

UNCLASSIFIED//FOUO

Summarized Detainee Statement

The Tribunal President began to read the Hearing Instructions to the Detainee.

Detainee: Can I ask questions now?

Tribunal President: Not yet. Later in the Tribunal, there will be opportunities for you to provide information and to ask questions.

Detainee: Could you please mark the previous part about the Tribunal session? (*You have the right to be present at all open sessions of the Tribunal. However, if you become disorderly you will be removed and the Tribunal will continue to hear evidence in your absence.*) I may have a question about that later on.

Tribunal President: Sure. I have some other instructions to review.

The Tribunal President continued to read the hearing instructions and confirmed that the Detainee understood the process.

Tribunal President: Do you have any questions concerning the Tribunal process?

Detainee: I would like to repeat my request. I actually requested about 20 minutes ago to my Personal Representative that I didn't want any of this Tribunal to be audio taped or video taped.

Tribunal President: This is an administrative process, and it is our process to record this. The process also assures that what we do is accurately done. It's for quality purposes. We also understand, because we have different languages being used, that it is critical that we check our work to make sure that translations and other matters are done accurately. As the Tribunal President, I do not have the authority, nor do I wish, to not record these proceedings. And I remind the Detainee, it is your choice to attend this Tribunal if you so wish. Do you have another question regarding the Tribunal process?

Detainee: Yes.

Tribunal President: Please.

Detainee: Who gave me the guarantee that this audio or video tape won't be used against me?

Tribunal President: There has been no guarantee made.

Detainee: Then how would I be protected?

Tribunal President: I don't know what you're referring to regarding protection. Let me review the purpose of this Tribunal and maybe simplify some of the instructions you were read previously. The three members of this panel are officers independent of any activity regarding your detention. We are not intelligence officers nor are we combat officers. We have been

UNCLASSIFIED//FOUO

ISN#672
Enclosure (3)
Page 1 of 14

002C01

tasked by the convening authority to independently review all the matters concerning your detention, with the specific purpose to determine if you have been properly classified as an Enemy Combatant. As part of that review process, the convening authority has provided an opportunity for you to provide information, if you so wish, regarding your detention. As you have been informed, your participation is not required for us to review the government information. The three officers, myself included, have not received any other information about you other than what the Personal Representative has informed me of prior. In your particular case, he has informed me that you wish to attend and other minor matters, such as your name and the language you prefer. The Tribunal procedures will continue shortly, where we will be told the same thing you were told previously regarding the Unclassified Summary of Evidence. So at this point, you know more about what the government thinks about you as a detainee than we do. I hope that was a description that will help you understand your rights and this process. Do you have any further questions?

Detainee: I would like to go back to that point where I had the question before.

Tribunal President: Okay, I will repeat that part of the script for you as information. I stated that you may be present at all open sessions of the Tribunal. Is that the part that you wish to have a question on?

Detainee: No, you can proceed further.

Tribunal President: The next line was, "however if you become disorderly you will be removed from the hearing and the Tribunal will continue to hear evidence in your absence."

Detainee: Yes, I am interested in that point. Could you please repeat that point?

Tribunal President: Let me repeat. If you become disorderly you will be removed from the hearing and the Tribunal will continue to hear evidence in your absence.

Detainee: How would you determine that I am disorderly? I've already asked you a few questions and you told me that you don't have the authority to - or cannot - answer those questions, so who can answer my questions? Who has the authority to answer them? So, are you going to determine that I have been disorderly, just because I've asked these kinds of questions which are actually related to my future?

Tribunal President: Number one, I am responsible for the orderly conduct of these proceedings. As the Tribunal President, that is within my authority and responsibility, and one of my responsibilities is to follow the instructions and guidance provided. For example, one aspect of the guidance provided concerned the conduct of recording these proceedings. I have determined these proceedings will continue, and that we will continue to record these proceedings in accordance with the regulations. I will also answer any reasonable questions from any member of this Tribunal, including the Detainee, regarding the conduct of this hearing. When I find that anyone's conduct, including that of the Detainee, Personal Representative, Recorder, or any Tribunal Member or observer to this hearing, is not in accordance with procedures or efficient or accurate proceedings, I will provide a warning and encouragement for proper conduct so we can

proceed. At this point of the Tribunal process, I believe we have provided adequate instruction and information regarding what we are doing and how we are going to conduct it I respect the Detainee's concern regarding the use of the information he provides for other purposes, and I remind the Detainee that he has the option, and the choice is his, to provide statements. That is his choice, I cannot compel him to answer any question. At this point, the proceedings will continue. Shortly, you will have another opportunity to ask other questions and to provide additional information if you so choose. Personal Representative, please provide the Tribunal with the Detainee's Election Form.

The Personal Representative presented the Detainee Election Form (Exhibit D-a) to the Tribunal

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal and gave a brief description of Us contents.

The Recorder presented Exhibits R-2 and R-3 into evidence.

Tribunal President: Recorder, please provide a summary of the nature of unclassified evidence. But, before you do, I have an instruction for the Detainee first. At this point (speaking to the Detainee) there is no need for a response regarding this Unclassified Summary of Evidence from the Detainee. This is an opportunity for the Recorder to summarize the information for us at this time. Recorder, you may proceed with your summary of the unclassified evidence.

The Recorder gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

The Recorder confirmed that she had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

Tribunal President: Zakirjan Asam, you may now present any evidence you have to the Tribunal. Your Personal Representative may assist you if you wish. Do you wish to make a statement to this Tribunal?

Detainee: What do you mean?

Tribunal President: If you have any comments regarding the unclassified evidence, it would be very helpful for this Tribunal to hear them from you at this time.

Detainee: I've already told my Personal Representative all the comments I have for the summary of evidence. If you want, I can just repeat them.

Tribunal President: Okay, I understand that you've already provided some information to the Personal Representative. It is acceptable to this Tribunal to have the Personal Representative communicate that to us, and any other information you can add to clarify the remarks that he makes would be very helpful. Before we proceed to that point, I would like to ask if you would

like to make these statements under oath? An oath is a promise that the information is the truth. We have a prepared Muslim oath or another oath if you so desire. It is your choice.

Detainee: I cannot say anything before I actually meet some other representatives from some other organizations.

Tribunal President: That is your choice. I respect that. Personal Representative, you may proceed with the comments from your previous interview with the Detainee.

Personal Representative: Okay, but before I get started sir, the Detainee did have a concern about translations. He stated he has had problems with getting very good translators and he is concerned that they have made bad interrogation reports on him in the past.

Tribunal President: Personal Representative, I did note that remark in your election form. We will consider that if we review other interrogation reports, if any are provided to this panel. Before I proceed, I'd like confirmation from the Detainee that he would like the Personal Representative to provide us the information that you discussed earlier. It is your choice. If you don't want us to hear what the Personal Representative discussed with you before, we would respect that.

Detainee: He can reveal everything because there is nothing classified in it.

Tribunal President: Very well.

The Personal Representative began to read each allegation from the Unclassified Summary of Evidence and continued by providing the Detainee's response to each point.

3.a.1. The Detainee traveled from Tajikistan to Afghanistan in the spring of 2001.

Personal Representative: (Reading from his notes of the detainee's initial response) This was true, but he had no idea where he was going and it's a very long story but he was sent by special forces from Kazakhstan by helicopter to Tajikistan, not knowing where he was going.

Detainee: That's why it says the Detainee "traveled". It has to say "removed". The other word has to be deleted from that item. You can replace that with the word "sent" not "traveled".

3. a. 2. The Detainee is a member of the Islamic Movement of Uzbekistan (IMU).

Personal Representative: (Reading from his notes of the detainee's initial response) What evidence do we have that is true? This is a false statement He had not even heard of the IMU until he came here to the camp.

3.a.3. The IMU is listed in the U.S. Department of Homeland Security Terrorist Organizations Reference Guide as having ties with the Taliban.

Personal Representative: (Reading from his notes of the detainee's initial response) There is no comment about this statement because he has no relationship with the IMU.

3. a. 4. The Detainee is acquainted with two individuals who hold leadership roles in the IMU.

Personal Representative: (Reading from his notes of the detainee's initial response) In an interrogation he stated that he had heard about the IMU from two people here at Camp Delta. He believes that this may be a problem in the translation.

Detainee: That is possible.

3.a.5. The Detainee was at Mazar-e-Sharif, Afghanistan, when the U.S. bombing campaign began.

Personal Representative: (Reading from his notes of the detainee's initial response) He was not in Mazar-e-Sharif and has never been there. He was not even aware that there was a bombing campaign at Mazar-e-Sharif.

3.a.6. The Detainee has ties to Muslims in the Sink'lang Province of China.

Personal Representative: (Reading from his notes of the detainee's initial response) He has never heard of the place and doesn't know what they are even talking about here.

3.a. 7. The Detainee fled to the mountains when the U.S. bombing campaign started

Personal Representative: (Reading from his notes of the detainee's initial response) He doesn't know anything about this. It's not clear where in the mountains this is referring to, so he can't make a statement because it's not clear enough to him.

Detainee: If you want me to, there is actually a little bit more to it. I can add something to it.

Tribunal President: Please, it would be very helpful.

Detainee: When we were living in that village, people came and told us that there might be some bombing, that there might be a fight in this village and it's going to affect all of the people who live there. They told us that we might want to leave the village and before the fighting started we actually left the village. They told us that the Northern Alliance forces might attack us. We didn't hear anything about the U.S. bombing campaign. We left the village just before the fight.

