

CHAIRPERSON: Are we ready to start? Mr Nadel, thank you very much for being here. This is a closed enquiry held in terms of Section 29 of the Act. All evidence that should be taken under oath remains confidential and will so remain until the Commission releases it subject to the requirements of the Act.

So everybody who is here has the permission to be here by reason of the fact that they are either invited to be here or have been subpoenaed to be here or are employees of the Commission. I was going to ask Commissioner Glenda Wildschut to swear you in before you testify but she is not here, she is otherwise engaged.

She forms part of the panel. She is in the Rehabilitation's and Reparations Committee. I am also one of the Commissioners who is going to be, who is chairing this panel. I am in the Human Rights Violations Committee. Mr Magadhla will assist us in the panel. He is sitting to my right and is a member of the investigative unit.

The investigator who has done most of the investigative work, in fact actually all of it, is Chrystelle Terreblanche who is sitting to our right and she has Dr Klatzow, David Klatzow who is a forensic expert and who has been contracted to the Commission to assist us in the presentation of the evidence.

In the interest of progress I will therefore swear you in, if you can stand. There is a red button there which you will press

whenever you speak, thank you. Now what are your full names for the record Mr Nadel?

MR NADEL: Vernon Nadel.

VERNON NADEL: (sworn states)

CHAIRPERSON: The witness has been sworn in Ms Terreblanche.

MS TERREBLANCHE: Thank you Mr Chair. You may sit, thank you Mr Nadel. Thanks for coming. Mr Nadel we have invited you to come here to just tell us about your role on that fateful night at the ZUR centre, Springbok Radio Centre at the former Jan Smuts Airport. We believe you have come all the way from Argentina and we are very thankful to you for making that time. Commissioner Ntsebeza I think that Dr Klatzow will do all the questioning in this one.

CHAIRPERSON: Very well, Dr Klatzow?

DR KLATZOW: Thank you Mr Commissioner. Thank you very much Mr Nadel. Mr Nadel, when did you join SAA?

MR NADEL: 2nd June 1969.

DR KLATZOW: And by the time of the Helderberg operation what was your position?

MR NADEL: I was then the duty officer in flight operations.

DR KLATZOW: Junior officer?

MR NADEL: Duty officer.

DR KLATZOW: The duty officer. What did your position entail?

MR NADEL: I was responsible for overseeing the flight operations, the radio station ZUR, as well as if and when any crew needed flight plans. This job entailed day shift as well as night shift. Obviously the functions at night were different to the functions during the day.

DR KLATZOW: Now is it correct to say that ZUR is a permanent radio station at what was then Jan Smuts Airport?

MR NADEL: Yes, at the time, yes.

DR KLATZOW: And is it correct to say that it was manned twenty four hours a day by a staff of three people?

MR NADEL: No, ZUR wasn't manned by three people. It was manned by one radio operator. The night shift consisted of a duty officer as well as the operations controller and the radio operator in ZUR.

DR KLATZOW: What was Gavin Dick's function the evening that you were there?

MR NADEL: Gavin Dick was the radio operator.

DR KLATZOW: In other words there were at least two people there that night?

MR NADEL: Yes. I don't know whether you know the set-up as far as what the building looks like. There's not two people sitting in front of the radios. There's only the radio officer.

DR KLATZOW: And is he geographically quite distant from you, the duty officer?

MR NADEL: No. You're probably looking at 20 yards, 20 metres.

But there is a door separating the radio station and the ops room.

DR KLATZOW: Right. What was the difference in rank between you and Mr Gavin Dick?

MR NADEL: If you want to take it on the scale of a clerk, he was a clerk grade 1 and I would have been a senior clerk, with one gap between. So in other words I was two ahead of him.

DR KLATZOW: Is it also true that ZUR has a permanent tape recording of all the messages which are transmitted on that transmitter?

MR NADEL: Yes.

DR KLATZOW: And that the tapes are twenty four hour, slightly over twenty four hour tapes?

MR NADEL: I'm not too sure on the length of the tape but they are.

DR KLATZOW: They're not thirty minute tapes?

MR NADEL: No no, you're looking at probably an eight to twelve hour tape which does change over once it ends it automatically goes to the next one.

DR KLATZOW: Correct. And that there is a dual recording system whereby one tape immediately kicks in?

MR NADEL: If the one ends, the other one immediately kicks in, yes.

DR KLATZOW: And that the tapes are stored in large containers with a yellow or a description written onto the container?

MR NADEL: Yes, there's normally, once the tape ends the tape is put in a container with a card as you said with the date and time.

DR KLATZOW: And that those tapes are rotated on about a month or six weekly cycle?

MR NADEL: That's correct.

DR KLATZOW: So that the tape that is finished would go to the beginning of the queue and make it's way slowly up until six weeks later or so, it would be re-recorded?

MR NADEL: Correct.

DR KLATZOW: And the tapes once they are finished are kept under lock and key. I couldn't just walk in there and help myself?

MR NADEL: No it's kept in a glass, well at the stage was like a display cabinet which did have a lock but you're not looking at a safe type.

DR KLATZOW: No but it would be something that I would have to break the lock or damage it in some way to get in?

MR NADEL: Correct.

DR KLATZOW: So that anybody off the street couldn't just walk in and help himself to the tape?

MR NADEL: Well I don't think you'd get into the building, but no.

DR KLATZOW: Who had the keys to the cabinet?

MR NADEL: That was in ZUR at the time.

DR KLATZOW: Were you in charge of the ZUR keys?

MR NADEL: Well I was in charge of ZUR at the time. It was never an issue that you are given the key and it's your responsibility. The key was on top of a cupboard normally.

DR KLATZOW: But you would know if somebody took a tape out?

MR NADEL: Actually no.

DR KLATZOW: Who would know?

MR NADEL: The person in ZUR, the radio operator.

DR KLATZOW: Gavin Dick would have known?

MR NADEL: Yes.

DR KLATZOW: Now the person who was on duty immediately before you, his name was Mr Du Toit?

MR NADEL: No, Mr Du Toit was on duty in ZUR, he handed over his shift to Gavin Dick.

DR KLATZOW: Correct. And his shift ended at what time?

MR NADEL: 7 o'clock.

DR KLATZOW: And normally he would go home? Correct? There would be no reason for him to stay on?

MR NADEL: Unless he wanted to spend a few minutes talking. He would normally do the hand-over and then leave.

DR KLATZOW: Correct. And there would normally be some, unless he stayed for a cup of coffee or a chat or what have you, there'd be no reason for him to be there?

MR NADEL: No.

DR KLATZOW: Can you give me any reason why he was still there next morning and served a double shift that night?

MR NADEL: He did not stay that night.

DR KLATZOW: Well could you give me a reason why he told the Commission, the Margo Commission of enquiry that he booked off at 8 o'clock the next morning?

MR NADEL: I have no idea.

DR KLATZOW: Do you think he was lying?

MR NADEL: I believe he was probably confused.

DR KLATZOW: Why would he be confused about that?

MR NADEL: I don't know.

DR KLATZOW: So you say he's incorrect if that is what he said under oath?

MR NADEL: Absolutely.

DR KLATZOW: Now, what time did the tape change over occur that night?

MR NADEL: Sorry, can you repeat the question?

DR KLATZOW: What time did the tape change over occur that night?

MR NADEL: I can't recall.

DR KLATZOW: Did it occur during your shift?

MR NADEL: I believe it probably did yes.

DR KLATZOW: So you were there when the tape was changed over?

MR NADEL: I would have been in the office yes. Not necessarily in ZUR when the tape was being changed.

DR KLATZOW: Would you have known that the tape was changed over?

MR NADEL: Not necessarily no. It was a routine kind of operation. It was never a case that you had to go and check on it and to see that it was done correctly, no.

DR KLATZOW: So at some stage the tape, during your shift was changed over?

MR NADEL: Possibly.

DR KLATZOW: Now, in addition to that, who else was at ZUR with you that night?

MR NADEL: The operations controller was with me, Pete Pelser.

DR KLATZOW: What was his name?

MR NADEL: Peter Pelser.

DR KLATZOW: And did he, what was his function?

MR NADEL: He was what we call the operations controller. He would fill out the logs of the movements for during the day. The

night shift was basically there to prepare the documentation for the next day as well as to complete the logs for the flights that were still flying. Domestic flights that is.

DR KLATZOW: I want to return to Pete Pelser just now. But I want to put a proposition to you before I do so. The function of ZUR, it is an expensive operation, employing full time staff and occupying a room and a radio set up and a considerable amount of administration. It is not a Mickey mouse operation, if I could put it to you that way, has a function. What is it's function?

MR NADEL: Well, the main function was to monitor the movement of all aircraft world-wide and that was during the time of us flying around the bulge and

DR KLATZOW: Correct.

MR NADEL: They needed to know where the aircraft were.

DR KLATZOW: In other words it was not, it was not an operation which was simply designed to make sure that there was a wheelchair ready at the terminal?

MR NADEL: Not at all.

DR KLATZOW: It was a serious operation and the pilots would communicate to you if there was anything serious which happened on board the aircraft?

MR NADEL: If they felt they had to yes.

DR KLATZOW: Well, if there was a major problem aboard an aircraft it is very likely that they would have communicated that to their home base?

MR NADEL: Not necessarily no. Depending on the nature of the problem they would be talking to whichever air traffic control centre at the time and they would decide whether it was important enough to call us. If I may just mention that the radio station is not a requirement or prerequisite by any means, it's a, it was a luxury that the airline had but it was never an issue that it was legally required that the aircraft had to communicate.

DR KLATZOW: Nobody has ever suggested to you that it was legal requirement but nonetheless it was in existence and it was an expensive operation and it was not there simply to monitor the number of face towels aboard the aircraft and whether or not the hostesses were running out of water and that you needed, it had more serious functions in that it was to keep track of South African Airways fleet during a difficult period in their history?

MR NADEL: Correct.

DR KLATZOW: And it is likely and I want to put it to you that it's overwhelmingly likely that if something serious had happened aboard ZUR would at some stage have got to know about it?

MR NADEL: Not necessarily. The communication may not have been there at the time.

DR KLATZOW: But sooner or later there would have been communication. And I accept fully that they would have communicated with the nearest FIR but at some stage it is likely that they would tell you. What is the point of ZUR being informed for instance that they had taken off uneventfully?

MR NADEL: Well that was the normal operation. You would normally get a call top of climb and then during the course of the flight and then again at the descent. That is if the aircraft could communicate weather wise as far as static. We all know that radios are not.

DR KLATZOW: Well is it as simple as that Mr Nadel?

MR NADEL: I think at this particular time yes. If I may mention and it was mentioned at the Margo Commission that the radio station had actually had a lightning strike, some time before, so communications were not up to standard at the time.

DR KLATZOW: Mr Nadel, my information is that the lightning strike and your evidence at the Margo Commission was that the lightning strike had disabled the cell call facility?

MR NADEL: That is correct.

DR KLATZOW: And that it had not disabled the rest of the facility?

MR NADEL: No, the radios were still working but as I mentioned it could well have affected the reception of the transmissions.

DR KLATZOW: Correct. But did it?

MR NADEL: Well obviously in this case, yes because.

DR KLATZOW: Well no no, let's deal with that a little more simply. Did you have any difficulty hearing from them on their departure from Taipei?

MR NADEL: Well it wasn't on our shift, it was on the previous shift, no.

DR KLATZOW: Was there any difficulty that you were aware of?

MR NADEL: It appears not, no.

DR KLATZOW: What would suddenly make that difficulty?

MR NADEL: I'm not a technical expert as far as how radios work and the transmissions etc, but weather can cause transmissions problems.

