

IN THE HIGH COURT OF SOUTH AFRICA

DURBAN AND COAST LOCAL DIVISION

(3)

DURBAN

CASE NO 3156/00

DATE 2002/03/04

In the matter between:

**DINERS CLUB (SA) (PTY) LIMITED**

(PLAINTIFF)

and

**ANIL SINGH**

(FIRST DEFENDANT)

**VANITHRA SINGH**

(SECOND DEFENDANT)

---

**BEFORE THE HONOURABLE MR JUSTICE LEVINSOHN**

---

**ON BEHALF OF PLAINTIFF:**

**MR P M M LANE SC  
WITH MR K J TRISK**

**ON BEHALF OF DEFENDANTS:**

**MR A K KISSOON SINGH SC  
WITH MR M W COLLINS**

---

**PROCEEDINGS  
ON 6MARCH 2002  
[Pages 212 - 295]**

ON RESUMPTION ON 6 MARCH 2002ALL APPEARANCES AS BEFORE

LEVINSOHN J Yes, Mr Kissoon Singh.

MR KISSOON SINGH As the Court pleases, M'Lord. May I ask leave to hand up the amended pages which I had promised M'Lord. I will get those instructing me to insert them properly into M'Lord's at an appropriate stage.

5

LEVINSOHN J Thanks very much.

MR LANE M'Lord, whilst on housekeeping matters, with Your Lordship's leave we uplifted the bundle A and we have now separated it into two bundles for Your Lordship. The first bundle goes from page 1 to 199, and the second from 200 to the end.

10

LEVINSOHN J From 200 on. I see. Thank you very much.

MR LANE Just to make it more manageable.

LEVINSOHN J Thanks very much.

15

MR KISSOON SINGH M'Lord, one of my witnesses who I intended to call this morning has not arrived at court, so in the interim I will call the second defendant to testify, M'Lord.

LEVINSOHN J Yes.

VANITHRA SINGH (sworn in)

20

EXAMINED BY MR KISSOON SINGH Mrs Singh, there is no need for you to be nervous. Just listen to the questions and give your answers, all right. Now, you are the second defendant in this case?

--- Yes, I am.

And the first defendant, Mr Anil Singh, is your husband? ---

25

Yes, he is.

Now, is it correct that in February 1997 you signed an application form for an additional card on his Diners Club account?

--- Yes, it is.

And subsequent to signing that form you received a Diners card? --- Yes, I did.

5

Now you used that Diners card until you received a renewal card. Is that also correct? --- Yes.

It's common cause between the parties that a renewal card was sent to you in about December of 1999. Do you recall that? --- I'm not certain but I'm sure it was then that I received the card.

10

Can you speak up just a little bit loudly so that everybody in the courtroom can hear you? --- Sure, I will.

Now, when you received the new renewal card what did you do when you received it? --- When I received the card I took off the card and I signed on it and I kept the card and I just glimpsed at the pamphlet that was there, the little strip that it was stuck on and I presumed it was the same as the first and I threw it away.

15

So you didn't study all the documents that came with the card carrier? --- No, I didn't study it, no, no, no. Just because I took it for granted it's the same as the first that we had.

20

Were you aware that there were certain terms and conditions which had come along with that renewal card? --- Well, the terms and conditions on the card I thought was the same as the first that I had glimpsed initially.

LEVINSOHN J The question is did you know that that pack had terms and conditions on it? --- Yes, I'm aware of cards having terms

25

and conditions.

MR KISSOON SINGH Now, having signed the card, did you use the card yourself in any way from that time until the time it was returned to Diners Club? --- Not, no, I didn't.

Now this case concerns certain monies which were taken out or allegedly taken out of automatic telling machines in the United Kingdom in London on the 4th and 5th March 2000. Are you aware of that? --- Yes, I'm aware of it.

Now, did you ever go to London in your life? --- No, I did not. I have been in transit but not in London proper, when we had a problem with our flight.

Did you ever leave the airport building on that day? --- No, I did not.

And when was that? Was that in March 2000? --- No, it was about nine, ten years ago.

On the 4th and 5th March 2000 where were you? --- I was here in Durban.

And where was your husband? --- We were together. We were in South Africa, in Durban.

Did you ever give your Diners card to a third party to use? --- No, I did not.

Did you disclose your PIN number to a third party? --- No.

Did you give your husband's PIN number to anybody? --- No, I did not.

Or his card? --- No.

Do you have a passport as well? --- Yes, I do.

Is that the only passport that you hold? --- Yes.

Where is your passport? --- My passport is with me, I think.  
It's in my bag.

Make arrangements to try and have it available. And I take it  
that the stamps in the passport will confirm that you did not leave the  
country at the beginning of March 2000? --- Yes, it will. 5

Now, do you recall on the 3rd March 2000, going together with  
your husband to the Standard Bank because he had experienced a  
problem with his Diners card when he had tried to use it at a  
machine? --- I did go with him but as I was going off duty I walked  
with him to the bank. 10

And do you know what the problem was that he had  
experienced? --- The problem was that - we were told that the  
amount that we had paid was outstanding and we knew we had paid  
that amount. That was the problem. 15

Now, on the week-end of the 4th and 5th March did you attend  
any social function in the KwaZulu-Natal area? --- Yes, I did.

What function was that? --- It was a wedding. A family  
friend's, a close friend's wedding that I've been to on the 3rd night  
and the 4th and the 5th. 20

Where was this wedding held? --- 3rd and 4th I was in  
Effingham Heights - not Effingham. What is that area?

In Durban? --- In Durban. And on the 5th it was at a hall in  
town. I'm not familiar with it.

In the centre of Durban? --- Yes. 25

Did anybody accompany you to these functions? --- Yes, I

went with my husband and my daughter.

Now, on the morning of the 6th March 2000 did your family experience any particular problem? --- Yes, we did.

Could you please tell His Lordship what happened? --- It was early morning, Monday morning. My children were ready for school and as the driver got into the car and my kids got into the car they were actually hijacked. At gunpoint the children were pushed out of the car and the hijacker drove away with the car and the driver.

And we've heard evidence yesterday that the car crashed. --- Yes, as he went down, unfortunately on that day there was a traffic jam on the main road so the vehicles were diverted our street and there was a whole traffic jam there and there was an accident.

Was the hijacker apprehended? --- No, he ran away. He ran away, leaving the gun in the car though.

And where was your husband on that morning? --- He was at home.

Did he not go down to see to the car. As we all screamed, everybody ran. I know he ran out with the neighbours and all and, you know, they chased after the hijacker.

Now, there's been a suggestion that a telephone call was received by your maid from a representative of Diners Club on that morning at the home. --- That morning I was at home. The whole morning I was at home. If my maids do receive any call and if we are there they give us the phone immediately and that morning definitely not. I remember clearly because the message of the hijacking went throughout the area and people were people were phoning in, you

know, to ask how we were coping.

Did you know anything of a call later that morning from Diners Club? --- It was after we've been to shop.

And what time did you get to the shop? --- We went sometimes after 10.00. We were late that morning. 5

Why were you late? --- We were - because of the hijacking we were waiting for the fingerprinting people to come in and by the time we finished we got to the shop a little late.

Who received the call from Diners Club at the shop? --- My husband, Anil did. 10

Did he tell you anything about that call at all? --- He mentioned that he had to go home because Diners Club had phoned him in connection with the card.

He didn't tell you anything else about it? --- Nothing more and I just assumed that it was due to the hijacking. Most probably the hijacker had got into our card. I was more concerned about the hijacking than to really ask him what was happening. 15

And then he left you at the shop and he went away? --- He left and he went away.

Did you receive any calls from Diners Club yourself in relation to your own card? --- No, I did not. 20

What happened to your Diners Club card? --- I had my card with me until the next - it was the next day, the 7th that Anil took the card and returned it. He was asked to return it apparently.

Have you ever used you PIN number with your Diners card? --- No, I did not. 25

Now you know that a PIN number was applied for and obtained on the 16th February 2000? --- Yes, I am aware of it.

And did you go to the bank to collect your PIN number? --- No, I did not.

In fact, did you even know that your husband was going there to collect a PIN number? --- No, I did not till he came with it. 5

Now there's been a suggestion that when he came back he was accompanied by a representative of the bank who handed your PIN number to you. What do you say to that? --- No, he did not come with a ...[incomplete] 10

Do you recall signing a form? --- Yes. I am not certain whether I signed the form that afternoon or the next day but Anil was not in the shop when I signed the form. The form was brought to me. I'm not clear which person brought it but he was definitely not in the shop when I signed the form. 15

If you look at bundle A in front of you, the big bundle, look at page 43 of that bundle. Do you see that form? --- Mm.

Does that form relate to your Diners Club card? --- This is 43, the Standard Bank.

Yes, if you look about three lines down you'll see a card number, 36135822822069. --- Mm hm. 20

Does that relate to your Diners Club card number? --- I don't know the card offhand - the number offhand, but ...[intervention]

You don't know it offhand. But do you see your signature on that page? --- My signature is there so it's definitely mine. 25

And that is alongside your husband's signature? --- Yes.



Now, if you look at page 45 of that bundle, there's a similar sort of form but a different card number. What was that in respect of, or can you not recall? --- I don't know what form that is there.

You can't recall? --- No.

How did you come to sign these documents? Why did you sign these documents? --- It was application for the card PIN numbers.

And were these the forms that were brought to you by representatives of the bank? --- Yes.

You don't deny that you signed those forms? --- No, I don't. It is my signature.

And I take it you don't deny that your husband had received those PIN numbers for your Diners Club card? --- Yes, he did receive it.

Now, I have in front of me your passport. Could you just have a look at it and identify it as being your passport. M'Lord, we will have the appropriate pages photocopied in due course, M'Lord, to hand in as an exhibit. --- Yes, this is mine.

M'Lord, my learned friend indicates these are also attached to the 35(3) notice so it may not be necessary but as M'Lord has given an exhibit number to the previous photocopy perhaps we should just -M'Lord, we have a photocopy available which we can hand up now. So there is no - Exhibit K, M'Lord, if I recall correct.

EXHIBIT K - COPY OF 2ND DEFENDANT'S PASSPORT

MR KISSOON SINGH Thank you, M'Lord. No further questions.

NO FURTHER QUESTIONS BY MR KISSOON SINGH

LEVINSOHN J Yes, Mr Lane.

5

10

15

20

25

CROSS-EXAMINED BY MR LANE Mrs Singh, you've been in sitting in court all the time your husband was giving evidence. Is that correct? --- Yes.

So you've listened to his cross-examination? --- Yes, I did.

You listened to his evidence? --- Yes, I did.

5

Now before he gave evidence he must have discussed this case at length with you. --- There was nothing to discuss because we are in it. It's been here and by the time you go you don't want to talk about it any more.

Mrs Singh, are you saying you didn't discuss it with him? --- We talk about it. It's something that we cannot get it out of our mind.

10

LEVINSOHN J It's natural to talk about it. --- It's here.

It's natural. You would have talked about all the details. --- We talk about.

15

MR LANE And you would have spoken about the details, surely, Mrs Singh. --- We talk.

Yes. Now, when it came to your instructing your attorneys in this matter and counsel in this matter, did you give the instructions? --- Initially I asked - when the - it was Ms ...[indistinct]... Patel that I asked her to act for me because I was also given one of those forms.

20

And when you instructed your attorney about your defence did you give the instructions yourself? --- Yes, I did.

So you didn't just rely upon your husband? --- On that case I did, I asked my attorney to do and since my husband, he was involved in it, I mean it was his card and he does everything at home,

25

I asked him to go on and my attorney to correspond with him.

Let me understand it. I asked you whether you instructed them about your defence. --- Yes, I did.

Did you do that yourself? --- Yes.

So you told them what your defence was? --- I asked them to act for me.

5

No, not to act for you. Let me try and make my question a bit clearer, Mrs Singh. When the pleadings require you get a summons and then a plea is filed. The plea states in written form the defence you have to the action. --- In that instance my husband did for me.

10

I see. So you didn't participate in the ...[intervention] --- No, I did not.

Now closer to the trial did you participate in any of the giving of particulars? --- No, I did not.

Who did that? --- My husband.

15

Now, in February 1997 do you remember signing the application? --- Yes, I did.

Now, when you signed the application did you know that it contained terms and conditions? --- Yes, I was aware.

Did you read those terms and conditions? --- I did. While my husband was busy with Mrs Ribeiro I flipped through and I did read it. You know, I basically knew ...[intervention]

20

You were aware of the terms and conditions? --- ... of certain terms and conditions.