3.a.8. The Detainee was captured by the Northern Alliance in the mountains.

Personal Representative: (Reading from his notes of the detainee's initial response) The only comment I have on that is that it is not true, with no further detail.

Detainee: If you want me to, I can add something to it too. "Captured" is not the right word here in this item. There was an agreement between us that some people would take us to a place to be safe. During that travel, when they were actually taking us to that place, they had been stopped, and we were held and taken to a different place. I'm thinking there is some agreement between us and I don't know if it's kind of relevant to the Tribunal but if you are interested I can go on and tell my story.

Tribunal President: We may ask questions later. Thank you.

3.a.9. The Detainee was captured a second time and turned over to U.S. forces.

Personal Representative: (Reading from his notes of the detainee's initial response) Again, he was not captured. He was turned over to the U.S. because he could not pay the bribe that was required and so he was sold to the Americans.

Detainee: I wasn't handed over. I was sold. It's also a very long story. I can tell you afterwards.

Tribunal President: If you would like to tell us now you may.

Detainee: There was one person there and he couldn't make any money, and decided to make some money off of me. He told me that if I wanted my freedom that I had to pay some money, otherwise they were going to sell me to the Americans. They were talking about the Americans being willing to buy everybody who was a stranger in that country. They gave me a certain period of time to get money, but I couldn't. That's why they sold me.

Tribunal President: Okay. Personal Representative, is there anything else?

Personal Representative: Yes sir. I actually have a classified document that I would like to enter as an exhibit at a later time on behalf of the Detainee.

Tribunal President: Very well. I will receive that document during the closed session.

Detainee: Are you going to inform me of what kind of documents you are going to reveal later on.

Tribunal President: You need to direct that question to the Personal Representative.

Personal Representative: Yes, sir. (Addressing the Detainee.) We talked about it beforehand. This is the document that raises into question a source of information that is in your case.

Tribunal President: Okay. Zakirjan Asam, does that conclude your statement?

Detainee: I didn't understand the question.

Tribunal President: Actually, I'm going to have to take a short recess so I can clear my throat, A short live-minute recess if you don't mind.

Detainee: That is fine. May I also use the restroom?

Tribunal President: We will take a recess and have the security give you a rest stop as well. Thank you.

The Tribunal took a short recess.

The Tribunal re-opened after taking a short recess.

Tribunal President: Thank you for the recess, I needed it I'd like to confirm, Zakirjan Asam, that you have completed your statement.

Detainee: According to those items on the summary of evidence, if you are interested I can of course make a few comments.

Tribunal President: Please do. It's very helpful for us.

Detainee: Which item are you actually interested in?

Tribunal President: We will be proceeding to ask specific questions. But if you have anything that you would like to provide us, you may. I'd like to continue to the questions if you don't have anything else to add.

Detainee: I actually have a few questions.

Tribunal President: Okay, you may ask you questions. By the way, we have water if you need it.

Detainee: Okay, my Personal Representative told me the last time that the Tribunal is just here to find out if I am being properly held as an Enemy Combatant

Tribunal President: That is correct.

Detainee: He told me that it's not like a big deal, then what is it for?

Tribunal President: Okay, I don't hear a question yet. That doesn't sound like a question, but I think I can clarify.

Detainee: Okay, about ten days ago I met with my Personal Representative and I asked him "what's that all about?" because the whole summary of evidence was not true. It's all false accusations against me. He told me that it's nothing. All the accusations here are false and I didn't even know what to expect or what to prepare for. He told me that it's pretty much nothing and that nobody is accusing you of anything. So what is this all about then?

UNCLASSIFIED//FOUO

Tribunal President: Personal Representative, you would like to comment on that.

Personal Representative: I don't recall making such statements sir. I don't know what he is talking about. I mean if I could...

Detainee: So that means that I'm just lying?

Personal Representative: Maybe he can clarify a little more. I'm not quite sure I understand what he is saying.

Detainee: I asked you: why you were taking me to the Tribunal? What was the reason for that? It says here that this is to determine my enemy combatant status. Now I actually remember that you told me that it's not the legal term for that.

Personal Representative: I did explain to him that's not a legal process, but an administrative review. I believe I indicated that in my Detainee election notes.

Tribunal President: I believe I understand the confusion. The Personal Representative is correct This is an administrative review. We are not judges and we not trying to determine guilt or innocence. I do recognize that the room and the organization of the people and the procedures do suggest a legal proceeding. That is not the case. As I described earlier, it is meant to provide an efficient and accurate process to review the information regarding your classification here as an Enemy Combatant.

Detainee: Can you comment on your previous reply?

Tribunal President: In what regard?

Detainee: Something you said about some other organizations. You said something about some other organizations.

Tribunal President: I'm not familiar with any other organizations I was talking about.

Detainee: That's okay. You can continue.

Tribunal President: The convening authority is a military person who has been given the authority to review these matters. Possibly that was the organization you were referring to.

Detainee: Yes, that is possible.

Tribunal President: So, again, getting back to your question or comment regarding your discussion with the Personal Representative, he was quite correct that this is an administrative review and that this review would have occurred had you attended or not This administrative review also required us to provide you with unclassified descriptions of why the government believed you are an Enemy Combatant. The meetings you had with the Personal Representative

UNCLASSIFIED//FOUO

ISN#672
Enclosure (3)
PageS of 14

002008

earlier were to provide you that information so you could prepare comments, which you have provided to us today.

Detainee: Okay, can I ask one question?

Tribunal President: Yes, please.

Detainee: Okay, you are giving me a summary of evidence but your summary of evidence must have some facts they are based on. I don't know what you are trying to do here. Everything is false; false accusations. You are trying to lie to yourself. During the interrogations, everything I was telling got mixed up into false accusations against me. So, who gave me the guarantee that you won't do the same thing on the Tribunal?

Tribunal President: I wish there were guarantees in the things that we do. I will remind you of the oath that we took today. We did not guarantee that we would make a perfect decision. We promised to do our best and to use our good judgment. I do respect and understand that you have concern about the accuracy in your previous interviews and I reaffirm our promise that we will consider that when we review other information. I hope you recognize that we are an independent review panel and each of us is responsible for determining classification of "Enemy Combatant" or "Not an Enemy Combatant." I'd like to proceed with questions so we can clarify some of the comments that you made earlier. Personal Representative, do you have questions for the Detainee?

Personal Representative: No sir I do not

Tribunal President: Recorder, do you have any questions for the Detainee?

Recorder: No sir I do not.

Tribunal President: Do the board members have any questions for the Detainee? Again for the Detainee, it is your option to provide us answers. We cannot compel you to provide us answers, but your information would be helpful.

Tribunal Members' questions:

Q. Where are you from?

A. It doesn't matter.

Q. You answered earlier about being moved from Tajikistan to Afghanistan. You said that you were sent. Could you elaborate on what you mean by that?

A. Okay, I had two choices. I didn't have any documents to stay in that country, so they could have held me in jail with all kinds of false accusations.

Q. So they offered to take you to Afghanistan?

A. No. They told me that they were going to take me to a place where I would be treated very well. They didn't tell me which way they were taking me. They told me that they

UNCLASSIFIED//FOUO

were going to take me to a place where I would be treated right. They were going to provide me with food, a place to live, and everything that a human being needs, and I'd be sent with the other refugees.

Q. Was this because they wanted to get you out of their country, or some other reason?

A. Yes, I think the main reason was because they wanted us out of the country.

Q. Do you know where they left you in Afghanistan?

A. No, I have no idea.

Q. But you did not go to Mazar-e-Sharif?

A. Are you asking me did I know where I was going in Afghanistan, is that your question?

Q. I thought, and I may be wrong, but I thought the Personal Representative said that you have not been in Mazar-e-Sharif.

A. Yes, that is correct. Okay, the first time, they were sending us they didn't tell us exactly where they were sending us. They told us from that place they would take us someplace else.

Q. Did that happen? Did they take you someplace else?

A. It did happen.

Q. Was this the same place where they told you that the fighting was about to start?

A. The place they were sending us was not even in Afghanistan. It was a totally different country. My final place was in Afghanistan, but I didn't know about it.

Q. How many places were you in Afghanistan, just one?

A. You mean in one city, or in one house, or in one village?

Q. Again, as the Tribunal President explained we don't know anything about what has happened to you. So, what I'm trying to figure out is, you went into Afghanistan and what did you do while you were in Afghanistan? How many places did you settle in?

A. When I arrived in Afghanistan, I lived in one place for some period of time and then before the fighting started I left that place and went to the other place.

Q. During this time in Afghanistan, were you ever armed? Did you have a weapon on you?

A. No.

Q. Can you describe the people you were with as refugees?

A. We came to that place with the refugees, but over there they were locals.

Q. But the people you were with were not armed either?

A. No, the majority of those people were women and youngsters.

UNCLASSIFIED//FOUO

ISN# 672
Enclosure (3)
Page 10 of 14

002010

UNCLASSIFIED//FOUO

Q. Were there others that were sold with you at the time you were handed over to U.S. forces?

A. No, not to Americans. But to Afghans, yes there was one person.

Q. Were they also refugees or members of your group?

A. Okay, in Afghanistan there is some kind of thing in their culture that if someone runs away from one province to another province, and if they have some kind conflict between them, they capture and sell that person to Afghans. It's not like an armed conflict, it's just between villages.