DR KLATZOW: We'll get to the weather in a minute. Because weather is a changing phenomenon and the aircraft's position in relation to that weather is a changing phenomenon. Are there standing orders which govern the way in which you operate ZUR?

MR NADEL: No.

DR KLATZOW: Is there not a requirement that you make, try and make contact with the aircraft every hour to hour and a half?

MR NADEL: No, there is a requirement if the aircraft doesn't call you, you try and cell call them which obviously we tried and to no avail.

DR KLATZOW: And what effort did you expend to try and raise the aircraft after it failed to contact you, on the hour, the first time, on the hour?

MR NADEL: Well the aircraft was cell called but they failed to reply.

DR KLATZOW: So you cell called it and it failed to reply? What action did you take?

MR NADEL: Well there is no action to take, it happens quite often, well it used to happen very often that the aircraft would not call you.

DR KLATZOW: And is there not a laid down procedure whereby you try and contact them via speed bird or one of the other means of raising them?

MR NADEL: No.

DR KLATZOW: Now at the hearing, the Margo hearing, that was not your evidence.

MR NADEL: It was my evidence. I believe somebody else said there was standing orders.

DR KLATZOW: The evidence that was led at the Margo Commission was that if the aircraft was not contacted, it was a serious matter and that you would go to considerable lengths to try and contact them?

MR NADEL: No, that's not how it was.

DR KLATZOW: Now, let's get back to something else because I want to return to this. A number of people have phoned you to discuss this over the years. Is that correct?

MR NADEL: I've had many people calling me to discuss a lot of speculation over the years, yes.

DR KLATZOW: That's correct. What you consider speculation?

MR NADEL: Absolutely.

DR KLATZOW: And amongst those people was a man called Leon, sorry Nils Van Wyk who used to work for the SABC?

MR NADEL: I can't recall. It sounds familiar but I cannot recall exactly.

DR KLATZOW: He phoned you when you were in Miami, as did I.

MR NADEL: Oh yes I do recall now, yes.

DR KLATZOW: And at the time he asked you similar questions to the ones that I am asking you now, namely who was on duty with you that night?

MR NADEL: I can't recall.

DR KLATZOW: Well I'm going to tell you what he told me and if necessary he will tell this Commission. He said that you identified that you were there together with Mr Gavin Dick and that there was a third person whom you would not identify.

MR NADEL: I don't, I may have misunderstood his question but the question that's been presented to me on many occasions was, was there a high ranking person from the airline in flight operations.

DR KLATZOW: Listen to the question very carefully. He asked you who was there and you said to him, there was myself and Gavin Dick and there was a third person whom we will call Mr X and in his report and in his contemporaneous notes he refers to this person as Mr X.

MR NADEL: Well, I mentioned his name was Pete Pelsler, I didn't think it was any.

DR KLATZOW: No, he says you specifically refused to mention his name.

MR NADEL: Well at the time I felt there's no reason for me to talk to somebody that has no authority as far as questioning me about the speculation that was going on at the time and the rumours that were so rife. He came to see me and he had no, as I say authority from anybody, it wasn't an official enquiry so I didn't feel it was necessary to talk to him.

DR KLATZOW: But you did tell him there was a third person and that person he called Mr X?

MR NADEL: Possibly.

DR KLATZOW: Now let's get back to that tape. How did the tape go missing?

MR NADEL: I don't know.

DR KLATZOW: How did it get out of ZUR?

MR NADEL: I'm not sure at what stage somebody decided they needed to take the tape but of course there were many senior people in ZUR at the time, it could have been taken at any time.

DR KLATZOW: Do you remember the tape being taken?

MR NADEL: No.

DR KLATZOW: Could the tape have got out of there on it's own?

MR NADEL: Absolutely not.

DR KLATZOW: Correct. So somebody must have come and taken it?

MR NADEL: Yes.

DR KLATZOW: Did anybody ever hand it back to ZUR?

MR NADEL: I don't know.

DR KLATZOW: When you tape record, and put a tape on, is taken strictly from the end of the row that you take, is that not correct?

MR NADEL: That is correct.

DR KLATZOW: You would not go to the middle of the row of tapes and take a tape out?

MR NADEL: It's highly unlikely but if it does happen, it obviously is a mistake.

DR KLATZOW: Well under what circumstances could a gross mistake of that nature be made?

MR NADEL: I don't know.

DR KLATZOW: Could you suggest a circumstance where somebody would under standing orders to take the tape from the end, goes to the middle of the row of tapes and takes the tape out?

MR NADEL: I have no idea.

DR KLATZOW: Do you think that that is a likely possibility?

MR NADEL: It's unlikely but it could happen.

DR KLATZOW: Right. Well let's examine that in a little more detail. The evidence given at the Margo Commission was to the effect that the tape had been either overtaped inadvertently or lost, is that correct?

MR NADEL: That is correct.

DR KLATZOW: And not only that there was really very little enquiry into the disappearance of that tape by Mr Margo?

MR NADEL: Sorry, can you repeat the question?

DR KLATZOW: There was in fact very little enquiry any further than that by Margo. And that was Margo's finding?

MR NADEL: I believe so yes.

DR KLATZOW: Now let's look at the first possibility. If the tape had been overtaped, you would have been able to go to somebody and say I'm sorry here is the tape. It's been overtaped. I don't know how it got overtaped but there is the tape.

MR NADEL: That is possible yes.

DR KLATZOW: Well that is likely isn't it?

MR NADEL: Yes, more than likely.

DR KLATZOW: Was that ever done?

MR NADEL: I don't know. I cannot recall.

DR KLATZOW: Did you ever do it?

MR NADEL: No.

DR KLATZOW: Did anybody to your knowledge ever do it?

MR NADEL: I don't know.

CHAIRPERSON: Can I just ask, at the time of the enquiry, did you personally become aware that it was muted as one of the possibilities that the tape was overtaped?

MR NADEL: Yes, I believe it was.

CHAIRPERSON: And did you seek to establish where the tape was and whether in fact the tape should not be taken to the enquiry if that was a moot question?

MR NADEL: What was the question? I don't believe I was in the position to investigate that kind of thing due to the magnitude of the occurrence and the people that were very much more senior to me that were involved with the case of the day.

CHAIRPERSON: Did you ever talk to anyone who was senior and hazard an opinion? Because I see now it possibly was a question where you would be hazarding an opinion, did you, what I'm trying to say is, here was a situation where a tape, let's look at it being

overtaped at the moment, where there was talk of it being overtaped and it happens to be the tape which was from ZUR with which you were associated and especially around the days, I mean the date in question.

Did you do anything in order for that sort of speculation to be dispelled by saying why don't you offer the tape and say here is the tape and let the Margo Commission have the tape so that we can get this particular point out of the way?

MR NADEL: Mr Commissioner as I said, at the time I was obviously too junior to be involved with that type of thing. If the tape was in anybody's possession I believe somebody should have given it or handed it in to the enquiry, the Board of enquiry.

CHAIRPERSON: Dr Klatzow.

DR KLATZOW: And yet that never happened?

MR NADEL: I understand not.

DR KLATZOW: Nobody ever went to Margo and said, here is the tape that was overtaped?

MR NADEL: I believe that what you're saying is correct.

DR KLATZOW: And if that is the case then we can safely assume that the tape was not overtaped?

MR NADEL: I don't know. As I say there was a lot of speculation.

DR KLATZOW: At the time of the Margo enquiry that speculation was rife?

MR NADEL: Yes.

DR KLATZOW: The most sinister interpretation possible had been placed on that tape? In fact it was rumoured at the time, it was said at the time that there was a conversation between ZUR and Captain Uys claiming to know something about the cargo and demanding permission to land?

MR NADEL: Not on my shift, no.

DR KLATZOW: Just listen to me. And listen to the question. The question was, at the time of the Margo enquiry which you were involved in, you knew about that rumour?

MR NADEL: There were a lot of rumours that were rife at the time.

DR KLATZOW: Did you know about that rumour?

MR NADEL: There was a rumour that there was somebody in ZUR that was speaking to the aircraft, telling the aircraft they could not divert.

DR KLATZOW: And that rumour has the most sinister implication possible for the airline?

MR NADEL: Absolutely.

DR KLATZOW: Did you ever seek to attempt to dispel this by taking the tape or did anybody to your knowledge take the tape that

had been overtaped and show it to the Margo Commission and say I'm sorry, we made a mistake?

MR NADEL: I'm not aware of that if it was.

DR KLATZOW: So we can safely assume that there is no record of in your knowledge or in the Margo Commission of that event having occurred?

MR NADEL: I don't know.

DR KLATZOW: Well I'm telling you that if you think that it's in the Margo Commission I will advise you to look at the Margo Commission and tell me where it is but I would suggest to you that it is not in the Margo Commission.

MR NADEL: No, I believe what you're saying.

DR KLATZOW: And therefore we can safely assume that the one thing that didn't happen to the tape was that it didn't get overtaped inadvertently?

MR NADEL: We can assume that then.

DR KLATZOW: Right. The second thing we've have established is that the tape didn't just walk out of there on it's own. Somebody must have taken it out?

MR NADEL: Yes.

DR KLATZOW: Do you remember Captain Jimmy Deel coming in and taking the tape out?

MR NADEL: No.

DR KLATZOW: When did you go off duty?

MR NADEL: When did I go off duty?

DR KLATZOW: Yes.

MR NADEL: My official shift ended at 8 in the morning. Due to the situation I believe I left at 10.00, 10.30, 11 o'clock.

DR KLATZOW: Before you left that day, that tape had been taken out of ZUR.

MR NADEL: I'm not aware of that.

DR KLATZOW: Who else was in the operations centre that night?

MR NADEL: Is this after the, after the

DR KLATZOW: After the notification of the accident?

MR NADEL: I initiated an emergency call list. There could have been any thing or any amount from 20 to 40 people.

DR KLATZOW: Was Captain Mickey Mitchell there?

MR NADEL: I believe he came later.

DR KLATZOW: What time? And would you identify the document that you're reading from please?

MR NADEL: I have in front of me a copy which I believe Civil Aviation has as well of the South African Airways Emergency Alarm Procedure. It's a list of names, if an emergency is declared we will go through the list, call the people.

DR KLATZOW: Who did you call that night?

MR NADEL: I'll start on the first page, not necessarily in the order that it was done, spoken to. Captain Deon Storm, Mr F Van Zyl Smit, Captain Mickey Mitchell and I can give you the time I actually called him, at 0040.

DR KLATZOW: No, don't give us that. What I would like you to do is make us a copy of that please.

MR NADEL: Certainly.

DR KLATZOW: But just read the names out.

MR NADEL: So Captain Mitchell was called at 0040, I called Captain Dries, I called Mr Davidson, Mr Britz, Mr Kate, Mr Willemse, Mr Botha, Mr Verster, Mr Roux ...[inaudible], Dr Van Der Spuy, Mr Klaase.

DR KLATZOW: What time did you call Mr Willemse?

MR NADEL: Mr Willemse was called at 0109.

DR KLATZOW: That's Tienie Willemse?

MR NADEL: Tienie Willemse, yes.

DR KLATZOW: What did you want him to do and what did he do?

MR NADEL: Well I notified everybody on this list and the normal procedure was they would either decide whether they wanted to come out to operations, go to airways head office.

DR KLATZOW: Did Tienie Willemse come to operations?

MR NADEL: I believe he would have yes.

DR KLATZOW: Was he there that night?

MR NADEL: I seem to think so yes.

DR KLATZOW: Do you remember seeing him there?

MR NADEL: I can't recall offhand, no.

DR KLATZOW: But it would be the likely thing for him to do?
Did Mickey Mitchell get there that night?

MR NADEL: Yes, I believe Mickey Mitchell was there.