LEVINSOHN J Let her complete the answer, please, Mr Lane.

25

MR LANE Sorry.

LEVINSOHN J What did you say? --- Yes, while he was busy with Mrs Ribeiro, they were busy filling forms, I did flip through the little booklet and I read through it. I didn't read the whole thing but I glimpsed through and I basically knew what it was there.

MR LANE So you appreciated that, by signing the form, that you were entering into a contract? --- Yes. 5

Now, when you got the renewal pack, it came to you, we had an exhibit, do you recollect how it arrived, what the renewal pack looked like? --- I don't recollect, no.

M'Lord, I wonder if I might ask for the exhibit so that I can just show the witness? 10

LEVINSOHN J That's Exhibit E. Yes, show it to the witness, please.

MR LANE Do you remember that pack, Mrs Singh? --- Ja, I remember this.

Does that sort of bring back your recollection of the type of pack that you got when you got the card? --- Yes, I do. 15

Now, if you have a look just below the signature. If you open the pack up, just below the signature there is a note. Do you see that note? There's an English and an Afrikaans version of it. There's NB, do you see that below the signature? --- Yes. 20

Now, did you read that note? Did you read this document? --- No, I didn't. On my - when this came I just pulled out my card, I signed. I did not read this.

And the terms and conditions that accompanied it? --- I took for granted it was the same as the first. 25

But you saw them and you didn't read them? --- I didn't read

this.

Now, of course, in relation to the use of your card you did say that you hadn't used your card but, of course, the card was used in the sense that it was used to get your PIN. Isn't that correct? --- I didn't.

5

Your husband did. --- I wasn't aware of that being - and that use of that was as it's been noted, it was to activate the card, the initial ...[intervention]

Let's not talk about the activation of the card, Mrs Singh. --- But otherwise ...[intervention]

10

When you went to the back to get - when your husband went to get the PIN your card was used. --- I did not use it.

You didn't. --- I didn't use it.

Your card was signed at that time? You had signed your card? When you got the card you signed it? --- When I get, yes, initially.

15

Now, you were asked whether had used your PIN. You said no your husband hadn't ever used your PIN. Did your husband know what your PIN was? --- Yes, he did.

Now we also know, Mrs Singh, that your card was not utilised in any of the transactions which occurred on the 4th and 5th March. Isn't that correct? --- Yes.

20

The day of the PIN issue, that's the 16th February 2000, you say you can't remember who brought the application to your shop. Is that correct? --- Yes.

Do you know Mr Moodley, Mr Pat Moodley? --- I know him.

25

So if it had been him you would have remembered? --- It's a

long time and my shop gets busy so it's actually difficult to remember who walks in and who walks out. Sometimes it's - one of Standard Bank's staff could have come in or him and, as I say, I don't know whether I signed it that afternoon or the next morning but I did sign the form but, as you mentioned that Mr Moodley coming within Anil Singh, it is not true. They didn't come down together.

5

Well, Mr Moodley is going to give evidence that he came down and gave you the envelope himself. --- Sure, yes.

And that you signed it in his presence. --- I'm not certain who came with the card.

10

Do you understand the import of what his evidence will be? His evidence will be that he came back with your husband to the shop, that he gave you the PIN envelope and that you signed the application form in his presence and he took it back to the bank. --- Sorry, can you repeat?

15

Yes. Mr Moodley will give evidence that he accompanied your husband back to the shop, he brought the application forms, the PIN envelopes, that he handed you the PIN envelopes and that you signed the application forms in his presence and he took them back to the bank. --- That's not true.

20

On the 3rd March you say you accompanied your husband to the bank, Standard Bank, Chatsworth. What time was that? --- I'm not certain on the time but it was in the afternoon.

Early afternoon, late afternoon? --- I'd say in the mid because he had been to the bank and then he went to get his form. I went after that, after he picked up his receipt. When he went initially I

25

didn't go with him. I went after he went and got the receipt.

Where was the receipt? --- He brought it from home.

He brought it from home. So he'd gone home to fetch the receipt. Did he come back to the shop then? --- Yes, and then we went up.

5

And then you went to the bank. --- I was going home.

What time you normally go home on a Friday? --- I go home -no, no, it was just by chance that I was afternoon off. I don't usually - I don't have a specific day for an off.

And who went with you? --- One of our friends was with me in the shop so he walked with us and we all went out.

10

Who was that? --- Mr Pranil Singh.

And how long were you at the bank? --- I didn't time myself so I can't really tell you exactly how long we were in the bank.

Approximately? --- Difficult to say.

15

Did your husband make any telephone calls from the bank while you were there? --- Yes, he did. At least, somebody else made the call and gave him the phone through the little ...[intervention]

How often did that happen? Do you remember? --- You know, I didn't think that was like important so I didn't really pay attention to what was going on. I was standing on the side and just by the way listening to bits and pieces.

20

So you didn't hear the conversations either? --- I can tell you little bits of it but not the whole story and I don't remember the calls.

What time did you leave the bank, approximately? How long after you arrived? --- I don't know. I will actually not give you the

25

correct time if I tell you. I don't know.

Can you give me an approximation how long you were in the bank? --- I'm bad with time.

So you can't say whether it was a long or a short time? --- I can't. I can't. I definitely can't. 5

Did your husband leave the bank at the same time as you? --- We left together.

And did you both go home together? --- Yes, we did.

Did he return to the bank after he had come home? --- After that, no. I don't think so. 10

So he never ...[intervention] --- I don't think so because, as I say, it was that wedding the week and so I was actually preparing and rushing for that.

But you reckon he stayed at home with you that afternoon? --- He was with me till we got to the wedding. 15

And the wedding was that afternoon was it? --- It was - our functions are like three days, so it was the evening of the main day and that's where ...[incomplete]

And you can give me no times during that afternoon at all? --- Sorry? 20

No times? --- No, no specific time.

What time would the wedding have commenced? --- The function - that particular function goes on the whole afternoon. It's actually just to - it's a decorative thing that there's no specific - no time limit. It can go on the whole night because you have fun, you have dance, you have all that going on. 25



What sort of time would it begin? You say it goes on all afternoon? --- It - ja. It's more cook, feed, eat and make merry.

So did you go straight from the bank to this function? --- No, we went home. I've got my mother-in-law there who is disabled. I must feed her. Dress, change and then go. 5

I see. So shortly after going home you ...[intervention] --- We did everything, yes, and then we got there.

You can't tell me approximately what time you got there? --- No, I can't.

Late afternoon, middle afternoon? --- The wedding - late afternoon. Late, late afternoon. 10

So what would you regard as late afternoon? --- It's about fiveish.

Fiveish? --- Ja.

How long approximately did it take you to get ready, to feed your mother and so? --- I can't remember. It's so - it's long. I can't remember. 15

Now that wedding that you speak of, your husband went with you to that wedding? --- Yes.

And it lasted that evening. You say and into the Saturday as well? --- No. Saturday is a different function. It's the Hindu weddings go on for three days. 20

Yes, so it's a continuation of the celebration? --- Of the next day, yes.

Was your husband there then as well? --- The next day we went as well. 25

And the Sunday? --- Yes, we did.

It's interesting, in his evidence he didn't say that he was at a wedding that week-end at all. --- Nobody asked and nobody mentioned to ask where we were that day. It wasn't asked where we were.

5

I see. So you say you were not asked in preparation for this matter where you were that day? --- No, nobody ...[intervention]

I see. When that telephone call came through on the 6th March to the offices and your husband told you that he was going home to fetch his Diners Club card, was he in an agitated state about that?

10

--- We were all very agitated that morning.

But about that or about the hijacking? --- We don't know. I can't differentiate what agitated him more.

He didn't say to you why he had to go home? --- He just mentioned, "I'm going. They need my Diners card", so I presumed the hijackers must have got the card. Did we leave the card in the car? And I didn't really worry about it because at that time I was really concerned about the hijacking and the state of my children.

15

Why did you think that he'd left the card in the car? --- Sometimes, like we were out that week, sometimes it could have - because if he's driving and if his licence and the - if it's in the pouch and the card is in that pouch it could have gone.

20

So would he take his pouch out and just leave it in the car? --- His licence stays in the pouch and maybe a card so I took it for granted the Diners card was there. I didn't really - you know, nothing else had bothered me.

25

So did you think his licence and his Diners Club card  
...[intervention] --- Could have been. When ...[intervention]

Did you not see the car after that? --- Sorry?

Did you not see the car? --- The car?

Yes, after that. --- But we were asked not to interfere in the  
car. As I say, in the state of mind that we were on that morning,  
nobody was looking for material things. We were more concerned  
about the children and the hijacking.

I have no further questions, M'Lord.

NO FURTHER QUESTIONS BY MR LANE

LEVINSOHN J Re-examination?

MR KISSOON SINGH No re-examination, M'Lord.

NO RE-EXAMINATION BY MR KISSOON SINGH

LEVINSOHN J I want to ask you about these terms and conditions.  
You say that when you originally signed the application form, you  
remember signing it? --- Yes.

There's an application form. We've seen it - it's Exhibit D. You  
signed for your own card and your husband signed for a card. Is that  
right? --- Yes.

Now you say that you were aware that there were terms and  
conditions? --- Yes, I did.

But you didn't bother to read them? --- I glimpsed through the  
conditions - the terms and conditions in the first ...[intervention]

But you knew these cards are issued subject to conditions? ---  
Yes, I was aware of that.

And you didn't go to a lawyer and study it? --- No, I have

other cards as well and I actually think that all are basically the same.

Yes, but you didn't go and look at it? --- No, I did not, no.

For example, there is clause 11 of this, which says that,

"Diners Card may at any time in its sole and  
absolute discretion amend or substitute all or  
any of these terms and conditions."

5

You never applied your mind to that? --- No, no, no.

So when you got the pack for the new card in 1999, was it?

--- Yes.

You knew that there were terms and conditions? --- There  
were terms and conditions.

10

But you didn't study them? --- I didn't read it at all.

It was of no concern to you whether they changed their  
...[intervention] --- No, I didn't.

... terms and conditions and so on. Yes, thank you.

15

-----  
MR KISSOON SINGH M'Lord, may I, without asking Your Lordship  
to rise, just enquire whether the witness who ought to have been here  
is now available?

LEVINSOHN J Yes, certainly, Mr Singh.

20

MR KISSOON SINGH M'Lord, apparently she is here. M'Lord, this  
is the witness from Standard Bank, the lady, Rumba, that I spoke of  
earlier.

NAVAMONEY NAIDOO (sworn in)

EXAMINED BY MR KISSOON SINGH Ms Naidoo, is it true that you  
are also known as Rumba Naidoo? --- That is correct.

25

And what is your occupation, ma'am? --- I'm a teller at the Standard Bank.

Which bank? --- Chatsworth.

Is that branch in the Chatsworth Centre? --- That's correct.

Now were you employed by that bank at that branch in March 2000? --- Yes. 5

Do you know the defendants in the case, Mr and Mrs Singh? --- Yes, I do.

How do you come to know them? In what capacity? --- They are business clients of the Standard Bank, Chatsworth. 10

Are you related to them in any way? --- No.

Are you social friends? --- No.

So your knowledge of them arises out of your employment? --- That's correct.

Now, do you recall on the 3rd March 2000, the Friday afternoon, whether Mr Singh, that's the first defendant, had occasion to come to the bank with a problem he had experienced? --- Yes, I do. 15

Can you tell His Lordship what your knowledge of that incident was? --- Mr Singh came into the branch at round, roughly at round 3.00 in the afternoon, telling me had a - firstly, he came in to enquiries and he spoke to one of the staff there, explaining that he had a problem with his Diners Card. He could not access funds from his Diners card and the reason was that he had contacted Diners card and they had told him no deposit was made. 20 25

Is this what you were told? --- No, I overheard him explaining

to the staff his problem because my workstation was situated right next to enquiries where he was standing.

Did you get the idea that he'd already communicated earlier that day with Diners Club about his problem? --- Yes, from his explanation to the staff.

5

And were you then summoned to come and deal with this matter? --- Yes, the staff asked Mr Singh, "Who attended to you?", and he said, "Well, Rumba did", and that's when I was asked to take over the query, which I did.

Did you then attend to the query? --- Yes.

