri Lanka and the people, and how such losses even minimized.

By these purported Hedging Deals, ethical and moral values in society had been scandalized, whitewashing illegal Betting Deals, misleadingly being named as 'Hedging Deals' carried out by 3 internationally reputed Banks, namely, Citibank of United States, Standard Chartered Bank of United Kingdom and Deutsche Bank of Germany, through their branches in Sri Lanka, perpetrating such dubious and complex transactions on their own customer, Ceylon Petroleum Corporation, regardless of its poor financial status, and consequently causing it colossal losses.

'Study Group' submits Report;

" 16 November 2006

Dr.P B Jayasundara,
Secretary to the Ministry of Finance and Planning &
Secretary to the Treasury,
Ministry of Finance and Planning,
The Secretariat,
Colombo 01.

Dear Sir,

Report of the Study Group on Hedging

Reference your letter No. PE/COM/09/03 dated 19.10.2006 on the above subject.

Based on the presentation made by the Governor, Central Bank of Sri Lanka on "maintaining stability in a volatile global oil market", the Cabinet of Ministers which met on 06 of September 2006 decided that the subject should be further studied by a group of officials from the Central Bank, Ministry of Finance and Planning, Ministry of Petroleum and Petroleum Resources Development, Ministry of Power and Energy and any other Agencies concerned.

Accordingly, the following are appointed by you as members of the study group to study and submit a report on the alternatives suggested in the Governor's presentation.

1. Mr.Y M W B Weerasekara
Assistant Governor, Central Bank of Sri Lanka
2. Dr.H N Thenuwara
Assistant Governor, Central Bank of Sri Lanka
3. Mr.Saliya Rajakaruna
Chief Financial Officer, Bank of Ceylon
4. Mr.Kapila Ariyaratne
Head of Corporate and Institutional Banking, People's Bank
5. Mrs.Kanthy Wijethunga
Additional Secretary,
Ministry of Petroleum and Petroleum Resources Development
6. Mr.Lalith Karunarathna
Deputy General Manager (Finance), Ceylon Petroleum Corporation
7. Mr.V Kanagasabapathy
Financial Management Advisor, Ministry of Finance and Planning

As mandated we have accomplished the task assigned to us and we hereby submit our report for your consideration and appropriate action.


Yours sincerely,



Y M W B Weerasekara


Saliya Rajakaruna


Kanthy Wijethunga


V Kanagasabapathy


Dr. H N Thenuwara


Kapila Ariyaratne


Lalith Karunarathna

The Sri Lanka Government owned Ceylon Petroleum Corporation having been a customer of these Banks, they having therefore being well and truly privy to the real facts, does not the question of ethical principles and standards arise, when they have acted in sheer disregard of such facts ?

Highlighting such facts, at that very time, Chief Executive Officer, Kimarli Fernando of Standard Chartered Bank had raised objections, but regardless of such objections, these purported Hedging Deals had been shockingly perpetrated, as disclosed by Kimarli Fernando in her Affidavit filed in the Supreme Court of Sri Lanka, in a Case instituted in the public interest by the Author on these dubious Hedging Deals, which really had been Betting Deals, which are illegal.

Though a State Corporation normally as a practice consults the Hon. Attorney General, in this instance Ceylon Petroleum Corporation had chosen a private Law Firm, to seek advice – viz:

NITHYA PARTNERS 
ATTORNEYS - AT - LAW
51, Gregory's Road, Colombo 07, Sri Lanka.

Tel : 4712625, 4712628, 2698247, 2698205
E-mail : np@wow.lk

Far : 2695223
Website: www.nithyapartners.com

21 February 2007

Ms. Geetha Fonseka
Chief Legal Officer,
Ceylon Petroleum Corporation,
109, 'Rotunda Tower',
Galle Road,
Colombo 03

Dear Madam,

Further to the documents forwarded to us by you, please find below our comments regarding the three letters to be sent to the banks respectively.

Letter to Standard Chartered Bank

1. Caption "PROCESS AGENT"

XXXXXXXXXXXX

Letter to Deutsche Bank

1. Caption "SPECIFIED TRANSACTION"

XXXXXXXXXXXX

Letter to Citi Bank N.A

1. Caption "SPECIFIED TRANSACTION"

XXXXXXXXXXXX

We hope the above is satisfactory to you. If you have any clarifications, please do not hesitate to contact us.

Yours faithfully,


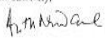

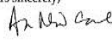

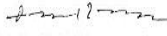

NITHYA PARTNERS

Especially for financial institutions, particularly Banks, on whom absolute trust is placed in good faith by customers, to have so acted unashamedly and recklessly, would it not tantamount to the breach of ethical and moral values in breach of such absolute trust ?

The fact that the Statute enacted by the Parliament of Sri Lanka to establish the Ceylon Petroleum Corporation had not empowered and authorized the Ceylon Petroleum Corporation to dabble in such transactions as above, even if such transactions are believed to have been lawful, and such fact could not have been unknown to these Banks.

Ceylon Petroleum Corporation having been a customer of these Banks, they ought to have known that the said Statute enacted to establish Ceylon Petroleum Corporation did not permit such transactions, and therefore that these transactions would have been *ultra vires* the Statute of incorporation of Ceylon Petroleum Corporation, thereby rendering them to be *null and void* !

Such fact should also have been known to the Central Bank of Sri Lanka !

 <p style="text-align: center;">Ajith Nivard Cabraal The Governor Central Bank of Sri Lanka 30, Janadhipathi Mawatha Colombo 1, Sri Lanka.</p> <p>URGENT 10th January 2007</p> <p>Mr Asantha de Mel Chairman and Managing Director Ceylon Petroleum Corporation 2nd Floor, Rotunda Tower 109, Galle Road Colombo 3</p> <p>Dear Mr de Mel,</p> <p>I refer to the telephone conversation I had with you yesterday, 9th January 2007.</p> <p>As you are aware, the Central Bank of Sri Lanka was instrumental in promoting hedging as a means of purchasing petroleum and made a presentation to His Excellency the President and the Cabinet of Ministers on 08th September 2006. The Central Bank has also made available to the Ceylon Petroleum Corporation (CPC), certain technical details and options for hedging. However, we note that the CPC has so far not been able to enter into any form of hedging or other acceptable financing arrangement to ensure that Sri Lanka's petroleum bill will be at manageable levels in 2007.</p> <p>As you may agree, petroleum prices have now reduced to about US \$ 55 per barrel, this may appear to be the opportune time to enter into suitable arrangements to hedge at least a part of our country's total requirements. Hence, in the interest of the national economy, I would urge you to take the necessary steps to ensure that expenditure on fuel prices will not cause undesirable effects on the macro-economy in 2007.</p> <p>Yours sincerely, </p> <p><small>Copy to - Secretary, Ministry of Finance</small></p>	 <p style="text-align: center;">Ajith Nivard Cabraal The Governor Central Bank of Sri Lanka 30, Janadhipathi Mawatha Colombo 1, Sri Lanka.</p> <p>16th January 2007</p> <p>Mr Asantha de Mel Chairman and Managing Director Ceylon Petroleum Corporation 2nd Floor, Rotunda Tower 109, Galle Road Colombo 3</p> <p>Dear Mr De Mel,</p> <p>We refer to your letter dated 11 January 2006.</p> <p>We are pleased that you are working out the necessary details in relation to implementing the hedging processes as quickly as possible.</p> <p>Yours sincerely, </p>	 <p style="text-align: center;">CEYLON PETROLEUM CORPORATION</p> <p><small>P.O. Box 634, "Rotunda Tower" 109, Galle Road, Colombo 03, Sri Lanka. Telegrams: "LANKA OIL" Telephones: 2473644 - 2473697, Cable: "CEYPETCO" Telex: 21167/21624 CEPET CE. FAX: 011 2473797/2473655</small></p> <p>11 January 2007</p> <p>Mr. Ajith Cabraal Governor Central Bank of Sri Lanka 30, Janadhipathi Mawatha Colombo 1.</p> <p>Dear Sir,</p> <p>Reference your letter dated 10 January 2007 contents of which are duly noted, I wish to inform you that I am in the process of working out necessary details in getting the hedging process expedited as quickly as possible.</p> <p>I shall keep you up dated of our progress.</p> <p>Thank you,</p> <p>Yours truly, </p> <p>Asantha L.F. De Mel Chairman & Managing Director CEYLON PETROLEUM CORPORATION</p>
<p><small>P.O. BOX 560 Colombo</small> <small>TEL: (9411) 2477477 (9411) 2477577</small> <small>FAX: (9411) 2477677</small> <small>E-mail: governor@cbsl.lk</small> <small>P.O. BOX 589 Colombo</small> <small>TEL: (9411) 2477477 (9411) 2477577</small> <small>FAX: (9411) 2477677</small> <small>E-mail: governor@cbsl.lk</small></p>		

Furthermore, such fact also ought to have been well known to the Secretary, Ministry of Finance, P.B. Jayasundera, and in addition thereto, the provisions of the Public Corporations (Financial Control) Act, whereby each of these transactions would have required the approval of the Ministry of Finance. More so, even the Cabinet of Ministers of Sri Lanka have no power to act *ultra vires* the provisions of a Statute enacted by the Parliament of Sri Lanka !