DR KLATZOW: What time?

MR NADEL: I don't know what time he was, I only have the time I called him.

DR KLATZOW: But do you think that having been declared an emergency and having been told that there was a potential for an aircraft missing, do you think he would have dawdled his way to the airport?

MR NADEL: No, not at all.

DR KLATZOW: So he would have been there shortly after you notified him, which was just after 12 o'clock, or just before 12 o'clock?

MR NADEL: Yes, and let me just point out this is GMT time.

DR KLATZOW: Yes. But tell us in South African time to avoid confusion.

MR NADEL: Captain Mitchell would have been at 2.40 in the morning.

DR KLATZOW: In the morning, local time. Did you phone Gert Van Der Veer?

MR NADEL: I believe Mr Van Der Veer was called at 3 o'clock.

DR KLATZOW: What time was Mr Viv Lewis called?

MR NADEL: May I also just point out the name, Mr Van Der Veer wasn't called by me. He was called by somebody else. I believe Mr Lewis was paged on his pager at 2.40.

DR KLATZOW: Correct.

MR NADEL: He wasn't spoken to directly.

DR KLATZOW: No, but he would have come in immediately?

MR NADEL: If not to flight ops, he would have gone to the engineering department.

DR KLATZOW: Now, in your statement that you made to Nils Van Wyk, you said that Mickey Mitchell was present?

MR NADEL: Could well have been, yes.

DR KLATZOW: And you also recalled that Jimmy Deal was there?

MR NADEL: Yes.

DR KLATZOW: Not only did you recall that Jimmy Deal was there, you recalled that Tienie Willemse was there?

MR NADEL: Correct.

DR KLATZOW: And in addition to Tienie Willemse you made the statement that the last person to have contact with that tape was a man by the name of Connie Booysen?

MR NADEL: Yes, Connie Booyesen was the assistant manager of flight ops responsible for the radio station.

DR KLATZOW: And he would have had access to that tape?

MR NADEL: I believe so, yes.

DR KLATZOW: Can you think of any reason why Mr Willemse would deny that he was there that night?

MR NADEL: Like I say, I called him and whether he went through to head office or not, I cannot recall, I cannot recall seeing him.

DR KLATZOW: Mr Nadel, you are under oath and I want to remind you of your reply to my previous question. I put to you that on a previous occasion you had stated to a man that you remembered Van Der Veer, Mitchell, Deal and Willemse being present at ZUR. And when I put that to you stated, under oath that you remembered that they were there.

MR NADEL: I remembered making the statement to the person that spoke to me. I didn't say that they were definitely there. I remember speaking to

DR KLATZOW: You confirmed it in the previous question I put to you that they were there.

MR NADEL: I cannot recall.

DR KLATZOW: Now, and it is likely that they would have been there?

MR NADEL: As I say, not necessarily, some could have gone to engineering, some could have gone to the head office which is in Johannesburg, some could have come to flight operations.

DR KLATZOW: Right. Now, when was the, when, do you remember when DCA came looking for that tape?

MR NADEL: No.

DR KLATZOW: Do you know who gave them a tape?

MR NADEL: No.

DR KLATZOW: Do you not know how the tape was taken out of ZUR that night?

MR NADEL: No.

DR KLATZOW: Getting back to Mr Willemse. You remember quite well being questioned by Nils?

MR NADEL: Well he came to speak to me and it was an open discussion over a cup of coffee.

DR KLATZOW: And he made a contemporaneous note of that because you asked him not to use a tape recorder or bring a note pad?

MR NADEL: I said to him because this is not an official issue, I've had a lot of people speculating and I didn't want to be quoted out of context.

DR KLATZOW: But surely the best way to be not quoted out of context is to either allow him to tape record it or to allow him to make a note?

MR NADEL: He wasn't from an official board of enquiry.

DR KLATZOW: But then why speak to him at all?

MR NADEL: Well I spoke to him as a, he'd flown down from Orlando I believe, I'm not too sure.

DR KLATZOW: But let's look at your reason ostensibly. The reason that you didn't want him to make a note is that you didn't want to be quoted out of context?

MR NADEL: Correct.

DR KLATZOW: So you forced him to use his memory in order to quote you? A better way of being misquoted, I can't think of.

MR NADEL: Correct.

DR KLATZOW: Why didn't you allow him to make a note?

MR NADEL: As I say, I had been spoken to by many people. There was a lot of speculation, the newspapers were full of it and to tell you the truth, I was getting a little sick and tired of the reporters.

DR KLATZOW: Yes, but your actions in fact went further towards promoting the rumour than to have been open and said, tape record me, I have nothing to hide. Here it is. And yet you refused to allow him to do that.

MR NADEL: I made that statement to some other investigative reporters saying that I am quite happy to appear in front of any board or enquiry to get this whole thing over and past.

DR KLATZOW: But you see it's inexplicable Mr Nadel, I want to put it to you that if you didn't want to be misquoted, the right way would have been to allow him to make a note. As it is he did make a note. He went straight to his car and made a note. And the note that he made was as follows. And I'm going to read it to you.

"Mr Nadel said that in addition to Van Der Veer, Mickey Mitchell was also present as was Jimmy Deal and Tienie Willemse. Nadel could not elaborate as to why these persons were there, he later asked me not to mention the fact that Willemse was present at the facility."

Why did you do that?

MR NADEL: That is not true.

DR KLATZOW: So is Mr Van Wyk lying?

MR NADEL: Absolutely.

DR KLATZOW: You never said that?

MR NADEL: I don't say I never said, I never said to him that I don't know why Mr Willemse was there.

CHAIRPERSON: No but the question is, did you ever say to him that he should not mention that Willemse was there?

MR NADEL: No.

CHAIRPERSON: Is it a coincidence that Willemse also said to us here that he was not there?

MR NADEL: No. I don't think it's a coincidence. As I said earlier on, I called the people and this is eleven years ago, I cannot recall who was actually there and who wasn't there. I called the people out and they either gone to the head office building or to engineering or to flight operations.

CHAIRPERSON: Dr Klatzow.

DR KLATZOW: You were at the Margo enquiry?

MR NADEL: Correct.

DR KLATZOW: Who sat next to you?

MR NADEL: I cannot recall that.

DR KLATZOW: Do you remember Jimmy Mitton sitting close by you?

MR NADEL: He may well have been because there was a lot of airline personnel sitting around that area.

DR KLATZOW: Jimmy Mitton's evidence will be that he sat very close to you.

MR NADEL: It's possible.

DR KLATZOW: And if he says that you would not deny it?

MR NADEL: No, I wouldn't deny it. I can't recall.

DR KLATZOW: He has a very clear memory of that.

MR NADEL: I don't deny that.

DR KLATZOW: When Mr Dick failed to raise the Helderberg on his shift, did he come and see you?

MR NADEL: Yes.

DR KLATZOW: What did he say to you?

MR NADEL: He said to me, there's problems with communication on the evening and he hasn't spoken to, not only that aircraft I believe there could well have been other aircraft that he hadn't spoken to either and I said to him it's not a problem.

DR KLATZOW: Despite the fact there were standing orders?

MR NADEL: There's no standing orders.

DR KLATZOW: Did you try to place, to put into place any of the procedures to try and raise the aircraft?

MR NADEL: The procedures were to call aircraft or to call them blindly on HF on the frequencies that they should be on and we tried that.

DR KLATZOW: Did you do that?

MR NADEL: Yes.

DR KLATZOW: How often did you try and do that?

MR NADEL: I'm not aware, Gavin Dick was the radio operator of the evening. Possibly every two hours, I'm not too sure.

DR KLATZOW: Did he ever come back to you and say I still can't get them?

MR NADEL: He came back to me I would believe. I cannot recall. But he possibly did come back and said he's having problems with communications and I probably said to him, given the fact that the communications were bad, it's not a problem. It happened on many many occasions before.

DR KLATZOW: And yet other evidence which has been led before various people and commissions and enquiries into this have led us to believe that the communications on that particular route were good most of the time, 85% plus at the time?

MR NADEL: I wouldn't want to speculate on that.

DR KLATZOW: Now, Mr Dick came to you and he said, I can't raise them and you said that's fine. What would have been the position if the aircraft had experienced some kind of dire trouble and had to ditch at sea?

MR NADEL: Well if the aircraft cannot call you it would be virtually impossible for us to have known that.

DR KLATZOW: Would it not be important for you to know that there was major trouble aboard the aircraft so that you could initiate some kind of assistance?

MR NADEL: I would believe at the time, if an aircraft has a problem he wouldn't be calling us, he would be calling the air traffic control centre that he is in contact with at the time.

DR KLATZOW: What happens if it is a peculiarly sensitive issue that needed to be discussed?

MR NADEL: I don't know.

DR KLATZOW: Would he not have called you?

MR NADEL: I don't know.

DR KLATZOW: You see the rumour is and has been for a long time that Captain Uys called ZUR and asked for permission to land after the first fire?

MR NADEL: I believe that is the rumour yes.

DR KLATZOW: Is there no truth in that?

MR NADEL: No.

DR KLATZOW: Do you think that that ZUR tape no longer exists Mr Nadel?

MR NADEL: I wouldn't want to speculate on that.

DR KLATZOW: And you say that there is nothing on that tape?

MR NADEL: There's nothing on the tape at all and I would be the happiest person if that tape did come to light.

DR KLATZOW: If I were to tell you that a copy of that tape exists, what would be your answer?

MR NADEL: I would say I'd welcome to listen to it then.

DR KLATZOW: And that that tape has been kept in a security establishment for the last ten years.

MR NADEL: I would be more than happy to listen to that tape.

DR KLATZOW: Do you think there is any reason why a major country would keep a tape of this nature in a security set up if there was nothing on it?

MR NADEL: I would not want to speculate but as I said, I would more than welcome that tape to be made public to dispel all the rumours that have been going on.

DR KLATZOW: Now at the hearing I've told you that Jimmy Mitton sat close to you?

MR NADEL: You mentioned that yes.

DR KLATZOW: Do you remember that Gavin Dick approached you at the hearing and said what am I going to tell them about the failure to contact ZUR?

MR NADEL: I cannot recall that.

DR KLATZOW: Jimmy Mitton will tell this Commission and will tell a Court of enquiry that he overheard Gavin Dick say that to you.

MR NADEL: It's possible, I don't recall though.

DR KLATZOW: Why would he say that to you if you had already given him those instructions at ZUR that night?

MR NADEL: I don't know.

DR KLATZOW: Well, let's look at it. Let's look at the possibilities. If you had said to Gavin Dick at ZUR, look it's not a problem, I mean this is routine, this is standard. There would be no need for him to ask you what he needed to tell Margo?

MR NADEL: If he asked me what he needed to tell Margo it was possibly because he felt uncertain, intimidated, I don't know but I do not recall.

DR KLATZOW: Mr Nadel, on what basis could you make that suggestion. You were his senior man at the station that night. You were the man in charge. He came to his officer in charge, said, I couldn't contact the Helderberg. His officer in charge said, it's not serious, this is nothing, no big deal. Why would he be uncertain about that. That is the thing that all junior officers love, to be able to place the responsibility on the next man up.

MR NADEL: I don't know.

DR KLATZOW: Why would he come to you at the Margo enquiry and say, what am I going to tell them?

MR NADEL: I don't know.

DR KLATZOW: Well could you give me a reasonable explanation?

MR NADEL: I have no explanation to give you.

DR KLATZOW: Well I'm going to give you an explanation. The explanation is that that conversation never took place between you and Dick at ZUR.

MR NADEL: I don't believe that.

CHAIRPERSON: Can I just ask, I'm sorry Dr Klatzow. You mentioned something here about him possibly having been intimidated. Why would he be intimidated by anything?