10

What did you do when attending to the query? --- Okay, once again I asked Mr Singh to explain to me what had happened and he told me he had tried to access funds from his Diners card twice in the day. He was turned down at the ATMs and he had contacted card division and they told him that his card was revoked because no payment was made into his Diners card account and he mentioned that he did make a payment with me, which I recalled he did make a payment with me, and he said he had a copy of that deposit at his shop. He did say he would go down to fetch his copy. In the meantime I told him that I would go and look up the bank's copy of the credit. While Mr Singh was gone to his shop to bring his credit back, I went and retrieved the bank's copy.

15

20

Now look at the big bundle of documents in front of you at page 368. Don't worry about the writing all over the periphery of that. I'm looking more at the preprinted form in the middle. Do you recognise that form? --- Yes, I do.

25

What is that? --- This is an M65 Diners card payment - deposit slip.

And was the original of that ever in your possession? That original M65 deposit. Did you ever deal with it? --- Yes.

How do you know that you dealt with it? --- Okay, when I had retrieved the bank's copy of it, then I noticed my stamp and signature and I recognised the deposit as well. I remembered it.

So your signature appears on that? --- Yes.

Can you just tell us where your signature is? --- It's on the bank teller's stamp.

The stamp saying, "Standard Bank, Chatsworth, 23 February", is that your signature in the middle there? --- Yes, that is correct.

So that signifies that you had received that deposit. Is that correct? --- Yes.

Now, did Mr Singh bring that deposit slip back to you that afternoon to show it to you? --- Yes, he did.

And what happened after he showed it to you? --- Okay, at that point in time I did not know what was the nature of the problem, so I contacted card division. I phoned card division and I explained to a lady out there that we'd made a deposit. The customer has his copy. The bank has their copy. It's been processed but what is the problem. So card division told me that there was an error in capture of the card number and, as a result, the deposit was not credited to the client's card account.

Now when you talk of "card division", who do you mean?

What card division is this? --- Standard Bank card division.

Why do you have to telephone that if it's a Diners Club query?

--- They handle all the Standard Bank cards and queries. We always contact card division.

Even if it's a Diners Club query? --- Yes.

And what were you told by the person at Standard Bank card division? --- Okay, the lady told me that the card number was incorrectly captured. As a result they do have a deposit of this amount in the name of A Singh and it's sitting in their credits outstanding because of an incorrect capture error and she told me that she would have to rectify the deposit, the error, and credit the client's card account with it. In the interim I must allow the client R1 000 over the counter. So when I ...[intervention]

When - sorry, you were going to say something. --- Okay, I went over to the counter and explained this to Mr Singh. He was not happy about that and I told the lady - I came back to the telephone and told the lady, "The client is not happy with that situation", and I asked her to liaise with the client directly. I transferred the call to a phone nearer to the counter and passed the receiver to Mr Singh, and he spoke to the lady at card division.

Were you told when the error could be rectified? --- She told me the error would be rectified and the card would be reinstated by Monday and in the interim we must allow the client R1 000.

So it was not going to be rectified the same afternoon? --- She told me no, it would be rectified by Monday and that seemed to have upset the client.

Now, what job were you doing in March 2000 at Standard



Bank? What exact specific job were you doing? --- I was the business teller.

Did you have occasions to issue PIN numbers to people? --- Yes, I do. The bank has a policy where we are to offer customers one-stop banking. If a customer comes in to you and he needs various services from the bank, they've got to do it - you've got to render that service. If it requires a PIN, yes, I've got to do it.

5

Now, were you in any way involved when the PIN number was issued to Mr Singh or to Mrs Singh or to anybody - not to anybody - either to Mr Singh or Mrs Singh? --- No.

10

You don't know anything about that? --- No.

How does the PIN number get issued from Standard Bank branch, if somebody wanted a PIN number? I'm talking about the year 2000, I'm not talking about present day. --- We have a PIN code issuing machine, as we call it.

15

A PIN code issuing machine? --- Yes.

Yes; and what happens? --- Okay, if a customer comes into the branch and requests a PIN on a card, we would ask the customer for his card and his ID. On verifying his ID details and being happy with that, we would proceed to issue the PIN.

20

Now, would this be a different machine issuing different PINs for Diners Club, as compared to Standard Bank cards or would they be the same PINs? --- It is the same machine used for the PIN issue for all cards.

And you yourself have used this machine? To issue PINs? ---

25

Yes, I have.

Again I'm talking from the year 2000. I'm talking, say, from March backwards in 2000. I'm not talking about from March forwards until today. --- Okay.

How does the PIN number get given to the client? When you would issue a PIN number for a client, how would you give it to the client? --- The PIN number is printed on a PIN code envelope and once the staff is satisfied that all requirements are met, we hand up the card and the PIN code envelope to the client. 5

And how does the PIN get inside the envelope? --- It is printed by the machine on the envelope. 10

Does the machine have its printed in-built or is it a separate printer which is used? --- Can you ...[intervention]

When you ask the machine to issue a PIN, does the envelope come out printed from the machine or is there a separate printer which you use to print? --- We insert an envelope into the machine. 15

You insert an envelope? --- Yes.

It's a manual thing which you do? --- It's a manual procedure, which is done by the staff.

LEVINSOHN J What would you do with the card? Do you do anything with the card? --- Yes. In the procedure of issuing the PIN the computer would prompt you via the procedures. Okay, when you click on "Issue PIN", it would ask you to insert the card that requires the PIN. Once you insert the card the next screen comes up, requiring the staff's user ID and password. 20

That's the bank official? --- Yes. 25

Right, and you put that in and then? --- Okay, then it would

ask you to insert a PIN code envelope. Once you've done that, an "OK" screen comes in. If it's okay you've done all that, you click on "OK" and it prints out the PIN code envelope.

And that's when you hand it to the client. Now what happens if you've got a member of staff that does that twice? Will they get the same envelope out with the same PIN number? I'm just giving you a fictitious sort of scenario. You put one in, the envelope goes in but then you do it again with the same card, same envelope, what do you get? Do you get a duplicate envelope? --- Yes.

With the same PIN number? --- Same PIN number. Okay, you do get that and on a report or on the mandate that the customers sign we've got to annotate that we've issued it twice because it will appear on a report that we've issued it twice.

I see, so there would be some record that it's come out twice? --- Yes.

But if the person - I'm not saying this actually happened, but if the person was dishonest and he was a fraudulent person working for the bank could he do that without making any record of it? --- He would have to answer for a PIN code that was issued.

Yes, thank you.

MR KISSOON SINGH The insertion of an envelope into the machine, first of all can you tell His Lordship what type of a printer this is? What does it look like, what does it work like? --- It's a very small device, about that size. It requires you to insert an envelope. When it reached a certain point of insertion it accepts the envelope and rolls it up to a certain level.

And then prints on it? --- And then once you click on "OK" then it prints.

Now, have there ever been mishaps or problems or things like that when envelopes have been inserted into this these type of printers? --- Yes.

5

Tell His Lordship about what could happen, not necessarily through somebody wanting to do something wrong but through a mistake, what could happen? --- Okay, the printer can take in the envelope to a normal level and when it's about to print it can reel it up a level where the PIN code is printed and its visible. You can in error pick up two envelopes at a time.

10

So are you saying two envelopes could be inserted in error? --- In error - because the envelopes are so thin it's possible. Okay, what I've seen happen, it's possible to pick up two envelopes and insert it and the printer would print it. It's only when the customer tears it or you handle it do you find out that there are two envelopes with the same code.

15

And that would then have only one entry because it was only asked to issue the PIN one time? --- Once.

It's a human error where two envelopes were put in by mistake into the printer? --- Yes. One envelope can be stuck on

20

To another envelope. --- Because they are so thin. I've seen that happen. The envelope could jam in the machine and it prints - it could be a poor print on the PIN code envelope. There are various things that could happen.

25

Now, again in the year 2000 from March and earlier, were these

machines, these PIN issuing machines, in an absolutely secure environment in the Standard Bank? --- The machine was installed at enquiries.

And could many members of staff of Standard Bank go up and down towards the machine? --- To access that machine. Yes, as long as the function of a PIN code issue was loaded on your profile ...[intervention]

LEVINSOHN J Mrs Naidoo, please speak into the mike. They are having difficulty in picking up your voice. If you don't mind. You can sit down if you want to. --- Okay, as long as the function of a PIN code issue was loaded on your profile you could issue a code. That was done by various staff.

MR KISSOON SINGH And was it under the monitor of a video camera or anything to see who was working at the machine in the year 2000 in March and earlier? --- No.

Have there been changes now since that time as far as PIN numbers and things like that are concerned at the bank? --- Okay, in the past year or so PIN code envelopes are now under lock and key.

What do you mean by that? Were they not under lock and key in March 2000 and earlier? --- No. There is control over the use of PIN code envelopes now.

That's from about a year ago. Is that what you're saying? --- Yes, about a year ago.

Now, do you know whether there was an Auto-e centre at your Standard Bank branch in February 2000? --- Yes.

There was? --- Yes, there was.

And does it also have a PIN issuing machine? --- Yes, it does.

Was it the same type of machine or a different type of machine or do you not know? --- I don't know. I haven't seen that machine.

You didn't work there on that machine? --- No, I did not work at Auto-e.

Thank you, M'Lord, no further questions.

NO FURTHER QUESTIONS BY MR KISSOON SINGH

LEVINSOHN J Yes, Mr Lane.

CROSS-EXAMINED BY MR LANE As Your Lordship pleases.

Mrs Naidoo, I want to read you a procedure. This I'm going to read to you from an expert summary of a Mr Donald Jardine. Do you know Mr Donald Jardine? --- No.

He is the programmer with the Microsoft Auto-e division of the Standard Bank of South Africa Limited. --- Okay.

Now, these are the steps that you take at the Auto-e and I want you to tell how it differs from your experience. This is what his evidence will be. He says first of all,

"The operator signs on with a secret code."

Is that correct? If you are going to issue a PIN you first of all sign on with a secret code. --- Yes, you've got to sign on the terminal.

He then says in relation to Auto-e that an E14 request is then sent to the Standard Bank of South Africa mainframe computer. Do you know about that? --- Sorry, sir, are you explaining the Auto-e procedure?

Yes, and if there is a difference I want you to explain to His Lordship what the difference is. --- Okay, once we have signed on

with our user ID and password we'd go to "services".

Yes. Then are you asked to enter a user ID and password? ---  
Okay, I'd go to "services". I'd go to "issue PIN" and I would go to -  
okay a pop up would come asking us to insert the card.

So you don't have a user ID and password? --- That follows  
after. 5

After? --- Yes.

Yes. So you insert the card. How do you insert the card? Do  
you swipe the card? --- No, you insert the card and you pull it out.

The what happens. It asks you for your user ID and password. 10

Is that particular to you? --- Yes, assigned to me.

Who are given user IDs and passwords in the bank for issuing  
of PINs? Are you senior employees? --- Our senior - our supervisors.

Is that correct? --- When we are employed we are given user  
IDs. Our password is a word chosen by us. 15

But what status do you hold in the bank? Are you a trusted  
employee? --- Yes.

Right, so you enter your ID and password. Now does a  
supervisor have to sign on? --- No.

So you can do this all on your own? No supervisor at all? ---  
No. 20

And you don't know the operation in the Auto-e centre where  
the PINs in this matter were issued? --- I don't know.

So there's no supervisor because in the Auto-e there is a  
supervisor who provides and override, a supervisory sign-on, swiping  
his card which constitutes the authorization for the issue of the PIN. 25

Did you know that? --- No, I don't.

You then having entered your identity number and your password, what then happens? --- It asks you to insert a secret code envelope into the machine.

Now, you have ever inserted more than one envelope yourself? 5

--- No, I have not.

Because, you know, Mrs Naidoo, that there is an audit of those envelopes, isn't there? At the end of every day there's an audit of those envelopes. --- Yes, now there is.

They count them to make certain they balance. --- Yes, yes. 10

That is now.

So if there had been two envelopes and one was missing you'd know about it? --- Yes. The supervisor actually does the audit.

Now, in relation to the printing of the envelope, the actual printing, you say you've actually seen PINs printed on the face of the envelope. Have you seen them? --- Yes, if it is inserted incorrectly. 15

Have you seen them? --- Yes.

Have you done it and inserted the envelope incorrectly? --- I have.

What do you do it under those circumstances? --- I refer it to my supervisor and we reprint the PIN and we annotate on the mandate the PIN was printed twice. 20

Because you know that every issue of a PIN is logged, don't you? --- Yes.

LEVINSOHN J Do we have it in this case, Mr Lane? 25

MR LANE We have the logs, M'Lord. We know in this - in fact,



Mr Pretorius is giving evidence. He's given an expert summary, saying that he has inspected the PINs in this case and all the computer logs demonstrate there was only one issue of a PIN and that was on the 16th February.