Q. Do you know the names of the other individuals who were sold?

A. No, they sold me to Americans.

Q. How much were you asked to pay for a bribe?

A. 3,000.

Q. 3,000 dollars, 3,000 rupees...?

A. Dollars. (Detainee answered quickly and in English). Because they knew they could sell me to Americans for \$5,000. The way they explained it to me was that because I am Muslim they lowered the price for me.

Q. Can you identify them a little more? Who was it? Was it Northern Alliance? Was it a particular person that was asking you to bribe them?

A. It was actually the people from the two villages. They were actually negotiating between themselves.

Q. Do you remember the villages' names?

A. It was in the Konduz province.

Q. When you were discussing living in the village, and people were saying that it was a good idea to leave, you used the word "we". At least the translator used the word 'Sve'. I'm just curious about who "we" were. Who were the group that you were with? Were you referring to refugees?

A. The local population told us that if we wanted to be safe, we'd better leave that place. In Afghanistan, it comes by the word of mouth, and this came from the mosque. That's how we heard, and we left the place.

Q. Also, you mentioned about the two people who were leaders in the IMU. You thought maybe it had to do with some Detainees that you had a discussion with. Let me rephrase that. If my notes are correct, you thought that a discussion with some Detainees here at Guantanamo may have been the reason for item number four, where it referenced knowing some individuals with leadership roles in the IMU. Do you remember who those two Detainees were? Their names or other identification?

A. Yes, I was with those people here at the camp. I met them here at the camp and I talked with them. Just for safety reasons - I don't know how my statement is going to be related to them - I'd better not reveal their identities.

UNCLASSIFIED//FOUO

ISN# 672
Enclosure (3)
Page 11 of 14

002011

Q. I respect that and just thought I'd ask.

Tribunal President: Any further questions from the Tribunal panel? (Tribunal members reply non-verbally that they have no other questions.)

Detainee: I thought you were asking me if I had any more questions.

Tribunal President: Actually, Zakirjan Asam, do you have any other evidence to present to this Tribunal?

Detainee: On which item?

Tribunal President: It's an open question, anything that you would like to tell us.

Detainee: I cannot add anything else without knowing in particular what you want to know.

Tribunal President: That is fine and we will proceed.

Detainee: Okay, I actually have a question

Tribunal President: Okay, final question.

Detainee: Final question?

Tribunal President: Well, one more question please.

Detainee: You are all independent. But you are all from America, right?

Tribunal President: That is correct.

Detainee: How come there is nobody here from the other countries? Some representatives from other countries, companies, or organizations, who will actually observe you, too? How come everybody is from America?

Tribunal President: This is an administrative process for the American government

Detainee: Okay, this is very interesting. If something goes wrong or somebody says something wrong, will there be any charges against that person?

Tribunal President: Each of us is accountable for our actions and our authorities do review our work. If there errors, they will be addressed on a case-by-case basis. We are to the point in the Tribunal where we will proceed and you will be given a little more information on what will occur after this point. For example if we determine that you should not be classified as an Enemy Combatant. What would occur at that point is that you would be released, if you were improperly classified. That would be corrective action.

Detainee: It's a little bit too long; I've been here for almost three years.

Tribunal President: Time is important, but I also respect that this is a global conflict with many factors. While I appreciate your time in detention, I also appreciate that it takes time to conduct these affairs. Do you have any more evidence to provide us regarding your classification as an Enemy Combatant?

Detainee: Okay, interesting. I have more questions. Do you do anything against the law here?

Tribunal President: No, this is in accordance with the United States government's laws.

Detainee: If you actually are doing this according to American law, how come you do not reveal your identity?

Tribunal President: That is for security purposes. Our identification is not material to your classification as an Enemy Combatant.

Detainee: There have been some other representatives from outside - civilian representatives - and they told us we don't have to talk to you. How come you still want to proceed with the Tribunals?

Tribunal President: One last time, I'll review it. We will be reviewing your case if [you] attended or not.

Detainee: No, I want to participate.

Tribunal President: You are and I am happy that you are. Those outside organizations that you mentioned are correct. You do not have to participate if you don't wish to.

Detainee: It's not a matter of not being in the Tribunal, it's a matter that you've made so many accusations against me, and it's just unbelievable.

Tribunal President: I understand that. I'd like to continue the proceedings if you have no more questions or no more information regarding the long charges of unclassified evidence.

Detainee: No.

Tribunal President: Thank you. Personal Representative, do you have any further evidence?

Personal Representative: Just as I mentioned before sir, for the closed session.

Tribunal President: I do understand that you have classified information to provide to us later.

The Tribunal President confirmed with the Personal Representative that he had no further evidence.

UNCLASSIFIED//FOUO

The Tribunal President explained the remainder of the Tribunal process to the Detainee and adjourned the open session.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of **the** testimony given during the proceedings.



Tribunal President

UNCLASSIFIED//FOUO

ISN# 672
Enclosure (3)
Page 14 of 14

002014

Summarized Detainee Sworn Statement

The Tribunal President read the Hearing Instructions to the Detainee and confirmed that the Detainee understood and had no questions,

The Personal Representative presented the Detainee Election Form (Exhibit D-A) to the Tribunal

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal

The Recorder presented Exhibits R-1 thru R-2 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

The Tribunal President, referring to the Detainee Election Form, made the following statement:

Tribunal President: Salih Uyar you may now present any evidence you have to the Tribunal. Your personal Representative may assist you if you wish. From the Detainee Election Form the Personal Representative provided me I understand that you wish to make a statement. Is that true?

Detainee: Yes.

Tribunal President: I also noticed from the Detainee Election Form that you wish to make your statement under oath. Is that also correct?

Detainee: First I said that I wanted to do my statement without an oath but now I changed my mind and I want to do the oath.

Tribunal President: Very well, we will honor that request. Recorder please administer the appropriate oath. For the detainee, we have a prepared Muslim oath, if that is acceptable.

Detainee: No, I want to administer my own oath.

Tribunal President: That is acceptable. Please.

The Detainee administered his own oath.

Detainee: I swear on God that I will only say the truth and nothing but the truth.

Tribunal President: Thank you very much.

The Tribunal President opened the Tribunal to the Detainee to make his statement The Personal Representative restated the unclassified summary of evidence for the detainee to provide comments.

3.1. The detainee traveled to Afghanistan from Turkey via Iran and Pakistan in 2000.

Detainee: Yes.

3.2. The detainee lived with a known al Qaida member for two months Just before the raids began in Kabul.

Detainee: Yes I did stay over there for two months and I did stay with that person; however, I do deny that that person is associated with al Qaida.

3.3. The detainee claims to have lost his passport while traveling by foot across the Pakistani border.

Detainee: Yes I did lose my passport as I was leaving Afghanistan trying to get into Pakistan.

3.4. The detainee was captured with a Casio watch; a model that has been used in bombings linked to al Qaida and radical Islamic terrorist improvised explosive devices.

Detainee: It is true that I was carrying a Casio watch, but whatever is said about that watch is not true. If it's a crime to carry this watch, your own military personnel also carry this watch too. Does that mean that they're just terrorists as well?

3.5. The detainee stated that he had been in Afghanistan for a period of 14 months, however, he could only account for seven months.

Detainee: I've explained all the months that I was there.

Tribunal President: Okay.

3.6. The detainee traveled in and out of Turkey multiple times, including multiple trips to Syria under the guise of Arabic language studies.

Detainee: Yes I did leave for Syria multiple times, and I did go to Afghanistan also to learn and write Arabic, as well to see the place. I went to the other countries in that place just to learn the Arabic language, but Afghanistan was mainly to see the place.

3.7. The detainee is a known associate of Turkish radical religious groups.

Detainee: I don't accept that either. It is just lies.

Tribunal President: Salih Uyar does that conclude your statement?

UNCLASSIFIED//FOUO

Detainee: I would like you to repeat all the answers that I just said.

Tribunal President: I can summarize that.

Detainee: Yes.

Tribunal President: Regarding the first item, regarding traveling from Afghanistan to Turkey via Iran and Pakistan in 2000 you said that was correct, it was yes.

Detainee: Yes.

Tribunal President: The second regarding that you lived with a known al Qaida member for two months just before the raids in Kabul; you said that you did live with someone in Kabul for two months and did not acknowledge that he was an al Qaida member.

Detainee: Yes.

Tribunal President: The third item you said regarding the detainee claims to have lost his passport while traveling by foot across the Pakistan border; you said you did lose your passport as you crossed the border from Afghanistan to Pakistan.

Detainee: Yes.

Tribunal President: The fourth item that you were captured with a Casio watch, a model that has been used in bombings linked to al Qaida and radical Islamic terrorist improvised explosive devices. You did say that you had a Casio watch but did not have any knowledge of its use in bombings or improvised explosive devices. You also added a question if American soldiers also had the same watch, did they use them for such purposes.

Detainee: Yes.

Tribunal President: On the fifth item the detainee stated that he had been in Afghanistan for a period of 14 months; however, he had only accounted for seven months. Your reply was that you had accounted for all 14 months.

Detainee: Yes.

Tribunal President: On the sixth item, the detainee traveled in and out of Turkey multiple times including multiple trips to Syria under the guise of Arabic language studies. You stated that you had gone only to Afghanistan to see it, and you had traveled to other places to study Arabic.