MR NADEL: I think maybe just the mere presence of the board in front of him. He was a junior employee and may have been intimidated.

CHAIRPERSON: What would intimidate him in going to speak the truth?

MR NADEL: I don't believe so but I think just the sheer presence of the people around him would make him feel nervous and I think that counts for me as well. I'm nervous as I sit here.

CHAIRPERSON: But wouldn't the obvious thing for him to say to you is look I feel very intimidated but I'm going to speak what I'm saying. But why would he have to ask you what must he say? Why must he seek to know from you what he has to say except that you know as the suggestion is being made, there was possibly something that you felt has or has not got to be said to the Commission?

MR NADEL: Commissioner I don't recall this discussion with him but it is possible that it did take place and as I say I cannot recall what I said to him or what I didn't say to him.

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Mr Nadel, Jimmy Mitton will come under oath and say that that is what he heard, overheard between you and Gavin Dick. And I want to put it to you, for your comment, that there is only one explanation and that is that the conversation that you claim to have had with Gavin Dick that night at ZUR did not occur?

MR NADEL: Well I wouldn't want to speculate on that at all no. I believe the conversation did occur. We did communicate during the evening.

DR KLATZOW: Well then I'm inviting you to give me a better explanation as to why Gavin Dick would ask you what to say to the Margo Commission when it was quite clear that all he had to tell was the truth, if that conversation did take place.

MR NADEL: I cannot give you an explanation for that.

DR KLATZOW: Correct. Because I've searched my mind for an explanation for that for many years and none is forthcoming other than the one that I have given you.

MR NADEL: I spoke to Gavin Dick on the night.

DR KLATZOW: Well did you have the conversation that you allege that you had with him?

MR NADEL: During the evening?

DR KLATZOW: Yes.

MR NADEL: I would believe so yes. I cannot recall exact words and times and dates.

DR KLATZOW: If that is true then there would have been no need for him to ask you what he needed to tell Mr Margo?

MR NADEL: That's possible.

DR KLATZOW: That is likely, overwhelmingly likely I want to put it to you.

MR NADEL: I cannot comment on that.

DR KLATZOW: At the time of the enquiry you were aware of the rumours. You were also aware that the tape was given to Mr Mickey Mitchell?

MR NADEL: I would believe so yes. I cannot recall but I would believe so yes.

DR KLATZOW: He was the next in the chain up? You're also aware that that tape, whether it contained information or not would have been an important tape in relation to the investigation. Even if it was to negative certain allegations?

MR NADEL: I would believe so yes.

DR KLATZOW: That tape went missing. Who do you blame for the fact that that tape went missing?

MR NADEL: I would blame whoever took the tape and gave it to the person for safekeeping, that person, who it is I don't know.

DR KLATZOW: Well, whoever took the tape and I want to take you up on what you just said, would have taken the tape, not just to leave it lying around. He would have placed it in a position of safety, wouldn't he?

MR NADEL: I would understand that yes.

DR KLATZOW: And he wouldn't have just given it to the tea girl or the messenger man or the assistant who did things there, he would have given it to somebody in authority?

MR NADEL: It's likely.

DR KLATZOW: Is that correct?

MR NADEL: Correct.

DR KLATZOW: Who was the next person up in authority, easily available that evening at your station?

MR NADEL: I don't want to speculate on that. There was a lot of people. As I said, probably between 20 and 40 people coming and going at all times of the morning.

DR KLATZOW: Mr Van Der Veer was there?

MR NADEL: He was there yes.

DR KLATZOW: And it would be like to him, it would be the obvious person to have there. He was the chief executive officer?

MR NADEL: Correct.

DR KLATZOW: So it's likely he would have been at the hub of things?

MR NADEL: Oh yes.

DR KLATZOW: And had the tape been taken out of ZUR by Jimmy Deal, passed on to Mickey Mitchell, it is likely that it would have come into the hands of Gert Van Der Veer?

MR NADEL: It's likely but it's not that it's 100% possible.

DR KLATZOW: Well Jimmy Deal who is unfortunately dead told me on a tape recording that he handed the tape to Mickey Mitchell and Gert Van Der Veer.

MR NADEL: If that's what he said then it must have happened like that, I don't know.

DR KLATZOW: And that would not be unlikely?

MR NADEL: Not unlikely no.

MS TERREBLANCHE: Mr Nadel you said you were very concerned about the speculation?

MR NADEL: Absolutely.

MS TERREBLANCHE: Until today. You are aware that SAA had an in-house enquiry about the Helderberg about three years ago?

MR NADEL: I believe so yes.

MS TERREBLANCHE: So yes. My question is, were you not invited?

MR NADEL: I wasn't invited. I was called by the chief executive to answer one question which I answered honestly. He asked me, was there anybody of higher authority in ZUR talking to the aircraft and I said no.

MS TERREBLANCHE: In addition to that, did anybody ever ask you whether there was a conversation with the Helderberg?

MR NADEL: Yes.

MS TERREBLANCHE: Did they ask you again during the in-house enquiry?

MR NADEL: That was one of the questions that the chief executive asked me. He said was there anybody and was there a conversation and I said no. I was very adamant about that.

MS TERREBLANCHE: So you were not required to come to South Africa for that enquiry?

MR NADEL: It didn't appear to be no.

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Did ZUR have the ability to patch through radio conversations with other senior members of SAA at the time. If there'd been a problem could you have contacted Mr Van Der Veer and put him on the line?

MR NADEL: It could have happened yes.

DR KLATZOW: There was that facility?

MR NADEL: There was that facility yes.

DR KLATZOW: And did anybody outside of ZUR that night speak to the Helderberg?

MR NADEL: I'm not aware of that no.

DR KLATZOW: Now, let me give you a scenario. You're aware that the cockpit voice recorder was recovered?

MR NADEL: Yes.

DR KLATZOW: You're aware that it was transcribed at great expense?

MR NADEL: Yes.

DR KLATZOW: And that it occupied approximately 30 minutes?

MR NADEL: Yes.

DR KLATZOW: You will also be aware that SAA serves meals at the beginnings of flights, not at the end of flights?

MR NADEL: I think each route is totally different, depending on the time of the day.

DR KLATZOW: Mr Nadel, can you give me one flight where SAA supplies a meal to it's patrons as they're about to come in to land?

MR NADEL: Not as they're coming in to land but if it's at breakfast time, two hours out, possibly a little longer, a little less they get breakfast, sure.

DR KLATZOW: Yes but we're not talking about breakfast, we're talking about dinner?

MR NADEL: No no, that's unlikely.

DR KLATZOW: Now if there'd been a discussion on that cockpit voice recorder about dinner. What would that imply?

MR NADEL: It would imply that dinner was being served or somebody was asking what is on the menu for the dinner.

DR KLATZOW: Well if it appears from that tape recording that dinner was served to the entire cockpit crew what would it imply?

MR NADEL: I'm not quite sure.

DR KLATZOW: Well it would imply that that cockpit voice recorder recorded that event at the time of dinner which would have been closer to the beginning of the flight rather than to Mauritius.

MR NADEL: It would probably imply that yes.

DR KLATZOW: Yes, it would imply that. Could you give me a better explanation?

MR NADEL: No.

DR KLATZOW: Right. We know that the cockpit voice recorder ceased to function because of the effects of fire?

MR NADEL: Yes.

DR KLATZOW: And therefore because it is a half hour recorded message which goes over itself and records only the last half hour, it means that that cockpit voice recorder ceased to function closer to Taipei than Mr Margo would have had us believe.

MR NADEL: I'm not an expert on technicalities so I'm really hesitant to answer questions about the cockpit voice recorder.

DR KLATZOW: But it stopped functioning as a result of fire. You can accept that?

MR NADEL: That's what they've found, yes.

DR KLATZOW: And it recorded a conversation about dinner?

MR NADEL: I'm not sure about the conversation.

DR KLATZOW: The official record Mr Nadel is that it recorded a conversation about dinner.

MR NADEL: I'm not aware of that, no.

DR KLATZOW: Well I'm now making you aware of that. And you've agreed with me that dinner would likely to be served closer to Taipei than to Mauritius?

MR NADEL: Yes.

DR KLATZOW: And therefore if the tape recorder recorded that dinner because it's a half hour recording, it must have ceased to function within a short period after, while dinner was being served, which is shortly after take off, rather than at top of descent?

MR NADEL: More than likely yes.

DR KLATZOW: Now, do you know what the standing instructions to pilots are if they have a fire on board?

MR NADEL: No.

DR KLATZOW: Well let me tell you that the instructions are that they are to put out the fire. Don't mess around. Put out the fire. It makes sense?

MR NADEL: Absolutely.

DR KLATZOW: It then says, seek the nearest available airfield and land as soon as possible. Does that make sense?

MR NADEL: Absolutely.

DR KLATZOW: If Uys had had a fire on board, is it not likely that he would have, at that stage, outside Taipei, two hours, three hours

from Taipei, is it not likely that he would have sought to land that aircraft?

MR NADEL: Absolutely.

DR KLATZOW: Do you think he would have done that off his own bat?

MR NADEL: I would believe so yes.

DR KLATZOW: Despite the fact that if he had known that there was contraband cargo aboard, do you still think he would have done it off his own bat?

MR NADEL: I would believe so yes.

DR KLATZOW: So he would have landed the aircraft and risked foreign countries who were hostile to South Africa searching the aircraft to find military contraband aboard. Do you think he would have done that without contacting you?

MR NADEL: I would believe at any given time if you're in a situation that I believe he was in, I don't think you'd think about the consequences as far as landing. You'd worry about that afterwards.

DR KLATZOW: So he would have landed willy nilly and placed the entire future of the airline in jeopardy because if that had become public knowledge to the authorities at Bombay or wherever these places were along the route it would have effectively have taken South Africa out of the skies.

MR NADEL: Possibly but you would have had a hundred odd people alive still.

DR KLATZOW: And you think Uys would have risked sinking South African Airways having thought that he had put the fire out, do you think he would have risked South African Airways merely to comply with a regulation?

MR NADEL: I think if he felt in his mind that the fire was out he would have continued. But I think if he knew in his mind that the fire was uncontrollable he would have landed.

DR KLATZOW: No. Let's get back to that and deal with that because I want to deal with your logic. If there'd been a fire on board and we've looked at the logic as to why we believe there was a fire on board outside Taipei and you've agreed with that logic?

MR NADEL: Yes.

DR KLATZOW: If that fire had been extinguished. The standing regulations require you to go down and examine the aircraft because it is possible that major structural could have been done to the aircraft by the fire?

MR NADEL: Yes.

DR KLATZOW: If Uys didn't do that, you're saying that it is quite easy on your mind that he would have done so without referral to higher authority?

MR NADEL: You mean that he continued?

DR KLATZOW: Yes. No. That he would go down, the regulations require him to go downstairs. He didn't do that. Why do you think he didn't do it?

MR NADEL: I'm not able to speculate why he did or why he didn't.

DR KLATZOW: But let's examine it Mr Nadel. You're ducking the question. Captain Uys had a standing instruction. That instruction is clear. If you have a fire, put it out and then go down. We know he didn't do that and we know that there is a great likelihood that the first occurred six hours or so earlier than the Margo Commission would have us believe?

MR NADEL: If that's what you say yes.

DR KLATZOW: And you've agreed with that logic?

MR NADEL: Yes.

DR KLATZOW: Now, can you think of a reason why he didn't go down and follow the eminently sensible regulations which all pilots know about and all pilots would adhere to because there is nothing that is feared more than a fire in the air?

MR NADEL: Well I couldn't give an explanation. I don't believe he wouldn't have done that.