Now, let's go to the day of the 3rd March. You told His Lordship that Mr Singh arrived at 3 o'clock in the afternoon. --- Okay, roughly around that time I would think. I cannot say the precise time. 5

Was he accompanied by anybody? --- No, initially he came in alone. 10

Did he come back with someone? --- Yes, he did. He came in with Mrs Singh, his wife.

Are you sure that that was at 3 o'clock? --- I would say roughly around 3 o'clock. It could be plus/minus a few minutes give or take. 15

Can you give me an approximation when he left the bank? To go and fetch the deposit slip? --- It was about three minutes after me speaking to him. [Inaudible]... explain.

And what time did he come back to the bank? --- He came back within five minutes with his copy of the deposit slip. 20

Now, you say that you accessed what you referred to as the M65. Are you certain that you had an exact copy of the M65 that you accessed? Because my instructions are that you don't get duplicates of the M65. --- No, you don't get duplicates. You get a customer portion that you tear off and give the customer, and you get the copy that is out here. That is what the bank keeps. 25

They keep a copy? --- They keep a portion of the deposit slip and a second portion is given to the customer.

LEVINSOHN J I don't want to give evidence here, Mr Lane, but my recollection is what you do is if you for your own convenience make yourself a carbon copy they'll stamp it and give you a carbon copy but generally-speaking the bank keeps the original of that deposit slip.

5

MR LANE Yes. I need to take further instructions on that, M'Lord. I don't really know the - it just was a note that was passed to me.

LEVINSOHN J Because they sometimes give you a piece of carbon paper and you make a copy. Is that right? --- Yes, you could do that as well.

10

For yourself, for the customer. --- Yes.

But you keep the original? --- Keep the original.

Or you make a photostat for the customer if he asks for it. ---

Yes, there are various requests that we ...[incomplete]

15

MR LANE Now, Mrs Naidoo, you say that you phoned Standard Bank card division. --- Yes.

Are you certain it was Standard Bank card division? --- Yes.

Because the telephone calls were logged. Do you know the Text 19, the procedure? Does that ring a bell? --- No.

20

Text 19 is a method of keeping notes which Diners Club have and the telephone calls starting at 1.37 on that afternoon were logged at Diners Club card centre, not at Standard Bank. --- Well, I called what we refer to as card division.

Are you certain it wasn't Diners Club that you spoke to? Are you certain it was Standard Bank? Are you absolutely certain? ---

25

I'm not too sure of that. I know I called card division.

LEVINSOHN J Couldn't you be wrong about this because you don't often deal with Diners cards, I take it, in your bank. And if you had to deal with Diners card, you'd phone up Diners card, not your card division, surely? --- Mm.

5

Is it possible that you might be making a mistake? --- The usual procedure is that we ask the enquiries staff, who is more familiar with the number, you know, and we get a number and we phone card division queries.

But that's generally for Standard Bank and Mastercards and so on? --- Yes.

10

We're talking about Diners Club particularly. Anyway.

MR LANE M'Lord, I'll have to take an instruction as to whether the Standard Bank card division is capable of rerouting calls through to Diners Club but I will take the instruction and find out, M'Lord. When you were told that the account had been misallocated and you told Mr Singh, was he surprised? --- He was disappointed. He was upset. He was upset that he had done the deposit like a week or so ago and the error wasn't rectified until he came in and queried - I mean he queried it, and that was the explanation I can recall that the lady gave me at card division, saying until the client queries an error or until a client queries their deposit or whatever do they rectify it.

15

20

Well, it's not picked up. That's why it's in the suspense account. --- In the suspense account, yes.

The reason I asked that and this is why I wanted you to help His Lordship is that that information had already been identified at 1.37

25

that day. So it was already known to Mr Singh and so he knew approximately an hour and a half before you met him that there had been a misallocation. Didn't he tell you that? --- Okay, Mr Singh came to me to say, "You know, I've made a deposit. The card division says there's an error. What is happening?"

5

I see. --- So when I made the call, it was my intention to find out what had happened to that deposit.

And so he then went, collected the deposit slip and came back to the bank? --- Came back.

Was that very quick? How long did that take? --- About five minutes. In that time I went to retrieve the bank's copy from the strong - from the record room.

10

And it was then that he came back with his wife? --- Yes.

And that would have been, as you said, approximately five past three, ten past three that afternoon, if you're taking it at that then.

15

We accept 3 o'clock is an approximation. --- Mm, okay.

M'Lord, I wonder if I could take the adjournment now.

LEVINSOHN J Yes. We will take the short adjournment now.

COURT ADJOURNED

20

ON RESUMPTION

NAVAMONEY NAIDOO (under former oath)

CONTINUATION OF CROSS-EXAMINATION BY MR LANE Thank you, M'Lord. Now, Mrs Naidoo, the system you utilise is what is referred to as a BDS system. --- That's correct.

25

It's a branch delivery system. Is that correct? --- Yes.

That differs from an Auto-e system, which is an entirely separate network. Is that correct? --- That's correct.

Now, during the short adjournment we telephoned one of the Standard Bank experts in the BDS system and we are advised that it is absolutely essential that in relation to a PIN transaction, an issue, there has to be authorization from a second person. Do you dispute that? --- I can go to a BDS system, sign on. I can go through the procedure of issuing a PIN and sign off.

So you don't get any authorization from anybody to issue a PIN? You can just go and do it? --- I could go and do it.

So you don't go to Mrs Marimuthoo, you don't get anybody to authorize the issue of that PIN? --- No.

So if the BDS expert came and gave that evidence he would be not telling the truth? --- I am stating what I could do on the machine, on a PIN code machine.

Now, in relation to the - and you may or may not know this - that the printers utilised in the Auto-e are also different. The printer used in the BDS system is a Mannesmann Tally printer and that in the Auto-e is an Epson printer. Did you know that? --- I didn't know that.

I'm also instructed, Mrs Naidoo, that if you try and put two envelopes in, if you can get two envelopes into the printer, that the second will come out so blurred that it won't be readable. What would you say to that? --- I've witnessed an incident in the branch where in error two envelopes was inserted and the second envelope picked up the information of the first envelope.

And you say it was clear? You could read it? --- It was  
...[intervention]

Because my instructions from the experts who design these  
systems, who have tested them, is that, particularly in the Epson  
printer that's just not going to be readable when it goes through. --- 5  
It was not very clear but it was legible.

Now, as far as this particular case is concerned - M'Lord, might  
I show the witness Exhibits I and J?

LEVINSOHN J What were they again?

MR LANE They were the two PIN envelopes, M'Lord. I want you to 10  
look at those, Mrs Naidoo, and I want you to tell me if there's  
anything irregular about those envelopes? In other words, can you  
see the PIN printed on the outside? --- No.

So those have been inserted properly, have they? --- I would  
say so. The PIN is printed a bit lower on the envelope but it's in the 15  
required area.

In the required area. It's not visible on the outside of the  
envelope? It's in the required area? --- I cannot see it visible.

Yes. And I just want to correct one aspect which I took  
instructions on, and that is apparently if you phone the Standard Bank 20  
card centre it can reroute the call to the Diners Club, M'Lord. So if  
you did phone you would have been rerouted to Diners Club. Would  
you accept that? --- Okay, that could have happened.

No further questions, M'Lord.

NO FURTHER QUESTIONS BY MR LANE 25

LEVINSOHN J Mr Kissoon Singh?

MR KISSOON SINGH Just one question in re-examination, M'Lord.

RE-EXAMINED BY MR KISSOON SINGH Mrs Naidoo, you were asked by my learned friend about an audit of the PIN envelopes which takes place. --- Yes.

And you used the word "Now" when you gave your answer, according to my note. From when has this audit procedure been in place? 5

MR LANE M'Lord, that's not my recollection at all of that evidence.

MR KISSOON SINGH M'Lord, I have a record ...[inaudible] ...[intervention] 10

MR LANE [Inaudible - speaking simultaneously]

LEVINSOHN J What's your objection?

MR LANE M'Lord, that's not my recollection of her evidence at all. She didn't say "Now", M'Lord.

MR KISSOON SINGH M'Lord, I'm positive she said "Now". She said it twice. 15

LEVINSOHN J Well, let's ask her what she said. --- Yes, now there is a record and there is a balance at the end of the day of the PIN envelopes and there's a record of each envelope that an officer takes. At that time around 2000 there was no record. Envelopes were kept at the PIN machine and it was at any staff's disposal. 20

MR KISSOON SINGH There was no audit at that stage? --- No, there was no audit.

Thank you, M'Lord, I have no further questions.

NO FURTHER QUESTIONS BY MR KISSOON SINGH 25

LEVINSOHN J Thank you.

MR LANE M'Lord, might I - I'll have to put a version because I did not understand the witness to say that?

LEVINSOHN J Yes.

FURTHER QUESTIONS ARISING BY MR LANE Mrs Naidoo, I am instructed and there will be evidence from Mrs Marimuthoo that at that time, and Mrs Ramadu will confirm that, that at that time whilst there was no record that there was indeed an audit of those envelopes. There was a count every day. The supervisor checked that an additional envelope had not been utilised. Do you deny that? --- What I can recall is if I needed an envelope to issue a PIN I did not go to a sheet and make a record like I do now at the moment.

That's not my question. My question is at the end of every day the envelopes are counted and audited against the issue of PINs. There is a check kept of the number of PINs utilised against - the number of envelopes used against the number of PINs issued and that happened in March 2000. Those are my instructions and there will be evidence from members of your bank to that effect. Do you dispute that? --- No.

Thank you.

NO FURTHER QUESTIONS BY MR LANE

LEVINSOHN J Yes, thank you. That will be all.

-----

MR KISSOON SINGH - M'Lord, at this stage I must ask for an indulgence for the matter to stand down till 2 o'clock or later at Your Lordship's convenience, the reason being that my expert witness, Mr Gibson, is only going to be available shortly after 1.00.



LEVINSOHN J You obviously have no objection to that, Mr Lane?

MR LANE No, M'Lord.

LEVINSOHN J Yes, then we'll stand down till 2 o'clock.

COURT ADJOURNED

5

ON RESUMPTION

MR KISSOON SINGH M'Lord, I call Mr Gibson to testify.

LEVINSOHN J Have we got a copy of his expert statement somewhere?

MR KISSOON SINGH Yes, M'Lord. One ought to have been filed but if M'Lord has difficulty I have a spare copy available.

10

LEVINSOHN J Yes, thank you.

MR KISSOON SINGH It's the supplementary notice in respect of Mr Gibson which is more important, M'Lord.

LEVINSOHN J Supplementary notice, yes.

15

MR KISSOON SINGH Yes, M'Lord, there was a notice which was served initially which was defective and this then ...[incomplete]

LEVINSOHN J Very well.

LEE KENNETH GIBSON (sworn in)

20

EXAMINED BY MR KISSOON SINGH Thank you, M'Lord. Mr Gibson, would you please tell His Lordship what professional qualifications you hold? --- I have a B Com, a B Com Honours in Business Economics and I have an LL B.

And what is your present occupation, sir? --- My present occupation, I am head of the information systems and technology

25

academic department at the University of Natal in Durban.

LEVINSOHN J Just give it to me again. Information? --- Systems and technology academic department at the University of Natal.

MR KISSOON SINGH How long have you held that position for? ---

That position I have held for the last three years.

5

Prior to that what were you occupied in? --- Prior to that I was a lecturer in the same department at the University of Natal, Durban.

In what field? --- Also in information systems and technology.

Were you involved in the banking industry at any stage? ---

Yes, I spent 13 years in the banking industry.

10

In this country, I take it. --- Yes, it was with banks in this country, major banks in this country.

Have you had any involvement with the computer systems which banks utilised, banks that you were employed in? --- Yes, I was involved in both the running and the development of banking systems for the banks that I worked for.

15

And as part of your present occupation as the head of the department, what does your department actually deal with? What does information technology actually deal with in your department?

--- We deal with all aspects of the development and running of information systems, also the implementation of the information systems, which includes computer security aspects of those systems. We do the teaching of that.

20

Now, Mr Gibson, you were requested to peruse the pleadings and some of the other documents of record in this matter in order to proffer an opinion on various aspects. Is that correct? --- That is

25

correct.

Now could we deal at the outset then with ...[intervention]

LEVINSOHN J Did you say pleadings and other documents?