Detainee: Yes.

Tribunal President: On the last item, that the detainee is a known associate of Turkish radical religious groups, you said you did not accept that, it was just lies.

UNCLASSIFIED//FOUO

ISN#298
Enclosure (3)
Page 3 of 7

002017

Detainee: Yes.

Tribunal President: This panel has not reviewed any of your file. All we know is what we have learned here today. We may be receiving and reviewing other documents later, and at this point I would just like to ask again if there is anything else that you wish to provide to the Tribunal members at this time.

Detainee: No.

Tribunal President: Okay. Personal Representative do you have any questions for the detainee?

Personal Representative: No Sir.

Tribunal President: Recorder, do you have any questions for the Detainee?

Recorder: No Sir.

Tribunal President: Does the board have any questions for the Detainee?

Tribunal Member's questions

Q. How old are you?

A. Twenty-four.

Q. What did you do in Turkey before you left, before 2000?

A. I was a student.

Q. What did you study besides Arabic?

A. It's like an open enrollment high school. It is kind of like home schooling.

Q. So when you went to Afghanistan in 2000 that was for the purpose of sightseeing?

A. Yes, I just went there to go see the country.

Q. Why did you go via Iran and Pakistan rather than directly?

A. Because I only know how to get there that way.

Q. How did you get there? What were your means of transportation?

A. I went to Iran, then to Pakistan, then to Afghanistan.

Q. Did you fly? Did you take a taxi? How did you do that?

A. Bus. They have a highway, so it's the bus.

Q. When were you apprehended?

A. I really don't know when I was apprehended.

UNCLASSIFIED//FOUO

Q. Do you have any idea at all?

A. I don't want to say the wrong date so I really don't know when exactly.

Q. Fair enough. From the time you entered in 2000 until the time you were apprehended, were you in Afghanistan the whole time?

A. Yes.

Q. What were you doing that whole time?

A. I went there to go see the country so I didn't go just to Kabul and I was just sightseeing the whole time I was there.

Q. Is that approximately the 14 months we are talking about?

A. Yes.

Q. How did you pay for your travels?

A. I had money from my dad. I borrowed some money from him and that's how I paid it.

Q. What is your view of the government in Turkey?

A. Its good but common law is just not that good.

Q. What did you intend to do with Arabic once you had mastered it?

A. I wanted to learn Arabic not just to use it to make money, but since Islam is in Arabic, that is why I wanted to learn it.

Q. Are you a member of any groups in Turkey?

A. No.

Q. Do any of your friends belong to any groups that you know?

A. No, I don't think so.

Q. Have you ever received any training in weapons?

A. No.

Q. Were you armed when you were apprehended?

A. No I was not armed.

Q. What were the circumstances by which you lost your passport? Could you elaborate?

A. I didn't leave by any travel means; I was walking over the mountains and so I somehow dropped it.

Q. Were you traveling from Pakistan to Afghanistan when you lost your passport?

A. When I went to Afghanistan I had my passport. I was leaving Afghanistan to get into Pakistan, that's when I lost it

UNCLASSIFIED//FOUO

ISN#298
Enclosure (3)
Page 5 of 7

00201.9

Q. How long did you study there?

A. I went to Syria a couple of times, I went there and then I came back. When I was back in Turkey I basically bought books and tried to learn it by myself.

Q. For about how long though did you study Arabic?

A. I don't remember exactly how long.

Q. How well do you speak Arabic now?

A. It's minimum. It's not bad; it's not good either.

Q. When you were apprehended, was there anyone else apprehended with you?

A. I had some Turkish people with me, traveling with me.

Q. Do you remember their names?

A. The people I was with were already here and left about a year ago.

Q. Do you remember any names?

A. Yes I do remember their names.

Q. Could you tell us their names?

A. Ibrahim.

Translator: Can I ask for the last name?

Q. Yes last name too?

A. I don't remember the last name.

Q. One last question. Before you were apprehended do you remember the last Islamic holy day or holy days?

A. Before I got caught or after?

Q. Before you got caught.

A. It was Ramadan. It was before I got caught.

Q. I have a few questions too. You lived with a friend in Kabul for a few months; can you tell us a little bit about your friend? Like what he did, what was his occupation?

A. When I was there with him, I didn't see him do anything. I don't think he had an occupation. He himself was actually a refugee from Iran and that's how we became friends.

Q. Okay, thank you. My other question was, you were leaving Afghanistan by walking to Pakistan, why were you leaving Afghanistan? What were the reasons for you leaving?

A. Because the war started so I left.

Q. Okay. You traveled there by bus; did you not have enough funds for transportation?

A. Money wasn't an issue, it's just the fact that the city was at war so there weren't any other means.

UNCLASSIFIED//FOUO

Tribunal President: Are there any other questions from the Tribunal? (The members indicated they had no additional questions.) Salih Uyar, do you have any other evidence to present to this Tribunal?

Detainee: No.

The Tribunal President confirmed with the Personal Representative that he had no further evidence and that the Detainee had no previously approved witnesses to present to the Tribunal.

The Tribunal President explained the remainder of the Tribunal process to the Detainee and adjourned the open session.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Tribunal President

UNCLASSIFIED//FOUO

ISN# 298
Enclosure (3)
Page 7 of 7

002021

Summarized Sworn Detainee Statement

The Tribunal President read the hearing instructions to the detainee. The detainee confirmed that he understood the process and had no questions.

The Recorder presented Exhibits R-1 thru R-3 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

Tribunal President: I see that you have requested one witness, ISN#243. By his silence, he has elected not to participate here today.

The Detainee did take the Muslim oath.

The Personal Representative read the accusations to the detainee so that he could respond to the allegations. The allegations appear in italics, below.

3.a. The detainee is associated with al Qaida:

3.a.1. The detainee traveled from Saudi Arabia to Pakistan and the United Arab Emirates in September 2001.

Detainee: I cannot recall the exact date.

3.a.2. The detainee was arrested at a checkpoint in Pakistan.

Detainee: True.

3.a. 3. The detainee was in possession of a large sum of money when captured.

Detainee: Right.

3.a.4. The detainee was arrested with another individual

Detainee: Yes, this is true.

3. a. 5. The individual was a fighter at Tora Bora.

Detainee: Not true. You want me to say something about this? One of the Saudi Arabia embassy representatives met me in Pakistan. I showed them all the documents I had, which would tell them what I did thru the time I spent in Pakistan, like the bills from the hotel and the communications between my family and me. The stuff I had on me when they arrested me, I was going to sell them. They arrested me before the fight in Tora Bora.

3.a. 6. This individual also attended paramilitary training camps.

Detainee: That's not right.

3. a. 7. This individual was also the director of the Al Wafa organization in Herat.

Detainee: I don't think so and I have reasons for that. This individual had a lot of money and he was looking for a charity organization, Saudi or others, to give it to them to help the poor people, Saudi charity organization or the Red Cross. If he had any relations with the Al Wafa organization he would not go and look for another organization to give the money to he would just give it to his organization. The other reason is he just came from Turkey. This is the second reason. The third reason is he never mentioned anything else, I was only with him for four days from the day I met him until the day they arrested me. He didn't say anything about being a member of the Al Wafa organization. That is the reason I have.

3.a. 8. Al Wafa is a non-governmental agency considered a terrorist organization.

Detainee: I never heard about this name until I got here.

3.a.9. The detainee met with a known al Qaida facilitator.

Detainee: I met two people in Pakistan and I don't know if they were related to al Qaida or not, but if they were related to al Qaida they would have killed me because as I have stated before I didn't have a beard and I had a lot of dates with women. If they were members of al Qaida they hate these things because they are terrorist. They don't like people to have their own freedom to do such things. They would at least stop me from doing these things or kill me.

3. a. 10. The detainee may have attended a terrorist training camp.

Detainee: Never

3. a. 11. The detainee received special training in Kabul.

Detainee: Where is Kabul located?

Tribunal President: Kabul is a town in Afghanistan

Detainee: I have never been to Afghanistan. They have my passport and a representative from Saudi Arabia looked at my passport and there is nothing mentioned that I entered the borders. By the time I went to Pakistan until they arrested me it was a very short time. I could not have gone to Afghanistan to train there.

Tribunal President: Is there anything else you would like to tell us at this time?

UNCLASSIFIED/FOUO

Detainee: Two members of the Saudi Arabia embassy in Pakistan met me with another guy named Ali Abbott(ph). He is the head of the intelligent service in Pakistan. They looked at my documents and they mentioned to me, you are okay there is nothing against you. On the twenty-seventh, twenty-eighth, or the twenty-ninth of one month we call Shawall(ph), it is after the Ramadan. I got a piece of paper from the court in Pakistan saying that I was an innocent man in the second or the third session of the court. That was the day before they transferred me to the American people. I hope the American government can find the proof in my stuff that they could not find. I am sure if you find my stuff and go thru it you will find out I don't have anything to do with these accusations you have against me. I am a businessman. I feel that I am in danger if I stay here or go back to Saudi Arabia. Not from the government, but from the people around me over there. What I meant by that is, a lot of detainees here around me think that I am a spy. They think that I am working with the Soviet and the Americans. They threaten to kill me if I stay here or go back. Since I have been here these three years the detainees curse me and threaten to kill me if I stay here or go back to Saudi Arabia. I hope if I am found innocent you will not send me back to Saudi Arabia. I will seek an asylum in another country like Sweden. I will be away from the Arabs. Sweden is so far from Saudi Arabia. That is my suggestion to keep my live.