DR KLATZOW: That he wouldn't have done what?

MR NADEL: Gone down.

DR KLATZOW: But he didn't go down.

MR NADEL: That was obvious.

DR KLATZOW: Correct. He went down in flames outside of Mauritius.

MR NADEL: Yes.

DR KLATZOW: Which means that if the argument that there was an earlier fire was correct, he did not go down. He did not follow those eminently sensible instructions and go down.

MR NADEL: That is if there was a fire beforehand, then obviously he didn't.

DR KLATZOW: And we've been through that logic and you find it logical?

MR NADEL: Well there's a lot of speculation once again.

DR KLATZOW: No no I've given you no speculation. I've told you certain facts. And those facts are not speculation. Those facts are that there's a discussion about dinner. That the tape recording has a certain period which it tape records and that it stopped functioning as a result of the fire. There's none of that that's speculation.

MR NADEL: I haven't heard a clear copy of the cockpit voice recorder so I cannot say.

DR KLATZOW: Mr Nadel, you're ducking the question. Margo accepted the official recording means whatever Margo accepted and Margo accepted that there was a discussion about dinner prior to the

failure of that tape recorder. Are you going to deny that there was a discussion about dinner?

MR NADEL: If that's what the tape said then no I won't deny it. What I'm trying to say is. The discussion about the dinner could have been dinner at home the next day.

DR KLATZOW: No, it clearly wasn't dinner at home the next day. It was to do with the dinner served in the cockpit. Would you like to read it? You've read that now.

MR NADEL: Yes.

DR KLATZOW: Are you in any doubt that a discussion about dinner being served in the cockpit was recorded?

MR NADEL: No, I have no doubt.

DR KLATZOW: Right. Now that must mean and there is no other explanation. I want to put it to you that that tape recorder must have recorded that outside Taipei when dinner was served and ceased functioning shortly thereafter?

MR NADEL: It's possible yes.

DR KLATZOW: Well if it is only possible give me another possibility.

MR NADEL: No, depending on what time dinner was served out of Taipei whether it was the normal time or slightly later I don't know but it is possible.

DR KLATZOW: Even if it was slightly later?

CHAIRPERSON: I think what the proposition has been or the perusing that has been made was that we must logically accept that whatever the time period was after the aircraft had departed from Taipei, whether it was an hour or two hours or even three hours, that recording, if it is a recording of dinner being served must be an indication that it was done closer to the time that the aircraft left Taipei than closer to the time that the aircraft was about to descend on Mauritius.

MR NADEL: I accept that.

DR KLATZOW: Now, can you think of a single reason why Mr Uys, having put out the fire would not go downstairs and check that his aircraft was indeed safe and indeed check that he was not going to have a tragedy such as the one which unfolded outside Mauritius?

MR NADEL: Yes.

DR KLATZOW: There's no reason is there?

MR NADEL: No.

DR KLATZOW: Yet he didn't do that?

MR NADEL: It appears not.

DR KLATZOW: Now, under those circumstances, do you not think that it is reasonable that he would have called up ZUR, or tried to call up ZUR?

MR NADEL: He probably would have tried yes.

DR KLATZOW: And he would have kept trying with the contingencies of the operation that he was dealing with but clearly it was, the aircraft was serviceable enough for him to make it from wherever he was at that time to just outside, one hundred and something nautical miles outside Mauritius, there would have been some opportunity for him to raise ZUR?

MR NADEL: If the communications were possible, yes.

DR KLATZOW: And it is the sort of thing that he would have told ZUR?

MR NADEL: Definitely. If he had got through to ZUR, he would have told ZUR that he had a problem and he needed to speak to somebody.

DR KLATZOW: And it is not far fetched that he would have made every effort to get through to ZUR?

MR NADEL: Absolutely. Not far fetched.

DR KLATZOW: Now what you are postulating is that for over three quarters of the flight of that aircraft the communications were so bad that no possibility existed that he could raise ZUR. Is that not far fetched?

MR NADEL: No. It's not far fetched, it has happened before.

DR KLATZOW: How often has that happened before?

MR NADEL: I would say many times.

DR KLATZOW: Was it a common occurrence?

MR NADEL: Not common, but not uncommon either.

DR KLATZOW: Now could you give me an explanation as to why Mr Du Toit says that it was a very uncommon experience, particularly on that sector?

MR NADEL: I cannot speak on behalf of Mr Du Toit, no.

DR KLATZOW: Do you think he's lying?

MR NADEL: I don't say he's lying but I cannot speak on his behalf.

DR KLATZOW: I'm not asking you, I asking you to think of a reason why he should say that to me?

MR NADEL: As I said, it's not common, but it's not uncommon either. So depending on the percentages, this could unfortunately have been one of the uncommon times when it didn't work.

DR KLATZOW: Mr Nadel if it's not common, it's common. So if it is not common then it must be uncommon?

MR NADEL: Correct.

DR KLATZOW: Now please. Make up your mind, one way or the other. Is it common or uncommon?

MR NADEL: It's not uncommon that communications sometimes don't get through.

DR KLATZOW: So in other words it's common?

MR NADEL: Yes.

DR KLATZOW: Give me a reasonable explanation why Mr Du Toit would want to come and lie to the Commission and say that it is in fact a very uncommon occurrence?

MR NADEL: I don't know.

DR KLATZOW: He gets nothing out of saying that.

MR NADEL: I don't know.

DR KLATZOW: You're aware that Margo found a number of things. Number 1, that Margo found that there was a proper procedure to be followed if there was no call.

MR NADEL: I believe there was speculation that there was a so-called standing orders, but there was no such a thing.

DR KLATZOW: Well Margo in fact, if you look at Margo, Margo found that there was indeed a procedure to be followed?

MR NADEL: It was mentioned at the hearing, yes.

DR KLATZOW: It was more than mentioned. That's what Margo established, that you had to do certain things?

MR NADEL: I don't believe that there is a standing order, no.

DR KLATZOW: Well is there or isn't there?

MR NADEL: No.

DR KLATZOW: Would you bear with me one moment Mr Commissioner, could we just take a three minute break while I find the relevant quotes?

CHAIRPERSON: Very well. We'll adjourn for five minutes.

Could we also take the time to make copies of the document that Mr Nadel was using.

COMMITTEE ADJOURNS

ON RESUMPTION

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Thank you Mr Chairman. You see at the Margo enquiry Mr Du Toit would have no reason to lie or to fabricate. He said certain things which you are contradicting flatly?

MR NADEL: Yes.

DR KLATZOW: Those things are incidentally the following. There is a procedure that is correct and this normally gets done and if that fails then we contact by any other international station like Speedbird, London and ask them to contact the aircraft. Is that not true?

MR NADEL: I am aware of that. That statement was made at the Margo Commission as well and I flatly refute that. There is no such a standing order.

DR KLATZOW: And if the aircraft in this particular instance does not call back then there's a duty on the officer to make contact on any other frequency and Du Toit says affirmative.

MR NADEL: That is correct. You try all the frequencies but there's no standing order.

DR KLATZOW: And if you couldn't get through you'd approach another airline to try and get hold of them?

MR NADEL: I know that's what he said but it's not true.

DR KLATZOW: It's not true?

MR NADEL: No.

DR KLATZOW: So in the eventuality of an aircraft ending up in the South Atlantic, I as a passenger have the happy prospect of waiting 'til I'm overdue before you people did anything about it?

MR NADEL: As I mentioned earlier on, I think there was two airlines in the world that had this facility, British Airways and South African Airways. No other airlines have this facility. It's not a legal requirement. The aircraft talks to air traffic control centres throughout and they are the people that normally initiate any search and rescue if there is a problem.

DR KLATZOW: And the period of non contact with a plane when it is due to contact you once every hour or hour and a half, four or five hours goes by and you can't pick them up however hard you try and this doesn't perturb you?

MR NADEL: No.

DR KLATZOW: It didn't perturb you at all?

MR NADEL: Because this is not a, as I said earlier on it's not a requirement by airlines. There's two airlines in the world that have

this facility. If you look at all the other mega carriers, they don't have this facility.

DR KLATZOW: With great respect Mr Nadel if the duty of the airline is to call you and if there are instructions to call that aircraft back if you can't raise or if they don't raise you and that fails to happen for five hours you are not perturbed by it?

MR NADEL: But those instructions do not exist. Where Mr Du Toit or Mr Dick got those from I don't know.

DR KLATZOW: Did you give evidence at the Margo Commission?

MR NADEL: Yes.

DR KLATZOW: Did you tell Judge Margo that those instructions don't exist?

MR NADEL: I believe I did yes.

DR KLATZOW: Were you cross examined on that?

MR NADEL: I believe so yes.

DR KLATZOW: Did Mr Southwood who was leading the evidence for the State ever say to you, Mr Nadel I believe you're making all this up?

MR NADEL: I believe he did say that yes.

DR KLATZOW: Why would he say that to you Mr Nadel?

MR NADEL: I don't know.

DR KLATZOW: I want to put it to you that he has the same feeling that I have as I am cross examining you now. That you are saying these things and that they did not occur.

MR NADEL: I actually have a briefing notice with me of the procedures to follow as far as making contact with aircraft and I would be happy to give you a copy.

DR KLATZOW: I would like a copy please. Mr Nadel, one of the things that has to be done is that the logbook has to be signed in. Is that not correct?

MR NADEL: Whoever hands over to the other person, the logbook is signed yes.

DR KLATZOW: Did you ever see the log book for the, have you ever had a look at that logbook?

MR NADEL: I have seen it at the enquiry I believe yes.

DR KLATZOW: Could you give me an explanation as to why, that logbook was never tampered with?

MR NADEL: I don't believe so, no.

DR KLATZOW: And it is an official document, an important document?

MR NADEL: I think it's an important document as far as keeping record of what actually transpired.

DR KLATZOW: And the signature of the man filling it in appears at the bottom of the page?

MR NADEL: I seem to recall yes.

DR KLATZOW: Can you give me an explanation why Mr Du Toit's signature appears on pages which he never filled in?

MR NADEL: Actually yes I can.

DR KLATZOW: Let me hear it.

MR NADEL: Mr Du Toit was actually a strange gentleman. And he would come on duty and sign three or four pages with the idea that we would be filling them in as he goes along. And that is the explanation that I can give you.

DR KLATZOW: Why would he do that?

MR NADEL: It was just his mannerism. He used to do it all the time.

DR KLATZOW: Was that ever crossed out?

MR NADEL: I don't know.

DR KLATZOW: You saw the document?

MR NADEL: I cannot recall.

DR KLATZOW: If you'd filled in those pages would you have crossed it out?

MR NADEL: I would probably have signed my name either over it or next to it or crossed it out, sure.

DR KLATZOW: Did you do that?

MR NADEL: I wasn't responsible for filling out the logbook.

DR KLATZOW: Who was?

MR NADEL: Mr Dick.

DR KLATZOW: We deal with another issue for the moment. How would you describe your job there. Would you describe it as a senior position in the airline, would you describe it as a fairly junior position at that time?

MR NADEL: I would say bordering on becoming more senior.

DR KLATZOW: More senior?

MR NADEL: Well bordering on becoming more senior.

DR KLATZOW: What does that mean in answer to my question. Were you or were you not a junior?

MR NADEL: I was a junior yes.

DR KLATZOW: And what is your position now?

MR NADEL: I am manager for South America.

DR KLATZOW: What was your position in Miami?

MR NADEL: I was manager for Miami.

DR KLATZOW: Area manager?

MR NADEL: Yes.

DR KLATZOW: Is that a senior position?

MR NADEL: Middle management.

DR KLATZOW: What was your salary at ZUR?

MR NADEL: I cannot recall.