MR KISSOON SINGH Yes, M'Lord, in this case. Now let's deal at the outset, sir, with the ordinary credit card which one usually obtains from an establishment like Mastercard, Visa, Diners Club, American Express. You are familiar with those cards? --- Yes, I am. 5

And these cards, we think it's common cause, can be operated through automatic telling machines. --- That is correct.

LEVINSOHN J Can we just call them ATMs like everybody else does? 10

MR KISSOON SINGH As M'Lord pleases. When one uses a card in an ATM what is required for a transaction to be concluded? How does it get instructions or information? Where does it have to go? What happens in order for a transaction to be processed? --- There are two things you need. First of all, something that you have, which is the card itself, which will have a magnetic strip with certain information contained on that and then you also require something that you know which in this case would be a personal identification number or your PIN, as it's commonly known. 15

LEVINSOHN J So there are two ingredients - the one is the magnetic strip which on the card itself and the other ingredient is the PIN number? --- That is correct, M'Lord. 20

And it won't activate unless those two things are present? --- That is correct, M'Lord.

MR KISSOON SINGH Now if one has to take a credit card, it normally has on the face of the card certain details imprinted or 25

embossed there. Is that correct? --- That is correct.

For example, the account number might appear there embossed? --- Normally you would have the account number on the front of the card plus you would have the name of the client plus the expiry date would be on there. Normally month and year is the expiry date.

5

And why would it be necessary to have that information printed or embossed on the card in a form one could read? --- It's normally used if, for instance, you're using a credit card and the - where you are using the credit card they don't have a swipe machine which is one which allows you to read the information. They then put it through what we call a zip-zap machine which then imprints the account number on to one of those slips for the transaction.

10

So in other words for a manual processing of the ...[intervention] --- For a manual processing of the transaction.

15

And if there is to be an electronic processing of the transaction, what is operative on the card? --- It's the magnetic strip on the back. That gets read through a device which would read the information from the card or from that magnetic stripe on the back of the card.

20

Now, do you know generally what sort of information is put on to the magnetic stripe at the back of the card? --- The pertinent information would really be the account number and the expiry date, because that's really what you're looking for there.

Do I understand then that ordinarily one would not expect to find the PIN number encoded in that magnetic strip? --- That is

25

correct, ja. It's not common practice to put the PIN on the magnetic strip.

LEVINSOHN J Well, that would be a security disaster if you did that, surely? --- That is correct, M'Lord.

MR KISSOON SINGH Now recently are you aware of occasions when fraud has been perpetrated by use of credit cards, through your experience and through your research? --- Well, it certainly seems to be a growing trend. I'm just trying to recall some of the figures. In the UK, for instance, I think last year the figures ranged from between £134 million up to about £350 million worth of credit card fraud. In total, world-wide it's not just credit card, I'm just talking about computer crime is a major trend. The last figures that I have is for the year 2000 where Price Waterhouse Coopers estimated a total of \$1,6 trillion worth of computer crime in that year.

Is it possible to duplicate a credit card? --- Yes, it is possible to duplicate a card.

How does one do that? --- What you need to do is at some stage you need to have access to the card and you would then swipe it through a card reader, which would read the information off the magnetic stripe on the card.

Is that machine sometimes called a skimmer? --- Yes, it can be called a skimmer, it can be called a card swipe. They have - I think it depends on what it is being used for.

In practical terms, how does this happen, that one could get the information into a card reading machine? What would be the circumstances which would give rise to the opportunity to do so? ---

Well, any time that you can get hold of a credit card, be it at a restaurant or any place where you have access to that card and it is away from the person who owns the card, you can run it through one of these card swipes and get the information.

Does it take long to run it through this machine? --- No, it's a very simple, straight-forward one swipe of the card and the information is stored.

5

How big, in terms of size, is an average card swiping, card reading machine? --- Well, the newer ones, the mobile card swipes that are coming out, there is one now which is about 5 centimetres, I think, by about - 5 by 3 by 3. So it's a fairly small device.

10

And does it store information in it? --- It can hold information from 200 cards.

Are there slightly bigger machines? --- There is a slightly bigger one which is about - this is about 10 centimetres, by about - I think it's about 4 by 3, and that one holds over 3 000 card information. They are battery-driven, so you don't need any powerpoints to run the device.

15

And the information that is stored on any one of these machines can it then be retrieved at a later stage? --- Yes, you just - you have the ability to connect it to a personal computer and you just download all the information.

20

Now, on to what would you download the information from that? --- Well, you could load it on to your personal computer for later use.

25

And when you wanted to use it later how would you use it in

order to make a duplicate card? --- All right, well, once again you now have to have the equipment for producing a card and it depends on how sophisticated you want to make the card but you would need a device which - well, first of all, you need the cards with the pin stripe on the back then you would need something to print on the card so you get all the pictures on it. You would also need a device which would produce the hologram which credit cards have on them and to make it look really good you obviously would need the card embosser which puts the raised lettering on to the cards.

5

But is it necessary, assuming you wanted to only use the false card for electronic purposes, is it necessary to go the whole way and have the card embossed and hologrammed and everything else? --- Not that I'm aware of.

10

Are these equipment which is necessary to do all these procedures, are they very expensive? --- They range - your card swipes, the mini card swipes in dollar terms range from about \$900 to about \$1 400, and, you know, that type of equipment is in that card - that range - blank cards will cost you between \$3 and \$5 each. I don't have a price on the machines which you would do the printing of the card or the machine which you do the embossing, all right, but a card reader and writer - in other words, to write the pin stripe is also just over \$1 000.

15

20

Now, let's deal with the question of the PIN numbers then. In general terms, what is a PIN number? --- A PIN number is a personal identification number and it's - I'm just trying to think, in computer security terms any type of secure transaction you like to have a

25

minimum of two things that happen. As I said, the one is something you have. The other is something you know. And if you have the card, when you load that into the ATM, what that is saying to the ATM is, "Here is someone" - let's say, for instance it's my card that I load into the machine. The ATM says, "Here is someone who says that he is Lee Gibson because he's got this card that says he is Lee Gibson, that he is this account number and now he wants to do a transaction". So what that is doing is saying, "I have an identification of who wants to carry out the transaction". With the personal identification number what I am now doing is, I am authenticating to the machine or to the ATM that, "Yes, it is Lee Kenneth Gibson who is transacting". So it's a two-step process. The first is the identification. The second is the authentication.

5

10

And the authentication and the - sorry, what was the other word you used? --- Identification.

15

Identification. What are those controlled by at the end of the day? What is the end thing that controls those processes? --- Well, it's the card. The card controls the identification and it's the PIN which controls the authentication.

And how does the ATM then know that this has been identified as the correct person? Is it linked to something? --- What it does, it ties the account number and the PIN together to say that this is the person and therefore we can transact.

20

Now PIN numbers are generally issued by the establishment which is issuing the credit card. Is that correct? --- That is correct, yes.

25



And are you familiar with how PIN numbers come to be issued?

--- There are numerous - there are different - sorry, maybe I can correct that when I say they are issued. There are some organizations that allow you to choose your own PIN and some organizations which will issue the PIN to you, and what happens is when you first sign up or get your card and you're now a client, that PIN will be generated and stored for if you need it later. You might never need that PIN. I mean if you have a credit card and you never draw cash and you never use an ATM, then you're never going to use that PIN but it is generated right up-front and it will be stored for later use.

5

10

Stored by the establishment? --- Stored by the establishment, yes.

Generally, in what would it store it? --- Well, I would imagine it would be stored on some type of computer device. It would probably be some type of secure box, I would say. I am not too familiar with the absolute method of storing but it would be stored on a hard disk but there would obviously be controls to prevent you from getting into that.

15

And is it possible for persons to ascertain what the PIN number is, apart from the person really entitled to that, as the cardholder?

20

--- Yes, that is possible and there are various methods that you can do it. The most common method of getting PINs is by - the term used is shoulder surfing, where you stand and just look over the person's shoulder and see what PIN they type in. There are other devices which have been used whereby they attach these to a ATMs and you have - the way they attach them is that you have to put it through the

25

swiper, all right, first of all to get the card information and then they have some kind of sniffer device which picks up what you're actually keying in on the keyboard. There have been occurrences where they've used hidden video cameras and what they do is they video every single transaction that takes place. There are many different ways. I mean, from what I've seen, if you can imagine a way, it's probably been done.

5

Now, that is if somebody is totally outside to the institution which is issuing the PIN number? --- That is correct, yes.

Now, is it also possible for a dishonest member of an employer, an issuing employer, to utilise methods in order to obtain the PIN of some customer? --- Ja, there are ways whereby let's say a client comes in and says, "I want the PIN". You produce the PIN for the person and - but most of your - I think all of your banks that's done in secrecy but then you take the client to the ATM and you say, "We just want to check that your card and the PIN work. So please put your card in. Just type in your PIN", and then everything happens. It works and you say, "No, that's fine. Cancel the transaction", but that's it, you know, you've memorised the PIN. You've got the PIN.

10

15

LEVINSOHN J And would that register on the ATM as an aborted transaction? --- It depends on the system, M'Lord, as to where they actually register the transaction. I have known some systems where it would not register on the mainframe but there would be a transaction audit trail on the server which is serving that particular ATM.

20

25

That's, in fact, the local computer server? --- That's correct.

Not the mainframe? --- Not the mainframe, M'Lord, no. A local server might be controlling, I don't know, maybe four, five, ten different ATMs, M'Lord.

MR KISSOON SINGH But if I understood what you said correctly, an employee - assuming there is dishonest employee, that person could say to the genuine cardholder who has now come for the PIN, "Let's just check if your card is working", and the cardholder then puts in the PIN number and the dishonest employee could memorise the PIN number as it was being inserted? --- That is correct.

5

LEVINSOHN J That's a physical observation, nothing to do with the computer? --- No, no, that is just purely a physical observation. Once again it's a type of shoulder surfing, M'Lord.

10

MR KISSOON SINGH And are there any ways, things to do with the computer or the printer where a dishonest employee could manage to obtain the PIN? --- Well, yes, if you have sufficient knowledge to trap what is in the computer while you are printing, you can get the PIN there because at that stage - some of the systems that I have seen at that stage, the PIN is now in clear text or what we call plain text. It's not encoded at that stage. Because somehow or other, by the time you print it on that piece of paper it has to be in a human, readable form that someone can see what the PIN is.

15

20

So what you are saying is that although there are times when the PIN in an encoded or encrypted form, there are also times when it is in a decoded or a normal form, clear form? --- That is correct, ja. If you look at the total transaction coming all the way down to when you print that PIN out to give to the client, coming down line it's

25

that very last little bit which is the great danger from when it gets to the computer to when it actually gets printed out. That's the dangerous time.

LEVINSOHN J Just explain to me. For every account - let's call it an account for want of a better term - is a random number generated which is earmarked to be the PIN? --- That is correct, ja. 5

And that starts off by being encrypted on the system and when only when it's released or let's say spewed through the printing machine, then it becomes a number? --- That's right. Because right at that - somewhere in that end space it has to go from the encrypted form into something that the client can read and say, "Now I know what my PIN is". It's four or five numbers, or whatever it is. 10

MR KISSOON SINGH Now, is there a difference between a random PIN and a derived PIN? --- Random PIN, ja, is one - my understanding of a random PIN is one in which you, as the client, are allowed to choose the PIN. The - what was the other? 15

Derived PIN. --- A derived PIN is one whereby using a combination of the account number and certain other information they will derive a PIN from that, and that will be issued to you.

And the derived PIN would always stay the same? --- And that would always stay the same, yes. 20

Are you aware, and if you aren't please say so, are you aware whether the Diners Club PINs are derived PINs or random PINs? --- From my understanding, they appear to be derived PINs.

I'm given to understand that the PINs on the Diners Card in the year 2000 - February 2000 - comprised four digits. --- That's 25

correct, ja.

How does that compare with the security in the industry at the time? --- A four digit - am I allowed to ask a question or not?

Yes, just to clear up something. --- Is it a four digit numeric PIN?

5

Well, His Lordship is looking at it at the moment.

LEVINSOHN J Yes, you can have a look at this.

MR KISSOON SINGH Numeric meaning simply four numbers? ---  
Four numbers, ja.

LEVINSOHN J You're looking at Exhibits D and E. --- Thank you,  
M'Lord.