In such circumstances, in November 2008 then Member of Parliament Ravi Karunanayake and later Minister of Finance, and three other parties, acting in the public right and interest, had filed two litigations in the Supreme Court of Sri Lanka. Promptly, the Supreme Court had taken up these two litigations for hearing, and having been satisfied that *ex-facie* these transactions were not lawful, granted immediately interim orders restraining such purported Hedging Deals, preventing them from being transacted, delivering a Judgment thereon.

Whilst so deciding, the Supreme Court also ordered that the Minister in Charge of the Ceylon Petroleum Corporation and its Chairman be removed forthwith from such Offices, and directed the Criminal Investigation Department of the Sri Lanka Police to immediately carry out investigations into these transactions and to forward reports thereon to the Supreme Court.

Board of Directors of Ceylon Petroleum Corporation at that time had been;

Ashantha De Mel	–	Chairman & Managing Director
Kanthi Wijetunga	–	Director
S.N.P. Palihena	–	Director
M.D. Wijegoonewardena	–	Director
M.I.M. Ali Sabry	–	Director
D.Charitha Gooneratne	–	Director

However, the Supreme Court having also directed that the retail price of a litre of Petrol be restricted to Rs. 100/- and the *Government of Sri Lanka having refused to comply therewith*, the Supreme Court on 27.1.2009 terminated the said two litigations, without proceeding therewith.

Since certain parties had urged the Author to intervene as a party in the above two litigations in view of the duplicity and complexity of these transactions, the Author in December 2008 had filed papers in these two litigations, seeking permission of the Supreme Court to be added as an intervenient party.

However, before the Supreme Court could consider the Author's such Applications to be an intervenient party, and before his name could be accepted and added, as an intervenient party, the above two litigations, as stated above had been terminated by the Supreme Court on 27.1.2009.

Though the Author had been personally present in the Supreme Court on that day waiting to support his Petitions to be an intervenient party in the said two litigations, he was prevented from doing so, as these two litigations were terminated before he could do so.

Thereafter, in May 2009 the Author had come to know, that Standard Chartered Bank had remitted US \$ 107 Mn., from its Branch in Sri Lanka, notwithstanding the prohibition of transfer of foreign exchange under the Capital Account, without the approval of the Controller of Exchange, whilst the Monetary Board of Sri Lanka had also issued specific directions not to remit any monies out in connection with these Hedging Deals.

Accordingly, promptly on 25.5.2009 the Author in the public right and interest had filed a litigation in the Supreme Court. The Affidavit filed by the Controller of Exchange in this Case had well and truly proved that the Author had filed this Case within 30 days of the fact of such remittance by Standard Chartered Bank being known, as required under and in terms of the Constitution of Sri Lanka.

Subsequently, whilst supporting the above litigation in June 2009 in the Supreme Court, the Author had come to know that Deutsche Bank had claimed US \$ 60 Mn., from the Government of Sri Lanka by instituting Arbitral Proceedings before the International Center for Settlement of Investment Disputes, operating under the aegis of the World Bank in Washington, United States, and that Standard Chartered Bank had filed legal action in the UK High Court claiming US \$ 160 Mn., from the Ceylon Petroleum Corporation, and also that Citibank of United States had initiated Arbitral Proceedings before the London Court of International Arbitration Claiming US \$ 190 Mn., from the Ceylon Petroleum Corporation.

SRI LANKA TO PAY BILLIONS TO BANKS HEDGING A TOTAL FLOP, ADMITS SUSIL
 Govt. to pay Rs. 29 bn as mediation efforts on hedging deal fail
 Minister taking steps to appoint a treasurer to oversee fuel transactions in future

Hedging: Govt. looking at options
 The government would explore all options to pay the Rs. 29 billion bill.

Premajayantha says hedging deal corrupt
 Foul practices of banks exposed

Actions to be taken locally against banks & officials over hedging deals
 Petroleum Industries Minister Susil Premajayantha yesterday said that the government was under no circumstances obliged to pay any bank under the controversial

In the foregoing circumstances, the Author acting promptly had filed another litigation on 25.6.2009 in the Supreme Court in the public right and interest, seeking 'anti-suit injunctions' to estop the foreign legal action and arbitrations, urging that above transactions had taken place together in Sri Lanka, with one State Corporation, namely, Ceylon Petroleum Corporation, and citing two well-known authorities, namely, *SNI Aerospatiale v Lee Kui Jak and Another* and *Spiliada Maritime Corp v Cansulex Ltd*. The Author had urged that these transaction should be adjudicated in Sri Lanka by the Supreme Court, stating that Sri Lanka was the *most appropriate forum*, citing the reasons therefor from these authorities.

In the aforesaid two litigations filed in May 2009 and June 2009, the Author acting in the right and interest of the public, had amply demonstrated and exposed with facts and figures, that these transactions, which were purported to be Hedging Deals, were simply illegal Betting Deals, and in support thereof had made Oral and Written Submissions in the Supreme Court to establish the same. The Author had well exposed that not a single drop of oil had been purchased on these transactions, and that these were mere Bets or Wagering Contracts speculating on the rise or fall in the level of oil prices in the international market !

Accordingly, as shown in the Chart given below, even if Ceylon Petroleum Corporation won all those Betting Deals they would have got only US \$ 10.475 Mn., but on the other hand, if they lost they would have incurred a total loss of US \$ 502.347 Mn., causing colossal loss to the Ceylon Petroleum Corporation and the public. Whilst being illegal, even the foregoing Betting Deals had not been fair and even handed !

For Illustration Purposes

Name of Bank	Period	Cap / Call	Strike / Put	Floor / Call	Monthly Price	Notional	Notional	Restricted	Maximum	Unrestricted	Ends in
		Strike 2	Strike	Strike 1	Increase Capped	Quantity 1	Quantity 2	Cummulative Price Increase	Restricted Payment by Bank to CPC	Payment by CPC to Banks on Monthly Average Price Decrease Reckoned to October 2009	
		US \$	US \$	US \$	US \$	Barrels	Barrels	US \$	US \$	US \$	
STANDARD CHARTERED BANK	2.6.2008 - 29.5.2009	139.00	134.00	124.00	5.00	100,000	200,000	15.00	1,500,000	102,000,000	Ends in May 2009
STANDARD CHARTERED BANK	1.8.2008 - 31.7.2009	149.35	139.35	139.35	10.00	100,000	100,000	25.00	2,500,000	78,720,000	Ends in July 2009
CITIBANK	1.7.2008 - 30.6.2009	105.50	100.50	100.50	5.00	175,000	350,000	15.00	2,625,000	183,575,000	Ends in June 2009
CITIBANK	1.8.2008 - 31.7.2009	108.85	103.85	103.85	5.00	30,000	60,000	15.00	450,000	34,032,000	Ends in July 2009
DEUTSCHE BANK	1.8.2008 - 31.7.2009	112.50	112.50	112.50	10.00	100,000	100,000	25.00	2,500,000	67,100,000	Ends in July 2009
COMMERCIAL BANK *	1.7.2008 - 30.6.2009	110.00	105.00	105.00	5.00	10,000	20,000	15.00	150,000	9,720,000	Ends in June 2009
PEOPLE'S BANK *	1.9.2008 - 31.8.2009	94.00	89.00	89.00	5.00	25,000	50,000	15.00	375,000	19,150,000	Ends in August 2009
PEOPLE'S BANK *	1.11.2008 - 31.10.2009	74.00	69.00	69.00	5.00	25,000	50,000	15.00	375,000	8,050,000	Ends in October 2009
									<u>10,475,000</u>	<u>502,347,000</u>	

* Note : Local Banks have also entered into 'Deals' with the CPC in US Dollars

In the first Case instituted by the Author in May 2009, the Supreme Court in July 2009 directed certain persons connected with such Hedging Deals to submit Affidavits or certified Statements, disclosing the facts known to them pertaining to these Hedging Deals.