DR KLATZOW: Roughly? Did you earn hundreds, thousands or millions?

MR NADEL: Thousands.

DR KLATZOW: How many thousands?

MR NADEL: I can't recall.

DR KLATZOW: What was your salary in Miami? Was it a substantial increase?

MR NADEL: Yes.

DR KLATZOW: How much increase?

MR NADEL: I can't.

DR KLATZOW: Double, treble?

MR NADEL: I wouldn't want to speculate no.

DR KLATZOW: Mr Nadel I want to put it to you, it's very strange.

CHAIRPERSON: You are not, with respect Mr, you are not being asked to speculate. I mean you are being asked to give an indication. I think there is a point here and I am sure you will appreciate in due course. Unless you have a very good reason why you should not give us an indication or an explanation but we are certainly not asking you to speculate what your salary is.

You know what your earnings are. You know what your earnings then were and as I say there is a point that he wants to converse with you. So if you could be frank about your earnings and the difference between your earnings between then and now, it might assist us to get over this point. I wouldn't like us to waste more time on the issue. So if you can give us any indication of what

your earnings were then and what your earnings are now, then we will quickly get over this point.

MR NADEL: Okay. If I can just go back a moment then. From my position at the time I moved through the ranks not very quickly. Reasonably slowly. It wasn't from one day to the next that I became manager for Miami. I became manager for Miami in 1992.

CHAIRPERSON: In fact that's the point I am sure that is going to be made, that you seem to have had a meteoric rise after the Helderberg incident and you see what then would be the basis for that.

MR NADEL: If I can give you a brief history of my career path I would be more than happy if you would like to hear it. After the Helderberg I was still in flight operations. I moved to what we call route clearance unit which was a sideways move, meaning that I didn't have to work weekends. I actually took a drop in salary because there was no Sunday time and overtime worked.

In 1990 they advertised in the national press as well as internally within the airline for trainee overseas managers. I applied for the job in 1990 along with 160 others from all walks of life, within the airline, from outside of the airline. I went through a process of psychometric testing. I did management courses and was eventually invited in January 1991 to be interviewed.

I got through the interview, there were ten of us left. Eventually two people decided on their own to step down from the training course and I then proceeded to go on a years training course as an overseas manager. I did various functional, non functional management courses. Functional courses within the airline, reservations, ticketing, sales, marketing.

The functional courses, and that's on record, it can be obtained, I didn't receive anything lower than 90+ percentage for the examinations. I was successful after the years training course and I was selected out of the eight. Five of us were eventually sent as trainee managers abroad. I spent nine months as a trainee manager before I was eventually promoted to manager in Miami.

I started Miami from zero ground base. We had one flight a week. We had no infrastructure at all. I set it up. After five years we were flying five times a week. Miami grew to be the most successful. The No. 1 route in our world-wide network in terms of revenue, load factors etc. So I'm a little concerned that the speculation is that I got this promotion because of what I know and what I'm not prepared to discuss with anybody else and I think I earned it through merit.

In actual fact my latest appointment to South America, Mr Nombeti approved himself.

DR KLATZOW: Mr Nadel we're not for one moment doubting your ability. We're merely saying that your rise in the light of what occurred and in the light of your original position is meteoric to say the least. Now whether it's meteoric because of what you know or meteoric because of your extraordinary abilities, I have not speculated on.

CHAIRPERSON: But then I think I must say, sitting from where I'm sitting, it will assist us in order to be either accept or dispel the speculation if we don't get the impression that you are evasive about your wage levels.

MR NADEL: No no.

CHAIRPERSON: I think in the confidentiality of this room and in this enquiry if a question is put to you, how much were you earning at the time, how much are you earning now, then we can be placed in a position where we are able to compare and see if we can make something out of it. That's my only concern you know that as you were saying you don't want to speculate about your wage, earning levels, I was slightly becoming uncomfortable because I knew that the same sort of questions were put for instance to one of your seniors and he was asked for a comment and I think in your own interest if you were candid about this and if you accepted that though it is a private matter but it will be confidentially treated, in your own interests.

MR NADEL: Mr Chairman thank you. Obviously an overseas manager's position is a highly sought after position in terms of your overseas posting, the environment you stay in, the added benefits that you get in terms of foreign currency, my salary in Miami was 50 000 US dollars. Now everybody is going to convert that to South African Rands and say, the guys a millionaire.

In actual fact that's not true. If you take the cost of living abroad, I think we can all do our maths. It's not a mega salary to be earning. My salary in South Africa was obviously South African Rand and I must be very honest with you, I cannot recall what my salary was but it took four years, four and a half years to get from the fateful day to Miami.

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Thank you Mr Nadel. Now earlier on I dealt with the issue of standing orders with you and you said that if Mr Du Toit said that there were standing orders and that there was a standing instruction, that he was mistaken and that there was no such thing?

MR NADEL: Yes.

DR KLATZOW: Is it possible that both Mr Du Toit and Mr Dick could be wrong?

MR NADEL: Yes.

DR KLATZOW: On this issue?

MR NADEL: Yes.

DR KLATZOW: So they are both wrong and you are right?

MR NADEL: Yes.

DR KLATZOW: Let me read you what Mr Dick says. In response to a question from Mr Du Toit he says, Mr Dick says,

“I presume we all have our own way of working but the standing order is between one and a half and two hours, up to two hours is acceptable.

Where is this standing order? It is kept on file at ZUR Radio Station”

Is he lying?

MR NADEL: I don't believe that standing order has ever come to light.

DR KLATZOW: Please answer my question. Is Mr Dick lying?

MR NADEL: I believe he made a false statement, yes.

DR KLATZOW: Why would he want to do that?

MR NADEL: I don't know.

DR KLATZOW: Mr Dick went into the details of what needed to be done.

MR NADEL: I believe it's very similar to what Mr Du Toit said as well.

DR KLATZOW: That is correct. But they differ from you, both of them differ from you in saying that despite the fact that there are standing orders you say there are no such standing orders?

MR NADEL: Absolutely. The only standing orders I have is I believe I gave you the copy.

DR KLATZOW: Now I did not have the advantage at the Margo enquiry of seeing your demeanour in the witness box. But Mr Southwood did. Mr Southwood put it to you very bluntly that you were lying. He said you are making up what you are telling this commission. Why would he do that?

MR NADEL: I don't know.

DR KLATZOW: Could you give me a reason?

MR NADEL: No I can't because I was under oath as I am now and I stick by that I said no then and I'll say no now again.

DR KLATZOW: Let us go through the problem that we have with your evidence. And I want to deal with something else before I do that. Were there any other things, any other records made on that tape of problems experienced by aircraft that evening?

MR NADEL: I don't have a copy of the tape so I don't know.

DR KLATZOW: Do you remember anything?

MR NADEL: No.

DR KLATZOW: It's likely that you would have remembered?

MR NADEL: If there was something that was untoward I would believe I would've remembered.

DR KLATZOW: Let's assume for instance an aeroplane had an engine failure. It would be the sort of thing that they would phone back and say guys we've had an engine failure, do you think you could get a spare engine up here?

MR NADEL: They would try and call and/or send a fax, not a fax a telex.

DR KLATZOW: Correct, to you?

MR NADEL: To operations yes.

DR KLATZOW: Yes. And you would be aware of that?

MR NADEL: I should be aware of it yes.

DR KLATZOW: Were you aware of anything else that evening?

MR NADEL: Yes there was an aircraft on the ground in Sol Island.

DR KLATZOW: What was wrong with it?

MR NADEL: I believe they had to, they had some technical problem which they had to bring an aircraft engine I think from Europe somewhere, I'm not sure.

DR KLATZOW: Yes. Was that on the ZUR tape?

MR NADEL: I'm not sure either.

DR KLATZOW: Did they contact you?

MR NADEL: If you have a copy of the logbook possibly but if not I don't know. They could have telephoned or sent a telex.

DR KLATZOW: And you would have been aware of both?

MR NADEL: I would believe so yes.

DR KLATZOW: Let me tell you the problem that I have with your evidence Mr Nadel, is this. A fire occurs on board that aircraft. The available evidence strongly suggests that it occurred early in the flight. During the period of your tenure at ZUR or just before you've conceded and agreed with me that it is something which they would likely have spoken to ZUR if it had occurred then.

You've agreed with me that the correct thing for the pilot to do would have been to go down and have the aircraft checked. We accept and it's common cause that that never happened. You expect me to believe that the pilot would have made the decision to continue flying despite all airline regulations and all flying regulations and all common sense on his own bat?

MR NADEL: I don't say that at all, no.

DR KLATZOW: You're saying he never, you're saying he never contacted you? We know he went on flying. There is only one inference and that is that he made the decision without referral to base to go on flying after that fire?

MR NADEL: I can state categorically, as I have done before, that the aircraft did not speak to ZUR and/or to anybody else to my knowledge. And if it did and if there was something untoward I would believe Dick should have told me and if he didn't tell me, he

was keeping something from me, and as I say, from my side I can categorically state that the aircraft never called.

DR KLATZOW: Mr Nadel, you're missing the question. I want to put to you a series of improbabilities in your evidence. And it is very easy to categorically deny something but I want to put it to you that your denial rings hollow. And I want to tell you why it rings hollow. It rings hollow for a number of reasons which I have given to you, all of which are based on fact, not on speculation.

And I started to give you those. And those include the fact that the likelihood with which you've agreed is that the fire occurred early in the flight, if the dinner is there. You've agreed and you've read that Margo, official transcript has a record of the dinner on the flight. You've agreed and the Margo enquiry has accepted that the flight recorder stopped because of fire.

You've agreed that that is most unlikely that that could have been outside Mauritius. You've agreed that the most sensible thing to do and would have complied with the regulations was for Uys to have gone down and have the aircraft checked. You've agreed that he didn't do that. And if we are to believe your evidence we must believe that he did all of that off his own bat without checking with ZUR?

MR NADEL: It appears that could have happened.

DR KLATZOW: You have furthermore told us that everybody is lying but you. Gavin Dick is lying and Mr Du Toit is lying and that you are the only person at ZUR that night who is telling the truth?

MR NADEL: The issues about the standing orders?

DR KLATZOW: No, the issue is about whether there was a tape recording that night. And to cap it all, Mr Nadel, the vital tape recording that covers that specific period of time inexplicably finds its way out of ZUR, never to see the light of day again. And you wonder why there is rumour and speculation. You wonder why it is?

MR NADEL: No, I don't wonder why it is. That is obviously the reason for it.

DR KLATZOW: That is absolutely. And there is good reason for that speculation. And there is good reason for the negative inference. And yet you give us a version which is so inherently improbable that it is difficult to believe. And in addition you've given us a version which not only I find improbable but Mr Southwood at the original Margo enquiry found improbable to the extent that he accused you of lying.

You've given us a version relating to the conversation that you had with Mr Dick when you yourself have agreed that had he had that conversation with you, there would be no reason for him to ask you at the hearing what he needed to say. It was there for him

to tell the enquiry. The truth, the truth is I was told by my superior officer not to bother about it.

I want to put it to you Mr Nadel that your versions are so inherently improbable that they should be rejected. And I want to put it to you that your fencing over the years with people who genuinely wanted to find out. The referral to Mr X, your demand that people not take down a statement when ostensibly your reason was to prevent yourself from being misquoted. And you then did the very thing that would ensure that you were misquoted.

I want to put it to you that that is inherently improbable and I want to put it to you that everything that you've told me today is untrue.

MR NADEL: Well I'd like to refute that. Absolutely.

DR KLATZOW: Well, I would like you to do better than to simply say that it is true. I'd like you to give me a reason why the Commission should believe you. Because I've given you cogent arguments why it is that what you've told us is a tissue of lies.