Tribunal President: I can tell you that we make a determination on your enemy combatant status, but as to anything else, that will be worked out with the Department of State. We will however make a note of your concerns.

Detainee: God bless you.

Tribunal President: At this time we may have some questions for you. Would you be willing to answer some questions?

The Personal Representative and the Recorder had no further questions for the detainee.

Tribunal Members' questions

Q. Can you tell us why you went to Pakistan?

A. I mentioned this to the interrogator many times. I went there looking for artifacts like old coins and old books because it is cheap there. As a businessman I would go buy it and I would transfer it to Arabs inmerant(ph), Saudi Arabia, or to Europe.

Q. Have you made trips in the past to Pakistan for that same reason?

A. No, that was my first time.

Q. About how much money did you have?

A. In what currency do you want?

UNCLASSIFIED/FOUO

ISN&340
Enclosure (3)
P&ge 3 of 9

002024

UNCLASSIFIED/FOUO

Q. Dollars would be fine.

A. More than ninety thousand dollars.

Q. How did you happen to have that amount?

A. When I went to Pakistan, I had a little money to cover my expenses and to buy little stuff. After that I went to places in the North, which was North East Pakistan. I found out there was a lot of people that go and look for the stuff I want. They didn't know the value of the things they found and I bought it from them. I found a mummy. I bought one. I was planning to send it to Europe. I put it on the Internet. I had the help of a Pakistani translator; he did this for me on the Internet. I sold it to a French man. I had two, one big one small. I bought two of them. I sold them two days after I bought them. Most of that money came out of the sell of the two mummies and the rest was mine.

Q. Is there anyway the investigators could be able to find documentation of that sell?

For example you mentioned EBay. Do you know the website that you used?

A. If you can find that Pakistani guy I'm talking about you would definitely get all the information you want.

Q. What was your occupation before you started trading in commodities?

A. After I left when I quit my education. I dealt with Arabian horses, used cars and perfumes. In Saudi Arabia we have free trade.

Q. What is your education level?

A. High School.

Q. As far as finding that Pakistanian guy, do you have his name?

A. His name is in Urdu. I cannot remember his name. If it was in Arabic I could have memorized it but it is Urdu.

Q. Did you ever remember it? For example were you ever asked about it? You said you were asked several times by the interrogators the reason why you were in Pakistan. Did you ever tell them his name?

A. I never mentioned that to them. They didn't ask about it.

Q. How old are you?

A. Twenty-four.

Q. Do you speak or understand English?

A. A little.

Q. Your family, is it wealthy, poor, large or small?

A. Wealthy.

Q. What did they do?

A. My dad is in the real estate business and camels.

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- Q. You said you never attended training camps, but do you have any military training?
- A. No.
- Q. Have you ever handled any weapons like bombs, explosives, guns, ordinance etc?
- A. In the tribe I belong to they have all of those things, but I am scared to be close to them. When they have ceremonies they shoot in the air and I hate that.
- Q. For the record are you a member of the al Qaida?
- A. No.
- Q. Do you belong to Al Wafa?
- A. No.
- Q. You mentioned that al Qaida dislikes people who don't have beards. Why do you have a beard now?
- A. To prove to the detainees around me that I'm one of them and I am worshiping God. I don't have anything to do with when I was young going around doing things they don't like. I asked many times to the interrogators to put me some place where I don't have to see them. I want to get rid of this fear.
- Q. I'm trying to understand. You said that when you were arrested in Pakistan, it was your first time there and that you were only there three to four days?
- A. Those three four days was just when I met the other guy.
- Q. How long were you in Pakistan before you were arrested?
- A. I use to have notes. As I said before I don't know the exact time when I entered into Pakistan. I can't recall how many days I spent there in Pakistan. If you have the invoices and slips from the hotel you could tell how many I was there.
- Q. The individual that you met how did you meet him?
- A. I met him in Islamic (inaudible) to King Fasal mosque. I was lost I didn't know how to get back to my hotel. The places look the same. I don't know the names. I went to him to see if he could help me. He asked me, what do you need? I asked him if he could tell me how to get back to my hotel or to go back to Saudi Arabia. The reason I wanted to go back to Saudi Arabia was because I thought I was never going to get to the hotel to get my own money. I asked him if he could help me and give me some money as a loan just to get back to Saudi Arabia, as a loan.
- Q. You had ninety thousand dollars when you were captured. Why did you need a loan to get home?
- A. It wasn't on me at that time. It was at the hotel, which I didn't know how to get back to.
- Q. The ninety thousand dollars was lost then. You were separated from your money?

UNCLASSIFIED/FOUO

UNCLASSIFIED/FOUO

A. I thought maybe I lost it because maybe I wasn't going to get back to the hotel.

Q. Was the money in a safe or in your room?

A. In a samsonite handbag. The bank note was small.

Q. When you travel to Pakistan, how did you get there?

A. I went by airplane to Saudi Arabia to Pakistan.

Tribunal President's questions.

Q. This gentlemen that you met on the street. Why did he stay with you?

A. We both had a lot of money and we wanted to be together to protect each other because there are a lot of thieves. He said stay with me until I give the money to a charity organization.

Q. That was the first time you had ever met this individual correct?

A. Yes.

Q. Maybe you didn't understand, but in the unclassified he had attended paramilitary training camps. Would you have known that? Did you talk about that sort of thing?

A. I could not tell if he had had any training. He was with me in the car and I'm driving. I had a laptop. There was a movie, I didn't ask what kind of movie. He said that he didn't care about it. I'm sorry to tell you that some of those movies were adult's movies. If he were a fanatic(ph) or a terrorist, he would have let me know to turn it off because he doesn't want to see it.

Q. You had made assumptions about him, but you didn't know the particulars about him? You didn't know in-depth information about him?

A. Yes you are right.

Q. Can you tell me what happen when you were arrested? How did that happen?

A. I was coming from Karachi going to Quetta(ph). A Pakistani individual told me, if you are looking for any charitable organization they are in Quetta. We were looking for them and it was nighttime. We entered into the suburbs of Quetta. There was a driver and his helper with us. They made one turned and they said those are the needy people. This was in the very suburbs of Quetta. We were scared to get out because maybe they would take all of the money. We ask the driver to get back. I told the driver we have decided to give it to one organization not to individuals. It is safer and less hassle if we go and look for an organization to give them the money and get a receipt from them and they can go and do whatever they want with the money. When we went back we pass the same checkpoint. That was just ten minutes ago. When we tried to go thru the checkpoint they arrested us.

UNCLASSIFIED/FOUO

ISN#340
Enclosure (3)
Page 6 of9

002027

UNCLASSIFIED/FOUO

- Q. What reason did they give you for arresting you?
- A. They said that you are Arabs. Even when I talked to one of them in English, he said there is nothing against us, but he asked for five thousand dollars. He said that the United States will buy you for ten thousand dollars, five thousand dollars per person. At that time I don't blame the United States because of what had happened at that time, it was a disaster. I thought I would only be detained for days but it looks like it has been a while.
- Q. Would you normally carry around that much money? Wouldn't you use a bank?
- A. That was the cash money that I got from the French man I sold the mummies to. My plan was to transfer this money to Saudi Arabia. I went to the bank to exchange it from dollars to Kuwaiti because the bank notes are smaller.
- Q. If you were going to return to Saudi Arabia. Wouldn't they question you for entering the country with that amount of money?
- A. Not the amount because the size of it was little. They would never ask, if it was with me. My plan was to transfer the money to Saudi Arabia. I was thinking about depositing this money in a visa card.
- Q. If you had not been arrested what were plans? Were you staying in Pakistan or were you going somewhere else?
- A. I was planning to go back to Saudi Arabia because it was only nine days before Eid(ph)
- Q. Was your family expecting you to return?
- A. Yes and there were a lot of gifts for them.
- Q. Did they contact the Pakistani government to find out what happen to you when you didn't return?
- A. I always call my family, but the last time was when a representative from the Saudi Arabia embassy in Pakistan said to me in three days you will be free. I called my family and told them that in three days I will be in Saudi Arabia.
- Q. The last time you talked to your family you were in jail?
- A. I was in the Red Crescent before they transferred me to prison. We were under Saudi Arabia embassy custody. The Pakistani's wanted us to be in prison but Saudi Arabia said that there is nothing against them so let them go.
- Q. When you were arrested did they put you in a Pakistan jail?
- A. After I met with Saudi Arabia or before?
- Q. When you were arrested at the checkpoint?
- A. They took me to the Pakistani intelligence building, not a prison. We stayed there for five days, in that building. Then they took us to General Hospital. We went on a hunger strike where we didn't eat for five days. I spent one night in General Hospital. The Saudi embassy representative came and took me to the Saudi

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Arabia Red Crescent. I stayed in the Red Crescent for eight days and then they took me to the Pakistani prison. The Saudi Arabia embassy representative apologized. He said we couldn't do anything. The United States wants you. They the United States is bigger than Saudi Arabia so your will be going with the Americans. They assured us that we would be free in a very short time.