- (i) Clive Haswell, Chief Executive Officer
- (ii) Kimarli Fernando, former Head of Corporate Client Relationships
- (iii) Nigel Beebe – Senior Credit Officer
- (iv) Rukshan Dias, Head of Global Markets
- (v) A. De Mel, former Chairman, CPC
- (vi) P.M.L. Karunaratne former Finance Manager, CPC,
- (vii) K. Ariyaratne, People's Bank / Member, Committee on 'Oil Hedging'.
- (viii) Vasantha Kumar, People's Bank.

What was shockingly and unashamedly disclosed subsequently was that in the perpetration of these scandalous deals, in the pretext of educating on this subject, relevant Public and Bank Officials had been 'indirectly bribed' by sending them abroad, with all expenses paid, as had been disclosed by the Statements tendered to the Supreme Court by them in complying with the above Supreme Court direction !

Standard Chartered Bank's Code of Conduct ! – viz:



Your Responsibilities as an SCB Employee

- Comply with local laws
- Ensure that products are suitable for customers
- Advertise products fairly and truthfully
- Reject bribery and corruption
- Stay alert to money laundering and fraud
- Avoid conflicts of interest

Furthermore, shockingly to be educated on these purported complex Hedging Deals, the elderly Minister in Charge of Ceylon Petroleum Corporation, namely, A.H.M. Fowzie too had been sent by Citibank to Houston and New York in the United States.

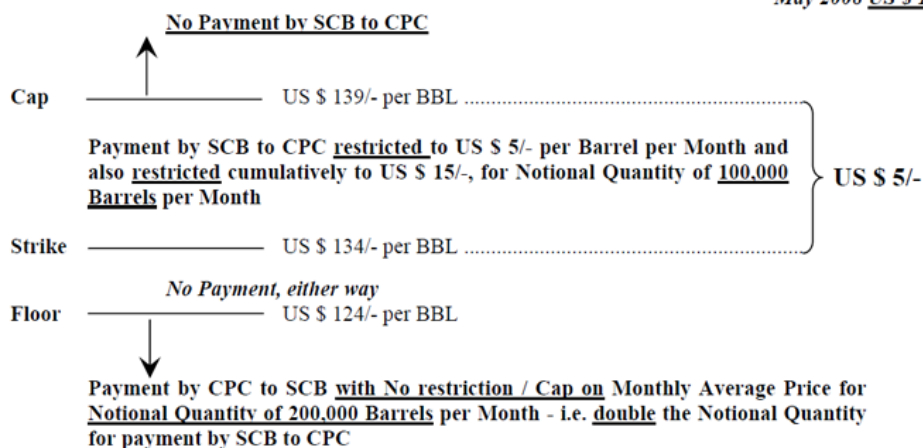
The Counsel appearing for these Banks could not controvert the submissions made by the Author, that these purported Hedging Deals were actually illegal Betting Deals, and they were even unable to explain these complex Deals ! – viz:

On the speculated 'movement' of Singapore Gas Oil Prices

P3(a) STANDARD CHARTERED BANK (SCB)

Dated 28.5.2008 - Period 12 Months - 2.6.2008 to 29.5.2009

Average Market Price - June 2008 US \$ 166/-
 May 2008 US \$ 157/-



Maximum Payment by SCB to CPC Restricted to US \$ 1,500,000/-
 i.e. US \$ 15/- x Notional Quantity of 100,000 Barrels

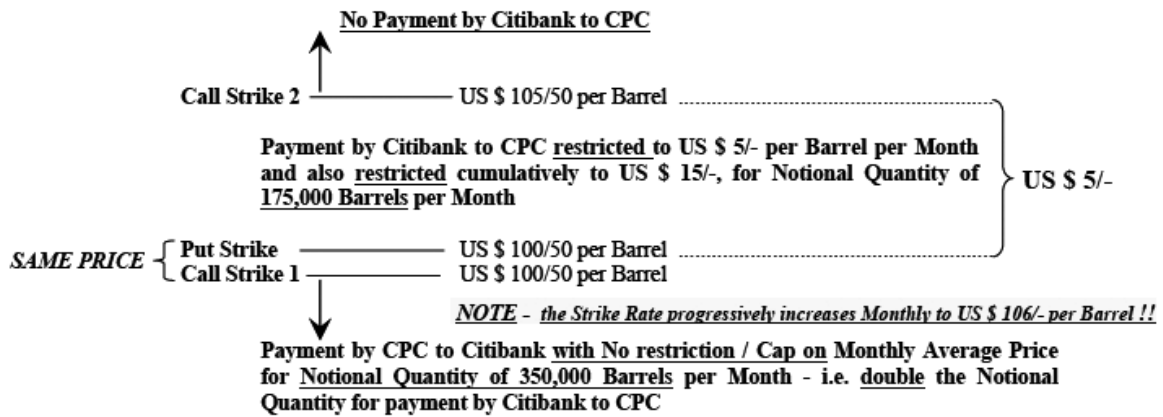
Unrestricted Payment by CPC to SCB, if average drop in Oil Price by US \$ 50/- per Month.
 i.e. US \$ 50/- x Notional Quantity of 200,000 Barrels x 12 = US \$ 120,000,000/-

On the speculated 'movement' of Dubai Crude Oil Prices

P3(c) CITIBANK

Dated 20.6.2008 - Period 12 Months - 1.7.2008 to 30.6.2009

Average Market Price - June 2008 US \$ 127/-



Maximum Payment by Citibank to CPC Restricted to US \$ 2,625,000/-
i.e. US \$ 15/- x Notional Quantity of 175,000 Barrels

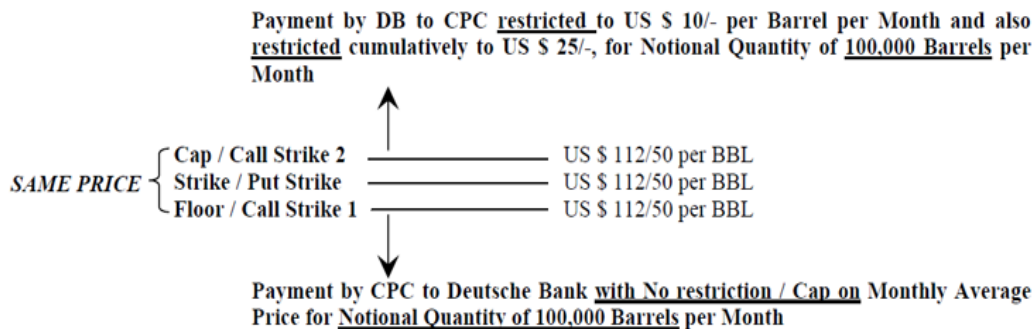
Unrestricted Payment by CPC to Citibank, if average drop in Oil Price by US \$ 40/- per Month.
i.e. US \$ 40/- x Notional Quantity of 350,000 Barrels x 12 = US \$ 168,000,000/-

On the speculated 'movement' of Dubai Crude Oil Prices

P3(e) DEUTSCHE BANK (DB)

Dated 10.7.2008 - Period 12 Months - 1.8.2008 to 31.7.2009

Average Market Price - July 2008 US \$ 113/-



Maximum Payment by DB to CPC Restricted to US \$ 2,500,000/-
i.e. US \$ 25/- x Notional Quantity of 100,000 Barrels

Unrestricted Payment by CPC to DB, if average drop in Oil Price by US \$ 40/- per Month.
i.e. US \$ 40/- x Notional Quantity of 100,000 Barrels x 12 = US \$ 48,000,000/-

In this background of being unable to controvert the incisive submissions of the Author, the Counsel appearing for the Banks, *appallingly* with the collaboration of Hon. Attorney General, Mohan Peiris P.C., opposed both public interest litigations of the Author, on the *false premise*, that the Author had not instituted these litigations within 30 days, *thereby intentionally misleading the Supreme Court*.

Accordingly, with the endorsement of the Hon. Attorney General, Mohan Peiris P.C., so misleading the Supreme Court, and further firmly assuring in succeeding in defending successfully the above foreign litigation and arbitral proceedings, the 3 Judge Bench of the Supreme Court, presided by Justice N.G. Amaratunga, comprising Justices K. Sripavan and S. Marsoof delivering Judgment on 11.5.2010 held that the Author should have instituted these two litigations by 27.2.2009 and had prevented the Author from proceeding therewith.

It was so determined, since in the earlier two Cases filed by the other parties referred to above, the Author had made Applications to become an intervenient party, and on the day these two former litigations had been terminated, namely 27.1.2009, the Author had been present in the Supreme Court, and therefore that these Applications by the Author had had to made within 30 days of 27.1.2009. However, as clearly stated above, the Author had been unable to support his Applications to be an intervenient party, and his name had not been entered as an intervenient party.