MR NADEL: Well, the only thing that I can say is I know in my mind, in my heart that what I've told you is true. I know that.

DR KLATZOW: Mr Nadel the last person who said that, in this country at a commission were the people who later were found to be the perpetrators of the hit squad activities. That statement is not dissimilar from the statements made by Eugene De Kock and his

band of merry men. I am asking you for a reason to believe you. I'm not asking for a bald denial. I'm asking for a reason in the teeth of cogent argument why it is that this commission should believe what you've told us.

MR NADEL: Firstly, I don't want to be associated with the previous people you spoke about, I don't think this is a political issue at all. This is a very sensitive issue. It's an issue where a lot of people got hurt, a lot of people are still hurting. I for one have a lot of rumours thrown around that come back to me, a lot of speculation.

I haven't enjoyed this, reading about these things in the newspaper when I know full well that a lot of it is or most of it is pure speculation. The issues of the Gavin Dick and the Etienne Du Toit, I don't believe a copy of that so-called standing order that they are talking about has ever come to light. If it was available at the time, it could have been subpoenaed.

This came up in the Margo Commission enquiry and I'll stick with that. The document that I gave you is the only thing that was on file regarding making contact with aircraft. At the end of the day I know that I was not aware of any conversation between the aircraft and/or any senior member. There was no senior person in flight operations on the night. I personally went through that list calling people as you can see.

So, maybe the misquotes of the Margo then and the Southwoods and those issues are issues that have come up again and that's possibly why you're basing your accusation that you believe I'm not telling the truth.

DR KLATZOW: Now you've said to me that there was no standing order. And you said that under oath today. You know that you're under oath?

MR NADEL: Yes.

DR KLATZOW: Mr Southwood put a question to you and you were presumably under oath then?

MR NADEL: Yes.

DR KLATZOW: He said, you would just ignore the arrangement, you would ignore the standing order, why. I wouldn't say ignore it. I went by past experience as far as this route is concerned. Why didn't you tell Southwood? Why didn't you tell Margo that there was no standing order? Why did you accept that there was a standing order at the Margo enquiry?

MR NADEL: I believe that I said no, that there was no.

DR KLATZOW: No. Let me read it to you again. Southwood puts the following proposition to you. He says,

“You ignored the standing order, why? Well I wouldn't say that I ignored it.”

If there was no standing order Mr Nadel, you would have said to him, Judge, Lord, there is no standing order, there was nothing for me to ignore. Why didn't you say that? You said I didn't ignore it. I went by past experience.

MR NADEL: I believe somewhere in the documentation I said there is no standing order.

DR KLATZOW: It's almost time for lunch. May I invite you to read through your evidence at the Margo Commission and I will complete my questions to you after lunch. And if you can point that out to me I would be very grateful.

MR NADEL: I'm trying to recall, eleven years later.

DR KLATZOW: I'm not asking you to recall. There is a full transcript of the Margo enquiry here which I will make available to you during lunch. Would you like to find the point at where you said there are no standing instructions?

MR NADEL: If you say it's not there.

DR KLATZOW: I'm not saying it's not there. I'm inviting you.

MR NADEL: Then I would like to read it yes.

DR KLATZOW: I'm inviting you to read the Margo enquiry.

MR NADEL: Thank you.

DR KLATZOW: During the lunch period. Would this be a convenient place to adjourn Mr Chairman?

CHAIRPERSON: It would. We'll adjourn until 2 o'clock.

COMMITTEE ADJOURNSON RESUMPTION

CHAIRPERSON: I'm sorry ladies and gentlemen, I had a telephone call to take which couldn't wait. Dr Klatzow?

DR KLATZOW: Mr Nadel you've had an opportunity over lunch to have a look at your evidence to the Margo Commission?

MR NADEL: That is correct.

CHAIRPERSON: Mr Nadel you are reminded you are still under oath.

MR NADEL: Thank you.

DR KLATZOW: Would you like to comment about what you found?

MR NADEL: Regarding the issue of standing orders, there's no indication that I refuted that with the original board. I do however want to reiterate that throughout the time I was referring to the note or notification, briefing notice which I've given yourselves a copy of this morning and that is what I was referring to throughout and that is why I still maintain that the other issues of what Mr Dick and what Mr Du Toit said are totally untrue and that I still haven't seen a copy of that document.

DR KLATZOW: But Mr Nadel. Mr Dick and Mr Du Toit who have no reason to lie because it makes it worse for them to bring up this red herring, if it is a red herring. Both of them, in your presence and you sat in on that hearing, I know you did, both of them said in

your full hearing that there was standing instructions. You were at no time, during that hearing inhibited from approaching South African Airways' lawyer and at the time South African Airways were represented by an extremely able man, by the name of Mr Puckrin.

There was nothing stopping you going to Puckrin and saying to him, this is wrong because it was an important issue. Standing orders had been disobeyed. It had evoked the judge's wrath, there was a debate that had raged for some time in that court room about the standing orders. At no time Mr Nadel did you go to any one of the legal representatives of SAA and say to him there were never any standing orders.

And in fact during the hearing, I want to put it to you that when a question was posed to you by Mr Southwood relating to those standing orders your answer was a tacit acceptance of their existence. Why did you not tell the enquiry at the time that there were no standing order and that Dick and Du Toit were lying?

MR NADEL: I will go back to what I can recall that day or that time. I was always referring to the briefing notice which I've had a copy of since day 1 and I very briefly was able to read through Mr Puckrin's cross examination of myself and he does refer to the briefing notice and/or the guidelines.

DR KLATZOW: The briefing notice is quite distinct and you know that from what was meant at the time by the standing instructions

which were on file at ZUR. That statement was made in your hearing and yet you never crossed, the first time you've ever contradicted that is today when you've given evidence here under oath.

MR NADEL: I would still like to say that the standing orders that were on file in ZUR are the standing orders that you have a copy of. If I failed to do it then I do not understand why.

DR KLATZOW: You see I want to bring, I want to bring this line of questioning to it's full circle. We know that the aircraft fell in flames off the coast of Mauritius. We know that aircraft don't normally do this. We know that SAA was probably involved with assisting Armscor in the total onslaught. We know that they didn't hesitate to ship military equipment aboard civilian aircraft. There's ample evidence.

We know that that was a dark and dismal period in this country's history. We know that there is a strong likelihood on an overwhelming balance of probabilities that a fire occurred earlier. We know that Uys didn't go down to see about that, in total disregard of all instructions. We have a concession made willingly from you that it is a most unlikely thing for him to do on his bat.

And the overwhelming balance of probability is that he communicated that to ZUR and it would have been done during the tenure of your shift. We then have on top of the evidence which I

have given you, none of which, and please don't refer to it as speculation, these are facts, we know then that the tape goes missing under circumstances which neither you nor anybody else is willing to explain.

We know that there is a history of incriminating tapes going missing in this country. The only inference that can be drawn from this is that there was something untoward on that tape, that there was a discussion with ZUR which was in some way highly incriminating towards either Armscor or the aircraft handlers, that is South African Airways, that you were aware of that information and that you are part of a massive conspiracy and SAA to cover that up.

The tape was impounded shortly after the accident, as it should have been. Inexplicably it finds its way back and inexplicably it gets lost. We also have a series of events which have occurred which make your story incredibly improbable. We have Judge Margo's enquiry deflecting the enquiry away from the talk of dinner, for reasons which are obvious now. We have Judge Margo stopping the cross examination of you just when it was about to produce fruit.

Shortly after Southwood accuses you of lying, that cross examination stopped and you remember that. We have Margo failing to ask an important witness, Jimmy Deel why he took the tape out and who he gave it to. And your evidence that you have led this

morning is so inherently improbable that it's with regret Mr Nadel that I tell you that I have difficulty believing a word of it.

I believe that there are elements in your evidence which are truthful. But the fact that there was nothing on the tape, the fact that you don't know what happened to the tape and the fact that you were never suborn to give evidence to deny the existence of the tape, I simply cannot believe. And you have not given me a probable version for any of the material facts which I have given to you today, other than a bare denial.

And I want to put it to you, that this enquiry is but the beginning. You are going to be called upon again if this enquiry re-opens in a proper judicial hearing to repeat what Margo did, this time on a more formal basis. You are going to have to give this evidence again. And I want to tell you that the evidence that you've given here under oath today is not going to be helpful to you at a subsequent enquiry because it is inherently improbable.

MR NADEL: Well I'd like to say that it's unfortunate you think this. If there is another enquiry and I'd be once again more than willing to appear. I will not change what I've said because I believe and I know, if things were hidden, if things were covered up I was not in a position or was aware of it. Obviously I can read between the lines as well and things do look rather strange.

I was never privy to sensitive information if something did happen, ever heard about, so as far as me changing my story I must be very honest and say that what I have said today is to the best of my knowledge what I know.

DR KLATZOW: Incidentally, there have been persistent statements made by crew members who are too frightened to make it under oath and to put their names to the statements but who have spoken to me, all of whom who have claimed that that tape was in existence, that the tape was listened to and that the tape was listened to by ZUR staff who knew the contents of that tape and that it was spoken about until they were upbraided by a senior official and they have never spoken of it again. Do you deny that that happened?

MR NADEL: I deny that absolutely. I have never heard the tape, the actual ZUR tape, I've heard transcripts of the tape from Mauritius tower, I've heard that tape, it was common knowledge, everybody heard it to the aircraft. I've heard transcripts of the cockpit voice recorder, in my opinion are almost impossible to understand.

DR KLATZOW: But you are not an expert, Colonel Jansen who did it is an expert.

MR NADEL: No absolutely, and I don't deny that. As far as actually listening to the ZUR tape I definitely deny that.

DR KLATZOW: You're a man of radio experience and you know that the CVR records the last half hour in the cockpit?

MR NADEL: Correct.

DR KLATZOW: The last half hour of that aircraft is recorded in a conversation with Plaisance Airport, isn't it?

MR NADEL: That is correct.

DR KLATZOW: Why is that not on the CVR?

MR NADEL: I don't know.

DR KLATZOW: Well could you advance an explanation?

MR NADEL: I'm not a radio expert as you pointed out. I'm familiar with black boxes and radio frequencies and that sort of thing but I'm not an expert as far as

DR KLATZOW: But it's a simple piece of logic Mr Nadel. The last half hour is recorded for all to hear on the transcript from Plaisance Airport, isn't it? You've heard that? It starts with Springbok 269 we have a smoke problem.

MR NADEL: 295.

DR KLATZOW: 295, we have a smoke problem. You've heard that?

MR NADEL: I've heard that, yes.

DR KLATZOW: Now if that occupies the last half hour of the existence of that aircraft, why was that or part of that conversation

not on the cockpit voice recorder? Can you suggest any explanation?

MR NADEL: No I cannot.

DR KLATZOW: Other than that the cockpit voice recorder occurred some time before that?

MR NADEL: I'm not an expert on cockpit voice recorders.

DR KLATZOW: Well Mr Nadel it's a simple piece of logic and you're fencing with me. It's a simple piece of logic which I don't think you need to be anything of an expert more than you are to answer. Can you think of a simple explanation?

MR NADEL: No.

DR KLATZOW: Can you fault the explanation that I have given you?

MR NADEL: I would once again like to say that I am not an expert so there could be technicalities that I am not aware of and I may be incriminating myself, I don't know.

DR KLATZOW: Well Mr Nadel that's an interesting answer because that kind of attitude has pervaded your evidence. And the point is a very simple one, a more telling answer than your refusal answer that question would be hard to imagine.

MR NADEL: If you maybe put it in simpler terms I could answer it.

DR KLATZOW: Two radio transmissions, two tape recorders are taping the same period of time. Surely they should contain the same information?