Q. What happened to your money when you were arrested?

A. The money, books and all of my stuff was signed for on a piece of paper by the head of Pakistani Intelligence Service, his name is Ali Abbott(ph), a representative from Saudi Arabia embassy and a representative from the court I went thru in Pakistan. They signed that piece of paper saying that all these things belong to me. When they took me to the prison they brought all of my stuff with that piece of paper to the prison. This is one of the last two times I saw my stuff, at this time when I am talking to you when they transferred me to you and the other time when the American interrogators sat with me. I signed the paper by my fingerprint when I met the Americans for the first time. They showed me what I had and everything was there. That piece of paper was in Arabic language. There was another piece of paper in another language but I don't know what was on that paper.

Q. Basically they had you verify that these belongings actually belonged to you?

A. Yes ma'am.

Tribunal Members' questions continues

Q. One area that confused me and that's your willingness to leave your money in your hotel by going to Saudi Arabia. That didn't make sense to me and I wanted to see if you wanted to explain that?

A. My plan was not to leave the money there. When I met the other individual I was seeking his help to go get the money and to be with him because that was a lot of money. I was trying to explain that but I didn't want to cut off his question.

Translator: Can I say something here? I don't why he only said it once, but he mentioned that when he got lost he thought he was not going to see that money again, that is what he said.

Detainee: I explained everything with my Personal Representative. I wish you a long life. There is something I want to say but I am to shy to say it.

Tribunal President: This is your only opportunity.

Detainee: If you send me back or stay here. I want to stay because I'm guilty not because I'm innocent I am worried about the people around me always telling me that I'm a spy. If you send me back to Saudi Arabia people will say that you collaborated with the Americans that is why they let you go.

UNCLASSIFIED/FOUO

ISN#340
Enclosure (3)
Page 8 of 9

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UNCLASSIFIED/FOUO

Tribunal President: We **will** take that into consideration and we will certainly note it in the record that you have these concerns.

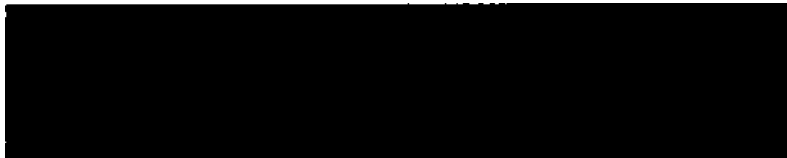
Detainee: God bless you for what you said. If I go back because I'm innocent I don't think I will survive.

The Tribunal President confirms that the detainee had no further evidence or witnesses to present to the Tribunal

The Tribunal President explains the remainder of the Tribunal process to the detainee and adjourns the Tribunal

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Tribunal President

UNCLASSIFIED/FOUO

Summarized Detainee Sworn Statement

The Tribunal President read the Hearing Instructions to the Detainee. The Detainee confirmed that he understood the process and had no questions.

The Personal Representative presented the Detainee Election Form (Exhibit D-A) to the Tribunal

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) and Exhibit R-2 into evidence. The Recorder gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

Tribunal President: At this point in the Tribunal, I will address your request for witnesses. Your Personal Representative had previously informed me that you requested the following witnesses: The first witness was identified as Hajji Sher Mohammed, your father. Also Hajji Aagha Gul, your brother. Is that correct?

Detainee: This is **true**.

Tribunal President: My notes show that I received this request on 3 December and I determined that these witnesses would provide relevant testimony. On the same day that I was notified, 3 December, I directed the United States government contact these individuals through the Afghanistan government. I was informed that this government was contacted on or about 9 December 2004. As of this date (the date of the hearing, 28 December 2004), the Afghanistan government has not responded to our request for assistance. I have determined that it has been a reasonable amount of time for the (foreign) government to respond. Without the cooperation of that government, we are unable to contact the witnesses to obtain your requested testimony. I make the ruling that I am forced to find these witnesses not reasonably available at this time. However, if the Afghanistan government does contact us, we will reconsider their testimony and possibility reconvene at a later date. Does that address your witnesses?

Detainee: I guess you guys just couldn't find them.

Tribunal President: More specifically, we rely on our government to contact your government to locate Afghan citizens. It is not appropriate for the United States government to contact your witnesses directly because they are citizens of another country.

Detainee: Yes that is correct.

Tribunal President: Again, just a reminder that if we do receive any information from the Afghanistan government regarding your witness, I will consider those at a later time.

Detainee: Correct.

Tribunal President: I will ask the Personal Representative to remind the Tribunal to inquire on what testimony the Detainee expected from these witnesses. That can be addressed at a later time in the Tribunal.

Detainee: That is correct.

Tribunal President: Janat Gul, you may now present any evidence you have to this Tribunal. Your Personal Representative may assist you if you wish. I understand from the Detainee Election Form provided to me earlier that you wish to make an oral statement, is that correct?

Detainee: I have provided a statement. I can add further information to that statement a little bit, in case you still have any questions about my explanation; I can elaborate further on the situation.

Tribunal President: I understand. Before we continue further I'd like to ask if you would like to make your statement under oath?

Detainee: Yes, if there is a need for it I will. If you don't have a need for it, I won't.

Tribunal President: The decision regarding taking the oath is yours. It is your choice if you'd like to make your statement under oath or not under oath. We have a prepared Muslim oath if you would like to use that

Detainee: Yes, in the name of Allah, the beneficent, the merciful, the compassionate, I will say everything that is true and nothing but the truth.

Tribunal President: That is perfectly acceptable and we understand that you have sworn your own personal statement Thank you.

Detainee: That is correct.

Tribunal President: You may proceed with the assistance of your Personal Representative.

Detainee: I have [written my testimony on] a piece of paper, and in addition to that, if I think of more stuff, [I will add it] according to each question. I would like to answer each question one by one if I may so I can elaborate on it.

The Tribunal President requested the translator adjust his seating position.

Detainee: Should I go one by one, or do you want to go ahead? (speaking to the Personal Representative.)

Tribunal President: Personal Representative, please assist as needed.

Personal Representative: Would you like me to read each point of evidence to you, or we have a translated copy and you can read each point and then make your response? (referring to Exhibit R-1).

Detainee: Yes, that is fine.

Personal Representative: Which one?

Detainee: Go ahead and go one by one and I will answer.

The Personal Representative read each allegation from Exhibit R-1.

3.A.L The Detainee admitted he is a member of the Taliban.

Detainee: This is not true. It is not a fact. I have never admitted to that before. I am an educated person and I am always kind of fond of an advanced society. The people that know me in my village know about these facts and they also know the reason why there was a need for me to change my name. I did it because of my protection. All the people in my village and my friends know that I was twice forcefully taken away from my store and also from the mill that I was running. My family did not know about the matter. They found out two days later. When they found out I was taken to Kandahar, I could not afford to release myself from whoever caught me, because the Taliban was in power of our government and I could not say anything to criticize them. That was their rules and I had to follow their rules and it was a forceful detention by them. This was just a brief version of what I have to say. I have a lot to say but I don't think there is a lot of room and a lot of time for me to go on and on and on. That was the brief version of what I have to say.

Tribunal President: I understand and it is very helpful for us if you could address all nine points and there will be plenty of opportunity for additional and valuable information.

Detainee: Fine.

3.A.2. The Detainee is a former president of Ariana Airline.

Detainee: Yes, I do accept the accusation that I did work for Ariana administrative branches. Ariana Airline was an organization that did not have any direct ties with the government. Due to all of the threats that were facing me and my family, and when they used that forceful approach of detaining me, they had planned to send me to war to fight for them and that would have left my family with no future. When the Taliban had captured people through that forceful approach, they usually sent them to the war zone. In order to relieve myself from all these situations, I had to go and accept a position like that I did not join the Taliban in order to help them fight anyone or anything political for that matter. Through accepting this position, I saved myself from going to war and leaving my family behind. That was the only way I could save myself. At the same time I was answering to the needs of my family.

The Tribunal paused briefly to allow the Recorder to address some external noise issues.

3.A.3. The Taliban controlled Ariana Airline.

Detainee: I do not know about the governmental structure of Ariana Airline but I know that Ariana Airline was a civilian supported organization, civilian run. After they paid all of the expenses for the repairs and whatever related expenses, the remaining profit was distributed to the employees of Ariana Airline. They did not have any relationship to the government's budget. That's why it was considered a self-supporting organization. All the operations of this airline were operating according to the rules and laws of aviation. Their domestic operations or flights were under the Secretary of the Ministry of Transportation.

3.A.4. The Taliban used Ariana Airline to transport their members.

Detainee: I do not have this written as far as answering it but I'll talk about it This is not a fact, actually. The Taliban did have their own operational aviation system that they were using. The fact is, there was a possibility that the Taliban had traveled through Ariana Airline; it is possible because they could go like a civilian buying a ticket as in normal operations. They could have been passengers at any particular time. I have never heard or seen any type of situation where Ariana Airline was particularly or specially used for the Taliban or their operations or their needs.

3.A.5. Ariana Airlines provided free flights to Konduz, Afghanistan for individuals joining the fight against the Northern Alliance.