10

MR KISSOON SINGH I and J, M'Lord. --- The four digit numeric  
PIN is really not that safe because with four digits numeric, all you're  
going to get is - it's a maximum of 10 000 different permutations that  
you can have, okay, and that's why some of the - you'll find some of  
the banks that I do business with have now gone to - especially, let's  
say Internet banking - they have gone to a minimum of a six digit PIN,  
and in that they would use both upper case and lower case alphabetic  
characters and they would include numerics. If that's what you do  
with a six digit numeric you're now looking at somewhere in the  
region, I think, of about 57 billion different permutations that you can  
have, as opposed to the four digit numeric which will give you  
10 000.

15

20

Now that, of course, assumes some significance if somebody  
was trying to ascertain what this PIN number was by using a  
computer - somebody who was unauthorised to do it? --- Well,

25

that's correct because the fewer the digits and the less possible characters you can have in any particular position, the easier it becomes to get that code out.

Tell me, sir, is it possible to tap in a computer system, for want of a better word, unlawfully, in order to obtain information in the computer?

5

LEVINSOHN J Hereinafter referred to as a "hacker".

MR KISSOON SINGH A hacker?

LEVINSOHN J Yes, can somebody hack into this system of codes and get it out? Hack into the account information with the code? ---

10

M'Lord, I don't specifically know the Diners Club system and whether anyone can actually hack into that system but certainly there are recorded incidences of hacking world-wide and it's into places like the Pentagon, it's into places like the United States Air Force, who you would think would have top-class security but hackers have managed to break into those systems. So, from my experience, if they can break in there, I would imagine they could break into any other system.

15

You've presumably got a telephone line going from the ATM to the mainframe? Is that how it works? It works through a telephone line? --- Well, yes, but it just depends on how that telephone line is connected, whether it's a line in which you've dialled into the system or whether it's over the Internet. There are different methods of doing this.

20

I always understood hacking to be where you have two points. You've got your straight line between the base and the branch office,

25

so to speak, and somewhere between those two lines you've got the hacker sitting who is trying to tap into the system. --- M'Lord, what would be happening there is that would be someone getting on to the line and interfering and intercepting the data moving backwards and forwards.

5

Can that happen? --- Yes, that can happen but that can be quite difficult to do simply because of the method in which the - certainly I know the banks - because what the banks do, they use a system of when the messages move up and down and around their networks they use packets which takes your total message, breaks it into little packets and sends them off to wherever it has to go, to the destination. Now those packets don't necessarily have to arrive in the same order that they left. I mean the last packet can get there first, and so on but eventually when all the packets are there the receiving computer will then assemble all the packets and read the message so it does make it difficult.

10

15

MR KISSOON SINGH And if you were to hack into a system and obtain a PIN number in an encrypted form is it possible for somebody to then decrypt it? --- Yes, it's possible to decrypt anything if you have sufficient computing power and enough time to do it. The encryption standard which I know the banks have been using is the Dodo encryption standard, DES, which uses a 56 bit key if I remember correctly and there have been competitions in the United States as to how quickly you can crack these codes to get that key and therefore decode anything that has been encrypted. The last information that I have is that with a 56 bit key using the data encryption standard

20

25

they took 56 hours to get the key and to crack the code. That was 1998, so we're already four years down the track so I don't know what the speed for that is.

Well, once you have the key you could then decrypt anything that was encoded using that particular code? --- Well, that's right. 5  
You need two things. You need the key and you need the algorithm as well. The algorithm is the thing that takes the key and does the transfer from your plain text into your cipher text.

And the decryption using the algorithm is that something out of your specific field of ...[intervention] --- Ja, that's a very, very 10  
specialised field. You need to certainly get a computer scientist if you really want to into the mathematics involved there and certainly you need to find a computer scientist who has specialised in data encryption. It really is a very, very narrow specified field.

But such persons do exist and have occupations round the 15  
world? --- Ja, very much so, ja, and many times their occupation seems to be to break into other systems.

Is it correct, Mr Gibson, that you recommended a colleague of yours to the defendants to consult with him on the question of decryption? --- That is correct. I did that. 20

LEVINSOHN J So you don't want to speak about encryption and decryption and so on? --- M'Lord, I don't feel I'm competent to really get down into the nitty-gritty of encryption. I can talk about how it happens, what it does, how long it takes to break these encryptions but if you really want to get down into the mathematics 25  
thereof I'm not competent to talk about that.



MR KISSOON SINGH Now, as far as the question of the acquisition of the PINs that you can talk to then, is it often that employees of large institutions are involved in dishonest conduct, fraud, things like that? --- Well, I don't know whether it's just large institutions but once again certainly the latest figures that I could find was a survey done by Ernst & Young in the UK, where they said that - I think the figure they gave was 82% of frauds were, in fact, committed by employees of the organization, because they're the ones who have access to all the systems and the cash and everything else that's there.

5

10

Now these employees, would they only have to be employees of a high level of trust in the organization or would they filter right through to other types of employees? --- No, it goes right down throughout the organization. I mean one of the prime principles of computer security is that you don't rely on the lack of knowledge of your employees to protect your system. In other words, you can't assume that a teller in the bank doesn't know how to write a programme, all right, or hasn't got a computer science degree. You can't assume that. You have to assume that they know everything that can possibly be done to break the system.

15

20

And are large syndicates operating internationally in order to benefit from the computer industry at the moment? --- Once again, that certainly seems to be the trend. It's - a term that I have coined is it's good, clean crime because there's no sex involved, there are no drugs involved and there's no violence involved and if you want to steal - let's say you want to hold up a bank and rob the bank, there's

25

always a physical problem of getting the money away once you've stolen it but with digital crime it's just as easy physically to move 100 000 as it is to move 100, so you might as well take the 100 000, and that certainly seems to be the trend that the crime - the size of the crimes is getting larger now.

5

Now is the fact that there is an increase in this sort of crime something which is well-publicised or is there some reluctance on the part of establishments to do so? --- There seems to be a reluctance, for whatever reason. I'm not quite sure about that but some figures that I saw within the last two to three weeks which was research carried out in California, they are saying that two-thirds of all the intrusions never see the light of day. They're never admitted to. Okay, so only one-third, one in every three do companies admit have happened.

10

Now, at this particular point in time, Mr Gibson, if I can just refer you to the small bundle. This is bundle B, M'Lord. --- This file here, is it?

15

That's right. That's correct. There is a double spreadsheet. That is PTC1, M'Lord. --- Okay, I have it.

It is a document which has been prepared by plaintiff or plaintiff's representatives, setting out details pertaining to all the transactions or the fraudulent transactions concerning this particular case. And we see, for example, on the first page of that annexure that there were ten transactions at Lloyds, one of which failed. Do you see the information right across the page? I'm looking at transaction 1, 2, 3, 4, all the way down to 10. --- Okay, No 2 failed.

20

25

No 2 failed. Do you see that? --- Right, okay.

And do you see that these all appear to have been at the same ATM? Under ATM identifier, the blue highlighting on the left-hand side of the page. --- Correct. Ja, so that Lloyds TSB % L9 DEHC1, is that the one? 5

That seems to be the identified machine, and the address seems to be given as 344 Grey's Inn, and then there are various transaction times. --- Correct.

And they seem to follow in close proximity to each other, these times. 13:20, 13:21, 13:22, 13:23, 13:25, 13:38:, 13:39, 13:40, 13:41 and then - I think that's at 13:41. Do you follow that? --- Yes, I've got that. 10

Now, if you follow the rest of the Annexure PTC1, you will see that transactions appear to have been done at one particular ATM and there seems to be a bit of a break and then it goes to the next series at another ATM, maybe at a different organization, and so on and so forth, right down the entire list of - I think it's 190 transactions which was performed, successful transactions. --- Right, okay. 15

Now, is there any reason why a person who is committing a fraud could not just stay at Lloyds Bank, Lloyds TSB, where the first transaction was done, and keep using the card there for 24 hours? --- Well, there are a couple of reasons. One, of course, the ATM might just run out of money which is always a reason why you would move. The other one, of course, is that banks do have monitoring programmes which keep track of what is going on as transactions are taking place and this monitoring would work in two different ways. 20 25

The one would be working on a client's spending profile. For instance, let's say I have a Mastercard credit card and I use it and I would normally spend, let's say R3 000 or R4 000 in a month and that would be equally spread over each month, and suddenly they saw that my credit card was being used for three or four transactions in one day totalling up to R35 000 or R40 000, the system would immediately blow a whistle and say, "This is out of this client's profile. This is not how he normally spends". Right, so that -I would expect companies to have that installed. The other type of monitoring which they should be doing is to monitor patterns at particular ATMs, so that if they see something which looks as if it's out of the ordinary, all right, and the figures say that in any one day you'll probably find that anything up to 10% could look out of the ordinary. Right, now these transactions here with this, like Lloyds, going 1, 2, 3, all of those transactions, it appears to me that whoever was doing this suspected that they were being monitored and therefore they would do a certain amount of transactions and then they would move because what an organization would do would be to say, "Well, we're blowing the whistle. There's something strange going on at that ATM", but then it stops happening. Because if they just stay there the whole time, eventually they would send security out to go to them and say, "There's something strange happening at that ATM", and therefore it appears to me that whoever was doing this seemed to know that you need to move every so often.

Are you aware of examples of how fraud could be perpetrated at ATMs by dishonest staff responsible for, say, cash replenishment

5

10

15

20

25

of the machines? Are there instances which come to mind? --- Ja, you would certainly need some kind of collusion. The collusion would be someone in the IT department and someone in the branch and - I'm just trying to think how, if I would do this, I would perpetrate this fraud. Because at the end of it you have to make sure that the cash balances at the end of the day. So, in other words, if the machine says that it has given out £20 000 in a day, you've got to be able to balance that machine at the end of the day, but if you can send through transactions which say that it's paid out £20 000 but, in fact, has only paid out £10 000 you then would need the collusion of the person in the - or whoever does the clearing of the ATMs, be it one or two people, depending on the rules that the bank would have, to take that extra cash out and thereby the machine would then be in balance.

5

10

In your experience, do banks generally place limits on amounts which can be withdrawn from ATMs? --- Certainly, yes, in the time that I was with banks there were limits. I certainly have a limit on how much cash I can draw using my normal ATM card. I am not quite sure as to whether the credit card people do that or not.

15

And if you have a look at another annexure in that bundle B, it's just after Annexure PTC. It's one which has the diagrammatic sketch prepared by the plaintiff of various ways in which a transaction is routed. I will try, for M'Lord's convenience, to try and identify the document. It doesn't appear to have a page number, M'Lord. It's just before the photographs, M'Lord.

20

LEVINSOHN J I've got it.

25

MR KISSOON SINGH Do you have it, Mr Gibson? --- Yes, I have it.

That seems to show a diagrammatic sketch of how transactions were allegedly done in this particular case. --- Right, okay.

And it basically shows that signals or transmissions went by diverse switches and links and so on and so forth, in order to get identification or verification or whatever. --- That's correct.

Now, in your opinion, would it be possible for the information to have been accessed, assuming there was a flaw in any one of these various entities or organizations' computer systems? --- Sorry, can you just repeat that question?

Would it be possible to access information, travelling from one to the other as it went up and down that line from the ATM all the way to the end its end point was and back to the ATM? --- Oh, ja, I mean it's always possible to get into lines and monitor the lines and see what information is going backwards and forwards. However, I would still say that that is probably the most difficult route to try, but, as I said before, if you've got enough time and you've got enough money, ja, you can achieve anything.

Now, are you aware of what a sniffer is? --- Ja, there are various different types of sniffers or way in which the term is used. A sniffer can be, for instance, something which is on a line to try and pick up information. A sniffer can be something in a computer which, instead of just picking up the messages that come for itself, this computer will pick up the messages for all computers and thereby try and get whatever information they can out, but it is something which is in there, trying to get information.

And is this type of equipment employed in computer frauds, ATM frauds? --- Ja, they use them. It's all around and another place where I've seen the term "sniffer" used is where they actually connect it to the keyboard to actually pick up with the people type in, what the PIN is that they type in, all right, keeping in mind that it's got to be done quite cleverly because with a lot of these systems the PIN encryption is done by the keyboard itself. So you need to pick it up as the key is depressed.

5

So then in the field of computer security what is your opinion as to whether a computer system is inviolate? --- I don't think there is one, right, and the reason why I say that is that, I guess if you really wanted to you could have a computer system that could not be cracked, hacked or broken into but by the time you've finished putting that system together the cost of that system would be so exorbitant that it's cheaper to let the frauds happen than to spend the money on trying to protect the system. Right, so my answer is, in practical terms, I don't believe there is any system that can't be broken.