As per the facts stated above, the Author had instituted his two litigations in May 2009 and June 2009, on *new and different situations*, which had *occurred* in May 2009 and June 2009, and acting promptly, the Author had instituted his two litigations within 30 days of coming to know of such *new occurrences*.

Shockingly, making a *mockery* of reality, the Supreme Court, not comprehending and understanding the facts, as had been stated in the two Petitions of the Author, had been negligent, and thereby colossal losses had been consequently caused to the Government of Sri Lanka and the public, as dealt with hereinafter.

What makes such Supreme Court determination a *falsity* and *mockery*, is that the facts and incidents upon which the Author had instituted litigations in May 2009 and June 2009 *had not existed on or before 27.2.2009* for the Author to have even 'dreamed' of filing such litigation on such *non-existent situations*. In fact, Ceylon Petroleum Corporation had received Summons for the UK High Court litigation by Standard Chartered Bank, only in June 2009 ! Is this therefore not a fiction to have held that the Author should have litigated on this before 27.2.2009 ?— viz:

Acknowledgment of Service		In the High Court of Justice Queen's Bench Division Commercial Court Royal Courts of Justice	
Defendant's full name if different from the name given on the claim form		1R4	
Claim No. 2009 Folio 375		Claimant(s) (including not)	
STANDARD CHARTERED BANK		Defendant(s)	
CEYLON PETROLEUM CORPORATION		Defendant returning this form	
CEYLON PETROLEUM CORPORATION		Address in England or Wales to which documents about this claim should be sent (including reference if appropriate) if applicable	
Ranga & Co. 112 High Road, Willesden London NW10 2PN Postcode [N][W][1][0][2][P][N]		Tel. no. 0208 451 3293 Fax no. 0208 451 4610 DX no. e-mail rangaandco@aol.com	
Tick the appropriate box		If you file an acknowledgment of service but do not file a defence within "(28 days)" (days) of the date of service of the particulars of claim, and you have not indicated that you intend to contest jurisdiction, judgment may be entered against you.	
1. (I admit) (The Defendant admits) this claim <input type="checkbox"/>		If you do not file an application to contest the jurisdiction within 28 days of filing the acknowledgment of service, it will be assumed that you accept the court's jurisdiction.	
2. (I intend) (The Defendant intends) to defend all of this claim <input checked="" type="checkbox"/>		*Claimant should enter as appropriate if this claim form is to be served out of the jurisdiction together with particulars of claim: see CPR rule 6.20	
3. (I intend) (The Defendant intends) to defend part of this claim <input type="checkbox"/>			
4. (I do not) (The Defendant intends) to contest jurisdiction <input checked="" type="checkbox"/>			
5. My date of birth is <input type="text"/> / <input type="text"/> / <input type="text"/>			
Signed 		Position or office held (if signing on behalf of firm, company or corporation)	
(Defendant) (Defendant's solicitor)		CHAIRMAN/MANAGING DIRECTOR CEYLON PETROLEUM CORPORATION	
Date 24.06.2009			

The Supreme Court in November 2008 had already held *ex-facie* that these purported Hedging Deals were fraudulent, and had promptly taken up the two Cases for hearing, and had directed the immediate suspension of these Hedging Deals, also directing that the Minister in Charge of Ceylon Petroleum Corporation and the Chairman of Ceylon Petroleum Corporation to be removed forthwith from such posts, and further directing the Criminal Investigation Department of the Sri Lanka Police to investigate and report thereon.

Accordingly, the question arises, as to whether the Supreme Court 3-Judge Bench in not permitting the Author's two new different litigations *on new grounds* to proceed, had failed to take *cognizance* of the forgoing fact, that the Supreme Court previously had made interim orders and had terminated the Cases due to a dispute with the Government on the retail price of Petrol, and as to whether the resultant colossal losses caused to the Government of Sri Lanka and the Public in foreign exchange had been *overlooked* ?

The Author raises the questions that in such instance, as to whether not the Hon. Attorney General appears as an *amicus-curie* to impartially assist the Supreme Court, as 'a friend of Court' ? However, in this instance he had collaborated with Counsel of the Banks and had opposed the public interest litigations of the Author, thereby consequently causing colossal losses to the Government of Sri Lanka and the public, and thereby raising the question as to whether such persons are above rule of the law ?

Accordingly, question arises, as to why Hon. Attorney General, Mohan Peiris P.C., had not issued an indictment in the High Court of Sri Lanka against Standard Chartered Bank for knowingly and deliberately remitting US \$ 107 Mn., out of the country, in violation of the Exchange Control Act ?

Whereas on the contrary, in a complete different stance to the foregoing, Hon. Attorney General Mohan Peiris, P.C., had indicted Member of Parliament Ravi Karunanayaaake, later Finance Minister for being a party aiding and abetting the investment of US \$ 3 Mn., made with the knowledge and instigation of the Governor, Central Bank of Sri Lanka, Nivard Cabraal, since Standard Chartered Bank had deposited such monies in a normal Bank Account, and not in a 'Share investment External Rupee Account', *which had been a mere technicality* !

The foregoing discloses the *duplicity* and *socio-political reality* even in the conduct of Hon. Attorney General ! As a result of the foregoing questionable determination by the Supreme Court, Ceylon Petroleum Corporation lost the claim of US \$ 160 Mn., to Standard Chartered Bank in the UK High Court Case. Likewise, the Deutsche Bank Claim of US \$ 60Mn., from the Government of Sri Lanka was lost before the International Center for Investment Dispute. The colossal loss caused to the Government of Sri Lanka and public by these two Cases in foreign exchange amounted to US \$ 220 Mn. In addition, legal fees and other costs had amounted to over Rs. 1,232 Mn., as reported by the Parliamentary Committee on Public Enterprises.

However, on the Author's suggestion, the Controller of Exchange had imposed a fine of around US \$ 245 Mn., on Standard Chartered Bank for the violation of the Exchange Control Act in making unauthorized foreign remittances, as referred to above. Consequently, Standard Chartered Bank in 16.6.2011 had filed a Writ Application in the Court of Appeal of Sri Lanka to have the said fine quashed. In these circumstances, it had been reported that a Settlement had been reached to pay Standard Chartered Bank only US \$ 60 Mn., as against their above Award of US \$ 160 Mn.

On the contrary, a 3-Member Tribunal of the London Court of International Arbitration rejected the Claim made from Ceylon Petroleum Corporation by Citibank of US \$ 190 Mn., notwithstanding that, the Standard Chartered Bank UK High Court Judgment had been tendered before them, rejecting that these purported Hedging transactions were *totally flawed*.

It is believed that the Author publishing globally distributed timeously Volume I of this Book in May 2011 titled - '*Derivative / Hedging Deals by Citibank, Standard Chartered Bank, Deutsche Bank, with Sri Lanka Government's Petroleum Corporation - Dubious & Illegal ?*', may have caused the above decision by the Arbitral Tribunal to have so *rejected* the Citibank Claim ?

What is disclosed by the Author is that socio-political realities were that small countries are unable to stand up to reputed international Banks, and also well disclosed is that politicians and officials are unable to stand up against the wrong-doings of such international reputed Banks !