MR NADEL: That's logical yes.

CHAIRPERSON: For my own understanding, Dr Klatzow, now what is a, can you give me which of these two, what are these two conversations? One is on what and one is on what?

DR KLATZOW: Right.

CHAIRPERSON: Just for a lay person.

DR KLATZOW: The last half hour of the Helderberg, starting with a conversation where the pilot identifies himself, he speaks to Plaisance Airports, says we have a smoke problem. That occupies about the last half hour of that aircraft's life. The cockpit voice recorder.

CHAIRPERSON: Where is that now? On the plane.

DR KLATZOW: The cockpit voice recorder is on the plane itself, should be taping the same conversation and yet not a word of the Plaisance conversation is found on the cockpit voice recorder and not a word of the cockpit voice recorder is found on the Plaisance conversation. And there is only one explanation that I have put to the witness and that is that the cockpit voice recorder is at a period prior to the last half hour of the aircraft and there's other evidence to support that.

MR NADEL: Dr Klatzow thank you very much for clarifying that. I was also, I must be very honest with you, a little confused about the cockpit voice recorder having two recordings. I actually didn't realise you were referring to the tower at Plaisance Airport.

DR KLATZOW: I'm sorry.

MR NADEL: I apologise.

DR KLATZOW: Now do you agree with that?

MR NADEL: I understand yes.

DR KLATZOW: Do you agree with the proposition that I've put to you?

MR NADEL: Absolutely.

DR KLATZOW: There is no other explanation is there Mr Nadel?

MR NADEL: No, I agree with that.

DR KLATZOW: Now, if that fire occurred earlier, you would have expected Uys to contact you?

MR NADEL: Possibly, but if there were no communications.

DR KLATZOW: But there were communications outside ZUR. You are trying to convince me and the Commission that that aircraft was incommunicado from the time that the first tape was changed 'til the time that it crashed and that is so unlikely as to be rejectable, out of hand.

MR NADEL: I'm not quite sure who changed the tape but I believe the tape was only changed after the Helderberg crashed.

DR KLATZOW: No, that is not correct Mr Nadel. There are three tapes that concern us. There is the tape which recorded the take-off from Taipei which came to an end, either shortly after you had come on duty or just before you had come on duty. There is a second tape which is the one that went missing and there is a third tape which records the events on the following day.

MR NADEL: Okay I understand.

DR KLATZOW: It is the one in the middle that has gone missing.

MR NADEL: I understand.

DR KLATZOW: And it is, the reason, the reason is that it's gone missing without explanation, it has gone missing under the most suspicious of circumstances during the period of your tenure at the station and the explanations that you've given, all of them ring hollow. Not one of them has the ring of truth about it.

MR NADEL: I just want to clarify as well that the radio station as I mentioned earlier is not part and parcel of the, it's part of the set up but it's not that everybody sits in the radio station. The radio station is an office that could be down the hall. It's not that I'm sitting in ZUR the whole time.

DR KLATZOW: But that's not the evidence that you've given. The evidence that you've given is that the radio station is separated by a door and is no more than twenty metres away from you.

MR NADEL: Correct. But as I'm saying I'm not necessarily in that office all the time.

DR KLATZOW: No but you see, the deeper you go into this the more problems you're going to have Mr Nadel because it was close enough for Mr Dick to come and have a conversation with you about something which was irrelevant according to your evidence anyway. He sidled over during a tea break according to your previous evidence and said well I can't raise them and you said well that's not a problem, just leave it there.

Now that whole conversation I want to put to you never occurred. Because if it did occur the subsequent behaviour of Mr Dick at the enquiry is utterly inexplicable and we're left with the uncomfortable proposition that in this mess we have only one person telling the truth and that is you. And we've examined the propositions that you've put in some detail today and you have not provided a satisfactory answer to any of the germane questions which have been put to you.

MR NADEL: I'm sorry you feel that way. As I mentioned earlier on I'm quite clear in my conscience that I'm not aware of any conversation between Captain Uys and anybody telling us of a problem. If that conversation took place and I could have been out of the office and it had gone through to Mr Dick I'm quite sure Mr

Dick would have told me that this is a problem, they have a massive problem.

CHAIRPERSON: Dr Klatzow I don't think you are likely to get any further concessions from Mr Nadel. He has given us what he considers to be his best recollection and I would suggest that we perhaps should move on if there are other new aspects that you would like to explore.

DR KLATZOW: Thank you Mr Chairman. I have in fact reached the end of my questions. Thank you very much.

MR NADEL: Thank you.

CHAIRPERSON: Any questions?

MS TERREBLANCHE: I would just like to ask one or two. To the best of your recollection, can you remember even though you say that it was quite unique for Jan Smuts to have a ZUR facility and were there any other such facilities in South Africa. For instance at the military?

MR NADEL: There could well have been at the military. It's possible. I'm not a military expert so I don't know.

MS TERREBLANCHE: I understand that today there is a Denel Control Tower at the airport?

MR NADEL: I think Denel is part of the old Atlas aircraft manufacturing company. It's possible, I don't know. I'm not aware of it.

MS TERREBLANCHE: But wouldn't you have known as a radio expert whether those signals would maybe interfere or whether you would communicate with each other or?

MR NADEL: Well firstly I'm not a radio expert, not at all. But it's unlikely that frequencies could interfere unless there's a blocking of a frequency and I'm not sure how that happens.

MS TERREBLANCHE: But were you aware of being in communication with any other nearby control tower?

MR NADEL: No. We're not a control tower as I mentioned earlier on. South African Airways had this facility purely as a means of communicating with the aircraft. It's never been a legal requirement for an airline to have this facility because air traffic control centres are there to control the aircraft. The aircraft have to call at compulsory reporting points throughout to the various countries' air traffic control centres.

And I am also convinced there, if there was a problem, the aircraft would have communicated to an air traffic control centre saying we do have a problem.

MS TERREBLANCHE: But would they have communicated with another one?

MR NADEL: With another air traffic control centre?

MS TERREBLANCHE: Were there any other ones, if they couldn't get hold of you, would there have been an alternative for them?

MR NADEL: Well air traffic control centres are civil aviation control centres, it's compulsory to call them. They control the actual flow of airlines in the skies. It's not compulsory to have called us. As I mentioned I think there were nine, what they call flight information regions. There are nine areas that are controlled by different countries air traffic control centres and it's compulsory for any aircraft flying across these regions to make contact with those flight information regions.

MS TERREBLANCHE: But apart from that, if they had called somebody else when they were in trouble, would you have expected that other tower or radio station or whatever it was to call you?

MR NADEL: Well I believe if it was a, excuse me but I'm not an expert either, but if they have a problem whichever country is involved I would imagine would try and contact not necessarily South African Airways in house radio station but at least an air traffic control facility in South Africa.

MS TERREBLANCHE: Then I just want to have one last question. A Mr Van Der Veer, when you had a problem earlier that day with a seized engine, did he ever come in earlier in the day, that you were aware of?

MR NADEL: No.

MS TERREBLANCHE: Dr Klatzow has one more.

DR KLATZOW: Sorry, one last question. Had there been contraband material, material of war which caused that plane to catch alight, it would be extremely unlikely I want to put it to you that the pilot would have phoned one of the air traffic controllers along the route and said we've got a fire problem because to do that would have been to invite all kinds of questions internationally which SAA could not afford.

So I just want to put it to you, for your comment, that it would have been extremely unlikely for them to contact anybody else at that stage but ZUR. They wouldn't have phoned up Bombay flight control and said we've got ammonium perchlorate aboard, can we come and land. And they wouldn't have gone there to land which is why they flew on to disaster.

MR NADEL: That is your comment, I cannot comment on that. I would like to say that's speculation I don't know.

DR KLATZOW: Can you see any obvious flaw or even subtle flaw in the argument?

MR NADEL: You know, once again, I'm not an expert in military matters or what is carried on board aircraft or whatnot, I'm purely in the airline industry for the love of aviation and for what the airline is there for, albeit any other airline.

CHAIRPERSON: I think what is sought to be obtained from you is, given those times and I mean Bombay, I do not consider that South

African Airways flew to Bombay or to India or to any of these places and you were told earlier on about how one of the reasons the ZUR was being used was because you were flying around the bulge by which I understand you were not landing anywhere in Africa.

MR NADEL: Except Cape Verde Islands.

CHAIRPERSON: Except Cape Verde Islands, yes. Now I think what the question seems to establish is whether or not you consider there would have been a likelihood for Uys to have, one, and I'll speed the question here, to have considered landing in Bombay given the times or to have been given permission by the South African authorities had he asked for one to land at Bombay. What are your thoughts around these issues, given the times.

MR NADEL: Well obviously as you quite rightly say, given the time, India was not very friendly with the South African Government at all. I would like to go back to what I said earlier on is I think if you're burning you should at least think about the people on board and say well I'm going to land in any case, the consequences we can try and sort out later. That is my view.

And then I'd also like to maybe go on and say, as was mentioned earlier on, the fire could have started two hours out of Taipei. Wouldn't it have been more logical for the aircraft to turn around and go back to Taipei than to fly many more hours through

the night knowing full well that they can't land anywhere else if the problem re-occurred.

CHAIRPERSON: Do you want to follow that up with the situation in Taipei?

DR KLATZOW: Yes Mr Chairman. The aircraft had a political problem wherever it landed with that cargo. They could not go back to Taipei, for exactly the reasons that they couldn't land at Bombay or anywhere else along the route and the moment that aircraft landed it was faced with the problem of a search as to what had caused the problem and that would have been a disaster for South African Airways.

For it to have become public knowledge that South Africa's national carrier was flying contraband military equipment on a highly dangerous nature over civilian territory with civilian people on board would have killed that airline stone dead. Nobody would have flown it and nobody would have given it landing rights. And I want to put it to you that that was what was at stake in this whole disaster.

That is why Uys, who was a responsible pilot took the awful decision to allow himself to be overruled by somebody to fly on because he would never have done it off his own bat.

MR NADEL: I understand.

CHAIRPERSON: And on that understanding note can we really move on. Thank you Mr Nadel. I would only say from the Commission's side you should understand that we are all doing something that we do not enjoy doing. We are trying to find the truth of what happened because we continue, this is one enquiry I thought that the Commission would not go into precisely because it has been done before. It is huge, it always results in more questions being asked than there are answers that we are able to elicit.

But the letters from the Friends of Victims of Helderberg and other material that has been sent to the Archbishop or to the investigative unit have been of a nature that we could not ignore and we have to thank people like you who have come, at what really is short notice and in your case I understand from abroad and one would hope that your assistance will be for having come and testified will assist us in getting to the bottom of this tragedy.

So I thank you very much and for the moment I think you are excused and should you at any stage have anything that you can remember which you consider would be of value and assistance to the Commission, please do not hesitate to contact us.

MR NADEL: Thank you Mr Chairman. Thank you members of the board.

MS TERREBLANCHE: Thank you Mr Nadel and thank you also for the documents you've given us and thank you for coming all this way from Argentina.

MR NADEL: Thank you. If there is anything I need to send through, do I fax it to the regular fax number or must I fax it to any particular number, to yourself?

MS TERREBLANCHE: Yes. To myself and to the regular fax number.

MR NADEL: Thank you.

MS TERREBLANCHE: We are closing down in two months.

MR NADEL: I hope it will be before then.

MS TERREBLANCHE: Thank you very much.

CHAIRPERSON: Ms Terreblanche are you calling any other witness?

MS TERREBLANCHE: Yes, our person from Mozambique cannot come again, he's got a number of problems so we are calling Mr Mickey Mitchell, our last witness for the day. I think that you will be able to get away to your meeting with the Minister.

WITNESS EXCUSED