10

15

So if one assumes - let's take a large organization like the Pentagon in the United States, would it be fair to assume that it has a high degree of security in its systems? --- Well, ja, I would assume that they have. I mean, it is the Pentagon, and the same as I said about the United States Air Force. I mean these are top secret organizations, so, ja, they should have good security.

20

Is there any research that's been performed to indicate whether there have been any attempts to break into the system at the Pentagon or the United States Air Force? --- Well, as I mentioned

25

earlier, I said they were looking at something like 250 000 attempts at intrusion into the Pentagon systems of which probably 65%, two-thirds, were successful. They don't report to what depth the intrusions took place. Certainly with the United States Air Force, that one was quite serious because they did get into some quite critical information and they also did things like breaking into the North Korean Nuclear Programme, stealing all the data and planting it on to the United States Air Force Computer. What that was done for, I don't know but, ja, these things do happen at that level with those organizations.

5

10

Thank you, M'Lord, no further questions.

NO FURTHER QUESTIONS BY MR KISSOON SINGH

LEVINSOHN J Are you ready to cross-examine, Mr Lane?

MR LANE M'Lord, I think I probably am. I am just wondering, M'Lord, whether - there are issues. Perhaps I should commence cross-examination and then ask Your Lordship for an indulgence later.

15

LEVINSOHN J Yes, I'm in your hands, Mr Lane.

CROSS-EXAMINED BY MR LANE As Your Lordship pleases.

Mr Gibson, which banks did you work for? --- I was with Standard Bank and then I was with NBS Bank.

20

And when was that? --- Standard Bank was from 1971 to 1975 and then at the end of 1975 I moved across to NBS Bank. I was there at NBS Bank until 1983 but I still had contact with them right up to about 1994, I think it was, where I assisted them with the implementation of their computer security.

25

Now, when you talk about the implementation of their security,



are you talking about specifically the transfer of electronic information, in this case PINs, from mainframes to ATMs and the mechanism by which that happens? --- No.

So your security was in what field then? --- I was the overall security. Obviously that was covered as something that had to be put in place and had to be at the right level of security but what I did was I headed up the project or the implementation of their computer security.

A large proportion of what this case is about, you will appreciate, Mr Gibson, is the security of information which is transferred in encrypted form, first of all stored in encrypted form and then transferred in various encrypted forms to either verify a transaction or possibly to issue a PIN. You understand that? --- Correct.

So that process by which the encryption takes place, where it's stored, where the encrypted PIN now is stored in the derived PIN and what happens thereafter, as I understand it, you can't really give evidence to it? --- Are you referring to Diners Club or are you referring to NBS Bank?

Well, I'm talking generally, because I think you said in your evidence that you would not really feel comfortable entering into the field of the encryption or even, for instance, the storage of encrypted information. --- No, what I said was I am not competent to enter into the mathematics of encryption and how long it would take to break any encrypted piece of information.

But you do understand the process by which it takes place?

--- That's correct, yes.

Have you read the summaries of the plaintiff's expert witnesses? --- Yes, I have.

A lot of those summaries deal with that process of encryption and storage of the encrypted information and transfer of that information? --- That is correct, yes. 5

In relation to that do you agree with what they say? And that it's simply the manner in which a PIN is created, encrypted, stored, and here we are talking about LNKs, ZNKs, operation of zones, LNK keys and so on. Do you know that process and do you agree with what they said? --- Ja, you know, I looked at their system overall, as to where things went, and the type of encryption they did and using their black box encryption, and I've always said, right up front, when I was talking about this case, I have always said in a relative sense banks have good security but they are not perfect. That's the difference. 10 15

LEVINSOHN J If you could express it as a percentage, what would you say? 95% secure, 90%, would it be 8%? Just so that we, as laymen, can understand what your thinking is. --- Ja, very difficult to assess, M'Lord, but certainly I would put it in the - let's just take a guess - I'd put it probably 70% to 80%, but please understand, M'Lord, that is a guesstimate. 20

MR LANE Now, Mr Gibson, I just want to make certain - I appreciate your answer but my question was that, having read the expert summaries, and bearing in mind that we have experts who will give evidence both from the Standard Bank in South Africa, from the 25

various banks, as well as Diners Club, United Kingdom, Diners Club International; as to the encryption process that takes place. Do you have any debate with that? Do you take issue with any of the mechanisms that are involved by Diners Club in the encryption ...[indistinct] --- Not at all.

5

LEVINSOHN J So your evidence is then you accept that that part of the case, what they say is correct? --- That their encryption - that they have encryption and that it works, yes, I certainly accept that. What is not evident in there is the procedures that they follow. They say things like, "When the tape comes back, the tape is erased". There's no evidence of how the tape is erased, what the procedures are to erase it. Do they overwrite the tape to make sure that there is no information left on the tape? Or do they just put it back into the tape library for re-use? There is no evidence of that.

10

MR LANE Yes, I am certain those are questions which my learned friend will ask in the fullness of time from the witnesses. Mr Gibson, just turning then to what information you had when you gave your opinions which were summarised. You read the pleadings - you read the summons and the plea in the matter? --- Correct.

15

What else did you read? You've told us that you read the expert summaries. Other than that, what else did you read? --- There were other documents in there about the transactions that took place.

20

Can you be more specific? Which documents? --- There was -I recall one document which actually showed you the content of each transaction as it was going up and down the line. I remember that

25

very clearly.

Are those not the documents which are attached to the expert summaries? Let me describe the documents and see if you can identify them amongst that bundle. What you will find is that there are, for use of a better word, ATM logs. --- Right.

5

In other words, each of the transactions you saw that there were from the banks that we have identified that their ATMs disgorged the money. In other words, there are the ATM logs or the host bank logs which - Lloyds had theirs, Natwest had theirs, HSBC had theirs. Did you see those? --- I saw those, yes.

10

Then we went to an organization, a switch organization, and on that diagram which my learned friend pointed out to you, it is the next organization of which there are documents. In fact, you can trace the route on that diagram. You get the linker switch. You see a link switch in yellow? --- That one there, the link switch, okay.

15

There are the computer records from the link switch which have all been identified. Did you see those? --- Well, I can't recall seeing - if I try and look in my mind and see them, no, I can't see them.

Do you remember the name Alec Lekenby? He is the witness from Link. --- Alec Lekenby?

20

Yes. --- No, I don't recall those names, no.

You don't, yes. Well, he identifies those. --- Okay.

Then if you go further on you get into the Diners Club system, which is the CAFES, the bridge system, the relay system, etcetera, and there are various witnesses and various computer printouts attached to those witnesses - well, to one witness' statement who

25

identifies those computer printouts, again identifying the same transaction and moving from the ATM through the various switch organizations through ...[indistinct]... TNS, another switch organization. You'll find another affidavit by Louise Markham. Do you recollect that? --- No, no.

5

Were you given a bundle of these ...[intervention] --- Oh, yes, no, I certainly have those, okay, but I do not recollect those names as being the witnesses.

Were you given anything else, Mr Gibson, by way of information on which you could base your opinion? --- Not that I recall.

10

Did you have consultations with Mr Singh? --- Initially, yes, I did.

LEVINSOHN J That's the defendant in the case, Mr Singh, or are you thinking of Mr Kissoon Singh? --- Solely Mr Kissoon Singh but I was at one meeting where Mr Singh was there.

15

MR LANE And were you told the facts outside the pleadings, what the evidence would be in this case? --- Sorry, sir, I'm just trying to recall these meetings and what was discussed. Certainly not from Mr Singh himself that I recall but certainly there was - in the first meeting it was just a brief overview as to what the case was about.

20

Because one notes from both your - the summary filed in advance of you giving evidence, as well as your evidence, and it seems to be quite clearly so that you really haven't applied your mind to the facts of what happened in this particular matter. That seems to be quite fair from what a reading of your summary is and what your

25

evidence today is. --- The actual facts of the case. No, you see, I would say that I applied my mind to the computer security, as opposed to the facts of the case.

LEVINSOHN J I think what counsel is trying to say to you is that your evidence appears to constitute a number of generalities about the efficacy of systems, whether they can be hacked into and so on and whether they are inviolate and so on, but what counsel says is this case bears a certain factual scenario. --- Correct, M'Lord.

And you did not give an opinion about the security aspects in relation to those facts. Now, is that correct or not? --- Ja, that's correct. I solely dealt with the computer security aspect but not in this particular case, on the facts of this particular case.

MR LANE Perhaps then, Mr Gibson, we can just go through and treat it on that basis. You gave certain statistics relating to fraud perpetrated on credit cards. Now, that's very interesting, but do you know the break-down of those statistics? How many of them are ATMs and how many of them were actual point of sale? --- No, I didn't bring that with. I just have a globular figure. You know, it's quite difficult to get that kind of information from people.

You spoke - well, perhaps I should refer to your summary in this respect. In paragraph 2 of your summary you refer to a certain probability. It's the only probability which is in your summary. --- Could I ...[intervention]

Yes, please do get a copy. You do have a copy in front of you.

LEVINSOHN J Is this the supplementary summary?

MR LANE Yes, M'Lord, it's the summary that was served on the

...[incomplete] --- Are we finished with these documents? Can I put them aside.

Yes, I think put them aside for the time being. Do you have paragraph 2? --- I have paragraph 2.

You say there,

5

"It is probable that the computer system employed by the plaintiff (whether its own or utilised by another entity) had a flaw or flaws therein or alternatively were tampered with to enable the large number of withdrawals on 4 and 5 March 2000, in the United Kingdom, to be effected, which withdrawals in all probability exceeded the limits placed on the defendants' Diners Club cards."

10

15

I've had difficulty in listening to your evidence today, if we are told this the summary of it, identifying where that comes from and what basis you actually have postulated that on. --- Right, well, if you recall, I was talking about those monitoring systems, right. It appears to me that that was not picked up. Certainly any system that I would recommend, especially to a bank, I would expect that system to pick up that volume of transactions, 200 transactions. I would expect it to pick up that the transactions were fairly low transactions, that they were all at the same amount. I would certainly expect that system to blow a whistle at that stage, and that's what I'm talking about there.

20

25

So it's nothing to do with the actual transaction itself. It's to

whether the transaction is being picked up by a monitoring system. Not challenging the fact that the transaction was taking place at the ATM. --- Well, once again, as I said earlier, there is no indication - okay, sure, I agree it happened ...[indistinct] What I'm saying is if you take each one in isolation I guess this goes to the facts of the case. Ja, there's no evidence that the ATMs actually paid out the money unless you have tapes or something which said ...[intervention]

5

Well, you've seen the evidence, haven't you, Mr Gibson? You've seen the evidence ...[indistinct]... out. The banks have all confirmed - what have they confirmed? You've read it. --- I've seen a computer printout that says the cash was paid out so ...[intervention]

10

And witnesses from the bank who say it balanced. --- That I've seen so, ja, but there's no evidence to say that it was actually paid out.

15

So what you are suggesting ...[intervention]

LEVINSOHN J You mean dispensed from the machine? --- Dispensed from the machines. M'Lord, that's what I said earlier, that you could have a situation where in collusion the transactions come through and it looks as if they've paid out R20 000 but, in fact, they've only paid out R10 000 in the day, and the person clearing the machine just whips the R10 000 out. Obviously it would require collusion between a computer person and the person in the bank.

20

So what we're looking at is we're looking at a whole host of witnesses from the UK to come and tell me what happened here? Is that what you're saying? --- Well, I would certainly like to see the

25



evidence that someone is saying, "Yes, the cash was actually paid out".

Yes, it is not possible that the cash was not paid out, given the security checks and so on? --- Once again, M'Lord, I can't see any evidence of the procedures of how they clear ATMs, who cleared the ATMs, to say that, yes, they balanced at the end of it. That's what I was saying.

MR LANE Well, Mr Gibson, let's look at the probabilities, shall we.

You understand the concept of the probability. Here we have 16 different machines. You have four different banks and 12 branches, are you really suggesting genuinely, Mr Gibson, that these machines, none of them paid the money out? --- Not at all. What I was saying is if you look in isolation, and once again because it goes to the facts of the case, what I'm saying is if you look in isolation, there is something else that could have happened. Probability, it probably didn't happen.

Well, let's try and stay with the probabilities, Mr Gibson, because His Lordship will have to ultimately find on the probabilities here and so you're not really suggesting that that's a real issue, are you? --- No.