Even the Supreme Court had questionably been postponing the two litigations instituted in the public right and interest by the Author in May 2009 and June 2009, respectively, concerning these colossal frauds, and finally the Supreme Court on 11.5.2010 making a baseless and fictitious decision, preventing the Author from proceeding ! Whereas at the same time, a personal action filed on 31.7.2009, with a rectified Affidavit, by former Secretary, Ministry of Finance, P.B. Jayasundera, had been *expeditiously* heard by a 7-Judge Bench of the Supreme Court within two months on 24.9.2009 and granted the relief – viz:

Comparative Tabulation

Date	My Application SC (FR) No. 404/2009	My Application SC (FR) No. 481/2009	P.B. Jayasundera's Application SC (FR) No. 209/2007
25.5.2009	Petition filed		
1.6.2009	For Support		
2.6.2009	For Support		
25.6.2009		Petition filed	
7.7.2009			Initial Petition filed
14.7.2009	For Support. Re-fixed for 13.10.2009. Prayer (c) granted by Court	For Support	Order to issue Notice

16.7.2009	Notices issued as per Prayer (c)		
21.7.2009			Amended Petition, with invalid Affidavit
23.7.2009			Notices issued of original Petition 7.7.2009 and amended Petition 21.7.2009, with 'invalid' Affidavit, without approval of Court for amendments, and without separate Motion disclosing the specific 'amendments'
27.7.2009			Objections filed by Author to original Petition 7.7.2009
29.7.2009			Further Objections filed by Author to Amended Petition 21.7.2009, with <i>invalid</i> Affidavit
31.7.2009			Fresh Amended Petition 31.7.2009 with valid Affidavit filed, without approval of Court for amendments and without separate Motion disclosing the specific 'amendments'
3.8.2009			Court informed that fresh Amended Petition 31.7.2009 filed, since original papers had gone ' <i>missing</i> ' at the Supreme Court Registry. But no permission of Court was expressly sought and obtained for the 'amendments'
8.8.2009			Amended Petition 31.7.2009 received
24.8.2009			For Support before 5-Judge Bench constituted by Chief Justice. Re-fixed for Support on 24.9.2009 before 7-Judge Bench. Affidavit 12.8.2009 said to be confidential tendered with copies to Petitioner and

24.9.2009			Respondents present, including me Relief granted under prayer (c) of Petition, with one Judge dissenting
30.9.2009	Motions for substitution of P.B. Jayasundera, Secretary to the Treasury as 2 nd Respondent	Motions for substitution of P.B. Jayasundera, Secretary to the Treasury as 2 nd Respondent	
7.10.2009	Motions for substitution of 8 th Respondent, Controller of Exchange	Motions for substitution of 8 th Respondent, Director Bank Supervision	
13.10.2009	For Support. Re-fixed for 19.11.2009	For Support. Re-fixed for 19.11.2009	6 Judgments delivered granting relief by majority decision, with one Judge dissenting
10.11.2009		Motion for amending Petition, with 'amendments' specially disclosed, with Amended Petition 10.11.2009.	
19.11.2009	Directed to Support Motions for Substitution on 11.2.2010. Support of Application fixed for 22.3.2010	Directed to Support Motions for Substitution and for amendment of Petition on 11.2.2010. Support of Application fixed for 22.3.2010	
11.2.2010	Motions for Substitutions supported and approved by Court	Motions for Substitutions and Amendment of Petition supported and approved by Court	
22.3.2010	Re-fixed for Support 11.5.2010	Re-fixed for Support 11.5.2010	
11.5.2010	Leave to Proceed Refused On 'time bar'	Leave to Proceed Refused On 'time bar'	

P.B. Jayasundera, who had been removed, as Secretary Finance & Treasury, by the Supreme Court for corruption regarding public assets, seeking the permission of the Supreme Court to once again assume Public Office, had been promptly heard by the 7-Judge Bench of the Supreme Court presided by Chief Justice Asoka de Silva, comprising Justices Shirani Bandaranayake, Shiranee Tilakawardane, D.J.De.S. Balapatabendi. S. Marsoorf. K. Sripavan and P.A. Ratnayake, within a month on 27.8.2009, and had granted relief for him to assume Public Office once again !

In such background, the most Senior Judge, Justice Shirani Bandaranayake, showing great interest in the matter, had stated that relief must be somehow granted, and had urged that relief be granted under the prayer “(c) grant such other and further relief as to Your Lordships’ Court shall seem fit and meet”, in that, President Mahinda Rajapakshe in terms of the Constitution, was not estopped to appoint P.B. Jayasundera once again, as Secretary, Ministry of Finance. Thus, raising the question, as to how ‘such other and further relief’ could be granted, when the main reliefs (a) and (b) had been refused ?

Her husband previously in June 2009 had been politically appointed by President Mahinda Rajapaksa to holding a high profile Public Office, as Chairman, Ceylon Insurance Corporation, which came under the purview of the very Ministry of Finance !

However, not *concurring* therewith, the courageous Justice Shiranee Tilakawardane pointing out that P.B. Jayasundera’s amended Petition had been without the *prior* approval of the Supreme Court, and that one had been without a proper Affidavit, stated that his Application should be rejected *in-limine*, and determined that the President too had to act within the Constitution, and that he does not enjoy unrestricted powers, and that he had to respect public morality and democracy, and that all organs of the State are bound to act lawfully according to the Constitution and the Law.


However, appallingly the Author had discovered that two complete pages of the above sole *dissenting* Judgment of Justice Shiranee Tilakawardane had been *omitted* by the manipulation on the computer of the font type and size of the text. This had been done by changing the font to a ‘larger size’ viz – ‘Century Gothic Font’ of the first 15 pages, the text of the first 15 pages had thus occupied 17 pages, and the 16th and 17th pages of such ‘larger font’ viz – ‘Century Gothic Font’, had been removed.

Thereafter, the first 14 pages of such larger font viz – ‘Century Gothic Font’ had been photocopied on the two sides of 7 sheets, and the 8th sheet contained the photocopy of the 15th page of such ‘larger font’ viz – ‘Century Gothic Font’ on the front side, and on the reverse of the 8th sheet was photocopied the 16th page of the ‘smaller font’ viz – ‘Calibri Font’, bearing the signature of Justice Shiranee Tilakawardane at the end disclosing page 15 ending with a completed paragraph and page 16 commencing with an incomplete paragraph ! – viz:

Finally can the Court on its own volition free him from this undertaking merely because the President has expressed a concern to have him back? In considering this I am mindful of the fact that despite affidavits being tendered to Court, apologies being made to Court and the findings of the judgment, the Petitioner has *falsely made contrary representations* to the Secretary to the President in letters (marked “A”) dated 25th July 2008 and (marked “F”) dated 3rd June 2009. In his letters to the Secretary he contradicts the contents of his own affidavit, the submissions of his own counsel made at the time in Court and which is recorded in contemporaneous proceedings, and, in that sense, appears to be uncertain and confused. Did the Petitioner, in his affidavit, mean what he said or has he fabricated his stance? To say the least his word, in its varied contradictions, appears fickle.

leads to a halt in the growth of the other. The promptings of a kind compassionate heart or sympathetic urgings must necessarily be bridled in dealing with the resources of the State, for it ultimately belongs to the People and must be in the custodianship of honest, disciplined, hardworking and effective public officers.

I accordingly dismiss the amended petition. No Costs.


JUDGE OF THE SUPREME COURT



By such 'manipulation' two pages of the text of the *sole dissenting Judgment* of Justice Shiranee Tilakawardane had been *omitted* and issued by the Supreme Court Registry on 13th October 2009, and based upon which, media reports had been widely published on 14th October 2009 and thereafter, *without having reported the important and relevant contents on the Constitutional limitations of the exercise of executive power by the President*, which ought to have been reported in the media, in the very public interest; whereas by such 'manipulation' such important and relevant contents of the *sole dissenting Judgment* had been caused to be suppressed from being published in the media !

Whilst the above personal Application of P.B. Jayasundera was before the Supreme Court, an English Newspaper publishing falsities and ridiculing the Author, had carried out a campaign to vilify him, who exposing such falsehoods had caused his Lawyers to successfully deal therewith.

This newspaper on his own admission, during a confrontation with another party, had admitted, that they had received large sums of monies confidentially, to carry out political propaganda work, with a *slanted agenda*.

In the foregoing 'smear campaign' carried out against the Author, this newspaper had endeavoured to vilify the Supreme Court Judgment in the annulment of the privatization of the Colombo Port oil bunkering monopoly to John Keells Holdings. From the above confession it could be inferred, that this too, many have been as a consequence of obtaining financial benefits as aforesaid !

Furthermore, at that very same time, P.B. Jayasundera's Application was pending before the Supreme Court, as requested by President Mahinda Rajapakse for him to be re-appointed as Secretary, Ministry of Finance, the Editor of this Newspaper had *secretly* met President Mahinda Rajapakse, and had requested favours, *unwittingly* publishing later the Letter written on such occasion – *viz*:

Frederica's letter to the President....

His Excellency
President Mahinda Rajapaksa
Temple Trees
Colombo 03.

October 28, 2009.

Your Excellency,

Last week, on Thursday, October 22, both myself and my News Editor Munza Mushtaq received two death threats. The letters inside the envelopes addressed to us were written in red ink with identical wording in Sinhala stating, "Thopi Pethi Karanawa Liwoth." The letters had been posted from Havelock Town on 21.10.2009.

Our former Editor-in-Chief, Lasantha Wickrematunge, received a similar written threat in Sinhala also in red ink stating "Liwoth Maranawa." Three weeks after he received this letter he was assassinated on January 8, 2009 along Attidiya Road by assassins riding motor-cycles.