Detainee: That is not true. Ariana Airline was individually operating and was not under control of the government. They were serving the public as a whole. Since the northern part of Afghanistan was also a part of Afghanistan, people went back and forth because people had family there, after the Taliban had control of the northern part of Afghanistan. Due to family visitations, they had gone ahead and initiated flights to the northern part of Afghanistan for the people who wanted to go visit. These were just weekly flights that served the Ariana employee families to go back and forth to the northern part of Afghanistan, the employees of Ariana Airline. There are a lot of states and provinces located in the northern part of Afghanistan, and it has one main freeway to that direction, which was Sanlonk Freeway (ph). It connected the North to Central Afghanistan, and unfortunately that whole highway was totally blocked and transportation going back and forth was impossible. Everybody knows that the people who went to the north to fight used to all live in Peshawar, Pakistan. At the border of Torhum (ph), which is between Afghanistan and Pakistan, thousands of families were going back and forth between Afghanistan and Pakistan. When they reached Kabul from Peshawar they were taking Ariana Airline to the northern part of Afghanistan since that freeway was blocked. Because there was another road connecting Central Afghanistan to Northern Afghanistan through Barman province, it was very dangerous to drive to Northern Afghanistan. Tens of cars have gotten into accidents and fallen down from the main road, and a lot of people died. So the only way to go from Central Afghanistan to Northern Afghanistan was to use Ariana Airline, so they could take the whole family and transport from Kabul to the northern provinces. A lot of families would go back and forth between Northern and Central Afghanistan. One of the airplanes that had flown from Kabul to reach Mazar-e-Sharif had gone to London if you remember. Maybe that is a good

example, if you want to follow up on that and ask the British government when the Ariana Airline flight changed directions and was diverted, you can see the [passenger] list of that flight to see if any Taliban were there. That would prove to you a lot of facts, that there were no Taliban on any flights going north, and they were not being transported by Ariana Airline.

3.A.6. Taliban forces utilized Ariana Airline from Kandahar to Kabul.

Detainee: This is not true. Ariana Airline had flown weekly between Kabul and Kandahar. Because Kandahar is located between Kalat (ph), Oruzgan, Herat, Nemroz, and Farah provinces, it has a central structure. Everybody knows that the road between Kabul and Kandahar is ruined. It's too difficult to travel, especially if you are with ladies and children. It would have taken somebody three days to go from Kabul to Kandahar. So families have the necessity to take a flight to go between Kabul and Kandahar. Two days expense or three days expense of a trip would have exceeded the cost of an airline ticket. These people could not use military or governmental aviation or planes, and that is because government airplanes were only taking the Taliban back and forth from Kabul to Kandahar. They were going back and forth all the time and each airline had a 200-person capacity to take people back and forth. Capacity being 200 people, the Taliban did not need Ariana Airline to transport them from state to state.

3.A.7. An active al Qaida member and licensed pilot brought in other al Qaida members to work for Ariana Airline.

Detainee: This is the first time I have heard about such a fact. I am kind of shocked and surprised by this type of question. I did not witness that and I do not have an answer for this.

Tribunal President: I understand.

3.A.8. An individual with plans to engage in hostilities against the United States had strong ties to Ariana Airlines.

Detainee: I do not have any idea about this situation, that someone like that had actually worked for Ariana Airline. Everybody I knew as employees were all civilian employees and I do not know of any al Qaida member that worked for Ariana Airline at all. For some reason, this question number eight was not included in the copy of the allegations. I have not read this question before. I could have arranged to bring more detailed information about it but I do not remember this question number eight.

3.A.9. The Detainee was arrested in January 2003 in Lashkargar, Afghanistan.

Detainee: I admit that I was captured in my house when I was with my family. I was detained at that time. I never realized that this would happen to me. I did not have any problem with the government. I did not have any problem with the people, and I did not have any problem with America. All of the people in my village know me and understand this fact. When Mr. Karzai's government had taken over, I was a happy man sitting in my house. A little bit of my education was left behind and was not finished and education conditions were not great while the Taliban were there. I had wished and hoped for my freedom, and that was determined to be

accomplished. Obviously I was thinking that I am happily entering a happy world. I was released from the oppression of a government, the Taliban government. I came out of the darkness into the light. But unfortunately, my destiny had me into a situation; instead of treating me with fairness and equality, I was punished. I had left my job; even before the Americans came I was in my own house and in my own land. I wasn't working for anyone. That is it.

Personal Representative: That completes the summary of evidence.

Tribunal President: I'd like to review item number eight where the Detainee noted that he wasn't informed of that allegation before hand. Personal Representative, can you address that point.

Personal Representative: Yes sir, in fact it perhaps was a question that the Detainee forgot The written statement mat I will hand to the Tribunal does address question number eight.

Detainee: It's possible. I do not recall it but it's possible that I have missed it somewhere.

Tribunal President: At this time I would like to receive your written statement which I understand will be in both your native Pashtu and a translated copy for our review.

Personal Representative: If I may sir, can I just show him his response so that he knows that he answered himself.

Detainee: Then it is okay.

The Personal Representative showed a copy of the written that the Detainee had hand written to confirm that he was aware of question number 3.A.8. of Exhibit R-1.

The Personal Representative presented Exhibit D-B, the Detainee's written statement and a translated copy to the Tribunal

The Tribunal took a short recess to review the Detainee's written statement

Tribunal President: The Tribunal for Janat Gul is reconvened after reviewing a written statement provided by the Detainee. Just a note of clarification in the written statement You addressed items one through eight of the unclassified summary. The ninth item was not addressed in the written but was clarified in your oral statement Thank you. At this time, just before we open the Tribunal for questions, I'd like to review what you would have expected from your witnesses had they been able to attend. Janat Gul, if you would please tell the Tribunal what you had hoped these witnesses would testify today.

Detainee: Should I answer?

Tribunal President: Yes please.

Detainee: My main purpose and main hope is to gather all the information from the people that know me to say who I was and what I did and at the same time it would help you guys to clear

your mind about my capture; if you have any questions about that, to put information in front of you.

Tribunal President: Is there any specific testimony you expected your father and brother to provide us?

Detainee: No.

Personal Representative: I could sir, based on our initial interview, what I got out of these discussions.

Detainee: That is fine.

Personal Representative: The expected testimony from both witnesses were similar, so what I say will basically encapsulate both. The witnesses can testify that the Detainee was conscripted by the Taliban. He was forced to work for them but was never a member. Additionally, the witnesses can testify that the Detainee pressed the Taliban for a non-military position. That concludes the specific testimony expected.

Tribunal President: Thank you. Personal Representative, do you have any questions for the Detainee?

Personal Representative: Yes sir, I have one.

Personal Representative's question

Q. While you were president of the airline, did you witness or were you aware of the airline hiring planes out or chartering their planes to private individuals or other companies?

A. I do not think that is the case because we had actually acquired help from aviation agencies to help us carry passengers. We had a lot of passengers and we could not charter a plane to someone and we were short on planes.

Personal Representative: No further questions.

Detainee: We had a lot of passengers going, flying our airplanes during the Hajj, but when planes were not being used for the Hajj process, we had some available planes in Kabul. I do remember that one time we had some sort of inquiry from the government of Bangladesh, that they needed some of our planes for some type of purposes.

Tribunal President: Recorder, do you have any questions for the Detainee?

Recorder: No sir, I do not.

Tribunal President: Does the board have any questions for the Detainee?

Tribunal Members' questions

Q. When did you begin working for Ariana?

A. I'm sorry I do not remember the date. In Afghanistan it's not very common that we remember exact dates. Even my father and my mother were telling me that they did not remember when I was born.

Q. Can you give me a general date?

A. I do not remember a date again. I do remember that one of the people I knew was head of the department there at the Ariana Airline and he hired me as an assistant, but I do not remember exactly when it was.

Q. Was this before or after the year 2000?

A. I do not know your calendar so I don't know if it was 2000 on your calendar, because it does not coincide with our calendar.

Q. Can you provide me any help in trying to figure out when you worked for Ariana? How long after the Taliban came into effect? Any other world event, anything? How many Hajjs did you work for Ariana through? Anything.

A. Before the Taliban I wasn't there. I was still going to school. After I had finished school the Taliban came and I had married at that time. I believe when I was an assistant, I believe the Hajj process happened probably three times, so that would make it three years. Then I became the person in charge for a whole year, so that would make it approximately four years, and there was a flight to Germany that went about once every six months when I was there.

Q. You had previously stated I believe that you had stopped working at Ariana before the United States came to Afghanistan? Is that correct?

A. When the trouble started on September 11*1 had become unemployed.

Q. How much before September 11th did you become unemployed?

A. I was there when the September 11th incident happened and I quit right after that. I immediately sensed that things were not normal anymore and were now complicated. At that time when we talked about a forceful approach of the Taliban getting people hired for their purposes, they were not as severe, so I chose to quit

Q. Did you choose to quit before the United States came to Afghanistan or after the United States came to Afghanistan?

A. Three to four days after that.

Q. September 11th and the day the United States appeared in Afghanistan were not the same day. What I want to know is did you quit between the time of September 11th and the attacks began or did you quit after the attacks began?

A. Right after September 11, two, three, or four days after that. At that time my wife was in Kabul and I did have children then but I did have a niece. I put them in my car and went to my home.

Q. You described that the Taliban had its own service. Could you elaborate on that just a bit?

A. I heard from other people that there was a different facility for the Taliban themselves, other than where Ariana Airline was serving the civilians. The Taliban had their facilities and there were gates and nobody else could go in there. I have never seen it or been there. They were known to have their own operation and their own premises and their own location.

Q. Were these military facilities and military aircraft?

A. All of the equipment for aviation that they had was left by previous governments. [This equipment] had been used for themselves in their operations in Afghanistan. The Taliban just took over.

Q. Did the Taliban military services have any air capabilities at all: assets, airplanes, airfields anything? Did they have an Air force?