LEVINSOHN J You say it's not really a real issue in relation to the payment out of the money, the dispensing of the money? --- That's correct, M'Lord. If it had happened with one ATM I would have said, "Ja, that's evidence", but ...[incomplete]

MR LANE Now just again on another general proposition, Mr Gibson, as I understand your evidence and it coincides with that of the

plaintiff, that in order for these transactions to have occurred, having disposed of the question of the balancing of the machines, there had to be a coincidence of card and PIN. --- That is correct.

Now, as again as a general proposition, the card must be associated with the PIN. In other words, the card number - the information contained in the mag stripe, the PAN, had to be associated with the PIN that was being used simultaneously - a coincidence. --- That is correct. That is how the systems work.

Yes, you can't take somebody other's PIN and use it with that card unless you got very, very lucky. --- Well, that's right. You can't say it can never happen but, I mean, with only 10 000 PINs ...[intervention]

The probabilities. --- With only 10 000 PINs, how many - ja, okay.

Let's talk probabilities because the bank can equally talk to the fact that it doesn't happen. --- Okay.

Do you accept that? --- Yes.

Sorry, you are nodding your head. --- Yes, I accept that.

And, of course, there is one other permutation on that 10 000 numbers, and that is the CDV information, the track 1 and track 2 information on the mag stripe also contained the expiry date of the card, doesn't it? --- Correct.

You spoke about industry standards and I'm not certain whether you maintained your criticism of the industry standards in this matter which you level against the plaintiff. You say in paragraph 4.4 of your summary that,

"The plaintiff's security system utilises a four digit numeric PIN number which, regard being had to the industry standard, is insufficient for adequate ..."

Now, you refer to - are you really suggesting that it's below industry standards? Bearing in mind in particular we are now talking about ATM transactions. --- Yes, I really do say that. From my experience, I certainly do say that. 5

Mr Gibson, what I have here is the official - do you know ANSI X9.8? It's published in 1995. --- Okay. 10

Do you know it? --- Not absolutely.

Apparently this is the American standards. --- I know the term ANSI but I don't know that particular publication that you hold there.

LEVINSOHN J Just repeat that, Mr Lane.

MR LANE It's ANSI, A.N.S.I. X9.8/1995. 15

LEVINSOHN J And what's that? The American?

MR LANE This is the American accepted standards for the issue of PINs and I deal only here with the paragraph 7.1, which is the title of the chapter is "Techniques for management. Protection of account-related PIN functions", and in 7.1 it says, 20

"A PIN shall not be less than 4 and not more than 12 characters in length."

That is the standard at the moment in America. Do you accept that?

--- According to that document, I accept the standard. The question is whether the standard is sufficient or not. 25

No, you're talking about industry standards, Mr Gibson. All I'm

challenging you on is your statement that the system utilised by Diners Club in this matter fall below industry standards. That's what I'm challenging. As to the permutations, we know that the industry is continuously working - you know, for instance, that by DES, TDES, where TDES is used and where they are now thinking of using TDES. Do you know that development in the industry? --- That's right, but I also know certainly that the advanced encryption standard is certainly the way things are going.

5

Yes, but do you know of one bank in this country so far in terms of ATM matters the information that has gone to that extent as yet? --- Not yet, no.

10

LEVINSOHN J Just for the sake for the machine and perhaps if this is ever transcribed. What was that word you used, TDES?

MR LANE TDES, M'Lord, that is the ...[intervention]

LEVINSOHN J Just spell it.

15

MR LANE T.D.E.S. It is the encryption standard. It's a triple data encryption standard. And then you get an SDES, which is single data encryption standard. And you get DES sometimes referred to, M'Lord, as just a data encryption standard.

LEVINSOHN J What is your answer about this, Mr Gibson? Counsel is putting to you that if you read 7.1 of this ANSI standard, the four digit is, for purposes of ATMs and PINs, sufficient? Do you take issue with that? --- Well, I do, M'Lord, because though that was 1995 when that was laid down, if you look at usage today in South Africa, I mean certainly the bank that I use has a five digit code and on the Internet because of problems with break-ins on the Internet, have

20

25

gone to even more. All right, they now have a second code that you use, which is a minimum of six digits and which utilises more than just numerics.

Is there not a difference between the Internet situation and the PIN code for purposes of the ATM use? --- Ultimately, M'Lord, it deals with the authentication, that second part of any transaction. Right, so it doesn't matter whether it's with an ATM or whether it's over the Internet. Ultimately, what you are dealing with is the authentication part, and in my opinion the four is insufficient.

Have you done any research to see if this ANSI from 1995 has been modified, upgraded, changed? --- I certainly haven't seen anything coming through.

MR LANE M'Lord, I am instructed it is still current. Now, Mr Gibson, just on that - we'll come to the Internet in a moment but perhaps just on that, I am instructed that the AES, which is the advanced encryption standard that you referred to, do you know if it's used by any bank anywhere in the world? --- I couldn't swear to it, no, sir.

My instructions are it isn't. Right, do you know this is a document - this is an IBM ...[indistinct]... security model, IG75 ...[indistinct] It is the manual which is issued in relation to that. Do you know the type of computer that this refers to? --- No.

This security module IG75 ...[intervention] --- Certainly not, sir. I don't know every single computer in the whole wide world.

No, no, this is one which is specifically used for the generation of PINs, and this is again a manual which is current, I'm instructed, as presently current. It says,

"The command generates a four to twelve digit PIN using the IBM method as a standard proposition."

And then it deals with the situation where you get - that's in relation to deriving a PIN. Then you use the Dibold[?] method. It gives that in the Dibold which doesn't have a basis of - it doesn't use bits but then a random PIN, generating a random PIN. It generates a random PIN of four to twelve digits. Now, in the documents we've looked at, and certainly the evidence will be from the plaintiff's experts, that it's definitely, the use of a four digit PIN is very definitely not below industry standard. Surely not, Mr Gibson, not below industry standard. You might not think, from your personal perspective, that it's sufficiently secure but surely it is not below industry standard. You can't be serious in that evidence. --- Are we talking about when you're saying - okay, the ANSI standard says four to twelve and the IBM standard says four to twelve but surely if we are talking about, I would say common usage, is that not the industry standard?

Well, do you know what Visa requires or Mastercard requires as the minimum standards? --- My Mastercard - because I'm thinking ...[intervention]

Minimum standards, what their minimum requirements are, and that would represent industry norms, would they not? They generally lead the industry as far as that is concerned. --- I'm talking about usage. They use five digits.

Well, I'm talking about industry norms, Mr Gibson. That's what I'm talking about, because that's what you were talking about. We're

talking about the norms prevalent in the industry. I don't understand why it's such a difficult concession to make. I've shown you the manuals. I can tell you that the Visa requirement requires a minimum of four digits. You've seen ANSI. Why is it so difficult to just concede that the - there's nothing wrong with the industry norm? 5

You may not believe it's secure and there may be other practices out there but it's not below industry standards.

LEVINSOHN J That's the industry benchmark. --- The set-down industry standards.

Yes, that's the benchmark which they regard as satisfactory for their purposes. Do you accept that that is so? --- I will concede that, according to the laid-down industry standard, yes, it is okay, but according to industry usage it is not. In my opinion. That's my opinion. 10

MR LANE Did you perhaps know that a large number of European ATMs only use four digits as PINs, only accept four digits as PINs? Do you know that? --- I mean it's once again, it's the common usage. 15

I just want to place it on record. You either know it or don't but apparently ANSI was the standard which was adopted in 1980 by ISO ...[indistinct]... ISOS. --- International Standards Organization. 20

Yes, International Standards Organization for the financial industry, banking ...[indistinct] Do you know that? --- In 1980?

Yes, you were in the industry at that time. Did you know that? --- Yes. 25

LEVINSOHN J What's it? International Standards?

MR LANE Standards Organization.

LEVINSOHN J For the financial industry?

MR LANE For the banking - financial and banking industry, M'Lord.

M'Lord, you will see very often referred to as the initial ISO, not only in the context of this. It's like an international Bureau of Standards. 5

Could you look at paragraph 4.5.1 of your summary? It's referring to,

"Coercion of dishonesty of staff employed by the issuer or a bank entrusted with that responsibility or any other entity involved with transactions pertaining to an automatic teller machine." 10

What you're referring now I would assume is to the reissue of PINs. Is that correct? --- Correct, yes.

So what can happen is that somebody can get the account number, a staff member, and he can go along and he can go to whatever machine issues the PINs and get the PIN reissued. That would require dishonesty within the organization. Is that right? Is that what you're referring to? --- That's what I am - well, one of the things that I'm referring to. 15 20

So if one established that there was no PIN reissued in this matter, that would neutralise that possibility? --- Are you saying a PIN reissued after the original PIN was issued?

Yes. --- Ja, I mean it does away with that but it doesn't do away with the person - the dishonest person getting the PIN at the time that it is issued. 25



Yes, I'm talking about reissue PINs. --- Okay, ja.

Now again you spoke of a number of instances - let's just talk about, for instance, shoulder surfing for a moment as a general proposition. Shoulder surfing requires two things. First it requires someone to see the PIN, and one knows that that can happen either by cameras, videos centred on the ATMs. It can actually happen, someone looking over a shoulder and one knows that that is normally accompanied by a pick-pocket, some distraction, they grab the card, they run, they've got both. Is this consistent with what you know in the industry about how shoulder surfing occurs? --- Yes, at that level of crime, yes.

Where you have, of course, the sophisticated camera, that type of crime, you're dealing with a syndicate where they are that together with perhaps with someone in the bank or elsewhere. They are getting information and they are collecting a whole pile of PINs. We also know that they have stuck silver paper in the slots so that the machines show that they're being utilised and people think their cards have been swallowed and they cannot take the cards out again. You've heard of those? --- Yes.

If, and again you referred to I think is sometimes referred to as the Manchester scam, the false-fronted ATMs. You know about these? --- Yes, okay.

These are common instances in the community. We know that there with the Manchester scam and these video cameras, the experience has been that there has been a considerable hit. In other words, information is collected, cards are made and then generally on

a bank holiday they go to ATMs and they hit the ATMs in various centres and collect as much money as they can. Is that right? --- That is the type of thing they would do, yes. But I mean it is a major gathering of information. It's a big ...[intervention]

It's not a single transaction, is it? Not a once-off? You're going to go and build a false ATM for once single transaction to get one individual? --- No, certainly not. 5

You're not going to set up a whole sophisticated video system with a PIN skimming device of the keys so you can do one transaction, are you? --- No, certainly not. I mean if there's \$1,6 trillion floating around, you're not going to do that. 10

Yes. That's sophisticated stuff, isn't it? --- Yes, it is.

It was suggested to you, and you were asked whether a sniffer could be used. Well, I know the sniffer is used as a generic term for a whole pile of different apparati that can be put in different positions either in the computer or plugged into the line or somewhere else. --- Correct, ja. 15

Yes. And you were asked whether in relation to - I'm going to talk about it as the downstream passage from ATM to host. You remember that diagram. [Indistinct]... talk about upstream or downstream. You never said whether it was going upstream or downstream at that point. --- Which way is this going? ATM up to host? 20

This is going ATM up to host - through host up through the switch. Now you were asked whether it could be put into that system but, of course, in this matter that wouldn't apply, would it, because 25

keys, to encrypt these algorithms. They do the same on the other side, creating all this mathematical information and then they're able to talk to each other and as they talk to each other and transfer that information further down they're also going through that same process of encrypting and disencrypting and re-encrypting and sending. Surely that's an entirely different process to the process which happens where you are talking about the Internet? --- In general terms, yes, but I would imagine if you are talking about financial transactions - let's say you're purchasing something from Amazon.com, I would say probably the principles are the same. They would probably also use what is called secure socket layer. Ja, I would say the principles are the same.

5

10

What? The creation of LMKs and zones and all the rest of it?

--- No, not to that extent, certainly not, no.

Well, that's what happens, as you know, in the transfer of this information. --- Yes.

15

Create the local master keys, the algorithms ...[indistinct]... create the ZMKs, etcetera, etcetera. It's all in those summaries which you've agreed with. --- Mm.

Now surely that's a very different process of the transfer of that form of electronic information than happens on the Internet and the principles for hacking into that information is entirely different? --- I don't see that the principle is different. I really don't.

20

I might have to come back to that then, Mr Gibson. M'Lord, might we take the adjournment now?

25

LEVINSOHN J Yes, certainly.

MR LANE I need to take further instructions.

LEVINSOHN J We will resume at 10 o'clock, Mr Lane. The Court will adjourn.

COURT ADJOURNED TO 7 MARCH 2002

---