On Tuesday, October 27th, we made a complaint at the Mount Lavinia Police Station so that an inquiry is held by the police. We consider this a serious threat to our lives which warrants a proper investigation. We feel that this death threat has been sent to us which is similar to that of the late Lasantha Wickrematunge.

We also suspect the reason to be some of the articles which were written recently on reports submitted by the European Union and the United States Congress. These articles were mere reproductions of the report without comment and were official documents released to the media.

I also brought this incident to the notice of SSP Mount Lavinia Hemantha Adhikari on the day we received the written threats through a letter written to him on October 22, 2009.

I have attached to this letter photocopies of the letters received with the envelopes and also a photocopy of the threat issued to the late Lasantha Wickrematunge as productions.

When I met with you two months ago you were kind enough to offer me every assistance in my work asking me to telephone you if and whenever I believed I required your intervention in any matters. To date I have not taken you up on that offer.

However, I am now writing to you seeking your intervention and requesting a formal investigation into the threats that both Ms. Mushtaq and I received last week.

When I met with you we had a very cordial and frank discussion where you spent an hour with me discussing the future of *The Sunday Leader*, my functions as its new Editor and even reminisced about the late Lasantha Wickrematunge. On that occasion, you agreed that the newspaper had taken a very definite and clear shift in terms of editorial policy and that *The Sunday Leader* was no longer perceived to be biased or partial on any front.

I have tried hard and I believe I have been successful in steering this course. If and when we do publish reports that appear to be critical of your government it is done with responsibility observing the highest principles of professional journalism.

Despite your assurances to me at the time we met, I have since been defamed on a government website namely, the Media Centre for National Security which in September carried a scurrilous article against me which attributed certain statements I had made in an interview to al Jazeera that were simply not true and taken out of context. At the time, I informed Mr. Lakshman Hulugalle and to his credit he immediately removed the offending piece from the web page. Strangely however Mr. Hulugalle at the time insisted he had no prior knowledge that the said item had even been posted on the website which comes directly under his purview and that of the Defence Ministry.

The Sunday Leader as you are aware has consistently in the entire 15 years of its existence come under attack. We have been burnt, bombed, sealed, harassed and threatened, culminating in January this year with the brutal killing of Lasantha Wickrematunge.

I can only conclude that these attacks on the newspaper continue because we say it like we see it: whether it be a spade, a thief or a murderer, we call it by that name. We do not hide behind euphemism. The investigative articles we print are supported by documentary evidence. We have exposed scandal after scandal, and never once in these 15 years has anyone proved us wrong or successfully prosecuted us.

From us you learn the state of your nation, and especially its management by the people elected to give our children a better future.

While I make no claim to sharing a personal friendship with you Mr. President, I have for the better part of my journalistic career which spans over 20 years been in touch with you on a number of issues. And during that time I believed that you stood apart from most politicians in this country – in your fight to ensure that the right to freedom of expression and justice prevails.

It is with this faith in you that I write this letter. I trust you will in your vow to protect democratic rights and freedoms ensure that *The Sunday Leader* which by your own admission to me you said was a necessity in this country will be allowed to continue without further harassment, threats or worse – murder.

I sincerely hope you will insist that a full and fair investigation is carried out to find out who sent Ms. Mushtaq and me two death threats. Nothing justifies a death threat to a journalist in a country espousing democratic freedoms.

Thanking you,
Sincerely,
Frederica Jansz
Editor.

Cc: Mr. Gotabaya Rajapaksa – Secretary Defence – Public Security Law & Order
Mr. Jayantha Wickremaratne – Inspector General of Police

With the Sri Lanka Police taking action even against villagers, who are involved in minor gambling and are arraigned before the law all over the country, however, in this instance causing colossal losses in foreign exchange to the Government of Sri Lanka and the people by such purported Hedging Deals, actually Betting Deals, the persons who had been involved had not been so dealt with, enforcing the rule of law by the Hon. Attorney General or by the Criminal Investigation Department of Sri Lanka Police or by the Commission to Investigate Allegations of Bribery or Corruptions, whereby would it not disclose that the rule of law is not enforced against those in the upper echelons of society ?

Peliyagoda police raided a gambling den run by a woman on Wednesday and took seven persons including two women into police custody.

This gambling den was situated close to the main railway line in a lonely spot.

SUNDAY OBSERVER - Sunday July 25, 2010

High stakes end a cropper 26 businessmen held for gambling

by Jayampathy Jayasinghe

More than 35 officers of the Central Anti Vice Striking Force (CAVSF) swooped on a luxury gambling den in a coconut estate at Bandirippuwa, Lunuwila last week and arrested 26 wealthy businessmen engaged in unlawful gambling for high stakes, police sources told the *Sunday Observer*.

According to the police, three wealthy businessmen in the area had been instrumental in organising the illicit gambling in a 15-acre coconut estate.

The gambling was patronised exclusively by over 100 wealthy businessmen from many parts of the country.

Police said the gambling had been carried out at Lunuwila for more than three consecutive years.

A week prior to the raid, CAVSF officers disguised as marketing managers on a holiday spree conducted a surveillance mission and learnt that the gambling was carried out on three days of the week. Police also learnt that several men were employed by the businessmen with cellular mobile phones to tip off on police vehicles heading towards Lunuwila on days when the gambling was in progress.

Police recovered ground money amounting to Rs 259,000 along with 26 suspects and their vehicles were handed over to the Marawala police station to be produced in court. ICP Mahinda Jayasuriya has directed the CAVSF to conduct the raid following a tip off received by the DIG Narcotics.

High stakes gamblers meet their Waterloo

By SRINATH PRASANNA
 JAYASURIYA AND RAVINDRA
 LIYANAGE IN WENNAPUWA

The Panadura Walana Vice Squad had raided a large gambling den in Lunuwila Bandirippuwa and arrested 26 persons.

Many of them turned out to be wealthy businessmen. Jewellery valued at over ten lakhs of rupees and Rs 258,700 in cash were also found amongst the gamblers and had been taken into police custody.

A senior officer told "Daily Mirror" that they had gambled not only for money but also keeping jewellery as stakes. When the place was raided about 100 of them had fled in their luxury ve-

hicle a police officer said. The gambling den had been conducted by three wealthy brothers, it has revealed.

On information received by the Inspector General of Police Mahinda Balasuriya and on the supervision of DIG Mahesh Samaradiwakara, under the guidance of SP Dinush Karunaratne of the Panadura, Walana Central Vice

Squad raid was conducted by OIC Inspector of Police Duminda Balasuriya together with Sub Inspectors Mahendra Perera and Bandara assisted by a team of 35 policemen.



Daily News

Tuesday August 10, 2010

Wives spill the beans on gambling hobbies

Akuressa Police raided a notorious gambling den at Kohagoda Kanda, Akuressa yesterday morning and arrested eight men who were engaged in gambling. The raid followed a tip-off given by the wives of the five men who alleged that they could not keep their home fires burning due to their husbands' gambling habit. The suspects were due to be produced in court yesterday.

As evidenced, the purported 'Oil Hedging Deals' took place at the similar time, with the Banks acting in concert at the same location i.e. the City of Colombo, Sri Lanka, with the Banks compromising their own Customer, the Ceylon Petroleum Corporation and relevant public officers. Therefore, the Ceylon Petroleum Corporation being their own Customer, the Banks were well and truly aware of the limitations of the Ceylon Petroleum Corporation, not to act *ultra-vires*, and also of the 'weak financials' of the Ceylon Petroleum Corporation.

Admittedly, public officers concerned have been induced and/or compromised by these Banks to perpetrate these purported 'Oil Hedging Deals', as more fully disclosed in Volume II, as contained in Statements given by certain persons named therein to the Supreme Court of Sri Lanka, in compliance with an Order by the said Court. Such circumstances of compromising of foreign public officials is contrary to the United Nations Convention Against Corruption, and more particularly, the Foreign Corrupt Practices Act of US, which is applicable to Citibank.

These were mere 'wagering / betting contracts', which were *illegal*, and that too, one sided unfair contracts, whereby their validity could be in issue under the provisions of the Unfair Contract Terms Act No. 26 of 1997 of Sri Lanka, *even if they were lawful contracts, which they were not*.

As stated hereinbefore, even if Ceylon Petroleum Corporation won all these *betting* Contracts they would get only **US \$ 10.5 Mn.**, and if all these *betting* Contracts were lost, the **total loss** to the Ceylon Petroleum Corporation was to be **US \$ 502.3 Mn.**, i.e. **50 times more** !