A. This is a very obvious situation. Yes of course they do. Everybody knows they had their own military operation and military system in the aviation department. They were not civilian but military controlled operations.

Q. Lastly, you said that this was not a government run airlines. But, you also said that after the Taliban had conquered the north, the Taliban initiated flights to the north and the Taliban used those flights to move its families. Those two things don't seem to work together.

A, I was mainly mentioning that it was not Taliban but all of the families and the people who had lived there. We had flights between Kabul and the northern provinces. They were not Taliban; Taliban had their own operations. They could have taken ten flights of their own and landed where they wanted. They had helicopters and everything else.

Q. I was confused about one point. Did the Taliban force you into a position at Ariana Airlines?

A. There was a forceful draft that they had initiated there and I was supposed to go ahead and do that. The draft was orchestrated such that whoever was a homeowner or had land, at least one member of their family had to be involved in their operation for three months.

Q. How did working for Ariana get you out of the draft? I don't understand that relationship.

A. As I told you before twice, I was taken for these particular duties in my statement. I was under some severe conditions as far as my safety was concerned. I had just started a family and every other three months they were renewing the draft and that's what happened to me. Like I said before, I was totally eligible. Within their conditions, if you were a homeowner and I had a store and I had a mill, and I had some land as well, so I was totally qualified for their draft condition to go and do duties and go to war. I was in that type of situation.

Q. So by working for Ariana, that convinced the Taliban that they should not draft you. Is that correct?

A. They had said that if somebody has a civilian occupation in the government than they were exempted from the draft. Somebody who had lost their father or one of their brothers

during the Taliban government and the wars, they were exempt as well. Since my father was 85 years old and my brother was away from my house, I had checked into opportunities to find some kind of job where it would qualify me for this exemption and through some connections that I had I went and initiated this situation where I was looking for another job and ended up there.

Q. So the job you took with Ariana Airlines to avoid the draft was a government position?

A. There was a sector of the Taliban government that was strictly engaged with military operations and there was a sector that was like Ariana Airlines. Our shopkeeper was working for the Taliban too. I was working for Ariana Airlines and obviously was part of the government; it was not privately owned. I was not working strictly for the Taliban for their purposes of engaging in wars with everybody else like that. There were a lot of people that worked for the Taliban and were under the control of the Taliban but they never engaged in the Taliban's operations as far their military purposes and fighting their enemies and all of that.

Q. What were your specific responsibilities in Ariana Airlines? I understand that you were a clerk. What were your responsibilities?

A. In the beginning I did not have a lot of experience and I did not know what to do, I did not know what my responsibilities were. There was a department that dealt with providing paper, pens, and accessories, all of the things that were needed in Ariana Airline's operations, supplies and whatever they were. I was there as an assistant and I was kind of handling those processes. We had about three different departments. They all had their department heads.

Q. Did you have any responsibilities regarding employment, who worked for Ariana Airline?

A. I did not have the power of hiring somebody myself. I did look into application forms. I did see applicants. I went through their applications and I introduced them to the higher ranks if they wanted to hire somebody.

Q. Was that in your department, regarding supplies and logistics?

A. I was involved in what I said before and at the same time we went from department to department and filled responsibilities for whoever was not there and we worked around the facility for the airlines.

Q. After you left the airlines, probably late September of 2001, I understand that you went home. What did you do during that time?

A. I did different things. One of the things was that my father was very sick and I took him for a trip to Pakistan. He had an operation there and was in the hospital for a month and a half. He couldn't urinate. I don't know the exact terminology for that disease or his problem. We had a house that was kind of destroyed during the war and I fixed the walls and fixed the house for the family that was another thing I did. I wanted to start my store. I was getting ready for that and I never started it but I was kind of preparing a plan for it; to get back to my store and run my store.

- Q. Also, I think I heard while you were providing earlier statements that you may have chartered other airlines or other services to help capacity for the Afghanistan airlines. Is that correct?
- A. Yes, I said during the Hajj time there were a lot of wars going on, and we did not have a lot of Hajjis making the trip, but when the government was established we had a lot of people going between Kabul and Medina, Saudi Arabia so we did hire more airlines.
- Q. Other airlines from neighboring countries I assume?
- A. It was handled by the Ministry of Aviation. Usually we would get a lot of airplanes from the Emirates.
- Q. Last question is regarding Ariana Airline aircraft and equipment. Was every aircraft that your company operated clearly marked as Ariana Airline livery?
- A. They were in the same shape, form, and look the same, all the way from King Zahir's time for the past fifty years, they were the same airlines.
- Q. Specifically, did any of the aircraft operate that did not have a marking on their tail or on the aircraft that clearly showed as them as an Ariana Airline versus a military or non-airline aircraft. For example, more specifically, every airplane that operated on your schedule or charter was clearly a passenger aircraft for Ariana?
- A. Yes, all of them were strictly Ariana Airline planes. You know that international aviation systems, when you go to a particular airport they have to recognize you by your emblem or whatever the Ariana Airline symbol was.

Tribunal President: Thank you very much.

Detainee: Same to you.

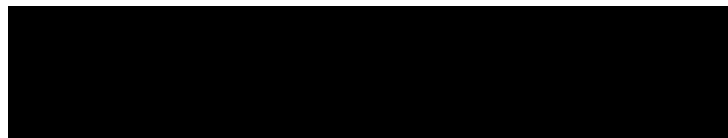
Tribunal President: Janat Gul, do you have any other evidence to present to this Tribunal?

Detainee: I do not have any further evidence. My evidence I have discussed will have to be told and said by the people who know me and they are not here, so I do not have any more evidence to present right now.

The Tribunal President confirmed with the Personal Representative that he had no further evidence to present to the Tribunal The Tribunal President explained the remainder of the Tribunal process to the Detainee and adjourned the open session.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Tribunal President

Because you know from my name, because for the reason of Taliban which they force people to join them. The whole people of the village know that. Before two times Taliban took me by force and took me to Qandahar. I don't have anybody at home that the Taliban can take. Because I was the only one close to my home and I had a store at the market near by. Because I also have a mill and the whole people of the village knows me and the things that I have. When the third time the Taliban come to the village to protect myself I tried to find some work in the government as a civilian since I went to school. But I couldn't find a job and I call myself HAMIEDULLAH, because I was unable to stand up to them. I try very hard to stay away from joining them and going to war. Finally one of the people that I know in the village helped me find a job as a clerk with the government. That was the only way I could protect myself from the Taliban. Also I told my family that I had a job as a clerk, they were all happy that it was better idea to stay away from the war. You could die very easy in war. Also there are a lot of things to write about this thing and it is now possible to write it here.

1. I shall tell you that I never told you I was Taliban. Because it is true. But I can say that I finish my school and I can read and write and I got a civilian job for the reason because I have no choice. There were higher-level positions and I was only given a little authority only to read and write letters. I had no other things to do. It was the only way to leave the country and escape to another country. I talked to an interrogator so many times about this matter I don't know what they write about in my case file about this.
2. I work in the ARYJNA Afghan Airlines. There was another person as a director when ARYINA Airlines lost its value there was no foreign travel only once a year to Hajj or to pilgrim, that was the only time they could travel. All domestic flights were stopped and all the foreign offices all closed. I was the director at this time but I didn't have that much competence in this position. All the employees of the airlines know that. That was the only reason I took this job was to protect myself from death. And to escape from the Taliban force was the only reason.
3. When I came to the airlines I did not see anybody from the Taliban, Always we had contact with business and civilian's people. All the employees were senior and professional from the past. They had only business with civilians and when I meet with the employees they all told me this is the only place that management will not have a lot of changes. It will stay almost the same, and they stay neutral and away form the politics, when Taliban announces that they will control Afghanistan and announce their power in the government I didn't know about their structure of the government administration. Originally ARYINA was a part of the civilian transportation.
4. Also I should tell you that the Taliban had there own special airplanes and airport. I didn't know that the planes would take people and was unsure whether they would charge them or not. But ARYINA Airlines by the law we charter people and we charged them and they had to pay for there tickets, and they would have to buy the tickets in the office. They would



- have to stand in line and wait for us to call their name. This is new to me and I heard a new thing that was not true. The Taliban would not give their money for the ticket because they had their own plane to travel with.
5. ARYINA Airlines would never use for the soldiers in the war. I never heard of it either. If this happened before I worked here I didn't know. Because I didn't see any law in the airlines because ARYINA Airlines was not insured to go into a war zone. I heard that a lot of Taliban planes were lost and destroyed in the north of the country. But I didn't see any of the ARYINA airplanes was damaged or destroyed by the war.
 6. From my point of view and it is true that the Taliban planes were -destroyed because the military ammunition that they carried would make them explode in the air killing everybody, but this never ever happened to an Aryina airplane not even once. Know one ever said anything about it. ARYINA was operating under international law and was also controlled by a lot of foreign countries. Also insurance was an important thing and it was impossible for Taliban to use it for other things.
 7. ARYINA Airlines has pilots from the king was in Afghanistan all the way till the last president Dr. NAJIBULLAH government. They trained long before under the international law in different times. This thing is not believable and also all the employees knew that. In the time of the Taliban there was no new pilots and also it was impossible to train a new pilot since they did not have the knowledge or facilities and there was no possibility.
 8. At that time I was the director nobody saw or heard about this thing and also it was not my business and not up to me.

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