No oil, whatsoever, had been bought or sold, but these *betting* deals had been contracted *on the movement of the international price of petroleum oil*. The Gaming Ordinance No. 17 of 1889 is still in existence, defines the 'act of betting', as 'unlawful gaming', which is an offence attracting prosecution in the Criminal Courts of Sri Lanka. Such transactions being *illegal, the contracts are not enforceable in a Court of Law*.

The following definition of 'wagering contracts', which are 'illegal contracts' are defined in *re- Carlill Vs Carbolic Smoke Ball Co., (1892) 2 QB 484 @ 490 - 91* where, Hawkins J had given the following definition of 'wagering contract', which had been affirmed by the Court of Appeal in UK, *in Ellesmere Vs Wallace (1929) 2 Ch 1 @ 24, 36, 48 - 49*

“A wagering contract is one by which two persons, professing to hold opposite views touching the issue of a future uncertain event, mutually agree that, dependant upon the determination of that event, one shall win from the other, and that other shall pay or hand over to him, a sum of money or other stake; neither of the contracting parties having any other interest in that contract than the sum or stake he will so win or lose, there being no other real consideration for the making of such contract by either of the parties In construing a contract with a view to determining whether it is a wagering one or not, the Court will receive evidence in order to arrive at the substance of it, and will not confine its attention to the mere words in which it is expressed, for a wagering contract may be sometimes concealed under the guise of language which, on the face of it, if words were only to be considered, might constitute a legally enforceable contract”

In *R Vs Weisz* (1951) 2 KV 611, (1951) 2 All ER 408 it has been further stated thus:

‘It was held that an attempt to deceive the Court by disguising the true nature of the claim and putting forward a feigned issue was a contempt of Court and could be punished as such.’

Hence, a pertinent issue arises, as to whether not, Standard Chartered Bank, Citibank and Deutsche Bank had *disguised the true nature of their Claims* and put forward a *feigned issue*, and therefore stand *liable to be prosecuted for Contempt of Court and punished* ?

The Ceylon Petroleum Corporation ordinarily is bound to have consulted the Hon. Attorney General *prior* to entering into these purported ‘Oil Hedging Deals’, but *intriguingly*, it had not done so, but had consulted a private Law Firm, namely, Nithya Partners, Attorneys-at-Law – viz UK High Court Judgment in favour of Standard Chartered Bank.

“(8) The Master Agreement, including the terms of its Schedule, was considered by and negotiated between SCB and CPC’s Chief Legal Officer (Geetha de Fonseka) and Nithya Partners, over a number of months.”

The Ceylon Petroleum Corporation had to function under the Ceylon Petroleum Corporation Act No. 28 of 1961 enacted by the Parliament of Sri Lanka. As to whether the Ceylon Petroleum Corporation had violated the provisions of the Public Corporations (Financial Control) Act No. 38 of 1971 *is also another issue* ?

Also very cogently, as to whether the Cabinet Approval was that of mere policy and principle approval only, and as to whether each transaction required Cabinet Approval is a further question, which requires an answer ? Cabinet cannot approve any matter in violation of an Act enacted by the Parliament of Sri Lanka.

Such Cabinet Approval had been relied upon in the international arena, as though the Government of Sri Lanka, as a *sovereign country*, had granted approval for these purported ‘Oil Hedging Deals’, which position had been relied upon in the foreign legal proceedings, *and ought have been foreseen by Hon. Attorney General Mohan Peiris P.C., in him opposing the grant of Leave to Proceed in the Author’s public interest actions SC (FR) Applications Nos. 404/2009 and 481/2009.*

Nevertheless, it is indeed *intriguing* that State Agencies and the Hon. Attorney General Mohan Peiris P.C, had opposed the Author’s public interest actions in SC (FR) Applications Nos. 404/2009 and 481/2009 from being granted Leave to Proceed to be adjudicated upon by the Supreme Court of Sri Lanka, **particularly in seeking to prevent these foreign legal proceedings**, through ‘*anti-suit injunctions*’, citing two renowned authorities - *SNI Aérospatiale V Lee Kui Jak & Another and Spiliada Maritime Corp v Cansulex Ltd. The Spiliada.*

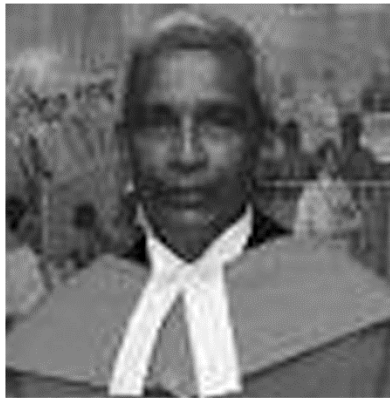
Quite significantly, the Respondents, namely, the Controller of Exchange and the Director Bank Supervision, both of the Central Bank of Sri Lanka, represented by private Counsel had *declined* to be associated with the above preliminary objection of Hon. Attorney General Mohan Peiris P.C, to prevent the grant of Leave to Proceed with the said public interest actions SC (FR) Applications Nos. 404/2009 and 481/2009 on a **baseless** and **erroneous 'time bar'** objection.

Given the facts and circumstances and the **rationale** upheld in the above two renowned Cases, the Supreme Court of Sri Lanka was the most '*appropriate forum*' to have adjudicated upon these purported 'Oil Hedging Deals', inasmuch as the Supreme Court had already delivered a Judgment on 28th November 2008 in relation to the purported 'Oil Hedging Deals', which stood and stands, as given in Volume II.

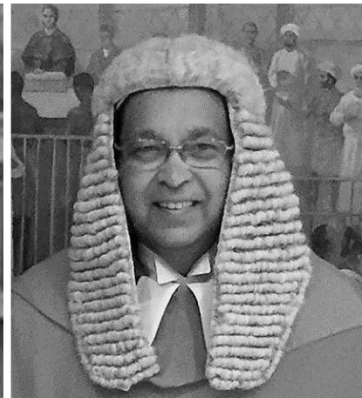
Regretfully, State Agencies and the Hon. Attorney General, Mohan Peiris P.C., had opposed the Author's public interest actions SC (FR) Applications Nos. 404/2009 and 481/2009, on a **baseless** and **misleading 'time bar'** objection, which *questionably* the Supreme Court decided to uphold, stating that the Author should have filed his such public interest actions, *within 30 days of 27th January 2009*, which was an *impossibility* and a *fiction*, since the facts and circumstances in instituting the said public interest actions had not even been in existence at that time, such as the *foreign legal proceedings*.



Justice K. Sripavan



Justice N.G. Amaratunga



Justice S. Marsoof

Unfortunately, the *foreign legal proceedings* which were proceeded with had caused tremendous costs and loss to the Government of Sri Lanka and its public, for the mere enrichment of a few Banks; the accountability and responsibility for which must lie with State Agencies and the Hon. Attorney General, Mohan Peiris P.C., *who had given a pompous assurance in the Supreme Court of Sri Lanka of succeeding in defending these foreign legal proceedings*, whilst preventing the Author from proceeding with his public interest actions to be adjudicated upon by the Supreme Court of Sri Lanka !



**Hon. Attorney General
Mohan Peiris, P.C.**

The Author's two public interest actions SC (FR) Applications Nos. 404/2009 and 481/2009 had been respectively filed on 25th May 2009 and 25th June 2009, and they were finally heard and Leave to Proceed refused by the Supreme Court of Sri Lanka on the **preliminary objection** of 30 day **'time bar'** on 11th May 2010, i.e. nearly one year thereafter. At the very same time a personal Application in SC (FR) Application No. 209/2007 filed on 31st July 2009 by P.B. Jayasundera seeking to be *re-instated* as the Secretary Treasury, from which post he had been compelled to resign in October 2008, with such Application made in July 2009 **nearly 9 months thereafter well outside the 30 days, having been allowed by the Supreme Court of Sri Lanka.**



On the other hand, intriguingly the above personal Application of P.B. Jayasundera was expeditiously heard by a 7 Judge Bench of the Supreme Court, hastily constituted by Chief Justice Asoka De Silva P.C., and heard and disposed of in one day on 24th September 2009 i.e. *within two months*; also in breach of the Supreme Court Rules and with a courageous dissenting Judgment by Justice Shiranee Tilakawardane having been manipulatively cannibalized, *excluding two pages therefrom on the limitations of powers of the President of Sri Lanka*, from being made public, which could only have been done in the upper echelons of the Supreme Court of Sri Lanka.

The Claims made under the purported 'Oil Hedging Deals' on the early termination by the Ceylon Petroleum Corporation, had been as follows:

- Standard Chartered Bank Claim from Ceylon Petroleum Corporation **US\$ 161,733,500.00** + Interest
- Citi Bank Claim from Ceylon Petroleum Corporation **US\$ 195,458,092.67** + Interest
- Deutsche Bank Claim against Government of Sri Lanka **US\$ 60,368,993.00** + Interest
- US\$ 417,560,585.67**
- Fine imposed by the Controller of Exchange on Standard Chartered Bank approximately **US\$ 245**

The Claim of US \$161,733,500.00 + Interest had been ordered by the High Court of Justice United Kingdom, with sole Justice sitting, on 11th July 2011 to be paid to Standard Chartered Bank by the Ceylon Petroleum Corporation, and Appeal thereon in the United Kingdom by the Ceylon Petroleum Corporation had not succeeded.

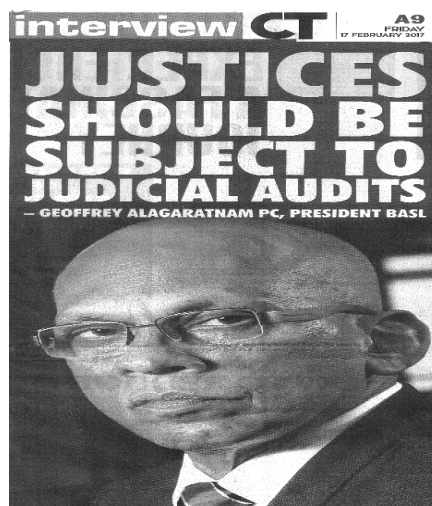
A fine of US \$ 245 Mn., had been imposed by the Controller of Exchange on Standard Chartered Bank as had been suggested by the Author for alleged violation of the Exchange Control Act for remitting out around US \$ 120 Mn., as a Capital Account Transaction, without the permission of the Controller of Exchange and in violation of a directive of the Monetary Board of Sri Lanka, against which Standard Chartered Bank on 16th June 2011 had filed a Writ Application No. 409/2011 against the Controller of Exchange in the Court of Appeal of Sri Lanka.

In the above circumstances, a Settlement, terms of which are unknown, is reported to have been reached between Ceylon Petroleum Corporation and the Standard Chartered Bank.

On the contrary, a 3 Member Bench of the Arbitral Tribunal of the London Court of International Arbitration on 31st July 2011 had found the true nature of the above transactions and had rejected the Claim of US\$ 195,458,092.67 + Interest made by Citibank, notwithstanding the Judgment by the High Court of Justice United Kingdom in the above Standard Chartered Bank Case having been tendered before this Arbitral Tribunal. (*Volume I of this Book had been published and globally distributed on May 2011*)

The Deutsche Bank Claim of US \$ 60,368,993.00 + Interest before a 3 Member Arbitration Tribunal of the International Centre for Settlement of Investment Disputes in October 2012 was Awarded to Deutsche Bank by a Majority Award of 2 Members, whilst one Member of the Arbitral Tribunal realizing the true nature of the transaction courageously had given a *dissenting* Opinion in October 2012 as to how an *illegal* wagering and/or betting debt could be considered as an *'investment'* is beyond comprehension, and raising the question, as to whether such would give precedent of defence to *ill-gotten* wealth stashed in foreign countries from stolen assets of countries, going against the very principles of the UN Convention Against Corruption.

Ought not the foregoing *shocked the conscience* of the Supreme Court, and would not the Supreme Court Judges also be accountable and responsible for the losses caused to the Government of Sri Lanka and the public ?



As disclosed in the *foreign legal proceedings*, the very same persons who had already been compromised by the Banks, as morefully set given in Volume II, and had been responsible for perpetrating these purported 'Oil Hedging Deals', themselves, had been taken overseas by the Hon. Attorney General Mohan Peiris P.C., as Witnesses, to defend the Ceylon Petroleum Corporation and the Government of Sri Lanka in the *foreign legal proceedings* instituted by Banks, whereas such persons stood accountable and responsible to defend their own conduct and actions, inasmuch as the Supreme Court of Sri Lanka had directed the Criminal Investigate Department to investigate and take warranted action, which the Hon. Attorney General, Mohan Peiris P.C., had failed to cause, he too being primarily accountable and responsible for such calamitous colossal losses caused to the Government of Sri Lanka and the public.

A very cogent question arises, as to whether the extensive costs and colossal losses would have been incurred by the Government of Sri Lanka and the public, had the Author's public interest actions SC (FR) Applications Nos. 408/2009 and 481/2009 been granted Leave to Proceed and adjudicated upon by the Supreme Court of Sri Lanka, given that the Supreme Court of Sri Lanka had previously delivered a Judgment in such regard on 28th November 2008 as given in Volume II ?

Another shocking disclosure, is that during the period Secretary, Ministry of Finance P.B. Jayasundera had been *debarred* by the Supreme Court from holding any Public Office or purport to do so, directly or indirectly, in terms of an Affidavit he had tendered to the Supreme Court, what had been disclosed by a Document filed by Deutsche Bank in the International Arbitration, and tendered to the Supreme Court in February 2009, was that former Secretary, Ministry of Finance, P.B. Jayasundera, together with the Minister Basil Rajapakse and then Secretary Ministry of Finance, had had a Meeting to discuss a Settlement with Deutsche Bank Representatives, together with Representatives of other foreign Banks - viz:



Basil Rajapaksa

P.B. Jayasundera

5R[5]

IN THE MATTER OF AN ARBITRATION UNDER THE 1965 CONVENTION FOR THE SETTLEMENT OF INVESTMENT DISPUTES BETWEEN STATES AND NATIONALS OF OTHER STATES

AND

PURSUANT TO THE 2000 TREATY BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA CONCERNING THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

BETWEEN

DEUTSCHE BANK AG

Claimant

v.

THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Respondent

REQUEST FOR ARBITRATION

16 February 2009

ALLEN & OVERY
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Certified True Copy
Julius & Cressy
JULIUS & CRESSY
COLOMBO

Paragraph 55 in Deutsche Bank's 'Request for Arbitration' dated 16th February 2009

“55. On 11 February 2009, Deutsche Bank Colombo was contacted by a representative of Citi Bank, who indicated that Mr Basil Rajapaksa and Dr P.B. Jayasundera and Mr Sumith Abeysinghe, the former and current Secretary of the Ministry of Finance, respectively, requested to have a meeting together with the Claimant and other banks who had entered into oil hedging transactions with CPC. The Claimant was prepared to attend in good faith and sent two representatives to this meeting, which took place on the evening of 12 February. At this meeting the Respondent made no proposal for settlement, nor did it give any indication as to when or if any such proposal would be forthcoming.”

On the other hand, former Major General Sarath Fonseka, who had contested President Mahinda Rajapaksa at the Presidential Election, in comparison with the foregoing offences, had been *hastily* investigation on transactions completely of a far lesser gravity, with much lower value, as well disclosed in this Book. Upon Charge Sheets signed by President Mahinda Rajapaksa, Major General Sarath Fonseka had been sentenced to imprisonment. This had been well set out by the Author disclosing the political realities and duplicity !

What the Author raises, disclosing that he being a Specialist Consultant, had been able to investigate these purported Hedging Deals, exposing that they are illegal in the true nature as illegal Betting Deals, whilst 3 international reputed Banks, Citibank, Standard Chartered Bank and Deutsche Bank had misled their own customer to perpetrate these corrupt deals, and as a result of the judicial process not having acted diligently as warranted, that colossal losses had been caused to the Government of Sri Lanka and the people, thereby giving rise to the credibility of the judiciary ?

Whilst Faisz Musthapha P.C., had appeared for Deutsche Bank in the Author's public interest actions SC (FR) Applications Nos. 408/2009 and 481/2009, Faisz Musthapha P.C., had previously appeared as Counsel for Minister of Petroleum and Petroleum Development, A.H.M. Fowzie, representing the Government of Sri Lanka, in the previous public interest actions SC (FR) Applications Nos. 535/2008 and 536/2008, which had been terminated as aforesaid, and also at that very same time Faisz Musthapha P.C., had appeared as Counsel for P.B. Jayasundera in the Supreme Court seeking for him to be *re-instated*, as Secretary Treasury as aforesaid ! Would the Supreme Court of Sri Lanka and the Bar Association of Sri Lanka condone such *conflicts* ?

As to whether, the Standard Chartered Bank's Judgment in UK was recognized in Sri Lanka, without registration under the Reciprocal Enforcement of Judgments Ordinance No. 41 of 1921, and as to whether the Majority Arbitral Tribunal Award in Deutsche Bank Arbitration was recognized, without being enforced under the Arbitration Act No. 10 of 1995, are also issues that need be reckoned ?